UNITED STATES DEPARTMENT OF EDUCATION

+ + + + +

GAINFUL EMPLOYMENT
NEGOTIATED RULEMAKING COMMITTEE 2017-2018

+ + + + +

SESSION 3

+ + + + +

WEDNESDAY,
MARCH 14, 2018

+ + + + +

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

MR. RAMIREZ: All right, we're still missing a couple of folks but I think that we can get started and see if there's any remarks at least from the negotiators that are present, as well as any public remarks.

So let's get started with the Department of Education, Negotiator rule making on gainful employment. And this is Session 3, Day 3.

Just a quick reminder on any of the live streaming, that please stop any of the live streaming during any of the breaks. And same rules apply for the security or the escort situation in the building. So please continue to honor that. I think we haven't really had any issues with that.

FEMALE PARTICIPANT 1: And then if we could just take a moment to silence our devices so that we can concentrate today. Thank you.

MR. RAMIREZ: Okay, so yesterday we -- well let me ask the group, is there any -- from the negotiators at present, are there any negotiators that have any comments they'd like to make? Marc?

MR. JEROME: Just one comment to open up the session. I gave great thought to yesterday. And I'd like today's session to think about two things. The first is that whatever metrics we end on are metrics that institutions can have an impact on and take positive action. And it would follow a little bit more of the philosophy of the creditors.

And to that end, I'm asking us to truly think about adding to the loan repayment rate any type of income based repayment plan, whatever the proper definition of that is. I think that's something we can talk about.

My second comment is a little broader. I thought about my colleague, Todd's comments yesterday, looking at the data. And I'd just like the group to think about whether the two metrics we're working on now are actually getting to the issue of students, you know, suffering with student debt and poor performance.

And essentially what I'm concerned about is that the current rule is going to have the effect of unintentionally affecting programs that are very high performing and more elite institutions in the certain fields that we've spoken about yesterday. You know, the Arts fields, teaching fields and it's actually not capturing at all the programs that are objectively doing poorly with no one graduating, very high default rates and things like that.

And so I'm just going to open with that to keep that in mind as we go through the negotiation today.

MR. RAMIREZ: All right. Thank you, Marc. Any other comments from any of the negotiators? Johnson?

MR. TYLER: I'm not sure how to say this. I want to address this issue of how we all got here. We all came here because we have constituents that we care deeply about. And the proposed rule concerned the proprietary, the nonpublic sector of schools. That's what we came to talk about, policing that group.

And I know I'm saying controversial things here but I see clients -- there have been senate investigations on that sector of industry. And I guess I'm just really frustrated with how this negotiation has resulted in it having essentially no or very limited sanctions regarding that problem that has existed since at least 1945. Where Congress has tried to deal with this over and over again. And I think this -- I have to say, I think bringing in the other sectors conflates all these issues in ways that the statute actually never contemplated.

So I do think we all came here trying to protect and trying to work. And I think we really actually in Session 2, we got towards something more meaningful that we could -- we all seem to be able to live with.

And the proposals that came out after that were so different than what we talked about that I guess -- I don't -- I just want to be able to say we have tried to work on this together. I think everyone's tried to work on this together and I appreciate Greg and Steve for all the hard work they've done.

But I really also feel like this is kind of -- things have been kind of stacked against us. And I also feel this way about, you know, even the issue of our idea of trying to protect the institutions that may have a bad debt to earnings ratio. And we brought in this idea of looking at the repayment rates.

And Sarah brought in this sort of very important thing with respect to statistics as to what's statistically valid, what may end up passing scrutiny if this case -- if the end result would go into the court system, whether it was arbitrary and capricious. And when you do the math, it seems to me that metric wouldn't capture anyone. In other words, everyone would pass it just based on the math because the way the numbers line up.

And I feel like why are we discussing

these two-part things if the Department of Education knows from a statistical standpoint that the repayment rate -- metric actually, can't be used? Or if they're concerned about it being statistically valid, why isn't there a discussion where the Department of Education says, hey you guys all talked about this, but we have to actually really think about how this is going to work because it may not work, if that was the goal.

Because I feel like we're churning around and if we were to come out and say okay, we're going to use those whisper boxes, the second level of review here would be meaningless. So -- and no one's really providing us that information to show us that. So I feel -- you know, I just feel very frustrated by this process.

MR. RAMIREZ: Okay. So again, this is an opportunity for just some quick negotiator comments. Obviously we'll have time to get into more detail on the actual components of it. So we have Jennifer, Daniel, Tony and Sandy. Jennifer.

JENNIFER PARTICIPANT: I'll keep it short. So Johnson, I appreciate your comments. I do want to clarify one thing about why we all came to the table. So definitely on the bad actor front, so I totally agree with you on that. But I will say that having data across the board of all institutions, frankly will highlight that -- the issue of bad actors in a brighter light, A. And B, across the board.

And so I think that, that's really important and I don't really want to get into a big conversation about it. But the fact of the matter is, is that if you look at higher ed, tax status is becoming something that's very blended. And you know, we'll see what the future looks like. And so there's a very strong policy argument for applying any accountability metric across the board at this point.

So I just -- so that actually is one of the reasons I came to the table so is to see that we -- if we could come up with an accountability metric that worked for everybody as it relates to --

And then the other point I want to make is I think we can all agree that Congress, when they wrote the statute did not know what the future today would look like. It was -- I mean when they talked about and we don't need to rehash this but we're well beyond what Congress intended 50 years ago in general. I don't mean as it relates to this -- I don't mean in terms of statutory authority. I mean just in terms of higher ed. And so I think maybe the one place of consensus that we all have is that the higher ed act needs some hard core work done to it to bring it up to where we are.

And I think that this effort has the -- you know, there's an opportunity here to bring the department's regulations, short of having higher ed reauthorization, there is an opportunity here to bring the department's regulations up to a modern place as it relates to accountability across the board.

MR. RAMIREZ: Okay, thank you. Daniel?

MR. ELKINS: I want to just offer a military perspective to everyone around the table when it comes to constraints of resources and in the balance between trying to protect everyone and potentially not protecting anyone. So I think that people come into the military with an understanding that, you know, in a situation of dire need, there's only a limited amount of resources, i.e., you only have so many medic bags, you only have so many bullets. I think everybody understands that.

An important thing to remember though is within those situations, you do the best you can for everyone. You leave no man behind. And I do think that there are reasonable arguments to suggest that, you know, potentially we're over-protecting people or you know, we have a duty or a fiduciary responsibility to, you know, tax payers to not overburden the system. But at the same time, I think human collateral are more important than any sort of budget. And I think that we just need to keep that in mind where these protections, although they may be a little bit arduous or burdensome, I think that the goal is to do the best we can to protect students.

MR. RAMIREZ: Okay, thank you. Mark?

MR. MCKENZIE: Thank you. Mark McKenzie. I stayed up way too late last night thinking about this and wasn't even sure whether I was going to talk about this, this morning. But you know, I started out yesterday, I was pretty skeptical that we'd, as a group would get to a consensus on pretty much anything. And so I spent a lot of time actually going back. I took the flow chart and reworked it from my perspective. And in doing that, I actually came to the realization that I think we're closer than any of us realize right now to being able to achieve consensus.

And What I want to go back to is just recall that at the beginning of Session 2, the department had taken a position where GE was gone. That's not coming back. They come up with a debt to earnings ratio and the automatic loss of Title 4 sanction was gone with the department just opting for disclosure. And the regulation was expanded to include all program across all sectors.

Because of the work of this committee -- well, actually before I get that -- actually, you know, with that point clearly many of the people in the room were dissatisfied or disappointed with those changes. And I think, Johnson, that's exactly what you're pointing to is we started here and this is a completely different game now.

And the rules have changes and you know, there a couple of reasons for that. I actually think that's influenced by the current administration. It's influenced by their philosophy. It was input from the first listening session that we all participated in. And it's also, I believe, a recognition that the

GE regulations were having unattended consequences.

Yes, they were capturing some "bad actors" but they were also penalizing institutions that were not. And that's the inherent unfairness of the rule and the metric and the way it was devised. And I actually think that it was based on the work of the committee in the second session and the willingness of the department staff to actually listen and consider the suggestions. That now coming in this session, there is still inclusion of notifications to ensure students have accurate information and sanctions, which were completely off the table at the beginning of the second session are actually back on the table.

The difference is it's not an automatic sanction. It's a progressive sanction that is based on a deeper level of review or additional level of review. And I think that's important. I think we could all agree that the department has within it's authority, the ability to remove Title 4 access from any institution for cause.

And what we're trying to do is how do we identify those institutions that should have their Title 4 eligibility removed because of the actions that they're taking that are inherently against student welfare in this case. So I actually think that we're pretty close and we can agree on certain information.

One, I think we all want to provide accurate information to students, first and foremost. There's nobody sitting around this table that is advocating for students to get bad information or to be treated poorly.

And we've had -- this discussion has become a part -- almost like a partisan divide and that might be inherent in being in Washington D.C. But the reality is everybody here has some basic tenants and student protection, I think is first and foremost for everybody around the table. I don't think anybody wants to see students harmed through this process. And if we keep that in our mind going forward, I think we can get there.

I think also that we've talked about this as advocates for students is kind of one side, which inherently positions the rest as advocates against student interest. And that is absolutely an unfair characterization. I don't think it's accurate at all. And I think we need to get away from that and kind of bring students back in. That's our primary focus.

At the same time, you don't want unintended consequences of having schools that end up because they don't meet a metric for which the metric has not been fully tested, ultimately being penalized by either a notification -- an automatic notification without some kind of ability to have a conversation with the department.

So I don't want to spend more time now but I've thought a lot about this and I think we actually can get closer and potentially to consensus because we all put students first.

Thank you.

MR. RAMIREZ: Okay, great. Thank you. So with that, let's go ahead and open the floor up for public comment. I understand that we have at least one. So I'll ask Representative Takano to come up and make some comments.

FEMALE PARTICIPANT 1: And please be careful when you're -- and don't trip over the wire there.

MR. TAKANO: Thank you. Well good morning. My name is Mark Takano and I have the privilege of representing Riverside, California and the surrounding areas that comprise California's 41st congressional district. I was a public school teacher for 24 years and a community college trustee for more than two decades. And I'm intensely focused on ensuring a fair and effective higher education system. And as evidence, this is my third appearance on the negotiator rule making session to discuss my concerns with the direction of the department's policy toward the for-profit education industry.

In my previous appearances, I have highlighted the mountain of data showing that for-profit schools are more expensive and less effective than their public and non-profit counterparts. I have shared the findings of Senate committee reports and independent analysis that document patterns of deception and fraud. I have shared stories of student veterans who were robbed of the GI bill benefits they earned by predatory for-profit schools.

This morning instead of rehashing those data points, I want to speak directly to the for-profit colleges represented in this room. My comments today are intended for the schools that feel unfairly smeared by the behavior of a few bad actors. The schools that claim to follow the rules and give students the education that they promise. Because the schools I just described should be the most forceful champions for the gainful employment rule.

The entire point of this rule is to assess each school and each program on its individual merits. By setting the minimum standard for, for-profit schools and non-degree programs, it provides an opportunity for your institutions to demonstrate their value to students.

For several years, I have heard industry leaders object to broad characterizations of for-profit education. In light of these objections, I'm frustrated that the schools represented here today are not eagerly embracing a platform to solidify their credibility and separate themselves from the bad actors that have fleeced students and tax payers out of billions of dollars. The reality is that no for-profit enterprise is entitled to collect tax payer money and that is particularly true for an industry with such a checkered history.

The pattern of unethical behavior by for-profit institutions should put the burden on them for providing quantitative evidence of student success, which is exactly what the gainful employment rule aims to collect. It collects data on debt to earning ratios.

I'm also frustrated by objections to this rule on the basis of ensuring access to higher education or the idea that the marketplace can regulate the industry because they fundamentally misrepresent the government's priorities and interests. The government's overriding interest is its responsibility to protect students and tax payers.

According to numerous studies and the Department of Education's own inspector general, the existing gainful employment rule is critical to satisfying that interest by holding for-profit schools and non-degree programs accountable. Your own inspector general report.

I am surely one of the last people that the for-profit industry would ask for advice, but I'll offer it anyway. In the long run, the industry's intense resistence to the gainful employment and borrows defense rules will be profoundly damaging to its future. By shielding the bad actors in the for-profit education sector from accountability, you become responsible for the students and the tax payers they defraud.

With each new story of a veteran that is cheated out of the future they earned, with each new study that suggests students would be better off not going to any school, rather than enrolling at a for-profit college, with each abrupt closure of a for-profit campus, the industry loses credibility and jeopardizes its role in higher education.

The gainful employment rule provides a critical opportunity to align the goals of students, tax payers, regulators and for-profit institutions. I sincerely hope the schools represented here will reconsider their opposition to this rule and instead use it as a platform to demonstrate their commitment to serving students and respecting tax payers.

I once again appreciate the opportunity to provide input and encourage the Department of Education to fulfill its responsibility and protect the effectiveness and the integrity of our higher education system. Thank you very much.

MR. RAMIREZ: Great. Thank you, representative. Any other public comment? Yes, I'm not sure I would want to follow that up either. I'm sorry. Neal, do you --

(inaudible)

MR. RAMIREZ: Mr. Representative, the question is you do have time to listen to a response.

(inaudible)

MR. RAMIREZ: Okay, thank you. Okay, so with that, we have three papers that we still need to get through. We have Number 6 on disclosures, Number 8 on certification requirements, as well as a technical and conforming changes.

But in where we left yesterday and what I was hoping to do this morning was to really find out where are we at, right? As far as the items that are separating us. And I hear

-- yesterday during some of the breaks, I'm floating around. I'm listening to the conversations that are going on. I'm thinking to myself, there's solutions here. Right? There's a possibility that we could find some type of agreement.

And so that was my hope with this morning, was to see what can we do to really unjam this log jam. And one of the ideas that I had was to see if we could put something up on the board here that could identify what are those ticking points and what we could really do to get there. Ahmad had asked if we could put something up on the board to help clarify or focus the discussion. I think that was a really good idea.

So unless there's any major objections, I'd like to take a little bit of time and see what type of progress we can make going through that approach with the understanding that we do have to get through issues, Papers 6, 8 and technical and conforming changes.

Sandy, do you have a comment on that?

MS. SARGE: This is Sandy. Yes, actually I was wondering the same thing. I think that would be very helpful. I thought Ahmad's idea yesterday was great. Maybe we could even just list the issue papers and then in literally a quarter of a sentence or three words or less, each person do kind of a quick round table, what if anything, is your issue in this paper.

So for example if we're on Sanctions, then the fact that immediate loss is off the table. The fact that ... ..., you know, something like that. So then we all are sort of re-centered back on where the concerns really lie.

And I have one other, just sort of general question. The representative brought a very -- made me think about something and I was going to ask the department, based on GE regulations, how many, if any, of the bad actors that have been taken out of the industry here has it been because of the GE regulations? Just a question.

MALE PARTICIPANT 1: No school has lost eligibility yet as a result of that. But that's only because the next rates would have to come out for that to happen.

MS. SARGE: Okay.

MALE PARTICIPANT 1: So there's not been a mechanism through which that would occur yet.

MS. SARGE: Okay. That's what -- I just wanted to make sure, just because I was a little bit confused. But then also then the current existing capabilities that the department have been effective it sounds like based on what he was saying because there have been people -- so you guys, that's good to remember is that we have a lot of tools in our tool bag and making sure that we get to those tools as Mark put on.

We want to be able to give you guys the ability to use the tools that have been effective to some degree because many of them are gone, which is great. We want to make sure that we remember all of us, that this isn't our only tool and we want to make sure the department has the use of all the others.

MR. RAMIREZ: Okay, thank you. Chris?

PARTICIPANT CHRIS: So Sandy, I think you make a great point there on us knowing what the effects of the current rule has already started to have. Right clearly that no programs were automatically prohibited from Title 4 funding. However, a substantial or a certain number of programs were certainly closed after the numbers came out in January.

I made a data request to the department asking for the number and the name and types of those programs because I thought it would be useful information for us to see. I mean I haven't gotten a response yet, so -- you know, obviously -- and I would ask the department to make that data available even after we're done. I mean, they'll be public comment that would be made on notice of proposed rule. So, you know, I think that is really important information for us as negotiators and also for the public.

MR. RAMIREZ: Let me get Jennifer, then Johnson.

JENNIFER PARTICIPANT: I agree that would be an interesting data point as long as people recognize that schools made decisions to close programs, not necessarily because they were bad but because of the pressures that, that puts on students in terms of the go forward and the lack of clarity. So decisions that were made by some including Harvard to close their music program are decisions that were made because they didn't want to harm the students, not necessarily because of the lack of quality to the programs.

MR. RAMIREZ: Johnson?

JENNIFER PARTICIPANT: It's not the same thing, Chris. It's not. I mean a Bachelor in Child Development is, you know, not necessarily a bad program. It's just that they don't -- the poor teachers in this country don't make what they deserve to make.

MR. RAMIREZ: Johnson?

MR. TYLER: This is anecdotal but the story we heard yesterday at the closing about TCI. They failed 17 out of 13. They weren't planning to close. They closed. That was the company where two people took six million dollars from ten million dollars of investment a month after the institutional investors invested in the company and then were consequently sued by the investors. That's where 24 percent of the student -- only 24 percent of the students were paying down the debt by a dollar. That's where only 24 percent of the students complete the program.

So it did have an effect and in fact, there's a New York Times article where a reporter was looking into what is the effect of GE. Looked at all those schools that were failing -- or programs that were failing and found when he was trying to do the research that a lot of the programs had closed down and that would probably include the one at Harvard. But the ones at Harvard were a tiny percentage of the schools that are identified as failing. A tiny one. The ones in the non-profit sector were a tiny percentage. I think it was one percent maybe.

So that did have an effect and we are trying to influence the marketplace. That's what for-profit education is about. It's like we should be able to play in the same sphere so I do think, you know, a metric that informs investors, informs students is a useful thing for that reason.

MR. RAMIREZ: Okay, so I did originally have an idea similar to what Sandy was talking about as far as trying to go through the issues and see what are the sticking points. And so what we did was we tried to capture where, at least to start it, right? Where we identified some of the sticking points were and we put those up on that map up there.

And again, these maps kind of -- they go in -- when they're in this format, we call it radiant, they go clockwise, right? So you look at the top right institution and programmatic and then it just goes clockwise from there.

And so that was one issue, right? Are we talking about is it institutional or programmatic? We need to make a decision on that. And then is that through the entire rule or do we parse it out in different places? I think that might muddy it up but is it institution or programmatic wide?

Then under the DE, we have the DE calculations. And one of the ideas that was thrown out there was the 1:1 ratio idea. And with that idea, it's clean. It eliminates some of the other aspects of the rule.

Where the other avenue is the original DE calculation and if we go that route, then we also have to look at interest rates, amortization years and proportion of income to debt. And if we look in the amortization years, then we have to decide is it 15 for all programs and ten for certification and Associate or is it some other option? And under the portion of income to debt, is it 0.08 or 0.12 of debt? Where again if the other route of the 1:1 ratio eliminates the need to go into that type of detail.

Under income, the number of years after completion, is it six years or is it ten years or some other alternative? The issue paper before you right now has it that it would be the top 50 percent. And there was an idea thrown out there that it would be the meeting of the top 75 percent or another way you would say that would be that 62.5 percent, right, of those folks.

And then types of debt. Is it just Title 4? And then there was some discussion of the need to include private or institution or and institutional debt.

Repayment, the percentage of repayment was an outstanding issue. And then if we are able to -- this essentially is that grey box that was in that chart, right? And then if we get some of these issues resolved, then we go into the corrective actions. Then we start going down the flow chart, right? Yes, Sandy?

MS. SARGE: So if we go back to the

chart that you just had up -- your what you call it?

MR. RAMIREZ: My map.

MS. SARGE: Yes, your -- the Javier map.

MR. RAMIREZ: Yes.

MS. SARGE: So one thing that might be helpful also is noting on there where there are current constraints that would make it difficult. So for example, one of the things that the department said yesterday is they currently -- in order for us to minimize the burden of reporting, they've made certain decisions, right? Or they've proposed certain things is a better way to put that.

For one, private and institutional debt would be something that the school would have to report because they don't already have that data. So knowing already got it, already got it, already got it. So that -- because we can sit there and everybody can agree that institutional or private debt is a good thing to add in. But then you have to weigh that with the fact that everybody would have to try to get it.

MR. RAMIREZ: Crystal, could you add branches off of those two, need institutional reporting -- private and institutional debt. Yes. We'll roll it up so it doesn't take up as much space but we'll go ahead and get that in there.

FEMALE PARTICIPANT 2: Sorry. You could even just say data not available right now. As it stands today, it's not available. Maybe that would make more sense.

MR. RAMIREZ: So having this up here, are there things on here that we could agree to? Or are there alternatives that we could explore that would get us to an agreement, at least on these elements here? We can continue to go through other sticking points but are there areas of agreement here?

And I want you all to keep in mind, both what the representative said, as well as some of your opening comments, that if there is no agreement, what's the fallback, right? I guess the term for that is the best -- what's your best alternative to an negotiated agreement, right?

What is really going to happen here if there is no deal? And I want you to keep that in mind. Instead of fighting for positions, what are some options here that we could actually get to an agreement on? Whitney, you have an idea?

MS. BARKLEY-DENNEY: Yes. I mean I think that part of our problem with a lot of this is just not having the numbers to see what the different changes would look like. And I was wondering if someone, you know, it would probably have to be Jordan who can better mathematically explain the 1:1 ratio and what that would actually look like if we set a threshold, could put those numbers up so we can look at them.

And that might be too big of a request but in the interest of getting the ball rolling on some real discussion -- It's just hard for me to see -- to understand the concept and how it would work with the threshold if we don't have actual numbers on the board.

MR. RAMIREZ: Jordan, is that something that you have?

MR. MATSUDAIRA: (inaudible)

MR. RAMIREZ: The mic, the mic. Could you say that in the mic?

MR. MATSUDAIRA: If you give me a little bit, I could probably put something together.

MR. RAMIREZ: Start putting.

MS. BARKLEY-DENNEY: And by actual numbers, I mean actual made up numbers that Jordan makes up since we don't have any data.

MR. JEROME: Sorry, it's Marc Jerome. I actually have the spreadsheet of all the colleges with the ratio. I haven't analyzed it but I'm happy to send it to you, Jordan and send it to the team to circulate. In other words is I actually have the score card downloaded, earnings and annual debt, highest to lowest and I just haven't looked at it.

MR. RAMIREZ: Yes, but go ahead and send it out. Jennifer? Could you put the map back? It's coming up.

JENNIFER PARTICIPANT: Okay, well actually I think I can speak to it without --

MR. RAMIREZ: Go ahead.

JENNIFER PARTICIPANT: So just to simplify things, I don't remember -- I mean I know we looked at 10 year earnings but I don't remember anybody putting that -- I mean that would make the metric really backward looking, which I don't think anybody was --

(inaudible)

JENNIFER PARTICIPANT: I know but for the purposes of this conversations in terms of what we're talking about, in terms of the metric, I don't think --

MR. RAMIREZ: We can put a strike through on that.

JENNIFER PARTICIPANT: Yes, so I don't think it's ten years and so I just wanted to -- and then also, the number of years -- I'm not sure what you mean by number of years, three/four and then five/six. I mean, the department's proposal and correct me if I'm wrong, is that they're looking at student in the five to six year cohort with earnings in that sort of fifth, sixth year, so I would delete the three/four too. I mean, I think -- I'm not saying we shouldn't discuss it. I'm not saying for consensus, but I'm just saying for simplification, the conversation that's been discussed is 5th, 6th year.

MR. RAMIREZ: Well, let me ask the group -- the only reason the three/four is up there because that what --

JENNIFER PARTICIPANT: The old.

MR. RAMIREZ: Yes, that's the old one. So let me ask the group, is five/six the number of years after completion, is that workable? Tim?

MR. POWERS: I think I'd just caution us if we're looking at Bachelor's programs that there is an intersection point where those with Bachelor's degrees sort of out pays the earnings of those with a lower credential. So I think if that's continuing to be a part of the conversation, which we know we're uncomfortable with but seems to be the direction in which this conversation is headed, I think we have to be careful about cutting off the earnings number too early. Because the Bachelor's degree investment is one that typically pays off over a longer timeframe than the shorter certificate program. It's not a value proposition, it's just a fact.

MR. RAMIREZ: Okay. Jennifer?

JENNIFER PARTICIPANT: So, I mean, while of course, I -- I mean one thing that I think I said in Session 1, which does this rule in itself is counterintuitive to the long-term investment that higher ed is supposed to bring. So intuitively I agree with Tim, but I will say we can't forget about the loan repayment rate.

