

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING PROGRAM INTEGRITY AND
INSTITUTIONAL QUALITY
SESSION 1, DAY 3, MORNING
JANUARY 10, 2024

On the 10th day of January, 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

MS. K. SMITH: Good morning everyone. Welcome and welcome back to session one, day three. My name is Krystil Smith. I'm with the FMCS and I will be the facilitator for this session, the morning session. We will start, as we always do, with a roll call of our committee members. We will begin with the non-Federal negotiators, beginning with the business officers, from institutions of higher education, we have our primary, Joe Weglarz. Are you here?

MR. WEGLARZ: Good morning.

MS. K. SMITH: Good morning, Joe. The alternate is Dom Chase. Are you here?

MS. JEFFRIES: Yeah, he's coming in right now.

MS. K. SMITH: He is here so he's coming in. Next we have the civil rights organizations and consumer advocates the primary is Carolyn Fast. Carolyn?

MS. FAST: Good morning.

MS. K. SMITH: Good morning. And Magin Sanchez.

MR. SANCHEZ: Good morning.

MS. K. SMITH: Good morning, Magin. Next we have our financial aid administrators. JoEllen

Price is the primary. JoEllen?

MS. PRICE: Good morning.

MS. K. SMITH: Good morning. Zach Goodwin from the University of Nevada is the alternate.

MR. GOODWIN: Good morning, everyone.

MS. K. SMITH: Good morning. Our next constituency group is the Historically Black Colleges and Universities, Tribal Colleges and Universities and Minority Serving Institutions. Institutions of higher education eligible to receive Federal assistance under Title III, parts A and F and Title V of the HEA. Our primary is Dr. Charles Prince. DC?

DR. PRINCE: Yes. I'm here. Good morning.

MS. K. SMITH: Good morning. And D'Angelo Sands is the alternate.

MR. SANDS: Good morning, everybody.

MS. K. SMITH: Good morning. Next we have the institutional accrediting agencies recognized by the Secretary. Our primary is Jamie Studley. Jamie?

MS. STUDLEY: Nice to have coffee with you again.

MS. K. SMITH: Yes. Good morning. The first of many. And, Michael McComis. Michael?

MR. MCCOMIS: Good morning.

MS. K. SMITH: Good morning, Michael.
Next we have our legal assistance organizations. Our
primary there is Robyn Smith.

MS. R. SMITH: Hey, everyone.

MS. K. SMITH: Good morning. And
Sophie Laing is the alternate. Sophie?

MS. LAING: Good morning.

MS. K. SMITH: Good morning. Next we
have our private, non-private institutions of higher
education. Our primary there is Erika Linden. Erika?

MS. LINDEN: Good morning.

MS. K. SMITH: Good morning. And Scott
Dolan.

MR. DOLAN: Good morning.

MS. K. SMITH: Good morning, Scott.
Alright. Next we have our programmatic accrediting
agencies recognized by the Secretary to include state
agencies recognized for the approval of nurse education.
Our primary there is Laura Rasar King. Laura?

DR. KING: Good morning.

MS. K. SMITH: Good morning, Laura.
And the alternate is Amy Ackerson. Amy?

MS. ACKERSON: Good morning.

MS. K. SMITH: Good morning, Amy.
Proprietary institutions of higher education is next. Our

primary there is Jillian Klein. Jillian?

MS. KLEIN: Good morning.

MS. K. SMITH: Good morning. And the alternate is David Cohen. David?

MR. COHEN: Good morning.

MS. K. SMITH: Good morning. David. Next we have our public four-year institutions of higher education. Our primary there is Jason Lorgan. Jason?

MR. LORGAN: Good morning.

MS. K. SMITH: Good morning, Jason. And Alyssa Dobson is our alternate. Alyssa?

MR. ROBERTS: She noted that she's feeling a little under the weather today, but she's here. She just doesn't have a voice.

MS. K. SMITH: Okay. Alright. Glad to have you, Alyssa. And hope you're feeling a little better. Next, we have our public two-year institutions of higher education. Our primary there is Jo Alice Blondin.

MS. BLONDIN: Yes.

MS. K. SMITH: Jo, good morning. And Michael Cioce is the alternate. Michael? Michael, is he here? Okay. He is not here at the moment. Okay. Next, we have our state attorneys general. Our primary there is Diana Hooley. Diana?

MS. HOOLEY: Good morning.

MS. K. SMITH: Good morning, Diana.
And next we have our state officials, including state
higher education executive officers, state authorizing
agencies, and state regulators of institutions of higher
education. The primary there is John Ware. John?

MR. WARE: Good morning.

MS. K. SMITH: Good morning, John. And
our alternate is Robert Anderson.

MR. ANDERSON: Good morning, everyone.

MS. K. SMITH: Good morning, Rob. Next
we have our students or borrowers, including currently
enrolled borrowers or groups representing them. Our
primary there is Jessica Morales. Jesse? Is Jesse here
yet? Okay.

MR. ROBERTS: She noted that she's
traveling today, so she might be in the air.

MS. K. SMITH: Okay. In that case, we
do have, the alternate Emmett Blaney. Emmett?

MR. BLANEY: Hello. Jesse, I believe,
won't be available at all today.

MS. K. SMITH: Okay, so you'll be
serving in her stead, correct?

MR. BLANEY: Yes.

MS. K. SMITH: Alright. Welcome back,
Emmett. And our final constituency group is U.S. military

service members, veterans or groups representing them.
Our primary there is Barmak Nassirian. Barmak?

MR. NASSIRIAN: Good morning.

MS. K. SMITH: Good morning. And, the
alternate there is Ashlynn Haycock-Lowman. Ashlynn?

MS. HAYCOCK-LOHMANN: Good morning.

MS. K. SMITH: Okay. And Dom Chase did
just- he did just check in. Good morning, Dom. Okay.
Next, we'll go to our Federal negotiator. So our Federal
negotiator today is Dave Musser. Dave will introduce
himself and the other Department of Education. Those at
the Department that will be assisting him. Dave?

MR. MUSSER: Good morning. So we have
a few changes of plans today. Regarding, who will be
joining us here at the table. Unfortunately, our good
friend Greg, has encountered some challenges with
weather. And he has no power. And will likely not be able
to join us today. So in his stead, we've invited, Aaron
Washington, who I think most of you know, will be leading
the subcommittee for trio for the Department. But he's
also our subject matter expert for return of Title IV.
He's going to join us at the table. And just in case I
have any problems with weather, as we are also getting
those same problems where I live in Maine, and we want to
be sure that we have a seamless experience for you guys

here if that happens. So I just wanted to say welcome to Aaron, who I like very much and who is an extremely knowledgeable and great person to work with.

MR. WASHINGTON: Thank you, David. And I'm so happy to be here with you all today. I recognize so many faces from previous rulemakings. I won't- I'm not going to- I won't be on camera unless David has issues. So I'll turn my camera off, mute myself and then I'll just jump in if, unfortunately, David disappears from our screens.

MR. MUSSER: Really hoping that doesn't happen. It didn't keep me up at all last night either. I'll tell you. So, I also wanted to just mention we went once- if we, if and when we get through R2T4 this afternoon, I'll be handing it off to Herman Bounds, our Director for Accreditation at the Office of Postsecondary Education, to start walking you guys through the issue paper for the accreditation issue.

MS. K. SMITH: Okay. Alright. Thank you, Dave. And, welcome, Aaron. We won't see you on camera today. We know, but we know we'll see you on Friday because you are leading our trio subcommittee. You're the negotiator for that. So welcome and welcome to you, David. Alright. So.

MS. JEFFRIES: Krystil, let's make

note of the fact that for this morning for the R2T4 discussion with David and Aaron, general counsel will be Denise Morelli. This afternoon when we get or later when we get into accreditation and Herman is the Federal negotiator for that, he will be assisted by Donna Mangold from OGC. Alright?

MS. K. SMITH: Yes. So we'll be hearing from Denise and Donna today as well from OGC. Thank you. And Cindy and I will be co-facilitating today. So thank you Cindy. Alright. So without further ado, we do want to go ahead and get started with our issue paper four which is the subject of our discussion this morning. That title is Withdrawals and Return of Title IV funds hereinafter referred to as R2T4. And I have a big note about that. So I don't say anything other than those four letters, as I get used to it. So we will begin with that. There are a couple. Cindy?

MS. JEFFRIES: Krystal, can I just cover, some process clarification for today? Based on feedback that we received, trying to make things in a more seamless, logistical and easier to follow, process. The intent today is that we will revert back to the normal process of the Department presenting the summary and overview of the issue paper. Okay? And for R2T4, as we walk through the Department's proposal, it will be

done section by section. And David will cover, for example, section 668.21. The overview of that. And then we will look at the reg text for that. We will not be sharing additional proposals at this time. The negotiators, you are always, always welcome and encouraged to raise your hand, use your three minutes. If you've already submitted a proposal regarding these topics, you're free to refer to language in that. Just to bring it to the attention of the Department, and your fellow negotiators. But the conversations will be related to the Department's document. At this point in time, until such time as everybody has time to review additional proposals between, the sessions themselves. If you haven't submitted a proposal, please still bring up your and you're encouraged to bring up your, ideas, concerns, suggestions for, you know, alterations to the language. We encourage you, to put these non-written ones into a word format document with the rationale for proposing your changes and a red line version of it that we will send to the Department. The Department is asking that proposals be submitted no later than one week from the close of the session tomorrow. So that would be next Thursday. If at all possible, to give them ample time to fairly and thoroughly review your proposals. Okay? So this is all in an attempt to try to make it a little less

confusing as to what we're talking about at a particular given point in time. Okay? Questions on that? DC?

DR. PRINCE: Yeah. Question. I'm assuming the problem you're trying to solve is streamlining of what we're actually talking about when we're talking about it, which I totally get. But I wonder whether or not by doing that, you're stifling discussions of helping other people understand what other folks are trying to say, because a lot of the times we know that we get into level of technicality. And so it seems as though if we do that and people can't share what they're thinking in a way to communicate to us, hey, here are the changes I'm thinking about in this proposal. Then are we stifling negotiations or discussions that could be fruitful for other people to understand where other people's perspectives are?

