DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

NEGOTIATED RULEMAKING PROGRAM INTEGRITY

AND INSTITUTIONAL QUALITY

SESSION 1, DAY 4, AFTERNOON

JANUARY 11, 2024

On the 11th day of January, 2024, the following meeting was held virtually, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MS. JEFFRIES: Welcome back. I hope
you all had a nice break and a chance to get some
nourishment as we have a very aggressive agenda yet to do
this afternoon. So, I'd like to pick up with, I believe
John Ware was first and then Jamie and take those two
comments on 602.23, and then we're going to move on to
the rest of the areas in the red text. So, John.

MR. WARE: Thanks. Yeah, just
responding to the proposed revisions to the complaint
provisions, state we're generally supportive of those
provisions. And I think a lot of that's probably already
occurring at the accrediting agencies. So, this is just
kind of formalizing the process. One suggestion I would
have, is putting something in there that would require
notification to state authorizing agencies who want the
information. So, more of an opt-in type provision about
substantive complaints. I don't think every state
authorizing agency necessarily wants to get the
information. And I certainly don't think they want to get
notice of every single complaint that comes in. But, if
there's a substantive complaint or something that the
accrediting agency reasonably believes is fraud or
misrepresentation, I know my agency would be interested
in knowing about it, and I'm sure other state authorizing

agencies would as well. The second thing I want to touch on is just the notion of anonymous complaints. You know, I'm also supportive of the idea that you can't just outright dismiss anonymous complaints because, even though nine out of ten, probably you can't do anything about it, because of a lack of specificity, there are some that come in that are very specific. And, you know, it really does require the ability to follow up on. When I started 25 years ago, we have a provision in our law, it's still in the law, that says all complaints must come to us, must be signed and written by the complainant. So, when we get an anonymous complaint, we just call it a compliance matter and investigate it the same way. So, you know, I think that's kind of what the accrediting agencies were alluding to. But yeah, I support the idea that, you know, if something comes in and it has substance and that it really needs to be investigated whether or not there's a specific signature on it. Third item, confidentiality. This is a tricky one. Our general policy is we can't promise confidentiality, although we'll make reasonable efforts to keep information confidential. Sometimes in the course of an investigation, it's- you know, the school's going to figure it out. Let's put it that way. I mean, if you're doing an investigation about a specific consumer issue, a

lot of times it's already been raised at the school

level. So, we tell students we'll make reasonable efforts

to keep the information confidential you know, a lot of

them are staff complaints, too. But we also tell them,

look [30 seconds] the school's going to figure this out

and also understand that if the matter goes to a formal

hearing or something, it's almost 100% sure that either

the plaintiff is going to be a witness or their name is

going to come out in some type of discovery process. So

those are my thoughts. Thanks.

MS. JEFFRIES: Thank you. Jamie?

MS. STUDLEY: Three quick points. One,

I appreciate Carolyn's reference to the recent

discussions of what makes for good complaint practices.

And many agencies have already revised their practices or

have improvements underway. In some cases, very well-

intentioned improvements turned out to need further

tailoring. For example, moving from paper requirements to

electronic was smart and relevant to a generation that

probably can't locate a stamp. But then we realized there

are some people, such as incarcerated individuals who may

not have electronic access and need another model. That's

the evolution in learning, and we are attentive to that,

and making those changes. Second, if something does not

fit within the complaint practice either because of the

way the person wants to do it, or an individual who chooses not to file a complaint, and does not want to go that route, accrediting agencies still have the ability, as John just said, to take cognizance of things that come to our attention. And, we do so we learn of things in a variety of different ways, and we follow up as appropriate. So, somebody who tells us something, who says, no, I don't want that to be a complaint, has other choices. It can be a third-party comment, or it can simply be having heard that I need to do something to learn what's going on at that institution. And finally, we could all help students - with directional signals. I always worry about the picture of a student trying to find the right doorway for a complaint or concern, and maybe there's something we can do together outside the regulatory process that would say, here's what the state attorneys general does, and is responsible for. Here's what the Department, the Federal Trade Commission, VA, DOD, US Department, and the accreditor, and here's the best way to take your concern, so that you have the best chance of getting to the right actor who can assist. I'm not trying to duck the responsibility that we should have, but helping people get to a responsible and responsive entity could also help all of us act in a timely way.

MS. JEFFRIES: Thank you, Jamie. Jo, do you have something really quick? Because we were going to take the two and move on.

MS. BLONDIN: I do, I just want to add to that, for example, the Higher Learning Commission has a student right to know guide that helps them in that process as well. And so, I know a lot of the accreditors are making efforts or have made efforts in that regard. Thank you.

MS. JEFFRIES: Thank you very much. We appreciate the comments on 602.23. Next, we're going to move to the remaining sections, which are 602.30 through 602.39. We would like to conclude those discussions by 1:50, so that we can give you a quick ten-minute break and then move into the discussion piece on where the Department will be looking for guidance on drafting some regulatory texts so that- they can have that to come back with for the next session. Okay? So, with that I'm going to turn it over to Herman, who can start walking us through.

MR. BOUNDS: Alright. Thank you. Good afternoon, everyone. Hope everybody enjoyed their lunch and got some time to take a little breather. I won't go over everything we have done in this session. I'll just speak in general terms, our changes here were number one

to try to help fit whenever we develop our risk-based

review process that we're thinking about implementing, to

streamline the timelines that are in the recognition

process. Which, you know, when we first put these in, we

thought, yep, this is probably going to be a good idea.

But operationally, we had found out that they are causing

some problems. So that's the main reason for the changes

that we've made here are specifically related to the

timelines.

>> We also wanted to separate some of

the requirements from, let's say, like renewal of

recognition and submission of compliance reports,

expansions of scope, and those things. So, we can start,

(a) has a couple of changes there, and then we can just

go down the list as we see fit. So, I'll open it up for

discussion from this point.

>> MS. JEFFRIES: Sorry about that. My

headset went dead. Can you hear me? Okay. Great. Alright,

Jamie, you're up first.

>> MS. STUDLEY: Yeah, we still want to

keep looking at this because it is very detailed, but in

general didn't spot broad concerns. We appreciate the

Department's thinking about how the timeframes work and

how the notification works, but efficiencies in the

recognition process, you know, are reasonable to try and

improve what we do. And we will, comment about specifics, but, that had not yet identified any real concerns and respect the effort to think about how to make it flow so the public can participate and the comments can be timely. We appreciate that this is connected to Department workload issues, but nobody wants to be making decisions on stale information either.

MS. JEFFRIES: Okay, thank you. Any other questions, comments on what Herman just covered? Okay. Herman, you want to move on?

MR. BOUNDS: Sure, if there are no questions in that section we can move down. Please let me know if I skip something. We can move down to looks like 602.31, the new 31. If we want to display that on the red text on the screen. And we will be hitting 604 on this later too, so I just want to make sure. Yeah.

MS. JEFFRIES: Yes.

MR. BOUNDS: And, no, really, I covered our basic purpose here, so I'll just open it up for questions or discussion. Again, this all has to do with the process.

MS. JEFFRIES: Okay, 602.31. Laura?

MS. RASAR KING: Thanks. I'm not sure we're fully supportive of striking the 24 months in advance submission of the petition that was not helpful,

I think, for either the accreditor or the Department. And
the information got stale before it could even be
reviewed. So, we support that. The language, though,
that's in the place of it is just a- I'm sorry. A
submission deadline set by the Department is that because
we haven't discussed the risk-based stuff yet, or are you
not intending to put a parameter in there? Because, I
think , it would be fair to set some kind of timeline.
It's not 24 months, but what would the timeline be and
why isn't that proposed at this time?

MR. BOUNDS: Yeah, so let me answer
that with maybe two short answers. So, if you remember
previously in the regulations before the 2020 change, we
didn't have a submission timeline in those regulations.
We did the recognition process operationally where we
gave you notice and let you know when you were supposed
to come to the NACIQI meeting based on the expiration of
your recognition date, which is in that SDO decision
letter. The second part is, true. This is related to our
risk-based review process. Because once we figure out
what that model is, we may be able to put a specific time
for submission, but we're still working those things out.
We just have found out when we put this hard 24 months in
there, we just found problems with it. So, we don't know
if an 18-month would be good or if a 12-month. We think

that this is something that can   happen operationally as long as we give the accrediting agencies the time they need to get everything ready. Currently you get somewhere around 6 or 7 months to submit once you get that notification from us. So, but you're right, it's kind of based on risk-based review.

MS. RASAR KING: I do like the idea. The one thing I did like about the 24-month period is that it gave us a timeframe. That's the only thing I liked about it, but at least it gave us a timeframe. I would suggest putting in a timeframe once we get to that point, just for fairness on all sides.

MR. BOUNDS: Yeah.

MS. JEFFRIES: Okay, great. Other comments on the 602.31 changes? Feedback? Barmak.

MR. NASSIRIAN: A group of us have submitted comments in writing. Some of them are just basic editorials, some of them are quite substantive but, I'm assuming we're just going to have the Department absorb those before it comes back. There's no need to burn time now trying to debate them, right?But, they are on the record and the Department will review them, I assume.

MS. JEFFRIES: You're talking about the proposal you sent?

MR. NASSIRIAN: Yes.

MS. JEFFRIES: We sent them. And they do have it, as well as the rest of the negotiators in it will be on the website as soon as it's completed, okay?

MR. NASSIRIAN: Thank you.

MS. JEFFRIES: Thank you. And thanks for being considerate- the time. We appreciate it, Barmak. Jesse.

MS. MORALES: Alright, so before we go on to look at further language, I think it's important to kind of take a step back and really start to understand why we're looking at stronger accreditation regulations. It's supposed to be a critical part of the triad that ensures that students, especially, are being served well and not being harmed. And I think, as we discussed with some of the standards for accreditation this morning, accrediting agencies may be serving their institutions well, but are often failing the students at those institutions who are counted on and have that expectation that accreditation means that there's a stamp of approval by the Department. So, the institution is going to work for those students, and ultimately, they're not. There's- across thousands of currently accredited colleges, barely half of the students are graduating. And of those programs at currently accredited colleges, many of the

students are having to leave in a lot of debt, and
earning less than they would have if they not gone to
college at all. Many can't get a job because their
degrees aren't actually helping them to achieve that. And
as students are leaving, and being left off again. I-t's
important for us, as we're looking at this language, and
for the Department to be ensuring that accreditors really
are the trustworthy arbiters of the quality that they're
saying that they are. Then instead of the Department's
processes- instead, right now, the Department's processes
often leave accreditors failures left unchecked. Tt's-
why we're looking through this language, that has to be
something that we're looking at. What are the things that
we're truly addressing that are touching students?
Because as all of you here at the table and as I
represent, our foremost concern should be for students
and ensuring that students are getting a degree and an
education that is of quality, that can help them in the
future. So, I also wanted to add in the chat a letter
from outside organizations sent to the Department last
year, I believe, that echoes, and kind of expands on some
of these concerns, and I hope the negotiators here at the
table and others will look at it. Let me just say that I
understand all these people that are representing at the
table right now, I'm sure you're doing the best that you

can, but nonetheless, so many aren't. This is the
purpose of why we're at the table, to make sure, and to
check, and ensure that students are being served well.

MS. JEFFRIES: Okay. Thank you for
your comment, Jessica. Next, anyone? Ashlynne.

MS. HAYCOCK-LOHMANN: I also wanted to
add on to what Jessica was saying, especially when you're
looking at entities like the Department of Veterans
Affairs and the Department of Defense, they rely very
heavily on what the Department is doing in accreditation
to ensure that the programs they approved for things like
GI Bill benefits and tuition assistance are good programs
and good uses of those dollars as well. You know,
oftentimes we see a lot of issues with veterans who are
using GI Bill benefits access, having access to those
programs and not being able to graduate on time or
utilize those degrees as well. They're expecting that if
something has VA- expects if something has the stamp of
approval from Department, that it's going to be a
legitimate program that's going to lead to employment for
our veterans and military families. Thank you.

MS. JEFFRIES: Thanks, Ashlynne. Okay,
seeing no hands, oh, Barmak, you're back. Okay, thanks.
Go ahead. You're on mute.

MR. NASSIRIAN: Sorry about that. But,

Ashlynne reminded me of something I just wanted to bring to the committee's attention, and that is that obviously, the Department operates an ecosystem for its own programmatic purposes, that in which, accreditation is just one of part of the triad. I think the committee should be aware that the fact of accreditation by a Secretarially-recognized agency becomes a shortcut for eligibility for VA and DOD programs, particularly for VA programs, which means we have institutions that obtain Secretarially-recognized accreditation, but opt not to participate in Title IV very consciously, precisely because they don't want to be subject to the other requirements of the law on which we may be relying in terms of our thinking about how to configure accreditation.I can see why some may think, the accreditor, maybe we could ease up on the accreditor, which, by the way, I support. I know we're throwing too much at them, but it's important to understand that while the system may work, when you absolve the accreditor from certain kinds of responsibilities because, to say the certification process will take care of it, other agencies look at the accreditor being recognized by the Department almost like a blank check for purposes of eligibility. So, Ashlynne's comment is particularly worth paying attention to because the accreditor, in some

cases, is all there is for billions of dollars of
taxpayer money and tens of thousands of students. Thank
you.

MS. JEFFRIES: Thank you, Barmak.
Okay, no further hands. Herman, back to you.

MR. BOUNDS: Alright, let's see. We
can then go down in the red text, I think. We get to see
where we are. Yeah, 602.32. Again, I talked about this
earlier. This is again trying to reorganize the
recognition process. Here we just moved review of
expansions of scope compliance reports, and the increase
in enrollment headcount. We wanted to put that in a
section of its own. Mainly because the timelines in the
earlier portion of the regulation, you alked about
submitting two years in advance that may not be
applicable here, nor so the amount of time that we have
to give a credit to respond to a draft analysis. So, we
just wanted to separate those. So, with that said, I'm
happy to open it up for discussion.

MS. JEFFRIES: Okay. Thank you,
Herman, for the overview. So open discussion on 602.32.
Comments? I know some of these things were addressed in
some proposals that have already been sent through by
some negotiators. Jamie? You're on mute, Jamie.