And so from a debt to earning standpoint, the problem with ten years earnings is that you create -- and especially if we're going to have sanctions, you create an extremely backward looking metric, which I think -- and maybe this is -- I feel strongly that if we're going to have sanctions and even from a disclosure standpoint, if you're looking ten years back, you run into, you know, a real issue in terms of the sort of accountability piece of the metric. And so that's why I personally have landed on five to six years as being sort of -- that makes sense.

And then on the repayment, I think, because we've added in the loan repayment rate, I think we could have a conversation about, you know, because we've already established that the cohorts are not the same. You know, you could have a conversation on the repayment front about whether -- and again, ten years might be too long for the purposes of accountability but could have a conversation about five versus seven or something like that. I'm glad the department didn't land on three for the loan repayment --

MR. RAMIREZ: So on repayment -- off of that arm on the left there, Crystal. Could you put years off of the repayment? Not there -- year of measure.

JENNIFER PARTICIPANT: You also don't have any other little -- I don't know what you call those. I was going to call them whiskers but that's different. The branches off of repayment because I do think that there is an issue about, you know, principle only versus including what is reality and IDR. So I think you need to say what is included in the nominator -- or numerator rather. Whatever.

MR. RAMIREZ: Okay. So we just put up there numerator, right, as far as repayment goes? All right, let me see. We have Sandy, Johnson, and then Jordan.

MS. SARGE: This is Sandy. So I think Jennifer's point's a good one. I know where it came from. I think yesterday the scorecard information, I believe, and you know I'm not an expert but I think it says ten years after you start a program, whereas GE is six years after you end a program, which is why Mark was saying that it basically gets you close to the same timeframe.

To Jennifer's point then, I think we maybe could take a vote on taking ten years after graduation off of this. Would everybody -- to Tim's point, yes the longer -- I think going to the 1:1 ratio, like if you just think about that, there is going to be differences. I think you may want 2:1 for a Bachelor's, right? It makes sense that you'd pay twice as much as one year at five years out because it is a longer. So there are things that, you know, we would want to examine if you will on that side.

But if we just took the ten years after completion, could we all say that we were comfortable at five to six? Maybe we get a temperature check on that.

MR. RAMIREZ: So -- well, let's take a temperature -- do you want to comment on that before we take a vote? Go ahead, Johnson.

MR. TYLER: Okay, so we're talking about -- I think Tim's point is a really important one. I mean it's a much bigger investment. I rode a bicycle after graduating from college for a while. I didn't make much money. I think that's not atypical. People are struggling with this transition from one part of life to another, the working life. Why not divide it between certificates of two-year programs and have a different metric for them? They're going to school to come out and start earning money right away.

(simultaneous speaking)

MR. RAMIREZ: So Crystal, could you put a --

MR. TYLER: I got Neal going here.

MR. RAMIREZ: So Johnson --

MR. TYLER: But that would be my idea. Why not measure these two groups differently? And it also goes to I think what Sarah was suggesting, which was are we really going to be able to have a whole repayment rate, which is just all students? Or are you going to have to divide it up and Jennifer was alluding to that as well.

MR. RAMIREZ: So looking at the map up there, if you were to have -- are you talking about two year/certification and then everyone else?

MR. TYLER: (inaudible)

FEMALE PARTICIPANT: So two year or less degrees, Associate and below?

MR. RAMIREZ: Associate and below/certification.

MR. TYLER: Associates and below, I guess I would do it. Yes.

MR. RAMIREZ: Different from undergrad. Okay. Jeff, you had --

MR. ARTHUR: Yes, principle -- I don't have a problem with that concept but it depends on what period you're going to use for each. The way the math works, the current three year look back or look forward look back, is effectively because of the timing of the cohorts, 19 months to approximately 40 some months. It's a very short time period. That's not workable for

Associate Degrees either. So if it went to four to five years or five to six for Associate and six or seven for Bachelor, I would agree with that. But if we go anything less than five years, because of the timing, it really isn't five years. It's such a narrow window that it doesn't work well at all.

MR. RAMIREZ: All right, well let's try to put that up there just so we can see what it looks like. So Crystal, off of DE, could you just add two branches? One of them for -- that one where you're at right there -- one for Associates and below and then the other one for Bachelors.

So under Associates and below, I heard four to five years.

MR. ARTHUR: Five to six.

MR. RAMIREZ: Five to six. And then Bachelor's was what?

MR. ARTHUR: Six and seven.

MALE PARTICIPANT: I think the conversation's heading in a good place but I still don't know -- and you know, we have to balance, right? There are tradeoffs between getting this information out to students, which we support but also just making sure that we're providing the necessary context so that we sort of recognize the differences in the programs, which is fine. So I still don't think seven is enough.

I'd be willing to entertain the thought but, you know, there is just certainly a time horizon issue. And I think we all can recognize that. And I don't know what the solution is. I'm sorry I can't offer a better one because there are tradeoffs here. But I still don't think seven years is necessarily enough. Maybe we can look into some data and research. I known Georgetown University has some -- the Center for Educational Workforce has some stuff, so let me look into that. But I appreciate Jeff's suggestion because I -- you know, I like where the conversation is heading.

MR. RAMIREZ: Okay, Jeff.

MR. ARTHUR: And for whatever reason, I'm sure there is some scientific reason behind it, maybe Jordan can explain -- he might have some idea, but the score card started at seven as the low point when they decided to look at wages. Now I know that's from the time you started so maybe when you -- it's what? Yes, seven, eight, nine, and ten years was the range that the score card looked at for wage data.

FEMALE PARTICIPANT: Our expert, Brian, that was here earlier from the department, might have some insights too.

MR. RAMIREZ: So the map that's up there, Jeff, how are you proposing that, that would have to be modified?

(inaudible)

MR. RAMIREZ: Okay, okay. Johnson, did you have a comment?

MR. TYLER: I have a question for -- that's okay. Do you know how long -- if we took these timeframes, does this mean we're delaying -- if we ever got to agreement and implementation of this for five, six, seven years.

MALE PARTICIPANT: It's poignant you should ask that question. This is Craig from the department. Yes, it does delay it because remember, we're not -- a couple things. As I said, I think it's important for us to say what we're not going to do. We're not going to require schools to report retroactively for previous years or anything like that. We're not doing that. So we're looking at, at what point we would have data to calculate the rates administratively.

So as Cynthia's pointed out, the first year for which we have programmatic information is 2014. So the longer you extend that look back period, the longer it's going to take us to produce those rates. Now if you go out seven years, I think we'd be looking at what, 2026?

MR. RAMIREZ: 2025.

MALE PARTICIPANT: 2026. So I mean we're going -- so I mean, I just want everybody to consider that. So then you're going to have a longer lag time there, a hiatus between when those rates are able to be calculated.

MR. RAMIREZ: Okay. Neal? Let me get Neal, then Whitney, then Marc.

MR. HELLER: Good morning, Neal. I actually like Johnson.

(off the record comments)

MR. HELLER: I just think that there is a basically lack of understanding for -- let's call us what we are, the stepchild of higher education. You know, and to try to lump in, again cosmetology and barber and beauty-related professions with welding or HVAC, et cetera. It's not the same world. You know, if somebody graduates and they have their certificate and they can go and work on air conditioning or heating, they're going to get a job that's going to give them an entry level pay. And they're going to get a paycheck and that's the end of the story.

So from that perspective, I understand where you're going. But in our industry, that person who comes right out of school has to build a clientele. So I mean it's a different world. And it will take, you know, several years to get to where their level of income is more or less what it's going to be for the rest of their professional lives.

So you can't just give short shrift to well, throw all the certificate programs and the heck with them. I mean, these people have to build their clientele and it takes years. And there's nothing wrong with that. You know, and also again, they're not getting a paycheck.

But I also want to remind the group and you know, I've had this conversation before, gainful employment did not come to be because of certificate programs. I'm sorry. I mean again, the average debt somewhere between, you know, $8,000 and $10,000 and I'm not scoffing at that. That's a real number.

But it did not cause the damage that degree granting programs and especially online degree granting programs created. That's where the $80,000, $90,000, $100,000 debt came from quite frankly for what I would consider to be damn near worthless degrees. And that's why gainful employment came to the forefront. So let's not forget that and please give some little bit of respect to the world of cosmetology and beauty. Thanks.

MR. RAMIREZ: Thank you, Neal. Greg?

MR. MARTIN: I just want to point out, you know, and again, the discussion is fine where we're going with this. It is possible -- I pointed out earlier that there would be quite a hiatus with looking at seven years but there's also the possibility that we could phase that in. So, you know, in order to generate rates, we could for the first couple of years, look at three, four and then go out to the longer period of time at such point as we have the data to do that.

MR. RAMIREZ: So Crystal, off of that -- six or seven years after the Bachelor's, could you put after that, phase in with a question mark? Like another branch off of that. Thank you. Whitney, then Mark and then Jeff.

MS. BARKLEY-DENNEY: Yes, so I feel like I'm just winding up and I'm going to say data at this point. But it would be really nice if we had some ability to see how salaries actually increase across work sectors, right? So that we actually make a decision to say well, we're looking at five years of welding and it doesn't actually -- it's around the same time. You know, they're making around the same money versus five years of an English degree of five years of a cosmetology degree.

So just to put back out there, I wish we had something we could look at, BLS -- yes, I mean, if we could get that data to see what actual movement looks like, that would be great. So one more data request is not going to be fulfilled.

MR. RAMIREZ: Mark, then Jeff.

MARK PARTICIPANT: So I have a question. Did I understand, Greg, that the department has debts to earnings for all sectors starting with 2014 graduates?

MR. MARTIN: I didn't say debt -- I said we have -- 2014 marks the beginning of reporting to us at a programmatic level. So if we're going to do administrative calculations, then that's the earliest year we're going to have for that. So the further out you -- the further back you want to walk, then you know, that means, the longer -- more years have to elapse before you get -- before the first year begins to 2014. I guess that's what I'm trying to say.

MARK PARTICIPANT: Okay. So from the start of this negotiation, you know, I have been consistent that the current gainful employment metric of eight percent with the amortization rates and the 18 months to three years is unworkable across higher education because it will result in the closure of so many programs.

I believe the single best and most helpful thing the department could do -- it would be to put out three year earnings data for the group that you have now. And that will fundamentally change the entire conversation that we're having at this table. And so if there's any way that you could accomplish that, I'm making my most impassioned request that you do that in a very nice voice.

MR. RAMIREZ: And also send it via email to Scott.

MARK PARTICIPANT: I'm not saying -- pardon me. I understand it may not be part of the negotiation but essentially during the first GE way back, it was very helpful when the department put out informational repayment rates and now I'm understanding you actually have data for '14, which we could then get earnings three years out, which is just so you know, the tail end of the current GE rule.

The current GE rule is 18 months to three years, so it would be on the more generous side. And it would let us know how the current metric works to all the advocates who believe the current GE rule should be applied, you know, to our sector. It's a great rule. Let's just go with it. But, I mean -- so any comment on that?

MR. MARTIN: This is Greg again. Greg for the record. So if I take you carefully, you want -- you would like to see social security earnings data for -- going three years back to 2014, for us to do that?

MARK PARTICIPANT: A little more specifically, I would actually like you to run whether it's your proposal now or the current GE metric with that data because it will absolutely inform the conversation for the independents, the public, all the policy makers and now that I'm understanding what you have, there's a path for you to get the information out that will lead to good policy.

MALE PARTICIPANT: Yes, you know, I want to -- I'll just take that back and talk to Cynthia first and see how feasible that is.

MR. RAMIREZ: And Mark, I want to try to understand though, you had said that, that wouldn't necessarily impact what we're doing right now?

MARK PARTICIPANT: What they are doing right now. You know, what the department's doing. Because essentially you have the dynamic of -- you have two competing dynamics. We have institutions that already failed GE, which are 99 percent of the proprietary sector are perceived to be so poor that they're deserving of closure.

I'm of the firm belief that data shows that if that metric was applied across sectors, it impacts thousands of programs. And it's too broad and it would make policy people rethink the metric because it would affect too many programs that are universally considered, you know, respectable and good. But if the department, now I understand that they have the data, if they run that informational rate before they take comments on a proposed metric, because this whole process runs past us.

MR. MARTIN: Greg for the record again. So I want to state one thing that -- remember that we have to look at cohorts of completers. So just because we have data for 2014, that's our first year for data but that doesn't necessarily mean we're going to have, you know -- when we look at completers, you know? And that's how you calculate this all.

MALE PARTICIPANT: So are you -- just so I'm clear, are you saying that you could not isolate your completers from your --

(simultaneous speaking)

MR. MARTIN: We may be able to do that. I'm not going to make that promise here now. I will take it back and discuss it with the people who --

MALE PARTICIPANT: But this is really the essence of what we're all about. And if you have that data, any set of completers of cross sectors that you can get debt and earnings in any form, three years, five years, however you do it, it is going to be the single, most beneficial thing you can do for -- forget about us -- for the department to get good policy on the matter.

MR. RAMIREZ: All right, let me go to

Jeff and then Johnson. Jeff?

MR. ARTHUR: I was going to make the comments that Greg made. But I also wanted to add that what I suggest that we do is when we do the five, six -- if that's what we do, five or six year rates for Associate degree, that why not publish an informational interim rate for Bachelor degrees so we can at least get a first look at that. Get some idea of where it is. And the official rates would be at the -- let's say seventh year.

MR. RAMIREZ: Versus a phase-in for Bachelor's?

MR. ARTHUR: The official rate would be a phase-in but if we're going to do the calculations, let's go ahead and do the Bachelor calculation at the fifth and sixth year. And it kind of falls in line with what Mark is saying. Let's get the data whenever we can. So --

MR. RAMIREZ: Then off of Bachelor's, six and seven years, we need another arm right below phase-in to say informational data at five to six years.

MR. ARTHUR: Yes, and you can still publish it at the program level on the scorecard is the data at that timeframe. It just wouldn't be covered under this rule as far as any particular sanctions, notifications, things like that. So it would be informational at that point.

MR. RAMIREZ: And Crystal could you put that below phase-in? Thank you. Okay, Johnson.

MR. TYLER: Greg, I just have a question or maybe Steve. So does the Department of Education already have for example, what a History degree is worth at CACE University from 2014 going forward? I'm just trying to understand what data you actually have.

MR. MARTIN: Well I would say no, we don't. We cannot make any characterizations as to what a History degree from CACE University is worth. I would say we have data. We have data reported at the programmatic level, starting with 2014.

MR. TYLER: Okay.

MR. MARTIN: But we don't have any -- so all I'm talking about here is when we talk about administratively calculation DE rates, you know, what's the point at which we can -- the first year where we have data to do that and that's 2014. No other characterizations about programs.

MR. TYLER: Okay, I guess I didn't ask that question that well. My question is do you have to actually --

(inaudible)

MR. MARTIN: Yes, there's no completers list that's been generated.

MR. TYLER: Okay.

MR. MARTIN: No earnings information --

MR. TYLER: Okay.

MR. MARTIN: That's what -- maybe Steve --

MR. TYLER: Right.

MR. MARTIN: -- can try to clarify

that's what you're actually asking. No, we don't have any of that.

MR. TYLER: So you would have to in essence get a completer's list, verify it with an institution, then go to social security and get the completers.

MR. MARTIN: Yes, you have to have completers. When you -- you have to have a cohort far enough out to look back the four of five years, do the completer's list. Get -- you know, do the earnings match. And then that would be -- in order to produce -- I wouldn't categorize it as showing what it's worth --

MR. TYLER: Yes.

MR. MARTIN: -- in order to produce rates --

MR. TYLER: Right.

MR. MARTIN: -- we would need to do that, yes.

MR. TYLER: Okay, so just -- so to make sure I understand. So you have all the raw data but you have to make multiple steps to then translate it into a debt to earnings for a particular program in a public school?

MR. MARTIN: Yes.

MR. TYLER: A public institution.

MR. MARTIN: You know, what I'm going to -- I'm going to let Cynthia jump in here because she can probably give a little more detail than I can.

MS. HAMMOND: So -- Cynthia Hammond. Okay, so we started collecting program level data for all enrollment reporting for all institutions, all types of programs in the '14, '15 award year. I will tell you guys right now, it's not great data. Not all schools did it. But we at least have some data for that. And it gets better year by year as more and more schools report program level enrollment.

So if we were to do a debt to earnings rate using that 2014, '15 award year data. Let's say we used it even though it's not complete. The five and six year out earnings year for that would be 2019. And because it's a calendar year earnings, it wouldn't actually be available from social security until a year and one month after the end of the calendar year. So that makes it February of 2021. Now currently -- for 2019, it would be 2021.

So for three year, -- well 2019 -- so if we use that one year of '14, '15 data, it really -- it's not complete but it's at least something, that would compare to the 2017 award year. And if we did three or four years as we're doing now, then it wouldn't be available for us until February of 2019.

MR. JEROME: Is there any way -- this is Marc Jerome, I'm sorry. It's Marc Jerome. Is there any way for you -- because you know this better than anyone, just to find a piece of representative data that will inform the debate, especially where there's been no data before, whether you do -- especially with three years earnings or even a little less? Just so we can see -- so that the department can get a sense of the data and the public can get a sense of it.

MS. HAMMOND: I will talk to my data guys but I can tell you, they're not very comfortable with that one year's worth of data as being representative because it was the first year schools reported it.

But to finish answering Johnson's questions, so the way the process works is schools report enrollment in this case or GE in the past, every year. They report it. We look back the three or four -- in the current case of five or six if we go that way. So we look back, pick the two year cohort period and go the number of years forward in order to get the earnings year.

And once we have that two year cohort period, we exclude students based on our exclusions, you know, death, disability, in-school or military. And with those exclusions, we send schools a completers list. This is their one and only chance to tell us that we got something wrong. Because once we send the data to Social Security, that's it. We can't change it after that.

So then Social Security gives us the mean or medians back and we match it with our attributed loan debt for that program and do a draft debt to earnings rates. Again, schools get a chance to challenge that and then we'll produce final rates.

Currently we have told schools that they need to get all corrections in by the end of this month so that we can do the completers list in the early spring. And we actually just put out an electronic announcement on that today, or maybe it's going out tomorrow. But we have said that in our web (inaudible) reporting and correcting data.

So that's kind of where we are in the process, both now and what we can reasonably be expected to do. So I'm not sure we're going to be able to get any data before we do a final but we certainly have our data guys looking into that.

MR. JEROME: Just one last thing in clarity. So in 2014, if there was a senior who got a grant and they were graduating from college, then you would be asking now -- you would be trying to match -- once you got the completers list approved, you would then be going to Social Security and getting that person's earnings now?

MS. HAMMOND: Yes.

MR. JEROME: Okay.

MS. HAMMOND: So if we had -- yes, if we had a -- well, right now we're not doing 2014, '15 though. Right now we're looking at the 2011, 2012, and 2012-2013 earnings year. But we're talking about what we're going to be doing going forward. 2014 is the earliest time we have enrollment reporting by programs would be all schools, all programs.

MR. JEROME: Okay.

MS. HAMMOND: So yes, if a -- if someone reported a senior as graduating in 2014-'15, you know, after July of 2014, then we would take that individual, barring he wasn't in school during the earnings year, we would create a completers list, send that individual to Social Security Administration.

MR. JEROME: Okay, thank you.

MR. RAMIREZ: All right, so I have Chad, David, Jennifer and Jeff. Chad?

MR. MUNTZ: All right, Chad. So I don't see our little wheel up there anymore but I have a suggestion.

MR. RAMIREZ: Please.

MR. MUNTZ: I don't know what you guys think. Can we -- we might have to do this multiple rounds. So I'm proposing a process here. I don't know if we can get this printed. One for each of -- all the representatives and we can highlight or circle the path that we want to go. You guys can tabulate it and then find out how many votes we have in each area or what areas we have to discuss so we can kind of focus that discussion.

MR. RAMIREZ: Let me see if we can do it even a little quicker, okay? And what I mean by that is that -- look, there's a number of pieces on here, right? So we're looking at the duration of Associates and below and Bachelor's.

And I think there's been some good discussion there, especially with the possibility that we're going a little bit longer on the Bachelor's, you know, with the phase-in.

And then, I understand that if we're going to talk about the ratio piece, that we may have to see some additional numbers on that. And I know that I could see some smoke coming out of Jordan's computer and ears. So I know he's working on that right now.

And then -- so let's see -- let's do a temperature check on the Associates and below and Bachelor's, right? So Associates and below, five to six years. Let's do a temperature check on that. Let me see where folks are at on that.

MS. BARKLEY-DENNEY: Can you say it again?

MR. RAMIREZ: Just the Associates, we'll go to the Bachelor's of six and seven. But Associates and below, five/six years. Yes, Associates being treated differently than Bachelor's. So I'll go to the Bachelor's next but

--

MS. BARKLEY-DENNEY: Okay, treated differently or specifically the five year -- Treated differently or specifically the ratios that are on --

(inaudible)

MR. RAMIREZ: What's the difference there?

MS. BARKLEY-DENNEY: So I might agree that there's some room to talk about treating them differently but not agree with the years that are up on the board.

MR. RAMIREZ: Okay. All right, so I did see some thumbs down. So let me go through and see the thumbs down. David?

MR. SILVERMAN: Yes, I was going to talk about this. So I was going to say my like for Johnson's now in the past tense so I liked Johnson. Just kidding.

So what I was going to say before this came out, I was like please don't treat two-year programs differently than four-year programs. So everything I've spoken about since Session 1, I'm in a not-for-profit organization. If the representative stuck around, I would have told him and he's not too far from my Hollywood campus so we might be in touch from L.A. and, you know, we have a pretty robust L.A. campus as well. So I'm sorry he left in a huff.

You know, Performing Arts, I'm not going to get back into it again. But we need the years to build -- our kids need the years to build a career. It's not going to happen Day one. It's not going to happen Day two but it does happen. We have many success stories. I'm not going to mention the Jason Derulo's of the world again and all the success they have.

So please if you can -- I mean, yesterday I just said -- Yesterday, I said two-year programs are -- these are fields that aren't going to be making big money to, you know, to -- the certificate programs, these guys -- people are claiming manicures. People are claiming Performing Arts and Visual Arts. These aren't big paying fields to start with.

So these people are going out and trying to better themselves. Trying to get a job. Trying to earn a living. Trying to have gainful employment. Please don't treat the two years different. I'm still going to be -- Yesterday, I asked for the fifteen year amortization. Please keep it the same number of years. Thank you.

MR. RAMIREZ: Thank you. Whitney, would you mind telling me what you were thinking as far as maybe treating them different, but not necessarily the years?

MS. BARKLEY-DENNEY: Yes. I mean I haven't really formulated, you know, how I think they should be treated differently yet. But I think there is an argument to be made that Bachelor's degrees and possibly some other degrees take a little bit longer to, you know, actually meet the salary expectations of the degree. Whereas something like a Welding degree, you know, you're probably going to make as a welder, pretty much the same thing in the couple of years after graduation.

So that's sort of my uncomfortableness with it. And I'm also uncomfortable with -- you know, we're already talking about extending out the amortization period. So then we're also extending out the look back period and you know, it's just -- Again, I'll just reiterate, it's hard to vote on this piece meal even to give a temperature check without knowing, you know, what the final thing is going to look like because these are all components of a rule that come together. And they matter in the way that they interact.

MR. RAMIREZ: So Chad, is that why you were thinking that if they had the map, they could identify the package that may look suitable?

MR. MUNTZ: Yes, (inaudible). And you know, I don't know where all these bright lines are but it's hard to follow because we jump around so much. That's why I was suggesting it.

MR. RAMIREZ: Okay, so if we were to do something like that, are there other elements that need to be up here for consideration? And I'll ask Crystal if -- Crystal, could you isolate just the DE for now? You can go to view and -- yes, more to the right. There you go and then local centering. And then double click on that. And can you expand the pluses so we could see the different components on there?

Okay. All right, so this is more or less what we up there right now for the DE piece. And this is where most of the discussion is happening right now. So are there other elements up there that we would need to add before we were to do something along the lines of Chad's suggestion there of bringing out and have folks look at that?

So is a combination of what's up there a deal? So not hearing any other ideas, what that tells me is there is a deal up here. We just need to find the right combination.

FEMALE PARTICIPANT: Oh, Javier.

MR. RAMIREZ: Someone has to be the optimist in here, right? All right. And to that point though, I think before we print it out though, because Whitney, you had mentioned as far as then what we look at, we have to look at the amortization years and things like that. But again, if I understand correctly, that goes away if we're exploring the possibility of a ratio.

MS. BARKLEY-DENNEY: Right. So that kind of highlights what I'm saying is that we need to understand what the full package would be like before we wed ourselves to one piece that, you know, maybe I'm okay with it if I like everything else and this is one thing I'm willing to give up. Not saying I am, but that could be, you know, a perspective that somebody has.

MR. RAMIREZ: Okay, Chad? Yes.

MR. MUNTZ: Just to be clear, we don't know what any of this looks like because there's no data. So whatever path we go, we don't really know.

MR. RAMIREZ: The path that we were exploring originally, as well as the other ratio.