MS. JEFFRIES: No, it is not an attempt to stifle anyone's conversation. In fact, we encourage the conversation. Everyone has received the documents that have been submitted to date, so you should have them in front of you so that if a negotiator who submitted one refers to it, that, you know, you're able to see exactly what they're talking about and why they're talking about it. And the process is always allowed for some back and forth conversations and questions about

that as they relate to the proposals, these initial proposals that the Department has made.

MS. K. SMITH: Okay. Alright.

MS. JEFFRIES: Krystil?

MS. K. SMITH: Yep. Alright. Thank you, Cindy, for those process updates. As she mentioned, this is just an attempt to streamline. We know that, as we go through these issue papers, they do get lengthier and more complex. So with that being said, we will turn it over now to Dave Musser. And we are going to begin with the summary of the issues, on page one of, the proposal paper. Dave?

MR. MUSSER: Alright. Thank you, Krystil. And then, Vanessa will be screen sharing for us today. So if you could bring up that first page of the issue paper. Alright, so return of Title IV, one of my favorite topics. But for many of you, probably not something that you are intimately familiar with, except perhaps for our financial aid negotiators and some of our institutional negotiators. This is a statutorily required calculation that is performed when a student begins attendance and subsequently ceases enrollment. The statutory rules provide that the institution, when it determines that a student has withdrawn, must determine the period that the student was scheduled to complete,

which comprises the denominator of the calculation. And then they have to determine how much of the period the student completed, which comprises the numerator of the calculation. And that yields a percentage that goes out to a one decimal point, that is used to determine the amount of Title IV aid that the student has earned for the period. Now, there's a lot of complexity. That sounds like a fairly straightforward calculation. But it introduces a significant amount of complexity, because there are many different circumstances that can actually apply in practice. And those of us who are familiar with R2T4 know that that complexity has caused this issue to consistently reach the top ten compliance findings. Schools, often make some minor errors, sometimes more systemic significant errors if they get one of their policies wrong related to R2T4. So it is and it's also the subject of an entire volume of the FSA handbook because of its complexity. So if you could scroll down, Vanessa. So in this rulemaking, we are attempting to achieve a number of goals. But one of them is to improve and simplify the R2T4 process, to make it easier for institutions to understand the requirements, to increase the accuracy of the R2T4 calculations, but also to help withdrawn students repay their credit balances. As many of you know, the issue of students who withdraw with

institutional debts, is an issue that the Department is concerned about. We have seen research that shows that students in those situations often find it difficult to either reenroll or transfer their credits elsewhere. So we do seek to reduce the number of circumstances when that happens. We also hope to address unique circumstances for what constitutes a withdrawal. As we'll get into in just a moment. And we'd also like to codify some long standing practices into regulation, in an effort to make it clearer what the Department's particular perspective is on a couple of different topics. So with that, I think we can move into our actual proposals here. And Vanessa, I think you can scroll down a little bit more to the first one. So sit still on page one. We're going to run through this proposal. So the first proposal is actually related to a part of the regulations, 34 CFR 668.21. That is not R2T4. That section is specifically focused on cases where students do not begin attendance, in what we call a payment period. And by the way, a payment period is generally an academic term, although it could be a different period of time for programs that don't have terms. But in cases where a student receives Title IV aid and does not begin attendance, the requirements in 668.21, provide for some very specific instructions for what to do with the Title

IV funds that the student and their institution have received. And just to keep in mind, the reason that students can receive Title IV funds before they begin attendance is that we allow institutions to provide Title IV funds to a student at no more than ten days prior to the start of a payment period. Because many students need those funds ahead of time, in order to purchase books to secure housing and a variety of other things that may be necessary before they begin, they actually begin attendance in the academic term that they're enrolled in. So when this happens, it does sometimes happen that the student, for whatever reason, fails to actually start attendance at even one class at the institution. So the requirements are for all of the students grants. So Pell grants, Federal Supplemental Educational Opportunity grants, FSEOG, TEACH grants. The institution is required to return all of those funds dollar for dollar to the Department. Additionally, if the institution credited loan funds, Direct Loan funds, to the student's account, the institution will return all of the loan funds that were actually credited to the student's account back to the Department. However, there is a circumstance where the student actually received Direct Loan funds, exceeding the amount that the student was charged, and the student has a left over credit balance that they

received prior to failing to attend. Generally within that ten day period before the start of classes. In those circumstances, the schools are not required to return the amount that the student themselves received unless they were aware that the student was not going to attend at the time that classes began. So if the school was not aware, and should not have been aware of the student being unable to attend, then under the current regulations, the school is required to send a demand letter, essentially to the student servicer to have the servicer collect the entire amount of loan funds that disperse to the student as soon as possible. So for a variety of reasons, we believe that that final part of the process is unnecessary and unfair to students who may have been unable to attend for reasons for a variety of reasons, many of which are completely outside their control. So, if you could scroll down a little bit more, Vanessa. Oh. Sorry. Go back up. We went a little too far here. So, what we're proposing to do here, is to actually allow students to repay the amounts that they received, and before they failed to attend, in accordance with their master promissory note. And essentially, that would mean that their grace period would begin immediately. They would, if they have a grace period available, they would have their six month grace period. Then they would

go into repayment, just like they would in under any other under the terms of any other Direct Loan. And then they would repay the Direct Loan in accordance with those requirements. Now, Vanessa, if we could go down to the page where we have the actual red text so that everyone can see what we're talking about here? I believe that's on page eight of the issue paper. Actually, maybe a little bit. Actually, no, sorry. It's a little further out. There it is on page six. And so, as you can see, we simply struck the concept of a final demand letter in the regulations. And we focused on simply having the student repay the amount in accordance with the master promissory note. And then I will pause here and open up the floor for discussion.

MS. K. SMITH: Okay. Any comments on that, 668.21? Barmak?

MR. NASSIRIAN: It's just because I don't know the answer. How do you treat when you talk about disbursements credited to the institution, how do you treat automatic billing for things like textbooks that we discussed earlier?

MR. MUSSER: So the concept that we use is in the cash management regulations and the concept is allowable charges. And there's two different kinds of allowable charges. There are charges that include tuition

and fees that the student is automatically billed for and where essentially the student really doesn't have, doesn't have a choice in the matter. If they receive Title IV funds, the funds can immediately be put toward those expenses immediately. There is a second category of expenses that require the student's acknowledgment before payment is made. So I think Barmak what you're asking is, if books and supplies are included, for example, as part of tuition and fees, then those charges would be automatically debited and the Title IV funds would be- they would pay for those charges. And the student would not receive a credit balance for the amount of the books and supplies. They would not be required, they would not need to authorize the institution to pay for those charges with their Title IV funds. So what happens in this case is that those funds would all be returned to the Department. And the remaining portion that they student did get as of credit balance would be repaid by the student in accordance with the master promissory note.

MR. NASSIRIAN: Just to follow up, but the institution would be at liberty to bill a student for those charges, wouldn't it?

MR. MUSSER: Yes they would. There's nothing that would prevent them from doing that.

MR. NASSIRIAN: Here's something to keep in mind when we go back to the cash management language on mandatory and automatic billings. Thank you.

MS. K. SMITH: Okay. And just to note that, Don Chase is coming in for the business officers as the alternate. We'll go to JoEllen.

MS. PRICE: My question is, does this intend to include all Direct Loans including Parent PLUS Loans because it mentions the student borrower but doesn't mention a parent borrower?

MR. MUSSER: I believe it would work the same way for plus loan funds. If they are credited to the account, then they get returned dollar for dollar. If they are, if they're actually in excess of the institutional charges and there is a credit balance provided the credit balance technically goes to the student. But of course, the parent would be obligated to repay the remaining amount in accordance with the plus loan NPN in that case.

MS. K. SMITH: Thank you. Jason?

MR. LORGAN: Thank you. So, we think that this would be a step in the right direction to addressing student debts, but we'd like to ask the Department to consider taking this a step further, to consider how these loan debts may impact the student's

future ability to return to higher education. For example, studies show that students are more likely to go into default on student loan repayment if they withdraw from the university, and this is particularly prescient for low income students. And we would ask that maybe greater leniency be exercised for defaulted or delinquent loans tied to R2T4 for borrowers returning to higher education. Thank you.

MS. K. SMITH: Alright. Thank you, Jason. Just to note as well that Michael McComas, will be coming in today for the entirety of the discussion of the R2T4. He is the alternate and he will be joining the table. Thank you. Robyn?

MS. R. SMITH: Yes. Hi. This is the same issue that I raised with the cash management or that was raised by Sophie, about concerns with Pell Grant overpayments. I know that Pell Grant- I see that Pell Grant overpayments are not included in the proposal for an Income Driven Repayment or sort of the repayment terms under the promissory note. Pell Grant overpayments are extreme hardship for many of our clients because there is no kind of repayment plan. They are required to immediately repay the full lump sum or they are ineligible for Federal Financial Aid. And often this this population can't afford to pay a full lump sum, and that

prevents them from trying to go back to college or to complete their education. And I know the Department told us that its debt collector and I'm not sure which one, sometimes offers repayment plans to students, but I've talked to other legal aid folks, and none of us have ever seen that happen in any of our cases. So my question is, again, whether the Department would be willing to consider adding in sort of a similar repayment plan for Pell Grant overpayments similar to something like SAVE. It's certainly something I think that will go ahead and propose. But this is a big issue for low income Pell Grant students and quite a common occurrence.

MR. MUSSER: We certainly encourage you to submit that proposal. Thank you, Robyn.

MS. K. SMITH: Alright. Thank you.
Dom?

MR. CHASE: I won't appoint that I was going to make as I made, so I won't make it again so I'll just briefly express support. I think this is a really good change.

MS. K. SMITH: Thank you, Dom.
Carolyn?

