UNITED STATES DEPARTMENT OF EDUCATION

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GAINFUL EMPLOYMENT
NEGOTIATED RULEMAKING COMMITTEE 2017-2018

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SESSION 3

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TUESDAY,
MARCH 13, 2018

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The Negotiated Rulemaking Committee met in the Potomac Center Plaza Auditorium, U.S. Department of Education, 550 12th Street, S.W., Washington, D.C., at 9:00 a.m., Ramona Buck, Rozmyn Miller, and Javier Ramirez, Facilitators, presiding.

PRESENT

RAMONA BUCK, Federal Mediation and Conciliation Service, Facilitator
ROZMYN MILLER, Federal Mediation and Conciliation Service, Facilitator
JAVIER RAMIREZ, Federal Mediation and Conciliation Service, Facilitator
JEFF ARTHUR, Vice President of Regulatory Affairs & Chief Information Officer, ECPI University
WHITNEY BARKLEY-DENNEY, Senior Policy Counsel, Center for Responsible Lending
JESSICA BARRY, President, School of Advertising Art
JENNIFER L. BLUM, ESQ., Senior Vice President, External Relations and Public Policy, Laureate Education, Inc.

STEPHEN CHEMA, Ritzert & Leyton, PC
JENNIFER DIAMOND, Program Associate, Maryland Consumer Rights Coalition
DANIEL ELKINS, Legislative Director, Enlisted Association of the National Guard of the United States
RYAN FISHER, Intergovernmental Relations Division, State of Texas Office of the Attorney General
PAMELA FOWLER, Executive Director of Financial Aid, University of Michigan - Ann Arbor
CHRISTOPHER GANNON, Vice President, United States Student Association
ANDREW HAMMONTREE, Director of Financial Aid and Scholarships, Francis Tuttle Technology Center
NEAL HELLER, CEO/President, Hollywood Institute of Beauty Careers
MARC JEROME, President, Monroe College
C. TODD JONES, President, Association of Independent Colleges & Universities in Ohio
ROBERTS JONES, President, Education & Workforce Policy, LLC
JOHN KAMIN, Assistant Director, The American Legion's National Veterans Employment & Education Division
KIRSTEN KEEFE, Senior Attorney, Consumer Finance and Housing Unit, Empire Justice Center
CHRISTOPHER MADAIO, Assistant Attorney General, Office of the Attorney General of Maryland
JORDAN MATSUDAIRA, Nonresident Fellow, Urban Institute; Assistant Professor, Cornell University
MARK MCKENZIE, Executive Director, Accreditation Commission for Acupuncture and Oriental Medicine
LAURA METUNE, Vice Chancellor of External Affairs, California Community Colleges
ANTHONY MIRANDO, Executive Director, National Accrediting Commission of Career Arts and Sciences

MATTHEW MOORE, Director of Financial Aid and Scholarships, Sinclair Community College
KELLY MORRISSEY, Director of Financial Aid, Mount Wachusett Community College
CHAD MUNTZ, Director of Institutional Research, Office of Administration and Finance, The University System of Maryland
JONATHAN K. PIERRE, Vice Chancellor for Institutional Accountability and Evening Division, Southern University Law Center
TIM POWERS, Director of Student Aid Policy, National Association of Independent Colleges and Universities
THELMA L. ROSS, Interim Director of Student Financial Aid, Prince George's County Community College
SANDY SARGE, SARGE Advisors
AHMAD SHAWWAL, Student, University of Virginia
DAVID SILVERMAN, Chief Financial Officer and Director of Business Affairs, The American Musical and Dramatic Academy
JOHNSON M. TYLER, Senior Attorney, Consumer and Foreclosure Units, Brooklyn Legal Services
CHRISTINA WHITFIELD, Associate Vice President, State Higher Education Executive Officers Association

STAFF PRESENT
STEVEN FINLEY, Office of General Counsel
GREGORY MARTIN, Office of Postsecondary Education

P-R-O-C-E-E-D-I-N-G-S

9:00 a.m.

MR. RAMIREZ: So, welcome everybody for Session Three, day two of the Department of Energy -- I'm sorry, the Department of Education --

(Laughter)

MR. RAMIREZ: Yeah, Department of Education Gainful Employment Negotiated Rulemaking.

Reminder on the live streaming, if you can, just pause it. Or please do pause it during any breaks.

And I'm going to start off and see if there are any opening remarks from any of the negotiators?

(No response)

MR. RAMIREZ: Okay. It does not look like it. How about from the public? Any opening remarks from the public?

(No response)

MR. RAMIREZ: Okay. All right, so

seeing no remarks, then we're going to go ahead and continue on with Issue Paper Two, D/E Rates.

And with that, there were a couple of -- we left off with one discussion as far as terminology goes. And Greg, I believe that the Department has discussed that and has come up with a way to consistently capture that throughout the Rule, correct?

MR. MARTIN: Greg for the record. Yes, Javier, we have. I'll discuss that.

But our first alternate energy sources -- no, I'm just kidding.

MR. RAMIREZ: Yeah.

(Laughter)

MR. MARTIN: I'm an ex -- I'm a noted expert in that field. But you know, I do this too once in a while.

MR. RAMIREZ: Yeah.

MR. MARTIN: Okay, so yes, picking up from yesterday's conversation. I know that we had some discussion over terms to use.

So, last night we met with our senior

staff. And we have settled on the use of the word measures.

So the -- it will be either meets measures or does not meet measures. So, that's the decision from above.

So, we did settle on that. And as Scott wants me to point out that we have made changes in one paper, Scott?

(Off mic comment)

MR. MARTIN: Yeah. The paper we discussed yesterday, Scott's making changes to. But, they haven't been changed going forward.

But, you can just kind of mentally make those adjustments as you see them, as you see the word. Such as going through this paper here.

We also made some decisions on the sanctions paper. Which I'll go over later. Not now. But, I'll talk about those as well.

And we'll be handing out a revised flow chart that we had yesterday that -- the person who works on this is Ashley Higgins on our staff. And she's amazing in that.

She's probably made, I don't know how many changes to this over the past couple of weeks. But, she's always able to do it really quickly and it looks really good.

So, I'm going to hand that out later on. And we'll discuss those changes.

I also -- I think yesterday we left off with Issue Paper Two. And we had only gotten to the -- we talked about those notes at the bottom.

And the Department is seeking feedback on those options. And the subject was raised about -- the topic was raised about -- or the idea, I should say, was put forward about using a 75 percent, the top 75 percent of earners.

We took that back to senior management at the meeting last night, and there was interest in it. They were intrigued by it.

So, I think our main stumbling block at this point would be finding justification for it. Or making it not -- we don't want there to be an arbitrariness to it.

So, we are giving it some thought. So, I just wanted to let you know about that.

Before I move on else, I wanted to say that before -- prior to our break this morning, Mark Jerome is going to do a short data presentation.

And we can have a discussion about that. I don't want it to go on indefinitely. So -- and I mean, Mark's part, that's not going to go on indefinitely.

He's going to wind up the discussion about it. So, we'll do that before the break.

All right, so we can continue then with Issue Paper Two. And I think we again, we talked a little bit about the notes at the bottom.

So we can go through the actual paper itself then, starting with 668.403. And you can see that gainful employment framework becomes educational program framework.

It's awful difficult sometimes working

through these to figure out what they say now. Because you have all the strikeouts. Right, so.

And you can see there that the framework does consist of debt to earnings rates and loan repayment rates. Again, the undergraduate educational program is reflected there.

And in two loan repayment rate using the procedures in 668.406. And we will talk about those. And you can see we're using benchmarks still here. But that would become measures.

And as you are aware, we retained the same -- we retained the same debt to earnings measures as we had previously. So nothing is new there over what we talked about in Session Two.

Let's see here, We again referenced the -- on page three, the top of page three, number three is the inclusion of the undergraduate program.

Which was considered to have met what would now be measures under the D/E rate measure if the institution demonstrates that the program meets the standards for economically disadvantaged. Appeals in 668.213 or the appeal for programs with fewer borrowers in 668.216.

And --

MR. RAMIREZ: And Greg, let me pause you for just a second. And the pieces that are above three there, let me ask the group, are there any questions on that?

And see if we could get an approval on -- from the beginning of this Issue Paper up to Number Three, which is at the top of page three. Right.

So, on those sections there on page -- really page one and -- I'm sorry, page two and the top of page three.

You have a question Sandy?

MS. SARGE: This is Sandy. I think that there's certainly some concern that I've heard, and I want to throw it out there, is if we're still going to stick with the 8 percent, would the amortization add ten years?

That would be a concern. So, because it doesn't state here the amortization, I think it goes in conjunction with.

So, I would be concerned about finalizing that until we have a discussion about the amortization rate period. The amortization period.

MR. RAMIREZ: Okay. Chris?

MR. GANNON: Well, I have a concern with the meets measures term. So, I suppose that is articulated in these pages.

So, I would express that. I mean, it's getting more confusing, not less confusing, going from benchmarks, which I already thought wasn't very good explanation for a student, to measures.

I mean, I just Googled the definition of measures is like a standard unit of measurement. So, to me if you're saying it meets measures, measures of what?

I mean, it's like a part of the sentence is almost chopped off. So, I think that it's -- if a student reads just that it doesn't meet measures that is going to make it a lot more confusing.

And I think there's a lot better ways to express if someone is not sufficiently providing earnings. Or providing gainful employment.

That I think that should be expressed a lot better and a lot shorter if it does not meet -- and I'm not going to throw out anything. I just think that is not going in the right direction.

MR. RAMIREZ: Sandy, you had a comment on that?

MS. SARGE: Yes. Is the Department intending to put together or have some sort of language about where we would be required to put out there what we're looking at?

So, for example, it would say debt to earnings and loan repayment, the Department of Education has measured, buh, buh, buh. And that would be like standard language we would put as a, sort of a precursor to these measures?

Because I think that would be a good way to explain it. Is if the Department just states these are our -- this is what we're doing and why we're doing it.

Here are our measures. And then you say, here's the measures. You either meet them or you don't.

MR. MARTIN: Well, the only -- remember that the only -- that you don't -- in disclosures you don't disclose the rate.

The only time the language comes into play is with the notification. So, it would only be if you were required to do notification for the program that the language would come in.

And we talked about that language yesterday. Moving from the -- to measures, we would have to tweak that language somewhat to make that fit.

But, I think it would be similar to what is there now. But again, we'd have to go back and take a look at that.

But that would be the only time. So, I just want to remind everybody that you wouldn't be using, you know, every day you wouldn't put in your disclosure template this language.

It's only -- well, it would be there obviously if you had to put the notification in. And that's the only time it would. It's sort of like not with the warning.

MR. RAMIREZ: Okay. Thank you. So, then I'm sorry Greg, could you continue on with three then?

MR. MARTIN: Sure. Okay. We were talking about the economically disadvantaged appeals.

And then we can move onto page four, where we talk about the addition of the -- well, we call it benchmark here, but it would be measure -- obviously it can't be measure for the loan repayment measure. So, that will have to be tweaked.

But, where it says benchmark for the loan repayment measure. And you can see there that the issue currently is that we don't have anything as far a -- what the repayment rate is greater then or equal to.

So, obviously if we were to proceed with the methodology that Sarah discussed yesterday, we would have to change that -- change that language.

And this language is written as if there were going to be settled upon benchmark. But obviously it might not be that. So, that's just kind of a holding place for that.

Beginning at three, for any year the Secretary has not calculated or issued loan repayment rate for a program, for a measurement period, the institution discloses the loan repayment for the previous measure if available.

And if the Secretary has not calculated repayment rates for additional measurement periods, the program would list N/A for the repayment rate.

MR. RAMIREZ: Okay. Any questions or -- Sandy?

MS. SARGE: Clearly I've had more coffee this morning then I did yesterday. This is Sandy.

So, is this the time to ask some questions about the loan repayment rate? I had some confusion.

And you caught me off guard. I hadn't gotten my brain all together when you asked if anybody had any questions from yesterday.

MR. RAMIREZ: Um-hum. Yeah, you can go ahead.

MR. MARTIN: Yeah, go ahead.

MS. SARGE: Okay.

MR. MARTIN: If they're technical in nature, we might have to ask -- is Sarah here this morning?

MS. SARGE: No, they're not mathematically --

MR. MARTIN: She's a -- okay.

MS. SARGE: No. They're technical. But Steve, maybe it's a legal thing. I guess I didn't realize it was so intuitive yesterday.

That the populations would be different between -- or the groups of students we would be measuring would be different between gainful employment, which are graduates who have received some sort of Title IV and loan repayment. Which is any student that has borrowed. Right?

I was confused about that. Why -- where and is that a set in stone thing? And is there a reason why we shouldn't be looking at the same population of students?

In other words, graduates with loan balances versus all borrowers? For what we're doing here in gainful employment.

MR. MARTIN: Greg for the record. We've incorporated for this the repayment rate methodology used for the scorecard.

Of course that's institutional. This will be programmatic. And it doesn't just include completers as you're aware.

I think, you know, we look at this, first of all there are two separate metrics.

They're not linked. There are two separate measures.

I think that's a good thing. Because it's meant to be, you know, if you don't meet the one, then you have the other one.

The repayment rate was designed that way from the get go to include all borrowers, not just completers. I don't think it's necessary, and I don't think -- and I think our data people would agree that they line up.

As far as -- there are enough repayment rates out there right now that we're -- I'm disinclined to put together another one. And I -- yeah, repayment rate number six, right? Or whatever.

So, I think we used -- we incor -- you know, we incorporated one we already have. It's a -- we feel it's a defensible one from the scorecard. And that's why we have it here.

And you're correct, it doesn't just include completers. To go back and revisit that would require us putting together another repayment rate calculation here.

And I don't know that we have time to do that. I don't -- yes, you could make -- you could definitely make the argument that the two -- that the one is just completers and this one isn't.

I don't -- we don't see that as a problem necessarily. Since again, they are two separate measures. And the repayment rate's meant to be a, and if you don't meet the other one, we offer the repayment rate as a -- it's like a secondary way of meeting the standard.

But you know, certainly I'm open to discussion about it. I'm not going to commit the Department to going back to the table to revisit the repayment rate.

MS. SARGE: So, I guess -- this is Sandy again. The only reason why, you know, obviously my mantra has been consistency.

And if you're going to present these two things together, and remembering that at the beginning we were trying to -- we determined that it was good information for all students to know whether when they graduate that they could get a job that repaid their loans.

So that's what debt to earning is supposed to measure. And in the framework, I think at least certainly when I was thinking about it last time, there were reasons that we would want this second measure.

That if a student chooses to go into a career where the salaries were not necessarily good, like I think Sarah used the example of teaching. She had her colleagues in teaching had lower salaries, but not one of them wasn't repaying their loans.

So, I'm just putting it out there because I was confused at why we would bring in non-completers into this discussion about graduating and getting gainfully employed enough to repay your loans.

I think there are other places we measure, correct me if I'm wrong anybody. Don't we measure the non-completers through cohort default? And some of these other things?

I mean, -- so anyway, I'm throwing it out there. I just want to make sure that -- I'll go with the crowd to some degree.

But, I want to put it out there.

MR. RAMIREZ: Thank you. Jennifer?

MS. BLUM: I just wanted to recommend that we -- because I mean, I think a lot of us have questions around the loan repayment rate.

But I was prepared to talk about those in the calculation section under Issue Three. And so I just want to recommend that we -- the only -- to me, the only question on the table here is the fact that the benchmark piece is blank.

But I actually don't even feel like we can talk about that before we talk about the calculation. So, I would just recommend that before we go down the -- and we can, but then, you know, Issue Paper Three, and I do think the calculation's on both.

So, I'm not saying that Sandy's

questions aren't relevant. But, I just feel like they're better placed when we're talking about the calculations themselves in Issue Three.

MR. RAMIREZ: Okay. All right, any other questions then on D/E Rates?

(No response)

MR. RAMIREZ: So, it sounds like there's a couple of pieces that we still need to figure out before we can come back in and plug those in and get that final verbiage nailed down.

So Greg, do you want to walk us through Issue Paper Three?

MR. MARTIN: Sure. Just hold on a moment. I find that as the week goes on that papers build up. And you're less and less able to find anything.

Okay. If we can get Issue Three up. So, we'll be able to continue, as Jennifer pointed out, with the discussion of the rates in this.

Okay. So, looking at the summary here Well, changes in section two. We propose to amortize debt.

And we did have a discussion already about that. So, it's fair that we should discuss it here.

We propose to amortize debt over a ten year period for undergraduate certificates and post-baccalaureate certificates and associate degrees.

We also propose to amortize debt over a 15-year period for bachelor's degrees. And conforming with our previous proposal to limit these regulations to undergraduate programs, we remove the amortization of debt for master's level programs or higher.

We propose moving the calculation of loan repayment to 668.406. And I'm not going to go back over the changes before section two, because I think these changes made some alterations to that.

So, that's pretty much where we are with the paper. So, I think we'll just get right into the paper itself.

So, we can start with 404, calculating debt to earnings rates. And nothing has changed really here. We're using the same D/E rates calculation as we proposed before.

Using existing D/E rates calculations. And you'll note though however that we have changed GE program to undergraduate educational program.

And the next major change would be on page two. Looking at (b)(2) amortizing the median loan debt.

MR. RAMIREZ: Okay Greg, before we get into there then, for that first part, is that something that the group can approve?

Or is there any discussion that needs -- talk about just that first portion of the paper. Yeah, go ahead, David.

MR. SILVERMAN: Hi, I was -- I'm either going to ask why we moved -- why you moved back the amortization for certificates and associates from back to 15 to 10.

Or I'll just plead my case.

MR. RAMIREZ: Well, let me pause you though. Because that's going to be in the next section.

MR. SILVERMAN: Okay.

MR. RAMIREZ: And so I just want to see on this first section here if there was any issues? Or if we could check for consensus on that first part of the paper?

Because your question is going straight to the next number two, the amortization.

MR. SILVERMAN: It is? Okay.

MR. RAMIREZ: Jennifer?

MS. BLUM: I do have a question, sorry. And it maybe just be that I don't remember the answer from last time.

But, on (b)(1), where it says the lesser of tuition, it allows for, or actually it says, that it will be the lesser of the loan amount or tuition and fees.

And by the way, I think that it references paragraph (d)(3). But I think it's supposed to be (d)(2).

So, I just wanted to point that out. But also, when you got to (d)(2), it then says that the Secretary may elect through a federal register notice to seek the tuition and fees and books and supplies and private loan debt and institutional loan debt.

And so those two don't jive to me. Those two paragraphs. Because one says that basically it will be based on the lesser of tuition and fees or the loan amount.

And then the next section -- and maybe I'm reading it wrong. Like I said, I just want clarity.

And then on (d)(2) it says the Secretary may elect to receive. And so to me it's one or the other. You're either allowing for the different, you know, allowing for the lesser of the two.

In which case the Department shall like be seeking that data from federal, not a may. Or you're taking one, you know, you're taking the loan amount.

So, I feel like the two paragraphs are in conflict with one another. But again, maybe I'm reading it wrong and would like clarity.

MR. MARTIN: Greg for the record. I do con -- I will concede that that could lead to confusion.

Yes, what we have done is given ourselves the option of using that if we were able to capture what the tuition, total tuition and fees, books, equipment and supplies for each student is.

Remember that under the -- when we're doing this administratively, we're not going to have that information. And we have no way of collecting it currently other then to have to require every school to do the reporting that's currently required of a GE, of schools with GE programs.

So, we're not going to do that. So, we just don't have the data. So, right now we can't do that.

We wanted to give ourselves the latitude to use that should we be able to capture that information in some sort of a manner that doesn't impose too much of a burden on institutions.

But, I do agree that the way it's written here, it does say we shall use -- basically it says we shall use that.

So, we'll take that back and try to work on that language to make the language here match up with what we have.

MS. BLUM: Yeah, I mean it would need to match up. And then, I mean, I think I'm on the record already, so I won't belabor it.

But, we would strongly urge the Secretary and the Department to consider the lesser of the two. But, we're not going to -- I'm not going to belabor that again.

But just yeah, as written it doesn't work.

MR. MARTIN: I mean, our main concern again, and to be honest it's not that we don't --

we don't see any use in this. It's simply that without the data we can't do it.

And that's, you know, we simply would have to have that reported to us. And part of this effort is to eliminate burden and not impose those reporting requirements on all institutions for all programs.

So, we can only go with the data that we have. And we don't have that data.

MR. RAMIREZ: Okay. Chris then Mark.

MR. GANNON: So, this is the section where, I've raised this before, that I worry that we're not actually accomplishing the goal of the rule by using Title IV completers instead of borrowers.

And I'm not suggesting that we go to that. But I think this group has to recon with it.

Because essentially I want to make sure the negotiators know any program where there's high numbers of borrowers who the objective evidence is they have no earnings, they have high default. But, they don't constitute the majority of the program.

The program gets the best D/E result, a perfect result. I want to make sure the consumer people understand this. It's a very important thing.

Because if any institution -- it actually ends up not protecting borrowers. And I understand the reason behind it.

I'm just looking, has the Department done any thinking about this? Because I've raised it a number of times.

And, you know, the data is fairly clear on this. That there's plenty of institutions where objectively student borrowers are struggling but D/E gives them the best result.

MR. MARTIN: We haven't had extensive discussions about changing that yet. We'll take it back.

But we have not, to be honest, we haven't discussed a change in that part of the calculation.

MR. RAMIREZ: Okay Chris?

MR. MADAIO: So, if I -- and I know this wasn't changed in this issue paper, but I just wanted to make sure I'm understanding that it's the calculation of median loan debt wouldn't include the housing and living expenses, I guess, if it was less then the living expenses debt incurred.

If it was less then the total amount of tuition, fees, and supplies. That's right, right Greg?

MR. MARTIN: I'm sorry. I was not -- can you --

MR. MADAIO: Sure, yeah.

MR. MARTIN: I'm sorry, could you restate that?

MR. MADAIO: If the total amount of debt incurred by a student that included housing and living expenses was lesser, I guess, then the tuition and fees, it would -- you'd use the tuition and fees.

That's what this would do. Is that right?

MR. MARTIN: It's the lesser of the debt or the -- it's capped. It's the debt capped at tuition and fees, books, supplies.

MR. MADAIO: And use, okay.

MR. MARTIN: And that's what it was.

MR. MADAIO: All right.

MR. MARTIN: But we wouldn't be doing that now. But that's what it was.

MR. MADAIO: Right. That's what -- sure. Okay. Well, I guess I've just expressed a general principal that, you know, living expenses to me is debt that, you know, students have to take out.

We've talked about this before. That to go to the school, obviously understanding that they should take out the appropriate amount of debt, and they should be advised as to that.

But, you know, I think that the amount of debt that students incur because to live while they're at the school is something that should be incorporated.

And that students should be -- should under -- other students should understand those numbers when they're looking at whether to enroll in that school.

MR. RAMIREZ: Jeff?

MR. ARTHUR: Yeah, I'll just reiterate something I said before. It's my opinion. I don't think everybody may agree.

But, I don't think that counting that debt or not changes the median debt of a student at all. Because I think they're all above the median anyway when they -- unless you've got over half of your students taking out living expenses for the most part.

And that's pretty rare. So, I don't think it makes a difference.

MR. RAMIREZ: Johnson and then Jennifer.

MR. TYLER: Thanks. So I wanted to follow up with Mark on Mark's question. Does the Department of Education collect income related to borrowers?

Is that something they could do?

MR. MARTIN: Yeah, sure we collect it. We get that from Social Security.

You're talking about what we don't collect, well we do collect it now for GE programs, but won't be collecting it going forward is tuition fees, the amount for tuition fees, books, supplies and equipment. Which is what we would need to do this.

That's what we will not be getting going forward.

MR. TYLER: Yeah, so well I -- I mean, I think Mark's idea is a good idea. In that I've had many clients who when I've looked at the GE stuff and the GE report on a specific program they have is pretty good because anyone who can complete it can get a good job.

But the instruction is really poor. And the completion rate is really low. Like less then 18 percent for HVAC.

And it's very expensive. And a lot of

people do, you know, the HVAC program, at certain schools it's not run very well.

And it's a relationship thing that gets people jobs, not the education. So, it's a big loss of money for a lot of students.

MR. RAMIREZ: Okay. Jennifer?

MS. BLUM: So like I said before, I don't want to belabor the point. Actually I just wanted to make sure that the Department knew that it was inconsistent.

So I just want to be clear that I'm not like belaboring the point. I will point out, and Stephen, I think you and I just discussed this, the Department is actually doing some interesting work right now in a pilot with regard to breaking out the loans with regards to living expenses.

And it is kind of a shame that the Department itself doesn't know what amounts are for living expenses and what amounts are for loan and fees. I mean, you would think the Department instead of disbursing the loans would know the difference.

So, ultimately down the road, and so I do appreciate the section in (d)(2), which I assume would be a sort of looking down the road. Ultimately there may not be a reporting requirement on the part of the institutions with regard to the breakout.

Because I think the Department is beginning work to understand the parsing of their loan amounts anyway. So, I do appreciate the section on (d)(2), because it plays out for the future.

MR. RAMIREZ: Okay. Thank you. So, Greg, you want to go ahead and continue on with two?

MR. MARTIN: Yes, thanks. Greg for the record. And we'll continue with amortizing median loan debt at the bottom of page two.

So, I think we had a comment before, but I'll just reiterate that again. And then we can entertain that comment.

So, amortizing median loan debt over a

ten year repayment period for a program at least to an undergraduate certificate or post-baccalaureate certificate, or an associate degree or graduate certificate.

Or over a 15-year repayment period for a program that leads to a bachelor's degree. Using the annual statutory interest rates on federal direct, unsubsidized loans that were in effect during the last award year of the cohort period.

And also I should -- but the cohort -- yeah, in determining that rate the Secretary will use the federal direct student loan interest rate applicable to undergraduate students for undergraduate certificate programs, post-baccalaureate certificates, bachelor programs and associate degree programs.

MR. RAMIREZ: Okay. David you have -- yeah.

MR. SILVERMAN: Thank you. David Silverman. I am going to ask the Department to move back the amortization for -- from ten years for the certificate programs, associate programs.

It was 15 at session two. Now at session three it's back to ten.

My students for example can be done with -- our two-year program in performing arts, they can be done with the program when they're 19 and a half year's old.

So these are, you know, they're still babies when they come out of there. I realize to all of us they're babies.

You know, so they're a little -- even in the five years that they -- before we start measuring them, you know, they're still two, three years younger then people getting four year degrees.

And seven, eight years younger then people with graduate degrees. So they're a little, you know, they're a little -- they're younger, they're more immature.

They may still be living at home. And you know, have less income compared to people with degrees.

And also certificate programs and associates, but that's not strong as a -- it's not as strong of a resume builder as a degree.

So, and I would say that performing arts, you know, the income after graduation is going to be lower then say business schools or doctors. And I believe other certificate programs like MIL, manicurists, nothing against, you know, barbers and other kind of arts programs.

I think the income is going to be a bit lower. So, it's moving the amortization back to ten years or it really hurts.

It hurts a school like me -- mine. And I think it would probably hurt other certificate programs.

And you know, the people -- these people, students getting certificates in manicure and these people are just trying too really, you know, work hard and make an honest living doing gainful employment.

And there's, you know, those salaries

just aren't going to be as high as business school and other kind of salaries.

So, if we could, you know, if you could -- and then you also got rid of the zones. So, you know, we were 8.01, that was the zone.

So now 8.01 is failing or not meeting measures as opposed to being in the zone. So, there was really no help to a school like me from moving the 15 back to ten.

And there's other people shaking their heads here that are in the same boat. Thank you.

MR. RAMIREZ: All right. So I have Jennifer Diamond, Chad, Jessica, Kelly and Chris. So, Jennifer Diamond?

MS. DIAMOND: This is Jennifer Diamond. I just want to push back on that since when we're looking at certificate programs for folks who are choosing those, the folks that we work with, they're choosing them often for the speed of the program and the cost effectiveness.