MS. STUDLEY: Sorry to be taking-

commenting so often. On this one, we are a little concerned about the restrictions on the ability to bring forward a request for a scope increase. If institutions or program development need it, the Department speaks about innovation, and about allowing institutions to offer programs that are desired by students, by workforce, by states. To the extent that this could have the effect of slowing things down, the Department tried to anticipate that in saying to prevent the delay of educational programs for which high interest exists. It may not be massive, but it may be something the accreditor is willing to do. We know that's something we'd like to look at further , we appreciate the Department wanting to be efficient, but we would also like to be able to be responsive as fields or needs evolve and accreditors who meet Federal standards want to be able to review new types of programs. This may also be an issue for specialized accreditors.

MS. JEFFRIES: Thank you, Jamie. Anyone else? Barmak.

MR. NASSIRIAN: This is another conundrum, obviously. We certainly support evolution, and innovation, with the realization that there is risk involved. The question that is not sufficiently attended to in our current practice is that risk is borne almost

entirely by students and the taxpayers. You know, its innovation doesn't always succeed. It has a very warm and fuzzy feel to it when you say innovation, because we tend to think of innovations that succeeded. For every one that succeeds, there may be 99 that fail. When that happens in this environment, you're dealing with students under crushing debt. You're dealing with students significantly worse off than, if they had not been participants in the system. We want a system that is safe. Yes, we want it to be innovative. We want it to move forward. It has to come with significant safeguards that do not exist. I would be remiss if I don't go back to the vets and active duty members who don't even have the safety nets that the Department has so wisely implemented for purposes of protecting victims, at least post-facto from programs that prove less than adequate. We don't have those protections necessarily for vets and active duty service members. In all instances, the wasted time obviously cannot be made up. So, it is critical that as we attempt to accommodate innovation, we also think about the downside of not only possible, but probable failure, precisely because it's something we haven't done before. We don't know what the outcome is going to be. Thank you.

MS. JEFFRIES: Thank you, Barmak.

Jamie.

MS. STUDLEY: One of the advantages of
regulatory negotiation, which I will still call neg reg,
accidentally, is that we can learn from each other about
what we're seeing. Barmak, I agree with every-
everything you just said in a that broad statement. Can
you help me understand how that applies to expansions of
scope? I just truly don't know how it plays out in
accreditor expansions of scope. And if I did, I could
think about how- , we could all think about what the
regulatory guardrails ought to be.

MR. NASSIRIAN: I mean, as when you
expand- may I respond?

MS. JEFFRIES: Yes. Oh, absolutely.

MR. NASSIRIAN: Okay. Yeah, The
concern is that even diligent and attentive accreditors
may be confronted with completely new configurations of
delivery, completely new arrangements of programmatic
offerings. That may sound good, that may look good, that
may have all kinds of theoretical virtues except for one
little defect, which is that they really can't work in
practice. Right? I mean, there's lots of things that they
called existential fallacy that lots of things can be
thought of, but just because you can think of something
doesn't mean you can do it. You may be able to construct

a submarine to go to the depths of the ocean to visit the
Titanic on the cheap. It would be a good idea to have
that, except that sometimes it doesn't work. So, the
concern is that as accreditors are confronted with this
onrush of innovative ideas, many of them driven by
private equity and techno utopia. Techno utopian claims
by outside parties who claim to have a better way that
they may end up expanding the scope of their recognition
practices to accommodate what sounds good but ends up
victimizing lots of students. That's our concern.
Otherwise, Jamie, you and I are very much on the same
page. It's the critical task of striking the right
balance to ensure that we don't stifle and ossify the
system at the same time as we ensure that people are not
victimized. It's a tough job.

MS. JEFFRIES: Thank you. Seeing no
further hand.-

MS. STUDLEY: I want to respond to
Barmak.

MS. JEFFRIES: Okay, sure. Yeah.

MS. STUDLEY: All I want to do for
folks is separate that there are two different stages
here. You're right that we're in agreement on the
challenge that we face. This section is about the
accreditor's expansion of scope to even look at a

particular type of program, either a degree level or a field. Then the accreditor has the responsibility to make those critical judgments about any institution offering programs or, expanding into those areas of within the new scope. There are two stages, and both need to be rigorous. One is a set of decisions where the Department would decide on the agency's scope. The authority of Laura said, we see a new area where we believe our expertise could apply. We would like to add that to our scope. The Department makes the complex judgment whether she has the knowledge capacity through her commission, and then the agency would decide about whether any institution could measure up to the standards for that. Just- because we talk about scope and we talk about approvals, and it took me a long time to learn that there are these multiple layers.

MS. JEFFRIES: Thanks, Jamie and Barmak, for that great exchange and clarification for each other. Alright. So, Herman, let's move on to 602.33, I believe is next.

MR. BOUNDS: Yes. This is the section that I was referring to. I think the question that Barmak had about our ability to review accrediting agencies at any time during the recognition period. So again, we've proposed some changes here. And I'll open it up again for

comment.

MS. JEFFRIES: Thanks. Comments,
questions, concerns on 602.33? Jamie.

MS. STUDLEY: Very tiny one. One of my
colleagues picked out the words, if practicable, the
Department would provide the agency with public
information that it had received, to allow it to provide
a written response. We wondered when, or how it might
not be practicable to share that with the institution,
with the agency? I'm not looking for an answer right now,
but it was hard to imagine when something that the
Department received and was relying on couldn't be made
available in some fashion to the agency at issue.

MS. JEFFRIES: Okay, thank you. Is
that something you want to put in the chat, Jamie? I know
you're not looking for a response right now, but okay.
Seeing no further hands on 602.33. Let's move to 602.34.

MR. BOUNDS: Okay. Again, just a few
changes here. This is under Advisory Committee Meetings,
I don't know if we've talked about these before, but
they're not,   too extensive at all. So, the minor
changes here,if anyone has any comments. Just let us
know. Tell us more about, the types of recommendations
the committee can make and, committee processes.

MS. JEFFRIES: [Inaudible] a few

minutes to peruse that text if you want before we move

on. Not seeing any hands on 602.34. So, let's move to

602.35.

MR. BOUNDS: Same here. Minor changes

here. So, again any discussion?

MS. JEFFRIES: We're on Substantive

Changes here? Is that what you're saying, Herman?

MR. BOUNDS: Right. No, nothing

substantive under 35. I think we just have the one in

(a), I believe. Yeah. Everything else is current

regulatory text.

MS. JEFFRIES: Okay. So, we will move

to 602.36.

MR. BOUNDS: Okay. I don't think

there's anything there significant. Nope.

MS. JEFFRIES: So, unless someone sees

anything substantive that is missing, we'll move on to

602.37.

MR. BOUNDS: Yeah, I honestly think

we're probably good all the way down to the 604. I don't

see anything significant in any of those sections unless

I missed something.

MS. JEFFRIES: Okay. So, let's move to

604.

MR. BOUNDS: Okay. Let me get down to

that. I'll give a brief overview of 604. And I don't
know how many folks are familiar with our review of state
boards of nursing. They are currently reviewed using a
1969 Federal Register Notice, which has not been updated
since 1969. We have another type of agency that we also
review. It's not covered here. But just to put things in
context, we also review state agencies that approve
vocational education in their states. They're recognized
under 34 CFR 603. I just want to give people an
understanding we're not making a special carve-out.
There's it's already been established that these are
different organizations, and they have different review
criteria. Just general information. There are currently
five state boards of nursing that we recognize, four
state vocational agencies that we recognize. Our attempt
here was merely to move the nurse criteria into
regulation and codify the criteria that currently exists
that was in that 1969 Federal Register Notice that I
think you guys may have that, and then try to update it
with things that we think the nurse criteria may have
been a little short on. I know this is a lot to look
through, but that's our sole purpose here. They're
recognized instead of five years they recognize every
four years. Again, I understand this is a lot, but I
would open it up for questions at this time.

MS. JEFFRIES: Okay. Before we do
that, I want to make note that Amy Ackerson is coming to
the table in place of Laura Rasar King for the entirety
of the 604 discussions. Amy, your hand is up.

MS. ACKERSON: Thank you. I just want
it to be known. I've waited all week for section 604.

MS. JEFFRIES: It's your stage now,
Amy.

MS. ACKERSON: Just to reiterate,
there are currently only five nursing regulatory boards
that are recognized by the Department. In hearing from
colleagues at other nursing regulatory boards, there is a
likely scenario that number of nursing regulatory boards
approved will drop from 5 to 3. Over the years, agencies
have self-selected to not maintain their department
recognition due to the scrutiny of the review, the four-
year review process, and the lack of concordance with
state rule, and statute that the nursing regulatory
boards function under. Lastly, there's a very limited
benefit to the Nursing Regulatory Board, and the programs
they approve. The 1969 Federal Register Notice not only
cites outdated statute, but it also cites outdated
practices as it pertains to nursing education program
regulation. The Department seeks to update the
recognition procedures to more closely align with those

applied to other agencies, and I assume that other
agencies refer to accreditation agencies. Nursing program
approvals are not programmatic accreditors. Nursing
Regulatory Board approval standards are regulated by
state law, and rule that the nursing program accreditors
have modeled their standards after, not the other way
around. Model rules that are evidence-based and based on
best practice are developed by the National Council for
State Boards of Nursing, and are the guiding rules that
the nursing regulatory boards use in nursing program
approval. If it is the intention of the Department to
continue to recognize the approval agencies of nursing
education programs, then I would ask that this
negotiation cycle also be used to bring the rules into
the current era of nursing program regulation. The
Department rules should allow for state rules to be
considered and recognized for the high quality and
integrity they are modeled after. I think some minor
changes to the reg text can accomplish both the goals of
the Department, and be better suited for the nursing
regulatory boards at this time. I think it's important to
reiterate that nursing regulatory boards are not
accreditation agencies. We do not have staffs of people.
We are Departments within state agencies that are often
one and two people deep. The burden of regulatory

burden, along with the re-review process of the Department is cumbersome at best. So that's what I would like to say. I did submit some minor changes to the rules. One of my main concerns is with the annual reporting as guidelines as they stand now. And then as I stated, the review process being four years, whereas accrediting agencies are five. Thank you.

MR. BOUNDS: Amy, I would just like to comment. Yeah, our goal was to not only try to update the best we could but try to align with some of the things that are also in 603, which are the agencies that we recognize for vocational education. We also realized that it would be very difficult for state vocational or state boards of nursing to meet the requirements of 602. Number one, there's a provision there that would require that the state agency be recognized, I think it is before 1st October 1991. So many of them would not even be able to make that requirement. But, your input is helpful. That's why we're glad you're here. W You're the experts with the state Board of nursing. We know some of them, like this process, some of them, have some suggestions. We welcome any edits, and updates that you think might help us through this. So, we appreciate you being here.

MS. ACKERSON: Thank you.

MS. JEFFRIES: Thank you, Amy. I would
like to point out that D'Angelo Sands, the alternate for
historically Black colleges and universities, tribal
colleges and universities, and minority serving
institutions, is stepping to the table for this in place
of DC Prince. Thank you. Further discussion on 604? Not
seeing any. Okay. I believe, Herman, that's concluded
the regulatory text and leaves the discussion topics as
the next agenda item. Correct?

MR. BOUNDS: I believe so.

MS. JEFFRIES: Okay. It is 1:43. How
about we take a ten-minute break, come back about 5 to 2,
and then we'll spend the rest of the time until public
comment on those questions for discussion and the
relevant sections of the document associated with those.
I do want to take a moment just to remind the public
commenters who have been given time slots to please
remember to sign in about 15 minutes before your time
slot so that we can move through, and get as many people
in on public comment as we can. With that, we'll see
you back, at about 5 to 2. Okay. Welcome back. I hope
you were able to at least get your legs stretched a
little bit. We are now going to move, and look at the
issue paper under the discussion topics. Herman, do you
want to start with the discussion under 602.16, I believe

it is, the first one, is that correct?

                    MR. BOUNDS: Yes, I think that is.

                    MS. JEFFRIES: Okay.

                    MR. BOUNDS: Right. Okay. Whoa, my
screen went blank. Sorry.

                    MS. JEFFRIES: That's alright, my
headset went dead.

                    MR. BOUNDS: Okay. You all can read
the issue that we have here, and we're looking for some
discussion under 602.16. Just quick above that, we just
made a mention about   putting in a crosswalk under
number one, to better, relate the regulations in 602 to
some of the eligibility regulations. I'm sorry if I'm
jumping around. It's still on page four, I just wanted
to mention that. If you can scroll up, a little bit more
right there. I didn't want to skip that if somebody had
questions. I've already talked about the nurse criteria.
Now we're at the 602, 602.16 spot. Basically here
we're asking for some help with some questions in this
area. As you know, accrediting agencies are supposed to
have- standards that they have to have policy for. We
have standards that the agencies must have standards for
under 602.16 and that's really 602.16 (a) one through
ten. Of those, of course, are- student achievement.
Some of the others are fiscal and administrative

capacity. Again, route recruiting, and admission
practices, student support services. Of those we have to
determine whether an agency standards are what we say as
sufficiently rigorous, both in, regulation and in
statute. So, what we are asking you here, if you go down
to the questions, and there's the first one, I guess we
can go ahead and take that one. It's, how can the
Department ensure that standards are sufficiently
rigorous, and should the expectation of rigor vary by
category? I'll leave it at that. Sorry for the tongue
twisting earlier. I had two different screens open, and
got lost there for a second, so I apologize.

MS. JEFFRIES: Barmak.

MR. NASSIRIAN: Yeah. It's a problem
because obviously we want them to be rigorous, whatever
that means. Many standards, of various accreditors do
refer to rigor and outcomes, etc. The only problem is
they are not they are not clear and distinct, and they do
not articulate verifiable thresholds below which
performance can be designated as unacceptable. I think
it would help, to the extent that it is possible for the
Department to at least require accreditors to use to
articulate specific bright lines where possible, below
which they would view an institution as not having met
their standards. The one that comes to mind immediately

is the graduation rate. The Department can't impose a

graduation rate on anybody, but an agency should be able

to tell you that there is a graduation rate below which

the institution should be very carefully looked at and

maybe even a graduation rate below which the institution

should not be eligible.

MS. JEFFRIES: Thanks, Barmak. Diana.

MS. HOOLEY: I would just echo what

Barmak just noted as well. I think that's an eminently

reasonable suggestion. I would also suggest that,

whatever these benchmarks are, that they be made

available very conspicuously to prospective students as

well as currently enrolled students who will have, in

longer term programs, have to decide whether, to

continue to enroll. I think that information just has to

be made conspicuously available to consumers.

MS. JEFFRIES: Thank you, Diana.

Jamie.