MS. FAST: Just also wanted to express strong support for this change that will really make a difference for students that some of which are in a very

bad situation when these withdrawals happen, that can prevent them from re-enrolling when they're able to later on. And also, I just wanted to follow up on what Barmak said that this sort of seems to also provide additional information about why automatic charges for textbooks having them be included without the students ability to, you know, opt-in is problematic because these are the kinds of situations where students would be hit with additional fees for things that they absolutely, you know, won't be able to use and probably know that pretty soon.

MS. K. SMITH: I think we're losing Carolyn. Is it just me?

MR. ROBERTS: No, she cut out for me as well. She froze.

MS. K. SMITH: Alright. So she has frozen. When she comes back, we'll put her- we'll get her back in queue. For now, we'll move on to Jillian.

MS. KLEIN: Thanks. I also am supportive in general of this proposal. I would just say, and this is probably more procedural for the Department and doesn't need a sort of red text for it, but I think it would be most beneficial for students if it's just clear from the Department that if they do choose to repay this overpayment right away, they will avoid accruing

interest. Whereas I'm assuming they're put back into their regular repayment plan, they would start accruing interest immediately. So I would just ask that the Department sort of strongly consider how they message that to students so that students aren't surprised that they're all of a sudden accumulating interest on these funds. Thanks.

MR. MUSSER: Thanks, Jillian.

MS. K. SMITH: Okay. Are there any more comments about the first point 668.2182 romanette ii? Okay. Hearing none, we can go on to the next, section.

MR. MUSSER: Okay, I just wanted to mention, I just saw in the chat that poor Carolyn also lost power just now. So we have her alternate stepping in for her for the time being.

MS. K. SMITH: Thank you.

MR. MUSSER: Alright, Vanessa, we can go on to the next item on page two of the issue paper. Increase accuracy and simplicity of performing R2T4 calculations. So, there are a number of circumstances, in the R2T4 world, when the a student has completed part of the payment period. But not all of the payment period. And the Department needs to- has to decide whether they have withdrawn or not. So before I get into the meat of

this particular provision, I want to go back in history a little bit to explain why the Department takes this approach at all, because it may not be immediately apparent. So when you have a student who is enrolled in a class that spans an entire term, how you decide how the R2T4 calculation works is pretty straightforward. The denominator is the whole term. And then you look at how much of that term they complete. And that's the calculation. The process gets a lot more complicated when you have classes that do not span the entire term, often called modules, and formally called modules in an R2T4 context. These shorter classes comprise a shorter period of time that a student might be scheduled to attend. That the school, rightly would not- where a school rightly would not want to include the entire payment period in the denominator of the calculation. If, for example, the student was only attending the first of two modules that comprise the entire term. As an example, let's say that there was module A, which was 45 days, and then module B, which was another 45 days. If the student was only enrolled in module A, you would only want to consider the denominator for module A when performing the R2T4 calculation. Now we'll get into those- to the details about how to determine how the calculation works in just a second. But there's another question that comes up

related to modules about what do you do when a student completes a module that comprises part of a term but not the entire term? The obvious answer is that you just treat them as a completer. They completed. You don't need to do an R2T4 calculation and that was how the Department originally handled this. But unfortunately, schools, some schools realized that this was an opportunity for a loophole, and they would structure very short courses at the beginning of their terms, often just a week or less. And if the student completed one of those courses, even if there was only a half credit or a credit associated with that very short course, the student could then never be subject to the R2T4 requirements. So this was a significant loophole that the Department decided to close shortly afterward by establishing requirements for schools to consider such a student withdrawn anyway. So now fast forward somewhat. The Department recognized, after some time that this approach also created some unfairness to students. Students could complete modules that comprised a significant portion of the payment period. And based on a difference of a few days in terms of when they're enrolled for other modules, they might still be subject to the R2T4 requirements. So what we decided to do was to create some exemptions to R2T4 based on completion that would ensure that a student was

completing a substantial portion of coursework, during a payment period. We created two exemptions to accomplish this. The first one is for completing a module or modules that comprise 49% or more of the payment period. And the other one, which was suggested by a very sharp, negotiator at the time, was if the student completed coursework that comprised at least half time enrollment. So through that rulemaking, we established both of those exemptions, and schools then implemented them shortly after we heard from schools that the exemption for half time enrollment was very easy to implement. You know, you see clearly on a student's academic transcript, they got they got a C and a B, they're not subject to R2T4, you know, immediately without having to do any other work. On the other hand, figuring out whether students completed 49% or more of the number of days in the payment period became much more administratively complicated. Schools had to figure out exactly what proportion of their term each of their modules comprised. They had to watch carefully to see which of those modules the student completed. And in cases where there were many modules, more than two, for example, if there were 3 or 4, this became a challenging administrative process. So what we're proposing here, because we believe there is substantial overlap between the two exemptions. We're

proposing now to eliminate the exemption for completion of 49% or more of the payment period as a means of reducing administrative burden for institutions, while retaining what we believe is a fair and reasonable exemption for completion of at least half time coursework. So Vanessa, can we scroll down then to yeah, page six to look at the text. So you can see here and scroll down a little bit more, Vanessa. I think I'm right this time. Yeah. So we struck the three romanettes there and scroll back up a little bit, which included the exemptions for 49% or more, of having one module, 49% or more comprising multiple modules. And then we took the remaining text and scroll up a little bit more, Vanessa. And we incorporated that into as you can see, paragraph two here. So now the only exemption related to completion here, completion within a payment period is, if a student is not considered to have withdrawn, if the student successfully completes coursework equal to or greater than the coursework required for the institution's definition of a half time student under 668.2 for the payment period. And then I'll pause there and open it up for discussion again.

MS. K. SMITH: Alright. Thank you.

Jillian?

MS. KLEIN: Dave, I hear you trying to

butter me up before I make my comments. So a reminder for everybody, six of us on this committee agreed to this language, five years ago when we first negotiated this. So appreciate the opportunity to provide some comments. What I'll say broadly is I think, I understand that the Department's goal with this rulemaking, related to R2T4, is simplicity. And I think this is the opposite of that. And I understand and am empathetic for institutions that maybe feel like this is complicated or confusing, but I also am not sure that they're just, all due respect, I'm not sure there's been enough guidance from the Department on this- on the R2T4 package in general after we reached consensus in 2019, to alleviate some of those concerns broadly and would just more, urge the Department to consider retaining the language that we wrote in 2019 and providing more guidance to institutions in order to implement the 50%, or the 49% change. And if I can, I'd like to share the language from the NPRM on this from 2020. Because I think it's still true. And these were the Department's words. So the Department proposes to treat a student as having completed a period, of the student has completed a substantial portion of the time or coursework that the student was scheduled to attend during the period. We believe this approach prevents against abuse, while also avoiding punitive consequences for students

who complete a substantial amount of coursework during the period. I don't think I could say it any better than that. And I think the Department's own words are very accurate in terms of the impact to students. Especially when we think about, programs offered in an innovative fashion, we think about adult students whose attendance might not look like a traditional semester or, quarter, like we have historically seen and would just strongly recommend that the Department retain the language we had in the past in order to not penalize these students for completing a significant portion of their payment period. Thanks.

MS. K. SMITH: Alright. Thank you, JoEllen?

MS. PRICE: Okay. So I've been doing financial aid administration for 36 years, 17 of those years, in the past 17 years at community colleges. And the way it works now is a student that's- community college students can generally cannot attend full time, so they generally take half time or three quarter time, 6 to 9 credits. And so the way it works now is if the student is in 2 or 3 courses over the course of the full semester, and they for some reason have to drop two of those courses and can stay in one of those courses and completes that one course, we are able to- they're able

to retain all their financial aid funding. What I was happy about with this change, even though I will admit it was very difficult to understand at first, it took us quite a bit of time to understand how it works and to implement it at our schools, but once we understood it, what this does is for that student that's taking those six credits in modules, let's say a 16 week semester, eight weeks, they're taking three credits, the second eight weeks, they're taking three credits. If they complete that first course and complete those three credits, we were able- they were able to retain their eight even if they weren't able to stay in that second eight week course at the end of the semester. So this allowed us to help the students retain their aid, no different than the student who's taking six credits over the 16 week semester and had to withdraw from one of those courses. So for me, it created more fairness for students, one that's taking a full 16 week semester versus a student that's taking modules eight weeks and then the second eight weeks. So I do understand that it was difficult to implement these changes at the time, and it took us some time to understand it and get into the groove of how it works. But for community colleges, this change helped our students. And so I understand complexity is not easy. I've been doing financial aid a

long time. We got a lot of guidance and help, especially from our national association. So this particular item has helped students. And I would I really be sad to see it go away.

MS. K. SMITH: Alright. Thank you, JoEllen. Jason?

MR. LORGAN: Thank you. So, we appreciate the Department's eye to simplify the module calculations. UC campuses have noted the exemption introduced added complexity and or could not be applied based on their summer module structures. So to create greater simplicity, we'd support retaining a minimum completion measure using half time or more completed enrollment for a standard time in which there are modules. And additional, under the proposal, it is unclear what the institutions responsibility is should a student continue in another module that follows a module where the student withdrew. For example, a student withdraws from session A in summer time, but continues on in session B and begins and completes the enrollment. Prior to the exemption, campuses were required to document a student's intent to continue on in courses that had yet to begin in another module in which they were registered. And finally, though this proposal simplifies the calculation, the administrative burden is

substantial for institutions that operate on traditional standard time calendars, with the exception of summer, which is not a required term. This is particularly notable when the summer of R2T4 returns in these sessions are weighed against the amount of staff time and documentation required. We would support exempting institutions from module R2T4 treatment in certain scenarios. For example, if the institution meets a designated maximum limit of returns compared to their total annual Federal awards portfolio and functions on a standard time calendar, with the exception of an optional summer term. Thank you.

MS. K. SMITH: Thank you. Jo?

MS. BLONDIN: Yes. So in Ohio, 60 to 90% of community college students are part time. Six hours, six credit hours. And in addition to that, as a state, we've been incentivized to create shorter-term programs and programs that are in these modules in order to meet the needs of business and industry and our students' needs, as they work. So I think that I agree with JoEllen's statement and would just love that seen. Thank you.