And to go for a two-year program regardless of what age you graduate at, I mean, you're still lending those little -- those kids, you know, a ton of money.

So, thinking about paying off a two-year program for 15 years, I think ten years is far more appropriate for students choosing certificate and associate degrees.

MR. RAMIREZ: Okay. Thank you. Chad?

MR. MUNTZ: Slide over here. A quick question on (a). Right there, (2)(a), graduate certificates.

Are we removing graduates completely out of everything?

MR. MARTIN: Those graduates are removed completely.

MR. MUNTZ: So, should we remove graduate certificates out of that line?

MR. MARTIN: It -- yeah they lost it.

MR. MUNTZ: Okay.

MR. MARTIN: If I amend, let me take a purpose break here. Sorry, my error.

You know, I'm thinking back to my training officer days when you're talking about loan limits. You know, and that was a graduate certificate is the same as a master's degree. That's stuck in my head.

So, I can't get rid of those times from my -- unfortunately it's like Thelma remembers those days well. Probably thinking I've got to watch this guy again after having done it for 20 years.

But, yeah. So, I spoke in error there. We have not done that for graduate certificates.

It was only -- the way we did it was masters' degrees and higher. So, I'm sorry about that. My error.

MR. RAMIREZ: Okay. Jessica?

MS. BARRY: Jessica Barry. In response to what David's talking about, yes the 15-year amortization would definitely help students in our sector.

But I really just wanted to ask the Department why they choose to go back to 10 after the last session?

MR. MARTIN: Yeah, I -- these years that we used here just reflect our determination that we thought this was an appropriate time period for amortization. Hold on a moment.

Okay. Before I reverse myself again, see, I was right. No. Well okay, so the issue of why we use these rates. Right.

You know, we were just discussing it and for a certificate program or an associate degree, we determined that that was a reasonable amount of time to, you know, for which to amortize the loan.

We are open to hearing, you know, discussion about another time frame if you don't think this is correct. So, I mean, where you know, I'm certainly not cutting off debate for that. But that was our intention.

Moving back to graduate certificates. Graduate certificates should be eliminated. We're not going to do it for graduate certificates.

So, I apologize for that.

MR. RAMIREZ: Yeah, yeah.

MS. BARRY: Just in response to that, Neal and I were just talking about, so our students who enter income-based repayment plans, they are then amortized over a 15-year schedule.

So, we're wondering why the government says it's okay for 15 years in that instance, but we would sort of be penalized at a 10-year rate in this instance.

MR. MARTIN: You know, I don't think we view it as being penal -- we certainly understand that students go in using repayment instruments that are more, you know, more then ten years.

So it wasn't -- it's not a reflection of the fact that we believe everybody in those types of programs is using a standard ten year repayment.

It was just more a reflection of when determining, you know, the rates for those students, what's a reasonable amount of time to look out for how long it should take to repay the loan. So that's why we settled on the ten years.

But again, you know, I'll take back your concerns. We're not cutting off debate on this. We're saying that I'm willing to consider a different time frame.

MR. RAMIREZ: Quick?

MR. SILVERMAN: Quick.

MR. RAMIREZ: Go ahead.

MR. SILVERMAN: I just want to reiterate, you know, you took away the -- the 8 to 12 used to be sort of, you know, it was a safe zone.

It -- I don't think it every established -- somehow this zone went -- the 8 to 12 was the zone. Now all of a sudden 8.01 is failing or not meeting measures.

We never -- I think we need to discuss that. Because someone having an 8.01 is a lot different then a school having an 18.01.

And so if you can explain getting rid of the zone, which was 8 to 12, which was a little safe place for a while, to give us under the original. So now without the zone, 8.01 went from zone too not meeting measures.

MR. MARTIN: Okay. Well, the first thing, you know, just in reviewing and I just want to point out, you know, again with the ten year rate that we're looking at averages here. So we're not, you know, for purposes of doing a metric.

So, I don't think you can say look at how much time it takes each individual student to repay. So, that's one thing I wanted to say about that or add to that.

With respect to the zone, the zone was originally put into place be -- you have to consider what the ramifications were for failing at that point. Which was loss of program eligibility.

So, the zone was a way for schools that were not meeting the standard or not passing, but slightly under that to come into a position of passing. And I think that was absolutely necessary given the fact that the ramifications lost automatic loss of program eligibility.

I think when you look at these rates you have to consider, we've removed that. So, you know, there's no failing. So, you know, you're not in a sense there's not going to be a failure, there's not going to be a removal of program eligibility.

So, I don't think that the zone is a -- I don't see, or we don't see that putting the zone back in would be appropriate for these regulations.

MR. SILVERMAN: Can I just say one more with ---

MR. RAMIREZ: No. Let me jump back into the queue here. Because I've got some other people up here.

MR. SILVERMAN: Just real quick just to answer. I promise it will only take ten seconds.

MR. RAMIREZ: Go. Hurry up. Right.

MR. SILVERMAN: But you know, me

telling a perspective student we're not meeting measures is very hurtful to the school. It's almost like failing.

MR. RAMIREZ: Okay. Kelly.

MS. MORRISSEY: This is Kelly. I have a question for Greg and a comment.

The question being, now that we have bachelor degree students in these calculations, I'm just wondering how loans would be treated if a student started in a certificate or an associate degree and then they continue to a bachelor degree program?

And they have loans for all of those programs, which amortization period would they be assigned? And how would those loans be rolled up in the calculation?

MR. MARTIN: I'm going to ask Cynthia Hammond to respond to that.

MS. HAMMOND: So, each program is evaluated separately. So when the student completes the two year degree program, assuming he's not -- or two year certificate program, the loans associated with that program are the ones that we would be using in the evaluation.

And that is separate from the evaluation of the four year program in which case we will be looking at the loans that were associated with completing the four year program.

So, they're separated out by loan periods and times when they're in those programs.

MS. MORRISSEY: That seems straightforward. Now what about consolidation loans? If at the end they consolidate their loans in a federal consolidation loan?

MS. HAMMOND: So, we know which loans went into the consolidation loan. And just like we've been doing for debt to earnings, you know, going back it's -- we pick them apart.

But, yes?

MS. SARGE: Well, I mean this is -- you're making the case for keeping 15 for all of them. I just want you to point that out.

Because you can't really -- and we'll have a conversation on the loan repayment rate too about the difficulties of breaking out consolidated loans.

But I also was going to ask a question about does the Department have any idea how many associate degree students go on to get their bachelor's? Because I think it's probably a lot.

And so for simplification, and you have been talking a lot about simplification purposes, those loans do roll up. And so they often roll up into a consolidated situation.

And so treating them all the same at 15 years, you know, plus the argument that was already made on IBR, makes abundant sense that your standard really is 15 years when it comes to, you know, I just would be really interested to know the date on how many associates' degrees don't go on to get their bachelor's.

But, if there's a significant percentage of students that go on to get their bachelor's, there's a really strong argument for keeping it all at 15.

MR. RAMIREZ: Let me get Chris then

Daniel.

MS. MORRISSEY: Oh, I'm sorry, could I continue? That was my question. I also have a comment.

MR. RAMIREZ: Go ahead.

MS. MORRISSEY: All right. Thanks. In terms of the amortization period, I'm looking at the data on the federal loan portfolio.

And the majority of borrowers are in a ten year or less repayment plan. There are higher dollars in greater then ten years.

But in terms of the number of borrowers, there's still an overwhelming majority in a ten year or less repayment plan. So, I think it makes sense especially for the shorter term programs to keep the ten year amortization period, because it accurately reflects the payment plans that students are in.

MR. RAMIREZ: Okay. Thank you. Chris?

MR. GANNON: So, I agree with Kelly on that. I mean, in fact, if you want to make it easier, make it ten for everyone.

I know that was discussed, I think, in the prior rules discussions. So, I mean, I think if most students are in a ten year standard repayment plan, and especially over between I think, between '93 and '02, most majority of students had paid back their loans over ten years.

Perhaps just ten years for everyone. But, in any event, looking at this point, I mean, certainly a student that's going into a certificate program or an associate's degree has less debt then a student going into bachelors'.

I mean, more then half less debt I think on average. So, it seems unrealistic to expect those students to give them information that contemplates their paying that back in more then ten years.

I mean, that is simply unfair to the idea of trying to give accurate information to those students.

MR. RAMIREZ: Daniel?

MR. ELKINS: A few questions for the Department as well as the -- as well as the group. Just trying to clarify some things so I can make a firm decision.

The first thing was, is I know we removed the zone, which I think a lot of people were supportive of. It really didn't do anything.

I just wanted to hear kind of the rationale for keeping it at 8 as opposed to bumping it up to 12?

And then the second question was possibly for Todd or maybe Jennifer. Like when it comes to certificate programs, for example, like Juilliard's, you know, African Interpretative Dance, things that --

(Laughter)

PARTICIPANT: Sorry. That's very important. Go ahead. Sorry.

MR. ELKINS: Okay. I, you know, they're very costly. But I just don't know what the earnings are of those sort of certificates or their bachelor's programs.

And my wife was a dance major. And I really think that it's great that people can go to schools like that.

I just don't know how that equates to earnings. And is there an issue there? I don't know if you guys know? If you could comment on that?

MR. RAMIREZ: Okay. Could you restate the first question while they think about that? What was it?

MR. ELKINS: Yeah. I'm glad we did away with the zone. I didn't know what the rationale behind keeping it 8.

Especially when there seemed to be some descent schools that are right at that cusp as opposed to raising it to 12 or, you know, raising it at all. I just wanted some background on that, if there is any.

MR. MARTIN: So, in the big picture we're looking at expanding something that applied to a subset of programs offered by proprietary schools to everybody. Right.

An explosion of programs, explosion of the institutions. We're looking at simplicity, right.

The zone, the top of the zone was the area where you de-marked the people that were entitled to get some additional time to try to work things out.

It wasn't because they were almost passing. It was because that was the zone where people could get more time.

When you're talking about a metric that does not lead to an automatic loss of eligibility, and the data actually drove the Department decision to originally set the percentage at 8, it makes more sense that that's still the line for triggering notices to students where there might be an expectation that there's more difficulty repaying their educational debt.

MR. ELKINS: Thank you for that clarification. I think a concern, but, you know, there's not sanctions being applied.

The concern might be as we expand this to more programs, there will be a significant amount of programs that are on the cusp. You know, so I just want the Department to consider that.

Todd, did you have the -- thanks.

MR. JONES: The very short answer is we do not have much data on programs that have fewer then 30 completers. When the data was first out, you know, there were thousands of certificate programs at independent colleges for which there was data.

There were only 20 that were deemed failing. And ten of those shut down immediately.

So, I mean, it was a very tiny fraction of those that were large enough to have data. And you know, they were predominantly high perform.

MR. ELKINS: Interesting. Yeah, I appreciate that. So, I think that there are -- it does show that in spite of some programs being, you know, costly that as Todd said, that they're able to repay their debts.

I'm assuming that's what you're insinuating?

MR. JONES: Because we don't have data on the number of programs that are smaller then the threshold, I can't say in good conscious that that's true or not.

Of course, being an advocate for the sector here, I'm going to tell you I expect that. And if you extrapolate from the larger programs to the smaller, that would be true.

But, I'm not sure that's, you know, sound data analysis.

MR. ELKINS: Thank you Todd.

MR. RAMIREZ: Okay. So we have Chris, Laura, Jeff, Mark, Sandy, Neal, Johnson, Todd and Whitney.

So, let me get to Chris Gannon.

MR. GANNON: Yeah, I just wanted to echo some sentiments from around the table. I agree that a ten year period for a two year program is totally appropriate payment time.

MR. RAMIREZ: Okay. Thank you. Laura?

MS. METUNE: Similarly wanted to express my support for maintaining the ten year amortization for two year or shorter programs. I wanted to say that I do understand this concern about those outlier good programs.

I also think that we can't draft a rule that speaks only -- or allows for the outliers because it let's in too many programs that really aren't serving students, and are creating too much debt for earnings.

And I also wanted to just remind folks that that's the reason for adding the repayment rate in this plan. Is so that for those outlier good programs where this metric won't work, you'll have another chance to pass.

I still think the sanctions are insufficient. But, I'll save that.

MR. RAMIREZ: Thank you. Jeff? Okay.

MR. ARTHUR: Just two points. First, I think the table should realize, all three elements are probably equally important, interest rates, amortization time, and the year of earnings.

When I pre -- I was kind of shocked at how each of the elements when changed has a massive impact on the outcomes in colleges. And the impact is so great that I think it's going to take a lot of research to understand it.

My second point is, I guess to Kelly to make sure we're clear, for especially public colleges and some proprietary where they offer multiple levels of degrees, if the Department measures the highest degree earned, if they were earned consecutively.

So if a student goes from an associate to bachelor next to each other, the Department is going to apply the standard for bachelor not for the associate. Or a certificate to associate.

So, I just want to make sure the community colleges know that. Because it's important for certificate to associate.

And there's more now state colleges

that offer associate and bachelors and we're seeing more of that.

MS. HAMMOND: Yeah, if -- we still have the roll up from the lower credential undergrad to the higher credential.

So, if they're going back to back and we don't have a chance to measure the certificate program before they already have -- are in and completed the associates -- the higher credential program, at the same school, yes, then you're right.

We will be measuring the higher bachelor's degree program. And then the 15 year would apply for that.

MR. RAMIREZ: Okay.

MS. MORRISSEY: Can I ask for clarification on that? Is that -- that's only if they're at the same school?

But if they have continuous enrollment but they're switching schools, that's different?

MS. HAMMOND: So, if they're -- if they have continuous enrollment but switching schools, if they're in school at, you know, a Jennifer school at the time that we go to measure the program at your school, then they'll be counted as in school, and therefore be removed from the calculation.

If they are not in school during that year, like they went to your school and then decided to do something else for a couple of years, then we would only be calculating the debt and stuff from your school and not from hers.

Or let's say they like went through, but because of the timing of how this worked, you know, it was several years later before we calculate them, we only do the debt for your own school and your own programs.

Yes, so you won't be adding in the bachelor's degree debt to the lower credential program.

MR. RAMIREZ: Okay. Thank you. Jeff?

MR. ARTHUR: Yeah, I just want to point out that as Mark mentioned with these interest rate changes, the interest rate went from 3.76 percent to 4.45 this year. When you use a ten year amortization and you look at the data, there's a large number of programs that are right around that threshold.

We're going to be having programs flipping to above 8 percent, below 8 percent from one year to the next as these dynamics change.

We had four programs that were in the 8 percent range, easily appeal those down. That option wouldn't be available.

But, this is a really volatile area. And I think we need to look -- consider two things. Either I think -- I do agree that a 12 percent was fine.

But a 10 percent if you look at the data would also help stabilize this quite a bit. So, consider a 10 percent debt to earnings as a threshold.

And another thought is, I think it was Christopher mentioned something about red, green, yellow. Well, maybe if we do end up sticking with an 8 percent as a threshold, and we're going to be bouncing in and out that in -- and we're talking about a notification process.

Which the notification is pretty serious. It will have an impact. It will be material.

So, maybe if there's something in that. I mean, and the other thing I'd like to point out, if you try to go from 11 to 7.9, you can't do it.

It's just you're talking about -- you're talking about a raise that moving it 1 percent is a pretty significant accomplishment.

So, maybe if you're in that 8 percent to 10 percent range, if we stay at this, that the notification ought to be something a little softer. Just like a caution.

A caution not a, you know, this thing does not meet, what was it? Measures. That something a little softer.

MR. RAMIREZ: Neal?

MR. HELLER: Good morning, Heal. I guess I just want to make a few comments about the amortization period.

And I'm not quite sure why it's that big a deal for even the consumer advocates. You know, we serve a community of people that, quite frankly, nobody else wants to serve anymore.

In the State of Florida, 10 or 12 years ago, the community colleges were given an option. They were given a choice. Do you want to go from beyond an associate's degree to bachelors' degrees?

Or do you want to stay as basically a community college? Every single one, no exception, chose to go up to bachelors' level programs.

Clear indication. They have no interest in serving many respects not even the two year associate degree programs. But certainly they have no interest whatsoever in certificate programs.

So, we serve that community. And I'm proud to serve that community. And that community at times receives certain accommodation if you will, from the government, including the ability to do income-based repayment.

So, I know that once we get to repayment rates I'm going to hear from Laura saying that income-based repayment shouldn't matter. And that's just not fair.

It's like a box that you put them in. And it would put us in and it just gets tighter and tighter and tighter.

So yes, the expectation is that there is lower debt for certificate programs. And our debt is pretty low, under ten thousand dollars average student.

There is also the expectation that they're going to earn less money. So, giving them the accommodation to go ahead and go onto an income-based repayment plan, which could extend up to 15 years, maybe even beyond in some cases.

I think we should be judged the same way. So, I'm asking the Department to reconsider and go back to that 15-year amortization schedule for certificate and associate degree programs.

Because quite frankly, you can't do for one and then essentially penalize the school another -- based upon another measure.

So, I do believe that 15 years would be effective and fair. And would be basically exemplify what many of our students do have to do in repaying their loans.

Thank you.

MR. RAMIREZ: Johnson then Whitney.

MR. TYLER: All right, Johnson Tyler here. So, first of all, I looked it up in the CFR, the income-based repayment plan is a ten year standard repayment.

You can't get in if you could pay off your loan in ten years. So, the government has not endorsed this idea that 15 years is a reasonable way to repay your plan.

Ten years for graduate students or people with PhDs, it's ten years for college students, it's ten years for people with certificates. So, I just think we should be clear on the numbers.

The second thing is these floating factors that are going to put people in a bad position. There's another factor here, and that's part of the reason we're here, which has to do with tuition debt.

Debt is a factor. And we are trying to deal with this problem by having all these institutions complete against each other for students.

And if you take that out of this equation, as Jeff was saying, these schools maybe at risk. What will they do?

They may -- one of the things they may do is they may reduce their tuition. And that's part of what, I think, the goal here too, is to have people get what they're paying for.

The final thing is, the idea that a college education, which you would look at a payment plan for 15 years. You know, if you go to a -- if you pay full fair to go to an Ivy League type school, or even a state school, you're talking 40 grand a year. A 160 thousand dollars that's what the 15-year amortization is.

We're talking about a certificate program that could vary from two thousand dollars to 15 thousand dollars. Where you have a choice of where you want to go.

So the idea of putting them, treating them as if you're going to college just doesn't make sense to me. If you're trying to help people identify where the value is in the education that they're going to.

MR. RAMIREZ: Whitney, Daniel, then Bob.

MS. BARKLEY-DENNEY: Yeah, so I just wanted to make a couple of comments. One, I think we need to make sure that we all remember that even in the rule that we are talking about, changing now a failing annualized debt to earnings ratio, no matter how little you failed it by, was never enough to fail a program.

We also had the discretionary piece in there. So, there has always been a backstop to the annualized 8 percent debt to earnings ratio.

Now, as Laura pointed out, we are adding another backstop to that with the repayment plan. So, we might have eliminated the zone, but there is still literally three ways that you can pass this.

You can pass annualized, you can pass discretionary, and you can pass the repayment rate. So the idea that we need to be more generous for the outlying programs is kind of beyond me.

I don't really understand how we can be more generous in this rule unless we go back to what we all decided we didn't want, which was a disclosures only regime.

And I also just wanted to point out on the 8 percent, we did a little of playing around with these numbers. And as I pointed out yesterday, what Baum in her work actually did, was create sort of an income-based repayment chart to look at how much a borrower makes versus how much they should pay.

So, she capped out at about 10 percent

for the vast majority of gainful borrowers who make 30 thousand dollars or less a year. And in fact a full third of gainful borrowers, if you look back at the gainful employment numbers from last year, don't make enough to pay anything under Baum's thesis.

So, if we're really talking about what the documentation shows, and what the studies of the department used to show, and what courts have held up are legitimate things to use to underpin a rule, 8 percent is more then generous.

And in fact for a third of students who are borrowing under gainful employment, it's too generous.

MR. RAMIREZ: Okay. Daniel?

MR. ELKINS: Thank you for that. That -- I think that was really, really good.

I want to cap, or I guess build on that. You know, I think that there is this initial debt to earnings that we're all talking about.

But there are ways to, you know, if

you don't pass it to earnings, there's ways to obfuscate that. There's ways to say okay, you're program is still good.

You know, I'm just trying to determine if I'm putting my head on for protecting veterans at all programs across all institutions, you know, at what point does it become so lax that we're not doing anything?

We have parity amongst the proprietary institutions, the public, private, state run schools now. And I think that that's a big step that people from the proprietary sector have really wanted for a long time.

I think that if -- to be honest, to be fair, I think that if you guys push too hard, you know, maybe you don't get anything.

And conversely, I think that there is a very good argument on the side of some of the state schools and so forth that, you know, that will have lots of programs that quote/unquote, might show not to be compliant with this.

But, I think we're in the ballpark of

some middle grounds. And you know, I think after hearing the back and forth I think the 8 percent is a -- it makes sense.

I think that I would like to kind of move the discussion onto actually getting into the repayment rates. Because I think that that's a -- that there's going to be some lively discussion about that.

MR. RAMIREZ: All right, so there's a couple of things. We have a few people in the queue. We also wanted to give Marc a little bit of time to go over the -- some numbers before we go on break.

But I also want to figure out how do we close this conversation out? Right? Because there was a lot of conversation on different, I guess, components or ways to piece this together.

Does anyone have a suggestion of how we could close this piece out? So --

(Off mic comments)

MR. RAMIREZ: Okay. Let me get Tony then we'll go to the data. Tony?

MR. MIRANDO: I mean, I'm hearing again, I'm just trying to stay neutral here. I'm hearing, you know, the 10 percent why don't we go back -- I mean, the 8 percent why don't we go back to the 15, I'm sorry 10 and then 15.

Is there a middle ground? I mean, I'm always kind of like, you know, let's move this on. Is there a middle ground?

I mean, can we get to 12 years? And say okay, well, it's not the 15, it's not the 10. Let's just settle with the 12 and let's just move on.

(Off mic comments)

(Laughter)

MR. MIRANDO: The 12, do we have a 12 and a half?

MR. RAMIREZ: Is --

MR. MIRANDO: I mean, seriously, I mean, 10 years I understand it, I hear, I get the 10 years. I get it.

I'm not sure, Johnson, whether or not you were reading the code. I'd like to understand from the Department if what you were saying was accurate in the code, the federal regulation that it only could be 10 years.

My understanding is it can be 15. So, I just want to get that around my head. Because again, this is not my area of expertise.

But, what I've heard is it is 15. But, can we do 12? Would everybody be okay with a negotiation?

That's what this is about. It's supposed to be about negotiating. I mean, can we get to 12? So.

MR. RAMIREZ: So, let me ask -- Chad, you have a quick thought on that? Yeah, go ahead.

MR. MUNTZ: Yeah. So, I think the bigger question is, what is reasonable debt? I mean, so the reason why everybody is arguing over these metrics is because, you know, a 2 or 3 percent increase in interest rate can put you over.

One thousand, two thousand dollars

more in income can put you under. I mean, all these things are very variable.

And so one question I've asked is, and I ask all of you guys to come up with a number for a bachelor's degree. What would be the most debt that you would think is permissible?

Maybe divide that by four for a certificate program. I don't know. But, just think about it in that way.

If 50 thousand dollars too much? Thirty thousand dollars too much? Ten thousand dollars too much?

And then once you have that number, the thing how these -- this metric works. Because that's the concern that we're hearing, is even if it's eight thousand dollars, but people are making 17 thousand, it may fail.

And that might be a reasonable number. And I think that's why everybody's arguing over that.

So, I'm hoping we'll get to see some data on that soon.

MR. RAMIREZ: I -- go Daniel.

MR. ELKINS: Yeah, normally I don't talk much about debt because it's an area that veterans don't face very much with the post-911 GI Bill.

But I will say to your point, there was a very, very large amount of research that the VA put into when crafting the post-911 GI bill to the amount of what was appropriate debt levels. Because that's what we wanted to set the benefit at.

So, I would encourage the Department to look at the in state and out of state tuition rates for the post-911 GI Bill for both undergrad and grad programs. Because I think that that is -- there's been a considerable amount of research to say that that is an appropriate amount that someone should be given to pay for postsecondary education.

MR. RAMIREZ: All right, let me do this. Let me ask Marc if he could go and explain the numbers, at least the numbers that he has.

I know there's still a few tents that are up. But, if this could help maybe get to a compromise position.

I think maybe some benefit to that. So Marc, can you quickly take us through your charts here?

MR. JEROME: Thank you. And so that the presentation has taken in the nature it's intended, I'm giving out some candy. Because whenever you give data out with a lot of very bright people in the room, it could be difficult.

So, just a couple of background. I'm going to ask my colleague Dan Sharon -- say it again?

MR. SHARON: Do you want this passed out?

MR. JEROME: Yes, pass it out. To assist me. Because he is the equivalent of our data analyst.

So, the first thing is the reason I'm presenting, and we've had this discussion is, there's just not been enough information for the negotiators. And the Department confirmed to us that they do not have debt to earnings information by programs for public and not for profit sectors.

The data you're getting is taken directly from the college scorecard. And in every instance possible, the data is untouched from the scorecard.

So, and I did that intentionally. And the reason is, is the scorecard actually has an interest rate and it calculates an annual loan, a monthly loan payment for each student.

The data that this is to be taken for a broad picture and its broad impact. But, I guess what the negotiators should know, and the public should know, is actually it is a big deal each thing that is presented.

So, you can stop me. I'm going to turn, please turn to page two. The first page is just a description.

And a couple of things which Sarah had already gone over. The scorecard, number one, does not include any private debt.

Number two, the interest rates are lower then what's sometimes used in the current gainful employment. Number three, using six year or ten year earnings, is sometimes more generous then the current proposal.

On the other hand, the scorecard only uses borrowers. And for the purposes of this presentation, I only used ten year amortization, because number one, the consumer groups had been asking. And number two, that is the amortization available on the scorecard. It is easy to run the data at 15 years amortization. And I want you to know, it has a massive impact. Especially, I believe, on four year private colleges.

So, for all 17 data set you can look at it, the debt is the median debt of borrowers. The earnings are six years and ten years using scorecard earnings for completers.

The debt to earnings are at 8 and 12 percent. The interest rate used in the scorecard is 4.45, though it was very difficult to find.

This analysis uses ten year amortization for both. But it's not hard to manipulate it.

And I'm going to be circulating the underlying spreadsheet so that all members of the negotiating panel and the public can play with it how they want.

We used eight digit OPEID, which means for a number of systems, there's lots and lots of institutions. Some have the same data. For repayment rates, it's five year repayment rate data directly from the scorecard.

So, go to chart one. Let's -- can we switch the slide, please? And what chart one is, is it's exactly what a number of people are asking for.

An analysis of the scorecard using 8 percent debt to earnings rates, six year earnings, and a ten year amortization. Okay?

And the results basically show that they show what they show. It has a large impact on all sectors. There are many more proprietary institutions that fail.

But the number of students served are smaller. In my -- and I'm going to try not to draw any conclusions from it, you can draw your own conclusions.

But, my belief is is that this data probably over exaggerates the impact on public institutions because it's not including non-borrowers. But it underestimates the impact on the overall higher education landscape, because since it's only institutions, any institution, it's not including institutions that are overall very strong, but have a num -- a few programs that are very weak.

So, for example, in the -- let's just say the propriety sector, if my institution passed it because 20 of my 25 programs were very good, but five of them on a programmatic level didn't pass it, I'm just -- what I want the group to see is, look how many institutions are covered.

And I believe when you go programmatically, it's going to expand. I'm not sure. But, that is my belief.

The way you read this cart is, on the left is the sector and the number of institutions in the universe. So, in the public sector, there's 2,064 institutions, 2,008 private, 3,500 proprietary.

This is the number the inst -- the schools that were above 8 percent. I've calcul -- you can calculate it yourself. It's about 11 percent of public institutions, I think 35 percent of private, and 29 percent of proprietary.

The next column is the number of institutions that fail. I did this the way Sarah did it. And then it's by schools and by students. Okay?