MS. STUDLEY: Starting with a little

bit of classification. Standards are the broad criteria

and expectations that we establish that all schools must

follow. For example, and I can send this around, my

organization has standards. That's what we call these

that say the institution demonstrates that graduates

consistently achieve stated learning outcomes and

standards of performance. The institutions demonstrate that students make reasonable progress toward and complete their degrees in a timely manner. The institution monitors and analyzes the outcomes of its students' following graduation and uses the results for improvement. Those are in the new 2023 standards that WASC has adopted and will go into effect this coming year,. those are standards. Then we have metrics by which we, and the institution can understand, and students, and anyone else who wants to look, can understand how the institution is doing regarding those standards, using a variety of metrics. I've sent around- it wasn't showing as a link, I don't know what my problem was, I have the connection attached there, that provide student outcomes at the institution, disaggregated by population with trends over time, comparison to medians 25 and 75% levels. Not every accreditor does it this way. I'm using the one I know best as an example, but you will see on lots of other institutional accreditors and Laura can speak for specialized about how we share that information, and we use it with the institution in the team review and in our decision making. We use it to understand how the institution is performing, but it all needs to be situational. What's the program? What's the population? What is the effectiveness of programs in this

field? What's the trend? Are you moving upward and
getting better? And those all fit into the judgment that
the accrediting organization is asked to make. It is
complex work. And we are aiming to promote student
success on all these measures. We, in our organization,
are looking at, newly under 2.11 [30 seconds] new
questions about return on investment. I'm speaking now
mostly on student performance. I'll come back to other
topics and what we do, but you need to understand that
the standard is the big picture. The metrics are the
performance levels, and that we do use those in judging
whether an institution is satisfactory or falling below
what should be expected. But it is a very individualized
judgment matter to which we are trying to add
predictability, the ability to tell a public story. We
are working with the Department on improving the
education,- the information the Department can give us in
data terms so that we can do those complex analyses.

MS. JEFFRIES: Okay. Can you hear me?
Okay, great. I got this headphone working. Wonderful.
Jamie, did I hear a data request in that?

MS. STUDLEY: No, I was providing
data, a link to the data that we provide, and I was
referring to conversations that we are having with people
at the Department, guided by Antoinette Flores, Jordan

Matsudaira and others to improve the data that we have
available so that we can meet our desire to be rigorous
and that of the other negotiators.

MS. JEFFRIES: Okay. Thanks for that
clarification. Before I go to Barmak, I want to announce
that the alternate Scott Dolan has stepped in in place
of Erika Linden for private, nonprofit institutions. So,
with that, Barmak.

MR. NASSIRIAN: If we get into the
fundamental dilemma here of accreditors playing the
fundamental duality in the nature of what accreditation
has become, on the one hand, it's a quality assurance
mechanism that's supposed to do gatekeeping. On the
other hand, it's a quality improvement mechanism which is
supposed to be a voluntary collaboration among peer
institutions. I think what I'm trying to articulate
here, Jamie, I understand what you're saying and what you
say makes a lot of sense. But to put it in like
collegiate terms, to give us nightmares about our
undergraduate years, it's sort of like, in the quality
improvement modality. Obviously, the accreditor is
judging the application of these metrics to its standards
based on a self-set institutional mission. W In many
ways what you're doing is you have an almost infinite
number of grades that are given to people. You have an

infinite number of grading systems, based on what the
institution says its mission and goals are. But from a
Federal and from a student perspective, it would be handy
to know that there is also a fixed rubric based on which
an institution makes an accreditor makes its own
judgments about institutions. Now, the Feds can't tell
you what that is, but it would be nice. Such a rubric, if
articulated by the accreditor, would be enormously
helpful. It may be perfectly fine that an institution
has a 5% graduation rate. There may be all kinds of
reasonable explanations as to why that is the case, but
it would be nice to be able, for the accreditor, to be
able to say, these are the thresholds by which we
categorize different members or different entities we
accredit. Below a certain threshold, we have looked at
them and, it's fine. We validate the fact that they have
a 5% graduation rate, should not be grounds for concern,
because we have attended to it, and we know it's okay. I
think that's what I'm trying to get at. We're not trying
to impose a Federal standard on anybody. We're simply
saying articulate something that the public can
understand.

                    MS. JEFFRIES: Thank you, Barmak.
Jamie.

                    MS. STUDLEY: Two observations. One,

the accountability and quality assurance purpose. I don't know if the phrase is, comes first, but it's not a choice. We are not confused about whether we are improving or gatekeeping. If an institution does not meet standards, it is the responsibility of the accrediting agency to so identify and to place them on warning, probation, show cause or to withdraw accreditation, period, end of sentence. So, it is a dual role, but there are lots of ways in which people have dual roles. Teachers do it all the time, but if somebody fails the test, we identify them as having failed the test and work through the consequences. Sometimes that does allow an institution to improve. They're placed on warning, they get better. All good, ut that does not stop us from pursuing the natural compliance story. On the other, I think we're closer together than some people might think. A fixed rubric, however, I avoid the phrase bright line because we can't set bright lines. Had it been possible to set bright lines, the College Scorecard might have done so. We do not have either the information or the understanding to have high stakes consequences follow from the numbers. But I know my agency and I believe many others are looking at thresholds for follow-up and as the information that we have gets better and more reliable and coherent, we are thinking about how we can

say, if this, then we will look at you this way or this
is going to be subject to an additional conversation. We
already do that in lots of instances. We call out poor
performance in our commission action letters, which are
public. You can look at them. There are lots of ways in
which we flag for the institution, and we are asking
whether those flags can be more visible so that people
know when we will flag, whether that's numerical or in
some other way. But we can't do it out ahead of data that
that would be inaccurate for schools and not tell a fair
story about their students' performance. So, we're with
you in wanting to be more predictable, wanting to be
clearer about how we follow up, because we do want people
to understand what we're doing. But we can't do it in
ways that are that would be so blunt that we would have
consequences for institutions that should be permitted to
continue or are improving at a pace that would satisfy a
reasonable accrediting judgment about standards.

                    MS. JEFFRIES: Thank you, Jamie. Jo?

                    MS. BLONDIN: Yes, thank you. Not to
reiterate what Jamie said, but I know that the Higher
Learning Commission is working on what is relevant also
to the sectors and to student intent. I know as a
president of a community college that many students come
to me. In fact, 90% of the 6,000 students at Clark State

are part-time. They're not going to graduate within a
two-year window. They also may not be seeking to graduate
from our college at all. They transfer to Wright State or
Ohio State. I want to make that clear that is something
I know that we're paying particular attention to is
trying to capture student intent across our institutions.
But also, we want these metrics. We want to be as
relevant and transparent as possible. But I agree about
bright lines because, as Jamie mentioned, I mean, the
scorecard is not always representing what we're doing
within the two-year sector. Thank you.

MS. JEFFRIES: Thank you, Jo. Barmak?

MR. NASSIRIAN: I'm going to pose a
question to the group. Do we believe, as has proven to
have been the case historically, that there are fully
accredited institutions operating today, that a future,
lenient benevolent administration may decide to offer
mass loan discharge to their students because it turns
out they were subpar operations? Do we think every- do we
believe that every accredited institution today is a
safe, high-quality venue for students to pursue
education? Because if that is not so, and it was not so,
we know that. We know that Corinthian, not to speak ill
of the dead, but you know, we can never speak about those
who are continuing today since they may get, offended.

But we can certainly talk about the past. Corinthian was
accredited. ITT was accredited. I realize the answer is
typically that was then, this is now. I posit to you
that not enough has changed to ensure that WASC may do a
lot of things right voluntarily. I am grateful for that,
and others may do the same. That's great. The question we
need to ask is, are the demands of the Federal
government sufficient to make sure that everyone must
do, at the minimum, the required due diligence to ensure
that every institution currently operating with a full
accreditation status is actually a good actor. I think
the answer to that, I really challenge anybody to give me
that assurance that there are no bad actors enjoying full
accreditation today, in which case there's a real problem
and I think there is a real problem. Thank you.

MS. JEFFRIES: Thank you, Barmak.
Carolyn?

MS. FAST: Just to put some numbers
into what Barmak is talking about. Department has
estimated that 700,000 students are getting Federal Aid
and are enrolled in career training programs that leave
them with debt that they cannot pay back because of their
meager earnings, or that earn less than a high school
graduate in the same state. This is, I think, pretty
clear indication that something is not entirely right in

how quality is, and this is just looking at career
training programs, not looking at the programs in
general. I'm just putting that out there as additional
evidence that the problem has not gone away. These are,
current numbers and suggest that there is a problem here
that the Department is trying to address.

MS. JEFFRIES: Thank you, Carolyn.
John?

MR. WARE: Yeah. Thanks. And I agree
with Carolyn's comment, and I think that the issue about
cost, is in my mind, different from quality. But,
that's a different discussion, but also to respond to
Barmak comments, all these institutions that we're
talking about, that were accredited that went out of
business were also state authorized as well, so it's
important to remember that. Some of this, in specific
reference to ITT, because we had multiple ITT
institutions in Ohio, some of this information that's
coming out now that ITT closed and just because it was
fraudulent, I don't think that's accurate. We can get
into a debate with that, but it was primarily closed due
to financial issues and the fact that the US Department
requested that they post a $250 million letter of credit.
So that was kind of what pushed them over the edge for
the closure. But, getting back to the standards, I

think we really need to consider comparing similar
institutions to similar institutions. And we have
standards and benchmarks in our regulations that relate
to job placement and graduation rates. When we get-
people falling below the rates, we really, take the time
to look at what's going on. Who are the students they're
serving? You know, there's a lot of factors in there. And
I think this goes back to the community college issue,
too, that if you look at IPEDS data, community college
graduation rates are really, low. But there's a reason
for that. You know, the students they're serving, they
tend to come in and out of school. And if you're going to
start to use benchmarks, I think there's a lot of
institutions who kind of have a different mission that
are going to get into trouble with those type of
benchmarks. Thanks.

MS. JEFFRIES: Thanks, John. Okay,
Scott Dolan.

MR. DOLAN: I know I put it in the
in the chat box, but I think we're all in agreement that
we should move forward with standards that we can use to
evaluate institutions. I think it's   how accreditors use
that information to determine the quality of
institutions. I think the challenge is how we go about
doing that. And how do we create consistent bright lines

that enable us to make fair comparisons, good comparisons around, what makes this institution of quality and leads students to success? You know, within our constituency there's a wide variety of institutions and different types of students that they serve. I think, out of recognition of that, it's just about being thoughtful. In addition, I guess the question I have is, the Department's looking for some guidance around how they ensure sufficient rigor moving forward. It might be helpful to hear a bit more or to see a bit more exactly the process and procedure that is being used right now to determine those assessments of sufficient rigor, as they apply to, accreditors. What have been the challenges there when evaluating accreditors? What data would they like to have? What data don't they have? What information is not as easily accessible? I think we could start from a kind of here's where we are versus here's where we might want to be and how do we solve for that?

MR. BOUNDS: Yeah, I can jump in really quick. I just do want to remind everybody that we have two more questions in this category. We're still on the first question. To answer your question real briefly, what we currently do is when we get a petition for recognition and we're evaluating the agency student achievement standards, whether they set their own or

evaluate the institutions, we're looking at a reasonable
explanation of how the standard was developed, how the
requirements were developed. If it's a benchmark, how did
you determine that 70% was okay? What sort of studies or
reviews have you done? Then we wait and see what the
agency comes back with. I won't get into it, but I'll
just remind everybody, there are some strict limits on
the Department's authority when it comes to trying to set
a student achievement standard out. I won't read it to
you, but it's in the HEA. I'm sure all of you all are
aware of that. I kind of hope that answers your
question. It's really a qualitative review of, you know
what the agency provides for us   in our review of the
agency.

MS. JEFFRIES: Okay. Thanks, Herman.
And you are exactly right. We were taking comments on
question one. Let's look at question two. What factors
should the Department consider in evaluating the rigor of
an agency's standards generally? Any thoughts on that?
Jamie. You're on mute, Jamie.

MS. STUDLEY: Different place on the
screen. Accreditors want to be as helpful as we can on
this issue, and having gotten these, last week, we will
be talking some more about providing answers that can be
helpful on this whole set of issues. But some of them

involve using the best available data, consistently training, and preparing their teams to ask the questions about these particular matters. Accreditation process and inquiry have evolved a lot over the 10, 20, I think it's almost 30 years that I've been watching accreditation. It's much more specific. It's much more linked to data and performance outcomes. Carolyn talked about several outcomes related to postgraduate success, employment, return on investment, debt, and so forth. As information about those has become available, they've been incorporated into the thinking. So, what is rigorous depends on what's available It has moved. We advanced the needle on doing those kinds of things. One of my colleagues said rigor under the standards will be in terms of disaggregated data, informed approaches to measuring student achievement and closing equity gaps. The Department can ask us about how each agency, and does, ask how each agency has applied that and done it in a consistent way, and how it has supported it with substantive information. We'll probably have more to say. But this is very much in line with the thinking of accrediting agencies trying to say, what can we use to make those judgments and what are the new issues that should be included? And how can we do it in a way that's fair and reasonably consistent? Because they're not the

same, but they need to be fair and appropriately

consistent across institutions.

MS. JEFFRIES: Thank you, Jamie.

Jesse?

MS. MORALES: Just wanting to also

echo what Jamie has just mentioned. But in terms of the

importance of the requiring of the disaggregated data,

wanting to lift that back up again. While obviously some

accreditors may do so, having that language within this

process that we're working on is very important.

MS. JEFFRIES: Thank you. DC?

DR. PRINCE: Can you hear me?

MS. JEFFRIES: Yes.

DR. PRINCE: Alright. In relation to

this question, I do like to bring up two points on what

factors the Department consider in evaluating the rigor

of an agency standards generally. I think the first one

is on transparency, and I think the Department needs to

determine what is an agency's role in being transparent

not only to the public, but to its members. What level

of that should be done as an adequate level of

transparency? I think the issues, that we are running

into is a lot of these discussions that we're having,

isn't necessarily heavily known in the industry as it

should be, but also the roles of these agencies, and how

they handle certain situations, certain topics, their
financial sustainability, and stability. I would say
these levels of transparency need to be determined by the
Department. I think secondly, the other issue is
governance. I know that I brought it up yesterday and
think that we need guidelines around what is good
practices in governance. What should governance look
like? As I had also suggested yesterday, what is the
overhaul of rethinking an agency's role as far as when it
comes to not management, CEO and VP's, but governance in
the sense of the role of the members, the role of their
board, their commissions, whatever they might call it
that are that the CEO reports to? And looking at those
two areas of an agency standards, how transparent are
they? At what level of transparency are they providing
based on the standards, based on public engagement and
then governance? At what role and level do we think what
agencies are doing is there governance policies,
procedures? Are there people that they name? Because I
know we've talked about public members, but really, we
need to think about all the members who are part of the
commission, whether we consider them to be higher
education experts or not, what is the right position and
call and how do they navigate such a terrain in building
an appropriate and effective form of governance at their

and their respective agencies? I think those two points
need to be taken into consideration as far as evaluating
rigor.