MS. K. SMITH: Okay. Barmak?

MR. NASSIRIAN: You know, I appreciate the Department's attempt to simplify where it can.

Obviously, withdrawals are a problem both ways because very often they end up tripping up the lowest income students who were never expected, had they remained enrolled, they would never be expected to in many cases to pay a dime towards the cost of attendance. But when they withdraw or drop out, they end up with balances against the institutional balances that prevent them from pursuing higher Ed. I understand the need to protect the lifetime eligibility of students for Pell. I understand the need to make sure they're not unnecessarily burdened by loans. But I think as a policy proposition, the Department should do its utmost to error on the side of preventing these balances for low income students. So, you know, if institutions are willing to go through the work, the complex work of complying with the 49% exemption, I don't see why the Department would want to eliminate that as an option. I don't know how many institutions would, but I tend to think that it would be institutions that are acting on behalf in the best interest of their students, not institutions that are trying to game the system. So if it's not a pathway to manipulation for institutional gain by predatory institutions, I would think the Department would want to keep this. That's just my initial reaction to the idea for the Department to contemplate. Thank you.

MR. MUSSER: And thanks, Barmak. And a quick comment about that. I want to be very clear that the exemption is not optional. So the school does have to figure out how much of its payment period each module comprises, and it cannot treat a student as withdrawn if they have completed a sufficient number of modules. And that's really the reason for some schools finding it to be administratively burdensome. And obviously not all find it so burdensome that it's not worth having around. So thank you all for your feedback.

MS. K. SMITH: Alright. I do just want to note that Carolyn Fast is back. Welcome back, Carolyn. We'll be on the lookout again for your power concerns. So welcome back. Are there any additional comments on that section? Alright. Hearing none, I think we are.

MR. NASSIRIAN: May I ask a question?

MS. K. SMITH: Barmak?

MR. NASSIRIAN: Yeah. With regard to mandatory application of this exemption. Is there an option for the Department to make it discretionary for the institution, at least so that you don't unduly burden those who really can't do it, but allow those who are willing and are able to do it to use this algorithm?

MR. MUSSER: We can look at that.
Yeah. Thanks, Barmak.

MS. K. SMITH: Okay. I think we are clear to go on to the next one. Bottom of page two.

MR. MUSSER: Bottom of page two. Vanessa? Okay, so we don't often get into a topic related to return on Title IV that is almost totally new. So for even for those of you who know R2T4, this one ought to be interesting for you. So some more history about this particular area of policy. For many years, many institutions have maintained, with certain withdrawal policies related to very specific circumstances. That are designed to be more lenient to students who have special circumstances. So, for example, a very common version of this is what's sometimes called a medical withdrawal. Where a student comes to the institution, lets them know that they have a very serious medical condition, even though they may be half or three quarters of the way through the term, the student is going to be unable to complete the coursework through no fault of their own. Many schools have policies where if the school approves the student's request, they would refund 100% of the students tuition and fees for the period, putting the student at effectively a zero balance for some students. Although they may have other expenses that they have accrued for the period, such as living expenses and books, that the schools generally don't also refund.

Another form of this full refund approach often occurs when a student withdraws very close to the beginning of a term. Many institutions allow for a full tuition and fee refund if the student withdraws in the very first few days of a class, or sometimes during an add/drop period, that sort of thing. So for many years, some schools believed that if they did perform that full refund, and if they treated the student in their system as having never attended the period, essentially, in some cases going as far as to omit that any courses from their transcript for that period. They've also believed that they were not subject to the return of Title IV requirements. That was not accurate. The Department's interpretation of the law, is that if a student, generally if a student attends even one day in a payment period or period of enrollment, the student is entitled to at least some portion of their Title IV aid based on what the return of Title IV calculation determines they are eligible for based on how much of they actually completed of the period. So when we looked at this issue, you know, we've long felt that these are these are often very generous policies that are reasonable, and that are really in the student's best interests in many cases. And we recognize why the institution thought that they might not be subject to R2T4 in these cases because they are

effectively returning much of the student's tuition. However, simply returning the tuition and fees for the student, refunding the tuition and fees for the student, but not addressing the other expenses that the student had for the period, could still leave the student in a position where they owe the institution for some portion of their expenses that they, for example, got out of as a credit balance or that they couldn't have refunded because they had lived in the dorms for several months. So what we are proposing here is a new withdrawal exemption, that effectively does put into policy the approach of allowing an institution to avoid completing a return of Title IV calculation, if they fully refund the student's tuition, if they treat the student as having never begun attendance, they return all of the student's Title IV funds for the period. And, they write off or cancel any debt, that's owed to the institution as a result of the return of Title IV funds. So for schools that have generous tuition refund policies, it would be a benefit to them if they decided to move forward with one of those that they would not have to perform in R2T4 calculation for a student, in these cases. So if we could scroll down now to, I think page seven, where we have the regulatory text. Thank you, Vanessa. So this is a new item under the options for exemptions from the return of

Title IV process. And it says, a student is not considered to have withdrawn if the institution's records treat the student as having never attended courses for that payment period or period of enrollment. The institution returns all Title IV aid to the student that they receive for that period. They refund all institutional charges and they write off or cancel any current year balance owed by the student to the institution due to the return of Title IV funds to the Department. Now, the last thing I want to say about this item is that this is intended to be entirely optional. Unlike some of the other exemptions, which in the past have been mandatory. Here. The institution does have to make a conscious choice, especially with six romanette one here to treat the student as never having attended during the period. And if they do so, and they meet all of the other requirements here, then on a discretionary basis, they could avoid completing an R2T4 calculation for a student. And I'll stop there and open up the floor.

MS. K. SMITH: Okay. Alright. I don't see anything from Denise. So we'll go ahead on with JoEllen.

MS. PRICE: Okay, first of all, I applaud the Department on this particular item. I know schools, especially, community colleges, have struggled

with this one because we do give students a time and add/drop period. And if they drop the course even after attending one class, that course goes away. So it has been nearly impossible for us to track that information and get the information we need to do the calculations. So I definitely support and applaud that. The only question I have happens to be the language on page two, where it says on number four, rights offer cancels any debt owed to the institution that results from the R2T4 funds. But it's my understanding that we would not have to do the calculation in this case where we meet the conditions of, one, two and three. So can you explain, how we would determine that would result from R2T4 funds if we don't do the R2T4 calculation?

MR. MUSSER: Yeah. And I think that's a wording issue. When we said return of Title IV funds, that sounds like the calculation, but what we meant was, first, due to you returning all of the Title IV aid for the period so that you would just look at the at the difference between the two.

MS. PRICE: Okay. Thank you.

MS. K. SMITH: Alright. Jillian?

MS. KLEIN: Thanks. I also just want to applaud the Department. I think it's a great change. I think it also incents institutions to offer trial periods

or periods when, you guys I'm sorry about my lights. An opportunity for students to try a couple weeks in a program or a class and see if it's right for them without providing a scenario where the student then is in debt that maybe they weren't expecting to be in. My one question actually is related to the last thing you said, Dave, which is I think you just said this is optional, and I don't, just in the spirit of simplicity and making sure students aren't confused, I don't see anything in the reg text that suggests that that's optional for institutions. So if that's the Department's intention, I would just ask that you make that clear in the language.

MR. MUSSER: We can consider that.

Thanks, Jillian.

MS. K. SMITH: Okay. Thank you. DC?

DR. PRINCE: Actually, I wanted to go off of JoEllen's point. It didn't- I was going to say that but my question comes down to why make it optional if we know it's better on behalf of, sounds like everybody. I've talked to some financial aid directors like, yeah, this would be great. But if it's optional, financial aid directors are only subject to their leadership. And they'd be like, well, I may not want to do this. And so we're not really helping some of our processors, I would call them, to be able to help the

institution think through this. So help me understand your optional versus mandatory and what is your ethical or your ethical definitions or checkbox red lines to determine what of these will be optional and which one of these will be mandatory.

MR. MUSSER: That's a good question. So when you read the text as we wrote it, you know, we called it optional here. Primarily because the institution has the complete discretion as to how they treat the courses that a student attended during one of these periods as to whether they transcript them or not, whether they record whether the student was there or not. So what we meant in this case really was, that that's the optional component is that the school has the choice as to whether to say we're acknowledging that the student was here for this period, or we're saying that they never attended for this period. And what we had in mind is that if they say the latter and they do all of these other things which many schools I don't think would necessarily choose to do, especially that last item of writing off the student's- all of the student's debt for the period. If they do all those things, then they can also forego the R2T4 calculation. So in the sense that if they if the school decides to do all of these things, they actually would they would not have to do the calculation. We

called it optional. But I guess I take your point, if all of these conditions are met, then the school essentially would be required to do this. But essentially the school does have to make a choice here, because if they don't do all these things then they are subject to R2T4 and they have to do a calculation. So the Department really wasn't treating this as something that if all these conditions were met, was optional, it was more is the school willing to meet all of these conditions? And we don't expect- we would- we didn't feel that we would be able to require all schools to, for example, fully refund tuition in these circumstances, write off all these debts, etc., even though we'd like them to. So that's really what we intended with the concept of optional. Now we did hear from both Barmak regarding the other item the other exemption and about this one, that the concept of discretionary exemptions is something that people are interested in. I don't know whether that is something that is legally permissible at all. So we'll have to take a look at that and see whether it's even an option. But that's our approach right now.

MS. K. SMITH: Jason?

MR. LORGAN: Thank you. So we would support this proposal. We would just like to request the statute define institutional charges as tuition if that

is the intent. And while tuition refund policies are under the institution's purview and the student would get a full refund, for example, if they withdrew, you know, a day before the end of the add/drop period, if they lived in housing and ate in dining for a month's time period, that would be a prorated refund. So, we just wanted to ask for some better definition on what that means.

MS. JEFFRIES: Jason. Jason, thank you for that. I'd like to encourage you to put your question in the chat. If you don't intend to write a proposal for submission. Thanks.

MS. K. SMITH: Thank you. Joe. Joe, you're on mute.