Just to do it quickly, the next chart is the same thing at 12 percent. And you see that the numbers decrease, you know, dramatically.

The next chart is now moving earnings from six years to ten years. Sorry?

(Off mic comments)

MR. JEROME: So, let me see --

(Off mic comments)

MR. JEROME: So, it's 263, I think, divided by the 417 schools. Okay? And again, I work -- you know, you have my apologies.

I worked very hard to present this simply. We were up late last night. So, if there are any errors, they're open for correction.

And so then when -- so you have the four slides on debt to earnings. And what you see is, is as you change the earnings, the earnings years and the percentages, it just has a big impact.

And again, I put this out not to draw conclusions, but to hope that some very bright people take the spreadsheet and start looking at it to help the Department come up with a good policy.

But, in the first chart is the closest to the current gainful employment chart. The current gainful employment rule, which is eight years.

The earnings are -- just so you know, the current gainful employment rule, the earnings measurement, we don't mention this sometimes, is actually 18 months following graduation to three years.

It's not three years. So, it's a much -- it's a little bit earlier.

When you go to the -- I included repayment rates. And the benchmarks I included was because 50 percent was in the current borrower defense rule, only applying to proprietary colleges.

And 35 percent was in the original gainful one rule, with slightly different metrics. But, -- and so I thought that was a good choice.

The research around repayment rates is much less then -- I find it much more difficult then with debt to earnings.

I'd like to just show what the spreadsheet looks like so you can see it. And the spreadsheet I'm sharing has all institutions with the names redacted but the OPEID's in there.

And just go to the first click there, the D/E rate. So what you'll see is, is that number two, that's the institution.

It has a 26.77 debt to earnings rate at -- using a ten year amortization and six year earnings. Is that correct?

This is Dan Sharon, my colleague. If you go to the next slide, the next click, this is the institutions over 12 percent at six year earnings.

If you go to the next one, it's the institutions over 8 using ten year earnings. And if you go to the next one it's the institutions over 12 using 10 year earnings.

And then the next slide is repayment under 50. And the next chart is repayment under 25.

And I started to actually draw the conclusions of the Department's current proposal. Which is, you know, adding the two together. But I stopped, because I thought it was too much information.

And the one last thing that I ran at Chad Muntz' request, because we thought it right, and I'm not giving it out yet, but we ran, if you just wanted to make the rule simpler, and just look at annual earnings versus annual debt as a ratio so we can avoid all this, I'll us the word michigas, with all the different elements, I think there's some room to look at that.

And that would be simpler for the public and simpler for the institutions. So, I think I will stop there.

My only thing -- yes, I think I will stop there. Okay? And I'll answer any questions.

MR. RAMIREZ: All right, Todd, you had a question?

MR. JONES: My first cut at looking at

the data actually has what I see as a somewhat simple explanation. But also what I would consider to potentially be a methodological flaw.

And I wondered if you would comment on it?

MR. JEROME: Sure.

MR. JONES: Part of the reason that you have higher levels of debt for independent colleges here then publics then propos, is the relation of this is data for completers.

And the fact is that there are more people accumulating more debt at independent colleges, because more people at independent colleges are completing their programs.

So, let's take the four, five, and six year graduation rates. In the independent sector, those are 51, 61, and 65, meaning almost two-thirds of students complete after six years.

Of the publics, it's 30, 49, and 55. And of the proprietaries it's 14, 17 and 22.

So, if you're using completers as the basis of your analysis, what you're doing is you're excluding a large group of people if you take the difference between sectors. Not even calculating the difference versus 100 percent.

But those who are completing are tending to fini -- more people are finishing the program and therefore are accumulating more debt. And therefore, they will have repayment rates compared to earnings.

Whereas those who don't complete programs and gain nothing for, or little for their education, especially when it's in certificate and associate programs that you don't complete, have a greater difficulty -- would have a greater difficulty.

And in fact those it strikes me, are the very people that the focus of the gainful employment regulations were originally intended to address.

So, the answer is that a problem, in your view, that you have such substantial disparities in completion rates between sectors to be making comparisons between sectors in this manner with this debt.

MR. JEROME: So, generally, I agree with the thrust of your comments completely. And again, I've been consistent over eight years that a GE rule without a completion rate metric is fairly meaningless, because you quoted one set of data.

For me, which I've been consistent within the borough that my institution serves, the two public institutions have on time completion rates below 3 percent. And they passed gainful employment perfectly.

So, this is, I'm just putting the data out the way the current proposal is. But philosophically, I am totally with you.

And this, you know, I am totally with you that completion rates are very important and provide a context that debt to earnings does not provide.

MR. JONES: And if I might address that response, I appreciate that. But not contextualizing it in the statement of the presentation data.

I think the fact that I had to bring it up, I think is a problem for folks that you didn't allow them to, you know, allow them or were willing to allow them to draw inferences that are inappropriate on the basis of that data without noting that particular piece.

And you were right, and I agree part of the problem is the absence of completion data. I look to the three institutions among my 51 members who have the lowest graduation rates.

But there are a number of indigenous students within those four year programs is exceedingly low. If you only have, you know, one out of 15 of your students has not attended your college for the first time, the remainder are transfers in from community colleges, people who have dropped out of other programs, people who transferred in from other four year programs, then the meaning of your four year, five, and six year graduate rates is something for an institution like that.

But, I am concerned, you know, when I look at this data, the suggestion, and it was made in your comments, that there's some similarities between the independent sector and the proprietary sector on this, I think is flat wrong.

Except in saying, well, it's like judging people by height, but some people are standing on boxes. I mean, the reality is they may look the same height, but you really have to adjust for the fact that there's a box for some of them propping them up.

And I think that's where this comparison falters here as well.

MR. RAMIREZ: Okay. So let me jump in real quick. Because I believe what Marc was trying to do was just go along with what is currently written.

And so I don't think there was any intention to try and manipulate the data. As a matter of fact I think Marc was pretty clear on that. Those are the standards that he was using.

MR. JONES: Please be fair, I did not say manipulate the data. I said that the description of the data lacked critical components to properly contextualize.

MR. RAMIREZ: Okay.

MR. JONES: I never would say misrepresent because I believe that his data is likely quite accurate.

MR. RAMIREZ: Okay. Thank you.

MR. JONES: Or perfectly accurate.

MR. RAMIREZ: And so what I want to do is I want to make sure that we're focusing these questions here before we go on break, to help understand what Marc has presented here.

So, we have Chad, Whitney and Daniel.

MR. MUNTZ: Mark, thank you again. Looking at this spreadsheet, I was hoping the loan information would be in there.

So, I'll just ask the question in general. What is the range of the loan?

So when we see failing of the metric, everybody's going to assume that 100 thousand dollars in debt, what kind of loan balances are we seeing that's failing?

MR. SHARON: Dan Sharon, Sorry. I'm the one who helped put together this spreadsheet. Hidden behind here is, you know, all the detailed data.

I would have to say, you know, the average loan debt is probably on a four institution are ranging between 28 to 35. Your associate levels are probably between, you know, probably about 12 to 18, 12 to 20, somewhere around there.

The data, you know, and when we do give out the spreadsheets, that data will be behind it. So you can actually see how all these calculations were done.

And all the debt would be shown there.

MR. MUNTZ: Right. So then the follow up to me is when I see, what is it, 235 public institutions with 28 thousand dollars in debt that's failing this metric, which goes to the point that what Todd, you know, was kind of alluding to is that at 8 percent, it only takes 25 thousand dollars to fail this metric.

And I think the cost of education would suggest that that's the reasonable amount of loan debt that you might have for a student after four years of education.

And this is why as we've been going through all this metric and we're going back and forth between 8 and 12, a 4 percent rate versus 6 percent, all these different kinds of things are affecting, which I think objectively we should just look at, what is a reasonable amount of debt given the level of attainment.

And which sectors have higher employment rates, and lower employment rates. Which institutions might be negatively affected as well.

So, I appreciate this.

MR. JEROME: And I would say, you know, chart 4.3 probably more closely represents the Department's current proposal. Because they are looking at earnings five and six years after completion.

Which aligns closer to ten year scorecard data. It's not perfect. So then the number drops as you see to 70.

And then just to Todd's point, this was run at ten year amortization. I believe when you run it at 15 year for four year school, the number of independent colleges drops very, very dramatically.

So, I want that deceptor to know that.

MR. RAMIREZ: Okay. Whitney?

MS. BARKLEY-DENNEY: Yeah, I just have a couple of methodological questions. So, maybe they're best for you.

So, the number in parenthesis, what does that represent again?

MR. JEROME: It's the number of institutions that were measured.

MS. BARKLEY-DENNEY: So why were the numbers of schools divided by all institutions instead of the number of institutions existing?

Because if I understand it correctly,

it's divided by the number of schools who are "failing" the metric and not the total number of schools in that sector.

MR. JEROME: I just -- you know, we had a great debate about this. I lost the debate.

We tried to mimic what the Department did when they put out their data. So, the Department's data in their scorecard analysis, and maybe I was wrong to do it, just broke down the percentage of schools within a certain range and the percentage of students.

So, you can take this and cross out it. And you can look at it however you want to look at it.

But basically this is within the institutions above 8 percent percentage. The data is what the data is.

MS. BARKLEY-DENNEY: Yeah, because I think it would be worthwhile for everybody just to go through and divide the number of schools that are failing by the number of schools in the sector.

And some of the numbers it really makes a difference. For example, on page chart one, instead of seeing 51.94 percent of schools, which some people could, you know, not know what they're looking at and interpret it as saying that 51.94 percent of proprietary schools would fail under this rule, it's actually 29 percent.

MR. JEROME: Yes.

MS. BARKLEY-DENNEY: So that does make a big difference if you go through and do that. And then there's just one number I couldn't reconcile.

MR. JEROME: Go ahead.

MS. BARKLEY-DENNEY: Which was on page three in the propriety sector, 557 percent have debt to earnings above 8 percent on a ten year amortization rate.

So, 28 percent -- 557 is not 28 percent of 932. So, where did we -- is that just a mistake? Which is fine. I make mistakes all the time.

MR. JEROME: It maybe a mistake. It looks like a mistake.

MS. BARKLEY-DENNEY: Okay. Yeah, so that's 59 percent not 28 percent.

MR. JEROME: Yeah. So again, I apologize, I was working my hardest to make this as accurate. And that's why at the last second I added in the number of institutions.

So the public can see a percentage of schools are failing, but also within each sector, how many fail. And then students were relevant because of the way there are many, many small institutions in the propriety sector, some larger in the public.

And I mean, this data has negative and positive about all sectors. I worked very hard to present it as neutrally as I can so that you guys who really have the ability can take it and manipulate it however you feel appropriate.

But, I worked very hard to present it as, you know, neutrally as I could.

MR. RAMIREZ: Daniel?

MR. ELKINS: Marc, I just wanted to thank you for, you know, putting this together. I think your intent to, you know, to put forth to the group a data set that you know has flaws.

And we're not trying to draw any conclusions other then just to, you know, put the data in front of us. You're opening it up to people who are better data people then yourself.

I think it really goes to show that you're trying to, in good faith, shape the conversation. And to Todd's point, I actually heard the exact opposite.

And perhaps while you were conferring with your colleagues, maybe you missed some of the things that he had said. But, I'm not sure.

But, I just want to say I think anyone that produces data like this is really helpful to the conversation. So, thank you.

MR. JEROME: There is one other thing. When you see the data from six years to ten years, you see for example the impact on the liberal arts institutions, how their earnings raise much more later on.

And so the reason -- and proprietary colleges, they don't raise so much. Because they're probably more vocational in nature.

So I felt this was the kind of data that would help inform a discussion in the Department. I apologize for any errors.

Please point out the errors and we will get them corrected. And part of the reason there might have been an error was, we wanted to present it that it was visually easy to look at.

So Dan had the spreadsheets and last night we spent formatting it so it was easy for you to see it.

MR. RAMIREZ: Thank you. Jordan?

MR. MATSUDAIRA: Thank you. So, when the Department presented information based on the scorecard, I was rude to Sarah and apologize to Sarah for kind of losing my cool a little bit and reacting to that.

But I should apologize again in public. But, I'd also feel remiss about not expressing some of my frustration about the same data coming back.

And I don't mean this in a personal way Marc. But, you know, these are the data that are available for us to look at this question.

But I just want to reiterate how misleading I feel these data are for making cross sectoral comparisons because of the difference in the way things are measured in the gainful employment sector versus the way that they're measured in the scorecard.

Okay? The biggest and most important difference is -- the most important difference is that in gainful employment we only measure the earnings of completers.

And in the scorecard we measure earnings for every student whoever begins their study at a particular institution. And that matters because there are pretty -- as Todd was alluding to, there are differential completion rates across sectors.

And so using the data from the

scorecard, it kind of bakes in some of those results. And the data are really different.

So, it's just, you know, that can in principal go in either way. But I tend to feel that on balance the comparison favors kind of proprietary institutions.

And it does that for a variety of different reasons. Including the way the debt is measured.

Which Marc has alluded to in the past. So, I think there are some patterns here that are kind of real and that would be borne out in the gainful data as well.

Well, the thing that Marc is pointing out right now, that if you look at earnings later on, earnings tend to be higher. They're higher in different ways across different sectors, but in general, earnings are higher later on.

So, if you, you know, move back the cohort period like we've done now, the measurement period for earnings, you define the cohort period as being earlier so earnings are measured later.

That makes the rule less strict. And I think, you know, when we're considering all the different changes that are being made to measurement, that's one of the important things that's happening.

We're giving two more years for earnings to rise over time. And that in effect is making the kind of 8 percent threshold, you know, less binding over time.

We'll kind of automatically going to give a debt to earnings rate. If we measured it the old way, it would be, you know, maybe 20 percent more favorable then it was before just to earnings growth over -- as individuals age over time.

So, I think that aspect that Marc has shown here with the scorecard data would bear out. But all of the cross-sectional stuff I really don't think we can make inferences from the data that are here.

I just don't think they're reliable

for that purpose.

The one thing I wanted to ask, I'm just guessing this is a typo, Marc, but when you look at the repayment rates, it says using five year earnings.

MR. JEROME: It just should say five years. My apologies. We again in our rush to print, we printed one, the wrong version.

The data is correct. It's just five year repayment rates. Which is available. Okay?

MR. MATSUDAIRA: Great. And the last request I'd just make is, if when you guys circulate the materials, if you could include the variables that were referenced here, that would be great.

MR. JEROME: So, I just -- just for protocol, I was planning to send the Excel spreadsheet with everything in it, without the names to the Department. And having the Department send it to the negotiators.

Is that the right protocol?

MR. RAMIREZ: Yeah. That's fine.

MR. JEROME: Okay. And then what I'll do is on a -- I'll give you a URL on my own site with the names if someone wants to just -- for ease of use, you know, offsite and not part of the gainful employment.

But Jordan, you know I appreciate your comments. And I think both of us would not, would rather not be looking at scorecard data.

And we'd rather that for the past three weeks we negotiated with the Department, they gave us informational rates on their proposals using actual data, which would have informed our discussion much more.

So, I honestly was very reluctant to do this for all your reasons. But I feel we have an obligation to the people at the table to show just the broad swaths of the impact of what the Department is proposing.

MR. MATSUDAIRA: Yeah. And I just want to follow that up. So, the comment was made yesterday about a shortage of data scientists in the Department.

I'd be happy to bring down an army of graduate students who are really well trained and will work for nothing to be able to do that in exchange for having that better data to inform this policy going forward.

MR. RAMIREZ: Thank you Jordan. All right, Marc, you have a final comment before we break?

MR. MCKENZIE: Yeah, thank you. You know, I think the whole conversation is indicative of an essential challenge that we have.

Is that we're trying to make decisions on -- very specific decisions on numbers that we don't have data to back up that decision.

Not having this information, and having someone like Marc have to step up at the lat minute and put something together, basically demonstrates the challenge that we're going to face.

So, I'm going to come back to Steve and Greg and just as question from a regulatory standpoint. Is there a way to incorporate language to allow an adjustment of whatever numbers we determine, or the Department determines initially?

And then after we actually have that data, and that's been analyzed, that then there's an actual review of those numbers and an adjustment of the rates or the years to accommodate the unintended consequences that came out with gainful employment?

MR. RAMIREZ: Can I suggest that we take a break and that we continue with the answer to that question?

MR. MARTIN: Yeah. I'll address that after we get back.

MR. RAMIREZ: Okay. So let's take a 15 minute break. And thank you everyone. And thank you to Marc and Dan for pulling that together.

MR. JEROME: Chad Muntz helped me a lot.

(Whereupon, the above-entitled matter

went off the record 10:45 a.m. and resumed at 11:00 a.m.)

MR. RAMIREZ: Okay, let's go ahead and get started. So, Greg, we had left off with a question for you.

Do you want to go ahead and answer that now?

MR. MARTIN: You know what? That would be great if I recalled what the question was.

MR. RAMIREZ: Yes, Mark, please?

MR. MCKENZIE: The question was is there any way in the regulations to write in an opportunity for the Department to reconsider any thresholds that are determined during this process?

Because it's pretty clear to me in listening that it would be very challenging to get consensus on numbers because we're basing everything on speculation.

And so whether you choose 8 percent or 12 percent or 10 years or 15 years, everything is really speculative at this point.

And so it's very challenging, I think, for the negotiators to make any reasonable determination.

So, I guess from a regulatory standpoint, is there a way to incorporate language that would commit the Department re-looking at these numbers on a specific timeframe in order to allow the negotiator some room to move forward with picking a number in between 8 and 12 or whatever?

MR. RAMIREZ: I'm going to have Counsel answer that.

MR. FINELY: This is Steve. So is that a good thing or a bad thing when he hands it off to me?

MR. RAMIREZ: Absolutely a good thing, right.

MR. FINELY: So, I understand a lot of this conversation is taking place where every variable shifts and every time we discuss moving one variable, it affects the stress that's placed on the others.

So, I think we've got a few variables to keep talking about this week and we'll try to get back to you on that. Some things are probably more flexible than others.

I don't see an alternative to the 8 percent right now, just because of the way that's been established historically at this point, since we've done this a few times. But I think by the time we conclude in the week, we'll talk about that.

MR. RAMIREZ: Thank you. All right, so then, we had left off on Number 2 on Page 2 of the Debt Calculations on Issue Paper 3.

And the question was is there some other combination of numbers that we could look at?

But it sounds like the folks may want a little bit of time to digest the numbers that Mark had just shared with us. So, with that, Greg, would you want to take us to the next section?

MR. MARTIN: Sure, and I do want to say with respect to repayment, the amortizing million loan debt in the years, we'll take that back for discussion, looking at that.

I'm not going to guarantee anything but we will.

And again, the issue here is I think, I could be incorrect about this, but I think any way we move, if we move in one direction for one side of the table we're liable to cause an equal amount of stress at the other side.

So, I'm not sure that there's any movement on this that would reach consensus, but we will work towards that and see if we can come up with something regarding those numbers.

But as Steve said, we're probably not going to look at the DE metrics, but we can look at the repayment rate, repayment period rather.

MR. FINLEY: So, just before the break, I offered a solution of I understand that many individuals would love to see the certificate in two-year programs have an annualized amortization schedule of 15 years.

And again, I understand that many of the student advocates are saying 10 years and that risk of the Department having to make a choice of going to the 15 or the 10.

I think in an effort to get to yes, again I propose that you consider a 12-year.

PARTICIPANT: Greg, for the record, we will consider it. I don't think we can choose the rate just because it splits the difference.

If we can come up with a logical, supportable basis for it, then we can consider moving in that direction. So, we will take it under advisement.

MR. RAMIREZ: Thelma?

MS. ROSS: I just need clarification. Steve, why is the Department not willing to entertain moving off of the eight percent?

MR. FINLEY: The eight percent was based on some research and it's withstood legal challenge and it's really clear right now that thresholds that are placed have to be able to withstand legal challenge.

And so that's a safe point for us.

MR. RAMIREZ: Daniel then Jennifer.

MR. ELKINS: I want to say that it's relieving to hear the rationale behind the eight percent. Our suggestion to Mark was we can't just arbitrarily come to the 12.

And I just wanted to comment on a wider scale, again, not insinuating this is what Mr. Jerome's chart suggests or not, but I think it does kind of clearly show, unless I'm completely reading it wrong, the problems across the sector kind of fall into the considering that we all thought that they would.

There are some issues in the proprietary sector and to a smaller degree, there could be some issues in the private sector and the public sector is not have as big of a problem.

And I think that as we continue to negotiate, we need to kind of keep that in mind.

MS. ROSS: I have a follow up, though.

MR. RAMIREZ: Go ahead, Thelma.

MS. ROSS: So, I get that there's an interest in the Department and being able to have something that withstands a legal challenge, but you indicated based on research and was the research based on what you were trying to establish for gainful employment when gainful employment was gainful employment?

MR. FINLEY: It was based on academic studies about debt levels for students, period.

MS. ROSS: So was it still based on regulations that you were trying to establish for gainful employment? Yes?

MR. FINLEY: It was used in the gainful employment regulations, it was a number that was not tied to proprietary schools.

MS. ROSS: Okay, I get that.

I wasn't talking about proprietary necessarily, just trying to figure out the unwillingness to move off the eight percent. And I'm still not there. I hear what you're saying.

MR. RAMIREZ: Let me get Jennifer,

Johnson, then Whitney.

MS. BLUM: So, I feel compelled, sitting in the lawyer's seat, to be a lawyer for a minute.

So I get, and it is safe zone (unintelligible) disagree with you so it's 12 percent, by the way, safe zone for something too. Because you got rid of the zone.

But the minute you started, you changed from three to four years' earnings to five to six years' earnings.

So, it's actually not as safe anymore necessarily because you changed the rest of the metric.

So, I think it's safe so I agree with you in terms of legality, but I would say there is an argument that because you changed other aspects, you change the interest rate too.

So, you change other aspects, then it's not as safe anymore.

And so what I would advocate for, which is what I've said yesterday too, and what

Mark just alluded too earlier, Mark McKenzie, is that you're definitely on safe zone if you take the -- safe zone, no pun intended.

You're definitely in safe territory if you take the data for a year or two on both debt to earnings loan repayment rate both, and figured out what the mean and medians were.

So, in my mind, there's no question that you're in safe zone to take the data, publish it. By the way, guys, I'm not saying, you know, take the data and keep it secret.

Take the data, you can make it public the same way Gainful 1 was made public.

But then establish what the measure benchmark -- you're also much more able to establish a different term than measures once you actually have the -- and I would go so far as to say, you know, I would totally be willing to entertain the conversation of giving the discretion to the Department to figure out whether it's the mean, the median, or the average that becomes that sort of place.

Or maybe it's slightly above one of those to make it more robust. And so you don't have to come back to the NEG-REG table, it can be structured in a way where the data is taken, it's looked at.

We didn't really talk this morning about one of the notes that you had, or yesterday, about the feedback on the comparative tools.

I would say long term that having the ability for consumers to do a comparison across demographics, especially if you set the metric at eight percent, it is helpful for students to be able to say, oh, a like institution, regardless of tax status, looks like this one too.

So, I think that is helpful information so you put that into the dynamic of the framework as well.

I'm not saying that changes the benchmark, I'm saying just from disclosure standpoint, that comparative tool is helpful.

But anyway, the point is you're

definitely on safe zone if you take the data, analyze it, especially since you changed other aspects of the metric.

MR. RAMIREZ: Thank you. Whitney?

MS. BARKELY-DENNEY: Yes, so I just wanted to go back and answer your question, Thelma, a little bit more in-depth I hope, which is the paper primarily that was relied on was from 2006, so it was prior to any negotiations starting.

And it really just looks across all sectors at what an affordable loan debt looks like based on income.

So, again, I think it's more helpful to think of it as an income-based repayment-type analysis, and one that lays out a strict percentage rate.

But based on the amount of money that -- and this is true, all we have is gainful programs.

But based on the amount of money that borrowers coming from gainful programs make when they graduate, that number makes sense.

Now, if we had better data as far as being able to see what salaries looked like for people across programs, I think that we might be able to move that.

My major concern is that when you move from just looking at people between 8 percent and 12 percent, those people who would now be newly included in the passing or meeting standards or whatever you want to call it, their discretionary income rates, 47 percent of those programs have discretionary income rates or DTE rates of 100 percent or more.

And so how those two things are tied together is really troublesome to me, but definitely, I take your point that that was only gainful, that's the only thing we can have to look at those earnings rates.

So, I take your point that if we had other data on that, it would probably be a good thing.

MR. RAMIREZ: Thank you. All right,

Greg?

MR. MARTIN: Okay, we'll move on to a discussion of annual -- Page 3 is mostly strike-outs. Let's move on the next substantive changes on Page 4, annual earnings.

We're still obtaining earnings from Social Security administration and those are students who have completed the undergraduate educational program.

And under D, Loan Debt and Assess Charges, we have the Secretary determining the loan debt for a student and you see the method in which that's done.

This is not a change from the last one we gave you, but reflects our position when we came here for Session 2, was the elimination of the private education loans and institutional debt.

And I think we've gone over why we did that and I know that we could have a lot of discussion around whether that should be included or not.

But this is basically a logistical thing. Again, we don't have this data, we don't have any way of getting it any time soon. So, this just reflects the reality of an administrative calculation.

And again, at the top of Page 5, what Jennifer referenced earlier in the day, the Secretary made an effort to include in the calculation institutional loan debt, private loan debt, tuition of fees, by publishing a notice of such election in the Federal Register, should it in the future become possible to obtain this data in a way that would be reasonable and not overly burdensome.

So, I'll stop there and see if there's any comments?

MR. RAMIREZ: Okay, it looks like I have Jennifer then Johnson, and then Whitney.

MS. BLUM: I've referenced this before and it occurred to me that I would like to ask for a tweak on 2 to reflect -- because this assumes that in the future you might ask the institutions to report it.

But as I said before, the Department is actually at the beginning to explore its own ability to parse its loan dispersements between -- and again, I don't want to go down the rabbit hole in the conversation.

I'm just saying you're assuming by saying in the manner in which the institutions must report.

But there is a scenario, at least as it relates to the loan amounts for tuition of fees versus living expenses, that the Department itself might know that in the future.

So, I just want to leave the opportunity to the Department itself and you still might need to issue a Federal Register notice because we would want public comment on that.

But it implies that the institution would have to report it, and in the future, I think the Department will be able to do this themselves.

So, is there a way just to tweak it? I can think about what the language would look like if it's helpful.

But is there a way just to say that in the event that the Department has its own access to its own data?

PARTICIPANT: Just a clarification if I could, Jennifer? And I know the Department's working in those areas and I'm not familiar with that.

But I guess I'm trying to understand how we could possibly know what debt was at the institutional level or private debt that students obtained to go to the school without the school reporting it to us by some mechanism?

I don't know if there's any way we could get into that, or I just don't know how we could get it.

MS. BLUM: Well, I'm looking at Steve because I'm not that familiar with the pilot either, but it relates -- yes, but that's why I'm just saying on an open-ended basis, you're just assuming an institutional reporting requirement.

And I actually think the Department, through this credit card pilot, is actually doing its own determination of what is living expenses and what is tuition and fees?

I could be wrong.

MR. MARTIN: Greg again, for the record.

I think we could do that, I mean, as far as when we're talking about what institutional charges versus non-institutional charges or I want to say direct charges versus those costs that are part of the cost of attendance for other things.

Yes, I think we could get that but that wouldn't necessarily -- this is actual debt.

So, I can't think of any other way for us to determine what a student's debt is at any institution you represent, other than for you to tell us. So, I mean, through some mechanism.

And I think what we have here would presuppose a way of doing that maybe in the future through the regular enrollment reporting for NSLDS, without some extra debt-to-earnings-type reporting.

But if we could collect that information, that might be possible in the future but it isn't now and we don't want to obligate ourselves to something that we may or may not be able to do.

MS. BLUM: Yes, so I wasn't looking at it, and I won't belabor it, but I wasn't looking at it as a tuition and fee, like a breakout of reporting of tuition fees.