MS. JEFFRIES: Thank you, DC. Seeing
no other hands-on question two, let's move to the final
question. What factors should the Department consider in
evaluating the rigor of an agency's standards
specifically on success with respect to student
achievement, fiscal and administrative capacity, student
support services, and recruiting and admission practices?
Jamie?

MS. STUDLEY: Thank you. Let me just
pick up on two of them, because this is the kind of
question agencies ask themselves all the time. With
fiscal- regarding fiscal and administrative capacity, in
reaching out to other institutional accreditors, a number
are doing very thorough analytic work on these kinds of
things as many of the commenters have mentioned, John
Ware most recently. Some of the issues of great concern
were financial issues with institutions. In some cases,
institutions with adequate or effective education
programs have financial issues. In other cases, they are-
it is a signal to motivate a stronger look into the
program. The New England Commission does a financial
analysis that is extremely detailed about its

institutions. I know, my and the Middle States Agency do
annual reviews. Others may also do that, in which we
evaluate financial requirements and status for different
institutions. We use the best available metrics that we
can to try to be forward-looking because, increasingly,
one change that accreditation deals with is that
financial realities are more dynamic than they used to
be. Things happen faster and that can make or break,
despite the best efforts to review, you know, audits our
history, we try and look at enrollment trends because
they are somewhat more predictive if they are rigorously
applied. So, there are lots of different ways in which we
are using the best available tools on the finance side.
Student Support Services is quite different because it's
very integrated. You want to know what students think
about the availability of the services they need to
succeed. You also can look at the student performance.
And if it's not as the institution hoped or as the
accreditor hoped to fit squarely in a solid performance
level, then you can look backward to say, what's not
working? Are you accepting people who can't benefit from
this program, or are you not providing a quality
education? Or you are providing a quality education, but
they can't get housing or food or transportation or
counseling services to be able to continue in your high-

quality program too often? We do that by educating
institutions to go through that entire analysis of what
are the outcomes, what are the performances. Then if
we are not happy with them [30 seconds] where might the
shortcomings be and what does it take to improve those?

MS. JEFFRIES: Okay. Thank you, Jamie.
Barmak?

MR. NASSIRIAN: This is an obviously,
as with everything else, a particularly vexing and
complicated topic. With regard to the first one, success
with respect to student achievement, one of the
consistent patterns we see is that bad actors can
outsmart the regulators when it comes to navigating
whatever reasonable standards and metrics they come up
with. This committee heard from a student that was
describing an experience that illustrates the point. It
is a perfectly rational and appropriate thing to index
some kind of judgment about an institution's educational
quality to the success of its graduates in passing state
administered licensure exams. That's reasonable. That is,
in fact, arguably the best metric of judging the quality
is how many of your graduates end up successfully
navigating the licensure exam. But it apparently never
occurs to people that it is very easy for institutions to
cash the checks for the entirety of the program and at

the very end administer either the test, the high stakes test itself, or a proxy for it to prevent those of their students that they know cannot pass the test from graduating. I think it's important that as agencies develop metrics and standards and metrics for these criteria that they also pay some attention to the numerous ways in which some of them can be easily game. I think the manipulation of whatever good ideas we put out there is a perpetual problem. I think that certainly applies in a different way to the last one, recruiting and admissions practices to the extent- , we see an enormous amount of abuse there. You know, if anything, accreditors are supposed to be closer to the ground. They're supposed to hear this stuff with the same frequency we hear this stuff and it's all out there quite in the open, and nobody seems to be acting. So that's another one. We see mis-categorization of expenses as a huge problem. We see some institutions categorizing recruitment as a student support service to decrease the number for the recruitment figure and increase the warm and fuzzy feeling you get from support services. So, I think this notion of making sure that they anticipate ways in which whatever standards they come up with may be easily manipulated, and some process for validating this stuff, the fiscal and administrative issue is

particularly vexing because the Department itself is not particularly good at anticipating where institutions are, but the evidence of so many institutions that have failed [30 seconds] in the recent past. Obviously, nobody is very good at anticipating, for reasons I don't understand, how institutions are doing and who's likely to collapse those students. Thanks.

MS. JEFFRIES: Okay. Thank you. I have three hands up: Scott, Jamie, and Jo. We'll go ahead and take those three. Then I'd like to move the committee to the 602.24, as we have quite a bit yet to cover this afternoon before public comment, if that's okay. Scott?

MR. DOLAN: Yeah, thank you. You know, I think I would put an endorsement for, work-around increased oversight on the fiscal and administrative side. We've talked a lot over the last few days about bad actors and institutions that need more oversight. But in this particular instance, I think we really need this kind of oversight for institutions that are well-intended, but just happen to be maybe in the wrong region and have a demographics and being what they are making the reality of their institution difficult, and need guidance and the ability to work with the triad to figure out ways to better serve, students and to have the acumen. I appreciate all the work that, you know, Jamie

has noted that the accreditors are doing, but, there is a
real need for increased fiscal and administrative
oversight, given the dynamic sector that we're operating
in. Speaking as someone located in New York, and this is
an area where we could collaborate in the best interests
of institutions and the legacies that they have in the
region and in the students that they serve. To John's
point, many of them have extremely high-quality
educational programs. They're just faced with a reality
of a particular modality. I won't go too far on this,
but, some of the barriers of entry to distance education
is putting some of these institutions in the private
nonprofit sector, at a disadvantage because it's not just
institutions looking to take advantage of students, its
students choosing because of their lives. Their- need
for work-life balance, flexibility, Veterans and military
students who are moving around frequently by virtue the
worlds that they live in and the work that they do and
the service that they have, they're choosing online
institutions because it helps them meet their needs and
their goals, both professionally and personally. I think
we need to be thinking about ways, fiscally and
administrative, to help institutions better prepare for
some of these real challenges in the in the macro
environment that they're operating on and how to make

decisions to change their model and serve students in

different ways to persist and continue to exist without

having to go through some of the challenges that we've

seen more recently of teach out [30 seconds]

MS. JEFFRIES: Thank you, Scott.

Jamie?

MS. STUDLEY: I simply want to read

the poster that sits behind me all the time on my phone

calls as we think about regulation. What it says is, too

loose and the wheels fall off, too tight and the wheels

won't roll. It's the dilemma that Barmak described. As

you do something that covers a wide range of

institutions, you don't want to stand in the way of the

effectiveness of, I would say most institutions, but you

need to be tight enough to protect the system and to

avoid the abuses that both exist and the workarounds,

once you create a rule. Regulators are always chasing the

behavior, just like police officers. We do the very best

we can to make rules that make sense in both directions,

and to anticipate to the best of our ability, those

abuses. I think we're doing a good job here of thinking

about what's the real problem now and what might be the

run-around that we need to protect against as well. But

you can't screw it down so tight that you close schools

that are providing real quality to students, even if they

are doing it without a great deal of money or even if they're doing it in a challenged field or a region that's economically stressed. So, I appreciate that everybody is trying to strike that appropriate balance.

MS. JEFFRIES: Okay, thank you. Jo?

MS. BLONDIN: Yes. Really quickly, I just want to say that I know since I've been on the board of HLC since 2018, we've had numerous presentations, workshops with both the liaisons who are the vice presidents for accreditation, as well as the board and the peer reviewers on finance and making sure that we're looking at those financial indicators from the institutional update that's done annually, if not more often, to the work that we're doing, particularly as mergers and other factors are affecting the landscape of higher education institutions, particularly with those demographic challenges that so many have spoken of. I also just want to emphasize, too, because I do feel as though I need to step up for the liaisons here who work in accreditation. They're extremely knowledgeable about all their institutions and what is going on at those institutions. I just feel the need to lift up their expertise as well in this conversation. Thank you.

MS. JEFFRIES: Thank you, Jo. Okay, so, Herman, did you get what you needed on those

questions?

MR. BOUNDS: Yeah, I think we did.

MS. JEFFRIES: Okay. So, can we move
on to 602.24, Teach-out Plans and Agreements?

MR. BOUNDS: Yeah. We sure can. We-
again, I won't go over the- issue, but we have two
questions that we would ask the committee under, you
know, teach out plans and agreements. We know how
harmful, you know, school closures are for students. And
under our existing regulations, we require teach out
plans upon certain occurrences. Tthey're not required,
but we say teach out agreements where, you know, if
applicable. So, our questions under here are, the first
one is, you know, what factors should the Department
consider in determining a relative risk of a recognized
agency? I'll just read two and then what type of
reviews or observations of the Departments- oh, excuse
me, I'm in the wrong place. Let me go back up. Excuse me.
Yeah. First one is, what can the Department do to
further address the issue of orderly teach out and secure
teach out agreements in the event of sudden closure?
Again, I apologize. It's been a long day. We'll get
there, though.

MS. JEFFRIES: We , will. So,
comments and suggestions around that first question?

John?

MR. WARE: Yeah, thanks. And at the
state level we're involved in, unfortunately, a lot of
closures. I would note that the process of teach outs
and closures has gotten better in the last 5 to 10 years
as a result of a lot of work by people at Department
accreditors and states to do a better job of
collaborating on these issues. I think that's really the
key, to try to work together at all levels of the triad
to assist students. You know, unfortunately, I don't
think there's much that can be done   it's going to be a
bad situation, so we may have moved the needle from
terrible to bad. But it's going to be a bad situation for
students that I don't know as far as teach out agreements
go. The only suggestion I had was there's a provision in
the rule right now that talks about accrediting agencies
notifying other accrediting agencies, if the school
presumably is accredited by multiple accrediting
agencies, If there's a teach out plan approved. I would
suggest also notifying state regulatory agencies. I think
that is happening for the most part now but putting it in
rule. And going back to my other comments and complaints,
where I suggested putting something in there about
notifying state agencies, I don't want to imply that
accreditors aren't doing that. I don't think it's

happening all the time, so it would be good to have that
in there.   Again, I don't have any- and since closures
tend to be very fact-specific again, I've done a lot of
them and they're all unique. It's hard to imagine, you
know, what you could put in regulations that's really
going to make it easier for students, unfortunately.

                MS. JEFFRIES: Okay. Thank you.
Barmak, you're next.

                MR. NASSIRIAN: I tend to think
orderly teach outs are obviously much more manageable
than sudden closures. The precipitous closure problem is
a much different kind of a challenge. There is something
problematic, both in theory and in practice, with having
one institution closed under the watchful eyes of its
accreditor and then expecting that accreditor, which, for
better or worse, failed to anticipate, prepare for, plan
on, or better yet, prevent that closure and, come up
with a remedy because, as some of you may recall, a
number of students who were left holding the bag when
Corinthian collapsed, were handed over to ITT, so that
they experienced two earthquakes in their lives, two
kinds of failure in their lives.   I think it would be
important to ensure that when teach outs are offered,
that they're of substantively better quality than the
program that victimized them in the first place. So that

would be, I think, the main challenge. From my point of view, the accreditor kind of loses a little bit of credibility once they preside over one collapse. I almost feel like at that point, they're probably not the right party to organize and manage a teach out.

MS. JEFFRIES: Okay, thank you. Yes, Herman.

MR. BOUNDS: Since these questions are kind of intertwined with each other, can we- let people comment on all of them together?

MS. JEFFRIES: Absolutely.

MR. BOUNDS: Okay.

MS. JEFFRIES: Emmett?

MR. BLANEY: Hi. Thanks. I can certainly empathize with the fact that I'm sure that closures are all different. That was a comment made a couple minutes ago, I think. Just wanted to cite some SHEEO research. Shout out to Rob Anderson, and say that students who were in states that had kind of more robust plans and policies around school closure were somewhere between 53 and 94% more likely to re-enroll in higher education than students in states without those protections. So just emphasizing that it's not saying or, not proposing to try to have like a super detailed plan that applies to every overall situation. But having kind

of more robust policies around teach outs is shown in
research to be incredibly beneficial for students.

MS. JEFFRIES: Okay. Thank you. I just
want to take a moment here to announce that Magen is in
for civil rights organizations and consumer advocates as
the alternate. Jamie?

MS. STUDLEY: Good discussion. There
are some smooth teach outs and accreditors are learning
from each of them. Each agency I talked to had situations
in which 100 or virtually 100% of the students were moved
to another program. It's especially a challenge where
there are clinical placements involved, especially in
high-demand fields. But there's a lot of good practice
that is helping make that work in more situations. The
Department has done something in the last few years that
is helpful, where institutional owners or leaders have
other schools or want to return to the field of running
institutions of higher education. The fact that the
Department in a bad closure has preventive and
restrictive conditions is positive. There's some good
thinking. The problem is when the people, whether in good
faith, are working to try and provide, use the remaining
money and time that an institution has to support the
long-term employees or, , and think about student
services one by one to be able to do a good job of it.

We and many other accreditors have worked on improving
the manuals, how-to, what to do for good practice. We
expect people to provide transcript protection services
to minimize that's one of the most common problems. But
once an institution is on a final slide, in many cases,
the accreditor has no more leverage because the school is
closing or we have withdrawn accreditation, and that is
part of the closure. There's no reason to listen to us.
I think, again, this is something that we might want
collectively to work on offline. Should there be a
centralized resource that steps in to assist in
situations of precipitous or even planned closure that
might know how to do it, that might have arrangements for
transcript protection, whether that's funded by a tiny
slice [30 seconds] or an insurance system. It is a
recurring but unpredictable where it will occur problem.
We may have other policy solutions, but in the meantime,
we do our best to notify students early. We are not
afraid of asking students to prepare teach outs when we
see risk. I appreciate the Department's attention to
this important matter.

                MS. JEFFRIES: Okay, thank you, Jamie.
Sophie?