MR. WEGLARZ: My apologies. So I believe it sounds like this proposal is definitely going in the right direction so I do want to thank the Department of Ed for putting this in that right direction. And I think, this question might have just been brought up regarding, Jason actually was sort of touching base on this, if the student does get a 100% refund on tuition and fees, potentially allowing us to also not have to go through the return of Title IV, would they be able to use a portion of Title IV funding to pay the room and or the board that may have incurred a liability, alright, during their time in attendance? Or

is an all or nothing?

MR. MUSSER: So the way that it's currently written is an all or nothing. So any debt and remember any debt to the institution. So we're not looking at debts that are outside the institution. If they're in some kind of other housing that has an unaffiliated, etc.. But if the institution charges for housing, charges for books, charges, etc., any of those kinds of things, the expectation is that the school would fully write off any remaining debts that the student had in order to essentially put the student on sound financial footing. And when they depart, that would be the condition.

MR. WEGLARZ: Thank you.

MS. K. SMITH: Alright. Carolyn?

MS. FAST: Hi. Just two points. One, I wanted to indicate really strong support for this provision that the Department has proposed as something that could be very helpful to, students who are in a bad situation. And by creating this sort of discretion for schools to make the decision to avoid some work and inconvenience and really benefit the students. I think a terrific idea and a really good way of creating incentive. I also just want to say that unfortunately, we have seen some bad actors, schools that seem to have as

part of their business model, enrolling students that really would not be generally for-profit colleges, often online, and often have the incentive to try to enroll students in programs that they're not going to be able to complete or they would not benefit from or don't really benefit any students. And in that case, those are situations where this unfortunately would not really help because, since it's giving the school the discretion, you know, we still have the problem of students who would be in worse positions, lose their future eligibility and potentially have this problem. So I don't have a great solution for it right now. But I wanted to flag that as something that we can think about as we move forward in these discussions.

MS. K. SMITH: Thank you, Carolyn.
Diana.

MS. HOOLEY: Thank you. I had a question about, it's a process question, I suppose, and it may be that it's answered in another regulation. So I'll just pose the question and you can let me know or, you know, respond later. But is there a reporting requirement with this as far as the school certifying that the institutional debt has actually been waived? This would be important, you know, down the line if for some reason there's some point of error where the

school's trying to collect this and the student would need to be able to say, no, this has been written off. Or something like that. I'm just wondering if there's, like a reporting or compliance piece to this.

MR. MUSSER: It's a good question. There are really very few reporting specific- specifically reporting items that an institution has to complete related to return of Title IV. However, they are required to maintain documentation of all the things that they do with R2T4. And it is one of the areas that non-federal and Federal auditors review very, very closely. So most of the compliance work on return of Title IV happens on the back end, at the end of the year. So, for example, if this were to be published and implemented, what the Department would likely do is update its audit guides to direct auditors to consider cases where the school has forgone the R2T4 calculation and ensure that all of these conditions have been met. They might pull a sample of files, etc. So although the schools don't report directly to the Department, there is and as I mentioned, it's one of the top ten findings, there is a compliance apparatus for dealing with R2T4 generally and that we could incorporate this into.

MS. K. SMITH: Alright. Thank you.

Barmak?

MR. NASSIRIAN: I want to go back to a very important point that DC raised. It's something I struggle with in connection with this and other issues, and that is the conundrum that we collectively face in trying to figure out which is in the student's best interest. Allowing the school to keep the money, and relieving the student from facing institutional balances that may prove insurmountable and may completely checkmate their ability to pursue education. Which is obviously not a good thing. Or in the alternative, depleting their eligibility for future aid, which is the consequence of making that first choice. I know there is some misgiving among some of the experts we've spoken with regarding the treatment proposed here for incarcerated individuals. But the very idea of billing somebody who's incarcerated for a balance because they were transferred or in lockdown just strikes me as so counterproductive that my own inclination is to error on the side of thinking, the lesser evil would be to allow the institution to keep the funds to eliminate- to return the funds, and to eliminate any balances that the student might otherwise face. Even if that means that they deplete some of their Pell eligibility. So I think I'm in support of the language, but I think DC raised a pretty important point. There are no clean outcomes here. We are

making a choice, it seems to me, between the lesser of two evils. And that has to do with the fact that R2T4 exists in the first place for really low income students, it shouldn't, but that's the choice we have. Thank you.

MS. K. SMITH: Thank you, Barmak.

Robyn.

MS. R. SMITH: So I just want- we're going to talk about the incarcerated borrower provision separately, correct? I just want to make sure that that's right because I don't think that's on the table yet. And I definitely have concerns about that proposal.

MR. MUSSER: That's right. I think and I want to make sure with Barmak, I think he was referring to this particular exemption as it might apply to an incarcerated student. If that's wrong, Barmak, correct me, but I think that's what he meant.

MS. R. SMITH: Okay. Got it. Thank you. I think I'll just wait to talk about those in the next section. My concern also, I echo both Barmak and Carolyn's concerns. I do think this is- it's great the Department is thinking about this. I'm just concerned how it could be abused by schools. Like if a student only completes 10% of the program and they withdraw, but now they're on the hook for repaying- sort of that all count towards their lifetime eligibility limit. So that again,

is an issue for us.

MR. MUSSER: I want to make sure I understand. Part of the proposal is that the school would return all of the students Title IV funds for the period. That act automatically eliminates both debt and any lifetime eligibility used. So when you return Pell Grant funds in those circumstances, the Pell [inaudible] also is reduced in those cases.

MS. R. SMITH: So just to be clear, it means the school's still returning the Title IV aid, but they just don't have to do the R2T4 calculation because they're, okay. Thank you.

MR. MUSSER: Yeah. Even if they did the R2T4 calculation, they would end up returning the vast majority of the aid in many of these cases. But this is essentially just makes them return all of it along with these other conditions.

MS. K. SMITH: Thank you. JoEllen.

MS. PRICE: Just so that I fully understand. And I know Zack also posed this question. So what we're doing in this instance is we're allowing the school to determine that a student is considered as having never attended, even if they attended classes, lived in the dorms, ate the meal plans. If we comply with the requirements of treating them as if they never began

reversing all the charges, reversing all the aid, am I correct in saying that?

MR. MUSSER: That's correct.

MS. PRICE: Thank you.

MS. K. SMITH: Okay. Alright. Seeing no other comments, we'll move on to our next section, which I believe is on page three. Correct?

MR. MUSSER: That's right.

MS. K. SMITH: Alright. So (A) (7) on three.

MR. MUSSER: And as we were talking about earlier, this is the last withdrawal exemption that we'll talk about today. And it pertains specifically to confined or incarcerated individuals. So as the Department has implemented the changes in the FAFSA Simplification Act that allow, find or incarcerated individuals to qualify for Pell Grants for the first time. And as we are continuing to implement the Second Chance Pell experiment, we have seen on numerous occasions some very significant challenges that both students and schools face. When students are required to cease their coursework for reasons that are completely out of their control in their environment at prison facilities. So we've seen a number of different circumstances that have come up. For example, there are

cases where a prison may fully lock down for a period that happened during the Covid-19 pandemic, and schools were required to discontinue their coursework during those periods. In many cases, schools have ways of bridging the gap between those periods, depending on the type of program, they can allow students to go on what's called an approved leave of absence for a period. But they are not permitted to do that if they discontinue coursework. And in many of the other- and there are also cases that where that would never be an option for institutions here. So what happens in these cases is that the student is forced to discontinue their coursework after beginning attendance through no fault of their own and through circumstances that often affect the general instruction that the institution is offering, but may affect just the student. And then they are subject to the return of Title IV funds process, which could require that some of their Pell Grant be returned. This is also possible. And though this would be a very rare circumstance that the school, the student may even owe a Pell overpayment in these circumstances, that is sometimes an outcome of the return of Title IV calculation. So the Department, is attempting to avoid some of the very negative circumstances that could apply in these cases. We are still working through what our

full legal authority to do this would be. How far we can go in this area. But what we decided to do was present the committee with the best idea that we had as of today, and let you respond to that and give us feedback, and we'll come back in the next round with what we believe is both legally supportable and the best possible policy option under the circumstances. But under this proposed exception, the school would not have to return funds in certain cases, when incarcerated students are forced to discontinue their coursework for reasons outside their control. In these cases, the student would still be subject to the Pell lifetime eligibility. So as Barmak mentioned, that is a downside to any situation where a student doesn't complete coursework and doesn't make progress toward completing a credential, but still uses their Title IV funds for that period. So even if the student doesn't have funds returned, they do still have whatever funds are remaining on the student's account would add toward their lifetime eligibility. So we proposed to create a provision with a non-exhaustive list of conditions that would apply, as well as give the Department the discretion to establish other conditions that we become aware of as time goes on. And keep the financial aid community aware of those all of those conditions that may apply. So, Vanessa, if you could

scroll down to the red text here. So this is seven, this is the last of the withdrawal exemptions, and it's just below the item that we just spoke about. So under (7), a confined or incarcerated individual, as defined in 34 CFR 600.2, is not considered to have withdrawn any time the requirements of an approved leave of absence are not met. If any of the following events occur: a complete correctional facility lockdown, involuntary transfer to a different correctional facility, which we understand is very frequent. And it affects many students in our second chance Pell experiment and elsewhere. And as I mentioned, other events as determined by the Secretary, which we would formally announce to the community, in preparation for a new award here. So this is page (7), by the way. Thank you, Krystil, for keeping me on track. But I'll stop there and open it up for discussion.

MS. K. SMITH: Okay. Seeing nothing initially from Denise. Any additions. We'll go with Robyn.