I was literally looking at it when you talk about debt, there are two pieces to the debt.

And again, I don't want to go down the rabbit hole because I'm good where we are, but I'm just playing this out for the future, where there will be a future understanding by the Department of what is debt for tuition and fees and what is debt for living expenses.

And so that would not be a reporting

requirement necessarily by the institutions, that was my only point.

MR. MARTIN: I'll look at it.

Maybe some of my FSA colleagues are more familiar with what we're doing there, and if it appears that would have an impact, we'll adjust that.

MR. RAMIREZ: Whitney?

MS. BARKLEY-DENNEY: Yes, I just want to reiterate the opposition of consumer groups to removing private and institutional loans from the calculation.

We've seen in the past what happens when some bad actors decide to really load up borrowers with institutional loan debt that is non-sustainable.

And I think that it's a really important part of this and I would not want to inadvertently push those institutions who would be likely to do things like that into that position in order to mask the actual cost of attendance at their school.

MR. RAMIREZ: Okay. Johnson then Chris Gannon.

MR. TYLER: Whitney said what I was going to say much better than I could so I have nothing else to add to that.

MR. RAMIREZ: Gannon?

MR. GANNON: I think just from listening to the conversation here, I think that one thing we do have at least some consensus on is that we don't have the data that we need to make accurate decisions about what's being presented.

And I think until we have that data, we can't really make decisions or decide, or make accurate decisions.

So I think that maybe we should have a fourth session to come back and discuss this later after the Department delivers some more data.

Because I know last time we had data but it was about halfway through the session and we didn't have time to digest it. And here we are in the third session still asking for data.

So, I'd like to get a thumb-check on a possible fourth session after the data. We have at least some data to make a decision.

PARTICIPANT: Let me ask the Department to comment on that before we check that.

PARTICIPANT: Yes, the extension of this to a fourth session would require consensus around the table. Preliminarily, the Department would be disinclined to vote consensus on it.

MR. RAMIREZ: Okay, Whitney?

MS. BARKLEY-DENNEY: As much as I joke about not wanting a fourth session, I do think that Chris makes an important point and I am concerned about being able to reach any real decisions without the ability to actually look at data.

I mean, you know, if it were a perfect world, we would have all of this data scrolling up there and be able to see the changes and what would happen to institutions and what would happen to programs based on the metrics that we've set.

So I do think that Chris, you know, as much as we've all grown and I don't want to give birth at the table, I think that Chris makes an important point when it comes to what we're doing here and how we could do it more efficiently and effectively, and make sure that we're actually doing what we intend to.

MR. RAMIREZ: I see some tents up. Is that in regards to comment on the idea of a fourth session? Johnson then Sandy.

MR. TYLER: I think there are very difficult questions that have to be answered based on data, not on theoretical things.

I think what Mark brought to the table was really interesting. I've tried running this data myself, it's complicated stuff.

I think when you get into repayment and the whiskers and all that stuff, it gets really complicated, and there's a good possibility from a statistical standpoint that no one will fail repayment.

Because when I've done the math consulting with Sarah, it looks like everyone is -- the numbers are such that the repayment rate is in the negative area.

So, if we want something to be useful here, I think we have to deal with data because you have to know how it's going to affect all of these schools.

So, I would agree that a fourth session might -- my wife and children will kill me, but I would come back for a fourth session.

MR. RAMIREZ: Sandy?

MS. SARGE: So, a couple things.

I agree with the fact that data is beneficial, especially if you're trying to do calculations.

Because when you have several different mathematical elements, it will move the needle and something on the numerator affects it differently than if it's in the denominator. So that's just pure math.

And for the record, I would always try to come back and help it.

Because I thought about this last night, out of all of the GE negotiations and in the past, the recent other negotiated rule-makings on borrower defense, I felt like we might be the only group that actually had a chance to get to consensus.

And that's pretty amazing when you think about it. We could get there and I think we could do it in a point that's reasonable.

So if, to Chris's point, it takes getting better data and coming back and we can get there, then I of course would be all for that.

But the one thing that we haven't done this time and Chad, thank you for bringing it up again. Because I think we were all pretty excited the last time you made your pitch or suggestion at the end of last session.

And we shouldn't lose sight of it. Chad's suggestion was to take average total debt and average earnings by program.

Don't try to do math, don't try to find a metric or a measure or a threshold. Just show the information and that allows students to decide what multiple is reasonable for them.

If you borrow $100,000 to become a doctor and your average income after X number of years is $100,000, that's a one-to-one. Is that worth your rate of return or is that a multiple you're willing to live with?

If you borrow $100,000 to become a nurse and it's $50,000, it's two years, et cetera, et cetera.

Maybe that's a better way to look at it as the average debt taken out for that program at that school versus the average income of that cohort, or median whatever, and you do the comparison that way.

We don't have to worry about interest rates, amortization rates, a mathematical equation; it's a comparison.

So I want to throw that back out and

thank Chad from the last time for bringing it to our attention.

MR. RAMIREZ: Chris?

MR. GANNON: So, just very quickly, I'd be in favor of that, I think with the repayment rate, we discussed it last session.

And the Department took that and brought it to us, what it would look like, the language, but didn't bring to us any repayment rate number that they would propose.

So now we're kind of tossing numbers around and discussing data in box and whiskers at this session.

So it seems like we should have another session to see what the Department would propose as a repayment rate, discuss that, and see if there's some consensus for it.

So, it would definitely be in favor of coming back.

MR. RAMIREZ: Daniel?

MR. ELKINS: I second that.

MR. RAMIREZ: All right, so if we took

a temporary check on this, you all have to understand one is that the Department would have to go back to and see if that's even something that's doable, if there was consensus among the group.

But then the second question that I would have, though, is that the reason that I'm hearing that you all may be interested in a fourth session is because you want to be able to digest data, use data.

Do you have the data that you need, one? and then two, if not, is that data that we can get? So, it's I guess a two-part question there, right?

So, let me go to Jennifer, then Chris.

MS. BLUM: Well, yes, I have that question for the Department. I mean, is this month any different than any other months?

I mean, would you have data next session to share?

So, if we came up with a benchmark like let's look at 35 percent, would you even be able to have that data a month from now?

I'm not saying, though, that I'm against a fourth session because as I've said, I think there is a framework for the future to set up where the data is actually collected in the future.

But I think there is a framework where you could set up metrics now with the caveats, obviously, that there wouldn't necessarily, and I know this is upsetting in terms of the sanction piece, it would be sort of put on hold until there was sort of a more known what does the universe look like.

But I do think that there is a regulatory framework that could be established that sort of sets up for the future that way.

And so in that regard, if there were a conversation around that, I would never walk away from a fourth session.

MR. GANNON: So the concern that I have is that even if did get a fourth session, are we going to have what we need? Right, Johnson?

MR. TYLER: I really think that this is a question of leadership here. We have all this data, it's all there, it's all public.

I've been trying to work the Excel spreadsheets. Mark's done a great job, he's enlisted all these people to do it.

We should have a sheet up here that says if you have a 35 percent repayment rate, what's going to happen, so that we'll know that 60 percent of all schools are going to fail this.

If you're going to have it at four percent, then we'll know that everyone's going to pass it except for maybe 100 schools. I think that's the sort of data we're talking about.

It's not that the data doesn't exist, it's that if we have to rely on us to do all the analysis, when you guys are making the proposals, I just think it's useless that way.

I think we need some presentations about what the options would be and what the implications would be to all of the sectors that are interested at this table.

MR. RAMIREZ: Greg, do you have any direction on that?

MR. MARTIN: Well, regarding those questions, I think some of the, and I'm not the person to talk to about data, I will say this generally though, some of this has to do with the fact that we're talking about expanding this from GE programs to all programs and getting data that's relevant at the programmatic level to all the programs we would be including at this point.

And also, earnings data relevant to all these programs as well. So, in order to have the complete data on which to make decisions, that would probably be necessary.

So, I think that regarding what data could be compiled between now and any hypothetical fourth session, I guess I'm pretty safe to say we would probably have more data.

Whether we would have everything you want I couldn't guarantee that. So, we would come back and it's quite possible we will not have all the data that you want at that point in time.

So, I'm not going to obligate the Department to saying that having a fourth session would mean that we would have all the data that you would want to use to make those decisions. So, I think your point, Javier, is valid.

All right, so let me get Sandy and then we'll take a temporary check on that. Sandy?

MS. SARGE: So, just because I'm not an expert on the scorecard, what I think you're referring to is that the loan repayment rate data that's currently available would only be at the institution level, and that we don't have it at the program level right now?

Okay.

MR. MARTIN: That's one thing we don't have at the program level, yes.

MR. RAMIREZ: All right, so let's see a show of thumbs for your level of agreement on the idea of a fourth session?

So, I'd call that a very soft

consensus but it's consensus, right? And I say consensus with the understanding -- oh, was your thumb down?

Okay, Todd was just being comforted. And I understand that I say a soft consensus but I also want to acknowledge that the Department did not thumb, and I understand why not.

So, they're going to take that information, take it back and see if that's something that's even possible.

MR. MARTIN: I'll take it back and I might have a better indication this afternoon when I speak with senior leadership about that. But I will have an indication, yes.

MR. RAMIREZ: Okay, thank you. Okay, see what you did, Dennis, you got us all derailed.

MR. HELLER: I have a question.

MR. RAMIREZ: Yes, Neal?

MR. HELLER: If the Department were in fact able to provide all the data we needed, do you really think we'd come to consensus on a number for repayment percentage at this table?

MR. RAMIREZ: Whitney?

MS. BARKLEY-DENNEY: So, respectfully, Neal, I think it's about more than consensus.

Obviously, that's what we're all working towards but it's also about being able to create a role that actually is well-reasoned and can stand up to challenges and can be a lasting role.

So, even if you and I still can't agree on a number, I would feel a lot better walking away from the table knowing that we did the work that we needed to do to be able to justify the decisions that we were making, whether those decisions are to support or not support a role.

And I don't feel, particularly because of the problems with expanding to all programs, that we necessarily can do that with the data we have now.

And even just thinking towards the future, this is my second one of these, I don't necessarily want to do a third. I know there are some people who have done three all the way around.

So, having that underpinning of it I think would be better than moving in this new direction without really knowing where we're going.

MR. RAMIREZ: Daniel?

MR. ELKINS: This is Daniel. Yes, I think it's possible.

(Laughter)

MR. RAMIREZ: Thank you, Daniel. Johnson?

MR. TYLER: I feel like there was consensus about there being bad apples that we're trying to get out of here.

And I think if you were to look at the data and see whether it's going to capture those people, because a lot of it reflects those institutions, or it doesn't and it captures the wrong people, there would be consensus.

MR. RAMIREZ: Okay, thank you.

All right, so I'm trying to jump back

in here to the debt calculations. Where do we need to go next, Greg, on that paper?

MR. MARTIN: I believe we were at the top of Page 5 and then we're moving onto three, the attribution or roll-up.

The Secretary attributes all loan debt incurred by the student for enrollment and any undergraduate program at the institution to the highest-credential undergraduate program subsequently completed.

I think Cynthia did an excellent job of summarizing that when she was up here.

And then we have the exclusions; I don't think there's anything there that we haven't talked about. The removal of the graduate education program references that.

Moving on to Page 6, again, working through the exclusions, and then at the bottom of Page 6 under F, DE rates not issued, we have after applying the exclusions in Paragraph E of the section, fewer than ten students completed the program during the cohort period.

So, that was the end size of ten, which I think we discussed earlier. So, I'll stop there and see if anybody has any comments through the top of Page 7?

MR. RAMIREZ: Any questions on that and/or is there anything controversial in that, that the group would be hesitant in approving? Pamela?

MS. FOWLER: I just want to be clear.

Going back to Page 5, Number 3, for enrollment in any undergraduate educational program at the institution to the highest-credentialed undergraduate program subsequently completed by the student at the institution.

Are we talking about the same institution?

MR. MARTIN: Yes, it's the same institution.

MR. RAMIREZ: Is that something that the group would feel comfortable approving?

Let me see a show of thumbs if

everyone's okay with the approval of that section, which would be from Page 5 to the top of Page 7. Chad?

MR. MUNTZ: The cohort period is at two years or one year? I'm trying to remember. The reason why I'm asking is ten completers, if it's two years it would be --

MR. MARTIN: The cohort period is a two-year cohort period.

MR. MUNTZ: So, basically, it's five completers per year, right?

MR. MARTIN: Holistically, yes.

MR. MUNTZ: Okay, thank you.

MR. RAMIREZ: Okay, so let's see a show of thumbs on that? Okay I'm not seeing any thumbs down so we're okay with that portion.

Okay, Greg, what's next?

MR. MARTIN: Okay, we're moving onto Page 8, calculating and issuing loan repayment rates. This is new for 668406.

I'll spare you the torture of reading every line in this, I'm not going to do that.

But essentially, this repayment rate calculation comes from the scorecard and it's been moved into here.

Of course, we would be applying this at the programmatic level.

And we just go through, basically, the calculation.

And just to reiterate our reasons for doing this, this came out of the last session where it was voiced that there needed to be a different or additional measure, aside from debt to earnings, that would show outcomes of a program, such that if a program failed to meet the measure for debt to earnings, there would be an alternative way of showing that that program still had good outcomes.

So, this is why we incorporated this and we're tying it to an existing repayment rate calculation.

MR. RAMIREZ: Would this be a spot to bring back Chad's idea as far as having just a ratio of debt to earnings?

MR. MARTIN: I'm sorry, could you review that?

MR. RAMIREZ: Sandy, can you explain what the idea was there, or Chad?

MS. SARGE: Chad would be better.

MR. MUNTZ: This went back to the last session where total debt, total earnings were side by side.

The student, if it's a disclosure could make that determination if they will earn enough for the total debt that their average cohort receives.

Now, we can set a threshold of one to one, or we could say, you know, half to one, half the debt for annual earnings.

Whatever it might be, the debt would be much simpler than the repayment rate, the period, the interest, all those other things put in there that's creating this threshold of what we're declaring as affordable payment.

But just doing a one-to-one kind of ratio.

MR. MARTIN: So, again, for the record, Greg here. So, you would have us publish, what, just debt and earnings, right?

And do a ratio of debt to earnings, just simple ratio that would replace, that would obviate repayment rate, right?

MR. MUNTZ: Perhaps.

I mean, given all the discussion, because we're going to discuss which interest rate is correct, which repayment period is correct.

MR. MARTIN: Would that obviate debt to earnings as well?

MR. MUNTZ: It would just be the debt to earnings I believe. I mean, I'm open to discussion on that but the idea is it's simpler.

Just this is how much debt you have, this is what you're earning; is that the kind of decision you want to make for yourself?

You define the cohort the same way. potentially. You could define the number of students or the selection of students in there, and then go find the total debt that they've taken out for that program.

And then go to the Social Security and say here's their annual income so if you borrow $100,000 to go to medical school or whatever, to go to HVAC and you only make $20,000, that's five times -- you've paid five years' worth of earnings to have that debt.

Is that reasonable to you? And some students may say yes or no. $100,000 for a doctor making $100,000 is only one year. So, it would be a very clean comparison.

And we can opine to the students or outside groups could opine as to what they think would be a reasonable multiple, but we would just be giving the data.

MR. MARTIN: Okay, this is Greg. I get it, I just want to clarify that with this idea, the Department would not be contextualizing it.

It would simply be issuing it and requiring you to disclose it to all students, such that they would see debt earnings and they would be free to draw their own conclusions for that, or third-party entities could say we don't think this is good.

And so just again to be clear, then we wouldn't need -- the concept of notification wouldn't exist, right?

So, it would just be the debt and the disclosure of the earnings, correct?

PARTICIPANT: I'm not saying this, I'm just trying to make sure that I'm properly summarizing your ideas.

MR. MUNTZ: Right. This is Chad Muntz.

PARTICIPANT: And Chad's as well.

MR. MUNTZ: So, I leave that open to the group if you guys want to set a threshold somewhere. I don't know.

Again, the data would be important to see but given that interest rates fluctuate and every year, it seems that's one of the things that we're discussing is that, well, this year the interest rate was this, this year it wasn't, for this program it's ten years, that's 15 years, that level of confusion I think has a negative impact on consumers if they can't understand what that means.

So I think any consumer can understand what it means to saying after four years, for example, in a bachelor's degree program, it's $25,000 and you're going to make $50,000.

I think they can make that choice for themselves and understand that. I mean, that's just one opinion.

MR. RAMIREZ: So, what I would ask is are there any questions on clarification on that?

Because we're 9 minutes to 12:00 p.m. and I'd like to make sure that people understand that, and then we can break for lunch and then we can come back and see if there's anything there.

PARTICIPANT: Just one comment.

Chad and I, we actually, again, ran this data from the scorecard so you can look at it, it's easy for the group to look at, and I believe, though it hasn't been subject to enough scrutiny, that it perfectly reflects the debt-to-earnings metric, just without all the noise.

So, when Chad presented this, we had it in essentially the scorecard that we just presented and we put it together.

And so if the group wants, at some point you can look at that also. I guess I could forward it without names.

MR MARTIN: Greg, again. May I ask this?

If it were to be -- and this is all hypothetical, I'm not saying that the Department's going in this direction or not, I'm just building on what we're saying here.

If it were to be something the schools had to disclose, the Department would not be calculating a DE metric, then would it be reasonable to say that if a school was disclosing debt, they would have to also disclose, since they would have these figures, institutional debt and private debt as well?

Would that be fair?

PARTICIPANT: He's suggesting a metric, right? You're suggesting a metric.

MR. MARTIN: Yes, that, we, the institution, would do, the Department would do, the Department would propose.

PARTICIPANT: Is there a metric, though, or is it just publishing earnings and debt?

MR. MARTIN: It's a ratio.

PARTICIPANT: Okay, I'm sorry.

MR. MARTIN: And what it means is --

PARTICIPANT: We'd publish a ratio, okay.

MR. MARTIN: The Department has invested a lot, I understand, in 8 percent and 12 percent but there are other commentators in the field who say we generally look, rule of thumb, one to one that for an associate's degree, your debt should not be more than your earnings.

And generally, that is easier to

understand for the public and for students than what we have invested in with debt to earnings.

And so I understand we're far into this but when Chad presented it, there's no doubt it's a much more intuitive number and essentially, I believe, it perfectly represents the debt-to-earnings metric just without all the noise.

J: I'm not asking for agreement or debate at this moment, but is everyone clear on the idea? Okay, Johnson, go ahead.

MR. TYLER: So is Chad's idea a second metric that would trigger some event?

MR. MARTIN: Just instead of a debt-to-earnings metric and what it is is that it's just a much easier way to explain to a student, one of your clients, when you go for an associate's degree, your debt should never be more than the earnings.

When you go for a bachelor's degree and my institution, we have a certain protocol like that but it's possible this is a much more helpful way to do financial education for students and the public.

MR. TYLER: I understand that but we're talking about -- we had a second test in case you failed the debt-to-earnings metric.

We're not talking about a second test, we're just talking about it as a disclosure? Is that what we're talking about?

MS. BLUM: I think --

Mr. TYLER: And just to make a final point, the repay was designed to be another metric, a backstop metric. So, I guess that's my question. Is this --

MS. BLUM: And all I'm doing is telling you what I'm hearing from Chad right now.

What I think I'm hearing, and it's good for us all to level-set on this because maybe I'm hearing it wrong, is that this would be instead of the debt to earnings that we've been discussing.

This would be, in effect, a debt to earnings, it's just a different ratio.

And so it would be setting a different ratio, I'm hearing Chad say but he can confirm it because he's standing up, that there would not be a loan repayment rate.

We would just go to -- whatever. Okay, so a subject for conversation. But this would be -- the new debt to earnings would be this straight-on ratio.

And I think the subject for conversation, which at least I heard it was the subject for conversation, was whether there would be I'm going to call it a benchmark tied to whatever this ratio was.

PARTICIPANT: So, just to follow on that, let's take the example that we had before at eight percent. I'll try and do this math in my head.

Hopefully, someone can correct me. Let's say you make $40,000. 8 percent means your student loan annual payment needs to be $3200.

So you find out how much debt that can be over a 15-year period and then you would meet that. You either have that amount of debt or less.

That's at the DE, the current. The same thing is applied here, that if you're at $40,000 then hopefully you have only $30,000 in debt or only $40,000 in debt.

So, without having to do a payment to figure out if it's affordable, we're essentially just saying that this ratio is a one to one.

Does your school, your institution, meet that or not? Does your program meet that or not?

You don't need to do a calculation to figure out if you can afford a car -- sorry, it sounds like the car payment, like when you're with the salesman.

All right, well, here's the payment that you can afford but just the raw number, what is the debt that you have after finishing your program and is that equal to your earnings or is it less than your earnings?

PARTICIPANT: One year, one year. Yes, I would say a one-to-one kind of ratio. I mean, that's the proposal that I would put out here right now. One year earnings, one year debt.

PARTICIPANT: Versus your total debt?

PARTICIPANT: Total debt.

MR. RAMIREZ: Jordan, you had a clarification question on that too?

MR. MATSUDAIRA: I just wanted to try my hand at maybe an explanation of the idea in a kind of simple way.

If you have a ten-year amortization period and pretend there's no such thing as interest, then you would pay one-tenth of your loan.

Your annual payments would be one-tenth of the balance every year if you borrowed $50,000. Your annual debt service payments would be $5000 every year.

So, if you think about it that way, I think what Chad is proposing is just having the full amount of your debt, the full amount of your loan in the numerator of the debt-to-earnings ratio instead of the annual payment.

And so there's really a one-to-one link between these two ideas, it's just a different way of existing the ratio.

Now, if we wanted to maintain the same standard, again, in this world with no interest and a ten-year amortization period, I would just say instead of requiring a 0.08 standard, I'd require that loans like the total debt relative to your earnings be pointy and instead it would scale by about ten, the factor of ten.

So I think there are three conceptual differences, differences that are actually important, like going to that model versus having the estimated loan payments per year.

So one is that we would get rid of this amortization and there's kind of the benefits of simplicity of that but the downside is that if we feel like a short-term degree should be paid off over a quicker amount of time and we'd want to have a different standard implicitly, we'd be sacrificing that.

That's one.

Another is that there wouldn't be the discretionary rate that we have right now, which is effectively a way of having a lower standard for programs where earnings are higher.

So, you can have a higher ratio of debt to earnings as long as your earnings are higher. That's the discretionary rate instead of the annual rate in the current framework. And we'd be going away from that.

And then the last thing is that we wouldn't have to assume an interest rate to be able to do the estimated loan payments and all that, so that's simpler.

But if we think of this debt service payment as approximating affordability, we might actually want to kind of have our debt to earnings ratio reflect the interest rate.

Because when the interest rates are higher, it's actually harder for students to repay their loans because the interest costs are higher as well.

So, I think those three things are added sources of complexity but they all kind of have a reason.

So the question is just whether the tradeoff is worth it.

MR. RAMIREZ: Okay, so what I didn't want to do was to get too far into the debate, at least not right now. So, is everyone clear on at least what the concept is?

All right, if so, let's go ahead and break for lunch and then when we come back we can pick up there.

And we have a queue so we'll start off with Whitney, then Daniel, Kelly, Sandy, Bob. Okay, thanks, everyone. 90 minutes, 90-minute lunch.

(Whereupon, the above-entitled matter went off the record at unstated time.)

MR. RAMIREZ: All right, Greg, when we broke, there were a couple things that were thrown out there. I didn't know if you had a chance to get anything on the possibility of a fourth session and then also if it's worth exploring a little bit more the idea that Chad had thrown out there.

So, were those things that you were able to look into?

MR. MARTIN: Yes, I apologize for the lodgings but I have some issues here. So I know it's rude but that's the way it'll be for now.

My mom's not watching unless she's watching the livestream, which I very much doubt. She's sitting there will all her friends -- that's my son. And they're all saying how unfortunate.

And so anyway, yes, we did take that back to leadership this afternoon. So on the issue of a fourth session, the Department declines to do a fourth session. Our main reason being that what we gather is that the interest in a fourth session is primarily driven by the hope that such a session would produce a plethora of new data for us to consider in making decisions moving forward. And while, as I said earlier, I say with a fair degree of certainty, we would have more data, I don't believe that we would have all the data that you want or data in such abundance that it would inform our decisions anymore than will this session.

So we'll continue with this session and we're going to have to make our decisions on Thursday as to where we are based on that.

So I never want to eliminate discussion on anything and, certainly, people are welcome to voice their opinions but that decision is final.

Regarding the -- I think it was Chad's suggestion, correct?

MR. RAMIREZ: Right.

MR. MARTIN: Right. I'm not that good with names. His suggestion that we move to and in lieu -- and I believe this was the way it was, in lieu of the current metrics that would be both D/E and payment rate, that we move to the direction of the Department publishing earnings and debt. And then those numbers would be published and schools would be required to disclose those numbers and that students, third parties would be free to put whatever parameters around those they want to.

Our leadership is intrigued by that idea and we're inclined to give that serious consideration. It does do a lot of things. I mean it eliminates a lot of the debate about amortization, and metrics, and such. So, it does have that advantage.

We would be interested to see if anybody can come up with any literature or data that would indicate if there's some type of a -- if we're looking at this income and debt, if there's some type of a threshold that would be applicable or, I should at least say, maybe not a threshold but some level at which it would suggest that having -- that this ratio is okay but having this much debt would not be okay, something along those lines that would support putting some type of -- contextualizing that in some way. So I throw that out.

We will go back and discuss this further. We'll take a look at it tonight and tomorrow but we are very intrigued by it and I would welcome any further discussion anybody has as to whether they are in favor of it, or opposed to it, or possible pitfalls they see with it.

MR. RAMIREZ: Okay, great. Thank you.

So that's what I wanted to make sure we weren't barking up the wrong tree.

So with that, we did have a queue started where we had Whitney, Daniel, Kelly, and Sandy.

So, Whitney, do you have some additional questions or comments on that idea?

MS. BARKLEY-DENNEY: Yes. So I think that it's something that I'm willing to consider, as long as it's still tied to some sort of action, so as long as we do set that threshold and don't move back into a disclosure-only regime. Obviously, I think I would not be alone around the table in saying that that's a nonstarter.

However, I will say my one pitfall and thing I'm concerned about and, again, this is not necessarily fatal, is generally when we do disclosures to people or we talk to them about how much debt we have -- they're going to have, we do amortize. You know if you're getting a house you do get an amortization table with that mortgage that helps you understand exactly how much you're going to pay over the amortized period.

And I think as we said, as Jordan said before we left, interest really can make a difference in the cost of something. And so I would just want to be careful of that. I don't know if there's a way of like figuring out what interest would trigger needing to do the amortization but I do think that's an important of consumers. I just can't think of another consumer notification where we don't include the amortization and what that debt is actually going to look like to repay.

MR. RAMIREZ: Okay, thank you.

Daniel.

MR. ELKINS: I'm from the veterans' community. We're very supportive of moving in this direction for numerous reasons. One, in the event that we're not able to reach consensus on what sanctions should look like, I would much rather move to this methodology because I do believe that although simple disclosures are a weaker form of accountability, disclosures pushed to consumers in this manner have a higher potential to influence decisions than the way that they currently are structured.

I do have faith that we will be able to find some agreement on sanctions but in the event that the Department maintains its current position, which is Title IV is not going to be connected to this in any way, I do want the best possible information submitted to the students as they look. And currently there are very similar metrics that are disclosed to students through the VA and the GI Bill Comparison Tool. So I'm very, very excited about the possibility of having a discussion moving in this direction, away from the current metrics in place.

MR. RAMIREZ: Thank you.

Kelly.

MS. MORRISSEY: This is Kelly. I am very supportive of this metric. I think that it's simple for students to understand. However, I believe the one variable that would be meaningful in our moving towards this measure would be what year of earnings are we looking at. Because depending on the year of earnings, as you all know, the outcomes will be very, very different.

So I think although right now it appears simple, the devil is in the details and we still have to weigh in on what year we should land on in measuring those earnings.