MR. MUNTZ: No. What I'm saying is

we're opting in two huge segments that we don't even know what that impact is.

MR. RAMIREZ: Okay. So we have Jennifer and then Kirsten.

JENNIFER PARTICIPANT: Well on that very last point, that's why starting, I think yesterday or earlier this week, I suggested that, you know, whatever we do, that there could be a phase. That's where the phase end piece comes into play where you get that data. You provide the department in the regulation some discretion to pick the -- whatever, you know, we pick the median, mean, average, whatever and that's what they go with on the sanctions piece down the road.

So I just would say that I feel like we need to be careful on the data conversation not to get like that, that becomes the thing that keeps us from the conversation. Because I think there's a way to resolve for that, you know, in terms of how the sanctions piece gets written.

But the question I did have for the

department on the data point on earnings, so I'm going a little bit back on earnings, is so for I know, get the department difficulties on the department actual data. But of course, when we started this many, many moons ago, the department relied on BLS data and it would not be hard and we can do it. I can have our folks do it if the department can't do it today.

But if we were to pick, not every single profession but perhaps like a lot of the professions we've been talking about over the course of these few months as a sample, we could easily at least get the BLS data. I mean that's easy to get. And you know, again pick a bunch of professions. Have it in a chart. Here's what it looks like, three, five, seven -- and I get that BLS is not perfect but to me, that's a straightforward request and for whatever reason the department can't satisfy it, I'm guessing that either I or somebody else could satisfy that request.

MR. RAMIREZ: All right, I have --

JENNIFER PARTICIPANT: Well can the department respond to the request?

MR. RAMIREZ: I'm sorry, go ahead.

JENNIFER PARTICIPANT: Sorry.

MALE PARTICIPANT: I will inquire. I'm not going to obligate any of the people who do the requests up here by saying yes, we definitely will. But Scott has that and we'll ask.

JENNIFER PARTICIPANT: Okay. And then if we could get that answered quickly, that way one of us could get it if you can't.

And the request would be for BLS data and you could do it, because I think the BLS has it, in different year segments. So you could look at three years out, five years out, seven, whatever the BLS -- they break it out, I can't remember exactly in what years but they do short-term and longitudinal on earnings and you could pick -- I'm leaving it to the department, although I'm happy to create the list of different professions, you know, starting with Arts and Music and some of those -- Graphic Design and then go up sort of into different categories like Business, Teaching, Education. And so if you did a sampling along the lines of the various different professions, so it's a good spread of professions, we would at least have the BLS data to work from in both three year, five -- like I said, you know, whatever the segments are that the BLS gives.

MR. RAMIREZ: Okay. I have Kirsten, then Tony.

MS. KEEFE: This is Kirsten. So this suggestion is sort of along the lines of what you were saying, Jennifer. But without the data, I think people feel really uncomfortable agreeing to anything without hard data. So in asking these questions, would it be helpful to put a caveat that a five to six year timeframe should apply if the data shows that somebody just coming out of school is making substantially the same or nominally the same income as somebody in that profession, ten years out?

So then it doesn't require data to be

given between today and tomorrow but folks can come to consensus conceptionally on the ideas, you know, and what you would want the data to look like.

MR. RAMIREZ: Okay. Yes, so remind me of that when I'm taking the next temperature check. Okay. Tony.

MR. MIRANDO: Thank you. This is Tony. So I know that I'm going to be repeating what others have said this morning. But I just feel like I have to get it off my chest.

So lots of people are sitting around the table being -- that are very, very frustrated including myself. Like many in the room, if not all of us, we're trying to get rid of the bad actors. I get it. And I think we ought to work really hard at doing that.

But when I look up at this chart, it appears to me that we're trying to fit everybody into one group here. You know, one size fits all kind of a situation. And that's when I become uncomfortable. Because when you try to do that, you're missing things because you can't force everything into one metric unless the metric is so amazing, which I still have not heard. And I've been saying that since Day 1. If it's a flawed metric, you've got to get rid of it because it's not getting to the problem, which is to get rid of the bad actors.

This just doesn't seem to be a way to get there. But I'm here. I'm open. I'm trying to understand.

One of the things that would make me feel a bit more comfortable and I'm saying just a bit, is that if you're going to require me to wear sneakers when I want to wear dress shoes or you want me to live in a yellow house when I really want a blue house, that I have an opportunity -- or there should be an opportunity for people to have a review before anything is done. So some kind of a mechanism so that the non-individuals and non-institutions that are being unfairly grouped together have an opportunity to claim hey, this doesn't fit me.

And I think if we could at least get that piece off the table -- or get it on the table in this instance, I think those of us who kind of try to play the middle ground here or look at institutions in a way that's pretty objective, I think I would get to a win faster. Because all I keep seeing when I look up here -- yes, but what if? Okay, but what if? And there is no mechanism here for what if before something happens and then it's like you're being accused unfairly of something before you have an opportunity to say yes, but that's not me.

And that's my biggest concern. So if we could somehow and I think my colleague this morning, alluded to it, and so I want to reemphasize that again because it was the problem I had yesterday in the last session and the session before, which is we've got to have some mechanism to handle that.

MR. RAMIREZ: Tony, we haven't gotten to the corrective actions yet and I think that what you're talking about would be an element within that. And so we have corrective action up there. We'll put review period under corrective action, okay? And that's more of the flow there. But I've gotten a couple of requests for breaks. Okay, so let's go ahead and let's take a full 15-minute break. And we'll see if we can print out what we have so far.

(Whereupon, the above-entitled matter went off the record at 10:49 am and resumed at undisclosed time.)

MR. RAMIREZ: Okay. I know that that was quite a bit longer than 15 minutes, but the groups were actually pulling together some information that I think was worth the extended break so that way you all could have some data, right, some information to help with your decisions.

And I want to start off with Tim Powers who was able to pull together a chart that shows the income over a period of time. And we put the chart -- it was passed out. The chart's up on the screen as well. And I'm going to ask

Tim if he could tell us what we're looking at and what it really means.

MR. POWERS: Sure. So, thanks very much. You know, it's just sort of in the -- yeah, this is Tim Powers, for the record.

Just sort of living in the environment in which we're living in which data is difficult, I think, for the department to pull here, I had mentioned earlier that this -- that there was some information from Georgetown Center on Education and Workforce on lifetime earnings, you know, based relative on major and all this sort of information pulled from the Census Bureau.

But in particular there is -- the chart that was passed around sort of shows year-over-year, and I'll recognize in a moment some of the issues with the chart, but I just want to speak a little bit about what we're looking at here.

So, first and foremost, I think the biggest flaw when you're looking at the chart in front of you is that it breaks it down by age rather than by year after completing.

That is a major flaw because we know that there -- you know, non-traditional students are enrolling and graduating at different times in their lives and traditional students are a shrinking percentage of college. So, recognizing that flaw first.

And also recognizing that -- my understanding is that, and I think this is unfortunate, that certificate programs are reported in the some college/no degree category.

That's my understanding, which again I think is unfortunate because I think when you get a certificate that is a worthwhile, very valuable credential and it shouldn't be associated with some college/no degree. So, recognizing that flaw as well.

What we're looking at here is just sort of a year-over-year estimate, again, pulled from the Census Bureau on what earnings look like at different ages for a person. And so, the -- it kind of -- the sort of legend here on the top, if we work backwards in some ways you can sort of see how each of these lines is defined.

So, for those in the public and for those at the table -- oh, and I'll also mention if you want to just Google it, the name of this report is The College Payoff: Education, Occupations, Lifetime Earnings.

And again Georgetown Center on Education and Workforce. I'll repeat it, the College Payoff: Education, Occupations, Lifetime Earnings so everyone can look that up and I'm not pulling this data from a hat somewhere.

But what the chart shows is that, first and foremost, we will be eliminating, for purposes of this discussion, the top three lines there because those there lines -- the top line is professional programs.

And, as it's reported, professional in this scenario means MDs, MBAs, JDs, those with the professional degree beyond a bachelor's. that's what that top line is. The line under that is doctoral programs. And the line under that, that third dark green line, is your master's program.

So, again, for the purposes of the discussion of where we've sort of gone in this conversation, those programs would not be considered under gainful employment.

So, the line we're really focusing on is the bachelor's line, which is sort of that -- I don't even know how you describe it, but the lightest shade green of all of the lines. And we're looking at that credential on down, okay?

And the reason I pull this out and the whole point I'm trying to make with this little monologue here is the value of just sort of differentiating the time horizons between programs because if you look at this chart and you look at the slope of that line for a bachelor's degree, the slope is significantly steeper for a bachelor's degree program over those first ten years.

Again, it's age not years, but using age as a proxy that slop is much steeper indicating to me significant marginal changes and incremental changes year-over-year in those first ten years for a bachelor's degree recipient compared to the other programs.

So, that's the point of this, which is just to show that, you know, it might be easiest to just look at a five-year snapshot for everybody, but I think the point of this is that we really need to take a more holistic look at the differences and the wages over a certain amount of time.

And the value of the bachelor's degree just takes a little bit longer based on those incremental year-over-year changes, which is why we would support some sort of a differentiated look at those sort of two differing credentials.

Again, given the lack of data, I think that this is the best way that we can possibly show it recognizing that, of course, there are flaws in the data and, you know, that this could probably be done a little bit better.

But if you Google the whole report, there is a wealth of information on lifetime earnings and earnings by degree broken down by certificate, bachelor's, associate's, and -- it's got some really great information in there.

So, that's sort of the point of this. I'll be happy to take any questions on it. But, again, living in the world that we're living in with the limited data, I think that this is the best we can do to provide some sort of justification for why we think that there should be a differentiation.

MR. RAMIREZ: Great. Thank you so much, Tim. So, are there any questions for Tim? Jordan also has some information that we're going to ask him to put on the screen and look at, but for now are there any questions for Tim on this chart? Okay, great. That was helpful. Thank you, Tim.

All right. And we're going to take just a quick minute here for Jordan to plug in and project. Gerbil on the wheel. Okay, thank you. So, Jordan, can you explain to us what we're looking at and walk us through some of your data?

MR. MATSUDAIRA: Is this on?

MR. RAMIREZ: Yeah.

MR. MATSUDAIRA: Okay. Yeah, so I, at Whitney's request, just wanted to kind of talk through the difference between the way the rule is currently structured where there is annual debt service payments are estimated and then the ratio of that is kind of compared to a .08 standard or then there's a discretionary earnings standard as well of .2 versus Chad's suggestion of just using a sum ratio of the total debt amount borrowed to your earnings.

So, what I've depicted here in the chart -- and unfortunately I don't think the color of my -- the laser pointer actually shows up over there, does it? Well, it kind of does. Okay.

So, Chad's idea was, why don't we just take the ratio of your earnings relative to -- or, sorry, take the ratio of your total loan amount, the total loan principal at repayment compared to your earnings, okay? And, for example, take a ratio of 1 and say that as long as that ratio is below 1 you pass.

So, what I've drawn in this picture is the way that that earnings rule works in general under either one of the metrics, either the existing one or Chad's suggestion, is just to say for any given loan amount there is a minimum average earnings that your graduates need to earn in order for you to pass the metric, okay?

So, the way this figure is drawn is to try to focus in on that kind of idea. So, as a function of the total loan balance that students have at repayment on the X axis here, there is a minimum earnings level that's implied that those -- that your student graduates need to pass in order for the program to be deemed passing.

So, under Chad's suggestion, the line here is just, you know, a 45-degree angle. Meaning, you know, if students have a loan balance of $10,000 they need to make at least $10,000 on average in order for the program to be deemed passing, okay? And then that just goes up. So, that's the dashed line depicted in the picture.

The other two lines in the picture are showing the annual debt-to-earnings rate and the discretionary debt-to-earnings rate under the assumptions that I think are true under current law, which is to say a 4.45 percent interest rate on unsubsidized loans, and in this particular shown for a ten-year amortization rate.

And what I'm showing here is the earnings levels -- okay, the minimum earnings level that a program's graduates would need to pass in order for the program to be passing. The way the two lines interact are the one that's more steeply slopes is the annual debt-to-earnings line.

So, in order to pass annual DTE, you need to have earnings that are above that blue line. In order to pass the discretionary DTE, you need to have earnings that are above the more shallowly sloped, the flatter red line.

And so, you can see because you only need to pass one of the two, effectively what the discretionary part of the rule says is that if you have programs that produce relatively high earnings we're going to allow you to effectively have a higher kind of debt burden because, you know, if you're making more earnings then even a higher debt burden is more affordable is the gist of it.

Okay. So, what I've done is plotted this under a variety of different scenarios just so you can get a sense for just how Chad's suggestion of a 1-to-1 total debt-to-earnings ratio would compare just in the general strictness of the rule, if you like, to the existing law.

And I'm going to do that first for assuming a ten-year amortization rate, which under the current program would apply to programs below the bachelor's level, and then for a 15-year amortization rate.

And then I'm going to show it to you separately assuming the 8 and 20 thresholds that are in existing law in 8 percent annual debt-to-earnings rate, and then show you what it looks like under a 12 to 30 rate just because some people have thought about that as it relates to the zone or to pass rules.

Okay. So, you can see this is ten-year amortization again and the 8 and 20. You can see that the kind of red and blue lines are both above that debt-to-earnings line, which means that, you know, at every kind of line balance amount up to 50,000, the current rule is a little bit more strict.

And you can see that, you know, like if you pick 20,000 you need a higher minimum earnings level for your program graduates than you would under just a 1-to-1 ratio of total debt-to-earnings under the existing rule.

This is the same picture but now assuming that debt-to-earnings -- or, sorry, but now assuming a different threshold required to pass. So, the dashed line hasn't changed at all, okay?

The dashed line is still just where earnings are just a, you know, 1-to-1 ratio with your loan principal amount, but you can see that now that kind of dashed line is almost exactly on top of the annual debt-to-earnings line before.

And this is what I was trying to say the other day, that there's really this 1-to-1 correspondence between this kind of idea of just using total debt-to-earnings relative to the way the current rule works, which is amortizing that over a certain schedule.

And there's always going to be some ratio of the kind of yearly debt payments relative to income that would make a fully equivalent rule to the kind of 1-to-1 debt-to-earnings ratio, and in this case the ratio is really similar to .12. It's really similar to the 12 percent standard, assuming the 10 percent amortization rate.

What you can see is different about the way the current rule works is that it gives essentially a break. It makes the rule a little bit less strict for programs that serve higher earners, right?

So, towards the right-hand side of this graph you'll see that that red line falls below that 1-to-1 line where total debt is equal to the loan balance -- or, sorry, to your earnings.

And so, you know, the way the current rule works is to say that, you know, for students who are earning above that's about $30,000 or so, you can actually allow those students to acquire more debt than you would under a strict -- the kind of 1-to-1 ratio that Chad was suggesting. Okay. So, that's for ten-year amortization.

So, just to summarize, you know, at a 8 percent annual debt-to-earnings ratio and a 20 percent debt-to-earnings ratio, the kind of 1-to-1 ratio would be less strict than current law would be.

Let's look at what things look like for 15-year amortization, which is kind of appropriate for thinking about what would happen to bachelor's degree programs.

Okay. So, what you see is that with the 15-year amortization rate, so we're amortizing debt over a longer time period, so the rule essentially becomes less strict, right? Like if you're amortizing debt over a long time period your yearly payments are lower than they would be otherwise, and so the minimum level of earnings required for you to pass the debt-to-earnings threshold is lower.

So, you can see that assuming, okay, the current standards of 8 percent and 20 percent for bachelor's programs, a 1-to-1 ratio comes pretty close to mirroring the annual debt-to-earnings ratio, it's just a little bit less strict than current law would be at the annual debt-to-earnings ratio.

But again, you can see that when you get to higher earning programs with higher earnings, the 1-to-1 ratio becomes a little bit more strict, okay, because it doesn't factor in the allowing those programs to have a lower debt burden -- or, sorry, a higher debt burden at higher levels of earnings.

So, this is at 8 and 20 percent thresholds. If you look at 15 and 20 percent thresholds, you can see that the 1-to-1 burden becomes substantially more strict than would be true under the current structure of the rule.

So, I put together a program that can kind of simulate like any number of permutations of these kinds of things and I'll share that with Ed, and if people kind of have other questions about other permutations I'm going to guess that they could crank those out for people, but I'm happy to answer any questions.

MR. RAMIREZ: Yeah, Chad.

Mr. MUNTZ: So, just my observation. So, the 1-to-1 will work better for bachelor's degrees no matter what we do, correct, or about the same?

MR. MATSUDAIRA: So, it depends on what your criteria for work better is, of course.

MR. MUNTZ: Okay. All right. Well, let me ask you this. From simplicity --

MR. MATSUDAIRA: Fewer programs will fail the standard under a 1-to-1 threshold.

Mr. MUNTZ: Right, okay. And at the

higher debt balance a 1-to-1 protects the students better the higher the debt, right, because of the discretionary income gives you kind of an out to pass, whereas a 1-to-1 at high debt balances, which cripple the students, this would be a harder standard to pass?

MR. MATSUDAIRA: Correct.

MR. MUNTZ: Okay.

MR. RAMIREZ: Mark (phonetic), you had a question?

PARTICIPANT: Jordan, when Chad and I discussed this we actually were using just the 1-to-1 to begin the discussion. Did you feel if you did then .8 it more closely mirrors the current rule?

MR. MATSUDAIRA: On this one it would be 8-year -- I mean, 8 and 12 -- I mean, 8 and 20 over ten years.

MR. RAMIREZ: Can you use the mic?

MR. MATSUDAIRA: Yeah. So, you know, if you look at the graph here, okay, look at -- we basically have to think about what the slope of that blue line is, right? So, the blue line has a loan principal of 30,000 at about a little bit more than $40,000, okay? So, that means like, you know, in the neighborhood of .7 in terms of the ratio of the total debt-to-earnings, okay?

So, in this case for assuming ten-year amortization in an 8 percent annual debt-to-earnings threshold, a ratio of total debt-to-earnings of about .7 would mirror the annual debt-to-earnings threshold.

PARTICIPANT: Okay.

MR. MATSUDAIRA: Yeah.

MR. RAMIREZ: Jeff.

MR. ARTHUR: Yeah, Jordan, it would be real interesting to see how this chart looks if you modeled it using, say, 5-1/2 -- I mean, we know the interest rates are going to vary and this is this year's rate and just what -- I mean, currently they really use the 6.8 for the current cohorts.

And so, it would be kind of interesting to see how a 3.6 and a 5 and a 6-1/2 might look just to understand as those fluctuate how that, you know, how that impacts that.

MR. MATSUDAIRA: So, like I said, I'll share this with Ed, but this is, you know, for the same thought experiment that I just did at a 6-1/2 percent interest rate.

So, you know, in general what happens is that 6-1/2 interest rate, your annual -- your yearly debt payments are, you know, a little bit higher than they would be under the 4.5, so the red and blue lines shift up.

As a result of that, you need higher earnings and able to be -- in order to be able to afford the higher debt payments. And for a lower interest rate those lines would shift a little bit down. And exactly how much they do, you know --

MR. ARTHUR: Yeah. So, this does seem to --

MR. MATSUDAIRA: -- the program that I wrote can help you figure it out.

MR. ARTHUR: -- does seem to help stabilize that influence from year-to-year as it varies.

MR. RAMIREZ: Okay. Jessica, do you have a question?

MS. BARRY: I do.

MR. RAMIREZ: Okay, Jessica then Laura.

MS. BARRY: Sure. And it, actually, was just a clarification on this map.

PARTICIPANT: Don't forget your mic.

MS. BARRY: Thanks. So, Jessica Barry. I just wanted to ask a question to clarify something on the map. Over here at the 75 percent or 62.5 percent, however you look at it, did we say that we are going to take the highest of the median or mean? I wasn't sure of it just didn't make the sheet or --

MR. RAMIREZ: Chad, do you --

MR. MUNTZ: I don't know the answer.

PARTICIPANT: That's the -- I think that's Jeff's suggestion, right?

MR. ARTHUR: Yeah, so the --

MR. RAMIREZ: Oh, I'm sorry, that's

right.

MR. ARTHUR: Yeah, the income comparison in general I think has been the highest of the mean or median, whichever one is higher. So, I don't know if that's also the case in Jeff's proposal.

MR. ARTHUR: I would assume so. I mean --

PARTICIPANT: Move the mic closer.

MR. RAMIREZ: (Inaudible)?

MR. ARTHUR: It feels like it's really echoing, so. Yes, I didn't propose any change to how you determine the median, other than the -- eliminating the variable, the noise.

MR. RAMIREZ: So, to clarify, I think what you're saying, Jessica, is when you put the highest mean/median?

Ms. BARRY: Yes.

MR. RAMIREZ: Okay. Yeah, so we put it up on the board just so you could see where the correction needs to go. Thank you. Laura, you had a question for Jordan?

MS. METUNE: I'm trying to understand how the decision to eliminate private debt from the calculation affects the calculations themselves.

And I'm not sure if this is a question for Jordan or for the Department, but how do we know what percentage of debt that's currently being reported as private and should not incorporating that change the metrics, and in what way?

MR. RAMIREZ: Jeff?

MR. ARTHUR: I can only share anecdotal insight in that. When I looked at our data that less than half of the borrowers had private debt, it was about 25 percent. And all of those were above the median so it didn't change our median debt by -- whether you included private or not, but I can't speak for any other.

MS. METUNE: I think the other part of the question is, there are limitations to how much Title IV loan debt a student can take on that should probably be factored into where that line should be.

If we're -- if the line ultimately exceeds the amount of loan debt a student can take out for a program, the line becomes -- the 1-to-1 becomes meaningless, right?

PARTICIPANT: Can you say that again?

MR. RAMIREZ: Yeah, can you repeat it?

MR. METUNE: There is limitations for Title IV debt that students can take out based on program costs. So, how does that relate to the determination of the metric?

PARTICIPANT: Annual (inaudible).

MS. METUNE: So, what you're saying is the 57.5 of -- I think that's what the current amount is, right, 57,500 of maximum undergraduate debt you can take, the fact that if you have to borrow above and beyond that is that in essence affecting our view of it because we're not including the added debt?

PARTICIPANT: Yes.

MR. RAMIREZ: Jennifer?

PARTICIPANT: Actually, Laura has a

good point because I'm just -- and I'm just going to add to it that, I mean, we don't really know what the new debt would look like because we're also -- there are institutions that used tuition and fees instead of the total loan amount, so there is also that. So, we are in a different universe.

Now, I don't know if that's true on the bachelor and below as much. My guess is that they -- that it was pretty on par in the loan amount probably, but the point -- the larger point is we're redefining what debt is so it's a little hard to know. So, I think, Laura, it's a fair point.

MR. RAMIREZ: Jordan.

MR. MATSUDAIRA: Yeah. I mean, I think the rule will continue to work in the way that I've described it, it's just what kinds of things filter in to either debt or earnings change as we change the concepts behind either of those things.

So, if we get rid of institutional and

private debt, the debt number is going to be lower and that effectively is changing the rule. You know, if people have -- you know, if ten percent of all debt everywhere is made up of private and institutional debt, then that's effectively, you know, lowering the debt-to-earnings standard by ten percent.

MR. RAMIREZ: Chad.

MR. MUNTZ: So, just a couple comments. I mean, one, you know, to go back to the 1-to-1 ratio is what do the institutions have control over? They don't have control over interest rates and they don't know what they will be in the future. So, that's one reason why the simplicity of removing it.

The second is a lot of the debt from the score card was between 20 and 35,000 for the bachelor's degree. And if you remember -- I wish we had Jordan's lines up there, those thresholds are very close to each other regardless of which direction you go.

And from a perspective to the consumer

or to the student, what is easier for them to understand is one thing that I'm trying to consider in trying to explain to them what they need to do or how much debt they can have.

Do they understand that in this year the interest rates look good, so you can have $30,000 in debt because your payment might be lower over the next ten years, but this year you could have 28,000 because your interest rate is going to go up.

And how do you manage that in institution and when we consider the threshold of declaring if a program is doing well or not, you're basically saying the program is doing well as long as the interest rates are low and our economy is not doing very well and we have to keep the interest rates low, and your program is not doing well if the institution is -- I mean, if the economy is thriving.

So, just those are kind of the outside our control issues with using an interest rate, but we can set that ratio different. If the group thinks that it should be .8 loan balance to one income, you can do it that way and solve for those issues if you want it more strenuous.

MR. RAMIREZ: Sandy, do you have something on that?

MS. SARGE: This is Sandy. So, trying to put out a thought about private debt. Private debt comes from banks. Is there a way or a current mechanism -- I'm trying to think through like we report out on 1098s and things like that.

Like is there a way that we could ask or get from banks at some point, if we're going to look at the universe, to report out by Social Security number what the debt is of current -- what's the current debt of their students that are taking the money?

So, I'm trying to figure out a way that -- these guys are in the business of doing loans, the private institutions. Would they be able to -- would we be able to get that information from them somehow?