                MS. LAING: Thanks. Teach out
agreements are necessary because they ensure that

students can finish the term at no charge and that their credits will transfer. In our experience, it can really be chaos when a school closes and students are inundated with a lot of inaccurate or misleading information about what options they now have. The closing school often refers students to schools offering so-called teach outs, but they're not really teach outs covered by an approved teach out agreement. Schools also flood students with or other schools flood students with so-called teach out offers to attract more business, when in fact they also are not offering to provide a teach out pursuant to a specific teach out agreement. This is all very confusing to students and can result in them enrolling at a school that they think is providing an approved teach out. But, the teach out is not, in fact, accreditor approved. And then the school goes on to charge them for the remainder of the term or refuses to accept credits. So specifically, I guess to the Department's second question, we were wondering if the Department could maybe provide some examples of what you're thinking about, what could be a middle ground between the plans and the agreements? How that can make sure that would protect students from the kind of practices I just mentioned.

MS. JEFFRIES: Herman- would you like that question put into the chat?

MR. BOUNDS: Yes.

MS. JEFFRIES: Okay. Thank you.
Alright. Magen?

MR. SANCHEZ: I wanted to both
supports, but also echo both what Sophia said and others
on this regard. I mean, quite frankly, I feel this issue
of abrupt school closures is a civil rights issue. I
mean, when we're talking about the disproportionate
impacts on students of color, I think when a closure is
abrupt, the data I think that was shed earlier I was
looking up in the last couple minutes. I saw in
particular, a quarter of both Black and Brown students
who go through a sudden closure end up not completing
their degrees. That's relative to 41% of white students.
I think   it should be an expectation that we do provide
for an orderly school closure process through teach out
agreements or whatever way that we can support these
students, because quite frankly, we shouldn't just hope
that things go well. We should require that things go
well.

MS. JEFFRIES: Okay. Thank you. I want
to make note that the primary negotiator, Robyn Smith,
has come back in for legal aid organizations. We're going
to take Jillian and Robyn on these questions and then
move to subpart C, the recognition process discussion

that still needs to take place. So, Jillian.

MS. KLEIN: Thanks. I was first going
to ask a similar question about this sort of interaction
between teach out plans and teach out agreements. I
remember in 2019, when many of us were here, we talked, I
think, at length about options around teach out
agreements and if they were feasible or hard or how they
worked, how willing institutions were to talk sort of in
general concept about a teach out agreement as opposed to
at the point where teach out plan actually gets
implemented. I was just sort of curious, and I'll wait
to hear more from the Department about sort of what
you're envisioning there. But obviously, if it's possible
for that to happen more upstream, it's always in the best
interest of students. I think there were just some
questions. This was five years ago, right, but I think
there were questions about sort of the feasibility of how
that would work. My second comment is, and probably not
super dissimilar from what John said, which is, there is
at least, in the experience where we've taken students as
part of a teach out, I think there's a critical role in
many cases for the states to play. As you guys are
thinking about sort of this from the lens of
accreditation, I would just say, like, I think it's
broader than that. Especially in the cases of when more

traditional institutions close that are maybe enrolling students within a more geographically central footprint. How can states help facilitate conversations about how students can get transcripts, what their options are, what sort of protections they have, and then how schools near them can help sort of pick up that loss and help students get to the finish line? Oobviously, even though we're talking about this in the accreditation space, it's obvious that it's sort of a broader conversation in terms of how the whole triad works together. I would just encourage the Department and folks to sort of think more broadly than that. Then, to the comment, I think Jamie made, about if there's just a way that's more user-friendly for students or institutions that are seeking teach outs to work together. This, by the way, is not a regulatory thing. It's just a general comment for the ethos. But like if there's a more feasible way for schools to get information about other schools that may be looking for teach out so that we can be helpful in those cases, if somebody can like make an app or a technology tool or something, I have no idea. I think part of the problem sometimes is like there's just not a ton of visibility as things are scrambling and schools are shutting down into what that need is. And so always sort of open to conversations about how we can make that

more user-friendly for institutions to be able to help
other institutions in the best interest of students.
Thanks.

MS. JEFFRIES: Thanks, Jillian. Robyn?

MS. R. SMITH: Thanks. I just want to
put a human face on this. I also want to respond a
little bit to question number three based on the
experience I have of doing school closure work for the
last 30 years on behalf of low-income students. As you
all know, sudden school closures are devastating for
students. Really a horrendous and traumatic experience.
It's while, closed- I'm sorry, teach out agreements are
really the best option, and it's the option that students
want. The problem is, is that I have rarely seen high-
quality teach out programs offered to closed school
students. Most often, what I have seen in my experience,
again, with primarily for-profit school closures, sudden,
not orderly closures is the revictimization of students
who then enroll in a teach out that is of incredibly low
quality but is still accreditor approved. I want to give
one example of a client I currently have. He enrolled in
a two-year TV film editing certificate program at a for-
profit school in Los Angeles, who was accreditor-approved
and had no- no problems from the accreditor standpoint
or any actions had been taken by an accreditor against

this school. The program included training students so they could be certified on the Avid Media Composer Program, which at the time was required for most TV and film editing jobs. Unfortunately, the school closed before he was able to complete. Another for-profit college offered a teach out that was also accreditor approved, and this school is currently and was at the time approved by a separate accrediting agency. The teach out school assured students that they could be trained in and eligible for certification in the Avid Media Composer Program. The teach out school also told students in the two-year certification program that they were required to enroll in a four-year bachelor's degree granting program. After our client told the school he just wanted to complete his last quarter of the two-year program, the school told him that he would still have to sign the four-year agreement, but that they would let him get a certificate after he finished the last quarter at no cost to him. He signed the enrollment agreement because he didn't want his two years to go to waste. He didn't want to have to start over at another school from day one. When he went to his first meeting, it was at a location, a new location, this temporary location that [30 seconds] that lack the equipment necessary. The instructors were unqualified. The school was not licensed for the Avid

Media Composer Program. Even though they told him they

would get that, they never did. Then the school told him

he had to complete another quarter with additional

courses that were never required by the other certificate

program. He took out additional student loans, but then

ended up dropping out because the school never got the

AVID, the other program that was required for

certification. As a result, he, although he can get a

closed school discharge [inaudible]- sorry, I just want

to say they were all accreditor-approved and no problems

at any of these schools, but it was horrendous. Thanks.

MS. JEFFRIES: Thank you, Robyn, for

sharing that. Herman, are you ready to move to subpart C,

the recognition process? You're on mute.

MR. BOUNDS: Sure am, since there are

no more questions in this area.

MS. JEFFRIES: Yeah, I don't see any

more hands.

MR. BOUNDS: Alright. Just to

summarize here, we've talked about this for, for several

days about our risk-based review process and how we would

like to initiate that. It's going to be applicable to,

we talked about the 53 accrediting agencies recognized

under 602, the four state agencies for vocational

education recognized under 603, and then the five nurse

approval agencies currently, which are recognized under
the 1969 Federal Register Notice. So, we'll be trying to
work out this risk-based review process for all the
entities that we recognize. As part of that process, we
would like to prioritize regular monitoring and more
frequent, in-depth reviews of those agencies or those
conditions that have greatest risk, and then implement a
more focused and narrow review of moderate-risk agencies.
Then the third one here, I'm reading from the middle of
that paragraph, subject the lowest risk agencies to less
frequent and more highly focused reviews. We welcome
your questions. I mean, your answers to our questions,
about our risk-based review process. We have two
questions there, and we can just combine all those
together.

MS. JEFFRIES: Okay. The two
questions, are in your issue paper. If we want to start
taking comments on that and discussion. Barmak.

MR. NASSIRIAN: We have in the
legislation a process of triggering risk-based reviews.
The Department may want to look at those. Obviously, what
you're looking for is indications of potential problems.
Certain kinds of lawsuits, certain kinds of law
enforcement action. A financial analysis sometimes
indicates problems. A downgrading of institutional bonds

could be a metric. But most importantly, - again this is

a matter of ethos and prevailing practice more than it is

a matter of like articulating stuff in regs. You don't

judge the safety of air travel based on the number of

airplanes that took off successfully. You get very

focused on the ones that crashed, the ones that had

problems. I think that ought to be the primary mechanism.

There are accreditors that have a disproportionate number

of institutions with problems, and that, to me, indicates

that the accreditor is probably not being as vigilant as

they need to be. Candidly, there has to be a

presumption, come NACIQI review and come Departmental

review, that accreditors should be judged on the basis of

the worst institutions they fully endorse, not on the

basis of the best ones, because the best ones would

probably be fine without accreditation on their own. It's

the ones that represent the weakest link in the chain.

That ought to be the metric of how well an accreditor is

performing.

    MS. JEFFRIES: Okay, thank you,

Barmak. Jesse?

    MS. MORALES: Alright, I'm off mute.

Can you all hear me? Adding to Barmak and just kind of,

also what was raised in, I believe, Monday in our first

discussion, but talking about the risk-based reviews and

what we should be looking at in terms of when the accreditors are looking at institutions. We've submitted some language on that behalf. I don't want to read through all that because obviously we have time limits. But, I just want to point out that that's some of the language we put in. This language and these metrics are based on a project that we did with institutions seeking VA benefits and understanding that it truly focuses on what are those institutions at most risk. Then from there, looking at how long or flagging for accreditors to focus and then looking at moderately risky schools and so forth. It creates a streamlined, efficient process. I also want to say that it's particularly necessary in these cases that we or that accreditors are looking at institutions before they fail. Because once they have failed, students have really nowhere to go and that creates an even bigger process, so we really want to stop that before it happens. I will be putting in the chat kind of a summary of how that pilot went and the report just looking more closely at this. I highly recommend that folks look at it.

MS. JEFFRIES: Thanks, Jesse. Jillian.

MS. KLEIN: Yeah, thanks. So, I guess, I'm not sure if I have a question or a comment, I'm reading through this, I'm trying to think through, is the

issue related to Department bandwidth? Because I think if

I'm understanding some of the red lines that we went

through today, and some of the concerns raised by some of

our accreditor friends at the table, I feel like you

perhaps in your red lines are creating the conditions

where there are going to be fewer accrediting agencies

may be recognized by the Department. I don't have any

data to support that. But if we're changing or removing,

tightening this requirement around a Federal link to be

recognized, and there's some timeline changes that are

going away in terms of expectations the Department is

committing to and their turn time and what accreditors

have to commit to, all of that reads to me like there

should be more bandwidth at the Department to do more

robust reviews on agencies on a regular cadence, and

especially if we're already talking about sort of a

five-year timeline on recognition, I'm struggling with a

scenario where folks would feel comfortable with any

accrediting agency being reviewed less frequently than

that, especially with the diversity that continues to

evolve in higher education. I think we see that and, I'm

obviously sympathetic to all the stories about school

closures. They happen. We have seen an uptick of them

happening in every sector, right? And we're seeing

diversity in accrediting agencies accrediting different

types of institutions. Sort of all of those pieces

combined, I guess, make me just nervous about any

potential proposal that would deprioritize a review of

all of our accrediting agencies on a very regular basis

to make sure that all students are being served well. I

hope that makes sense. Thanks.

MS. JEFFRIES: Thank you, Jillian.

Jamie?

MS. STUDLEY: I think Carolyn's first.

MS. JEFFRIES: Oh, I'm sorry, Carolyn.

I apologize.

MS. FAST: Oh, no problem at all. I

just wanted to kind of piggyback a little bit on what on

Robyn's really compelling story about,   real-life

situations that she sees. What struck me about what her

story was that the consequences, the harm, the difficult

situation fell on the students, and they paid the price

for the misconduct of the schools. But I don't know that

the accreditors faced any kind of consequence at all for

their failures.   This is an example of why more

stringent review is important by the Department so that

when there are these problems where schools are abusing

students and students are harmed, the accreditors are

also facing some kind of consequence for this, so that

they don't just continue to be either rubber stamped or,

you know, not held accountable for these kinds of
failures of oversight that are really harming students.

MS. JEFFRIES: Thanks, Carolyn. Now,
Jamie, your turn.

MS. STUDLEY: I would say that our own
processes are inherently risk-based, so we respect the
notion and the question. For example, the frequency of
monitoring in accreditation is very much driven by what
we see and what the performance levels are. My own agency
in looking at reaffirmations for institutions, provides
for 6, 8 or 10-year reaffirmation cycles in addition to
the annual review of outcomes, financial sustainability,
complaints, litigation, and a variety of other factors
that we look at every single year. But we make the big
review process appropriate to our sense of the strength
and sustainability and capacity of the institution. So
that might be a model. That all said, each of the
possible risk factors needs to be looked at carefully
because of the reverse, tightening the bolts too tight.
Sheer size does not necessarily mean danger. Several
negative actions might mean rigorous or might mean that
your institutions are weak. The number of complaints
that come into an agency might tell you that the agency
is very open to the learning that it can do through
complaints and very clear about how people can file them.

I could say that there are more problems at their
schools. Historic closures, right now what we're seeing
is that there are geographic reasons that more
institutions in some parts of the country are struggling,
although I will say it is not as isolated as we might
have thought. Good healthy closures, with planning, are
hard to distinguish for this purpose from troubled or not
well-managed ones. Maybe a place that we can look is at
the accreditor dashboard, which, was initiated in 2015, I
believe is when Michael Itzkowitz and I did the first
one, looking at the relative outcomes for accrediting
agencies and whether there is something that can be
gleaned from that to speak to the question of exposure or
effectiveness, but every one of them needs to be handled
extremely carefully, even within a sensible, broad
principle.

MS. JEFFRIES: Thank you, Jamie.
Robyn?

MS. R. SMITH: Sure. Thanks. I do
think Jillian makes a good point that to the extent that
there are risk-based factors identified by the
Department, it would be useful to apply those to all
institutions. I'm sorry, all accreditors. I also think
that having worked for the government, I know, there's
always a resource issue, and I think it would be very

useful for the Department to establish risk-based factors that pose red flags that an accreditor may not be doing the job it's supposed to be. One example is a sudden school closure, even one sudden school closure when an accrediting agency hasn't taken any action against that school. I think poses a red flag because, in my experience, those schools often close because of financial issues that have been going on for an extended period. Those kinds of financial issues also lead to a lowering of the quality of education. It's something an accreditor should be able to track and be aware of. And I think that if a school suddenly closes on an accreditor's watch, that's an example of a red flag that really should be looked at closely by the Department.   I think we've put together a number of other potential risk-based factors that should be considered by the Department.

MS. JEFFRIES: Thank you, Robyn. JoEllen?