MR. RAMIREZ: Would you have a suggestion on how to do that, which year or years?

MS. MORRISSEY: Well I think looking at the data that Marc Jerome provided we can see that the outcomes are very, very different, depending on five years or ten years. Actually, he has six years as well.

So I, personally, think that it should not be any earlier than five years just because it does take students some time to establish themselves in their career pursuits.

MR. RAMIREZ: Okay, thank you.

Sandy.

MS. SARGE: I'll yield my time. Thank you.

MR. RAMIREZ: Matthew.

MR. MOORE: I agree with -- oh, that's loud -- with Whitney in that I think the amortization is an important piece to the discussion.

So I was thinking what if we included in the format that schools are displaying the total debt to the one-year income, some sort of like monthly payment of what a ten-year payment amount would be. So then the way that that's disclosed to students, they could see debt, earnings, and then what a monthly payment would be for that average. Just something to consider.

MR. RAMIREZ: Right. Just an example based on an average amortization.

MR. MOORE: Sure, if your total was $10,000, it might say your monthly payment is $68 or whatever. So students could maybe make an additional frame of reference about what that might be for their financial situation.

PARTICIPANT: And the Scorecard does that right now, too.

MR. RAMIREZ: Right, thank you.

Johnson, then Sandy.

MR. TYLER: You know I was just looking at the Scorecard. I mean it has a lot of -- it's institution-wide. But if we're talking about people attaining four-year degrees, there's a lot of variation in what program they begin in and end in. So I'm not sure this is adding much to the disclosure that's already out there, at least for the four-year degree people.

I think for the people who want to

know what a welder is going to make if they throw down this amount of money or a dental assistant, it might have more value. But I think for -- I think this information is already out there and people are aware of it, to the extent that they are looking at it.

MR. RAMIREZ: So, Johnson, would it make a difference then if it was clear that that information would be for all programs?

MR. TYLER: I guess I prefer the idea of there being a metric with a consequence, rather than simply a disclosure. And I feel like this metric already exists for people who are looking for information. I don't think it adds anything to what the people are going to school, with the exception of the degree-granting programs. I think it might be more interesting for them to consider doing specific careers. They've already decided what they are.

Am I being clear?

MS. BARKLEY-DENNEY: Can I ask a clarifying question?

MR. RAMIREZ: Yes, please.

MS. BARKLEY-DENNEY: I think there's just some confusion around the table as to whether this is being discussed as a disclosures-only regime or as a regime that would possibly, we could create a metric within it that would have to be met. And I was assuming that we were still discussing creating a metric within it that would have to be met.

And I just wanted to make sure that was the feeling around the table or are we discussing disclosures only? Because I think that would go to your question, Johnson, as to how comfortable you felt with this new way of looking at it, right?

MR. TYLER: Yes, if it's part of a metric that will actually do something, you have to pass this, you have to pass that, if you fail both something happens, then it's interesting. If it's simply information without a consequence, I don't think it's adding anything to what's already out there for the people who are looking at this.

MS. BARKLEY-DENNEY: Yes and we're in the same place. I think I just assumed that we were considering it as a metric versus a disclosure; whereas, you're thinking the opposite. So yes, clarification would be good around that.

MR. RAMIREZ: So Whitney, when you were saying that, quite a few heads were bobbing yes to your question.

And Chad, I think you had an idea on that.

MR. MUNTZ: Yes, I was just trying to replace the current debt-to-earnings metric with this simple ratio. We can discuss, if we want, if you also keep the repayment plan in place as well, those that are repaying or not, and we can discuss what kind of ratio would be acceptable and not. I leave that open.

It wasn't intended to just be a disclosure-only when I proposed it. It was just intended to decrease the complexity of having all the different interest rates and stuff like that. So, yes.

MS. BARKLEY-DENNEY: So mark out this gray box and put this here.

MR. MUNTZ: Yes, that's a good idea. So that first starting gray box would be was the ratio met. Whatever that ratio is that we want to look at one-to-one, 1.3-to-one. I don't know. I don't know what the literature would suggest on that.

But yes, it was just in place of a simple ratio.

MR. RAMIREZ: Okay. So did everyone hear Whitney's example of the chart here? Okay.

All right so with that understanding, then, Johnson, does that make a difference for you?

MR. TYLER: Yes, I guess I'm open to hearing more about Chad's idea. Yes.

MR. RAMIREZ: Okay, thank you.

Sandy.

MS. SARGE: I just happened to Google

debt-to-earnings ratios and there's a study done by the Brookings Institute and I don't know where they fall out on anything. It's just called The Relationship Between Student Debt and Earnings and it was dated 9/23/16. So it's fairly recent and they have some good insights in there.

That might be a place to start, Greg.

PARTICIPANT: Is that the Looney piece?

MS. SARGE: I don't know what that means.

PARTICIPANT: So, I think Adam Looney wrote it.

MS. SARGE: Oh.

PARTICIPANT: Sorry. Is it written by Adam Looney? Is he the author?

PARTICIPANT: No, it's Bob Kelchen.

PARTICIPANT: Oh, it was a Bob Kelchen piece.

Because a lot of the treasures -- so a lot of the Brookings stuff, they aren't able to aggregate/disaggregate the debt between loans.

It's the consolidation problem.

So a lot of the Brookings work, they've actually -- and this is an issue -- aggregated the debt to the most -- the last terminal institution that was attended.

So it's pretty -- I want to be careful because I have a lot of respect for Brookings but that data -- and we've crunched that a lot and we've met with the authors. And so I just want to be really careful that we don't overly on data.

And I have a lot of respect. They're dealing with an issue that we'll get to when we get to loan repayment, which is how the heck do you handle a student who has attended multiple institutions and has multiple degree levels. It's just really hard to disaggregate the debt.

MR. RAMIREZ: Okay, let me get Tony and then Daniel.

MR. MIRANDO: Thank you, this is Tony.

As a few people have already said, the devil is in the details. However, I think if we're thinking about students, I do absolutely think it's a lot cleaner and clearer for them to understand, instead of all this other metrics that they may or may not understand. So, I am very interested to see how we pull this together.

And I do think having an amortization example, as you mentioned, Javier, I think is a very important piece here as well.

And so you know we chatted real quick and I think we're good to move forward at least.

MR. RAMIREZ: Okay, great. Thank you.

Daniel.

MR. ELKINS: I'm not sure that the two things are mutually exclusive. Like what I mean by that is I want us all to kind of take into consideration the feedback that the Department is taking from the various sessions, i.e., we could come to a conclusion or consensus about rates or measurements, whether that's debt-to-earning or repayment, but then if we don't come to any conclusions about sanctions or consensus, then they have the ability to put forth what they think and hope to do.

So whether -- obviously, I personally think that it would be in the best interest of all students at all institutions to have some sort of sanctions attached to this. But we should also bear in mind that should there not be an agreement on sanctions, how would we want quote, unquote, disclosures to look? What is the best avenue for students?

I think all of us agree that some sort of sanctions would be helpful to students but, should we not be able to reach that consensus, do we want to leave it to chance that we get nothing?

MR. RAMIREZ: And Daniel, am I to understand that keeping them separate that in the event -- well, carving out the sanctions piece for now, are you saying that you feel comfortable with this type of information out there regardless of what happens with the sanctions?

MR. ELKINS: Yes.

MR. RAMIREZ: Yes, okay. And that's a

yes from back there.

So Greg had put out a question earlier, right, as far as does anyone have any information on supporting documentation to show what would this ratio -- what's a reasonable ratio here?

Jordan.

MR. MATSUDAIRA: What I was trying to convey earlier is that doing things with just debt relative to your earnings is really exactly comparable to doing things with the annual payment. So I think the relative literature is still the Baum piece. I mean I think that's the same thing. It just comes back to the issue of whether debt is affordable and that's the main thing that we have available.

So you know whether we have the original debt principal or like annual payments, to think about affordability, to map that to the literature, I think you would still be going back to thinking about what payments would be relative to your income because that's what speaks to affordability.

So I think the justification of standards would still come from the same place. Like there weren't other ideas kind of back then or in other literature that people were appealing to. So I think we'd be back to the same place.

MR. RAMIREZ: Can you -- does everyone know the report that Jordan is referencing? Can you give a little bit more context to that, of what that is? I saw a few heads shaking no.

MR. MATSUDAIRA: So this is the same Sandy Baum report that we've talked about kind of throughout that Steve referenced earlier. So the gist of it was, I think, just looking at what different studies had to say about the sustainability or the affordability of different debt levels, in a general sense.

MR. RAMIREZ: Ty.

MR. TYLER: One of the concerns I've always had about this particular metric -- system of metric creation is that we're looking at a metric that is uniform across regions, when we have very, very different levels of income across regions for similar jobs in a way that would effectively say that if you're from a low-income area or a lower income area of the United States -- lower cost of living. I'm sorry not lower income -- lower cost of living area of the United States, you are, in a sense, discourage -- or no, institutions in higher cost of living areas of the United States would have some trepidation about potentially bringing you on as a student.

Part of the reason that incomes are lower in certain parts of this country is that it costs less to live there. I'm reminded of that when I think about what it costs to get around the City of New York or even Washington, D.C. when you compare that to what it costs to live in you know major city suburbs in Texas or in Appalachia. And it is not that there is also not poverty, there is that correlation, but there is a lower cost of living.

If what we are doing here, then, is having institutions that have certain fixed costs in their operation that occur by the nature of being a higher ed institution, such as hiring quality faculty, and then can only marginally transfer that cost into tuition, what you're going to have is higher ratios in rural areas in certain lower cost portions of the country. And I'm curious, again, as we have talked about the need for data, is to what extent is there a risk created of harming institutions that are in these lower cost portions of the country from a uniform metric.

You know the reverse isn't going to be a problem, for the most part, because you have higher income in higher income areas and you're going to have a percentage of students who are going from lower cost areas and lower cost institutions to higher cost of living areas, where their income may be higher, even though it may not be a substantial improvement of their lifestyle. But for this metric, they're making the grade.

I think that merits exploring and

that's part of my continued hesitancy about this idea of a uniform metric.

MR. RAMIREZ: All right, so thank you.

Greg, did you have a response on that?

MR. MARTIN: Yes, well I mean we're just taking comments on it now. I do have one question about it.

So we started with the proposal that we have a median debt -- I mean I'm sorry that we just have the debt and the earnings. But if we move to taking that and then amortizing it and coming up with an annual loan repayment, I mean aren't we, in a circular way, getting right back to a D/E metric again?

I mean I just point out that because for instance, the annual earnings rate, the annual loan repayment divided by the higher of the mean or median annual earnings of the students in the applicable cohort. So you're pretty much getting to the same place.

I kind of realized that as Jordan was talking that you know it's pretty much going back to -- when you said that the same -- when I asked what would be the applicable threshold and he said well, the thresholds that exist now, basically, because you're doing the same thing.

So I mean I just throw that out there. I could be wrong. If I'm mistaken, then I'm open for hearing why. But it just seems that if we go down that path, I just -- the rhetorical question would be why move away from D/E, not that I'm saying we shouldn't or should. I'm just pointing that out there.

MR. RAMIREZ: Sandy.

MS. SARGE: So just to make sure I understand. So basically, Jordan, if you were saying that if the threshold was eight percent that it would basically be 0.8, in essence. So it would be 0.8 of the debt to one year of earnings. Is that essentially what you're saying as it kind of comes back to that?

MR. MATSUDAIRA: Yes, the ratio depends on the details of what you would assume about the amortization period and the interest rate.

MS. SARGE: Okay, essentially.

MR. MATSUDAIRA: But that's about right.

MS. SARGE: So assuming that what underlies that is eight percent and ten-year amortization, roughly, if we went to one-to-one, which would be very easy for students to understand, that would probably be eight percent to about 12 years, roughly, I mean just off the top of your head. Or maybe it's a little higher interest rate on a ten-year am.

So it's somewhere -- all of these numbers that we've been trying to sort of flesh out between 8 percent and 12 percent, and 10 years and 15 years, if we ended up somewhere at a one-to-one, which would be easy for a student to understand, potentially that would get us somewhere where we've already been without the specifics and potentially gives them clarity.

So I haven't done the math and I'm putting Jordan on the spot by asking him to do that kind of complicated math in his head, which I'm sure he can do. But do you know what I'm saying?

If we get somewhere around there, would we be able to support it for you guys, in the sense that mathematically it comes back to the eight percent, essentially? And I may hear how that's not perfect, and I agree, but it's a starting point.

MR. RAMIREZ: Let me see if I could understand some of that because -- so I'm seeing a few different pieces there. So if you were able to agree on the ratio, that would clear some of the deck there.

But then as far as a loan payment amount that students would have an idea of what that would be, that component would be informational, right?

MS. SARGE: Or not even -- I mean --

MR. RAMIREZ: That wouldn't be part of the triggering mechanism for sanctions. It would just be more informational.

MS. SARGE: Yes, and we have a loan calculator out there, right, on everything. So I would also direct students to the loan calculator that we already have existing in our disclosures.

So potentially, we could -- if we say you know the Department believes that the measurement of one-to-one is a good estimate of whatever, however the language is going to be, and you either fall below that or you're above that, you're better or worse. In other words, your debt is lower than one year of earnings. That's a good thing. And if your debt is higher than one year of earnings, then that's not a good thing -- however we want to say it.

Then, I think that would be relatively easy for a student to understand and still put the ability to go calculate an annual payment or even a monthly payment in the calculator.

To Kelly's point, where I think she's absolutely right where we measure the timing of the earnings. If we were to stick with what the Department's come up with now, which is I think five and six years off of their graduation rate, that would also be a potentially good place to start. It would give new graduates some time to get their feet wet in their career and hopefully get us to a place where we -- I agree, we still should have some sort of next step. Like if you're not passing this, you need to show why you aren't. What's going on?

So, that's sort of where I fall. I hope that makes sense.

MR. RAMIREZ: Yes, so I think the way I'm understanding it then, that to your question, Greg, it does clean up a little bit because then you don't have to worry about so much of the components of the repayment piece. The information would be out there but it wouldn't necessarily be one of the triggers.

MR. MARTIN: Okay, right. So in other words, we wouldn't be -- you wouldn't be basing anything off the -- for purposes of evaluating, you just look at the one-to-one ratio, right? That's what I get and not -- the idea of amortizing the loan, looking at annual loan repayment would be informational only for students, correct, for the loan?

MR. MATSUDAIRA: So in other words, you'd have the one -- you'd be looking at the one-to-one ration and what that shows. So if you were making any -- if we were contextualizing anything, it would be at that level and what's below is simply informational, right? Okay.

MR. RAMIREZ: Pamela.

MS. FOWLER: I think publishing the two is a good idea but I'm thinking back to the young woman who read the letter from the young lady who said she enrolled in a program because it was going to pay her way more than anyone in this room would ever think that it would pay her and it didn't. And the State of New York eventually shut the school down.

So I think by the Government saying this is what you're going to earn and giving you that figure, some of that might go away. But I'm concerned about how the information would be presented at the institutional level. Some of us will do a much better job of presenting this information than others.

And I think -- let me go back to the devil is in the details -- that's one of the things we really need to keep an eye on, how this information is presented. Just don't put a number here and a number there and then spin both of those numbers to your advantage is my concern.

MR. RAMIREZ: Jennifer.

MS. BLUM: Well, Pamela's comments just made me just make sure again, level, set myself. I thought we were talking about something that actually the Department would be publishing. It's the data but I thought it was -- so I don't think it would be us because I agree with you, Pamela. But I don't think it would be us. I think it would be the Department who would be doing the legwork.

But I will say, just as my point of view on all of this, is that we're sort of back -- I keep thinking about what Johnson said about what our purpose is here, which I agree with. And I just think that it doesn't matter -- and I'm not trying to be negative but it doesn't matter what the metric -- like okay, I do think that that's a streamlined approach or whatever but I don't know what it means until I see all of the data, in terms of relative to what.

And so I just feel like, you know I keep coming back to it, but I just feel like it's so important for the Department to get the data, to create, perhaps, a regulation that allows them to get the data, whether it's that we're doing a debt-to-earnings and a loan repayment rate or whether that we're using Chad's idea, which I do like, either way to get to like the punchline, if you will, of what the value is of the data, we have to see the data.

So I think it's a really important conversation. I support the simplicity of what Chad's proposing but I do want to add that I still think that in terms of what the value is of the exercise, we don't know yet and won't know until the Department has a year or two of data so they can analyze it, digest it, understand where the bad actors fit in relative to the good actors in order to create because I do think I actually support the concept of an above this or below that concept, ultimately. I just don't think, at this table, we have the expertise or the information to be able to do that.

MR. RAMIREZ: So if I understand what you're saying is that even if we did have another session, it would be irrelevant as far as exploring this.

MS. BLUM: Well actually I spoke to this before lunch where I said that actually I would have supported it but it's moot. So I really don't want to talk about the fourth session if it's not happening.

But I would have supported a fourth session in order to create that frame -- because we can't do it in the next two days, I don't think, the framework that would have given the Department the ability to get the data, to set up the discretion that would have allowed them to then, whether it's a mean median average, to then set themselves a couple of years from now. You know that they were going to do a notification of this meets the measure, this doesn't meet the measure.

So I do feel like there would have been -- my own view and the Department made a decision so it's moot, is that there would have been value for a fourth session but for a different reason than collecting the data.

MR. RAMIREZ: Well I guess the question that I'm really trying to get at here is if I understand you correctly, we don't have the time in order to fully explore, even though it may be a simplified method, for us to reach agreement by Thursday.

MS. BLUM: I mean I don't want to prejudge because I've actually always had a positive attitude about the whole -- and I am a big believer in actually the value of sitting around as we have for the last couple of months because I do think, and I hope the Department agrees, that we've provided a lot of important information for them to do their work, regardless of whether consensus is reached.

So I don't want to sound -- I don't want anybody to have the impression that this has been a negative exercise or that we're not going to reach consensus and then oh, well.

But that was my point on the fourth session is that it wasn't necessarily that I thought we would have data and then go ah-ha. It was that we could set a framework that would allow the Department to collect data. And we could have reached a decision, perhaps, over the course of a month, over whether it's a streamlined method like Chad proposes or whether it's a direct debt-to-earnings and repayment rate one. But either way I think we are, frankly, running out of time. We haven't even discussed the loan repayment rate yet.

So I mean we are beginning to run out of time to have the conversations of what the framework would look like.

MR. RAMIREZ: Okay.

Chris Gannon.

MR. GANNON: I appreciate everybody entertaining the idea of having a fourth session. I really do appreciate that.

I think the burden of not just like data collection but the presentation of the data has been put on negotiators during this entire session.

And I just have a question for the Department. Why are we even renegotiating a rule if we don't have the data to make an informed decision?

MR. MARTIN: Well, going back to why we're renegotiating the rule, I'm the first one to say that any decision should be informed by as much data as you can possibly collect for it.

Part of the reason why we're back here is a fundamental difference in policy, in outlook as to what this should be between a previous administration and the one you have now. And I think that's not going beyond what I should be saying. That's simply fact.

You know I mean this represents, this effort to come back to the table and renegotiate this rule, represents where the leadership of the Department is. And that's just a reality.

I agree that with all the details we're looking at it would be better to have more data. I would be the first to concede that but I can't make data appear that we don't have access to or that we can't generate, given our current resources. We're not hiding anything from you. It's not like we have all these data runs that we go back and look at every day without sharing with you. We don't have it available.

So, we're tasked with making decisions that we have to make with what we've got. It may not be 100 percent ideal but it is where we are. So if --

To answer your question, because your question seemed to be well, why, starting with the premise with why we are back here. I think I have explained that previously, in the previous two sessions, and I am reiterating it again. I think it's a pretty straightforward answer. You may or may not agree with it but --

MR. RAMIREZ: Okay, thank you.

Daniel.

MR. ELKINS: No.

MR. RAMIREZ: All right. So then, I'm going to need some help then as far as direction goes because if it looks like the simplified ratio route isn't something that this group can work towards in the next couple days, do we continue down looking at the calculating initiating loan payment rates on 668.406, where Greg started?

Okay. So, what modifications do we need to make here in order to make this work, then, looking at page 8 of Issue Paper 3?

MS. SARGE: May I ask a question?

MR. MARTIN: Yes, you're welcome to make comments. I'm not going to read over the whole repayment rate. I will not subject you to that.

MR. RAMIREZ: Yes, go ahead, Sandy.

MS. SARGE: This is Sandy. I just have a question for the group.

For those of you more experienced in the past history of loan repayment rate, maybe you could -- somebody could summarize for us what the issues in the past have been, just so that we already know sort of -- Marc, come on up and tell us where there's been issues.

MR. JEROME: It's Marc. I'll keep it short. First thing I believe the Department and many policy people moved away from default to loan repayment because there was a concern that institutions were able to do certain things that artificially lowered the default rate.

So that was the first thing. I'm not sure I agree with that reasoning but that was definitely a reality.

The second thing was, in the past few years, there was great concern about students not paying down their principal and being overwhelmed by their student debt. And in the GE-1, the Department published a rule only applying to GE institutions that essentially had a 35 percent repayment rate. In borrower defense, with a slightly different formula, the Department published a rule and this one only applying to for-profit institutions that had a 50 percent rate.

In all of those rules, from my perspective, the repayment rates had two issues or problems, which made it very difficult to come up with an absolute number. The first problem is that they seem, in my opinion, to be directly related to student demographics. So you are essentially punishing schools that enroll lower income students and I've looked at that a number of times.

The second issue is that, which is important for me, that it's a metric the institution cannot affect at all, where I actually believe with default rates, even though it's difficult, if the Department gave resources to institutions, the Department and the Federal Government could lower the national default rate by half.

So, that's enough from me.

MR. RAMIREZ: Jennifer.

MS. BLUM: So I have a number of questions and, Sandy, this will also get to yours.

Because there are so many different loan repayment rates now, and I know the Department is relying on the Scorecard one it sounds like, but there have been now historically, well, I mean three at the Department, one in the House bill, and the Senate has -- you know it's like a myriad of different formulas.

And we've looked at a lot of them and so I have a number of questions and I just want to get clarification because -- actually even under the Scorecard. So bear with me, if that's okay. And you can cut me off, Javier, whenever you want but I'm sure everybody has the same questions I do.

So as Marc said -- let me just preface by saying as Marc said, one thing that is problematic about loan repayment rates, if they're not structured correctly, is that almost all of them, except for maybe the House bill, speak to create a new behavior in order to create a rate that doesn't reflect borrower behavior, servicer behavior, or Department behavior and yet the institution is stuck with the rate.

And so while I might disagree a little bit that the institutions have like counseling. You know there is a role for the institution, certainly, on how the student then repays because there is certainly exit counseling, which we believe needs to be really robust. And so I'm not saying the institutions don't have a role but there are a lot of other actors in the repayment piece that aren't reflected in the Scorecard's rate adequately, in my view.

And so let me ask the first question. IBR. So the Department -- I mean the institutions didn't create income-based repayment. Congress and the Department created income-based repayment. And the students and the servicers are definitely using income-based repayment. We can have a long policy conversation, which I discourage us from having, about whether income-based repayment is a good technique or a bad technique but it's just sheer fact that a lot of students are now opting into income-based repayment.

And if they are considered, and I love the term here in the numerator of the Department's formula, it says active repayment. Most servicers will determine that a borrower is considered in active repayment in an income-based repayment plan if they are compliant with whatever their requirements under the income-based repayment plan is. But the Department, I don't think, is favorably treating -- but I want to get confirmation the Department is not favorably treating an IBR student here -- borrower here, unless they are paying principal.

Okay, so that's point number one, just in terms of inconsistency among -- so active repayment, by the way, you've got to change that road because that's misleading. I mean I don't know what the word is but it's not active repayment because there are lots of people in active repayment, which gets me to the next question.

I have two questions relating to interest. The first one is capitalization. So when you talk about -- you don't use, which is interesting because back in GE-1 you had a term original outstanding principal balance. Here, you've deleted the word principal balance and I think your refer to something -- I think you refer to outstanding originating balance or something along those lines, original outstanding balance.

Original outstanding balance, are you including just principal or are you capitalizing? Are you creating a point in time where the interest, the original interest has been capitalized into the principal?

It's a really relevant question because if you, even at the bachelor level, and I know that graduates are at the table, and even at the bachelor level and we'll go back to the associate's and bachelor story where is a student has an associate and then they become a bachelor, they will have had, and especially with unsub loans, which students do have, in addition.

But there is a question about whether the interest capitalizes, when it capitalizes to become part of the principal payment. And so how you treat that at the time that -- your starting point is relevant to whether a student will be considered in active repayment or not. So that's a second question.

A third question is, and this isn't going to be as true at the undergrad level but even at the undergrad level --

MR. RAMIREZ: Jennifer, let me pause you just so that we can try to get some of the responses.

MS. BLUM: Okay.

MR. MARTIN: Well, continue with the third question for now.

MS. BLUM: Yes, because it's tied to the first -- tied to this one.

MR. RAMIREZ: Okay, go ahead.

MS. BLUM: The next question is for a bachelor student who graduates, if they have, over time, and I think we're in fifth or sixth year repayment here, anyway, if they are paying, and again, this goes back to the active repayment, servicers will often say that if you're paying interest down -- and again, I'm not saying what the rate should be. I'm just asking questions to understand what the rate should be.

If they're paying down interest every year but they are not hitting principal, that's not -- that's a negative treatment. That's not -- even though it is active repayment.

MR. MARTIN: That is. You have to pay down $1 of principal.

MS. BLUM: So that's it for now.

MR. RAMIREZ: Okay, Tim.

PARTICIPANT: I had a follow-up question.

MR. RAMIREZ: Oh, I'm sorry. Go ahead, Rozmyn.

MS. MILLER: Do we have any idea -- because I hear you Jennifer and I'm wondering if there's an idea of how many borrowers are in an income-based repayment versus a forbearance situation. Because certainly we wouldn't want to get into a place where we're counting people in forbearance as being in repayment.

I mean I take your point on IBR and I was just wondering if we had any contrast between those.

MS. BLUM: It's a really good question. And related to that, by the way, if you're paying zero on income-based repayment, I think that's a different conversation than if you're paying something on income-based repayment, by the way.

MR. RAMIREZ: Okay, Tim.

MR. POWERS: This is Tim, for the record. So yes, most of my questions were the same ones that Jennifer has.

I do want some clarification, though, because I'm just trying to figure it out. So I'll try to put this in just normal terms, as my brain tries to understand them.

So on the Scorecard, right now you essentially get a credit if a student -- a credit as an institution if one of your students is paying at least $1 off of their principal within three years.

My understanding of principal in this case, meaning the capitalized amount that starts at the beginning of the repayment cycle, so six months after leaving school.

That's my understanding of principal in that case, not the principal that the student took out. Let's say you took out $20,000 but it's an unsubsidized amount so it's $23,000 by the time you graduate or whatever. It would be the principal, in that case, is the $23,000, right?

MR. MARTIN: It's the -- I was just checking with my expert over there, Brian. It's the amount -- so you're correct. It's the balance at the time you enter repayment. So that's a correct assertion. So it would include that interest that would capitalize at that time when you went into repayment.

MR. POWERS: Okay. So then my sort of clarification, I'm just hoping I can get some guidance on this is that I don't see any three-year, or five-year, or any sort of time stamp on when an institution would or would not get credit, if you will, on when a student starts to pay back.

So it's just a little bit confusing to me on when a student would be sort of counted to be in active repayment on their loan if, again, they're in an IBR program and they're in negative amortization to start with, or whatever it might be.

So I didn't see anything in there.

Maybe I missed it. But I'm wondering if -- and this is, I guess, really the question. Is this intended to be the same metric as the one on Scorecard or are there minor differences? I guess that's really the question.

MR. MARTIN: You know hold on a minute. Can we take a purpose break for about two minutes?

MR. RAMIREZ: Yes, why don't we take a ten-minute break?

(Whereupon, a short recess was taken.)

MR. RAMIREZ: All right, Greg, you have a response for us?