MR. MARTIN: This is Greg. I think that would be highly unlikely. I can't imagine how -- I mean, as setting up I guess a protocol for that to occur or having even the authority to have banks relate that information to us, and then they would be relating it to us but they wouldn't know what program it was against necessarily.

I don't think there's any -- as I said before, I'm going to maintain this position, there is no practical way currently for us to receive that information, other than future, and they're not promised, future potential modifications to NSLDS reporting that would allow us to collect that information easily from you.

And we don't have it know, and we don't have a prospect of having it in the near future.

MR. RAMIREZ: All right. Let me get Whitney then Johnson.

MS. BARKLEY-DENNEY: So, I understand why that's true of banks and private loans hat are coming from banks, but I still don't understand why that's true of institutional loans that should, I would imagine, be tracked by the institution, whether they are collecting those loans on their own or they are giving them to a collector to collect.

The institution should have that information pretty readily available as far as loans that are coming directly from them, right?

MR. MARTIN: Greg again for the record. I agree with that statement, however the problem is still in having it conveyed to us. They might have ready -- schools might have more ready access to it.

I would suggest, yes, they absolutely should know what their institutional debt is, but what would be the means of conveyance to us absent the current GE (phonetic) reporting that needs to be done by -- for GE programs.

I mean, unless we're to impose that on all schools, all programs, which we're just not willing to do, how would you suggest that they get that data to us?

I mean, there's no mechanism to do that. There's no -- I mean, people say well, there's got to be something, but there isn't something. You know, think about how schools report to us.

They report NSLDS data, they report via COD, those are the primary reporting mechanisms to us and absent reporting something that way -- and we don't have a mechanism now to capture that.

So, it certainly wouldn't be appropriate under -- it's not a COD reporting thing, it wouldn't be that, so it would be -- it would have to be NSLDS.

So, I want to change my statement to say we basically have NSLDS for this and right now it doesn't accommodate that.

MR. RAMIREZ: All right. Jessica, is your tent still up or -- okay. Jordan, is yours up or -- okay. So, we have Whitney -- Whitney just went. Jennifer and then Johnson.

PARTICIPANT: So, totally understand

on the difficulties on the go forward, but I do have a question about -- from a sort of -- I guess I'm following up on Laura's question a little bit.

In terms of impact knowing that we're changing the debt, you probably, from the previous reporting, have some data on what percentage of the debt was impacted by the private or institutional loans. And even just on an aggregated basis of understanding like, did it impact the debt number?

I mean, that would -- I think actually that would be helpful to understand on a -- in terms of -- well, as we try to grapple with like what the threshold should be, it would be good to know what the impact had been on, you know, on that so you do have the backward-looking data. So, in theory, that breakout would be helpful.

MR. MARTIN: I'll talk to Cindy (phonetic) about that. I don't want to say anything -- I don't want to obligate myself.

MR. RAMIREZ: Okay, Johnson.

MR. TYLER: I have a question just about the interest rate. Can you describe how it, in the regs, it's supposed to happen, the existing regs, in terms of calculating it for debt-to-earnings? Is it looking back at what the cohorts average or median interest rate was or is it just some number that gets thrown out?

MR. MARTIN: Yes, it depends. It's a -- there's a three and a six-year rolling average. I could get you the exact -- I'll get you the exact, I'll get you the exact language on that if you want. I can read it, it'll just take me about a minute to pull it up.

MR. TYLER: Okay. Thank you.

MR. RAMIREZ: Okay. All right. Any other questions or comments right now? All right. So we're pretty close to the lunch hour. Greg, is there any other comments or direction you would like to share at this moment or should we break for lunch right now?

MR. MARTIN: We can break for lunch. When we come back I'm going to have Sarah (phonetic) come up and have a brief discussion about data limitations with you before we proceed.

MR. RAMIREZ: Okay.

MR. MARTIN: But other than that, yes.

MR. RAMIREZ: Okay, great. So then, let's look at 90 minutes and then we'll be back and jump right back in. Thanks, everyone.

(Whereupon, the above-entitled matter went off the record.)

MR. RAMIREZ: Okay, so the Department has been pretty busy during lunch and they're, what we're going to do this afternoon is, Sarah is going to lead off giving us some additional information on some of the data. And then we're going to go through and, I understand the Department has some additional guidance and direction for us.

Once we go through that, then we're going to jump back in so that we make sure that we review Issue Papers 6, 8 as well as technical and conforming changes.

And hopefully that will give you all

sometime between the additional direction to chew on that for a little bit and see where we go from there. Okay, so, Sarah, do you want to share what information you have for us?

MS. HAY: Sure. Good afternoon, everyone, I hope you had a good lunch.

Today's March 14th, right?

PARTICIPANT: Oh, yes.

MS. HAY: So happy pie day everybody.

(Off microphone comment)

MS. HAY: I am. So you should all go home and have a piece of pie and derive pie for yourself with whatever round object you happen to have. Measure circumference, measure diameter, divide circumference by diameter and you should get a number close to three.

So --

(Off microphone comment)

MS. HAY: Right. So, we got a number, a couple of data requests yesterday. I'm not sure that they're entirely pertinent to the discussion today but we wanted to be responsive, so Brian did run the numbers in Stata yesterday, I validated them today in SAS.

We're in the process of printing them and we'll put them on the back table. We don't have super great access to a printer in this building so we're going to do what we can, but we're going to get them to you before the end of the day.

And if you have questions, Brian and I are available and we can answer those questions sort of during breaks or things like that, okay?

But I wanted, you know, since it's publicly available data and we had the ability to do it, we wanted to get it for you, okay?

I want to talk some about data driven decision making and modeling. And I agree with all of you, I would love to have the data.

So I could have done the modeling, presented where it looks like the thresholds fall and you could say, yes, that model is robust, good, let's do that. But the fact of the matter is, I don't have it.

We did look at BLS data before we started this process. There's a big mess of trying to match CIP codes to SOC codes, which is how BLS data is done.

BLS data is also done by percentile. It is not done by how many years out you are from graduating. There is no information about what kind of degree you got or what level it was at.

There is no guarantee, for example, if you are working as a computer scientist that you have any kind of degree or certificate in computer science. I actually know many agriculture PhDs who now work as database admins and computer coders.

So, we made the determination, both from a production perspective, the messiness of it made it untenable. And we spoke with BLS and asked, are there other things we're missing because it's your data, not ours, and we just don't understand.

And no, we didn't see a good way to apply it for research basis either. So that left us in a situation of, we don't have earnings. And that, again, just sort of is the situation we're in.

So, what I want to say about modeling, that I think it's important to put out there and be clear about, is that the model should be driven by the data not by the outcome you want it to give you.

So, we would never be in a position, whether I had the data or not, being up here and saying, oh, well these particular schools are the ones that we think are bad and therefore we draw the line here.

The way you build a robust model is you run, you look at the distribution of the data, you look at the statistics of the data, you apply commonsense, you use standard, statistical and mathematical modeling technics against the data that are appropriate for the type of data and for the distribution of the data. And the thresholds are data driven.

And from the Departments perspective,

that threshold should be chosen by statistics or mathematics. And any program below that threshold is below the threshold.

We're not going to pick a threshold so that some percentage of institutions or programs or below or above, we're going to pick one that is based off of what the data say. Okay.

So, I just wanted to sort of talk some about that because over the course of the past couple of days I've heard a lot of people saying, if we had the data we could pick the threshold that we think would give us the right institutions or the wrong institutions.

And I think, from the mathematical modeling perspective, where my background is in mathematics and modeling, you do it the other way around and your output is based off of the data you put in. Okay?

And it's unfortunate, I don't have the data. And I wasn't able to bring it to you to show you what it would look like. I agree, I would have loved to have done it for you, okay?

So, that's really all I wanted to say. I just wanted to sort of help frame that conversation that I've heard some of about how one would set a threshold.

You look at what goes into the model to get data that is of high quality. You pick a model that fits those data from a distribution and sort of a mathematical perspective and then you apply an outlier identification technic.

So it could be box plots, it could be something else that would be appropriate to the distribution of the data. And then where math and statistics tell you that threshold should fall, that's where that falls. And then we act upon that.

So, I don't need to repeat myself, but I just wanted to sort of provide that perspective to folks based off of what we've been hearing over the course of the past couple of days of what our intentions would be, once we do have data. Okay?

MR. RAMIREZ: Okay, thank you. Are there any questions for Sarah? Jennifer.

PARTICIPANT: Sarah, really appreciate it. I guess first of all, on BLS, I would say that the piece about not assigning it to a degree level, we sort of got past that point anyway a long time ago on the metrics because the earnings aren't tied to a particular profession anyway because it's the students. So they could go off and be a whatever and not, so that piece of it.

But I totally hear you on the fact that it's not based on years it's based on percentiles and that's important. We still might pull it just because it's interesting to understand.

Your larger point though is something I just wanted to, this is where I sort of landed a few days ago on the, if we could construction a regulation or at least give, because I don't know if we're going to reach consensus, but at least, and I think we're already doing this, giving the Department guidance on what we think the methodologies, is it debt-to-earnings and loan repayment is a one-to-one ratio, you know, those pieces and construction on this.

Because I am really attuned to the sanction piece of it too. But sort of construct a framework that is created now rather than going back to another dang NEG REG, that allows for the Department, once it receives the data, house a couple of, a year a two of understanding around that data. And, again, mean, median, average, whatever.

And then would become the effective piece on, you must disclose it or notify or whatever. So it's written today but it's based on the receipt of the data.

I mean, that's kind of, so what you're saying is sort of along the lines of what I kind of put out there as a concept a few days again. And, Kirsten also raised today too as a possibility. So I just wanted to reiterate that this, that's sort of where my head is on all of this.

MR. RAMIREZ: Okay, great, thank you. All right, if that's it for Sarah, thank you.

Appreciate it.

MS. HAY: If there are questions, I'll be here till the end of the day today. Okay.

MR. RAMIREZ: Thank you. All right, so what we'd like to do next is we're going to work off of the chart that the Department had passed out.

I know that Mark spent quite a bit of time providing an alternative there, but the Department has looked at that and is more comfortable working off of this chart here. And so we're going to go ahead and get that put up on the screen.

I'm not sure if Aaron is escorting somebody. Do you want to put it up for us, Crystal?

It's the one without all the fancy colors. It's the one without all the fancy colors.

(Off record comments)

MR. RAMIREZ: The other one is the one that Mark had worked on as an alternative idea.

Mark McKenzie.

But that's not the one that we're working off of, we're working off of the one that is more government looking.

(Laughter)

MR. MCKENZIE: It was the one I passed out yesterday evening before we left.

(Off record comments)

MR. MARTIN: Greg for the record. Over the lunch period, and prior to that, we took a lot of this back, had some discussions with our senior leadership and we've reached a couple of points that we would like to offer as our, as where we currently stand. And I'll present those to you.

So, looking at the chart, obviously, did your program have a D/E rate, that stays in place.

For, did your program meet the D/E benchmark, or more appropriately, measure at this point. We, having heard the discussion prior to lunch, and listen to Jordan's excellent presentation, by the way, you have a very lilting lecture voice. I was really, I can see myself sitting in your class. Not doing well, but sitting in your class.

(Laughter)

MR. MARTIN: The class in 18 Century poetry at Cornell I do quite well in. I don't know about Jordan's classes though.

So, did your program meet the D/E benchmark. So, we're inclined to go with, and now present as our offer, the one-to-one ratio. And that's debt-to-earnings.

We would make the one-to-one a benchmark. Understanding that we have to come down somewhere on understanding.

What Sarah was just talking about, the dearth of data that we currently have. But regardless of that, we're tasked with making a decision one way or another.

So, I think the time has come we have to just consider that. So we're going to offer that at one-to-one.

As the, I don't think we have to change the chart. It still is a debt-to-earnings benchmark, it just becomes a different, it's different than what we have had in the past.

We reserve the right or privilege to go back to what we previously had in the table should consensus not be reached, but we are willing to put that out there and see if there's consensus around that.

So, the rest of the chart. Looking at the repayment rate benchmark, we have heard what people said about some of the problems with repayment rate and we're not deaf to those or unappreciative of it.

But we chose, going back to why we did this to begin with. Remember that repayment rate was not originally a metric that we were going to look at, repayment rate is essentially, if you saw a defacto appeal if you don't meet the other benchmark.

I do understand there are issues surrounding income-based repayment and such the way that we have presented the repayment rate, but we have presented, I think, a known repayment rate, a defensible repayment rate. We're inclined to stick with that repayment rate as presented.

We feel that the box, box chart way of looking at the, looking at the rates the way Sarah described them is appropriate and provides a sufficient amount of latitude in that it doesn't, it doesn't necessarily mean that there always will be people who don't meet the outliers the way you would have it with using a standard deviation, so it avoids the arbitrary nature of that and it is a statistically defensible way of doing it, so we are inclined to stay with that. So we keep that on the table.

We, oh, I should point out to that, I neglected to point out that with going back to the D/E benchmark, the Department is very interested in the concept of looking at the top 75 percent of earners defined as the, using 62 point --

MR. CHEMA: Let me do this part.

MR. MARTIN: Yes, you know, I'm going

to let, Steve enjoys this a lot so I'm going to him describe this.

MR. CHEMA: So, what we're interested in looking at is not necessarily the proposal to remove the lower 25 percent and then take a new mean or median, we're interested in looking at the pool we're already using and looking at the mean and median. And in addition to that, also looking, as a data point, at the 62.5 percent measure.

And subject to getting some more comfortable with that being a defensible approach as well. But we, antidotally it sounded like there is some reasons it could be used to support it.

MR. RAMIREZ: Does anyone have any questions on that one piece, just because I want to make sure that folks understand. Because you're saying both pieces in there, right, so I just want to make sure that folks are clear on that.

Jordan, it looked like you had a

question on that?

MR. MATSUDAIRA: Just a quick comment about the, looking at both the median and the 62.5 percent percentile. It's just something that you might want to consult with SSA about, like about their privacy provisions.

So, it has to be the case that any statistic has at least ten people behind it for their privacy rules. But if you're doing things like reporting two different numbers from a group of ten people, for example, that's the kind of thing that they wouldn't allow you to do and there needs to be, usually, like ten people on either side of a number like that.

So, that might have pretty large, like if you try to compute two percentiles that are so closely close together, like a 62nd percentile and a 20th or in a 50th percentile, which in a group of ten are like next door neighbors to one another, that might not be feasible.

So that probably means that your effect, like minimum cohort side, would at least double and maybe more than that. But that's the kind of thing that SSA could advice on.

MR. MIRANDO: Yes, Tony for the record. Steve, can you just kind of go over again what you just said about using both and what would that look like? So that I understand it a little bit better.

MR. CHEMA: Right. So the paint is still wet on this because we're still reacting to the suggestion, so I don't have a polished response, but right now we're thinking that it would be useful to have two different data points.

Because I think there still would be an interest in seeing what the standard would be that everyone else was using for the mean or median for the same data.

But then also knowing how different it would be because it could be that there would be institutions that did not meet the measure of using the lower one but it would be acceptable if they met the higher one. But we'd want to see both.

MR. RAMIREZ: Jennifer.

PARTICIPANT: Okay, so I'm just trying to wrap my head around. So, in effect, because you're talking about an effect for -- well, okay, no, because we're going one-to-one, okay.

So you'd have two debt-to-earnings measures. So in effect, would you be placing the economically disadvantaged appeal in effect using the --

MR. MARTIN: Well, I think that's a good question.

PARTICIPANT: I'm sorry?

MR. MARTIN: I think that's a good question.

PARTICIPANT: Well, right, because do --

(Off microphone comment)

PARTICIPANT: Okay, got it.

MR. RAMIREZ: Okay, Daniel.

MR. ELKINS: I just wanted to applaud the Department for listening genuinely to the discussion around the table and coming back with this. I'm very, very excited.

PARTICIPANT: Actually, I want to ask a --

MR. RAMIREZ: Okay. And then, Greg, I just want to back up quickly on the box plotting piece because there was a question there as was well as far as using the institutional or programmatic level. Can you speak to that piece?

MR. MARTIN: Sure. as regards to whether or not to use an institutional, I mean, to look at it as per the universe for, or measure programs against programs, we have heard the discussion around the table and concern that we should be attentive to types of programs students are going into and not measure those programs necessarily against other programs.

There are different reasons why people go into dance or social work as opposed to engineering or computer science.

So our proposal would be to do it, to do that rate by CIP, by four digit CIP code. We looked at the CIP numbers and thought six would be a little too complicated, a little too narrow, but we would be included to go with four digits to calculate that.

PARTICIPANT: For repayment?

MR. MARTIN: That's for repayment, right. Yes.

MR. RAMIREZ: Jeff, did you have a question on that?

MR. ARTHUR: No, my comment is on the repayment rate formula. Just to point out that it's possible Congress could come up with a, or have a different formula --

MS. MILLER: I'm sorry, Jeff, hang on one second there is some feedback. Jennifer, is your mic on?

PARTICIPANT: Nope.

MS. MILLER: Okay.

PARTICIPANT: Oh, Jeff's is though. Oh, he's speaking.

MR. ARTHUR: I'm using it.

(Laughter)

MR. ARTHUR: I don't know what the

answer is, I just want to point out that could we wind up with some confusion if we have two different repayment rate formulas out there that have consequences and just, I don't know if there's a mechanical way to address that if it happens.

I know you can't really anticipate that now and you go with what you have, but I don't know if there is some way to have a conforming clause that would align if Congress determines a particular formula. Maybe you can't, I don't know if you can.

But I'm just throwing it out there as something that could be confusing to the public if we've got one rate you've got to calculate for what, however Congress might use it and another for this regulatory purpose.

MR. MARTIN: And Greg for the record. I think those are excellent points. We've always, in negotiating roles, have always taken the type that we don't, we don't negotiate rules and expectation of what Congress might do because

Congress does what Congress does.

So, there are proposals out there that may or may not become law in near future. We can't predict that so we move ahead as if there was nothing out there in the ether, we all know there is.

If something like that occurred, we'd have to, of course, turn it over to counsel and see how we would deal with that. But, no, your point is well taken. But we have to proceed as if, you know.

(Off microphone comment)

MR. RAMIREZ: Okay, thank you. Jennifer.

MR. MARTIN: Yes, we would have, yes, I want to point out what Steve just said. We would obviously comply.

(Laughter)

MR. RAMIREZ: Jennifer than Johnson.

PARTICIPANT: So I have two questions. One on loan repayment.

I know you said that you think it's

defensible, of course in the history on loan repayment rate is iffy.

I support, and I think I've been clear about this, I support conceptually a loan repayment rate if it's reflective of what the world looks like in higher ed.

Unfortunately, I think we have something along the lines of like, at least a quarter of all students are borrowers. It's some very high percentage at this point are in IBR.

And if you're either excluding or treating them negatively, I'm not sure how that's not considered arbitrary. If they're considered to be an active repayment for all other intensive purposes under the law, I'm not sure how it's not arbitrary to treat them in the reverse.

And so, I just want to point that out again that I think that you might have an arbitrariness issue by not favorably treating at least IBR students who actually pay something.

Zero, you might have an argument for the zero piece, but if they're actually paying something and their considered to be an active repayment, I'm not sure how you can all of a sudden define active repayment for the purposes of a rate differently. So I just want to, because you said it was defensible, that I'm actually not sure it is.

The second question I had is, is this sort of, you've, not in this session but in other sessions, you've heard me talk about the CIP code issue and I'm really attuned to this as it relates to the disclosures to students.

Because the students think we're disclosing program data and we're actually technically not, we're disclosing CIP code.

And so now I have a question, are you keeping the debt-to-earnings at six digit CIP but you would have a loan repayment at a four digit CIP because that would really confuse, I mean, so I just want to understand what you're thinking about in terms of like the CIP code aspect. If you go to a one-on-one in direct.

MR. MARTIN: I think an answer to the

question of defensibility, I mean, there's always going to be arguments about whether it is or not.

And as I said before, we do understand those concerns that you have about students in IBR. Again, I go back to the reasons why we instituted, why we put this in here at all.

It was never meant to be, never intended to be a metric that had to be meet. The metric that has to be meet is the debt-to-earnings. That's the one that must be meet.

This is simply in there. If you do not meet that measure as a indication of program outcomes that would result when you're not having to provide a notice or in any future potential action that Department would take.

PARTICIPANT: But if it would trigger, because it would in effect. I mean, I have to disagree with you on that point too because if you're now creating, which I support the inclusion of some form of sanctions, it does matter.

Because it becomes an, if you're

constructing it that way and it doesn't reflect the reality of borrower behavior, it does become an important, and it does need to meet, it still needs to meet a standard that passes arbitrary and capricious.

MR. MARTIN: I'm going to have Steve address that.

MR. CHEMA: So, my understanding of using a four digit CIP for the repayment rate is just for purposes of getting a peer group comparison for the program. It's going to be the programs repayment rate compared to a repayment rate calculated for comparable programs at the four digit CIP.

And that is because you may have programs that have a relatively poor repayment rate compared to every other program, right? But within their peer group, they're actually doing okay.

And so this is why we're at least open to the idea of doing this kind of analysis.

PARTICIPANT: Oh no, on the four, so

let me just clarify. On the CIP code issue, I understand and I'm not disagreeing with you on the four digit CIP for loan repayment. On the whole defensible piece. That was more about IBR.

On the CIP code issue my concern is different. My concern is, relates to the, and we're going to get to the disclosure section but it relates to what you're saying to students on the template.

And this is an issue that I've had on an ongoing basis with the score card even. Because each data point on the score card, almost every single one of them is based on a different cohort or something different about each one.

And so you're telling students about something different in each. And I think the student thinks that you're dealing in one set of a cohort or one type of program.

And so my concern with the four digit is not that you're using four digit, it's that if you're going to do a, I don't know what you're basing the debt-to-earnings piece on, but I do feel like there needs to be some consistency around what we're talking about.

And so it wasn't to say that you shouldn't use four, but what are you doing with that on the debt-to-earnings, is that four digit CIP or is that six digit CIP?

MR. MARTIN: It means six digit CIP.

PARTICIPANT: Yes. So then I think you might have a disclosure issue in terms of what you're informing the student about. That's my point.

Because you're zeroing it in to, because on the disclosure pages, and this has also been an issue for me, the disclosure pages are a program. Which could be more than one program actually.

And then when we go to four to six your roll-ups are going to be different. That's my only point.

MR. RAMIREZ: All right. Johnson.

MR. TYLER: So, I just want a little clarity. The repayment rate is institutional rate, correct?

MR. MARTIN: No. The repayment would be by programmatic by CIP code.

MR. TYLER: Programmatic. Okay.

MR. MARTIN: As defined by four digit CIP.

MR. TYLER: Okay, thank you.

MR. RAMIREZ: And then, Chad.

MR. MUNTZ: So, what I understand here, I'm just going to say this simply, my program has a debt and a earnings ratio at the program level six digit CIP.

PARTICIPANT: Four.

MR. MUNTZ: Or is it at --

(Off microphone comment)

MR. MUNTZ: -- no, the debt-to-earnings is six digits, okay.

PARTICIPANT: Six.

MR. MUNTZ: So from a perspective student, if I want to major in math, I'm going to see if it's a one-to-one or not. Later, if that wasn't met at the program level, then the

Department will find out if they are repaying so we can determine if people within all CIP codes, that include math, statistics, operational research, whatever, are they repaying. And if that's not the case, then we'll go to sanctions.

MR. MARTIN: Yes. So the chart would be, as its presented to you, you'd have to provide the notification and then it would go to, for the Department to consider. To consider sanctions.

MR. MUNTZ: Sure. So then one question we have had with the sanctions is, this would prevent, or could potentially prevent, someone from changing their six digit CIP code, because they would have to leave the four digit family.

So it's a way of being able to hold back a bad performing program that's switching six digit CIP codes all the time. Which I think is a good thing. I think that's one of the advantages here. Is that right? Okay.

PARTICIPANT: I think so. I mean, it's hard for me because, to be honest with you, the whole CIP thing is just really confused. And so you can, I mean, to be honest, and this sounds really awful, the thought has definitely, you can either expose programs or hide programs through the CIP process.

So to your point if you think that, and I have to think about this some more because I didn't expect the four CIP thing, so now I have to think about what the ramifications could be on it.

MR. RAMIREZ: And, we have Mark and then Jordan. But if we can also, to what Chad was talking about there, if anyone has any idea of what that timeline might look like as opposed to how it's being done under the, well, under the current way it's written.

But, Mark, you want to go next.

MR. MCKENZIE: So, it sounds like you're on a really good path, but are you saying that you're going to have different standards of repayment for four digit CIP codes depending on the outcome within that CIP code?

MR. MARTIN: Well, where the outliers

are will be different, yes. By programs.

It could be, that actual repayment rate that would be the cutoff, if you looked at it just that way, could be different for an engineering program than it would be for a teaching program. Yes.