MS. R. SMITH: Yeah. Dave, you mentioned the concern that we have, which is that, this would mean that students could end up spending down their Pell eligibility in cases where they never earned any credits. And also, and I've been talking to the folks that work with the prison, the prison programs, and they

have concerns that right now they work with a lot of these schools to either get the students on a leave of absence because some of them can return, or to go to do what is to give them a full refund and provide a more generous sort of refund policy of the type that you that is in (A)(6). And so we're really concerned that this provision will remove the incentive of schools that are already working with the program with these programs that already do give these kinds of generous refund policies or that they won't be encouraged to do so in the future. So that's the really the main concern we have, and I'm not sure how to address that. But that's the big concern. The other is that there is concern that schools, if this provision is there, schools will enroll people that are at a very high risk of being transferred or being unable to complete the education because of different circumstances in the prison. So that's another concern. I'm not sure how we address that. I really- we really appreciate the Department's thinking about this. But we really don't want to see people losing their Pell Grant eligibility limits when they can get a more generous refund policy from the institution.

MS. K. SMITH: Okay. Joe?

MR. WEGLARZ: So I guess I'm trying to understand. One of the criteria was an involuntary

transfer. And just to give you some history, I used to teach in correctional facilities years back for a number of years. So I know it's a political discussion, so I don't want to go down that track at all. But can they voluntarily request a transfer? And if so, I'm not sure, you know, whether or not this proposed policy should apply to that situation. And I don't know enough about the policy and correctional facilities, so I could just be coming in from left field on this discussion. But, because if they also, if they do get transferred, and I know logistically this sounds like it would be very tough to monitor. I mean, I remember when I used to teach in the facilities, they were some of them were transferred based on disciplinary issues and I'm not sure whether or not, should that be a consequence when it comes toward their Federal aid eligibility or future Federal aid eligibility? So did I make sense?

MR. MUSSER: You did to me. Thanks, Joe. And just to clarify, at least as currently worded, the proposal would only apply in involuntary transfer situations where the individual is transferred against their will. And for the reason you just described, we didn't feel that a voluntary transfer was a situation. Yeah.

MS. K. SMITH: Okay. Thank you. Jo?

MS. BLONDIN: Yes. A lot of community colleges have these programs. And just something that concerns me always is a student losing any type of Pell eligibility because it's a situation such as this. So I would just again echo previous comments and make sure that we're doing everything we can to preserve a student's Pell eligibility.

MS. K. SMITH: Thank you. Robyn.

MS. R. SMITH: Thanks. One option would be to add in (A) (6). Sort of this kicks in only if (A) (6) is something that the school tries first. I don't know again how you would do that because (A) (6) is sort of a voluntary program. Just trying to think through how we could encourage schools to do (A) (6) before they get to (A) (7). I also want to point out there are other circumstances that are involuntary that really impact prisoners that you might want to add to the list, including, if there's a medical transfer for a medical situation where the prisoner is transferred to another facility. Sometimes solitary confinement. And then I understand there's often loss of internet access for extended periods of times in prisons. So that's another- those are three situations that I would go down. I also want to caution against judging prisoners because we don't- we aren't in prison. They're already being

punished and in very difficult circumstances. And things happen in prison that a lot of people don't have control over. So, anyway, I just don't want to go down the road where we're judging people who are already in prison on whether or not they can get an education.

MS. K. SMITH: Alright, Robyn. Now, Denise, I saw your hand. Did you? Did you, Denise?

MS. MORELLI: No, I was just going to say we're going to take back all the suggestions, Robyn. So and I think we'll be looking at the language in light of comments.

MS. K. SMITH: Okay. Thank you. Alright. Seeing no other comments, we'll move on to 668.22 (B) (2). Dave that's going to be on the towards the bottom of page three.

MR. MUSSER: Alright. Thank you. Vanessa, already has it up. So on this item, this is probably a little bit more minor. We propose to codify into regulation, some very, very long standing subregulatory guidance, I think, going on for almost 25 years now, requiring schools to determine the date that a student withdrew within 14 days for attendance taking programs. So the issue here is that, there is a date called the date of determination, that recognizes that the clock for completing returns shouldn't really start

ticking until the school is aware that an individual has withdrawn. And so for schools that are not required to take attendance, the date of determination is often the end of the period if the school finds out that the student has just walked away without their knowledge, or it's on the date of an official withdrawal if the school is officially informed. But for schools that are required to take attendance, there is an expectation that the school be aware of a student that is not attending, and then within a reasonable timeframe, make a determination that they have fully withdrawn. So the Department published subregulatory guidance many years ago, requiring schools to make that determination within 14 days of the student's - of the day the student ceased attendance. And what we're doing here is essentially just putting that into actual regulatory text, where it was previously subregulatory guidance. And, Vanessa, if you could scroll down to page eight, where we have the actual red text. As you can see, we simply added the phrase within 14 days of a student's last date of attendance. And by the way, this applies only if you scroll up just a tiny bit, Vanessa, for a moment, this is for the withdrawal date for a student who withdraws from an institution that is required to take attendance under 668.22 (B), you scroll back down, Vanessa. And then we

simply deleted the cross reference there at the end of that one, but that doesn't really have too much effect. And I'll stop there and open it up again.

MS. K. SMITH: Okay. With nothing additional from Denise, we'll start with JoEllen.

MS. PRICE: Okay. Quick question. So most of my career I've worked at schools that were not attendance taking schools, but currently I work at a school that takes attendance. And what I'm asking is, are you saying that the last time a student attended was 14 days ago, and they haven't attended in the last 14 days, we now have to consider them unofficially withdrawn? First question. Second question is, what do you mean by days? Do you mean calendar days? Do you mean business days? Do you mean scheduled class days? Those are my two questions.

MR. MUSSER: Yes, it is calendar days. And we can go back and clarify that. And yes, the answer is, what happens in most cases, at least in my experience when speaking with schools, is that, the school will begin reaching out to a student, when a certain number of days has passed. So let's say ten, eleven days, and then they'll make a decision if they don't hear from the student at all, or if they hear a confirmation from the student that they don't intend to return, then they will

move forward with the date of determination. In some cases that happens, and then they establish a date of determination on that date, or they don't even do that. And they just, move forward a little bit in the hopes that a student will reach out. We don't encourage that, but it could happen. And then if the student begins attendance again, obviously the clock is reset and then you have another 14 days. So the expectation, though, is that the clock for doing the returns begins on the 14th day. And so the school is expected to be aware that the student is no longer in attendance at that point.

MS. K. SMITH: Thank you, Dave.

Alright. Seeing no other comments on that section, we can move on to the next section. Which is on page four.

MR. MUSSER: Yep. This one starts on the top of page four. And Vanessa, if you could scroll down just a tiny bit more. Perfect. Okay. So this item is designed to increase the accuracy and simplicity of performing R2T4 calculations. So, as you can see here, accurate withdrawal dates are a very important part of the R2T4 process, both for general program integrity and for fairness to students. Many institutions, as Jo just mentioned, are not attendance taking. And in fact, most traditional institutions are not required to take attendance. And therefore are not subject to the very

strict requirements that accompany attendance taking requirements. For many years, there has been an open question about whether distance education programs are required to take attendance. And the Department has taken a number of different positions on this topic over time. There's a recognition that in many cases, institutions are collecting a substantial amount of data about students when they are enrolled online. Including but not limited to, logins, participation in classes that are that are online, participation in chats, submitting quizzes, participating in other learning activities on the learning management system, etc.. So an open question- a question has come up, well, if a school is collecting that much information about a student's engagement, is that student- is that institution effectively required to take attendance? Now, under a traditional program on campus program, if an institution requires its instructors to take attendance, the institution is treated as attendance taking. Because we had a number of issues with this long ago. Schools would take attendance. They weren't technically required to by an outside entity, but they would take attendance. And they would use that attendance to justify a withdrawal date, if it was beneficial to the R2T4 calculation. So, for example, if they recorded a date of attendance on or

after the 60% point. Which is the point at which you treat the student as having completed the entire period and they earn 100% of their aid. Then they would use that date. But if they had, even though they had attendance dates, that showed that student completed far less. They would often simply revert to the midpoint of the period, which is an option for schools that don't take attendance. Essentially, it's the law's way of acknowledging that in some cases, the school just doesn't have any attendance information about a student. Except to note that they've attended at least once, and that there's not a good date to use. So the midpoint is used. And the school essentially has to return 50% of the student's Title IV aid for the period. So the Department has wanted to ensure accuracy in R2T4 calculations for some time. And we believe that in most cases, and in fact, under statutory requirements, institutions collect offering online programs collect attendance quite frequently. They are already required to ensure that there's regular and substantive interaction between students and instructors, which is itself a form of academic engagement and attendance. In addition to all the things I just mentioned, submitting assignments, attending synchronous lectures or course discussions, etc. So for all these reasons, the Department, proposes

to eliminate the confusion associated with whether online programs are required to take attendance. And we are proposing to require any distance education course to be treated as attendance taking, which would require institutions to use their data from their learning management system, for example, to determine a student's last date of attendance and use that in the R2T4 calculation. You can scroll down a little bit more, Vanessa. It also means that the school will be required to perform- to determine the student had withdrawn relatively soon after they ceased attendance. As we just discussed a few moments ago. So, Vanessa, I think we can scroll down to the changes to the regulatory language. I believe that's on page eight. Yep. So here again under (B) withdrawal date for a student who withdraws from an institution that is required to take attendance. The institution is required to take attendance if these are the conditions that may require a school to be treated as attendance taking. We would simply add at the end of that section, (D) the institution offers a program through distance education as defined under 34 CFR 600.2. And I will pause there and open up the floor.

MS. K. SMITH: Okay. I will start with Denise because you have some additional comments.

MS. MORELLI: Well, I just wanted to

point out this is an area that we've had abuse from what the Department considers bad actors. So I just wanted to throw that out as an addition to the reasons that Dave added that we have seen abuse from bad actors in this area.

MS. K. SMITH: Alright. Thank you.
Denise. Alright. We'll go with Jo.

MS. BLONDIN: Yes. Just a point of clarification. Like I said, I'm new at this. If you could put the regulation back, I mean, the language back up there because the last item that was added said, and if you offer a program through distance education, are you talking about attendance taking for the purposes of distance education, or does that flag and mean the entire college is distance ed? I'm just curious. Thank you.