MR. MARTIN: Yes, so I've brought Brian Fu (phonetic), one of my colleagues who works with our data and also an expert on the Scorecard and repayment rate.

So he's up here to answer any questions about the Scorecard or rather the repayment rate that we've used here. I would ask you to only direct technical questions to Brian and he will entertain those questions.

And hopefully, we will get the answers that you need.

MR. RAMIREZ: Okay and if we could, Tim, would you mind restating the question that you had regarding is it supposed to be the Scorecard or is it a slight variation; if so, what is that?

MR. POWERS: Yes, I mean that's really the gist of it, which is the way I'm reading the proposed language is just slightly different from how I read the language in the Scorecard about how you define what would be a sort of successful active repayment.

And I'm just really wondering if that is just sort of a language oversight and whether it's intended to be the same metric or there are some differences in those.

So that's really sort of the thrust of it, thanks.

MR. FU: For the record, this is Brian. Thanks for the question.

The intention is for this to sort of

mirror the College Scorecard methodology only at the program level. I think there's one -- there's a couple words that were just -- I think it says fifth or sixth years after. If you kind of take out or sixth you'll get very close to what the College Scorecard has.

MR. RAMIREZ: Go ahead. State it for the record.

MS. BLUM: Sorry. This is Jennifer.

So but for the purposes of this Scorecard -- I mean not Scorecard, this metric, sorry, are we looking at fifth and sixth? Because that is a fundamental question. What years of repayment are we looking at?

MR. FU: So this is Brian for the record. For this, we are looking to do the same thing as Scorecard. So it's always the fifth but it's a weighted average of two consecutive cohorts.

So two fifth-year cohorts combined together gives you the repayment rate for a double cohort.

MS. BLUM: Can I just suggest, could we say that? Just because that's way more clear, actually.

MR. FU: Yes.

(Laughter.)

MR. RAMIREZ: So I guess the question would be well, we can say that. Who is going to capture that and change the language?

But then does that work for everybody? Is that something that the group is agreeable to?

MS. BLUM: Can I ask another -- sorry, this one just occurred to me. Isn't the Scorecard the one that's published three-year? I mean I know you do three, five, seven but isn't the one that's published on the Scorecard a three-year rate?

MR. FU: This is Brian. We have a consumer tool in which we feature the three-year repayment rate to consumers.

MS. BLUM: Most people, I mean just -- again, this is Jennifer.

I would say that most consumers think of that as the Scorecard. I mean I'm just saying what you publish out there is what most consumers -- it's just -- I mean, frankly experts around this room who know that there is backroom data that includes the fifth and seventh years, as well as the third year.

So I do want to say because that is a noticeable difference. And I support it, by the way. I'm happy that fifth year is -- you know I think that that's a more real repayment rate. But just for the record, I do think that's a distinction between the institutional Scorecard, at least what's published and what's being discussed here.

MR. RAMIREZ: Okay, Marc.

MR. JEROME: So Brian, first thanks for being here because we had a lot of Scorecard questions. And we all just learned -- I was unaware that certificate institutions are not on the Scorecard.

MR. FU: This is Brian. So, again,

this is to Jennifer's point, sort of what's in the Scorecard data and what's in the Scorecard consumer tool are two different things.

So in the College Scorecard data sort that we have an API and we have a backend sort of database, which is available to the public. We have one, three, five, and seven repayment rates. The consumers can only see three-year repayment rates.

Similarly, we only show degree-granting institutions on the consumer side. However, repayment rates and other data are available for essentially all of the Title IV institutions.

MR. JEROME: So one follow-up question, which I'm not sure if it was before your time of the Scorecard.

When the Department proposed and implemented the 50 percent repayment rate and borrow defense, I did an analysis which surprised me that showed two things.

An unevenness in the data that we all

would expect at three years, five years, and seven years. Institutions' repayment rates go up. But I noticed that many institutions had significant declines in the fifth year compared to the third year and it made me question, number one the integrity of the data, number two was there something macro going on either with IBR coming in at that time or Tim and I just had a discussion about traditional students leaving their parents' help. But it was very odd for me to see the repayment rates coming down in the fifth year compared to the third year.

MR. FU: For the record, this is Brian. And sorry, this is before the 2016 republish or after the 2016 republish?

MR. JEROME: It was definitely before. My comments were before. I don't know if I reran it after. But my understanding with the republish, which were the rates were then inflated by 20 percent and came down, my understanding they all came down about that same 20 percent. So, it should be -- the data, I haven't checked it, but it should be the same and the Department should be able to confirm what I'm asking.

MR. FU: Sure. I don't have those data on the top of my head. But what I do recall from just looking at aggregate data, sort of the weighted average repayment rate across all institutions is that it has been slowly declining since 2009 and a lot of that may have to do with -- we could hypothesize -- IBR, the recession.

So in looking at just, for example, the three-year repayment rate, it has gone down slightly. So to the extent that you could compare a five-year to a three-year of the same cohort, I don't know what those would look like. I can confirm what you're talking about if that's helpful but --

MR. JEROME: Thank you so much.

MR. FU: -- for further context, that's the general trend.

MR. RAMIREZ: Okay, any other questions for Brian?

Because the next thing I'm going to ask you all, then, is that with that information what tweaks do we need to make to 668.406 in order to make it acceptable.

Jennifer.

MS. BLUM: Sorry. Sorry but this is -- we've spent so much time on this that I feel like it's -- so I have a question about the treatment of deferment. Actually I have two questions but I have one about the treatment of deferment.

I wasn't sure --

MR. RAMIREZ: Okay, let me pause you just for a second. So are we done with Brian then? Could we get him out of the hot seat.

MS. BLUM: No. I think Brian's going to have to answer it, is my guess.

MR. RAMIREZ: Okay, okay, okay.

MS. BLUM: No offense, Greg.

MR. MARTIN: None taken.

MS. BLUM: On page ten you have, and I think it's in the section -- yes, it's on the section on exclusions. And it just might be good if people know where I'm referencing. It's little -- its Romanette iii.

It says the borrower was enrolled in any other eligible institution for at least 60 days at the institution or at another institution during the time of measurement.

So I want to ask what during the time of measurement means. I think I know what you're going to say.

So let me add a second -- well, do you want to answer that and then I'll ask the second question that was related to it still on deferment?

Go ahead and answer the question.

MR. FU: This is Brian, for the record.

During the time of measurement is the end of the fiscal year of the fifth fiscal year after repayment. So if you were in a deferment status at that time, that's also where we measure your loans and default status.

MS. BLUM: Okay, so that's literally a moment in time.

MR. FU: This is Brian. Yes, it's literally a moment in time.

MS. BLUM: Which takes me to my next question, which is so -- and we've really -- this is an issue that I think everybody because this include bachelor degrees and so if you go on to graduates, let me play out a scenario and you can answer the question.

If a borrower graduates from their bachelor's program and starts repaying when they're supposed to start repaying. And let's say they start and they're in active repayment. When I say active repayment I actually do mean they are actually hitting principal in the first couple of years after they graduate from their bachelor's program. And then they decide to go back and get their master's. How is that student -- so that student's being excluded, even though they did hit active repayment from the institution from which they attended the bachelor program. They did hit repayment in an active way but because they decided to go back to master's, they're being excluded.

It's not necessarily a Scorecard question. That's true, although I'd be interested to know how they are treating this for the purpose of the Scorecard but it is a go-forward question on how are you going to treatment deferment.

Because I understand the argument for exclusion and certainly that's better than a negative treatment but some of those students who are in deferment will have been in active repayment, which is a positive thing. So I just want to understand.

And the snapshot in time, and we see it even with cohort default rates, it is -- it's an issue. And so I just want to understand how it's being treated -- how it would be treated.

MR. FU: This is Brian. From a technical Scorecard methodology perspective, it's just a moment in time. And if you're in school or in the military at the time, you're out. That's how it works now.

MR. RAMIREZ: All right, Jeff. I have Jeff, then Johnson.

MR. ARTHUR: Yes, this is Jeff for the record. Just a quick question for Brian, while he's here.

We're going to be talking about an appropriate repayment rate threshold before long and I wondered if it would be possible, something I think it would be pretty straightforward, to do a regression analysis between the repayment rate, the five-year repayment rate in the database against the socioeconomic diversity score, which is the Pell percentage. I think that's what that is, is the Pell percentage. I think when we get to that point, it's going to be helpful to understand the impact of the socioeconomic diversity on the repayment rate. And that may help us at appropriate repayment rates that may need to be adjusted by that score.

MR. FU: I think we can do it. It

needs to be submitted as a data request. I don't know how much time that would take. I can find out. I'm not going to obligate our people but yes, send that to Scott as a data request and we'll see if we can.

MR. RAMIREZ: Okay, Johnson.

MR. TYLER: Yes, this is just more of a comment. If a person was not repaying -- if they were in repayment but weren't paying down the principal and then they went to school the day before the snapshot occurred, they'd be in deferment. They wouldn't get counted as well, correct?

MR. FU: Yes, this is Brian. It's just -- exclusion is based on the day.

MR. TYLER: Okay, right. Okay, thank you.

MR. RAMIREZ: Did everyone understand that response? Could you go and say the response? It sounded like Johnson was really clear but I think there may be some folks in the room that weren't quite clear on that.

MR. FU: This is Brian. So what's written here is different from Scorecard and the difference is the 60 days. Can I read that, actually?

The borrowers -- so this is iii, triple i, the borrowers enrolled in any eligible program for at least 60 days at the institution or at another institution during the time of measurement. So there's some ambiguity there that we'd have to resolve.

But from a -- I guess if we're asking for how Scorecard is currently working, it's just a snapshot of one moment of time is whether you go into exclusion or not. This is a little bit different.

MR. RAMIREZ: Jordan.

MR. MATSUDAIRA: Sorry, there's a lot of feedback.

One of the things I wanted to say in response to Jeff's question in a follow-up with a question to Brian is you know just looking at the difference in outcomes across institutions with different shares of Pell students can be a little bit misleading because you know if it turns out to be the case that low-income students just happen to have kind of lower quality institutions that are located nearby them, then that can create the appearance that their poor outcomes at those institutions are actually due to their socioeconomic status, rather than difference in quality in the institutions that students are attending.

So I just wanted to ask Brian if you could refresh my memory about whether a repayment rate is something that is reported differentially in the Scorecard by Pell recipient status. And if so, I'll follow-up with a data request that, in addition to looking at the aggregate repayment rate difference across those institutions that we also be sure that we compare differences in the repayment rates of non-Pell students across those institutions, which would not kind of be -- which would kind of provide evidence about whether it's really due to demographics or quality of institutions.

MR. FU: It would be both sides.

MR. MATSUDAIRA: Exactly.

MR. FU: This is Brian, for the record. Yes, there are disaggregates that include Pell and non-Pell completers, non-completers. It includes by gender and some other demographic fields. So we could look at those as well. So we welcome again, email Scott.

MR. MATSUDAIRA: So I'm very interested to hear that and I basically echo Jordan's request. My only comment is, since I was a little involved with the error in the original repayment rate, I recall when I tried to download by Pell for completion repayment I did not have confidence in the data and I don't remember why. And I don't know -- has anyone else looked at it?

So I just would ask the Department to really look at that.

MR. FU: This is Brian. My suspicion is that we do apply some privacy standards. So to the extent that either your Pell or your non-Pell n size is not -- you might be getting a very small subset. So we'll go back and look, see if we can do something more in-depth.

MR. MATSUDAIRA: I'm now remembering. Just to be more specific, I remember trying to look at completion rates at more competitive institutions, where my assumption was that Pell students would graduate at a little bit lower rate. I was looking where my daughters were applying. They were applying to a couple of very competitive institutions. And I remember seeing the data being identical for Pell and not Pell and saying it can't be right.

So I'm just being constructive. I guess you'll look at it again.

MR. FU: Yes, this is Brian for the record.

Again, please send them to Scott just for the process point.

MR. RAMIREZ: Okay, Jennifer.

MS. BLUM: Sorry, I just remembered

another question. It goes back to -- it's sort of the reverse of the certificate.

When you said that -- so I just want to make sure I understand it. So the Scorecard, the published Scorecard is just at the degree level. Does it include certificate-level debt on a loan repayment rate? I mean is it --

MR. FU: This is Brian. So the College Scorecard repayment rate reflects anybody at the institution that went into repayment in a certain fiscal year, regardless of what type of program they were enrolled in, including different academic levels.

MS. BLUM: So let me just take it to a different place. So a bachelor's -- so for the bachelor-level loan repayment rate, does that include, because it's far enough out, especially at five and seven, does it include debt that might have been acquired in a master's program in futuristic -- obviously, they have to have -- I mean it has to be known debt at that point. But does it include -- so if you're publishing for a four-year degree institution a loan repayment rate, will you have factored in master's level debt -- because your disaggregating somehow.

MR. FU: Yes, this is Brian for the record. There are no master's level loans or above a baccalaureate loan --

MS. BLUM: Okay.

MR. FU: -- loans that are counted in the repayment rate. That's correct.

MS. BLUM: And then one final question, which I can't believe I didn't ask first.

How in the Scorecard, and I know you have talked -- I know the Department I think has talked about this before. But how in the Scorecard do you handle consolidation, in terms of breaking out between institutions?

MR. FU: This is Brian, for the record.

For institutions -- if a student went into repayment in two different institutions and then consolidated those loans, we will measure the percentage of that consolidated loan that can be attributed to each institution and allocate those loans accordingly.

And then to the extent that their balance on the consolidated loan would reflect the percentage of the loan that we attribute to the individual institution, that's how we make our calculation.

MS. BLUM: I'm just trying to think about how that works with capitalized interest. I'm so not an expert in this, so I'm grappling here myself.

MR. FU: This is Brian, for the record.

So any capitalized interest that was going into the consolidation would be attributed to the capitalized interest of that associated loan.

MS. BLUM: Thank you.

MR. RAMIREZ: Any other questions for Brian?

(No audible response.)

MR. RAMIREZ: All right, thank you, Brian.

That was a lot of information. What do you all want to do with that information?

(Laughter.)

MR. RAMIREZ: I mean is it information that is helpful for us to tweak something here and make this work or is that information that you need to digest?

I think it's being digested. So all right, then we will hold off on this then. But I think that that was the last piece under debt calculations. Is that accurate?

MR. MARTIN: Yes, that was the last for Issue Paper 3.

MR. RAMIREZ: All right. So let's do this, then. Let's take another ten-minute break and then we'll come back and I believe we're going to be picking up with appeals.

MR. MARTIN: Yes, Issue Paper 5, correct. Yes, correct.

MR. RAMIREZ: All right, so let's take

a ten-minute break.

MR. MARTIN: It should not take a long period of time to go over it.

(Whereupon, a short recess was taken.)

MR. RAMIREZ: Okay. So, yesterday Jeff had thrown out an idea as far as the earnings metric, that the earnings metric would be -- a way to look at that would be to take the top 75 percent and then use that medium or mean number based on Social Security data. And Jeff wanted to share with us that that wasn't just a "SWAG" number, right, a "scientific wild ass guess" number, but there was actually some rationale behind that.

So, Jeff would you want to share with us where that idea came from?

MR. ARTHUR: Sure. One of the big factors is if you look at the Department of Labor data on college graduates that work part time -- and they've got figures for a variety of reasons -- but by choice, the data on college graduates, 21.7 choose to work part time. That's a huge percentage.

MR. RAMIREZ: I'm sorry. What was that percentage?

MR. ARTHUR: 21.7 percent part time. And that certainly skews wages.

Then if you look at with regard to gender pay discrimination, the Institute for Women's Policy Research they show that there's a 20 percent wage difference for women with the same education and job description.

The Economic Policy Institute has data that measures pay discrepancy in minority college graduates, differences as much as 20 percent.

When you look at unreported wages, there's a research paper titled "America's Undergraduate Economy" that estimates 18 to 19 percent of all wages are not reported to the IRS in the United States.

Consider maternity leave. The Census Bureau indicates the median age for the first birth is now 25 years old. I suspect that would be pretty close to the mode for our data set with students in the cohorts. And by age 30 about 50 percent of all women have had a child. So, given a 2-year cohort, there's a meaningful percentage that will certainly have an interruption in full-time employment during at least one of the two years their income is measured.

So, programs that tend to be dominated by female graduates will have a debt to earnings that will certainly be skewed for this reason alone.

There's other reasons. I don't have any data right now on self-employment, persons who leave the country, Peace Corps missions, all that, it all adds up to some small amounts.

Also, recall a recent survey that showed that 84 percent of students' reason for going to college was to secure gainful employment or to secure employment. So certainly there's good numbers. We heard that a number of people go to college just for the sake of learning, so there is a percentage tied to that.

And then, also, I think when you

consider a very low 10 as the end score, that if you do look at this, that does effectively raise the end to 13, even though it still would be 10 for the pool tested. But going to, but if you renew the 25 percent lowest for all the reasons I've mentioned, you effectively move the end to about 12 or 13.

And certainly all these things layer. So I'm sure that 25 percent would be a very conservative estimate as a percentage to, a minimal amount that would help moderate the income that we look at when measuring the debt to earnings.

MR. RAMIREZ: Okay, thank you.

Johnson, you had a question on that?

MR. TYLER: Well, I just have a question. Do we want to be saying this is what you're going to earn if you're a white male in the United States versus all these other groups? I think that's also misleading to what we're here for.

MR. ARTHUR: I think what we're trying

to do is trying to normalize the data where, I mean, you have programs, you have institutions, you have, you know, that serve a diversity, a variable diversity in the population served. And this is a way to level that a little bit.

MR. TYLER: But just to respond. The debt applies regardless of your situation, regardless of whether you're a woman, or a man, or percent color.

MR. ARTHUR: Right. But I think what we're pointing out is that people do make choices, they do -- are subject to different, you know, discrimination and different variables, choices that, you know, why should a program that has 80 percent of graduates that are female you have a 2-year window, or a window there where their earnings are lower because of not working full-time during that period that, even though they resume, they go back to earning their full-time wage and progress as normal, but it just happens to be that window, the time we're measuring wages.

It kind of helps account for all that. And there are probably some other people could help me explain that a little better than I am. But these are all significant factors that impact wages and in a, you know, in a way we measure this in somewhat of a unfair manner.

MR. RAMIREZ: And we have Thelma, Daniel, and Sandy.

But just, again, to refocus. The idea was that, so, we don't have to figure out how much do we adjust earnings based on people that may not report income or that are working part time or are choosing not to work if they went to school for other reasons other than for gainful employment.

And I think what Jeff was showing us was that you have all of these slices. And when you combine them all together, the 25 percent is not a number that's an unreasonable number to look at as a way to clean all that up and just say we'll use these 75 percent to calculate the number. Is that accurate? Okay.

So, Thelma, Daniel, than Sandy. Thelma.

MS. ROSS: So Thelma.

That farther helps me with the question that I had about the 75 percent on yesterday for my population of students' MSIs. And so I thank you for that.

I can, I can wrap my brain around that for my institutions. And I would just say that although debt is debt, earnings aren't. There are some variables that have to be considered. And I think Jeff raises a good point in delineating where those may be.

And I think we have to be realistic when we try to address this issue and be sure that we are not unintentionally, unintentionally harming students that are trying to attend institutions that have opened their doors for them for years, for years, and have done well by the majority of them, but we still do have to recognize that there are some limitations when it comes to the income earnings of those students.

MR. RAMIREZ: Thank you. Daniel, Sandy, then Laura. Daniel.

MR. ELKINS: Yield my time.

MR. RAMIREZ: Sandy.

MS. SARGE: I have a follow-up question to Thelma first.

So, Thelma, are you saying, which way are you following, are you saying Johnson's bringing up a good point like we don't want someone for all these data, or are you saying that Jeff helps us neutralize some of the things that are still very, very real.

MS. ROSS: This is Thelma again. For me, I'd say that he brought clarity to a question that I had.

MS. SARGE: Okay.

MS. ROSS: Yeah.

MR. RAMIREZ: Laura. I'm sorry, Sandy. Yes.

MS. SARGE: Sorry. I thought, I just want to go on the record with Sandy that I thought Jeff's idea was great from a mathematical perspective. I think it really helps us. It's not perfect, but nothing in this is going to be.

So, what we want to try to do is see if we can find places where we make one adjustment and we try to solve for a multitude of issues. And I think this was a great idea, Jeff, so I would be all for doing this. So thank you.

And I would, just so that we're clear, I think that this would be the side of the ratio. You take the total debt that a student does and the median of the 75 percent would be the earnings of that cohort. So, just so that we're not still looking at it as a division but as a side-by-side comparison I would use that number in that as well, just to be clear.

MR. RAMIREZ: Laura then Chris.

MS. METUNE: I want to say that I appreciate what I think is a true effort to try and find an area of compromises that addresses what I do think is a problem. In the sense that some students do make career choices that affect their income, and there's certainly discrimination in wages in marketplaces, I also think students want to know that, and institutions should know that.

I also don't understand the scope of how much that kind of a problem should be factored into a rule.

And that really leads to my point, which is in the absence of any real data around any of these things it makes it impossible for me to make an informed decision or recommendation. And so, in the absence of that I don't think I could support this because it feels a little bit like you're just claiming the top income earners in your metric. And I don't think we should do that.

But with more data on a lot of these areas I do feel like I could make a decision to go in a different direction than where the previous gainful employment negotiations ended.

MR. RAMIREZ: I have Chris, Jessica, then Neal.

PARTICIPANT: So, I second that about

the lack of data. My points, one of the statistics Jeff mentioned was that if it was 18 percent of people are in tipped jobs. I think that was what he said.

MR. ARTHUR: Oh, not at all. It was a study that reported that 18 to 19 percent of wages go unreported. I don't know what -- it's a multitude of reasons.

PARTICIPANT: Okay, sure. My point on that would just be that a lot of those folks I would think are in jobs that they didn't go to any four year, or even get a certificate, they didn't go to any higher education to achieve. Right? I mean those folks. A lot of them probably are going to be in food.

MR. ARTHUR: That could be. But I think the point is there's a large amount of wages being earned out there that isn't reported in the SSA wages.

PARTICIPANT: Okay, sure. And that being the case, but I just think a large amount of that percentage are not people who went to two and four year, or did not attend a program with the intention of getting that job. I mean, they might have gotten that job because they couldn't get a job in the program for which they went to school for, but we don't know.

MR. ARTHUR: We don't know. We don't know. Maybe it's all criminal activity.

PARTICIPANT: All right, I doubt that.

And then, and I just think, again, with the lack of data, I mean I think what if there are -- there's noise on the top end, too. So why don't we eliminate the top 10 percent as well, or the top 25 percent, because there are people who may have a really rich family so they're going to work for their parents' company. I mean that's not -- why is that something that is going to be incorporated into an earnings segment?

So, to me just chopping off the bottom people and inflating the number is doing nothing but inflating the number. Well, then I think we should take out the top percent of earners so we're not inflating it too high.

MR. ARTHUR: Well, I don't think the top earners statistically would be moving the median much. I mean, once you get to -- you're talking about aggregated data towards the middle. Anything you would do at the top, let's just say let's bring them all down to, let's drop them all by 30 percent. I mean, basically I don't think they should be eliminated because they're doing extremely well. But if you moderated it, it has no effect.

If you moderate those, where I'm talking about moderating the low end to a more normalized amount, if you remove the top ones that isn't the right way to go about it either, but if you moderated them, it wouldn't change the median wage at all.

PARTICIPANT: My point, just that they're doing extremely well but not because of the school, so I don't -- because of their own personal situation, similar to the people on the bottom end who you're saying we shouldn't punish the school for something that the school had no impact in, I also think we shouldn't reward the school for something it had no impact in.

MR. ARTHUR: Right. But I do think when you look at the very high percentage who are working part time by choice, that that's probably because their family income is probably already in a good position. You might have people whose spouses are making a lot of money, they've got a good degree, they're paying back their loans fine, but they just -- their wages aren't good because they chose not to participate.

PARTICIPANT: All right. Again, I think without that I just can't support this.

MR. RAMIREZ: Go to Jessica, Neal, Ahmad, and Sandy. Jessica.

MS. BARRY: Hi. Jessica Barry. I just, I had a point to make and then I wanted to ask Jeff a question.

Jeff, when you developed the 25 percent, that is based on studies. Is that information you could share with us?

MR. ARTHUR: It was an idea to begin with. And then when we -- the idea, the concept was that there is a lot of noise, a significant amount. And I don't know what it is. But when I thought about the department's proposal of 50 percent I thought, okay, well that's way too high.

And so then you start doing some research and figure out to what extent all these variables occur, and then you go, wow, this 25 percent is probably not even adequate to address that, but it's certainly adequate to -- it's certainly at least that.

MS. BARRY: Okay. And the point I wanted to make is I think that Jeff's proposal is probably even more important now that we are opening this up to all programs because we're serving many, many different populations. And as Todd has pointed out many times, people who are going to school because they want to learn.

So I think this is probably more important to consider now than ever.

MR. RAMIREZ: Neal.

MR. HELLER: Neal again. So, we are here obviously to try and solve some of these issues. And, you know, to say that there is no data and so we can't make a decision, I guess we probably shouldn't have shown up day one. Because we're in the same position we were on day one in terms of that this is the data that's available, and conceptually we've got to wrap our arms around some things.

You know, we can't be so rigid as to leave here on Thursday and having accomplished nothing, and then letting the department basically write the rule again. So, we have a chance to do something.

And I think what Jeff has proposed -- and I had not heard this before he proposed it yesterday -- I think it's brilliant, honestly. I think it solves so many of the issues that we have talked about around this table. And there is no perfect solution. But I do believe that we all can agree that there are -- there is an issue with part-time employment, as evidenced by the study that he just read from.

There is an issue as far as underreported income, and unreported income, especially in the world of cosmetology and beauty, where we all know we tip in cash and it is no reported. I mean, let's just face facts. It's the culture of the beauty industry. It's not going to change, whether you agree with it, or you think they're breaking the law, or they're working illegally, it's just the way it is. And we can't change it. That's a culture that's been around for, who knows, 100-plus years.

And I also think to say that the 18 to 19 percent of unreported income is simply people that didn't go to school for that job, well, I think we've already proven, and the department has already more or less agreed in the disclaimer language that they were looking at, and the preamble of the original gainful employment where they speak to the fact that they know there are certain professions such as cosmetology where there is a significant portion of unreported and underreported income.

So putting all that in and along with everything else that Jeff and others have spoken to, I think this is a brilliant way to get rid of all those underlying concerns without having to have 10 different metrics for everything under the sun, and let's accomplish something. We have to accomplish something. And I think right here with this particular proposal we have a chance to accomplish something. And it's not perfect. There is no such thing as perfect.

MR. RAMIREZ: Thank you. Ahmad.

MR. SHAWWAL: Ahmad. I'd just like to ask the department, so my understanding is that the current administration will remain the current administration till 2020. And so what was the rush behind changing these regulations? Why not wait a year and get some more data before starting this entire process?

MR. MARTIN: Well, I don't, I don't feel that I can or that I should answer for decisions made as far at senior levels as to when, what will be negotiated, when it will be negotiated, what the schedules would be. I think that, like any, as with anything, I mean I think any administration comes in with a certain philosophy that is not necessarily completely -- I mean, let's be honest here, data is an important thing, and data does drive decisions, and data does drive positions, but so does philosophy. And so that's just a, that's just a given.

And I think that goes across any group, any group of people that come into a position of power in government. They, this administration saw this as a priority. They, the current leadership, sees the regulation currently in place as one that they don't view as completely fair to certain types of institutions. And there was an impetus to make changes to it. And this is the schedule it was one.

I mean, I don't think that that position would have changed, you know, if we waited a year or waited two years. You know, so the same can be said for the previous administration: why did they make the decision to do what they did at the time that they did it? I don't know. Except that it reflects the philosophical leanings of the leadership. And that's what this is, too.

I don't now. I mean, I can't answer for you, you know, why this rule now as opposed to something else next year. I mean, you know, it's, yeah, you could always go back and look, you could look at any set of regulations proposed by any, you know, whether it was the current administration, the one previous, the one previous to that. You know, why did they put that agenda forth? I don't know that I can answer the question as to why we didn't wait.