MS. PRICE: Alright. Thank you. Over the past few years, I have employees and currently have employees that have worked for some of these institutions that closed, some of them that closed very suddenly. And when they describe their experience working for the institution, and why they left the institution, it makes me extremely concerned about what students are

being put through at some of these institutions. These
employees never reported their experience and working for
these institutions. Should there be a method or a way in
which employees that leave institutions that make them
uncomfortable and or have been asked them to do things
that make them very uncomfortable in terms of helping
students and processing students through their
processes- enrollment processes? Should there be a way
for them to report that information comfortably, either
to the accrediting agency or to the Department? Because I
don't know of any way now in which they can report what
their experience was working for some of these
institutions.

MS. JEFFRIES: Thank you. Joellen. We
have Erika up next. We are just about 15 minutes away
from public comment. So, I'd like to encourage those who
have registered spots for public comment to sign in at
least 15 minutes prior to your slot. We'll take Erika,
and then I think we should move on to the very last
section of the issue paper for today, for the remaining
15 minutes. Erika?

MS. LINDEN: Thank you. And thank you
for giving me a moment to speak. This conversation has
been fascinating to me as a compliance officer in my real
life. I don't often get into the weeds on many of the

issues that you're raising, and I recognize how critical

they are. I recognize the horrifying impact on students

that failures have on them. I'm going to ask the group to

take a step back and just be thoughtful this is, again,

a general comment, just reminding everyone that it's the

students who ultimately pay for the increased costs that

are related to achieving and maintaining accreditation or

any other kind of authorization or any kind of regulatory

compliance. we need to be careful what we ask for, I

think, that we're not just creating additional costs to

pass on to our students, which I think none of us want.

I just ask, is there a way to consider what work is being

done currently that maybe no longer needs to be done so

that the resources needed, whether it's at the

institution, at the agency, at the Department, at the

states, can be shifted to focus on other issues that are

now recognized as more relevant or critical. It always

seems to be easier to add than to take some other things

away that are no longer serving a relevant purpose. I

say that as a compliance officer who really is committed

to a belt and suspenders approach, but I have learned to

hold that back a little bit within my organization

because that's a very costly approach to take. So, I just

ask people to be thoughtful about that. This is all tough

stuff. If it was easy, we wouldn't be needing to have

these conversations. So, thank you.

MS. JEFFRIES: Thank you, Erika.
Alright. Herman, are you ready to move into the last two
sections there under the category Other, which I believe
had to do with change in accrediting agencies?

MR. BOUNDS: Yeah, I sure will. And I
don't think I need to go deep into this. Everybody can
read the issue before us, but, it's related to,
removing the regional structure as far as the recognition
process and then some of the changes made in current
state law and the issue does mention the legislation
passed in Florida. Our questions here are related to
that issue. We can start with question one and go from
there.

MS. JEFFRIES: Okay. Alright. Thank
you. Barmak.

MR. NASSIRIAN: This goes under the
category of be careful what you wish for, it may come
true. The decision was made in the last rulemaking to
obliterate the difference between regional and national
institutional accreditors. Candidly, as I grapple with
the consequences of it, I am not necessarily opposed to
the notion that you shouldn't be perpetually attached
at the hip to one accreditor, that change may well be
helpful just in the abstract, moving you from one

oversight agency to another. But what I am troubled with
is that when the decision was made to nationalize
regionals, no thought was given to the two likely
consequences of creating that possibility. We're facing
candidly both of them. One is political decisions that
force institutions to go from one accreditor to another.
That's the state law issue where, the state has every
right and prerogative to manage the resources and the
physical and administrative processes of the institution.
But what they're not supposed to do is interfere with
academic policy. That is the role of accreditation, is to
oversee academic policy primarily, and the idea that
politicians can force an institution to go from one
accreditor to another based on political preferences
should have been anticipated. Obviously, even without
that, the second question we should all ask ourselves is
what would be an institutional motivation to go from one
accreditor to another? And the obvious one is that
regulated entities shop for the most lenient regulator
they can identify. If you give a regulated entity
unfettered choice to go from one regulator to another,
odds are that they will decide to do so based on what is
most convenient to them. Doesn't mean they're bad actors,
it's just that they do not want Attila the Hun regulating
them, so they will identify the most lenient accreditor

and go to that one. Unless there is some sort of brand
advantage to being regulated by somebody, which, frankly,
I don't think that the legacy regionals have any brand
identity before the public to make a difference. So, the
thought I have here is to begin to rethink that choice in
the first place. One is to go back to what we had
before. The other would be to have the Department
randomly assign accreditors if one of the former
regionals is to be changed [30 seconds] to randomly
assign. Now that's where the definition of voluntary
comes in. Voluntary has historically not meant to have
an unfettered choice. It has historically meant you could
do it or not do it. The state isn't forcing you to do it.
Nobody's forced to participate in HEA programs in the
first place. So even under the old regime you had to
voluntarily join the regional accreditor in your region.
I think those are some of the thoughts around the nature
of voluntary.

                    MS. JEFFRIES: Okay. Any other
thoughts on the notion of voluntary? Jamie?

                    MS. STUDLEY: These are complicated
questions and do deserve a great deal of thought. There
are two kinds of voluntary potentially at play here. One
is the voluntary departure. Whether a departure is
voluntary for a public institution may get into questions

that the Department has acknowledged of Federal state
relations and the respective authorities of each. Then
there's voluntary choice of accreditors. I will read
something that somebody in our field suggested as a
possible definition of voluntary. I am not proposing
final or recommended action language, but just to help
inform how this might be thought about. One suggestion
was that it should be a yes/no determination and
recognize this is not just a state issue. There are other
ways in which institutions choices could be affected,
that are worth thinking about, even though we have a
particular frame right now, is any law, parent,
organization, owner, sole member, state system, or other
person or entity with legal authority over the
institution requiring the change to a particular agency.
That would be a way of articulating what was voluntary. I
also wanted to just start early in this discussion, I
want to say that accrediting agencies make decisions on
these issues independently and do not consult with each
other. We don't make those in a collective way. Each
agency, with which I'm familiar, makes these decisions
independently. That's a starting point on question one,
Herman.

MR. BOUNDS: Thank you. You're going
to put that in the chat, Jamie?

MS. STUDLEY: Yes, I will.

MR. BOUNDS: Okay. Thank you.

MS. JEFFRIES: Thank you, Jamie.

MS. STUDLEY: [Inaudible] the comment period because it's a lot to type.

MR. BOUNDS: I got you.

MR. NASSIRIAN: I have a question here for Jamie, may I?

MS. JEFFRIES: Sure.

MR. NASSIRIAN: Jamie, the definition you read was intended to define involuntary? In other words,   were those categories of potential causes that would make it involuntary?

MS. STUDLEY: Yes.

MR. NASSIRIAN: Well, then, I mean, you know, somebody must make the decision. Is everything I mean, institutions have corporate governance of some kind, some sort of governance mechanism. If you decide that every one of those governance mechanisms in deciding is coercing the institution, then I'm kind of pondering, well, who is the institution that can make a voluntary choice? If it's not the board, if it's not the state, then who is the institution, for purposes of defining voluntary?

MS. STUDLEY: We deal with those

questions. I would refer you to governance policies about
who is the institution that is making the decisions and
whom we are regulating, and what is the governance
structure. I can't answer that on the fly, but it is a
fair question about who is it that an accrediting agency
actually looks at and who you deal with? So, as I said,
this was a stab at that direction, and it may be flawed,
but it was offered in the interest of trying to help us
get to a sense of what is voluntary in a way that could
be reasonably predictable for the Department's purposes.
Fair question.

MR. NASSIRIAN: Follow up?

MS. JEFFRIES: Okay.

MR. NASSIRIAN: Is it your view as
well that voluntary from the accreditor perspective means
the right to reject the request?

MS. STUDLEY: That was the distinction
I made between departure and choice. Accreditors, I mean,
somebody can choose to pursue accreditation with an
agency. But, it is always the agency's responsibility to
determine whether or not to grant that accreditation
based on satisfaction of standards and any other
requirements that the agency has.   That's why I'm
suggesting that there are two different phases of
voluntariness, because   there may be different choice

or voluntariness factors in those two different phases.
But, if what you're asking is, does the institution's
choice to pursue accreditation mean acceptance? No. Not.
In any of the circumstances the Department's referred to,
the accrediting agency would have to go through its full,
normal review, plus any other considerations that the
Department required us to take into account in the event
of a transition, as opposed to the review of a brand-new
institution that was not moving accreditors but was
arising for the first time.

MR. NASSIRIAN: I'm sorry. Can I
follow up on that just [inaudible]?

MS. JEFFRIES: Yeah. Real quickly. DC?

DR. PRINCE: I was just going to ask
Jamie, and the institutional creditors, If you define
voluntarily as if the institution decides to do it, or if
their state passes a law, just by the act of switching
accrediting agencies, doesn't that lead to better
competition of institutions making their own
determinations of who can better support them and help
them keep their accreditation and/or improve where
necessary, rather than being stuck or in a sense
pigeonholed to an accreditor based on a regional boundary
that most institutions are in essence required to do?

MS. STUDLEY: Was that a question to

me, Cindy?

DR. PRINCE: Yeah, it was.

MS. STUDLEY: You know, I think that
all of us could have a view on the question of what
promotes competition and what promotes it in a healthy
and positive way. WASC was the first accreditor to say
that we would be open initially to institutions that had
connections with institutions we already accredited, and
then moved to make that broader. We did it in the sense
that there might be institutions that would find the way
that we practiced accreditation or evidence-based,
equity-minded, high support by staff model, and would
want to be part of our agency. We didn't advertise, we
didn't market it. We were allowing institutions to see
what their thinking might be. That is a possibility. We
think that there are different styles and models, but
ultimately, all of the recognized accreditors have to
have rigorous standards that are approved by the
Department. In many ways, while we may articulate them
differently, we may practice differently, the ultimate
standards about mission, quality, student outcomes,
governance, financial sustainability, and so forth are
very similar among the historically regional accreditors
that are most at issue here. I know that we have other
national counterparts that play a different role in the

national picture. So, DC, I would say maybe, but that's
really for institutions to determine, and for the whole
landscape to judge whether what mix of positive and
negative effects there might be.

DR. PRINCE: I think on that note, I
would just quickly say, and make sure I'm only 35 or 45
seconds is that I think it's too soon for the Department
to start to regulate this particular process yet, because
what the Department hasn't demonstrated is that by
institutions changing accreditors, that we are seeing
larger, egregious acts of institutions either not doing
what they're supposed to be doing, more students being
hurt or harmed, more teach outs on the rise. There isn't
anything that's related to an actual data or any kind of
trend to say, by having this action, more institutions
are closing, competition is becoming stifle, innovation
is not happening, we're seeing more fines or more
complaints arise from this. Therefore, I think it's a
bit too soon to say that, oh, we need to now because of
all this activity, we need to now start to regulate when
we haven't even seen the outcome of what this is going to
have on institution moving forward. Thank you.

MS. JEFFRIES: Okay. We are one minute
away from public comment.   There are still two
questions. I'm going to wrap this up. I'm going to ask

you to please consider those last two questions and
provide the input that the Department needs to have so
that they can move forward with or without drafting
regulatory text. Without your input, it makes it even
that much more difficult for them. The last thing I want
to say before we go to public comment is that we are
asking, because this is our last day of session this
week. Tomorrow, the TRIO committee work begins. the
Department has asked that you submit any proposals to
them by close of business on Thursday the 18th, which is
a week from today, so that they have ample time to
appropriately review them and analyze them while they
prepare the reg texts for the next go-around. Because, as
you know, the protocols say the text needs to be out,
they try to get it out seven days prior to the next
session. Keep that in mind. Send all your correspondence
to FMCS. Please include the entire FMCS team on your
correspondence. And with that, I think we're going to go
ahead and open public comment. Krystal, who do we have
first?

                MS. K. SMITH: So, our first speaker
is Cynthia Lawrence, who is representing herself. She is
in the room.

                MS. JEFFRIES: Hey, Cynthia, can you
hear me?

MS. K. SMITH: She's on mute.

MS. JEFFRIES: Cynthia. Yeah, you're on mute.

MS. LAWRENCE: Alright. Good afternoon. So, yes, I can hear you. Thank you.

MS. JEFFRIES: Great. Okay, Cynthia, you will have three minutes to address the committee, and you will receive 30-second heads up just before your time is to expire. So, with that, you may go ahead and begin.

MS. LAWRENCE: Good afternoon. I would first like to say thank you for having me here to speak to you today on this matter of utmost importance. Hi everyone. I'm Doctor Cynthia Lawrence, and I'm a veteran spouse. My husband was in the United States Air Force from 1986 until 2011. In 2014, I decided to return to school to get my doctorate. I wanted to have more earn ability, and my husband and I worked it out that it would be worth using his GI Bill benefits if I could get my doctorate from Grand Canyon University in the expected time. I spent seven years at Grand Canyon University and never received my educational doctorate from that school. My time at Grand Canyon University was marked by what seemed to me like [inaudible] and bait and switch tactics. I'd expected to take 3 to 3 and a half years to get my doctorate, as that is what the school had

advertised. Instead, the school repeatedly changed my dissertation requirements by switching the dissertation templates, requiring additional classes that were not initially part of my program, and providing conflicting standards. Things would change depending on whether I spoke to my dissertation chair or to my assigned methodologist. This meant that if I wanted to get anything out of Grand Canyon, I would have to pay more money. Although, I finished the coursework in two years, I spent an additional five years just trying to get my dissertation finished. Not only did GCU use up all of my husband's remaining GI Bill benefits, but I also took out $36,000 in Federal loans and spent an additional $17,500 out of my pocket. That is just $53,500 for the dissertation alone. I ultimately spent seven years at GCU. Although many of my credits did not transfer elsewhere, I was able to complete a PhD at another school in a much shorter timeframe. I honestly wish I could say that Grand Canyon University had benefited me in, at least in some ways, but I honestly, I can't. Accreditors need to do a better job of making sure that the doctoral programs are meeting legitimate educational and professional developmental goals and are not being operated in ways that just run up students cost. I'd like to thank you for your time in hearing me today.

MS. JEFFRIES: Thank you, Cynthia. Krystal, Who's next?

MS. K. SMITH: Our next speaker is Kimberly Jones from the Council for Opportunity in Education. They are in the room, and there they are.

MS. JEFFRIES: Hi, Kimberly. Can you hear me?

MS. JONES: Yes.

MS. JEFFRIES: Okay. Wonderful. Thanks for joining us this afternoon. You will have three minutes to address the committee, and you will receive 30-second heads up just before your time is going to expire. Okay? So, with that, Kimberly, please feel free to start.