MR. MUSSER: So we've talked about this at length. That's an extremely good question as it pertains to this topic. We've talked about this at length and our view and we may need to tweak the language there a little bit. But our view here is that an attending- a distance education course is essentially an attendance taking course. So any time the student is enrolled in distance education that they would essentially, under this proposal be treated as attendance taking for that course. But what that actually means, and this is an

important technical detail, is that if the student is enrolled in a combination of online courses and on traditional courses, then they would not be considered attendance taking for the period in question. Because although you might have accurate attendance records for the one course, you would not have accurate necessarily have accurate attendance records for the remaining courses, so you would not know whether the students records from that one course were sufficient. Although, if you did have a record that showed, for example, that they completed more than 60%, you would be allowed to use that under those circumstances. So what we are focusing on an individual course being attendance taking not necessarily an entire program. It wouldn't make your entire program attendance taking if you had, for example, one distance education course.

MS. BLONDIN: And it would be handled by students?

MR. MUSSER: And it would be handled what? Sorry.

MS. BLONDIN: By students.

MR. MUSSER: Yes, that's right.

MS. BLONDIN: By students enrollment type. Okay. That's complex. Thank you.

MS. K. SMITH: Thank you. Jillian.

MS. KLEIN: Actually, I have a further nuance to that question, which is I don't think that's what the language says. So the first part of the regulatory text says an institution. So the whole institution is required to be taking attendance if they offer one program through distance Ed. So I'm trying to understand. I think I have a similar but different question to start as Jo asked about because and I understand that this section has always said an institution, but I think it's, we're not, I mean, obviously Capella is, but like, we're not in an environment where most institutions offer only distance Ed or only on ground.

MR. MUSSER: We'd welcome feedback about a way, a better way to word that, but that was not our intent to essentially apply this requirement to an entire institution or an entire program. Just because of, you know, one distance education course.

MS. KLEIN: Okay. And then sort of my second comment is, just thinking about- and, I mean, I know you'll get this, Dave, in terms of, like, direct assessment programs. I strongly believe that there needs to be sort of a carve-out in this idea for direct assessment programs, given that those programs operate where the learning is agnostic, sort of to the source

provided by the institution. And so, you know, would love to think about how we can consider that for purposes of this conversation. I think there's a separate conversation about, and I'll give an example here at Capella, for our doctoral programs, often in doctoral programs. And I haven't been all the way through one, so I think I'm speaking accurately, but there are probably other experts at the table who can speak to these. Doctoral programs, either in a more traditional sense or through an online format, there's lots of activity and work and learning that's happening outside of a classroom, outside of the work that's being logged in the course room, because students are doing research, they're meeting, you know, with other folks sort of outside of the academic context, and they're doing a ton of writing. And so, you know, we'd love to come back with a proposal, I guess, to the Department and anybody else who's sort of interested in this topic about ways that we can make sure that we're not disadvantaging those types of- students in those types of programs where we know that the reality of their educational experience maybe doesn't match with sort of the more traditional construct of online education that I think the Department's trying to get at here.

MS. K. SMITH: Okay. Thank you. Erika?

MS. LINDEN: Thank you. I do want to reiterate, I think the way it's written, it would require an institution that has both on campus and distance Ed to become fully or become attendance taking for everything. So I would like you to consider making that language more specific. Are we at the point of talking about how we know- how we're going to determine whether the student, the distance learning student, is still engaged or not? We're going to do that later.

MR. MUSSER: I think it's relevant here.

MS. LINDEN: Okay. Well, I just want to suggest that we have some- we offer some flexibility for students or for institutions to use either information tied within their LMS about students activity with course-specific activity or logins and not have one be the only method by which to do that.

MR. MUSSER: I want to be a little careful here. Thank you, Erika. I appreciate that. The Department's policy, is that, merely logging in is not a form of academic attendance. That only demonstrates their interaction with the system. But logging in and performing any other academic activities. So, for example, taking a quiz, looking at one of the learning activities, engaging in the class. The combination of

those two things represents academic attendance, so that would be the only time that you would record attendance.

MS. K. SMITH: Thank you. Robyn?

MS. R. SMITH: I want to express my thanks to the Department and my very strong support for this provision. The legal aid organizations, we have seen a massive amount of abuse in this area over the years. I have a couple clients who enrolled in online programs at online schools. They didn't attend a single a day and yet the schools did not return any of their Title IV aid. And it should be noted that it's very difficult for students to get an unpaid refund discharge. Because the Department basically looks at whatever the school has reported and will deny an unpaid refund discharge to the student unless they can provide documentation showing that they were in fact at the school. That kind of documentation is very hard to get from online institutions. They don't traditionally provide that in response to FERPA requests and then you really have to push them to give you the online records. And so I really think that this is an important provision and strongly supported. I also am concerned- raised the same concerns as Dave regarding logins alone being sufficient to prove attendance. Thanks.

MS. K. SMITH: Okay. Thank you.

Carolyn?

MS. FAST: Yes. I also strongly support this provision and also have a similar concern. But, just wanted to mention that, I have heard that in some of the situations where students are preyed upon by predatory programs, that they are actually pressured to log in at various points in order- so that the school can make the case that they, you know, that they are attending. So I wanted to reiterate this as a form of abuse that the Department should be responding to. And I do think it's appropriate to make sure that the attendance is not equal to just logging in, because we have seen that as an area where bad actors have sought to abuse the system.

MS. K. SMITH: Alright. Barmak?

MR. NASSIRIAN: Carolyn said it well, I'll just reiterate that we do get a lot of complaints that schools are essentially manipulating data withdrawal by inducing students to log in to what looks like an academic LMS for purposes of procedural interaction with the school. So, when the Department re-drafts this as I think it probably will have to given the objections that have been raised, it would be good to make sure that only substantive academic interactions may be used, and that they should all be used consistently and tracked in the

system with audit trails that can be validated after the fact if there's a dispute. Thank you very much.

MR. MUSSER: Thank you, Barmak. And I would call your attention to the definition of academic engagement in 34 600, CFR 600. That's where that issue is dealt with. Those are our requirements for treating a student as having attended. But we'll certainly take that comment.

MS. K. SMITH: Alright. Before we get to Denise, I do want to note that, Scott Dolan is coming in as alternate for the private nonprofits. His hand is up. Denise?

MS. MORELLI: I just want to thank everybody for the comments, but do want to make sure the committee knows that we do- the program reviewers do look at this in our compliance area, we are looking at the engagement and whether or not it's just a log in. And we are so aware of predatory schools, you know, forcing students to get back on. And so it is something the Department is looking at. So I just wanted to make sure you know we are aware and we are working on it in our compliance work.

MS. K. SMITH: Alright. Thank you.
Diana?

MS. HOOLEY: We also strongly support

this provision for requiring attendance for distance Ed learning. It's something that we do see complaints from students for and about, you know, with the issue of having to, you know, owe so much more than they were ever, you know, actually incurred. So we do strongly support this proposal. Thank you.

MS. K. SMITH: Scott?

MR. DOLAN: Yes. Thanks so much. I think I'm fully in support of the importance of having accurate withdrawal dates. I'm curious as to the evidence that we have that tracking withdrawal dates and its impact on return to Title IV is substantially different for a distance Ed courses than it is for residential traditional face to face. Having taught in both, I can tell you, students, just because they're on campus, do not always raise their hand to tell you when they're leaving a specific course to withdraw. So I just, you know, it would be helpful to have a bit more evidence of where these bad actors are, what the scale and scope of that is and, you know, why there's one provision that's going to apply differently to distance Ed than it is to than it would be to on campus programs. And I also am a little bit concerned that there's an assumption that we have a clear definition of what a distance education course is and that those are consistently implemented

across institutions in the same way. We are a distance Ed, fully distance Ed institution, we have mechanisms in place to track not only logins but attendance as is required by financial aid. There are pretty sophisticated systems that we use to do this being fully online. The provision here, as stated, is going to require private nonprofits that have distance Ed of any variety to think about and implement similar kinds of systems. And to do so without a clear definition of what is truly a distance Ed course for that institution. And if the goal is to simplify the process, I'm not certain the intended language is doing that for the constituency that I represent.

MR. MUSSER: Thanks, Scott. I would just make sure I think this is what you're referring to but there is a definition for distance education under 34 CFR 600.2. I think a strong argument could be made that it is not a clear cut definition. So I definitely take that point. But that's the definition that institutions would be operating under.

MR. DOLAN: I guess, just to quickly respond. But there's an assumption, I think, that's made in the language around learning management systems and how those are being used and monitored and how easily it would be to implement this at more traditional

institutions and fully online institutions. So I guess, I also get a little concerned that we talk about the technical capability of monitoring distance education in one venue as being relatively straightforward and easy when it comes to this provision. But in another instance, under another issue around clock hours, we're saying it's too difficult to manage and monitor asynchronous online activity for institutions, so we should remove that. So unrelated, but I think, you know, just being clear about, you know, what this would mean and the implications for institutions just being clear about the language so that we can define it.

MR. MUSSER: I appreciate that. And I guess I just want to make one clarification about the distinction between those two things. Whereas, attendance taking in distance education, is I acknowledged that there are cases where it may be difficult to suss out what's really attendance and what's not. And any activity on any given day counts as attendance in that environment. Whereas in a clock hour environment, the school actually has to track the students ongoing activity minute by minute in order to determine whether they've completed specific hours within an activity. And we do believe that that requires greater expertise than a more traditional environment where it's less frequent.

MS. K. SMITH: Alright. Barmak?

MR. NASSIRIAN: Yeah, I appreciate the comments. I just have to say we do see a disproportionate faces of problematic behavior in online environments than we do in person. You can understand why it's the old line, on the internet, nobody knows you're a dog. It's much easier to defraud people from a distance than it is to do so in person. And I think part of the rationale that the Department is using here is that the Department is attempting to balance compliance burdens against the benefits that would ensue as a result of imposing additional compliance. In this case there are there are systemic advantages to distance delivered programs that enable better reporting, better recording and better reporting of attendance activities in ways that would be problematic and difficult to impose on in-person programs. So I think there is a rationale for treating the two a little differently. And, yes, you know, capabilities vary from program to program, institution to institution. But if you can't, I mean, it's really I struggle to understand how it's possible to offer a distance education program that doesn't have audit trails to know who is in and what they're doing. If you don't have that capability, you're probably not offering a particularly robust academic coursework. So I think there

are reasonable grounds for the Department to do this, and I strongly support what they're doing. There needs to be a little redrafting, it seems to me, around the margins.