They start as a priority, I guess I would say they start as a priority which needs to be addressed forthwith. And that's, that's why we're doing it.

MR. SHAWWAL: I understand your

constraints. So I guess maybe that's feedback for future sessions. I feel like it would have helped prevent a lot of problems that we're experiencing now.

And I guess to Neal's point, I do agree, Neal, I would like to leave here on Thursday having accomplished something rather than nothing. And I really feel like Chris and I are ready to make some concessions if it means that at the end of the day students will have some protections versus no protections at all, which is a likelihood if, you know, this goes back to the department and they have the authority to rewrite it as they please.

So what I would ask of everybody is please be willing to make some concessions, because I feel like we could potentially leave here on Thursday having accomplished something.

MR. RAMIREZ: Thank you, Ahmad.

And I will be asking you to come back to the mike to share some of those ideas. All right?

MR. SHAWWAL: Yes.

MR. RAMIREZ: But Sandy, Kirsten, and Jen Diamond, Jennifer Diamond. Kirsten. I'm sorry, Sandy first.

MS. SARGE: Chris, I'm going to address this to you. I mean, why wouldn't we take off the top 25 percent?

Well, one of the things that the department asked us before earlier is when we came up with suggestions, can we provide some sort of research that would support it so that they can go back and make some decisions? So, do you have research, like Jeff just presented probably four or five different sources, directly addressing some of the issues we have brought up before?

Like the fact that if someone doesn't work for a whole year, then your, from my perspective, your denominator is not an annual number, but your numerator is. So these are inconsistencies with math that affect the results.

So I'd be, you know, love to hear if you have that research. But if you're just throwing it out as a way to counter for the record a great idea that he's been able to support with research, I would ask you to just not do that. You can say you don't agree with it, but it wastes time, and I think the department is clearly asking us to try to help them find things that are defensible and to give some thought about whether our ideas are trying to meaningfully address the issues that are of legitimate concern to many people around the, around the table, all of us, pros and cons.

MR. RAMIREZ: I'll get Chris to update. That's fine.

PARTICIPANT: All right, thank you. Obviously I don't have data for that because I just thought of the idea. It was more of an example as to why I don't think the idea works that is presented.

So, Sandy, that's my answer to that is that I don't think the data that Jeff presented accurately stands up for using this, so I really don't think there's any data to support this at the outset.

And then, second, I'm using this as a rhetorical example to make a point that I think it's just artificially inflating what the number of going to be. And that's why I don't think it's something I would support.

MS. SARGE: And I think to Jeff's point earlier, he said that regardless of what we do the mean's not going -- or the median's not going to change a lot. However, it would take away the arguments that many of us have where it then doesn't get into the doesn't get into the noise.

Like Neal said, we'd be willing to take out the language about tips and all these "yeah, but" statements that are in the notifications because at least we do feel that it is looking at things that are clearly issues. There is inequality in pay. And I'm not saying that those are good things and that I want to mask or hide them, but they do negatively impact and potentially misrepresent what a school is trying to do.

And he's given points that are all falling between 18 and 25 percent.

So, so I'm just -- while I get that it's rhetorical, and I understand all that, I just don't think we have enough time for that. That's all.

PARTICIPANT: Okay. Okay, I mean I'll -- that's fine. I mean I just, I don't agree. I mean, I think that the data that is put out doesn't support this. I think that if the department had data on how this 25 percent would actually relate, that's the data that I'd like to see.

I think just having statistical examples of how, what's happening in the workforce doesn't equal a 25 percent reduction in the debt to earnings.

MR. RAMIREZ: So I'm going to go to Kirsten then Daniel.

MS. KEEFE: So I appreciate Neal's, the

point that Neal has been making about the tipping economy. And I think other folks have made it as well, and how that's not accounted for.

I don't think that that is on par with also trying to account for the fact that there is discrimination in wages or people, you know, going to some school but choose after graduation or getting a certificate to go part time, or they take off time, or whatever, some of the other examples that Jeff was giving.

I could see using that sort of lopping off the bottom 25 percent or some percentage perhaps in categories where folks are getting a lot of tips and that is a legitimate part of their wage, but they might not actually be reporting that. And we know that and we can accept that.

You know, the alternative idea I thought about is, you know, do you just gross up wages in those professions and folks coming out with those kinds of programs? It would be complicated, I think, to define that universe.

But I, you know, it's an interesting idea I think limited to that. I don't agree with it to sort of compensate for the fact that there's discrimination in wages because, you know, I certainly agree with what Johnson said, people have the debt. It's a real thing of life, and they've got to be paying back that debt.

MR. RAMIREZ: All right. So, we have two more tents up. We'll hit them and then we'll go back to Issue Paper Number 5. We wanted to allow Jeff the opportunity to present some of the rationale behind those numbers.

So, Jen.

MS. DIAMOND: Jen Diamond. I'm going to steal one of Whitney's favorite words and just talk about reframing the conversation a little bit.

Just to ground this again, I think that now that we're talking about a rule with this whole flow chart that wouldn't, you know, allow a school to block the road directly to loss of Title IV, I think there are a lot of opportunities along the new flow chart to kind of figure out whether there are other issues at play without just removing that bottom 25 percent and risking inflation.

And then to Chris' point, which I would agree that there, you know, if we're trying to mitigate some of that risk of inflation, you know there are studies that show that there's a birth lottery and, you know, that your parents will have a lot to do with how much your children make. So there is -- I don't know how we can get numbers on luck but, you know, I do think if we're not having enough data, as I think we've all agreed, and we're working somewhat on philosophy, I'd like that to be taken into consideration, too, if we're trying to kind of find an accurate representation of how much folks are making.

MR. RAMIREZ: Okay, thank you. Chad.

MR. MUNTZ: All right. Chad.

So, I appreciate the idea of trying to get at 75, top 75, or account for some of this.

We know a lot of people are dropping out of the workforce, either by choice or not.

I think instead of saying bottom 25 dropped out, it's effectively moving from the median to 62.5 percent. So we're just, we can say all 100 percent are in but we're going to just measure on 62.5 percentile of income.

And I don't know if that changes the opinion or not, but it's basically trying to account for the number of part-time people who are stay-at-home moms, or who never went to the workforce, doing part-time, Peace Corps, teaching, those kinds of things that may not be counted. Military service might be another one. So, thank you.

MR. RAMIREZ: Emily, you have something?

PARTICIPANT: I had a question. If we went with Jeff's proposal or some iteration of that proposal, would that eliminate the need for Issue Paper 5 and appeals on earnings?

MR. MARTIN: Greg, for the record.

Issue Paper 5, though, it says alternate earnings appeals mostly consist now of issuing a challenge of D/E rates. So those are challenges.

You will note the appeals, the appeals which was the appeal based on alternate earnings has already been eliminated. So that's no longer, nor has it been included in any of our proposals.

The initial proposal was to eliminate the appeals. The discussion was when we did that that we, we started down the road them of how to compensate for that. Partially there were the disclaimers that we included. And then, and the inclusion of the repayment rate calculation was in part -- I hesitate to categorize it as an appeal because it certainly isn't -- but it was a, sort of another measure put in there in lieu of the fact that we took the appeals out.

So you'll see in this issue paper when we get there that the appeals that you're thinking of, I believe, which are the alternate earnings appeals, have been removed. And that reflects what we had in the previous paper as well.

MR. RAMIREZ: And Jennifer.

PARTICIPANT: So I've been kind of thinking about this quietly listening because, again, this is a little bit math and statistics and I don't, I'm not good at them. So, so I've been trying to think about what my view is on this.

And I thought about -- actually it's funny, I was landing a little bit where Pamela was, not as much on the appeals per se but on the economically disadvantaged case which is you do have them. And I was thinking a little bit about that. And I was also thinking about what -- I think it was John, it was either Chris or John said about, you know, the white male data, or whatever. And I was thinking about that, too.

And I was thinking about sort of institutions that have predominantly blanks, or predominantly minority, predominantly female.

And, you know, to me that kind of does feel like there's an argument for what Jeff is saying because of what you're saying. And I could be wrong about this. And I don't want to go down, too far down the rabbit hole. I've purposely stayed quiet because I'm trying to, like, wrap my head around this.

But it is sort of interesting that if an institution has a majority female population that's part time and there are going to be struggles at the bottom, right, but the majority, the 60 -- so jobs math or adjust -- the 62 percent or whatever, and they're on, end up being on par with the nonprofit, private institution that has -- or it could be for profit for that matter because I assume there'd be a tax status -- but if it's on par with the institution that has a majority white male population, or, you know, a socioeconomic of, you know, they have no Pell, you know, then that to me is a relevant piece of data because it does demonstrate that the school that has sort of the part-time female

30 percent Pell student, or whatever, is matching up to that level.

So I'm struggling with this. I'm not reaching a conclusion or whatever. But I did just want to share that thought that there is something there around what Jeff's suggesting to me in that it does sort of help sort of demonstrate whether a school with -- that is enrolling at a more, you know, at a sort of struggling, if you will, enrollment base, you know, how they perform.

I mean, that's what I'm sort of grappling and listening to. And thinking, well, maybe there is a there there. I wasn't sure there was. But the more I think about it, maybe there is something to what, you know, Jeff's suggesting. Just food for thought.

MR. RAMIREZ: So, yeah, I think that's a good place to move on to the next one. So I would like for people to think about that, right. And if that isn't the number, if there is some other way that we could reach some type of agreement on how we measure it, the income or earnings.

All right. Greg, you want to take us to appeals?

MR. MARTIN: Sure. Thank you. Greg, for the record.

We're looking at Issue Paper Number 5, "D/E Rates Alternate Earnings Appeals." We'll read the "Summary of Changes Since Session 2."

"In response to discussions during the second negotiating session, we propose to introduce repayment rate as a secondary metric for measuring program outcomes and include the protocols for calculating and issuing loan repayment rates in 668.406," as discussed in Issue Paper 3. "Our only additional proposed changes to these sections are conforming changes for our proposal that limit these regulations to undergraduate educational programs."

So, what we have here shouldn't be anything new. If we look at issuing and challenging D/E rates, this is just the protocol for issuing the rates and giving institutions the ability to challenge those rates. So nothing you see here has changed except for the fact that we have noted that everything is applicable to an undergraduate educational program.

MR. RAMIREZ: Okay.

MR. MARTIN: We've eliminated the references to the alternate earnings appeals. So you'll see on page 2, "Creating the list of students." This is all certainly something which goes into the proprietary sector or other schools that had GE programs should be familiar with.

The obtaining earnings data, same way we're doing that, submitting the final list to Social Security Administration.

You'll note at the bottom of page 3, the end size going from 30 to 10. We've discussed that previously.

Moving on to page 4, again nothing, there's nothing new really there. At the bottom of that we have institutional challenges to debt to earnings rates.

And the only thing, again the only thing you'll see here is the noting that it applies only to undergraduate educational programs.

If we move on to page 6, that the rest of the paper is -- was the D/E rates alternate earnings appeals. And you'll see that 406 has been stricken from here. All this is stricken in 406. And 406 is now the repayment rate calculation that we discussed, we discussed earlier. We used that section to include the repayment rate.

And that's pretty much it for Issue Paper 5.

MR. RAMIREZ: Okay. Are there any concerns with the modifications here?

(No response.)

MR. RAMIREZ: Let me see a show of thumbs if everyone's okay with Issue Paper Number 5.

(Show of thumbs.)

MR. RAMIREZ: Tony.

MR. MIRANDO: So whatever mechanism --- I'm sorry. Tony.

Whatever mechanism that we either come to consensus with or not, is it the intent that other than what's listed here, a school would have no other means of appealing? It just is what it is?

MR. MARTIN: Well, remember that the appeal was not -- when these rates were issued the only appeal that was available was appealing the -- was an alternate income appeal, to appeal the income used in the rate. In other words, to say that, well, not that the Social Security rates were incorrect, you didn't get -- that wasn't something you needed. They were assumed to be correct. So the fact that if you did not feel the Social Security earnings were representative of the earnings of your students in a program you could appeal that.

So it wasn't so much, I guess it wasn't appeal of -- it was an appeal of one element that went into the calculation.

So, yes, if we eliminate the appeals here, we are eliminating that particular, that particular appeal. And we had some reasons for it. First, I think anybody who participated in that around the table here would concede that that is not at all, was not at all an easy process, and that it was time consuming, expensive, not without a lot of issues.

I will more than happily relinquish my title as regis contact, regis appeal contact. That reason alone is enough to move on. That should be off the record, I suppose.

(Laughter.)

MR. MARTIN: But I just had to say that because it's a, I feel it's like an expiation of sorts. So I had to get that out; catharsis if you will. Right.

So, yeah, we -- and, you know, we had originally proposed a, remember we had originally come to the table with the idea that we would have the appeals but that the department would be out of the business of adjudicating those appeals and we would have, there would be through the annual audit.

But we moved away from that with, you know, I think there was interest around this additional metric and maybe being able to move away from having these appeals, and also with the disclaimer language. So that was our reason for moving away from the appeals.

I think it's a good simplification, a good reduction in burden. And, you know, as with anything that we do, there is a give and a take, yes. And certainly no matter what we offer on one side without the appeals, an institution with students who, or graduates who earn significant portion of money, of earnings from gratuities are, you know, are not going to have that opportunity to appeal based on that.

But I think on balance, what we've offered outweighs that. I just want everybody to remember that that, that was not without it's difficulties.

And as far as, like, who can do this,

I think that as we expand this to be all institutions, all programs, that the more programs we have certainly I couldn't imagine -- maybe I shouldn't say this -- but I couldn't imagine a large institution with numerous programs saying we're going to mount, you know, 20 or 30 of these alternate earnings appeals, you know, having to have each one attested to by a CPA. That probably just would not be feasible on a larger, on a larger scale.

So I think there were a lot of good reasons for us moving to eliminate that. But that was a recap of why we did that.

MR. RAMIREZ: Yes.

MR. MIRANDO: So, I anticipated that was going to be your answer. So what I guess I'm just anxious over, I would offer just a sense of caution, would be that if indeed this group doesn't come to consensus, or even if it does and you all -- or let's say we do and you all implement, if again an institution is unfairly required to put some form of disclosure on their website but as a result of nothing that they've done wrong other than the metrics you all are using, again unfairly requires them to have this disclosure, doesn't this put -- isn't there a legal jeopardy here that, again, there's no reason for, you know, for appeal, some way of making a wrong right?

And, again, back to what I started on Session 1, then I sent to Session 2, and I'll repeat it here that, you know, right is right, wrong is wrong. And if the school is a good school providing a great program, but because of some artificial metrics that's placed against them they're required to put some -- what some want to do is put some horrifying disclosure. And maybe others want to put a very watered down disclosure, but still it's a disclosure, if it's unfairly required, I don't see that being right.

I mean, again I'm back to its again being wrong. And so I leave, I end this with saying again, you know, if we don't approach this where right is right and wrong is wrong, and all institutions are going to be treated equal and fairly, then something is wrong with the process. And I just have always been taught, and I believe that -- that's how I run my agency -- is that if it can't be done properly we shouldn't be doing it until we can figure out a way to do it properly so that nobody, not one student is harmed by this.

And I shall stop there.

MR. RAMIREZ: Jennifer.

MS. DIAMOND: So, switching directions slightly. But it has occurred to me, where are the challenge opportunities for the loan repayment rate? And couldn't it mirror -- I think in some other prior reg, I can't remember which one now, maybe it was gainful, maybe it was borrow defense, I can't remember -- but isn't there a, is there something in here and I'm just missing it, and if not couldn't it mirror what the cohort default rate process basically is?

Because on loan repayment rate there is actually the institutions do have all this level of knowledge. And that moment in time piece that I was talking about earlier, institutions have, you know, some level of knowledge about what their borrowers are doing after they graduate. And so that piece it would seem important for the institutions to have the ability, once you send us the list of whatever.

MR. MARTIN: In 406(d), for the record.

MS. DIAMOND: Oh, so it is there? Okay.

MR. MARTIN: 406(d) you'll see. Well, 406(c) is notification, and (d) is challenges to repayment rates.

MS. DIAMOND: What page? Sorry.

MR. MARTIN: On page 10 of Issue Paper Number 3.

MS. DIAMOND: Oh, Issue Paper Number 3. Sorry, that's why, that's why I wasn't seeing it. Okay. So it's not in the --

MR. MARTIN: So, yes, we did, we did retain those challenges that were previously there.

In the current regulations where it talks about various disclosures, it gives challenges. And we incorporated those challenges into this.

MS. DIAMOND: Thank you.

MR. RAMIREZ: Okay. So seeing no other questions let me see where you all are at on -- Oh, I'm sorry, Mark, you had a question?

MR. McKENZIE: Mark McKenzie, for the record.

Similar to Tony's concern, and this may be addressed -- Greg, you had said earlier that you had revised the flow chart, there were revisions. Is that going to be passed out today?

MR. MARTIN: I'm still looking to that to make -- we'll make a decision on that presently.

MR. McKENZIE: Okay. The reason that I was bringing that up, and I think addressing Tony's concern as well, is in these five boxes in the center it appears to me that box 4 and box 5 should be reversed.

And the reason for that is if we get a complaint, say we get a complaint against a school, we have to run it down and say, okay, is this a legitimate complaint. We have to notify the school that there has been a complaint and give them an opportunity to respond. And I think most agencies have some kind of a mechanism, whenever there is a potential penalty of some kind of public disclosure that the institution has an opportunity to respond to that in some fashion.

And so it would appear to me that those, just putting those two boxes or reversing those it may address it.

Now, it does put the burden, one, on the institution to have a conversation with the institution at that point to say, okay, both of these benchmarks have not been passed and, therefore, we need to go into a deeper level of conversation to find out what is going on, rather than immediately having the school turn around and post any kind of a notification.

Because there is -- you know, these metrics are never going to capture all of the, all of the exceptions. And there are going to be a lot of exceptions, especially, again going back, this is new data, and we're not going to have good data until there is an analysis to that, you know, a year or two years down the road to be able to get this.

So I think to try and make it consistent and good information, that's what I would suggest.

MR. RAMIREZ: Mark, I'm trying to see where you all are on appeals. And if I understand correctly, would that question be best answered under reporting requirements?

MR. McKENZIE: It may be. I'm not actually looking at the appeal. I was actually looking at this in the process because this piece between four and five is kind of where that conversation needs to have before a school to even, you know, before you even get to an appeal. It's like we talked about escalating the level of review if you've got things that are flags that are indicating that there may be some issue. And, therefore, the school needs to have a chance, the institutions need to have a chance to respond. And, you know, it's going to, it is going to create some burden on the department to have that conversation as well.

PARTICIPANT: And when you say four and five you mean the fourth one down in the middle column and the fifth one down in the middle column?

MR. McKENZIE: Correct. You know, it looks to me like those should be reversed. And that would necessitate some wording changes into the fourth box as well because you're putting them out, changing the order.

MR. RAMIREZ: Okay. So I think I'll probably ask Greg for his opinion as far as where that question might be best answered. Right?

If the appeals letter is dealing with the process itself, then maybe your question would be best under seven. But, Greg, do you have an idea on that?

MR. MARTIN: Okay, let me just get straight again what we would be doing here. So if I look at the boxes, the fourth and fifth box; correct?

MR. McKENZIE: Correct.

MR. MARTIN: So we would be reversing those two.

PARTICIPANT: Yes.

MR. MARTIN: So that, so okay, if a program meets the -- so, all right, if the program meets the repayment rate. So you've -- So if you, if you didn't meet the -- if you don't meet the D/E benchmark, if you don't meet the repayment rate bench or measure, and your program -- so we're talking about the standards for economically disadvantaged, that one?

The next one. So the institution must inform students.

All right, I'm sorry, I was looking at this. So, okay, so we're looking at the institution must inform students through the notification process. Oh, you're talking -- I see what you're saying now. Okay. You want to reverse the multiple, the bottom box, are there multiple administrative capability issues, with notification.

Well, I think the problem here in that is that the bottom, the bottom box there goes to -- although we're not really referring to them as sanctions but actions the department can take -- so if, that would be whether or not -- so what we have here is, so what you would be saying is you wouldn't want there to be the requirement for notification until and unless the department instigated --

MR. McKENZIE: -- clearly identified in these two metrics.

I should probably use a mike. Sorry.

You know, it's clearly identified in the two metrics that they haven't met the metrics. We've already discussed that there are challenges with the metrics now. We're not going to know for sure about the accuracy of the metrics for a year to two years minimum.

So, in order to avoid collateral damage to institutions you have to get, it would appear to me that you would have to give them some opportunity to respond in the event that they have these, they have these two flags, okay, they haven't met those two metrics.

And so it just it creates a requirement for a conversation. Some kind of interaction with the department in order for you to then determine, okay, what do we need to do? Are there other programs? And, given that point, should we move to immediate notification, or are there extenuating circumstance that the institution can cite that would give you pause to say, okay, we need to see more data in order to make that decision?

MR. MARTIN: So, essentially be moving the notification process from what is currently an automatic process based on a not meeting the measures to a discretionary decision on the part of the department; right?

MR. McKENZIE: Back to the department; correct.

Because then I think it gets to the level of fairness and making sure that you don't penalize a school inappropriately. And just there are so many questions about whether the metrics are going to work long-term. And we just don't know that information at this point.

MR. MARTIN: All right, I'll note that and we'll take it back for discussion.

MR. RAMIREZ: And, Greg, does that impact, does that issue impact Issue Number 5?

MR. MARTIN: No. No, it does not impact Issue Paper 5. Issue Paper 5 was only ever dealing with the institutional challenges to D/E rates, and then showing that the appeals, the alternate earnings appeals had been removed. That wouldn't be affect -- that wouldn't affect it. This chart doesn't have anything about -- this chart was drawn up without any reference to those appeals.

MR. RAMIREZ: Okay. So, Neal, did you

have a question on Issue Paper 5 or? Okay, what's your question on that?

MR. HELLER: It's not a question.

MR. RAMIREZ: Okay. What's your comment on that?

MR. HELLER: It's a comment.

MR. RAMIREZ: Okay.

MR. HELLER: Well, we're being asked to eliminate the appeals process. And for, again, schools in our community of schools that appeals process kept some schools in business. And I realize that that was under a immediate or close to immediate loss of Title IV funding, and that's why there was an appeals process which, of course, the courts ruled was sort of a -- well, not sort of, was overly burdensome and unfair appeals process.

And I'm not going to get into the whole reasons why. But nevertheless, that was the finding of the court.

So, now we're looking at eliminating appeals altogether, not refining them and making them perhaps an easier hurdle, but to eliminate them based simply because the Title IV sanction is off the table. But it's not really off the table. Because if we don't meet both the repayment and the D/E ratios we do have to make some very serious notifications to prospective students, which will affect businesses.

And combined with perhaps a lack of administrative capability based upon the department's judgment, that would lead to a program review, which would in turn lead to loss of Title IV, which would in turn lead to putting those schools out of business and, again, with no appeals process.

You know, we brought up a number, introduced a number of proposals here around the table by various people: 15 percent amortization, shot down. The 25 percent, eliminating 25 percent of the bottom earners, if you will, or not earners, shot down. The 1:1 ratio, shot down.

We're not going to have any more

disclaimers, which aren't worth much anyway.

We don't know what the repayment rate is going to be.

And, yet, we're going to vote on eliminating the appeals process altogether?

Some have argued that we need more data. Well, I think we need more answers before we deal with Issue Paper Number 5. I think that should be the last thing we deal with, because if we can't come to some conclusion on repayment rate and whether or not any of these other proposals are deemed acceptable by the people around this table, I'm not willing to give up my right to appeal.

MR. MARTIN: I just want to point out for the record that with appeals, were that to be back on the table, we have some serious, serious statistical issues with appeals, with the number that are required.

And I can have Sarah come back up and explain that. But essentially it would have the affect of meaning that most small institutions would not be able to, would not be able to mount an appeal because we simply wouldn't be able to get to the sample side necessary, or would necessitate a 100 percent response rate because we would start to go back to the survey.

So, I mean, if there is interest in bringing that back, we would have to go back to the methodology we used previously. And we have a lot of issues around how we would do that and make it statistically valid. So that's a real sticking point if we bring this back.

And I'm not certain. We definitely knocked those issues around for a long time and we were unable to come up with any good solution to it. So, you know, I can take it back but if we were to put it in place there would be a lot of programs that simply would not be able to take advantage of that appeal, especially the smaller programs.

MR. HELLER: Well, if I may.

MR. MARTIN: Yeah.

MR. HELLER: I would prefer to

eliminate the appeals and come up with another metric that much more fairly represents what our schools, you know, the students and the graduates at our schools. But, you know, none of these other metrics have been deemed acceptable. And if that's not going to be part of the picture, then to just give away the right to appeal would not be acceptable.

And the courts deemed that the 50 percent, asking 50, to get 50 percent of graduates to respond was a threshold that was way too high. So why would we go to 100 percent? I'm not following that. I'm sorry.

MR. MARTIN: It's not going to 100 percent. It has to do with the number of students necessary.

First of all you have -- and I, Sarah can jump up here and throttle me if I get this wrong -- but you have to have a response number of at least 30 to make it valid. That means for smaller programs that could be, you know, 100 percent of -- a 100 percent sample size, which is probably unreasonable to expect. So that's, so if you look at that and looking at smaller programs, we didn't want to introduce an appeals protocol where we're essentially by virtue -- statistically, rather, eliminating a number of schools from having the right to appeal simply because of statistical problems.

So we tried to move to a different understanding of that. And I take your point that there still are notifications, but that this doesn't lead to an automatic loss of program eligibility. We tried to compensate for that by the introduction of a secondary metric and the inclusion of disclaimers.

So, I mean as I said before, it's a give and a take. I would not argue with you that we lose, we'll lose something with the elimination of the appeals, but there are a lot of issues attendant to having those back, and certainly not -- and in addition to all of that it would still require the what we had before, which would be an attestation by your accountants of your calculation, which is certainly an expense.

So, for all these reasons we moved in this direction. But I'm not averse to taking it back and discussing it. But I just want to point out those issues.

MR. RAMIREZ: Your mike.

MR. HELLER: It's not that I want the appeals process, because it is very, very difficult, very expensive, burdensome, et cetera. But as you said, it's a give and a take. And something's got to give.

Because, again, the disclaimers are nice. It's wonderful language. But it doesn't do anything about the metric. So as I asked for, in the previous session, instead of disclaimer language why can't we put some sort of a number on things that addresses the underreported or unreported income, or all the other things that we discussed, so that we don't have to have an appeals process and we don't have to worry about the disclaimers? That's my point.

Thank you.

MR. RAMIREZ: All right. Johnson then Sandy.

MR. TYLER: I just want to speak for the consumers and the taxpayers because when you have debt to earnings failure there are two metrics people have to fail under debt to earnings. Then you have the repayment rate. And then you have a notice to prospective students.

I get Neal's point. I understand this group of people. I understand, I have many clients who've been hairdressers, barbers. I'm constantly telling them it's important to pay Social Security. You need that for your retirement, otherwise you're not going to get anything when you get older.

But I think I wouldn't want that sector to be driving this discussion. If you have someone going to HVAC school, someone going to automotive school, someone going to be a home attendant, someone going to be a medical assistant, they're W-2 employees by and large.

And I really, you know, want to remind people that this is a notification that occurs after a bunch of safeguards that we have thrown on the table here. And that's the sanction is a notification.

And, you know, with all due respect to the hairdressing industry, to the extent that that's part of the culture I'm not sure how, why this notification would put your schools out of business, so.

MR. RAMIREZ: Sandy. Yeah, go ahead.

MR. HELLER: Well, the notification wouldn't necessarily put us out of business. It would, it would make it a little more difficult. But I think that we're dismissing the fact that there is a sanction back in here. And I know that some of us would like it to be more meaningful, so to speak, but it is meaningful. And if you do fail both of the measures, the department can deem that to be a lack of administrative capability, and it will lead to loss of Title IV.