MR. MCKENZIE: So, I mean, that is an issue we all addressed. And I guess what we're getting is, so if acting had low repayment rates across the board, in that area, you would set it at a mathematic rate. And if engineering has a very high rate, you would set it there. That's where we're going?

MR. MARTIN: Essentially. Yes.

MR. MCKENZIE: Okay.

MR. MARTIN: But remember, and I may have to have Sarah come up and reexplain that. The way it works, just because there are, a program has a number of, is high performing in those regards does not necessarily mean that there will be, there will be programs that don't make it. Yes.

MR. MCKENZIE: But you're setting a rate within in a universe of academic programs?

MR. MARTIN: Yes. Essentially.

MR. MCKENZIE: Okay.

MR. MARTIN: Yes.

MR. MCKENZIE: So, my last question then is, because I think it's actually the absolutely right policy, what's the reason we wouldn't pursue the same policy with debt-to-earnings rate?

Because it's actually much more relevant with debt to earning rates where we know acting has the low earnings and engineering is making 80 and the one size fits all clearly doesn't work. So I'm so enthused by this that I'm asking you to --

PARTICIPANT: And for consumer disclosure purposes.

MR. MCKENZIE: -- and for consumer disclosure. It's hard for me to see a reason not to extend. And in fact, it's much more compelling, there's a much more compelling argument to extend this to debt-to-earnings.

MR. RAMIREZ: Okay.

MR. MCKENZIE: Right?

MR. RAMIREZ: Greg, did you want to chew on that or did you have a response?

MR. MARTIN: I want to take a three minute purpose break please, I'll be right back.

MR. RAMIREZ: Okay.

(Whereupon, the above-entitled matter went off the record for a short recess.)

MR. RAMIREZ: Okay, let's have everyone take their seats so we can get started. Okay, Greg. Yes, whenever you're ready, Greg.

MR. MARTIN: Thank you, Javier. This is Greg for the record.

We took it back and we discussed this issue with respect to two things here. The debt-to-earnings and the repayment rate.

So I'll address, Stephen and I'll address debt-to-earnings and then we'll have Sarah address repayment rate. Because I can only do one thing. One thing at a time.

So, where, in looking at -- so, the question came up, why did we propose to do, to look at debt-to-earnings with using the box plots, why we're going that way with it and then why didn't we apply the same logic to looking at the debt-to-earnings. Basically, the one-to-one ratio as opposed to just saying that the one-to-one is what will be the measure.

And we're inclined to stick with the one-to-one measure. I think we have to look at this in terms of what we're talking, with debt-to-earnings.

First of all, the two are completely separate measures, debt-to-earnings versus repayment rate. Debt-to-earnings is the metric.

Remember the repayment rate, even though, hesitant to call it an appeal because it really isn't an appeal per say but it does act as an appeal. And I want to point out that we don't view it as anything other than that, we would not require it to be disclosed. It is simply out there as a way of demonstrating a program outcome if you do not meet the debt-to-earnings.

With regard to the debt-to-earnings being the debt and then the earnings at the one-to-one ratio, we feel that that's a, that the amount of debt a student has, I mean in the earnings, is rather a, it doesn't really, it doesn't matter which program a student is in.

So in other words, if you have a certain amount of debt that you've accrued for attendance in a program, it still has to be repaid. And that's really what debt-to-earnings is about.

Do you have the earning sufficient to repay the debt that you have incurred to attend the program?

So in that regard, we don't think that there is, looking at it that way, that there is any difference between someone in engineering or somebody in cosmetology or someone in social work or welding or what have you. We're simply looking at what is, what do the earnings look like in comparison to what the debt is.

So I think it's a very straightforward and clean measure the way it was presented. And we are, we took it back and discussed it though, it was a valid point and I did take it back to leadership but we are staying with the one-to-one measure.

And I'll now turn it over to Sarah Hay to discuss repayment rate.

MR. RAMIREZ: So, it looks like there's a question though on that piece before we pass it over to Sarah.

So, I have a queue here but I'm going to go with Jennifer for that clarification question.

PARTICIPANT: Well, I'm just confused because, and maybe it's just me and it's the afternoon or whatever, but I'm confused. I didn't think that the question was so much about the one-to-one ratio I thought it was about CIP codes and what CIP codes you were using for the debt-to-earnings versus the loan repayment rate.

MR. MARTIN: Steve will address that.

(Laughter)

MR. CHEMA: No, really, I knew he was going to do that so that's fine.

(Laughter)

MR. CHEMA: So I think, we believe that the debt-to-earnings measure, just comparing student's total debt to their earnings and then using this one-to-one metric, makes sense. It provides some consistency in the concept being carried forward from gainful employment.

We also note that there's always been this issue of, we don't really know what jobs are being held by the people whose earnings we're getting to use for these comparisons. So for the repayment rate it may make sense that we're looking at the repayment performance relative to a peer group of other people in a similar CIP code.

But we think that all the literature on debt is how much debt is too much. People are kind of looking at total debt and total earnings and that that's another reason we're still landing where we are here.

MR. RAMIREZ: Okay. Sandy, you have a follow-up on that?

MS. SARGE: Okay, so Jennifer is much smarter than me on all of this stuff, so I'm going to ask in a layman's term.

My understanding is, first we have to get a cohort of students. And what I think everybody is asking is, do you lump together students in a program based on six digit, which is more precise i.e. than in concept a lower end or do you go with four which lifts up the net, enlarges the net, of who you capture to then send, gather the debt information on and gather the earnings information on?

MR. MARTIN: The program still remains a six digit CIP code --

MS. SARGE: That's --

MR. MARTIN: -- six or a seven. And so keep that in mind for what Steve just talked about, what I'm talking about now. And then when Sarah discusses repayment, I think it will become a little bit clearer to you where we are with respect to the CIP code.

MR. RAMIREZ: Jennifer.

PARTICIPANT: Actually, you know what, I'll hold it till the loan repayment conversation.

MR. RAMIREZ: All right, Sarah, go ahead and do your piece.

(Off microphone comment)

MR. RAMIREZ: Oh, I'm sorry, Chad, you still had a follow-up on that one?

MR. MUNTZ: I wanted to follow-up on that. We have very few graduates at the six digit level and very small programs. By moving it up to four digit you actually get more students. So you actually can produce --

(Off microphone comment)

MR. MUNTZ: -- yes, more debt-to-earnings ratios. Otherwise, a lot will be exempt. Many programs.

PARTICIPANT: Well, I agree with you but I think, so, this is the quandary. And, again, I'm not voicing an opinion I have a issue about consistency between the loan repayment rate and the disclosure, which I'll get to when we get to the loan repayment.

But I will say this. You might have end size on your four but it's a lot of programs rolling up. And so, again, when your unfolding to disclosure to students, and I'll just take education for an example.

Education, as looked at the break, education has a bachelors that's directed towards teaching higher ed, I'm sorry, teaching somebody to how to be a principle in school and early childhood. They're in the same CIP. Okay, different programs, same CIP.

So, it's all about what you want to disclose to the student. Like, if you want to roll it up and have it, but then I think you are in an area of not clearly defining what the debt-to-earnings looks like for the actual six digit program. So that's the quandary.

I agree with you in terms of conceptually. I'm not voicing, I'm just saying, like, there are a lot of choices here to make in terms of the, and I think the consumer disclosure piece is frankly what, in my view, it is what should lead the conversation.

MR. RAMIREZ: Chad.

MR. MUNTZ: And I would just respond to that. I think we would make our disclosures consistent as well. And I don't know how that would look, I just throw that out there, but everybody who is majoring in education would get the same disclosure.

And I get that there's going to be English and math and elementary ed put in there, but that would just be one way to help solve this solution. I mean, if it's not good, take it off the table. But that would be my idea.

MR. RAMIREZ: Okay, thank you. Sarah.

MS. HAY: Okay, so from the Departments perspective, a program is defined at the six digit CIP. Because we don't have data I don't know how many programs fall within a specific CIP and that concerns me.

So, for example, if we have a CIP and

there are three programs in it, I don't want to have to try and set an outlier threshold based off of three programs. Because I don't think that necessarily would give us meaningful results.

So, I don't think that changes the Department's definition that a program is at the six digit CIP. So, not knowing what the data are --

(Off microphone comments)

MS. HAY: Right. I feel your frustration.

My thought process is, I don't want us to say we have to set the threshold at the six digit CIP because I don't want to have to set a threshold at a six digit CIP where there are three or four programs in that group.

So, once we have the data, we can determine the counts broken down at the six digit CIP. And if we have enough that we get reasonable distributions at the six digit CIP, then we set it at the six digit CIP.

If we have to, we roll-up to a four

digit CIP so that we get enough programs to set the threshold. But what I want you guys to know is that the repayment rate that would be used for your programs, as your defense against sort of the one-to-one debt-to-earnings, would be the repayment rate at your six digit CIP.

So it would be the repayment rate for your program. And if I have to, we'll roll-up sort of the threshold setting to a higher-level CIP so that we get enough programs in the group that the threshold is meaningful.

MR. RAMIREZ: Okay, so let me go over here. I have Jordan, Johnson, Chris, Steve and Jennifer. Okay, Jordan.

MR. MATSUDAIRA: I have a broader comment, so maybe if there are questions for Sarah then I can come back.

MR. RAMIREZ: So, starting a new queue as far as specific questions for Sarah. Does anyone have any, Jennifer?

(Off microphone comment)

MR. RAMIREZ: Okay. Let's start off

with Chris then and then Jennifer. Oh, Stephen.

(Off microphone comment)

MR. RAMIREZ: For Sarah? All right. Let me get Jordan, Steve and then Jennifer.

(Off microphone comment)

MR. RAMIREZ: Johnson.

MR. TYLER: Johnson here. So, Sarah, is the concern on the, so I understand this, is it basically that you need a enough people in the repayment rate, enough scoring so you can actually make it statistically valid and so you're saying we'll start with four because then we'll get enough institution so we can do this and then if there's a problem you --

MS. HAY: So, I think it would go the other way around.

MR. TYLER: Okay.

MS. HAY: I would look at it at six because I think if you're being measured at six, ideally the threshold would be set at six. Right?

But not having seen the data that makes me a little nervous, right. And I would want to be sure that we had enough data that we were setting a fair threshold based off of having enough data from a statistical perspective that we're setting a reasonable threshold from a statistical perspective.

So, that is sort of why I think the Department is considering the possibility of giving themselves the flexibility to roll the threshold setting up to the six digit CIP so that we --

(Off microphone comments)

MS. HAY: Thank you, I misspoke. Sorry, to the four digit CIP so that we make sure that we have enough information to set a reasonable threshold for institutions. Okay.

MR. RAMIREZ: Okay, thank you. Steve.

MR. CHEMA: Steve Chema for the record. Sarah, I'm nervous too.

Whenever I look into the CIP codes I, you burrow in and you get to the four digit intermediate grouping and sometimes its collapsed and it's really focused and other times it's not.

And the one I have in front of me is this 1304 and it's the one that Jen referenced. It's supervision of school administration.

And that includes community college, it includes principle of an elementary school, principle of a secondary school, all the way up to higher head. So you're talking about provost chancellors, presidents.

There's so many diverse labor market outcomes amongst those occupations that I think would crosswalk, that I don't know if we're losing something pretty significant from the disclosure aspect. And I don't know how to get comfortable with this. I know that NCES is in this building. Maybe somebody from that office could talk to us.

MS. HAY: So, I have a couple of thoughts. The first is relative to teaching programs.

I don't think you're going to have a, like, I wouldn't see a problem with teaching programs having a problem at the six digit CIP level. Knowing what I know about teaching programs. Having been a teacher and having gone through one.

But what I am worried about is that there might be some CIPs out there where there really, and I don't know, right, because I don't have the data, so I don't know that anyone at NCES would be able to tell us that either because the first question is going to be, well, I have to know what the counts are and know what the distribution of the data look like. Right?

So, they would sort of be in the same position we are in, in asking some of the very same questions. But my fear is that, and I'm not an expert in every single academic subject that's, and non-academic, technical, vocation program, taught in the United States.

So my fear is that there might be a six digit CIP out there that has three or four programs in the United States. And that, because I don't know, I think that's why the Department is contemplating rolling up to four so that we could get coverage there.

My preference would be to do it at the six digit CIP so that what you're being measured against is what sets your threshold. Does that answer your question? I mean, I know it's not an ideal answer but --

MR. CHEMA: And I understand the limitations that we're all working under here. It answers my question.

It's probably not that satisfying of an answer --

(Laughter)

MR. CHEMA: -- but what I'm wondering, or maybe even struggling with here is, is if we're talking about doing this to increase numerosity of programs rolling up, because we want to be able to calculate a rate for every program, is that really a better tradeoff to make if we're pulling in a lot of information in order to do that, for a lot of other programs that doesn't really belong there or distorts the information that we're trying to present to students. And I know that's hard to answer too.

MS. HAY: Right. So I think the Departments position is that the repayment rate really is a way to satisfy, from sort of an appeals perspective, the debt-to-earnings. And what I heard them say was that they wouldn't necessarily require the repayment rate to be published and disclosed. Okay?

So there is a difference there. And I know that sort of is a new thought for the table. Okay?

MR. CHEMA: Thank you.

MS. HAY: Yes, you're welcome.

MR. RAMIREZ: Okay, Jennifer.

PARTICIPANT: So, that's the perfect segue because that was my question. So you just said that the intention is not to disclose the LRR, but I'm just really confused, so let's play this out.

You have a program that doesn't pass the debt-to-earnings, but then the department knows that it passes the programmatics LRR. But then there is on the, and we haven't talked about the disclosure section yet, but if I remember correctly in the disclosure section, there is a disclosure of the D/E metrics.

So would you report your failing D/E but not disclose, I don't understand what would you, but it's not a notification. I'm not talking about the notification I'm talking about on the template.

MR. MARTIN: One thing on the disclosure template, remember, you do not disclosure the D/E metric.

PARTICIPANT: Oh, that's right. Okay.

MR. MARTIN: You disclose your debt and your earnings.

PARTICIPANT: Got it. Got it, got it.

MR. MARTIN: We're still moving forward with that, so you wouldn't do that.

We have eliminated repayment rate from the, you'll see in the disclosure paper, we've eliminated it from disclosure area. So we would not be requiring disclosure of repayment rate.

PARTICIPANT: Got it.

MR. RAMIREZ: Okay. Then any other questions for Sarah? Mark.

MR. MCKENZIE: Just one other question. This is back to the original GE rates. I recall that.

And I think this is related, that about 70 percent of the certificates in the for-profit sector had below the 30 and about 90 percent in the public sector. And so was this, are you addressing this totally separate from that issue?

MS. HAY: I think the answer is yes.

MR. MCKENZIE: Okay. Okay. So I guess I would suggest, without going down the road of separate metrics by CIP, there is something here, there is something here, which I won't belabor, to address it in the D/E metric.

MS. HAY: So, I think the Departments position is they want to do what makes sense based off of some of the data we've seen and what we heard at the table that is best for what we think removing the GE context, right? What's best for all programs at all schools.

And I think that's the philosophy behind the decisions. And now I'm talking policy and I'm not supposed to do that.

(Laughter)

MS. HAY: All right.

MR. RAMIREZ: Okay.

MS. HAY: Any other mathy questions for me?

MR. RAMIREZ: Yes, I think Sandy has a question.

MS. SARGE: I love math too. Okay, so I just want to make sure. My understanding is when we go out to gather the debt and earnings information, one of the, the lower we go the more precision we have, in essence, to that, theoretically to that profession.

And you all would get then the mean, the median and the 62.5 on the earnings lumped together at that lower component, right? That group.

I'm still looking at the cohort of

students. So, let's say, theoretically, the six digit is going to have ten, let's say 12, has 12. If you rolled them up into four they'd have 75.

But by getting the information down at the lower level and seeing whether we pass at that lower level, what would you do, you can't go back to SSA because they don't give you the detailed information.

MR. MARTIN: I should point out, we didn't propose the roll-up for D/E rates, it was repayment rate.

MS. SARGE: Okay.

MR. MARTIN: It's just repayment rate.

MS. SARGE: Okay.

MR. MARTIN: Debt-to-earnings has remained the same cohort, same, remember, we addressed the problems with, well, we addressed some of it with debt-to-earnings with small program size by dropping our end size, but we have not moved away to looking at different CIP ranges. Six digit CIP.

MS. SARGE: Got it.

MR. RAMIREZ: All right, I think that's it, Sarah, so thank you very much, that was helpful.

MR. MARTIN: I think we need to ask Sarah. If a pole was 35 high and the sun is at a 20 degree angle, what's the shadow it casts off?

MS. HAY: It is 3 o'clock.

(Laughter)

MR. RAMIREZ: All right, so I'm going to jump back into the queue to ask some questions, just about the chart in general. So we have Jordan, Chris and then Tim.

MR. MATSUDAIRA: This is Jordan for the record. I just wanted to make a couple of comments about the broad kind of changes or kind of structure being contemplated here.

So, first of all, the change to just measuring total debt relative to earnings. And I just want to make sure that everybody is kind of aware of how this changes the rule relative to current law. Just on the off chance that the graphs I made earlier weren't like 100 percent.

The last word on that.

So, going to this total debt-to-earnings, like a ratio of one-to-one, makes the rule a lot easier on short-term programs. So, less than four year programs.

So it would be, again, it's about the same as giving those programs a debt-to-earnings threshold of 12 percent instead of eight. It basically makes it 50 percent. It makes the rule 50 percent more lenient for them than the current structure of the rule for four year programs.

Just total debt-to-earnings ratio is broadly similar unless your students make over about $30,000 to $35,000. If your students make over that amount then the rule is quite a bit stricter than it was.

The consequence of this kind of going to just one overall debt-to-earnings measure in general is that we're kind of now ignoring the differences in earnings growth that Tim was pointing out, which were the rationale for things like different amortization periods in the rule, and so one.

And so I find it a little bit puzzling that people whose used to be criticizing the current structure as a one size all kind of rule, we're now embracing one size fits all when in my opinion it doesn't apply.

So I just want to state, for the record, that I'm strongly against this change. I think it makes the rule more lenient in exactly, for exactly the institutions where most of the students who struggle with debt are concentrated. And it makes the rule significantly more strict for institutions where there tend not to be as many students struggling with debt.

So I find the change entirely perverse given the original rationale for the rule.

I also want to comment on the outlier method. I really want to push back against the idea that this is a reasonable way of kind of establishing which institution, or which programs meet measures, are kind of not living up the standard in the rule.

In the example that Sarah was presented yesterday, again, it's about one half of one percent of programs fail relative to the current structure of debt-to-earnings. There are about ten percent of programs, is my recollection, that outright failed.

The 12 percent measure another ten to 15 percent or so that were in the zone. So about 25 percent of programs overall that were flagged as failing. So we're going from a measure that, remember, you pass either debt-to-earnings or repayment.

We've made it, the proposed changes make it much less likely that you don't meet measures on debt-to-earnings, they make it, under this kind of outlier identification, really close to impossible to fail the repayment rate or not meet the repayment rate measure. Of course we don't know exactly without the data.

But this is basically just getting rid of the kind of failing programs altogether. And for that reason, I'm really against it.

I really want to urge the Department to consider establishing an absolute level of repayment that it considers acceptable and use that as the threshold for the rule.

I mean, I think we have to ask ourselves, is a program with one percent, one percent of its students, 99 percent of its students not able to pay down $1 of their debt over five years, is that the kind of thing that we want to consider acceptable performance of a program?

Is it the kind of thing that's acceptable as long as there are enough other really poor programs in the CIP code perhaps?

You know, I don't kind of accept that logic and I really think the Department needs to think more about an absolute level of acceptability in this for the repayment rate metric.

MR. RAMIREZ: Thank you. We have Chris, Tim, Sandy, Jennifer Chad.

MR. MADAIO: Thank you. Chris. I

agree with everything that Jordan said so I'm not going to repeat that.

Obviously, a few points I would add. So, I mean first, I think the repayment rate should be made public, I don't know, even if it's a backstop.

I don't see why we wouldn't still be reporting that to students and the public if it's something that we're calculating and we feel that there is a fair method of doing that.

Obviously it's useful for students, but this information is useful in lots of other ways too. Research, data, experts should be looking at it.

So I don't think it's right to be withholding any information. And I also agree that the repayment rate should incorporate some element of principle.

I mean, an income based repayment plan, while great for many students, shouldn't be what we kind of consider being the default, surely, for most students. I mean, really, it's a safety valve for students that can't make payments on a ten year repayment plan.

And for most students hopefully it's not something they're in for the entirety that they're paying back those loans. I mean I'm sure, because otherwise there's going to be a lot of debt forgiven by the government if the law still allows for that.

So, on the one-to-one ratio, I also disagree that it's appropriate for the reasons Jordan said. I think that the eight and 12 capture the idea that a high earning, high debt program would be okay because of the discretionary earning rate.

So, I agree with the principle that a program can have very high debt if it also has very high earnings. And it seems like, as Jordan said, a one-to-one ratio would punish such program. So I don't think that's appropriate.

But again, I don't think a one size fits all is appropriate. And I think that, as the Department said, eight and 12 was something that the courts upheld, I don't see why that's something to go away from to just seem to lower the bar for the areas where we've seen problems in the past.

And then lastly, with the proposed second "median" being a 62.5 percent median, obviously that's really not a median it's just another, it's essentially just raising the floor on what we will allow as far as, I guess the amount of debt.

And, I mean, my problem with that is, if we feel like there are students with low earnings for reasons outside the schools control, whether they're voluntarily out in the workforce or voluntarily part-time or tipped wages, those people would all be below the median and therefore ignored in a median. And that's the whole point of a median and not a mean.

So, I think that, obviously unless a program has more than 50 percent of people that are part-time, that would be problematic if that was the case.

So, I think that creating a new higher number that we might use is just, again, an inappropriate and artificial way to, I think, be less strict on the programs. So I would oppose to that.

MR. RAMIREZ: Okay, thank you. Tim.

MR. POWERS: Tim Powers for the record. I have a question first and then I just want to make one comment. So my question is, with these proposed changes from the Department, just to clarify, we're still considering tuition and fees, not full cost of attendance, correct?

It's tuition and fees still, that has not changed?

MR. MARTIN: Yes. We don't have tuition and fees. We don't have that information.

MR. POWERS: So it's total --

MR. MARTIN: The only thing we used tuition and fees for was the cap.

MR. POWERS: Okay.

MR. MARTIN: Was to cap the debt. It's a similar situation to institutional debt, I mean, institutional debt and private debt. We don't have those figures either.

MR. POWERS: Okay.

MR. MARTIN: So, basically just calculating administratively on the data that we have.

MR. POWERS: Just, that's fine. I just wanted to clarify. I appreciate that.

And in terms of my comment, first of all, I appreciate Jordan's comments because I think that they mostly summed up what I was going to say. But I do just want to make the point on sort of the relativity of the debt-to-earnings ratio for our sector in particular.

We do think that there are relativity concerns, and we appreciate the one-to-one. Because relatively, we have a totally different financing model where we don't get state appropriations in most cases.

Some of our students can participate in state grant programs, but we know that our students have the highest amount of debt. We know that.

So on a relative scale, every outlier would likely be a private college. Either for-profit or non-profit. Because we know that we have higher debt burdens.

So, I appreciate the sort of one-to-one look because we're sort of comparing apples and oranges when we look at state appropriations and sort of how our institutions charge tuition and fees and financing versus just the differences between the sectors of public and private.

So, thank you for that because I think it does make a difference and I do think it provides a more realistic snapshot of what we're actually charging. So, just wanted to raise that point as well.

MR. RAMIREZ: Okay. I have Sandy, Jennifer, Chad, Neal.

MS. SARGE: So, I guess my question would be, okay, what is an alternative solution to what your disagreeing with?

Both to Jordan and to Chris. So, you guys have talked about that. So, that's my basic question.

But then, Jordan, I have a question also. I didn't look at it so much on the fact that, yes, the 12 percent does lineup.

You know, I saw that and that made sense to me, but what, did you show us what it did at 15 year amortization?

I'm sorry, maybe I forgot that. What, at eight percent and 15 year, did it get closer? I can't remember.

MR. MATSUDAIRA: I don't remember the patterns --

MS. SARGE: Yes, so I would just be --

MR. MATSUDAIRA: I don't remember the patterns off the top of my head but I did forward the graphs and everything to Scott who I hope will redistribute.

MS. SARGE: Okay. Yes, so I just want to make sure that we understand.

If we say things like, like I think

the Department is trying to find or respect the concerns that Neal and others of us have brought up about the earnings, these are legitimate situations that we have. We can't determine whether or not the earnings coming from Social Security or an annual full year.

So, you have the denominator and the numerator not being in the same period of time. You have unreported stuff. This is just reality.

So to hold, when we're trying to come up with a way that gets us where we're looking, if we adjust slightly we end up being able to resolve for some of those issues that we know exist.