MS. K. SMITH: Okay. Seeing no additional comments. I think we are free to move on to page four, the middle, starting with section 668.22 (F).

MR. MUSSER: That's good. I think we probably have time for about one more of these topics before we break for lunch, and this is a complicated one, so I hope we can get through this one. So, we're going to go and talk about clock our programs again. Now, first a few basics. There are actually two different units of measurement that we use for R2T4, for credit hour programs and for clock hour programs. Credit hour programs use days as the unit of measurement. So when you establish your denominator, you establish a number of days in the payment period or a period of enrollment, and you look at how many days the student completed within the longer period. For clock hours, it's very different. The denominator for clock hours is actually scheduled hours. It's not completed hours as it is for credit hour programs. It's scheduled hours. This was a change that was made by Congress back in 2006, in the Higher Education Reconciliation Act. And is intended to make the clock hour calculations more closely aligned with how

credit hour calculations work, because you have no idea how much a credit hour student is attending throughout a period. They're just moving through time and similarly scheduled hours elapsing is intended to be a treatment, a very similar treatment for clock hour programs. So, there has been, it's very straightforward to do this calculation in the first payment period in a clock hour program. Essentially what the school does is they take their scheduled instruction calendar and they add up the amount- number of hours of instruction that the student was expected to have completed on each day and that adds up over time. And then whenever the student withdraws, the school looks at how many hours they would have been scheduled to complete at the time of the withdrawal. So, for example, if they, would be expected to have done 300 hours when they stop attending, and the payment period was 450 hours, that's the numerator and denominator for the R2T4 calculation. However, the question becomes more complicated when you get into second or subsequent payment periods. And there has been a long standing question among institutions that the Department has declined to answer, for many years because we did not have regulatory support for either option. So I'm actually going to walk you through an example that distinguishes between the two ways that this can be done,

and to express the difference between the two. And I want to be clear, currently both of these are options are permitted. We don't require schools to do one or the other. So if they're doing either of these they are in compliance. So actually, Vanessa, can you scroll back up a second? Yeah. Here we go. So the basic outline for this example is, the school has an academic year of 900 hours. As a result they have a two payment periods in the academic year, each of them 450 hours. The students in these programs, in this program, are scheduled eight hours a day. And there are 70 class days, equals 560 cumulative scheduled hours for this particular student. The student completes the 450 hours on day 68, and then withdraws on day 70 just after beginning his second payment period. And so let me stop there to remind everybody that, in order for the student to get disbursements from the second payment period, they have to complete both the hours and the weeks, half the hours and the weeks in the academic year, which means they have to complete the payment period of 450 hours. So you can kind of sense already there's a difference between what the student has completed and what they were scheduled to complete at the time that they withdrew. So now, Vanessa, scroll down a little bit to the actual two methods. So at the time that the student ceased attendance, they were

scheduled to complete 560 hours. So if you only look at that and take nothing else into account, then you would simply take 560, you would subtract the first payment period, 450, and that would give you 110 hours. 110 over 450 is 24.4% earned for the second payment period. But in actuality, the student has not actually completed almost any portion of the second payment period at the time that they withdraw. The student completed the payment- the prior period just two days before they withdrew. So under method two, the student- we start counting the hours for the second payment period on the day that the student completes the first one, and there has been two days that have elapsed since they completed the first payment period. So the student is scheduled to have completed 16 hours and the calculation would then read 16 over 450 equals 3.6% earned for the second payment period, which is much less, which would require a larger return of Title IV funds. So the Department's concern is that schools and some schools have little incentive to ensure students are progressing in these programs. And they're inclined to use the method that earns students the most Title IV aid. We're also concerned about the confusion that has arisen between the two different types of calculations. Many schools don't know which one they're supposed to use. We've had questions from auditors about

which one is appropriate. So the Department decided to select one and use the one that we feel is most accurate and also reduces the some of the confusion that surrounds the R2T4 process. So if you could scroll down, Vanessa, to the regulatory text, which I believe is on page eight. So here, this is the section where we are describing how to calculate the percentage of payment period completed. As you can see, in a case of a program that is measured in clock hours by dividing the total number of clock hours in the payment period or period of enrollment into the number of clock hours scheduled to be completed since the student began attendance in the payment period or period of enrollment as of the student's withdrawal date. So it's just making it clear that the scheduled hour clock or the scheduled hours begin accruing only after you completed the prior period. And I will stop there and open it up for debate.

MS. K. SMITH: Okay seeing nothing additional from Denise. Any comments on this? Well, Dave, you did an excellent job explaining.

MR. MUSSER: Well, in that case, I think we can go on to our very last topic for R2T4.

MS. K. SMITH: You think you have enough time to cover it?

MR. MUSSER: I think so. I think we

will get some discussion on this. So if we go over, we can continue the discussion after lunch. So this is the final item that we want to talk about today. This is also related to the concept of modules in the return of Title IV process. We, in the last rulemaking, we established a concept known as the R2T4 freeze date. In order to help schools determine what the true denominator of their R2T4 calculations were. The freeze date concept is really important because without it, the Department's regulations require the school to monitor a student's enrollment throughout the period and adjust for numerous, potentially numerous changes in enrollment for modules from start to finish. Which is very administratively complicated for schools and often results in errors in the calculation if the school gets any part of it wrong. The Free State concept was subregulatory concept that the Department used to allow schools to lock in that denominator, essentially at a date of their choice, which typically is the census date or another date or the school locks in enrollment. If you could scroll down a little bit, Vanessa. We still feel that this concept is somewhat confusing and involves a lot of work on the part of the institution to establish what the denominator is. It also is different. It differs for a lot of different institutions depending on what their policy is. So to

simplify the whole process, we propose to modify this provision to focus on a much clearer and simpler way of determining whether to count the days in a module in the denominator of the calculation. And that is to simply only count those days if the student attends the module. So if the school has a record of a student's attendance of the module, then the module is included in the denominator of the calculation. There are no other considerations that the school has to keep up with. And we also felt that this might help reduce burden, additionally, because schools are already required to monitor whether students attend at least one day in most modules, if they are Pell Grant schools, because they have to do that in order to know how much the student will qualify for in Pell Grant funds at the end of the period, you have to know how much they attended. So I'll stop there and we'll go down to the regulatory text just so you can see that on page nine. And as you can see, previously it read, coursework in that module was used to determine the amount of the student's eligibility for Title IV HEA funds. As you can imagine, that is a very complicated concept. And we've revised that to say only when a student begins attendance in the module. And I'll open it up for comment.

MS. K. SMITH: Okay. JoEllen?

MS. PRICE: So it's my understanding that you're going to do away with a freeze date, R2T4 freeze date altogether. Is that my understanding?

MR. MUSSER: That is the proposal right now.

MS. PRICE: Okay, great. Because I got to tell you, it's been one of the most confusing parts of R2T4. And I'm not even sure I know of anyone who understands it at this point. So it has been very confusing. I think this makes it much clearer. And it'll make it a lot easier for us to determine the numerator and the denominator for this particular item. So thank you for this.

MS. K. SMITH: Okay. So with two minutes until noon, and seeing no other comments, I think we can go ahead and break for lunch. We'll be breaking for lunch, at 12 eastern, coming back at 1 eastern. We'll see everyone back promptly at 1 eastern. Thank you.

MR. MUSSER: Thanks, everyone.

Zoom Chat Transcript
Program Integrity and Institutional Quality- Session 1, Day 3, Morning,
January 10, 2024

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

From (P) Joe Weglarz NACUBO to Everyone:
Dom (A) for NACUBO has a comment

From P. Jo Blondin, Community Colleges to Everyone:
Agree, Robyn. So many of those students are community college
students.

From A, Emmett Blaney, Student/Borrower to Everyone:
I would also like to express support for both this change AND
with Robyn's suggestion to consider inclusion for Pell grant
overpayment.

From A, Magin Sanchez, Civil Rights/Consumer Rights to Everyone:
Carolyn lost power, will be stepping in

From P. Jo Blondin, Community Colleges to Everyone:
And we are as community colleges. We have to based on the
structure of so many workforce programs.

From P, Jillian Klein, Proprietary Instit to Everyone:
+1 Barmak's comments

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

Adding a question: Can we clarify a bit what it would mean for an
'institution's records [to] treat a student as having never attended
courses?' Removing courses from a transcript? Something else?

From P Jason Lorgan, Public Four-Year Institutions of Higher Ed to
Everyone:

We would support this proposal and would request the statute
define institutional charges as tuition if that is the intent. For
example, if a student lived and ate on campus for a month, that might
be a pro-rated refund, while tuition and fees might be a full refund.

From Krystil Smith | FMCS Facilitator to Everyone:
Page #7

From A, Magin Sanchez, Civil Rights/Consumer Rights to Everyone:
I echo support for Robyn's comments for the department to
consider how to further consider these implications for Pell Grant
eligibility and what can be done.

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:
Replying to "I echo support for R..."

+1

From P-Robyn Smith-Legal Aid Orgs. to Everyone:
To Department: One option to explore re the incarcerated
borrower provision is whether the Dept. could exclude the Pell Grant
from counting towards lifetime eligibility.

From P. Jo Blondin, Community Colleges to Everyone:
Reacted to "To Department: On..." with 👍

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:
Reacted to "To Department: One ..." with 👍

From P Erika Linden - Private Nonprofit HIEs to Everyone:
Agree with Jillian's concern

From P Erika Linden - Private Nonprofit HIEs to Everyone:
Yielding to alternate Scott Dolan for private nonprofits.

From Krystil Smith | FMCS Facilitator to Everyone:
Reacted to "Yielding to alternat..." with 👍

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:
It should explicitly say that log in alone is not attendance