It may not be as quick as some in the room would like it to be, but it will lead to that if they deem it to be necessary. And, again, I don't -- I realize we can't drive the whole conversation just based on one small profession. But then what would be the harm in giving some sort of exclusion to that one small profession or doing something to impute, again, additional income to that one profession?

And that's really all we're asking for. And everybody more or less agrees that it's a fact. So that's all we're asking for.

MR. RAMIREZ: Sandy then Jordan.

MS. SARGE: This is Sandy.

It's the middle of the afternoon, or now in Colorado. Here it's almost nighttime. Just like to say sort of maybe we spend a few minutes at the end of today and we can leave with this tonight is, are there any places where there are suggestions from the other side? I mean, as I said last time we were here it's like after a while you just want to not even come up with an idea because it's negative, negative, negative to Neal's point.

So, so maybe we just need a roundtable about where are we kind of.

And the other thing, and to be on Tony's bandwagon, it's like wanting to regroup again about what we're trying to solve for. What is X? We're trying to make sure that we can give students information about whether or not the debt that they're incurring, is one thing, the debt that they are incurring is reasonable compared to the income that they will earn in their chosen profession. That's one thing we are trying to do with this information.

And then the other thing is if we find that there are schools that are egregiously overcharging, or allowing students to over borrow, or not working with their community to get them hired, i.e. they don't have good licensure passing rates or placement passing rates, so those are all things that the department would use these metrics as the initial indicators and then dig in deeper. And I think that's part of it is we really want to make sure we're hitting those bad guys.

But we are also trying to come up with a way to inform students of good information.

So, the first question I have is where are we on suggestions from the other side about this? And I'll say the other side even though I don't want to be deemed that way. Where are we on any suggestions there?

And other than we're going to -- we want just exactly what the rule is right now; that's off the table. So help us get to a step off that back wall towards the middle and tell me where you guys are on some of that.

And then also I'd like some reminders as to are we still clear on what we're trying to solve for here?

MR. RAMIREZ: All right. So as far as Issue Paper Number 5, it seems like the appeals process lined out -- outline on here in and of itself isn't so much the issue, it's how it's going to be applied, what are the other components that are around there.

So I'm not going to ask for the temperature check on that right at this moment. But, hopefully, there won't be many modifications if we are able to get some of those other pieces resolved.

Jordan, you had a comment before I comment on what Sandy was talking about or are you good?

MR. MATSUDAIRA: So this is Jordan.

Just a quick comment. Am I still on? So I kind of feel like the framing that, you know, like one side has given and the other side has not just feels, you know, really kind of off base to me. I think and just to Neal's point, I mean, I think we came up with this whole metric of a repayment rate in large part in response to some of the concerns. Or at least that was the spirit in which I'd proposed it back a few sessions ago to kind of address this issue that maybe debt to earnings wasn't really, you know, working for some institutions where income was underreported and so on.

So you have, you know, this whole other metric that's added to the rule that was meant to kind of address those kinds of concerns. And I, you know, I don't understand the critique that that wouldn't be, you know, relevant for some schools, you know, in the sense that, you know, I think all schools that you're loaning to students should care about whether they're repaying it or not. I just don't see how that's different across sectors in any kind of way.

But there are other changes that we're making as well. You know, I also don't agree with the idea of, like, choosing a different percentile than the median to report earnings for. I mean, I think that does violence to, you know, we're redefining a typical student to now be the student at the 63rd percentage of distribution rather than in the middle of the distribution. Just things like that feel off base to me.

And there are other things that we're doing, like moving the period of measurement further into the future so students have time for their earnings to grow. There are a lot of things that are already have been, you know, in principle written into the rule.

So, you know, I just think the conversation ought to concede some of that. So, you know, I think keeping the debt to earnings the way it is makes a lot of sense.

MR. MIRANDO: This is Tony. Thank you, Jordan.

One of the things that we have taken into consideration, yes, we did put in a repayment piece in there. But until institutions have some mechanism to somewhat limit the amount of money students can borrow, I think that also throws another piece into this.

So the institution in some cases it's out of their hands on both sides of that equation. So, again, there are some institutions that would get hurt. And neither one of those two pieces can be effectively dealt with by the student. They can't -- the student can come in an borrow up to their limit, which then throws that whole thing off because now they've borrowed so much money the can't afford to pay it back.

And on the other side, because they can't, they can't, the data that the department is getting from Social Security is limited to what they're being told by the student. Again, the institution is at a place where its hands are crossed or tied, and what do they do? And it's still a good institution.

So those are the -- so that's, that's the hesitation on people like myself and others here is that, yes, in theory what you said is correct. And for some that makes perfect sense, but not for all. So until we come up with something that effectively works for all, somebody is going to get the you know what side. And that's the issue that I'm having a challenge with, because I'm all about I want to be fair. We should all want to be fair.

And I think everybody wants to. But then so we have to be open to the idea that there are exceptions here. And until we can deal with the exceptions we shouldn't be implementing anything yet.

I mean, I can't imagine as an accreditor putting out a whole set of standards and criteria that I know right from the beginning is going to absolutely prevent a group of individuals being able to become accredited. It just wouldn't work, especially if they're fair, so.

MR. RAMIREZ: All right. Whitney, didn't mean to skip over you there. So, Whitney.

MS. BARKLEY-DENNEY: Yeah. I don't want to repeat too much of what Jordan said. Just to push back a little bit on the characterization from my side.

I think if you look at where we have been with the D/E rule prior to this, and where we were with the disclosures only rule, there's actually been a lot of compromise happening across the table. And the fact that, you know, we're getting hung up now on the details doesn't necessarily mean that people aren't willing to compromise or haven't compromised greatly, both from where the rule was previously and then where it was in the session before that.

So I actually think that there are some things happening here. And if were able to find a way to, you know, with the 1:1, for example, idea, you know, I don't feel like that was rejected out of hand. I think the issue was we couldn't figure out without the data a way to really set that metric. And that's what we're going to be coming back to again and again.

I know I am uncomfortable, both from a personal standpoint, a philosophical standpoint, and a legal standpoint of setting policy based on philosophy rather than based on something that we can actually point to, which seems to sort of be the thing that we are circling constantly at this negotiation because that's the direction we're headed in.

So, just to say all of that. But I think that, you know, we need to be giving credit where credit is due that this document does represent compromise from both sides of the equation.

MR. RAMIREZ: Yes. So, Tony, you're done? Jordan, do you have something else?

MR. MATSUDAIRA: No.

MR. RAMIREZ: Okay. So, with any negotiations, as a mediator the regulatory negotiations are one form of negotiations; right?

The bulk of negotiations that we usually end up getting involved with they can be multi-party but they're not -- we have other tools as mediators to try to help parties reach agreement; right? And one of them we call shuttle diplomacy as we shuttle between the parties and caucusing and sidebarring. And there's just a lot of other tools that we could use as mediators that aren't quite as available in this regulatory process.

So I would, I would ask two things.

One is that -- and I'm not, I'm not saying any side, I'm saying anybody, right, if anybody has ideas that they would like to present before the group you are always welcome to do that. But what I would also suggest is that tomorrow that we have like a -- you'll see at 10:00 o'clock start time, official start time, but what I would like to do is that, you know, be here at -- and this is open for discussion, right, but that we be here at 9:00 o'clock, and that if folks want to share with me what are some of the areas where they might be willing to move but they might not be willing, you know, stay it out without -- or stay it out openly without having an idea of how that might work, I could see if there is some common ground; right? And then offer those suggestions as far as common ground.

If it's just positional, well, then we just continue the path that we're going; right? But if there is some overlap where there might be some room for agreement, then I could bring those pieces forward; right? But at least it will give folks an opportunity to come and share those with me in that first hour. And then we'll open up the doors to everyone at 10:00 clock. Okay? An hour for folks to share any ideas with me.

You, yeah, you all, the negotiators and alternates come here at 9:00 o'clock. But public at 10:00. Yeah, public at 10:00.

But this way folks could, you know, if there are ideas then you could share those. And then if there are overlap or areas where we could possibly explore before the full group, then we'll do that. Okay?

So any thoughts or comments on that? Greg?

(Microphone placed.)

MR. MARTIN: You have failed me for the last time.

All right. I've always wanted to say that. I don't have James Earl Jones' voice, unfortunately.

(Laughter.)

MR. MARTIN: Just a 5' 9" skinny guy

saying it, but nevertheless.

So, you know, I mean, no, not particularly on that. Are you going to put that to a vote or?

MR. RAMIREZ: Not necessarily a vote.

MR. MARTIN: I'm amenable to it.

MR. RAMIREZ: Yeah. It's just more like if there's any strong objections I'll listen to it and see if it makes sense.

But I do think that we need to have an opportunity for folks to share some ideas. And if there's no overlap, then there's no overlap. But if there is, then we can explore that.

MR. MARTIN: Before we leave today I just want one thing basically. We had a question about the revised chart that Ms. Higgins prepared for us. So I'm going to pass that out. And you'll see on it sort of we took back what was said yesterday around the table with respect to the department's actions in the event that an institution were to fall short of both the D/E metrics and the repayment rate, and not meet the appeals for low income or program less than 30.

So, we've made a few changes there to reflect our position from there. So I think that will really help, you know, sort of a segue from where you were going, and help people, help inform maybe people's questions tomorrow morning if we take a look at this tonight.

So I'm just going to take an opportunity to pass that out now.

MR. RAMIREZ: Okay, thank you. Gannon.

PARTICIPANT: Yeah. I really appreciate that suggestion. But I remember last time we had I think what was called the full caucus. And I kind of thumbed in the middle for that one because I didn't exactly know what it was. And it turned out to be, like, a totally closed meeting. And, you know, looking back I'm comfortable with that process and want to make sure that this is an open meeting, as open as it can possibly be.

So I'd prefer if we just, you know, continue with the discussion. If folks have ideas that they want to share that we just do that like we're doing it now.

MR. RAMIREZ: Yeah. This is more of an opportunity for folks to share ideas with me. And then, again, if there is that overlap, that's what the full group will be discussing.

PARTICIPANT: Okay.

MR. RAMIREZ: Yeah, so it's not, it's not like the last time.

Okay. So while this is being passed out, are there any comments from negotiators or alternates?

PARTICIPANT: I just want to make sure we don't close too early. There are some people who are coming for public comment on their way here, because that's usually 4:45.

MR. RAMIREZ: Okay. That's where I was going next, so okay. Well, then we do have a few minutes then.

So, do you want -- are there any other issues, concerns, questions on the chart, anything else that folks would like to? Because as far as the conversation that was around appeals, I don't think there was much more there. And we definitely don't want to go into a new paper with just a few minutes left here.

Unless everyone is saying that disclosures is a no brainer, we could easily, we could easily agree to that.

Thelma, you have something?

MS. ROSS: I don't think so.

MR. RAMIREZ: Okay. Is 7 a pretty light lift?

MR. MARTIN: I was thinking of I would be -- this is Greg for the record -- I'd be more than happy to entertain looking at 7 if we're amenable to that. It might resolve witness concerns about people coming for public comment.

PARTICIPANT: Yes.

MR. MARTIN: And I don't think this is a real heavy lift.

MR. RAMIREZ: Okay.

MR. MARTIN: I think I'm the only one capable of presenting this. Yes, I'm getting rather punch drunk. But I'll leave that to Javier. Do you want to do that, Javier?

MR. RAMIREZ: Yes.

MR. MARTIN: Okay, let's look at Issue Paper 7, "Reporting Requirements."

And you'll see here that since the -- "Summary of Changes Since Session 2: Since the second negotiating session, we have no additional proposals."

So this remains as it was. Reporting requirements for GE stricken from 668.411, is reserved. And this reflects, you know, one of the, one of the places we wanted to go here was to provide a lessening of burden on institutions. And that's largely what we've done with eliminating reporting requirements.

I would imagine there's not going to be a hue and cry to bring them back, especially on the part of those who have not had to do them previously. I think you could talk to your colleagues who've had to do it, and they would probably encourage you to not say anything along those lines.

So, yeah, you can see then that under 411 those are reserved.

And I would entertain any comments about that because that is the entirety of Issue Paper 7.

MR. RAMIREZ: Are there any -- Thelma, do you have a question there?

MS. ROSS: This is Thelma. I just have a clarification.

MR. RAMIREZ: Okay.

MS. ROSS: The first note I think that you had at Issue Paper 2, yes, was the reference to what the department did not have data on; is that correct. If we went that way, which we didn't, in Issue Paper 2 had the 50 percent in he AMEs and there was no way for you to have that data for reporting purposes if you needed to gather it?

MR. MARTIN: Yeah.

MS. ROSS: Okay.

MR. MARTIN: Going back to Issue Paper

2, those were suggestions that --

MS. ROSS: Right. Got it.

MR. MARTIN: -- leadership just wanted you to kind of mull around in your head. They weren't necessarily out there with --

MS. ROSS: Exactly.

MR. MARTIN: -- an idea of how we would obtain the data.

MS. ROSS: I got it. And that was the only thing that was different about what you needed to gather now that you're pulling everybody in.

MR. MARTIN: Correct. As it stands with what's actually proposed there's no reporting requirement on you at all.

MS. ROSS: Okay.

MR. RAMIREZ: Any other questions or comments?

(No response.)

MR. RAMIREZ: Let me see a show of thumbs if everyone is okay with Issue Paper 7.

(Show of thumbs.)

MR. RAMIREZ: Okay. I am not seeing any thumbs down.

PARTICIPANT: I think we need to talk about this because I am fundamentally concerned with some of the changes made in the other papers that eliminate private loan debt from the equation but are all reliant on the -- the reason the department chose to do that is because they wanted to relieve the reporting burden on institutions.

So I really, I understand the dynamics that's happening in the papers, and I understand -- and I guess if what I'm voting on is I understand why this is being eliminated as it's taken together with the rest of the papers, I do understand that.

Am I concerned about the fact that we're eliminating loan debt and that we're removing sanctions and that? Yes, I am concerned.

So how would you like me to handle that in my vote?

MR. RAMIREZ: Yeah, because what you're actually approving here is the removal of these reporting requirements. On those other issues you could vote no. You could show you thumbs down on the consensus on those other areas. But this one would be saying that you're eliminating the voting -- the reporting requirements. Okay.

This is a consensus. Yeah, because look at where we're at. It's Tuesday. We have Wednesday and Thursday left.

PARTICIPANT: If we approve this via consensus then you can't put private loan debt -- I mean, theoretically, if Whitney was writing this -- you can't put private loan debt back in because we have consensus on reporting requirements now.

MR. MARTIN: Yeah, it would require a consensus on the whole package. This is just on this particular, this particular paper.

PARTICIPANT: This is Chris. It would articulate some sort of favor. If we're eliminating reporting requirements it would certainly be indicating something to the department as far as how we feel about what information should be collected and how it should be used.

MR. RAMIREZ: Unless you're stating right now that --

PARTICIPANT: Right.

MR. RAMIREZ: -- and letting them know that, hey, we're not in agreement with these pieces here.

But I understand what you're saying. It kind of sounds kind of along the similar dynamic that Neal was talking about as far as disclosures being used to see how some of these other pieces play out before I formally approve something. And I think that's kind of what you're saying is you want to see how these other pieces play out first.

I'm okay with holding off on it. The only thing is, is that that's what tomorrow morning is going to be for then. We're going to need ideas from everyone of how we could either reach agreement on these other pieces or make it clear where the lack of agreement is; right? And there is no room for compromise on those pieces.

But I'm going to have to have folks be candid be with me.

Okay, so, so much for being easy but, Greg?

MR. MARTIN: I mean I want to be candid about this, this being the central tenet of what we did. I can certainly if there was a lot of interest on the table about bringing these back, I could take it back to leadership. I don't see us moving off of the removal of this reporting requirement. It's a huge step in the reduction of burden.

I also want to remind everybody that we're not, this is not GE anymore. So we're talking about all programs, all institutions. So at a large institution, there are some here that have, you know, 150 programs, we'd be talking about doing that reporting for each of those programs. I would imagine the burden that we would be imposing in that case -- and our goal here is not to impose that kind of burden. I can't see us imposing that type of burden on institutions to report.

I mean, I understand that there are disagreements around this table as to whether we should be expanding this to include all programs, all institutions, but we are doing that. So, keeping that in mind I want everybody to remember what type of burden we would be imposing on schools to institute this across the board.

MR. RAMIREZ: Thank you for that.

Whitney.

MS. BARKLEY-DENNEY: Yeah. And this can be my last comment. But I just want to make clear if we do take a vote I will be voting no, and why that is so we're not accused of not trying to compromise.

But, you know, I really am uncomfortable setting up a situation in which a very -- a bad actor, the ones we know in the past, can come and create an institutional loan program that is unsustainable, that is investigated by every government agency and shut down, but meanwhile borrowers take out money from that program in order to mask how much it actually costs. And in some cases are still left on the hook paying that back.

So, you know, that, that's where I am. And then I don't think that, regardless of what the department is going to do, I as a consumer negotiator can endorse that regime.

MR. RAMIREZ: Sandy then Laura.

MS. SARGE: So what might be helpful would be tomorrow as we go through this is understanding, just like these guys are pointing out, which I think is great because it's helpful, is I'm not comfortable with Issue Paper -- or excluding the reporting requirements because we think that private debt should be back included. You know, like just making sure that we understand where the side is because that's really then what we need to talk about, right, is how we get those -- how do we get from those on this issue. And we need to understand that.

So, maybe as we go through things tomorrow we can make sure that we know: I'm not voting on sanctions because of this; or, you know, what we're coming up with, so that we're all clear. And we can then decide how to negotiate or how to come to compromise.

MR. RAMIREZ: Thank you. Laura.

MS. METUNE: I just wanted to be really clear from the community college perspective that there is a burden of this reporting. And I'm not in any way saying I would support expanding this to every institution and every program. What I'm saying is that gainful employment was designed to protect students from what we knew was a series of bad actors.

And I'm concerned with the idea that we completely moved away from what gainful employment was designed to do to set up a system that really creates a burdensome and meaningless mechanism for oversight with really very little by way of protecting students. And that I'm being asked to vote on this it just -- I just wanted to be clear that community colleges don't love this reporting. We don't want to have to do this either. Which is why we understood the requirement when this rule was focused on areas where we knew there was a problem.

Because we thought the burden of reporting was outweighed in many cases by the benefit of consumer protection. And I don't think that's true anymore.

MR. RAMIREZ: Yeah. And so, Laura, I understand that. So I have no problem trying to discuss some of these other things and see how much more agreement or lack of agreement we get to. And then come on back to this one. Okay.

Ahmad.

MR. SHAWWAL: Ahmad. Could we have some sort of graphic on the screen for tomorrow so that we can physically, like, plot out the issues where there are areas of contention?

MR. RAMIREZ: Sure.

MR. SHAWWAL: And then possibly check

them off or cross it out. I thought that was helpful last session.

MR. RAMIREZ: Sure. Okay.

Okay, any other questions or comments?

PARTICIPANT: I've stalled long enough if we want to move to public comment. Folks are here.

MR. RAMIREZ: Okay. So, yeah, the tap dancing shoes are off. Public comment.

So, if anyone has public comment, come to the mike, introduce yourself and make your comments.

MR. COHEN: Good afternoon. Thank you for the opportunity to briefly comment. My name is David Cohen, and I am President of Five Towns College.

Five Towns College is a proprietary college located on Long Island, New York. Founded in 1972, we are a comprehensive college of the arts that serves approximately 700 resident and commuter students. Our college is regionally accredited by Middle States. And our programs for the preparation of public school teachers are accredited by the National Council for Accreditation of Teacher Education, NCATE.

We offer degrees from the associate through to the doctoral level.

While many know us because of famous former students like Adam Levine, Joe Satriani, and Wyclef Jean, we are most proud of the countless classroom teachers and music educators we have prepared for New York's public schools.

We want to thank the department for pausing to rethink gainful employment. Our students, faculty, and staff believe that the rule as made was unfair. For example, several of our arts programs were in the zone. Our music program, for example, had a D/E ratio of 8 percent. We considered shutting down that program despite the high quality we knew it represented.

The unfairness is that our students would have then been forced to enroll at other schools not subject to the rule, with tuition rates that are approximately twice as high as ours, and with D/E rates that are significantly higher as well.

For example, while the Five Towns ratio was 8 percent, the rate at the University of the Arts was 15 percent; at the Boston Conservatory of Music, 15 percent; at Julliard, 13 percent; at the Berklee College of Music, 12 percent.

These rates demonstrate that the rule was flawed and didn't necessarily serve the purpose for which they were made, as our students would have been forced to attend lower performing institutions as defined by that ratio. Those rates also demonstrate that some career paths, particularly those that serve the arts, should have higher D/E ratios than 8 percent.

I have heard others on this panel echo that concern. And we ask you to consider that fact when you make the final rule. We join with them.

Thank you.

REV HAMLIN: Good afternoon. My name is Reverend Sekinah Hamlin. I'm Director of the Faith and Credit Roundtable of the Center for Responsible Lending. I have the privilege of working with faith leaders as we work to end predatory lending and to ensure that all have an opportunity to succeed and living to their God-given abilities.

As a minister, the faith community is very well acquainted with a text from Jeremiah that says that God has plans for all of us, plans to prosper us, to give us our hope and our future. Therefore, when the Center for Responsible Lending endeavored to talk with students of Allied Medical Group in Orlando, Florida, to talk to them about truly what they believed their hopes were when they went into various programs with this for-profit college, I was thrilled, but I was also disheartened to hear that truly the hopes that God would have for their lives were not realized.

And in our tradition we testify. So I

want to read you the testimony of Elena and what she said about her hopes and dreams.

Elena is a 35 year old Hispanic female who is currently unemployed, occasionally doing freelance work as a self-contracting pharmacy tech in various locations, as well as filling in at her family's grocery store. After seeing television commercials for the local branch of a large for-profit college chain, targeted at those without a GED like herself, Elena enrolled in their pharmacy tech associates degree program and completed it in two years.

When asked why she did or why she decided to go to college in the first place, she said, "Money. That's why I went. That's what I went to school for. I didn't want to settle for just any old regular job. It meant my future and that I was going to have money and be stable."

However, despite her own financial investment in her education, she reportedly owes about $80,000 with interest accrual. She has seen very little return.

As per assurances from her program at the for-profit college, she expected to make between $13 and $15 an hour working as a pharmacy tech, which according to her would have enabled her to begin to pay off her student loans. However, these expectations were not met when she put herself on the job market.

The pharmacies at which she was offered a job only paid $10.50 per hour. She explains that the financial aid officers at the for-profit college encouraged her to apply for all these monies, grants and loans that I could get. And they took it all, all of it, she said. And, yes, I am left with this bill.

She is not currently paying on the loan. She hasn't paid a dime, explaining that because she is not currently working in a steady job her income-based repayment plan allows her to pay zero dollars towards her loan each month.

Because of her current financial situation she has hopes of going back to school to earn a bachelor's degree, hoping after graduation to "be making more than what they told me I would be making as a pharmacy technician." She feels the need to act due to the prospect of having her wages garnished, which she says she could not handle in light of having a child and being pregnant with a second, saying that this scenario if scary.

She finds it incredible that her cousin, who works in fast food, makes a comparable wage to what she makes freelancing as a pharmacy tech. But she says that even with a better paying job after earning her bachelor's is going to make it -- it's going to take the rest of her life to pay her money back.

Elena's responses to two short surveys administered following a focus group confirmed her dire financial condition. On the first survey, the CFPB Financial Well-being Survey, Elena scored a 29, one of the lowest of all focus group participants, and substantially below the nationwide average of 54.

The CFPB reports that a score below 50

is associated with a high probability of struggling to make ends meet and of experiencing material hardship. A second survey designed by CRL about credit, product usage, and practices show that Elena resorted to payday loans and bank overdrafts, had also been contacted by debt collectors, and had only been able to save money prior to taking out student loans.

I appeal to you to give people truly what for us God's word says, a hope and a future, and not have them straddled with that burden.

Thank you.

MR. RAMIREZ: Thank you.

Anyone else? Yes.

PARTICIPANT: Hi, everyone. My name is Senya(phonetic). I'm from the student debt reform advocacy group Higher Ed, Not Debt. I'm here to read a statement from a veteran and borrower. His name is Harrison Luisma(phonetic), and he attended Technical Career Institute in New York City.

"I'm a 29-year-old veteran of the U.S.

Army. I served two years in Afghanistan and Iraq in 2008 and 2009. When I returned I was called up from the Army Reserve to protect commuters -- to protect commuters at railroad and bus stations in New York City. I would stand in my uniform with fellow soldiers watching for anything unusual.

"During this time I was homeless and lives in a V.A. shelter. In 2012, a school recruiter started talking to me while I was guarding Penn Station in New York City. The recruiter asked me if I would like to go to school to work as a heating, ventilation, and air condition mechanic. He said his school, the Technical Career Institute, had a 97 percent job placement rate and was right next to Penn Station.

"This sounded like a good idea, as my life had stagnated since I had come back from Iraq and Afghanistan. I signed a bunch of papers to pay $15,000 in tuition. I was told that the V.A. would pay for everything, and that the federal loans I took out would be reversed once the V.A. payments kicked in.

"What a mistake. The classes reminded me of after school daycare. Students were milling about. The classrooms were overcrowded. Instructors were poorly prepared and lacked any focus. The material taught was out of date. I learned little and never worked as an HVAC technician as I didn't learn enough.

"TCI never credited any of my V.A. payments against the federal loans which it said it would do. Now I owe $9,000 on my federal loan. That is a third of my annual income. I work as a forklift operator in a warehouse earning minimum wage.

"I learned a lot about TCI through my lawyer, who is trying to get rid of this debt. In 2004, the parent company of TCI sold $10 million in stock to investors. One month later, the CEO and chair of the parent company sold 80 percent of their personal stockholdings and pocketed $6 million.

"In 2006, the stock of TCI's parent company collapsed. This was triggered when New York State stopped the company's expansion due to student complaints about crowded classrooms, poor instruction, and few jobs.

"In 2008, TCI was investigated after students complained that they somehow now owed TCI money. The U.S. Department of Education found that TCI manipulated its default rate to ensure the flow of federal loans. TCI did so by paying off $500,000 worth of federally insured debt involving 300 TCI students. TCI hired debt collectors who hounded the 300 students.

"TCI also refused to release the transcripts of the 300 students until they repaid this new debt. DOE stepped in and the debts were stricken. TCI continued thereafter becoming a prominent advertiser on New York City subways.

"By 2015, 100,000 students had passed through its doors, generating $150 million in loans. But the value of a TCI education was minimal. In 2017, 7 out of 13 programs failed the gainful employment test. TCI's repayment rate on loans was 24 percent, which placed it in the bottom 15 percent of schools whose students were trying to repay their debt.

"In 2017, TCI went out of business. But I still own $9,000 for a year that my life was wasted. Few days go by without my wishing I had been posted at Grand Central or Port Authority or the Freedom Center rather than Penn Station where the TCI recruiter found me."

I'd also like to state for the record that Higher Ed, Not Debt is opposed to one hour of closed door negotiations. I think if there are things negotiators don't feel comfortable saying for the record or in front of the camera, perhaps they should not be negotiators in a public federal rulemaking session.

Thank you.

MR. RAMIREZ: Okay, thank you.

Any other comments?

(No response.)

MR. RAMIREZ: Okay, hearing none, then

that concludes for today. And, again, tomorrow I'll be here at 9:00 o'clock. It will be open for the public at 10:00 o'clock.

And as I stated just -- I heard you -- and it's not a negotiations, it's an opportunity for them to come and share ideas with me and so I can find that overlap. It's a common mediation tactic or tool.

Okay. So, I ask folks again, same as yesterday, they do need to escort folks out. So, if you could pack up your stuff so that way the Department of Ed folks can help you out, that would be great. And please take your trash with you or, I'm sorry, not with you but throw it out in the trashcans.

Thank you.

(Whereupon, the session recessed at 5:00 p.m., to reconvene at 10:00 a.m., Wednesday, March 14, 2018.)