MS. JONES: Thank you to the members of the Negotiated Rulemaking Committee, thank you for this opportunity to comment. As the President of the Council for Opportunity in Education, I represent more than 880,000 participants in the Federal TRIO programs. As higher education has changed drastically over the 15 years since the last reauthorization of the Higher Education Act, I strongly urge the Department to use the full weight of its authority and focus its efforts on updating TRIO regulations to address the current challenges facing our programs and students. First, with

the introduction of the better FAFSA comes a new barrier
to TRIO, namely, provisions within the tax code that
prohibit TRIO programs from accessing students' Federal
tax information. To address this, COE recommends that the
Department expand the definition of low-income
individuals to include Pell Grant recipients. This would
provide great administrative relief to TRIO's
undergraduate programs. The Department should also
eliminate the use of standardized test scores and high
school dropout data. In the wake of the global pandemic,
many jurisdictions have done away with standardized
testing. This inherently disadvantages pre-college
programs in these jurisdictions, as they cannot provide
such data to demonstrate the need for the project, nor
can they use this as evidence of their program's
effectiveness. The use of data surrounding high school
dropout rates is also problematic. First, such data is
often underreported, if available at all. More
importantly, TRIO programs have the distinct quality of
enhancing the overall academic culture of a high school.
Thus, in a school that has had a TRIO program for many
years, it is probable that this program has helped
decrease the school's dropout rate to avoid penalizing
projects for their locality and their success in ushering
in positive change, the Department should remove

regulations requiring standardized test scores and high school dropout data. COE also recommends that the Department update student stipends, as those outlined in the 2008 reauthorization have not kept pace with student need. For example, a Veterans Upward Bound program can only provide $40 a month to a participant, which would be one of our former servicemen and women. To prevent students from choosing between academic enrichment or employment, COE urges the Department to look towards the bipartisan [30 seconds] Educational Opportunity and Success Act for guidance and adjusting stipends within TRIO. Finally, COE recommends that the Department address regulatory prohibitions that hinder professional and student development. This would include broadening allowable costs within all programs to support costs necessary for students to participate in events that have as their purpose the intellectual, cultural, and social development of participants. Currently, such language only resides within Upward Bound. Thank you for your consideration of these comments.

MS. JEFFRIES: Thank you very much. Before we introduce the next one, I just would like to make a comment for the public commenters that, please be cognizant of the fact that we have interpreters working behind the scenes trying to provide services for those

who need them in an accurate and timely manner. So,
please be cognizant of the rate of your speech, and
articulate things clearly for them. I know three minutes
seems short, but they're trying to do their job behind
the scenes too. So, who's next?

MS. K. SMITH: So, next we have Cheryl
Dowd from the WICHE Cooperative for Educational
Technologies (WCET), and Cheryl is in the room.

MS. JEFFRIES: Okay. Cheryl, can you
hear me?

MS. DOWD: Yes. Thank you.

MS. JEFFRIES: Wonderful. You have
three minutes to address the committee today, and you'll
receive 30-second heads up just before your time is up.
So, with that, you're free to begin.

MS. DOWD: Thank you to the
Department for allowing me this time to address the
committee. Hello, my name is Cheryl Dowd. I'm with WCET,
the whiskey cooperative for educational technologies. I
serve as the senior director for the State Authorization
Network (SAN) and WCET Policy Innovations. SAN and WCET
serve members that include institutions, state agencies,
and organizations to develop best practices and manage
policy and compliance for important student consumer
protections, addressing digital technology and interstate

Distance education. So, regarding the issues of this
rulemaking, I wish to share points on two of the issues
today. First, I'm going to address regarding state
authorization, and it'll be specific to the complaint
language. We concur with the Department that it is
prudent that a reciprocity agreement includes a process
for communicating information regarding complaints
subject to the agreement, and the reporting of number and
type of complaints. We urge the Department and this
committee to consider that a process for communicating
information must extend beyond states where the student
is located at the time of initial enrollment. The
regulations cited in this proposal includes or language
that an institution is responsible for determination of
student location. Also, upon receipt of information that
there's been a change to the student's location of state.
The Department's reference earlier this week to a
previous rulemaking about the use of language was in
reference to program approval for Title IV, which is
different than the situation that we have here, where
we're wanting to ensure that the states with a nexus to
the students are resolving the complaint. We urge the
inclusion of the full language about change of location
found in the citation, to be consistent with requirements
for state authorization and providing notifications for

programs leading to a license or certification. Second, I'm going to address R2T4 attendance for distance education. We understand the goal is to identify the evidence for the last day of academically related activity in each course. The proposal rationale indicates to better identify withdrawal of a student for distance education defined under 600.2, that institutions take attendance and use the attendance data to determine a student's withdrawal date. We wanted to offer some practical application information upon surveying our members. We learned from our members that there needs to be a clarity in language of which courses are applicable and what would be acceptable for attendance. Additionally, we learned that in current practice once a student is identified as [30 seconds] then the research is conducted to find the evidence of the last academically related activity. The search is focused on that one student, so consequently the institution will need to take the attendance by collecting this information for every distance education student. A member queried, is the Department seeking institutions to convert all academic engagement on a student-by-student basis into a record of attendance for every distance education student? We wanted to share this with you after having communicated with our members. Thank you

very much for your time today.

MS. JEFFRIES: Thank you, Cheryl, we
appreciate it. Krystal, who do we have next?

MS. K. SMITH: Next, we have Jessie
Hernandez-Reyes from The Education Trust. And Jessie is
in the room.

MS. JEFFRIES: Okay. Jessie, can you
hear me?

MS. HERNANDEZ-REYES: Yes. Can you
hear me?

MS. JEFFRIES: Wonderful. Welcome. And
thanks for taking time out of your day to address the
committee. You will have three minutes to address them.
You'll receive 30-second heads up just before your time
is ready to expire. Okay? So, with that, you may begin.

MS. HERNANDEZ-REYES: Thank you. Good
afternoon. My name is Jessie Hernandez-Reyes. I'm a
senior policy analyst for higher education at The
Education Trust. We work to dismantle racial and economic
barriers in the US education system from preschool
through college. I'm also a first-generation college
graduate and proud Mexican American. I'm here to urge the
Department to center the experiences and outcomes of
students of color and students from low-income
backgrounds throughout the rulemaking process. This week,

a diverse group of former students shared how accredited
colleges scammed them into spending down their Federal
Student Aid and GI Bill benefits while leaving them with
no credential or a worthless one. The public deserves
regulations that hold institutions and accreditors
accountable and prevent them from harming students in the
first place. In addition, while students of color are
nearly half of all undergraduates, accredited colleges
often have persistently low college completion rates for
these students. At collegeresults.org, we use Federal
data to shine a spotlight on these disparities, which are
a sign of a broken system. This lack of institutional
effectiveness and accountability is a huge problem for
the US workforce. Fewer than one-third of Black adults
and only one-fifth of Latino adults hold an associate
degree or higher. Federally recognized accreditors and
colleges are responsible for student achievement and
support, and they're falling short. One reason is
negative campus climate. I spent a year talking to
students of color at colleges around the country.
Students recounted hostile treatment by peers and college
staff. They expressed uncertainty about where and how to
report incidents of discrimination, and they shared
feelings of isolation, stress, and exclusion due to these
experiences. These stories come from research on the

importance of belonging for student success. The
Department should require accreditors to consider for
both institutional reviews against standards and ongoing
risk assessment, retention and completion rates
disaggregated by race, ethnicity, and Pell Grant status,
debt and Repayment rates, processes, and outcomes of
campus climate reviews and Office of Civil Rights
Discrimination data. Accreditors should also review
retention and completion rates for incarcerated students
attending higher education in prison programs, and ensure
incarcerated students are not duped into training for
jobs they will not be eligible to take. Lastly, the
Department should ensure student complaints to
accreditation agencies are not refused for being
incorrect.

             MR. WEATHERS: 30 seconds remain.

             MS. HERNANDEZ-REYES: Or anonymously
filed. Accreditors should err on the side of hearing
students' concerns and should adhere to swift timelines
for addressing complaints. Thank you.

             MS. JEFFRIES: Thank you. Krystal, who
is next?

             MS. K. SMITH: Next, we have Jewel
Bourne from The Campaign for College Opportunity, and
Jewel is in the room.

MS. BOURNE: Hey. Good afternoon.

MS. JEFFRIES: Good afternoon, Jewel, welcome. You will have 30- you wish, right? You will have three minutes to address the committee. You'll get 30-second heads up just before your three minutes is to expire. So, with that, please go ahead and begin.

MS. BOURNE: Thank you. Good afternoon, members of the committee, Jewel Bourne, on behalf of The Campaign for College Opportunity, a broad-based bipartisan coalition committed to ensuring that all students, regardless of their circumstances, have an opportunity to go to college and succeed. As the Department seeks to clarify the rigor of accreditation practices and provide accrediting agencies the authority to implement clear standards of quality related to student achievement, student services, and recruiting and admission practices, The campaign for College Opportunity sees an opportunity for the committee to reimagine policies and practices to support transfer reform. We also see this as an uncommon opportunity to address an issue many institutions have been grappling with since the Scotus decision this past summer, severely curtailing the use of race-conscious admissions practices-admissions in higher education. We can choose to see the ruling as an opportunity to reimagine policies and

practices that support campus diversity, equitable access, and completion at four-year institutions. Transfer reform is one of those policies. What we are proposing here today would provide institutions with a race neutral means to increasing diversity on college campuses. This is because transfer reform can help close equity gaps in bachelor's degree attainment by providing vital degree pathways for students from minoritized backgrounds, who disproportionately begin their educational pathways at community colleges. The presence of clear, streamlined transfer pathways and practices and investments that support transfer student success should be considered part of the criteria for assessing institutional quality. Yet the existing HEA language on accreditation and transfer is limited to transparency. Specifically, HEA only requires accreditors to confirm that institutions publicly disclose their transfer of credit policies, which institutions accomplish through posting articulation agreements. However, the public posting of articulation agreements is neither a helpful nor meaningful signal to transfer-bound students. They provide no insight to transfer-bound students on what to expect, how they can plan for, and what resources are available to them as they pursue transfer. In fact, 68% of articulation agreements are written above the reading

level of a college graduate. If articulation agreements are inaccessible and unreadable to their core audience students, the current requirements are merely a stand-in for meaningful transparency. The Campaign for College Opportunity asks the committee to consider expanding the scope of accreditors authorization beyond the current transfer [30 seconds] transparency measures, by requiring that institutions prioritize the needs of students in determining the quality of the transfer information provided. This can include annual data related to the share of transfer students, the rate of acceptance for transfer applicants, the average time to degree for transfer students. This committee could go beyond transparency and authorize accreditors to evaluate the process by which institutions accept or prepare students to transfer and consider whether institutions utilize accepted best practices in transfer, including common course numbering. Thank you for your leadership and the opportunity to underscore the imperative of investing in transfer as an essential lever to affirm equity and achieve quality in higher education.

MS. JEFFRIES: Thank you, Jewel. Krystal, who is next?

MS. K. SMITH: Our next speaker is Gregg Greer, who is representing himself. Gregg is in the

room.

MS. JEFFRIES: Okay. Hi, Gregg. Can
you hear me?

MS. K. SMITH: You're on mute, Gregg.
Bottom left.

MR. GREER: Unmute.

MS. JEFFRIES: There you are. Okay.
There you are. Great. Wonderful. Welcome, Gregg. And
thanks for joining the committee this afternoon. You will
have three minutes to address the committee with 30-
second heads up just before you're 30- your three- I keep
wanting to go to 30 minutes here- just before your three
minutes are to expire. So, with that, please feel free to
begin.

MR. GREER: Hello, my name is Gregg
Greer, and I'm the executive director of institutional
research and effectiveness here at Wayland Baptist
University in Plainview, Texas. My comments are in
reference to regulation 668.1642. an institution may
include the cost of books and supplies as part of
tuition. Equitable access programs have seen an increase
in student success because they offer the students
effortless, low-cost materials on day one of their
courses. If the proposed language goes through, this will
drive up the cost to students by an estimated 40% and

potentially delay delivery of materials to the students.
This leads to more student debt and creates challenges
for the student's success. I recommend that we keep the
current regulations as they are. The intent of the
proposal is to change the students opt to- from opting
out if they don't want to participate, to opting in if
they do want to participate. The changes to the
regulation are not in the best interest of the students.
The proposed change removes the requirement that the
students be allowed to opt out in the case of health and
safety or single source materials. This also removes the
requirement that an effort be made to have the materials
be provided at a lower cost and provided to the student
in a timely manner. Requiring students to opt in will
create expensive procedure changes for the following
reasons. First, unless students are somehow required to
opt in or opt out by their campus when they register for
their classes, they are less likely to opt in even when
it is in their best interest. Students who do not opt in
may not get required materials necessary for success.
Lower participation drives up costs for the students who
do participate in the program. Secondly, on Monday, one
commenter effectively described the difficulty of
tracking and signing up a specific 90% of students who
might opt in to such a program. It's much easier to just

pull in everybody. Multiply this change by the 1900 or so
campuses that use a program like this. WVU is an
institution with a relatively small student body, but our
resources are also relatively small, and our online and
external campus students are spread out across the
country. [30 seconds] This creates an undue and
unnecessary burden on schools and publishers. For these
reasons, it's in the student's best interest to leave
things as they are. Students who do not wish to
participate in the current programs can opt out of them.
Thank you for your time and for the ability to address
you.

         MS. JEFFRIES: Thank you, Gregg, for
your comments. Krystal, who's next?

         MS. K. SMITH: Our next speaker is
Elizabeth Braatz, who is representing herself, and
Elizabeth is in the room.

         MS. JEFFRIES: Okay. Elizabeth, can
you hear me?

         MS. BRAATZ: Yes, I can. Can you hear
me?

         MS. JEFFRIES: Absolutely. Nice to see
you. You will have three minutes to address the committee
with 30-second heads up just before your time is to
expire. So, with that, please begin.