We know some much so that in fact, I think it's BLS or whoever describes jobs out there in the marketplace, they say in those descriptions, this profession relies heavily on cash, you know, they talk about which professions have tips and things like that.

So we're trying to come up with something that could work mathematically and still be, we're trying to, quite frankly I'll put it to you, we're trying to take excuses off the table.

You have to, so instead of arguing every time a number comes out, oh, I fail because my students have lots of tips, well, move it up a little bit and say, now you can't use that excuse. Or, most of my people work part-time so now we're going to move it up a little bit to take that excuse off the table.

That's what we're trying to do is move some of the noise off the table. And that is going to mean making some calculated mathematical concessions so that we can get into a relatively, a relative area.

So, I'm going to make that point on the 62 and then ask you guys how you, what would your suggestion be to not be one-to-one.

MR. RAMIREZ: Okay. Jennifer, Chad, Neal, Johnson.

PARTICIPANT: So, I have I guess a question and a request. I guess I have to admit I'm a little bit confused on the one, not confused but I guess I'm hearing like different things that

I want to take seriously and then it causes me to not know what my position is any more.

Because I hear Jordan, and I'm listening to it, and then I hear Tim, and of course we're sort of in a similar place. And yet I think about, like an, and I keep going back to education, but I think it's a good national example because there are a lot of programs, it doesn't matter what sector you're in or anything, there are a lot of education programs we all care about, a lot, about teachers and so on.

I think about like that type of profession or nursing. You know, one of those professions.

And it seems like, I might not be understanding the one-to-one exactly and so I have one question which is, did I hear correctly that on the one-to-one you would use that as the methodology but you would still sort of collect the data and it's come up, I don't know, benchmark threshold measure?

Whatever the term of art is going to

be. But once you have that data. So that's for the question.

And then the other request is, we've been talking a lot about the one-to-one and I know Jordan did a great job on the charts and the presentation, but is there something, a narrative description of it that could be written?

No, but I mean, I mean, Sandy, you laugh, but I got to take it back internally. I mean, I am definitely not the expert to describe it internally so it would be helpful, overnight, to have something in writing that describes what the one-to-one is so that we could describe it to our constituencies.

MR. RAMIREZ: Jordan, do you have a response on that?

MR. MATSUDAIRA: I just wanted to add. So, I'm not sure whether everybody has access to somebody who can play around with the program, but the program that I used to create the charts, which you can tweak around and kind of assume different total debt-to-earnings ratios and different interest rates and different amortization periods and see how everything compares.

PARTICIPANT: Okay.

MR. MATSUDAIRA: I included that in my email to Scott. It's written in the statistical programs data. So if you have people who have access to that, then you can use the program to play around with it.

PARTICIPANT: Okay, that's helpful. But I still think it would be helpful to have a narrative if that's possible. I mean, thank you, Christopher.

Just for those of us who are not numerical people, it would just be helpful to understand in a narrative what, and it has to be written into a regulation anyway, so since it has to be written into a regulation it would be very helpful. And then I just do have that threshold question for the Department.

MR. MARTIN: Greg for the record. Yes, we are looking at the one-to-one as the measure, or threshold, benchmark. That would be what we would --

We're still looking at that as, that measure as having a benchmark at against which we would set the benchmark at one-to-one. So, essentially the chart remains the same it's just, yes.

You know, with respect to why we propose this, and we heard around the table that there was interest in it, I think in reaction to that, we took it back, senior leadership thought it was a good idea to pursue this. We will ask for consensus on that, and that's the table can either grant that or not.

If we don't get consensus on this then we still have what we feel are defensible debt-to-earnings rates. Which we would, I don't want to say retreat to, but which we would, that would be our position essentially.

So, I mean, as far as where the Department stands, we picked this, we saw that there was interest in this around the table, we want to propose it as, we're willing to support it if there's consensus at the table. If not, we have the D/E rates that we proposed for this session.

MR. RAMIREZ: Okay, thank you. Chad.

MR. MUNTZ: I've been usually pretty brief and I kind of get to the point but I just kind of want to talk for a minute.

(Laughter)

MR. MUNTZ: So, everybody else has, it's my turn.

(Laughter)

MR. MUNTZ: So we entered this meeting, the Department said a measure is going to apply to everyone. We don't have data, we don't know what that is, just do it, make it good. And we all want to protect students, we all want to get the bad actors out.

I come from a public institution. We are transparent, there is actually push to have more programmatic level information available to our students. This kind of fits with policy.

We can't be perfect with it. And I'll liken the, we're trying to do surgery with a chainsaw blindfolded, okay? I'm trying not to kill the host here, right?

So we don't know what, everything is going to shake out. But I do see some benefits to all of this.

One is, sanctions are on the table. They weren't on the table when we started. They are now on the table and there's interesting going down this path.

And I think that that's extremely important that we're creating a mechanism to cause the Department to investigate a program. At least they have a reason to now investigate, and we can get that out.

Now, is there a perfect measure? I mean, we can propose a, in analytics we can do like an SVM model, which no one will know it's a black box but we will get it exactly right and we can't explain it.

Or, we can try and do a threshold

where we can, to look at it. So, if my program is failing and no one is earning any money, they're going to fail every kind of metric that we have. One-to-one or if we do eight percent of income or if we do 20 percent, it doesn't matter, there is no money, they failed.

It's just a base point for us to try and have the discussion start. And I also think that there is value.

Especially in my sector where debt can get higher, that this is a way to try and help students decrease debt in general. Because, yes, the examples we have heard with certificates at the automotive industry, this is life changing bad information, but it's on a scale of like $10,000.

What you hear from the people making really bad decisions on the scale of $60,000. I think we need to put something in place to make sure that income also lines up with that high amount of debt.

And I think that that's important. Under the old rule, you can get away with it with a discretionary income. And it can just keep increasing.

Now, also, I need to, I want to think about this in general as not, this is the only time we ever do anything. This is the beginning.

There is a point here that we're trying to create a threshold or a measure, or whatever you want to call it for everybody, that's going to create policy discussions going forward.

I don't know if 50 percent of income is the best or 62.5 or maybe it's 30 percent, but it's going to be a discussion point. The data is there. And then we can look and see what is going to happen.

With that reason, that's why I don't want to propose like very strict or outlandish kinds of sanctions when we don't even know where everything is going to fall. But I want to start with the process.

The process is here that we can beginning investigating when institutions and programs are failing. We could lose that without consensus. Because that wasn't part of the whole rule.

So, without, I mean, if it's not one-to-one, which I hear a lot of support for, then is it 80 percent debt-to-earnings? I mean, we got to have something out there.

But if we're just going to do platform speeches, we got one day left, we can start doing platform speeches. And remind you, that you weren't even supposed to be part of this. And we being the public sector.

We weren't supposed to be part of this at all. And there is some give here to get more information in, for students and consumers that if we have to be a part of it, we just want it to be right.

And I think there is wisdom in listening to ten years, 13 year's worth of information from people who have been subject to this rule, who were good actors, who did things well, that they're telling us that there is, for the other 90 percent of us, that there are fatal flaws in the metric. And here's ways to correct it.

So, if it wasn't good with eight percent or nine percent of the institutions and we want to say, well, that's not good but let's make it not good for 100 percent, that just doesn't make sense. And I think that we can learn from that and we can move forward.

But if we don't want to move forward, then let's just go back to work tomorrow, I've got plenty of stuff to do. So, that's all I have.

MR. RAMIREZ: Okay, thank you, Chad. Greg. Greg, did you have a response on that?

MR. MARTIN: No. I mean, it's definitely in the spirit of reaching consensus so I would be, I support everything that was said.

MR. RAMIREZ: Okay. Yes, I didn't know if you put your tent up for that, sorry. All right.

MR. MARTIN: Oh yes, the fault lies with me, absolutely. I'm sorry about that.

MR. RAMIREZ: Okay, Neal.

MR. HELLER: Yes, Neal. I definitely could not have said it any better, Chad. So thank you.

MR. RAMIREZ: All right, next.

(Laughter)

MR. RAMIREZ: Okay, Neal, go ahead. Go ahead.

(Laughter)

MR. HELLER: However, just to more or less piggyback on Chad's comments. I think there is an element of perspective that is missing, and I think that's what Chad was also trying to allude to.

You know, where did we start. And Chad told us where we started, right? The Department came in here in session one and basically had a mandate to say, GE is gone, boom.

And we've now come back to a point where there are sanctions back on the table. Whether or not some of the people here are completely thrilled with them, the fact remains that, and I remember these words, sanctions are off the table at the beginning of session two.

Well, some how we've managed to bring them back. And I'm not opposed to that.

So, I mean, I also think the perspective is, where did these ideas come from. The one-to-one ratio came from public university representative, Chad, who's also had some very good ideas.

The 75 percent or the 62 percent of income median came from Jeff, the for-profit sector.

Having sanctions back on the table and then adding the repayment metric as a secondary metric to consider came from, I believe the consumer advocate side of the table.

So, when you think of it, everybody has contributed to where we are right now. And I have to say that I've got to complement the Department for listening. They didn't have to.

And I can tell you that there has been times that they don't. Just look at the original GE rule. Which was going to wipe out entire sectors of higher education anyway.

So I do complement the Department for actually listening and very quickly coming to where we are right now. Because they realize that time is of the essence, tomorrow is our last chance.

So for those who aren't completely happy, none of us are completely happy here. As Chad said, they weren't even supposed to be here, right?

Tim, same thing. I mean, how did they end up in this room, right. But they are here and they're part, they were invited to the party, so to speak. And we're all here and none of us are completely happy.

But I know that in Chris' other life, here he is a prosecutor of sorts, there are many, many times where I'm sure you've had to make deals with people that you couldn't even stand to look at. I don't think we're quite that bad.

(Laughter)

MR. HELLER: So I really, again, as

Chad said, I would urge us to really look at this and say, you know what, there's a lot to like, there is a lot not to like, but it's a starting point and it's not the end, but it gives us a basis to move forward. And then when data is collected, to adjusted accordingly. So, thank you.

MR. RAMIREZ: Thank you. I have heard that a sign of a good deal is when both sides walk away equally dissatisfied, so maybe he's on to something.

So I have Mark and then Johnson and then I think we'll take a break. But, Mark.

MR. MCKENZIE: Thank you. So, on a very serious note I want the group to know, while there has been a lot of discussion that the rule has been eased. In a very serious way, the rule is much, much tougher.

The current GE rule, if an institution has eight percent, has to fail that eight percent for four years in a row, and then there is an appeal. And in reality, it's a very, very long road for the Department to take any action.

PARTICIPANT: Two out of three.

MR. MCKENZIE: Is it two out of three?

PARTICIPANT: Well, it's three years of failure, four --

MR. MCKENZIE: Department, what is it?

MR. MARTIN: Yes, she's correct.

MR. MCKENZIE: Three out of four for zone?

MR. MARTIN: For zone failure.

MR. MCKENZIE: So, if you keep getting zone, at eight percent, how many years would it take until you've lost Title IV?

PARTICIPANT: Fourth year.

MR. MCKENZIE: Fourth year.

PARTICIPANT: It's a combination of zone --

MR. MARTIN: Yes.

MR. MCKENZIE: I stand by my comments. It's more than four years with an appeal. And in the original GE, I felt that was too long and we weren't able to do anything.

In the currently proposal from the Department, if an institution has over eight percent debt-to-earnings and whatever does not meet whatever the repayment rate, the Department can take action in a much quicker way and can do it in a much more, in my mind, nimble way.

So I want you to know, in that respect, this rule is much stricter and much quicker acting than the current gainful employment rule.

MR. RAMIREZ: Okay, thank you. Johnson.

MR. TYLER: Yes, I just have to express my concern that the fallback, the repay metric, is not going to capture a single school or program. And I've look at all the school related data and I've done the analysis, if you use the whiskers and all that, and everybody is going to pass. Every single institution would pass.

So we have the repayment rate for institutions for five years. And I'm not an expert on statistics but I got a tutorial from

Sarah.

And so I do think if we're going to do this, if it's going to have any meat to it, there has to be some thinking about, when I'm talking about this I'm talking about the one point, the enter quartile range, I can barely say it, whether you're going to use that and multiple it by one and a half.

Because when you do that math, everything ends up below zero. And if its below zero than it becomes zero. And the lowest repayment rate per institution is nine percent, the highest is 95 percent.

And so, that is institution specific, but a lot of these institutions do one or two things. They do healthcare, they do, unfortunately they do barber stuff. But I don't want this whole discussion to end up where no one gets warned.

And I understand the appreciation of statistics and all that but Jordan has said, why do we need to go to the 1.5 percent enter quartile range formula to locate the outliers. Because if there are going to be no outliers, we have a problem.

And I just want to also just talk briefly about, on the repayment rate and Jennifer said, why are we counting the people who are in income based repayment. If they're in income base repayment they're actively repaying even if it's zero.

And the idea is, for repayment is, are you spending down the principle. So, I counsel a lot of clients about income based repayment is and do the math on them. So I've done the math.

Just as an example. If you have $10,000 of debt and your income is $22,500 and the interest rate is 4.5 percent and you pay $0, you pay $0, I'm sorry, you don't pay $0 you pay $35, which just covers your interest, so you're not paying down your debt.

And the whole idea behind the backstop is designed to, in order to reinforce the idea that this is a bad investment for a student. With that sort of repayment rate, you're going to be repaying for the rest of your life until 20 years kick in and you don't have to pay anymore. And it's a bad investment for taxpayers.

So, I don't think you can include the IBR people who are paying $0 or paying, are not paying down their principle. Because it indicates that there just, it was, it's a bad investment. At least at that time that that calculation is being made.

MR. RAMIREZ: All right. So, it looks like I have Jennifer then Mark.

But one thing that I would ask is that if there are concerns like that that would prevent a group that would not be able to say yes, in remembering the levels of consensus, right, that you may not necessarily agree with it but you would still support it because you understand what the alternatives would be if we couldn't reach agreement, something along those lines, right, that lowest level of consensus.

But what tweaks would be necessary in

order to, and I say tweaks, necessary in order to make it acceptable. And the reason I say that is because I know the Department is really trying to listen to what the concerns are and try to offer something that they know that they could get approved as well, right?

So if it deviates too far, then they have certain positions that would probably be implemented. So I need for you all to keep that in mind as well.

So with that, we have Jennifer and Chris and then hopefully we'll finish up with those and then be able to take a break. So, Jennifer.

PARTICIPANT: So, Johnson, I hear you and actually I think there is value to a principle based loan repayment rate for certain purposes. But, again, on the income base, and I agree with you about zero by the way.

And that's why the House bill, if you look at the House bill, they don't include zero payments positively either they only treat IBR where there are payments being made positively. So that's one.

So you're looking for solutions, that's one. But I also feel like there is just a fundamental, and again, this is a legal issue to some degree, and I would I phrase it as a legal issue for the Department, where the minute you put sanctions back in, and I need to be honest with you with respect to the Department, they can say, as many times as they want, that the metric is debt-to-earnings.

But the minute they put in loan repayment to be like the sort of way out or whatever, loan repayment becomes a metric too. It just does. And so then that's when sort of, is it arbitrary or not.

We don't, we the institutions, aren't making the decisions around income based repayment. The servicers, and we had a long conversation about that, the servicers and the borrowers are making the decisions about their repayment plans after the fact.

And I've asked the Department what percentage of students, borrowers, are in IBR. I think that would be a really relevant data point.

I know the Department won't be able to satisfy another request, which would be, and I'm not asking for it because I know they can't, but it does also relate to the earnings question. A lot of students who are in IBR are in fields like teaching or counseling or social work.

And a lot of them are in it. And I agree, the premise behind, the original, original premise around IBR was to be sort of a safety net for bad situations. You know, to help borrowers out of the bad situations.

But it's become something more than that. For better or for worse. I'm not taking a position on it, it's just fact.

And so, to me this is a, literally a legal conversation about whether the Department can actually exclude X percentage of borrowers from a rate, exclude or treat negatively, X percentage of borrowers from a rate for which the schools might ultimately be penalized.

That to me -- so, I'm not, I don't want to have a policy conversation about it. I agree with you, the gold star is a principle based loan repayment rate, but it's not my decision about what loan repayment process a borrower ends up in. So that's the piece that I am struggling with.

MR. RAMIREZ: Okay, thank you. Chris Gannon.

MR. GANNON: You know, I am glad that we've negotiated to the point where there are sanctions still on the table and that sanctions are an option, but I'm just worried that these are discretionary sanctions because just everything I read is framed with language like, options include and the Department may.

So, it's my understanding that the Department can opt not to implement these sanctions. And I'm just worried that they're entirely superficial.

MR. RAMIREZ: Okay. Mark.

MR. MCKENZIE: Just some data back from Jordan. I think I heard you say that the original eight percent debt-to-earnings rate reached about 25 percent of programs. Is that what you, because you refer to that.

MR. MATSUDAIRA: I don't want to swear, but that's based on my loose recollection. I hope that --

MR. MCKENZIE: But --

MR. MATSUDAIRA: -- but that's based on like the 2015 rates --

MR. MCKENZIE: Yes.

MR. MATSUDAIRA: -- so somebody in the Department ought to be able to --

MR. MCKENZIE: So that's consistent with my memory. The reason I'm bringing it up is back to Johnson.

I actually believe, depending where they land, you do have the opposite problem. At eight percent it's at 25 percent with only the proprietary sector.

I believe the data shows it's going to

be a higher percentage for the independent sector. And having more than a quarter of all American programs fail on metric, it's just too much.

And so that's where there has got to be some balance. And that's why I don't think the current proposal is without teeth, we'll have to see the answer to it.

With repayment rates, the teeth are, just depending where they, if they set in absolutely metric, they can set a metric that almost no one makes. The proposal that was originally from the Department at 50 percent was a very tough proposal.

And they have not proposed actually a metric yet with the repayment rates, but the Department has the ability to propose something that effects a large number of institutions or a small. But just to know, the current D/E rate, at eight percent, would reach a large number of programs.

MR. RAMIREZ: Okay, thank you. So let's go ahead and take a 15 minute break and then when we come back we're going to get into, see how much of the final three papers we can get through before tomorrow.

(Whereupon, the above-entitled matter went off the record for a short recess.)

MR. RAMIREZ: Okay, so what we'd like to do is try and get through as much of these papers as we can, but also, to Jennifer's point as far as wanting to see something written up on this, the Department's willing to do it if it's something that you all are willing to accept, right? I guess why go through the exercise, why go through the work if it's something --- if it's dead on arrival anyway, right?

So, I know that it was a lot for you all to digest, and that's why I was thinking that maybe we'd go through some of the issue papers and save some time at the end to take a vote on it and see if it's something that is worth taking the time for the Department to draft up. Jennifer?

PARTICIPANT: See, I'm sorry, but I think the opposite is true. I can't vote on it without being able to take it back to my crowd and do some math, like understand it. And I did send Jordan stuff on to -- but it takes them time, too, to understand the analysis, and I'm just one person, so in terms of the organization.

So I actually would prefer the opposite where we have something that we can take back to our constituencies to digest overnight and vote tomorrow. That's just my own -- obviously I'll do what everybody else does, but that's actually why I was asking for something in writing, so that we could take whatever it is now, 18 hours, to digest it and vote tomorrow on that concept.

MR. RAMIREZ: Greg?

MR. MARTIN: Two things. I can understand that. I was hoping to get a sense of if it's a non-starter, irrespective of whether we write something up, that would be good to know. We could go back and write it up as proposed today and have you vote on it tomorrow if you want to. Yeah, we could do that if that's the way the table would like to go. Hold on a second.

Yeah, I'd also like to hear some other people around the table. I'm not asking you to vote up or down, but you know, if it's a non-starter for you, I'd like to know. Nothing personal, I'd just like to hear it, because it would help us. It would definitely help us.

MR. RAMIREZ: Okay. Let me get Pamela and then Tony, then Thelma.

MS. FOWLER: It's not a non-starter for me, but I did want to address Johnson's concerns about people not -- no one would fail the repayment rate. If you fail -- you only get to the repayment rate if you fail the debt to earnings, and if you go ahead and you somehow or another pass the repayment rate, that doesn't mean there's not a problem there.

And the Department said, the first day we were here, that they had other tools. And that's no reason that they can't use those other tools on those schools, even though they don't get to sanctions or LS&T or whatever we're going to call it. And perhaps that's been the problem in the past.

There's been one indicator that there was a problem, but you appeal that indicator and then the assumption is all is good. And that's not the assumption that should be made. So I guess we would have to rely on the Department to take all those schools who fail the debt to earnings and use these other tools that they talk about to remedy the situation one way or the other.

MR. RAMIREZ: Let me get Tony, Thelma, and then John.

MR. MIRANDO: Tony, for the record. So this is for you, Greg. So I think the way we left off before we went to break, I heard you kind of spout something out and then we stopped, and that is, is it the intention that if this proposal that you all are willing to put into writing if there's a need, I mean, if there's enough of us, I guess.

Is it the intention to go back to potentially the first document that you all proposed in, you know, week one, which nobody really -- just asking the question.

MR. MARTIN: For purposes of voting, you know, up or down, consensus on the whole package here, we would retreat to our position offering these papers for round two. Using debt to earnings the way we had them, for this round, that you see presented, the way the papers look now.

Again, I reiterate that we did this -- we're doing this because we saw that there was some interest around the table in moving in this direction. Whether that represents consensus around the table, we'll find out.

MR. RAMIREZ: Okay. Thank you, Thelma.

MS. ROSS: Thank you, Thelma, for the record. I do want to thank the Department for listening. I am supportive of the path that has been taken, and I think with my institution's way, it probably would give me pause where they may fail, some would fail one and maybe not the other.

I do understand that, but I think as a whole, it would be a more viable option than what has been presented before for my institutions.

MR. RAMIREZ: Thank you. John?

PARTICIPANT: Yes, thank you. I appreciate the proposals here, and for the box plots. And it actually reminds me of something the DoD is doing in voluntary education with their institutional compliance program where they're showing a similar angle of looking at it on a bell curve and then taking the outliers.

That being said, it is a very outside the box thing to do, and there --- you don't need a history lesson of over -- looking at a normative approach versus a criterion-based approach and some of the issues that could develop with that.

You just have to look at the issues with grading on a bell curve and see the limitations and, you know, fifth grade to understand what the issues are.

Adding in the math that is involved

with this and the statistical analysis makes it that much more challenging for us to provide any assurances on whether this would be appropriate or not, and I think it is worth returning the question of is this a proposal that is good in a supplemental way or in a way that potentially has legs down the road.

And if that's the case, I would return to something a little bit more simple that has more practical effects that we can use right now. Thank you.

MR. RAMIREZ: Okay. Jordan, Mark, and Kelly.

MR. MATSUDAIRA: So just broadly, I wanted to just make a comment, which is that it's kind of hard, for me anyway, to vote one at a time about the kind of different changes that are being proposed either to the kind of overall structure of the metric, whether it's total debt or kind of annualized debt using some amortization formula in isolation from other changes like how we're going to measure earnings or how we're going to measure debt and all those things, because directionally, you know, each one of these things incrementally go in certain ways. So there are some changes that I think make the rule less strict overall, but that I'm sympathetic to, like measuring earnings a little bit later on to kind of give a chance to see people's earning potential reflected perhaps a little bit better.

But there's also just the issue of like, how kind of -- what ultimately is happening to the structure of the rule and the protection that it's providing in terms of identifying potentially poor-performing programs.

So, you know, I think some my standpoint, voting on an overall structure of the rule where the definition of how earnings are measured, data is measured, and how those things are all going to be mapped into a decision about whether a program's meeting standards or not, it's kind of necessary to look at those things all in conjunction.

One specific thing that I wanted to

just ask, or put to the table about this debt to earnings calculation overall, is one of the concerns about the current structure of the rule that I hear is that the interest rate kind of in the amortization I think Jeff has said kind of adds a little bit of noise to that and makes it hard to anticipate what the standard will be over time.

And whether there are modifications such as only updating that interest rate relatively infrequently, say every five years or something like that, would be an alternative way to get the kind of stability and the threshold that you might be desiring by looking at just the total debt to earnings ratio.

MR. RAMIREZ: Mark?

MR. MCKENZIE: Thank you. Mark McKenzie. Greg, I think you were asking for specific feedback on the debt to earnings request, to actually write that up as far as the one-to-one ratio, is that what you were --

MR. MARTIN: Oh, okay. No, we would

be asking for your -- what we would be asking for today would be eventually a vote or your opinion on now would be everything up through -- it would be the repayment rate, the change debt to earnings, the repayment rate benchmark of one-to-one, all of that would be what we would be asking for.

PARTICIPANT: And the 62.5 percent (inaudible).

MR. MARTIN: And yes, correct. Thank you, Jennifer.

PARTICIPANT: So all three of those boxes --

MR. MARTIN: And the 62.5 percent, yes. All of those.

PARTICIPANT: So, we actually try to put the strike-throughs on the area.