MS. BRAATZ: Hello and thank you for
the opportunity to speak. My name is Elizabeth Braatz,
and I will be commenting in support of the proposal to
eliminate the cash management provision regarding books
and supplies. I am a second-year graduate student at
Portland State University, studying to receive my Master
of Public Policy Degree with a specialization in Advocacy
and Leadership. Prior to attending Portland State
University, I received my Bachelor of Science in Criminal
Justice at Western Oregon University, which is also where
I began my journey in urban education. Education is
invaluable to me. I have paid my way through my time in
higher education through scholarships, my savings, and
working a part-time job while going to school and a full-
time job during the summer. My parents made enough money
that I did not qualify for any financial aid, but it was
still my responsibility to pay for my education. Each
time I paid $10,000 or more in tuition fees and room and
board, which do not include my textbooks and materials. I
support the proposed change to cash management, because
many institutions have taken advantage of this regulation
to create automatic billing programs, sometimes called
inclusive access, which inhibits students from having
agency or knowledge that textbooks and/or materials may
be able to be found at more affordable rates. I recall 3

to 4 times in my higher education academic career in which I had to purchase a $200 to $300 textbook to receive the required homework codes to complete assignments. I was in a place of privilege to be able to afford these textbooks, but other students who were not in a place of financial privilege had no option but to buy a brand-new textbook with the codes included in order to complete and pass the course. In this case, my institution ensured that they were the only option for students to access these materials due to contracting with outside companies and parties. When we talk about what inclusive access really means, I can confidently tell you it does not look like the stories I have told. While I support the proposed change, I am also concerned that it does not go far enough. There are still exceptions that would allow automatic billing in cases where there is a compelling health or safety reason, or the institution's the only option to access materials. I believe that these exceptions could be very easily exploited, especially since textbook publishers already do this with access codes for assignments. To prevent potential abuse, I urge the Committee to eliminate 668.164(c)(2) in its entirety, so that students have the right to opt into all books and supply charges and all [30 seconds] I implore this committee to adapt its

proposal to the stories, experiences and the livelihoods

that are tethered to the decisions and regulations you

make in this process. Thank you for your time.

MS. JEFFRIES: Thank you, Elizabeth.

Okay. Krystal?

MS. K. SMITH: Yes. So, our next

speaker is Riley Street, who is representing themselves.

Riley is in the room.

MS. STREET: Hello, good afternoon.

MS. JEFFRIES: Hi, Riley. Can you hear

me? Okay.

MS. STREET: Yes, ma'am. Are you able

to hear me alright?

MS. JEFFRIES: Yes, ma'am. you have

three minutes to address the committee this afternoon,

and we thank you for taking time to do that. You will

receive 30-second heads up just before your time is to

expire. So, with that, please begin.

MS. STREET: Okay. Thank you so much.

Good afternoon. My name is Riley Street. I am a veteran.

I served in the Army from 2015 until January of 2020.

After my time in the military, I decided to go to school

to pursue art and design. I personally attended Living

Arts College from March 2021 until its closure in

December 2022. My time there was filled with a lot of

unmet promises. When I enrolled, I signed up for a degree in animation in 3D design. However, the course's catalog description of the program differed from the actual curriculum. Based on what I had read, I thought the program would begin with drawing and sketching before transitioning those skills to the computer for said actual 3D animation. Many of my artistically inclined classmates and I thought the program would lead to a variety of jobs that fit our interests. Instead, the program funneled all its students to more technical, animation-related jobs. Or, just really quick, side gigs. So, I switched into the interactive media and graphic design program. I felt that this program would better fit my needs, but this degree was also a road to nowhere. The curriculum and coursework were just recycled from class to class. Most of the opportunities this degree led to were quick one-off gigs, like I said, like designing logos for a new business. No one offered a steady paycheck and benefits for people with our degree. I began to hear rumors around the school that something was happening. In August 2022, the school told us that they were looking to get approved by a new accreditor, but that we would still be able to finish our degrees. Oh, forgive me, sorry.

                    MS. JEFFRIES: That's okay.

MS. STREET: They encouraged us to sign up for classes. Later, the school threw us for a loop. Students could continue to pay out-of-pocket with our VA benefits, but we could not pay any more with Federal Loans, aka FAFSA. Finally, in December, the school shut down completely. They started letting anyone into the dorms and began renting them out as apartments, leading to an unsafe atmosphere. Without asking, Living Arts College automatically enrolled students into another school, Full Sail University. But I did not want to go there because I had heard that Full Sail was not a good school. Instead, I had to go through a long process of requesting my transcripts, and I still do not know whether my credits will actually transfer to other schools. Schools should not be allowed to make these promises that they cannot keep. When we found Living Arts College, other veterans, and I [30 seconds] got our hopes up that we would find jobs aligning with our specific interests, but we were let down. On top of that, school should not be allowed to fall the way that Living Arts did, leaving many of us wondering what our next steps would be with very little warning. Please consider rules that would force accreditors to act before it's too late. Thank you for your time.

MS. JEFFRIES: Thank you, Riley. Okay,

that is the end of the public commenters that have logged

in for their speaking slots. And it is 3:59. Just one

quick reminder that when you submit your proposals to the

Department, well, to FMCS to submit to the Department,

that we ask that they are in Word format. Include your

rationale for the proposals, and it is red line text.

Okay? With that, Herman, Greg, any last words?

MR. MARTIN: I just want to thank

everybody for their time and expertise this week. I

thought the discussions were very good, very

professional. The Department will take back what we've

heard at this table, along with all the various

recommendations and proposals people on the committee

have made to us and, come back in February with some

revised language and some more ideas. It's been a

pleasure. I want to thank all the participants as well as

FMCS and, especially, David Musser and Herman Bounds, who

joined me in- negotiating this week. And with that,

I'll just say to everybody, have a fantastic remainder of

January. I'll see you all next month. Thank you.

MS. JEFFRIES: Thank you.

Zoom Chat Transcript
Program Integrity and Institutional Quality- Session 1, Day 4,
Afternoon, January 11, 2024
*Chat was copied as presented, as a result minor typos or grammatical
errors may be present.

From P, Diana Hooley, State Attorneys General to Everyone:
     We are also supportive of the Department's efforts here to
strengthen the complaint procedures and would agree that more can be
done. Ensuring that accreditors work with states when states request
information from accreditors is also critical.
From A, Magin Sanchez, Civil Rights/Consumer to Everyone:
     +1 on Jessi and Ashlynne's remarks from a civil rights
perspective
From P, Jessi Morales, Students/Borrowers to Everyone:
     Attached is the letter I mentioned from outside organizations,
sent to the Department that echoes and expands on many of these
concerns.
From P - Carolyn Fast, Consumer/Civil Rights to Everyone:
     Strongly agree with points raised by Jessi and Ashlynne on need
to address accreditor failures to protect students
From A, Sophie Laing, Legal Aid to Everyone:
     Replying to " Strongly agree with..."
     Same here.
From A, Sophie Laing, Legal Aid to Everyone:
     Replying to " Strongly agree with..."   (for Legal Aid Orgs)
From P, Diana Hooley, State Attorneys General to Everyone:
     Replying to " Strongly agree with..."
     We agree the risk to borrowers by accreditors' failures has to be
of paramount concern.
From P Jamie Studley, Institutional Accreditors to Everyone:
     The term "if practicable" in 602.33..(C) -- under what
circumstances might in not be possible to share it with the agency?
From P Jamie Studley, Institutional Accreditors to Everyone:
     And under 602.34 we may have some thoughts about what kind of
information could or must be considered.
From P, Laura Rasar King, Specialized Accreditors to Everyone:
     Amy Ackerson will come in for the entirety of 604 for specialized
accreditors.
From P, DC, HBCUs, TCUs, MSIs to Everyone:
     @A - D'Angelo Sands, HBCUs, TCUs, MSIs My alternate, will step in
for me at this time.
From P Jamie Studley, Institutional Accreditors to Everyone:
     This afternoon I will refer as an example to metrics relating to

student outcomes including disaggregated performance, trends and
comparisons and peer benchmarking information on my agency's Key
Indicators Dashboard (KID) to be found at
www.wscuc.org/resources/evidence-and-data/ or directly at
wscuc.org/resources/KID. Many other agencies also post data about
student outcomes on their sites.
From P - Erika Linden - Private Nonprofit Institutions to Everyone:

     Alternate Scott Dolan will step in for Private Nonprofits.
From P, Jessi Morales, Students/Borrowers to Everyone:
     Where it makes sense I would like us to potentially open a
discussion on Risk-based reviews here, as there was not a clear place
to bring it up earlier.
From P, Jillian Klein, Proprietary Instit to Everyone:
     +1 Jo's comments in general, especially with respect to non-
traditional student behavior (adults!), and the need to account for
that in policy broadly
From A, Sophie Laing, Legal Aid to Everyone:
     Agree with Barmak's comments and the major issues he raised.
From P, Laura Rasar King, Specialized Accreditors to Everyone:
     Let's also keep in mind that 20 USC 1099b(o) states that
"Notwithstanding any other provision of the law, the Secretary shall
not promulgate any regulation with respect to the standards of an
accreditation agency or association described in subsection (a)(5).
From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:
     +1 to Jo and John from us in private nonprofit. The diversity
of institutions within our constituency and the students we serve
require us to be very thoughtful about how we create metrics/bright
lines that can enable fair evaluations of success and outcomes.
From P, Jessi Morales, Students/Borrowers to Everyone:
     Accrediting agencies have the ability to manage benchmarks
according to the institutions they serve that includes the mission of
the school. It is important that the benchmarks are adequate though
and that they are being met.
From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:
     thank you!
From P Jamie Studley, Institutional Accreditors to Everyone:
     One effort to allow review and comparison of agencies is in the
Accreditation Dashboards under NACIQI on the ED website.
From A, Magin Sanchez, Civil Rights/Consumer to Everyone:
     +1 to Jessi's comments regarding the importance of disaggregating
data, which is crucial uncovering students who face the worst
outcomes, and prompting action to address such outcomes.
From P, Jessi Morales, Students/Borrowers to Everyone:
     To be clear students of color and students from low-income
backgrounds are not more difficult to serve.

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:
      totally agree with Jamie here.
From A, Magin Sanchez, Civil Rights/Consumer to Everyone:
      Reacted to "To be clear students..." with ❤️
From A. Ashlynne Haycock-Lohmann (vets) to Everyone:
      Reacted to "To be clear students..." with ❤️
From Carolyn Fast to Everyone:
      My alternate Magin is coming to the table with a comment.
From P Jamie Studley, Institutional Accreditors to Everyone:
      This may track Sophie's commet: I have heard a suggestion that
"transfer agreements" may be a better vehicle for arranging viable
pathways than teach out agreements. Others may know more about the
details of that than I do.
From P-Robyn Smith-Legal Aid Orgs. to Everyone:
      I am coming back in for legal aid orgs.
From A, Sophie Laing, Legal Aid to Everyone:
      Primary Robyn Smith will now step in.
From A, Emmett Blaney, Student Borrower to Everyone:
      Here is a link to the data I mentioned:
https://sheeo.org/project/college-closures/
From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:
      And Erika will come back in for me for private, nonprofits
From A, Sophie Laing, Legal Aid to Everyone:
      What is the Department thinking about as a "middle ground"
between teach out plans and teach out agreements? How would that
middle ground adequately protect students, especially given the
confusing landscape that already exists with teach out agreements when
schools close?
From A, Sophie Laing, Legal Aid to Everyone:
      Reacted to "To be clear students..." with 👍
From A, Rob Anderson, State Officials to Everyone:
      A quick shout-out to Massachusetts who has begun developing a
holistic state plan after Mt. Ida's precipitous closure. It hasn't
been easy, but there's a lot more transparency and better early
warning triggers.
From (A) Zack Goodwin (he/him), Financial Aid Administrators to
Everyone:
      Reacted to "A quick shout-out to..." with ❤️
From P, Jessi Morales, Students/Borrowers to Everyone:
      Attached here is a report that summarizes the pilot program I
helped design and lead focusing on risked-based reviews.:
From P, Jillian Klein, Proprietary Instit to Everyone:
      Replying to "A quick shout-out to..."
      Thanks for this, Rob - this was the exact example I was thinking
of.

From A. Ashlynne Haycock-Lohmann (vets) to Everyone:
    If the Department of Veterans Affairs has the bandwidth to do
Risk Based Reviews, there should be no doubt that the Department of
Education does too.
From P, Jessi Morales, Students/Borrowers to Everyone:
    Agree with Ashlynne. For the risk-based review process we piloted
both institutions and state agencies appreciated the process and that
it focused more on relevant issues.
From P, Diana Hooley, State Attorneys General to Everyone:
    We agree with the concerns raised by Carolyn and Robyn that it is
the students who bear the risk and ultimately suffer serious harm,
particularly with respect to abrupt closures.
From P - Carolyn Fast, Consumer/Civil Rights to Everyone:
    Agree with JoEllen that there should be an easy confidential way
for former employees to report concerns about institutional practices
to accreditor and/or the Department
From A, Emmett Blaney, Student Borrower to Everyone:
    I know we've moved on, but wanted to post a comment in the chat
for posterity. RE: the cost being passed on to students. As a student
with a large amount of student loan debt, I'd far prefer my money be
going toward accrediting schools so that I can end up with a degree,
rather than paying for schooling that is sub-standard, leaving me with
(more) debt as a result of lower wages and limited career options.
From P-Robyn Smith-Legal Aid Orgs. to Everyone:
    This study may be helpful to negotiators:
https://www.newamerica.org/education-policy/reports/anticipating-and-
managing-precipitous-college-closures/
From A. Ashlynne Haycock-Lohmann (vets) to Everyone:
Reacted to "I know we've moved o..." with 👍
From P, Jessi Morales, Students/Borrowers to Everyone:
Reacted to "I know we've moved o..." with 👍
From (P) Barmak Nassirian -- Vets to Everyone:
    Re "voluntary" definition: voluntary has historically not meant
having multiple choices; it has only meant that the institutions did
not have to be accredited if they didn't seek the benefits of being
accredited
From A, Magin Sanchez, Civil Rights/Consumer to Everyone:
    Reacted to "I know we've moved o..." with 👍
From (P) Barmak Nassirian -- Vets to Everyone:
    Also, the question about "voluntary" from the accreditor
perspective has to do with whether the accreditor has the right to
simply reject an institution's request, even if the institution
satisfies its standards
From P. Jo Blondin, Community Colleges to Everyone:
    Accreditation is voluntary and choice is choice.

From P, DC, HBCUs, TCUs, MSIs to Everyone:
     @(P) Barmak Nassirian -- Vets I think we can expand "voluntarily"
in ways that we have not considered before and should give
institutions choice to volunteer to participate as a member with which
ever accreditation agency of their choice.
From A, Rob Anderson, State Officials to Everyone:
     When will transcripts be made available for the public?
From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:
     thank you!
From A, Michael Cioce, 2 Year Colleges to Everyone:
     See you next month!