MR. MARTIN: Yeah, I think it's up there, isn't it?

PARTICIPANT: Yeah, so we -- it would be programmatic. It would be a one-to-one ratio. It would be all programs would be five to six years as far as the look-back period with the possible phase in. Income would be the two measures of 50 percent plus a 62.5. Debt would be Title IV debt, and then the repayment with the box plots.

PARTICIPANT: Okay. I guess just overall, in sitting back and listening, there's still obviously a lot of concern that Jordan brought up, Chris brought up, Johnson's brought up, that the structure or the chances in effect seem to be watering down the metrics to the point where the regulation becomes ineffective because it doesn't capture anybody, if I can paraphrase.

And conceptually, well, I like the one-to-one conceptually. It may not be a one-to-one. It might be a 0.8 to one. And so we come back to the threshold, and the metric is where the discrepancy is going to be. I actually like the framework process, you know, of having those couple of different steps, because I do think that that has an appeal process kind of built into it.

But clarifying where the threshold is, and so I'm going to come back to the question I asked yesterday, is can the regulation be crafted in such a way that it writes in a transition or a phased-in process to allow these metrics to be adjusted based on the data that bets collected and the analysis that gets done two years, three years, four years down the road.

MR. RAMIREZ: Do you want any response to that, Greg?

MR. MARTIN: Well, with respect to the repayment rate metric, I think that's built in, because you're looking at through a statistical model and looking for the extreme outliers. So I think that does, that adjustment does get built in. And however often it's recalibrated, it does get built in.

With respect to DE, I mean, we're proposing -- and I'm telling you, just reiterating what I said earlier. We're proposing a one-to-one threshold. That's what it would be, that's what the standard would be, it's what the benchmark would be. We wouldn't be looking at changing that in response to outcomes. That would be in the regulation.

PARTICIPANT: So, just to clarify, and I'm not talking about now, I'm talking about once you've actually then gathered the data and looked at it, are you saying that because we lock it in at one-to-one now, it stays one-to-one forever going forward, even though it doesn't capture any --

PARTICIPANT: What would be the vehicle to adjust?

PARTICIPANT: Yeah, exactly.

PARTICIPANT: Yeah, would there be a vehicle to adjust it at some point in the future?

PARTICIPANT: I think we'd have to talk to leadership about that. I mean, I'm inclined to say that you can write a rule that gives the Department the latitude to, through a federal register, you know, sort of as we do with verification. We list the verification elements every year.

I don't know if the group is interested in providing us, giving us that, but if you write it into a rule, hard and fast into a rule, you know, generally speaking, you have to renegotiate that rule to change it.

We couldn't have gone -- we certainly couldn't have gone back and said with the current rule, we don't like these rates. We'll just change them. It's in the rule, and the only -- and negotiated rule-making is the way we change a rule.

But I guess it could be built in in such a way that if you could, through a federal register maybe, do it that way. But that's about the only way I can think of to do it.

PARTICIPANT: Yeah, because I think the challenge is we're never going to be able to come to consensus on thresholds without the data and without a time frame.

And so without some mechanism built in to actually be able to adjust those thresholds up or down so that they're actually capturing what you want to capture, then it actually becomes a waste of time in some ways. And I think it makes it much harder to come to consensus in this group in the next 12 hours or whatever we have. So, thank you.

MR. RAMIREZ: Probably in the next 15 minutes, because I'm going to do a temperature check. Well, I want to do a temperature check just to give them an idea if this is --

PARTICIPANT: Before you do that, Javier, I want to say I could check with my people, but I don't think it's going to be possible for us to re-write -- I mean, this just came up this afternoon, so for us, for me to say that our people get started re-writing this now and give it to everybody before we leave, I don't think that's going to happen.

MR. RAMIREZ: Okay.

PARTICIPANT:(inaudible).

MR. RAMIREZ: Sure, (inaudible), come on.

MR. RAMIREZ: So just to give a sense

of how this works across the sectors, the one-to-one does have a disproportionate impact on the proprietary sector.

It looks like it affects 65 percent of the institutions, 27 percent in the private sector and only seven percent in the public sector. I'm just giving you some rough numbers. Again, that's institutional, not programmatic. But if you just want to -- it gives a sense.

MR. RAMIREZ: Okay. So we have Kelly, Matthew, Sandy, Jennifer, Jeff.

MS. MORRISSEY: Kelly, for the record. Before I make my comments, Mark, can I just ask a followup to that? So that data that you're accessing, does that include private loan debt as well?

PARTICIPANT: No.

MS. MORRISSEY: That's just based strictly on federal loan debt?

PARTICIPANT: Federal loan debt directly from the (inaudible).

MR. RAMIREZ: Yeah, it's up on the

board. So type of debt is the Title IV.

MS. MORRISSEY: No, I understand moving forward it's based on Title IV, but I didn't know if the data he was accessing was only Title IV.

PARTICIPANT: Only Title IV debt, and only the debt of borrowers.

MS. MORRISSEY: Thank you.

MR. RAMIREZ: Okay. Matthew?

PARTICIPANT: No, I think she had some --

MR. RAMIREZ: Oh, I'm sorry. You have one more? Go ahead, Kelly.

MS. MORRISSEY: So, I just wanted to react based on Greg's request to using one-to-one for the debt to earnings. I think when Chad presented this as an alternative, I was reacting to the simplicity of it and having a direct comparison of debt to earnings leaving out the variables of amortization period and interest rate, and I just thought from a student-focused point of view that it was just very simple to explain to students.

However, I didn't think that at that time we were providing direct agreement, that the ratio should in fact be one-to-one. I don't know if that's what it should be. I don't know if drawing the line there is the place that it should be just harkening back to Laura's comment earlier today.

When we're now looking only at Title IV debt and you're looking at aggregate loan limits, for a dependent student who can only borrow $31,000.00 in federal loan debt, think about that. Everyone who's earning $31,000.00 who's borrowed the maximum possible loans is meeting the standard. So to me, just that fact along really weakens the one-to-one argument. Should it be 0.8? Should it be something else?

I have no idea, because again, this is not being informed by actual data.

MR. RAMIREZ: Okay. Matthew?

MR. MOORE: I put mine down. My comment was actually the same as Kelly. Just trying to reconcile all that with private loans not being in there. I just agree the same way, that if you're -- I was kind of doing some math.

If you're a dependent student going to a four-year university, the most you can borrow is about $27,000.00, if you're borrowing the maximum each year. So I'm just wondering who actually meets -- or I guess fail that requirement.

Mark is showing that maybe there are schools that will, I just have to reconcile that I guess in my head. But I kind of agree with what Kelley was saying.

MR. RAMIREZ: Jennifer? Diamond.

MS. DIAMOND: Jen Diamond. I just wanted to respond to that and say I don't want to say that the one-to-one is a non-starter, but until we figure out the repayment method or the repayment metric, which as others have alluded to, right now is just not really going to serve as a safety net for those who make it through one metric. I just don't feel comfortable solidifying the other metric.

MR. RAMIREZ: Okay. Then we have the other Jennifer, and then Jeff and Mark.

MS. BLUM: So that's kind of funny, because I think I was about to say the opposite of Jen, but for maybe the similar reasons. First of all, I agree with Kelly, I think.

I think without -- I just don't know that one-to-one works for teachers and nurses and I mean, just across the board. And until we have the data, I just think it's really hard to know that. And frankly, being -- and again, it's just the lawyer in me wants to see the language.

So I think it's really hard to take a vote on something that I don't have in front of me to read. And that's just more about my brain, maybe, but I just feel like I need to see something in writing. So I would ask -- and again, setting aside whether, like for example my constituency needs to see the narrative or not, they can certainly, at least in our organization, run numbers.

But I would like them to be able to

run numbers overnight so I can be informed by the impact based on different professions and things like that. I think I'd know more in the morning. So I again would ask that maybe we could go on to the issue paper, the other issue papers, and hold this vote -- and this is just my request -- until the morning.

And then the one thing I was going to say that was different than Jen Diamond is that I would like -- I would actually also recommend that perhaps, because you're putting a lot into a temperature check, because you're putting in this concept, the loan repayment rate, and this 65, whatever you want to call that thing, that whatever, about earnings into one vote.

And I think that we might do better on if -- and again, I think it's better tomorrow after we all have a good nights' sleep and can think about it -- but I think it might be better to unpack the concepts. But that's the opposite.

So with respect to Jen, like, she might not -- I mean, it sounds like she wanted to get them all nailed down together. Or maybe it would allow us to nail them all down together and then unpack them for the purposes of a vote.

MR. RAMIREZ: Yeah, it's a chicken and egg, right? Because I'm hearing resistance on both, right? It folks aren't seeing all the components, then they get hesitant, but then if it's all of it, it's too much to --

MS. BLUM: Well, I'd be happier voting on the whole package if I had something to look at and I had run the -- you know, had the opportunity to actually understand the impact at least internally before I voted.

So, I would say that if we're going to vote on the whole thing together, I think we all need some time to think about the loan, all of the different factors and take it back before we just go ahead and vote today. That's just my view.

MR. RAMIREZ: Yeah. And if I understand correctly, the reason that this came up was because the Department was trying to listen to the ideas and discussion that was generated in here, and this one-to-one ratio appeared to be -- and Kelly, nobody was locked in, right?

I just want to make sure that that was clear, right? But that there may be some appeal to exploring this one-to-one idea. And you've had some discussion to get some clarity on how it would really look. And I guess with that, I think the Department's trying to find out, is this viable, right?

Or no matter what we do here -- and understanding with the limitations that we have, right? We have some limitations on we're not going to get all the data that folks would feel comfortable with, right? Can we get some language? Possibly. But even if we got some language to look at it, is it still going to be an idea that's going to be killed, right?

Can we get consensus on this thing if folks were able to look at language on it, or is it a dead deal? And if so, that's fine, right? The Department, you all are clear where the Department will go with this if it's not doable, right? So is it worth the exercise for the Department to draft a language, or is this dead on arrival?

And that's what the temperature check would be, right? The temperature check would be to see is it worth continuing the discussion?

PARTICIPANT: I just have some questions.

MR. RAMIREZ: Yeah, Mark.

PARTICIPANT: Just to confirm, some of the questions I wasn't sure we were on the same understanding of the proposal. In my understanding of the proposal, if the programmatic debt is $20,000.00 where the earnings are $25,000.00 and the debt is $26,000.00, as long as the debt is higher than the earnings, that would be over the one number. Chad? Okay? So Kelly, I didn't -- so there are plenty of institutions that are -- that fall in there. They are disproportionately in one sector. But there's no doubt there's many institutions that have that. So I wasn't quite understanding the discussion about who -- that no one was going to fail it.

MR. RAMIREZ: Yeah, Chad?

MR. MUNTZ: I mean, to that point, I mean, Mark, from his sector, just provided data that 62 percent of the proprietary institutions are going to be caught up. When we began this in session one, we identified the sector that has the issues. I mean, it's still doing that. So I don't know what better measure. But I mean, I agree that we need to do something here.

PARTICIPANT: So, does he saying 65 percent of the failing programs are in his sector, or 65 percent of those programs fail?

PARTICIPANT: It's the latter.

PARTICIPANT: It's institutional.

PARTICIPANT: Institutions?

PARTICIPANT: The latter.

PARTICIPANT: All right, so say that again?

PARTICIPANT: So, 65 percent. Sixty-five percent of failing institutions are in the proprietary sector. Or it's not 65 percent of the proprietary sector?

PARTICIPANT: Right.

PARTICIPANT: Okay. But still, we disproportionately found the area, right? Where the problems are.

PARTICIPANT: But how many failed?

PARTICIPANT: How many was that 65 percent?

PARTICIPANT: That must mean they failed it.

PARTICIPANT: I offered it. I'm reluctant to, because I'm doing it too quickly, I offered it just for a sense of how it has an impact, but again, this is not hard for the Department to present, or someone else to present.

If you'd like me to really run it, I will, but at this point, I'm not sure it's helpful for a member to be constantly doing it. I'm doing it just to help. So there's no doubt it was disproportionately of the failing institutions. It was disproportionately on the proprietary sector.

And the public sector is probably over-represented, because the scorecard is only looking at borrowers and the actual DE metric includes non-borrowers, so it's going to have actually even less of an impact on the public two-year sector.

So I think I'll leave it at that, that the disproportionate number of failing institutions at an institutional level are in the proprietary sector. There was some in the private and very few in the public.

MR. RAMIREZ: Chris.

PARTICIPANT: This doesn't feel like a very good way to do rule-making. I mean, it feels like we're very rushed, it feels like we're at the end of the third session with something that's totally new and doesn't have a lot of time to either try and run or do some research or some data.

And the Department, we don't even have anything written to read. I mean, I agree with

Jennifer that we're voting on something that was orally presented, and if we reach consensus, that will be the rule? I mean, there is details in there that are -- there probably will be unintended consequences that will affect consumers negatively, schools negatively, taxpayers negatively.

I mean, this really does not feel like a good way to write a rule. So I just can't vote on something without seeing the language. And if the Department feels like it doesn't want to write that language because it's not sure if we will or won't approve it, I mean, I just don't know how we can move forward.

PARTICIPANT: What I'm hearing currently is that there's a very high unlikelihood of consensus on this. I don't want to say for sure. I could come back tomorrow technically with some draft language on it.

Mind you, it would be -- tomorrow is the last day. So you wouldn't have any more time to ruminate on it then than you do now. So I mean, there would be no opportunity to take it back. You would see it tomorrow.

I think yes, it is -- I mean, this part of it is rushed. We took an idea that was basically voiced a few hours ago and we have it. I mean, we have -- you have the information that you have. I've given you our position.

I'm willing to vote consensus on it if it comes up. If there's no consensus, then we do have an offer on the table for tomorrow. So, you know, it's the decision of the group.

PARTICIPANT: Yeah, and Chris, I understand what you're saying. And I think Greg summed it up properly, is that if this idea that is interesting, but there's not enough time to develop based on the time that we have remaining, and if that's the reason that it won't fly, well, then so be it, right?

Then that's -- it just doesn't fly, right? And then we go back tomorrow and that's what we look at, what was -- what we started with essentially today. What we started with today.

MR. RAMIREZ: Sandy.

MS. SARGE: Oh, Jennifer, do you want to ---

MR. RAMIREZ: Jordan, Jennifer, and then Sandy.

MS. SARGE: Okay. I'll respect that. Sorry.

MR. MATSUDAIRA: I just wanted to offer a little bit more perspective about my earlier criticism of the repayment rate. So I don't know of a better way of looking at this other than the way that I've done, which is to go back to the 2011 gainful employment rates, which had a repayment rate measured.

It's different than the repayment rate measure that we're contemplating here. But nonetheless. So what I did was just apply the outlier method that was suggested by Sarah to try to identify like, how low the repayment rate threshold would be, such that programs below that would be identified as outliers according to that method.

So if you look at the data, the median repayment rate, again, it's different in the (inaudible) just the gainful employment programs. But the median was 37 percent. The 25th percentile is 26 percent of 26 percent repayment rate. The 75th percentile is a 50 percent repayment rate. So the interquartile ---

PARTICIPANT: Sorry, can you slow down?

PARTICIPANT: Yes, slow down.

MR. MATSUDAIRA: Forgive me.

PARTICIPANT: I thought that the median was 37 percent?

MR. MATSUDAIRA: The 25th percentile was 26 percent, and the 75th percentile was 50 percent. So the interquartile range is 24 percent. We'll subtract 1.5 times the interquartile range from the 25th percentile in order to get the lower bound for repayment rates to identify outliers, and we would find that if you have a repayment rate that's below negative nine percent, you would be identified as an outlier per that metric.

So I just want to suggest, again, a repeat -- my concern again that I think this method is going to result in just eliminating there being any failing programs. So I don't think that's a reasonable way to proceed, and again, want to urge the Department to adopt a different --

PARTICIPANT: If we went to half or one.

PARTICIPANT: I would like to thank the economist for checking my math, because that's what I've been doing. That's what I've been trying to say.

PARTICIPANT: So are we back to my two standard deviations?

PARTICIPANT: Well, but let me understand though, because is that the method for whether we go with the original DE calculation or the one-to-one ratio? Isn't that the same method?

PARTICIPANT: But this is the

repayment rate.

PARTICIPANT: Right.

PARTICIPANT: The backstop. And if you --

PARTICIPANT: But for the repayment rate though --

PARTICIPANT: You have to fail the repayment rate. Everyone will pass because it's a negative number. You don't have to pay anything.

PARTICIPANT: Well, the threshold could be changed, but that's what I've been trying to say. You have to change the threshold, because otherwise repayment becomes meaningless. And everyone passes, and everything beforehand doesn't matter.

PARTICIPANT: So what happens if we change -- so Sarah's point the other day was that you do one and a half. So, what if you didn't do one and a half? What's the worst thing that would happen?

If it was a half -- now, she gave good

reasons why she believed that one and a half was appropriate based on statistical research and expertise in her field. But if we went to a half or one, what does that do to change it, and is that reasonable?

So, what she's trying to do is adjust for statistical, natural statistical errors that occur in doing this kind of thing. So if you tightened that, would that help? And do we have a way of knowing?

PARTICIPANT: Here's my recommendation. Greg, can you -- what can you do to try and get some language for first thing in the morning?

MR. MARTIN: It's -- I don't know that it's likely. I'm sensing a -- I mean, I can take back the repayment issue. I think as far as changing the method, I think that the methodology Sarah was talking about, if you start messing with the numbers, you skew the whole -- that methodology no longer -- you have to change -- not use that methodology, you know?

So I don't know whether we'd be inclined to pull off of that. The problem, one of the problems we faced was in coming up with a benchmark was that we -- it was the legal challenge that we had to do last time of it being arbitrary. Finding something, some literature, something to key that benchmark to. And we were quite frankly unable to come up with anything that we thought would work.

So that's why we wound up where we were. As far as language, as far as whether I can draft I guess it would be potential language for you to consider tomorrow morning, but outside of a vote on full consensus about this, I'd have to check with my people to see if I can do that. I don't want to obligate them to it.

MR. RAMIREZ: At this point, I don't know if it -- I don't think there's any benefit to continue down that -- this path of discussion. I think we'd benefit more of going through issue paper number six.

MR. MARTIN: I would say you're right.

MR. RAMIREZ: So at this point -- I assume you're going to convince me otherwise?

PARTICIPANT: Not necessarily, but I do want to just go back to where we were very quickly, before lunch, which is I think there was general agreement on when we slice the data, looking at bachelor degrees differently from the other programs.

I think just reading body language, it seemed like there was general consensus on maybe not setting when, but just at least sort of codifying the notion that we should just treat the data of when it's reported separately for bachelor's degrees versus associates and certificate programs. Was there -- can we maybe do just a temperature check on that?

Again, not setting, saying when, but just maybe at least informing the department that we generally agree with that principle. Would that be okay? Can I ask for that?

MR. RAMIREZ: So, clearly restate what is it we would be --- that we would vote on.

PARTICIPANT: That we agree that when we are looking at this information, that bachelor's degree earnings reports should be different -- there should be differentiation between the time horizon on bachelor's degree reporting and associates and certificate degree reporting. No specific date when, just there should be some differentiation there.

MR. RAMIREZ: Let's see a show of thumbs. As a temperature check.

(Show of thumbs.)

MR. RAMIREZ: All right, yeah, so there is consensus on that.

PARTICIPANT: I can go back and say I did something.

MR. RAMIREZ: All right. So, with that, let's go ahead and put up issue paper number six, and I'll ask Greg to go through. We're going to keep on beating this horse, and we have to get through the issue papers.

PARTICIPANT: (inaudible).

MR. RAMIREZ: What's the subject

matter?

PARTICIPANT: It's a general comment.

MR. RAMIREZ: Go ahead.

PARTICIPANT: I just want to say that we should take it a little bit easy on the Department. They're the ones that have put pen to paper. They've given it to us every week. It's our fault as negotiators that we've spent such a shockingly small amount of time discussing them.

And we've been spit-balling ideas up until today. And I just want to point out for everyone, I know we all have our own interested parties, and you know, I commend everybody for advocating for them, but I think the responsibility for why this rulemaking got off track is less to do with the Department and more to do with us.

MR. RAMIREZ: Okay. A point of -- yeah.

PARTICIPANT: I don't know if that's what it's called. So just it would be helpful for us to know in terms of the urgency or where we're supposed to be thinking of this now. If the Department of Education could just let us know what the process is after tomorrow.

Like, what happens next? Is there going to be rules drafted? Is there going to be a registry notice on what they are, a chance for public comment? If you could give us a sense of the time line.

PARTICIPANT: So, after we reach consensus.

PARTICIPANT: Way to go.

PARTICIPANT: I thought that would be my chance to blue sky, right? In the event we do not reach consensus, the Department will very diligently start working on a proposed regulation that would be published later this year for public comment with the goal of publishing a final by later in the year so it would have an effective date of next year.

PARTICIPANT: So Greg, you want to walk us through the changes of number six?

MR. MARTIN: Sure. I mean, I

understand it's a little tedious and frustrating at this point, but we are obligated to go through the papers, so I will try to be brief.

But I feel I need to read every word in this entire document to you so that you get the -- I love the resonance of my own voice. All right. Basically, here's the summary. Just a narrowing of the disclosure items. And you'll see how we dealt with that. I mean, when we look at the first part of this, we're looking at the disclosure templates.

So we'll start with that portion of it on page one. And I don't think there's anything new here. This is pretty much what we presented to you in the past. There you see undergraduate educational programs represented. We are not going to -- meant to tie ourselves to having to have consumer testing.

Moving on to page two, you see, now, I want to note that some -- I do want to read this verbatim, because this is important. I'm on page one. The Secretary identifies information that must be included in the template in a notice published in the Federal Register.

The information may include but is not limited to. So understand that what we're going through here are a list of things that we may or may not require to be placed on the disclosure template, and that we also have the -- reserve the right to add things that you do not see here.

So, just pointing that out. And that's the current -- that's the way the current regulation reads.

So we can just go through on page two. All these you should be familiar with, with the exception of new number six. As calculated by the Secretary under 668.406, that was a new loan repayment rate, for any or all of the institution's programs.

So we could require that the loan repayment rate be disclosed. As I said today in conversation with senior management, we would be disinclined to do that given the way we're going to use it.

Going through the rest of page two, there's nothing new there. And on page three, the percentage of students, we did add just the percentage of students who receive the Title IV -- this is the disclosure, mind you -- or Title IV loan or private loan or whose parents took a Parent PLUS loan, just as a disclosure item, which again, we may or may not require in the Federal Register for the disclosure for that year.

And then we have in the middle of page three, number 11, the mean or median earnings of students. So that remains. And then on page four, we have as calculated, where it says -- I'm sorry, below that, where it says Roman numeral II there. If appropriate, the disclaimer -- and we talked about that previously.

That's the disclaimer that if the institution believes the earnings may be affected by a significant numbers, students who completed the program did not report all their income, such as tip income or who was self-employed and had business expenses. Dependent care, selected to work part time, that type of thing.

And also, if appropriate, a disclaimer that states the institution believes the data here may not reflect earnings potential in your geographic location, because the institution enrolls students nationally, and earnings can vary significantly from one part of the country to another. So that's an addition there.

Moving on to page five, you'll note at the top that for programs, preparing students for fields requiring licensure, a URL linking to any web page containing the secretary -- the state's, rather, mandatory qualifications for licensure would be required as well as a link to the institution's page on the U.S. Department of Education's college scorecard or any successor.

Going down, we do note that the institution must update the disclosure to include any required -- we stuck warnings there and indicated notifications. And if you know the way the current disclosure template works, the warnings, the current warnings are included on the disclosure template should you be required to provide that.

Looking down at C, program webpages. Any webpage containing academic cost, financial aid, or admissions information about undergraduate program and on the program page, and not under a separate webpage dedicated to the institutional research or other purposes. So the template would have to be kind of narrowing the scope for the template to be provided so that it's clear and not obfuscated in any way.

And we do note that we may require a notification to modify the webpage if the school provides a link to the disclosure template and we don't believe that link to be prominent and readily accessible or clear and conspicuous.

Promotional materials, just there a chance to undergraduate educational program. The biggest change, and we look at six, I believe this was reflected in the previous papers from session two. That we've eliminated direct distribution to prospective students of the template. So all of the requirements around that have been eliminated.

And that was a burden reduction thing. The Department's convinced that having the disclosure prominently displayed or accessible is sufficient. Remember that this is not notifications. We still do require that the notifications be distributed.

I do want to add one thing that our senior leadership was concerned to put in. We're inclined to include -- what was the language used? Right. That so our leadership is concerned about the disclosures being clear in all areas, so especially we were -- we want to include something about where lead generators are used by institutions, that in any instance where there is a lead generator used, that the disclosure template would either be included or the link to it provided so that students would be able to see disclosure information when such a vehicle is being used.

Okay, I'll stop there.

MR. RAMIREZ: All right. So, what

questions or comments do you have on disclosures? Let me start with Laura, Chris, then Jeff.

MS. METUNE: I want to make sure I understand something first before I make a comment. So in issue paper eight, we struck the language around we. By we, I mean the Department. Struck the language around requiring an institution to meet the licensure requirements of the state, requiring that to be included in the certification.

And now we have what is a potential but not for certain disclosure that would include the website, right? Because these all will be determined in the Federal Register.

MR. MARTIN: No, that's -- the actual -- these requirements for how it's to be disclosed --

MS. METUNE: But it will be included.

MR. MARTIN: Yeah, it's what will be included in the Federal Register. The items to be included, not the methodology by which it's -- this is all actually in regulation and not subject to the Federal Register notice.

MS. METUNE: So it's how it will be included, not whether it will be included?

MR. MARTIN: It's what will be included. You know, for instance, the data, what data will be included in the template, right? For instance, completion rates, would that be included? Not whether or -- the part here that talks about the website requirements and all that, that's not something that we update every year. That's in the regulation.

MS. METUNE: And then just so I understand, I think one of the points that Jennifer had made was that these change from time to time. So what is the burden on the institution to make sure it's accurate and up to date for the disclosure purposes?

MR. MARTIN: Greg again. Well, for those of you who haven't been subject to it, so what happens is that we publish a Federal Register which would indicate -- for instance, if you look on page one, the Secretary identifies information that must be included.

So let's take one of them. The length of the program in calendar time. So, we generally have included that on the templates thus far. These are items which we would generally include but are not obligated to include given the language here.

So the Secretary may include, may include, may include but is not limited to these items. So you would get -- you will be in the Federal Register.

We'd also put out in an electronic announcement, we would -- we announce that the new template is up for the year, and then there's a link to that template, and you can go to the template and there's a quick-start guide which goes through all of the information that needs to be put into the template and gives institutions instruction as to how to do that. So that would be the process. We would be continuing that process forward.

MS. METUNE: It's late in the day, so

I might just not -- it could just be me. So what you're saying is, it's a choice by the Department to require this disclosure?

MR. MARTIN: No, that's not correct. It's not a choice by the Department to require disclosure. The disclosure happens every year. What is the choice of the Department is --

MS. METUNE: The choice is whether 16 and 17 will be included in what's required.

MR. MARTIN: No, the elements in the disclosure template, the elements. For instance, let's take a look at these. The information may include but not limited to, the primary occupations by SOC code that programs prepare students to enter. We generally do include this, but we're not obligated to include that.

That's the way the rule has always been. The length of the program in calendar time. The repayment rate. Total cost of tuition. Placement rate for the program. These are all items which may be included in the template.

MS. METUNE: Okay.

MR. MARTIN: You wouldn't find that out until the Federal Register or the electronic announcement was issued. But it doesn't mean that every year we decide whether there will be a disclosure or how you'll have to do that disclosure. That's set in regulation.

MS. METUNE: Got it. So we went in week two from ensuring that an institution meets the licensure requirements of the state in which it's operating to a conversation where I recommended we ensure that an institution meets the licensure requirements for online programs where that student resides to now what appears to be only disclosure to the degree that the Department chooses to put these items in the Federal Register as disclosable items on the document that is required but has options in what's required to be on the document.

MR. MARTIN: This is Greg again. Recall this isn't certifications. We'll be discussing that next. This is -- they are related, but this is the disclosure. So, yes, this is what is presented.

But I would point out to you that we've never -- I mean, for those of you who are robust defenders of the current rule, this mirrors the current rule, by and large, right? There are some things we've taken out, but most of this language comes right from the current rule.

MS. METUNE: Does anybody have any information on how often a student clicks a link that's provided to them in a disclosure? We won't know, because there's no efficacy testing of our disclosure requirements either.

I just -- I think I'm generally frustrated that it feels like an area where there was some level of at least understanding that it's vital that a student is able to sit for licensure for a program they're paying with the goal of meeting licensure requirements in that state, and we've backed away from that to where it's a disclosure that I think most of us think is a relatively meaningless disclosure.

Jennifer and I had a long conversation

with a number of people sitting around this table about how we can make these disclosures in connection with the certification work in a way that's a reasonable burden to an institution as well as be meaningful disclosure and requirements for the part of the student.

And I feel like we made a lot of progress on that, and I'm just generally disappointed that it feels like a huge backtrack from that area of conversation.

MR. RAMIREZ: All right. Jeff?

PARTICIPANT: You said Chris next.

MR. RAMIREZ: I'm sorry. Yeah, Chris. Yeah, sorry.

MR. MADAIO: Thanks, Jeff. Appreciate it. It's all good. So, I agree with what Laura just said. I was on that, those meetings, and we had kind of reached some areas where we all could agree. So, you know, I feel like just having a disclosure about license websites is going to be not very useful for students.

Obviously I'm okay with it if it's

there. It's not like I need it struck. But I definitely think it's not enough by itself. I think there should be consumer testing. I'm not sure why that was struck. I know that was struck from the last session as well. But I just don't see the problem with consumer testing to make disclosure meaningful.

Again, I think repayment rates should be disclosed if we're going through for the reasons I discussed before. Again, for direct distribution, I don't feel that the burden, especially by email, of that distribution outweighs the benefit of ensuring that a student actually sees it, because right now, we have a website, we have I guess on some promotional materials, but we really don't know that students are actually going to see all this information that we're going through so much work to put together and that the Department will go through work on a Federal Register to put together.

So I mean, again, if we're doing information, we should really want students to see it. And then the disclaimer, obviously -- and I guess I'm just concerned about it, schools who are making this disclaimer are making it accurately and are doing it with -- is something where they are actually telling students that they do have a significant number of students that either are tipped or that it applies to them.

So I think it should be worded in such a way to ensure that I guess if a school chooses that it is appropriate for them to make such a disclaimer that it actually is applicable and is not something that every school could just choose to slap on, and it's worded in such a vague way that it could apply to everyone when we know that there are a significant number of programs across the country that really don't result in the significant number of tipped or students who aren't having income reported on SSA.

MR. RAMIREZ: Okay. Jeff.

MR. ARTHUR: Yeah, looking at page two, item seven, the disclosure on the total cost of tuition and fees, etcetera. In the current template, there is a disclosure regarding time to completion.

And again, I would just reiterate, I think that this information is misrepresentative unless you also qualify it with a median time to completion, because I mean, we saw that and had mentioned last time that 40 percent of families that are planning to attend college mis-estimate the cost of what they're going to spend by 40 percent.

Not 40 percent do, but that on average, the student spends 40 percent more than they anticipated. So I think it's important that we qualify that so it's properly represented so they can do a calculation to determine what does a person really spend, not just what does that perfect person spend that completes on time.

And then I'd also just reiterate the comment that I had last time about getting this information in to student's hands. We could use a disclosure platform, FAFSA application responses, links to heavily promote this information. So I think there's real opportunity.

I think when we talked about the consumer testing, you can actually do that through technology. If you've got a platform with information, you can measure what people look at and what's important and know that we need to expand that.

MR. RAMIREZ: Okay. Jen Diamond.

MS. DIAMOND: I was going to say a lot of what Chris Madaio said, so I won't repeat it. But yeah, I would totally reiterate the thought about bringing back consumer testing and making sure that those saying that they have tipped income students are truly having tipped income students.

The other thing I would suggest is that we -- that there is added in one of the potential disclosure pieces is average cost of living, and that maybe there is a little asterisk next to medium loan debt that says that does not include cost of living in the debt calculation, because students should know that. Or, never mind that last part, but including something about cost of living on the disclosure.

And then I was wondering if the Department could just answer why cohort default rate was removed? I mean, I know there's a lot of issues around that metric, but it is a true poor outcome for students that would be information worth knowing.

PARTICIPANT: I don't -- hold on a minute.

MS. DIAMOND: I think it was in the first round.

PARTICIPANT: So, first and foremost, we haven't recalculated -- we have not calculated the cohort default rate, PCDR, Program Cohort Default Rate. So there was nothing for us to provide this year. One was not calculated. And so we haven't -- that's not something we've done.

MR. RAMIREZ: Okay. Kelly.

MS. MORRISSEY: I would also like to support the idea of consumer testing for these templates. If we are now moving to disclosures for 100 percent of undergraduate programs, just think about the scale of the amount of work that this will entail for all institutions and how can we drive students to actually access this information?

I'm thinking about my 18-year-old daughter who won't even eat lunch somewhere without reading a Yelp review, yet we have students testifying that they made significant investments in their education without ever reading information about the schools that they would attend.

So there's a real disconnect here if we're providing this information and students aren't seeing it. Then to what end are we putting forward all of this effort?

More specifically, in looking at the items that are being disclosed, I'm wondering about number nine where now without reporting, we don't have information about private loans being used to calculate debt to earnings.

But instead of asking for the

percentage of students who borrowed private loans, could we actually provide average amounts that students are borrowing in private loans?

MR. MARTIN: This is Greg. We could. I mean, you know, just because it's not in here does not mean we could not require that in a future disclosure.

MS. MORRISSEY: Well, I'm suggesting very strongly that you consider that, because I think, you know, to what end are students really leveraging private loans in order to finance the experience at a program.

MR. MARTIN: And Greg, again. Just one more thing. And if we did that, and as with this, the burden is on the institution to calculate that and provide it. It's not being provided by the Department.

MS. MORRISSEY: Understood. Understood. But I mean, we'd have to do a similar calculation just to come up with a percentage. So I think from the effort standpoint, it would be more meaningful for students to understand the amounts of private loans that students are accessing.

MR. RAMIREZ: Thank you. Chad.

MR. MUNTZ: This goes to number seven on page two. I don't want to, in good faith, trying to provide this information I think conflicts with governing issues here. We don't set tuition over the next four years. This is a year-by-year. It's done by the Board. So I guess any comment to people who have had to provide this, how do you do it, and I mean, just that's a known issue that we have.

MR. RAMIREZ: Andrew.

MR. HAMMONTREE: This is Andrew, and I just have a quick question. On page five, number 17, where it talks about a link to the institution's page on the U.S. Department of Education's college scorecard or successor site or other similar federal resource.

What do schools that don't have a college scorecard put there? What is the other similar federal resource that was being suggested there? I thought it was a simple question.

MR. MARTIN: You know, hold on a moment. Yeah, the navigator.

MR. HAMMONTREE: Okay, thank you.

MR. MARTIN: Perhaps we should say that.

MR. HAMMONTREE: That would help.

MR. RAMIREZ: Okay, Gannon?

MR. GANNON: Yeah, so looking at the bottom of page six, the top of page seven. Just a question for the Department. What is the rationale for not having direct distribution of the disclosures to students just considering you say you want to get more information and more people?

And I just think that this does the opposite of that.

MR. MARTIN: One of our reasons for going down this path was that when thinking about taking this and applying it to all institutions, all programs, and understanding how many programs that's going to be at some schools -- we're no longer talking about a school that has five, six, seven programs. We could be talking about a school that has 150 programs.

So we had just determined that that would be an undue amount of burden to impose on schools that have large numbers of programs. So, you know, obligating their staff to spend hours getting this stuff out to everybody about all these different programs as opposed to doing their jobs.

So and I know financially, staffs are stressed enough as it is. So that was our reasoning behind that. Which is part of the whole idea of how will we adjust these rules now that the rules are going to be applicable to everybody.

MR. RAMIREZ: Okay, I have -- we have to save about the last five minutes for comment from negotiators as well as the public. I have Jennifer, Johnson, Jordan. I'm not sure if I have Chad, and then Kelly. So, Jennifer.

MS. BLUM: So just to follow up on something Jeff said and Chad said about the cost and the time. This is a big, big issue that I'm sure a lot -- everybody in the sector who already has been doing this, where the time to completion piece needs to really line up to the cost piece, because otherwise, the students are I think genuinely confused.

So I know Cynthia said, and we're abiding by what she said, which is that we're not discussing the template here. But I would encourage everybody who has, who sees the issue, give the Department their -- we definitely have a list of recommendations as it relates to both completion time and cost and how the two correlate on the scorecard.

So I would just -- well, not just on the scorecard, on the disclosure, on the templates. So that's my -- I mean, just because I know the Department doesn't want to receive that here. But it's a definite issue. So Chad, you're right. You're going to face it, too.

I did want to spend a second just following up on what Laura said, because we did, at the end of session two, discuss that we would have a subcommittee, and we did in earnest have a subcommittee. We spent a fair amount, Laura and I spent a fair amount of time editing language and then having a conversation.

And first of all, I would just say straight off, there was complete consensus on consumer testing. So I will -- I am going to ask for a temperature check on consumer testing in a minute. But I did want to also point out a couple of -- and we can resume this tomorrow. But I did want to point out, if it's okay with Laura, too, the places where, you know, we had some discussion that made sense.

It irks me, and we've had this conversation before, that the Department -- and I'm on page four -- the Department refers to licensure and the state with regard to licensure, and when they talk about the website, they talk about the state's website. It's not the state. The state doesn't regulate licensure. It's a bunch of licensure boards. It's hundreds of licensure boards.

Having said that it's hundreds of licensure boards, we understand the obligation that we have to our students. We think that this language should be modified to clarify that it's the licensure boards' websites that should be disclosed, not the state's, because there is no state website on licensure. It's the licensure boards' websites on licensure.

It is a burden. We actually think it's a burden that schools, if they're going to have students -- and it's not just online. If they are going to have students who are seeking licensure in other states, that they ought to know what their licensure rules are. We feel very strongly about that. It's not perfect. I discussed this on the call. We are imperfect. It is very hard to follow.

Which takes me to Laura's other question, because she asked it, and I don't think she got an answer. What's our obligation to keep it up to date? This one makes me nervous, and I will be forthcoming about that. But they do change their rules. So that's why we talked about reasonable efforts on the part of the institution to keep this piece up to date.

It does require a level of monitoring. This is a place where, because we are now applying this across institutions and across, you know, we appreciate, frankly, we feel like we have had a sort of higher place of feeling obligation to meet this.

And so there were -- the bottom line is, we did have language. We did -- I won't say that we took a consensus vote, but there were clear lines of agreement. And I would ask for a temperature check on consumer testing.

MR. RAMIREZ: Greg, on the licensure board versus state, was that oversight, or is there a reason that it's the way it is now?

MS. WHITFIELD: Can I answer that, or try to? This is Christina Whitfield. There are some states that license for-profit institutions to operate within their borders. Not all states do, but some states do.

MS. BLUM: That's state authorization in a fact. Some states call it licensure. You know, but we're talking -- I think in this section, and I'm looking purposefully at Chris and Laura. In this section, we're not talking about that form of licensure.

In this section, we're talking about whether a student can be licensed in X profession at the end of their long-haul. I mean, Laura -- so, yes, completely agree with you, Christina, on state authorization, and some states call that a license to operate. But that's not what this section is intended to address.

PARTICIPANT: I'll just add what we do currently is that schools have to update their disclosures at least annually, and if something materially changes.

So if you all of a sudden got new state licensing requirements, if you got new -- one of the things that doesn't necessarily match up with our schedule is the job placement rates.

So when the new job placement rates come out, if they are different from the olds ones, that you need to go ahead and update that, too.

MS. BLUM: So the language, so is that in something where it says if there is a material change, you're required to -- I mean, is that something that's stated somewhere? Maybe it's in here and we missed it. I mean, I'm not -- but I'm just curious if that's said anywhere.

PARTICIPANT: Well, we'll look through the disclosures to try to find it, but if not, I mean, that is what we've been doing. If you guys have a proposal to add it, I'm sure -- I shouldn't speak. I should let Greg speak.

MR. RAMIREZ: On the temperature check for consumer testing, is the question that simple, or is there other details that need to be thrown in there?

MS. BLUM: I think as a -- I mean, I can put forward what I think it is. I think I am going to ask for a temperature check on whether the sentence should be put back in that was deleted from the reg, from the proposed reg.

MR. RAMIREZ: Regarding consumer testing?

MS. BLUM: It's on page one, sorry. So, on page one, it says the Secretary will conduct consumer testing to determine how to make the disclosure template as meaningful as possible. I'm asking whether there's consensus around going back to what it was.

MR. RAMIREZ: Let's see a show -- Sandy.

MS. SARGE: Before we go down that path, I just want to know straight up before we even try to do that, is this a budgetary constraint? Is that the reasoning? Is that the key reason why it came out? Theory is nice, but if we can't pay for it --

MR. MARTIN: I'm sorry, I was thinking of something. I was trying to find a reg. But yeah, if this is in respect to the consumer testing for the template, okay. I'm sorry, that's got me back on path there, track again. Yes, some of it is budget.

Some of it is the fact that we are under pretty severe budget restraints right now, and to obligate ourselves to do something in the regulations that we might not be able to do, I personally have a problem with that. That you know, it says we will conduct consumer testing, and then there's simply no money to conduct consumer testing. So that is part of an issue.

Part of it is that we did do a lot of extensive consumer testing on the template when we developed it already. We are restricted when we do consumer testing to nine people. That's what you get when you do consumer testing we do, because to do any more than that requires special -- so it's -- so we had done consumer testing previously.

And the template has not change. Certainly the look of the template has not changed appreciably in the past couple years. Those were essentially our reasons for taking that out. Which is not to say that we couldn't do consumer testing in the future. It simply says that we're not, under this rule, we're not obligated to do it per the regulation.

MR. RAMIREZ: I have Johnson, Jordan, Diamond, Chris, and John. And what I'm going to suggest though is that we ask for public comment, and then finish out the queue here since our end time is in four minutes. So let me ask, is there any public comment? Johnson.

MR. TYLER: I'll be quick. My real concern has to do not so much what's on the template but how people get it. And the webpage is how people are going to get it. At one point, I was trying to understand how this disclosure works, during session three, and I spent time going to websites, trying to find this disclosure. It's very hard to find.

And one thing that really makes it difficult, as soon as you go to a website where, you know, I'll just say it, where profit is the motive, a pop-up comes up there. You can't proceed any further without giving your name, your email, your phone number, and now you're going to have someone calling you day and night.

So I think that's what you talked about, lead generators. So I really think you -- if the idea is to get people to make informed decisions, the disclosure, without the Department doing something to make it meaningful, it's going to become meaningless. Maybe due to the pop-ups, but even because it's hard to find.

And I think there is a solution, and it would be a solution that the marketplace might encourage people to put it in, which is has to do with what is the consequence when your webpage is not adequate? You have a section two here, it's existing rule. This is on page five under C2. It says the Secretary may require the institution to modify the webpage when it's inadequate.

Why not just put in the Secretary will fine the institution, or something with some meat to it that says basically, you know, you've been hiding the ball on this. And I think the pop-up thing is -- it's a serious problem, because that was your chance to get the disclosure. Once you're talking to someone, a lot of people are just going to say, this is what's for me.

I think all the data is going to be meaningless, particularly to my constituents who are going to degrees where they can increase their salaries fairly quickly.

MR. RAMIREZ: Thank you. Diamond?

MS. DIAMOND: I was going to make more general comments since I figured we're wrapping up. Should I hold off though until folks address this?

MR. RAMIREZ: I'll come back to you, yeah, if you don't mind. Thank you. Chris?

PARTICIPANT: I just want to point out that disclosure updates are on page five under B, in accordance with procedures. And time lines established by the Secretary, the institution must update at least annually the information contained in the disclosure template with the most recent data available for that program.

So at least every year, when they do

the template, they'd have to update.

MR. RAMIREZ: Jordan?

MR. TYLER: My concern is just that no one's going to see it.

MR. RAMIREZ: Jordan, and then John.

MR. MATSUDAIRA: I just wanted to quickly echo support for the ideas that Jeff and Kelly were talking about, about just given that the rule is removing a lot of the sanctions that might take bad actors out of the space, and it's really putting a lot of the onus on students to be able to look at information to make better choices about where they're going to school.

Just really amplify the importance of putting the data that the Department can, especially the data like debt and earnings that the Department has calculated on their own, incorporating those into medium like the scorecard and like the FAFSA on the web tool so that students can encounter that information when they're looking for different educational options.

MR. RAMIREZ: Thank you. John.

MR. KAMIN: Yeah, two things. So first, kind of sticks in my craw that Laura and Jennifer worked on draft language that we won't be able to see and didn't appear to be considered here. So Laura just said that she emailed that to the Department. I think that we owe it to them to review that language and share our feedback and perhaps do a temperature check on it.

Second, when it comes to consumer testing and the cost for this, considering that this -- at the very least, this is ambitious in that the proposal is to apply to all sectors, that would inevitably lead to greater costs being assumed by the schools who have to invest time and FTE hours into doing this.

It would stand to reason that that time is well spent. And the only way to do that is to ensure that this is done right. And it seems to be equitable to ask the Department to provide consumer testing to make sure that that happens.

MR. RAMIREZ: Okay. Then Diamond.

MS. DIAMOND: Okay. This is Jen Diamond, for the record. I just wanted to close out on a thought and a request, and I just wanted to, for the record, state that even though I think I've been relatively quiet today, I don't want it to be a sign that I'm all on board with sort of the way this has been moving.

And I just wanted to address an earlier comment that the rule is stronger from Mark than the previous rule, and note that I really don't think it is as harsh that, you know, this is for students going to be -- there's no triggers for automatic sanctions.

And that there's going to be a longer path with a limited department capacity to take care of that. And I know that there have been a couple of things that have really just been taken off the table from day one, and obviously we're all frustrated with the lack of data that we have.

And I was hoping to respectfully

request that perhaps the senior leadership that has been referred to a number of times could come and tomorrow address us and talk to the point of how we are supposed to move forward in this last day in a transparent process without that data and with some pieces just taken off the table.

MR. RAMIREZ: Okay. Any -- we'll close out with the temperature check then on the consumer.

MS. BLUM: So, I hate to do this, but I want to modify it slightly. I want to add the sentence back in, but I want it to also be statistically valid consumer testing. Nine -- I'm sort of appalled to see that the consumer testing was only on nine students.

So I actually would like it to -- I actually would like to not only add the sentence back in but have it be statistically valid consumer testing. Because I can't imagine the consumer testing on nine students. I mean, this is a very varied, especially if you're applying it to all institutions, we are an extremely -- which we're proud of in this country -- a varied higher ed.

You could pick nine for-profit students, you could pick nine public, you know, students who attend public institutions. Nine is not enough. So, statistically valid would be sort of the way to go I think, or representative maybe. A representative consumer testing. Something that's a little beefier than nine students.

MR. MARTIN: I do want to point out we make every effort to make the group representative.

MR. RAMIREZ: Kirsten?

MS. KEEFE: So I just wanted to offer a suggestion. I, first of all, for the record, agree with the need for consumer testing, but if that is not feasible or if the consumer testing that they're going to be doing is not that great anyway, there might be other ways to put into the regulation to make sure that the disclosures are good.

Like, you could put in language that

the Department will provide a template that is easily read, you could say that the reading level has to be at eighth grade or under, you know, clear and conspicuous language.

They can't use all capital letters. You know, there are other ways to ensure that the template is easy to ready, can be easily understood by someone with a low education level, etcetera. So I just make that recommendation.

MS. BLUM: Yeah, and I agree with you on that actually, so maybe this is something we could think about overnight. But I also agree with what Johnson said, too, about -- so I agree with you on that piece, but I also think is it something that actually gets looked at? So I think there's a two-fold piece of that, and I do think that nine -- I mean, there's got to be a bigger cohort.

MR. RAMIREZ: Okay. So --

MS. BLUM: We can sleep on it, maybe we can come back with language tomorrow morning that we present.

MR. RAMIREZ: For the temperature check?

MS. BLUM: Yeah. Because I don't think we have the -- I mean, I think we can put back in the sentence, but now that we know that it's only nine students, that's not much of an ask to the Department actually.

MR. RAMIREZ: All right. I'll see you all at nine o'clock then.

MS. BLUM: I'd like to add one thing. As the Department talked about its proposal, one thing that someone said was that maybe there could be a built-in adjustment mechanism? I hope people might think about that and maybe come back with some wording on that.

MR. RAMIREZ: Jen, you had one more?

PARTICIPANT: Yeah. I was just going to say, my request was like an actual request. Could we take a temperature check on that, or maybe ask the Department to respond?

MR. RAMIREZ: Restate the actual verbiage.

PARTICIPANT: Oh, if senior leadership who have been making the calls here could address the negotiators, to hear from them about their goals and how we're -- the issue of data, basically.

MR. RAMIREZ: I think that's a request to the Board. I think that even if it was a unanimous thing, that the Board would have discretion whether to bring those individuals down or not.

MR. MARTIN: I can ask.

MR. RAMIREZ: Okay.

PARTICIPANT: Thank you.

MR. RAMIREZ: Thank you, Greg. Okay. Yeah, take the trash, and same as before. If folks could expeditiously make their way to be escorted out, that would be appreciated. Thank you.

(Whereupon, Part 4 of the above-entitled matter went off the record at 9:10 a.m.)