

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
STUDENT DEBT RELIEF COMMITTEE
SESSION 2, DAY 1, MORNING
NOVEMBER 6, 2023

On the 6th day of November 2023, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MS. JEFFRIES: Good morning to our esteemed negotiators, the Department of Education, as well as the colleagues that are listening in on the public observation link. My name is Commissioner Cindy Jeffries, and I am a federal facilitator mediator with Federal Mediation and Conciliation Service. So, it's my distinct pleasure to welcome you all to the United States Department of Education's negotiating rulemaking table 2 through which the student loan debt relief committee will prepare proposed regulations authorized under Title IV of the Higher Education Act of 1965 as amended pertaining to expanding the Secretary's waiver authority. So, we have a very, robust agenda today. I'm going to jump right into it and do roll call. In today's roll call, you just need to indicate your presence when I call your name. Okay? So first up, we have, for civil rights organizations, Wisdom Cole as the primary.

MR. COLE: Present.

MS. JEFFRIES: Okay. And India Heckstall as the alternate.

MS. HECKSTALL: Here.

MS. JEFFRIES: Thank you. Legal assistance organizations that represent students or borrowers, Kyra Taylor is the primary.

MS. TAYLOR: Present.

MS. JEFFRIES: And Scott Waterman is the alternate.

MR. WATERMAN: Present.

MS. JEFFRIES: Good. State officials, including state higher education executive officers, state authorizing agencies, and state regulators of institutions on higher education, Lane Thompson as primary.

MS. THOMPSON: Present.

MS. JEFFRIES: Okay. And Amber Gallup as alternate.

MS. GALLUP: Present.

MS. JEFFRIES: Okay. State attorneys general, Yael Shavit as primary.

MS. SHAVIT: Present.

MS. JEFFRIES: And Josh Devine as alternate.

MR. DEVINE: Present.

MS. JEFFRIES: Okay. Public institutions of higher education including two-year and four-year institutions, Melissa Kunes as primary.

MS. KUNES: Present.

MS. JEFFRIES: And J.D. LaRock as alternate. Okay, J.D. is absent at this point. Private

nonprofit institutions of higher education, Angelika Williams. I'm sorry, as primary.

MS. WILLIAMS: You had it right the first time.

MS. JEFFRIES: Oh, okay. Thank you.

MS. WILLIAMS: No problem.

MS. JEFFRIES: And Susan Teerink as alternate.

MS. TEERINK: Present.

MS. JEFFRIES: Okay. Next up, we have pri- oh, I'm having a hard time on this Monday morning. Proprietary institutions, Kathleen Dwyer as primary.

MS. DWYER: Present.

MS. JEFFRIES: And Belen Gonzales is alternate.

MS. GONZALEZ: Present.

MS. JEFFRIES: Okay. Historically, Black colleges and universities, tribal colleges and universities and minority serving institutions of higher education are eligible to receive Federal assistance under Title III parts (a) and (f) and Title VI of the HEA, Sandra Boham as primary.

MS. BOHAM: Present.

MS. JEFFRIES: And Carol Peterson as alternate. Carol, are you present?

MS. PETERSON: I'm present.

MS. JEFFRIES: Okay. Great. Thanks.

Federal family education loan, fellow lenders, servicers, or guarantee agencies, Scott Buchanan as primary.

MR. BUCHANAN: Present.

MS. JEFFRIES: Benjamin Lee as alternate.

MR. LEE: Present.

MS. JEFFRIES: Student loan borrowers who attended programs of two-years or less, Ashley Pizzuti as primary. Ashley, are you with us? Okay. David Ramirez as alternate.

MR. RAMIREZ: Present.

MS. JEFFRIES: Okay. David, you'll be sitting at the table until Ashley joins us if she does, okay? Student loan borrowers who attended four-year programs, Sherri Gammage as primary.

MS. GAMMAGE: Present.

MS. JEFFRIES: Okay. And Sarah Christa Butts as alternate.

MS. BUTTS: Present.

MS. JEFFRIES: Okay. Student loan borrowers who attended graduate programs, Richard Haase as primary.

MR. HAASE: Present.

MS. JEFFRIES: And Dr. Jalil Bishop as alternate.

DR. BISHOP: Present.

MS. JEFFRIES: Currently enrolled postsecondary education students, Jada Sanford, primary.

MS. SANFORD: Here.

MS. JEFFRIES: And Jordan Nellums, alternate.

MR. NELLUMS: Present.

MS. JEFFRIES: U.S. Military service members, veterans, or groups representing them. I received an email last night from the primary Michael Jones, who is no longer able to serve on the committee, he sends his deepest regrets. So, Vincent Andrews will be stepping into the primary role for that, Vincent?

MR. ANDREWS: Yes, present.

MS. JEFFRIES: Okay. And the alternate role will remain vacant at this point in time. Consumer advocates Jessica Ranucci is primary.

MS. RANUCCI: Good morning.

MS. JEFFRIES: Good morning. Ed Boltz is the alternate.

MR. BOLTZ: Present.

MS. JEFFRIES: Okay. Individuals with disabilities or groups representing them, John Whitelaw

is primary.

MR. WHITELOW: Present.

MS. JEFFRIES: And I think this is the first time I have announced your alternate, so I'm probably not gonna pronounce the first name correctly, but I'm gonna give it a try. I'm gonna say Waukecha Wilkerson as alternate.

MS. WILKERSON: Waukecha Wilkerson, present.

MS. JEFFRIES: Waukecha, thank you very much. And last but not least, Tamy Abernathy from the Department of Education.

MS. ABERNATHY: Present.

MS. JEFFRIES: Okay. Did I miss anyone this morning in roll call?

MS. ABERNATHY: I do believe you missed our OGC.

MS. JEFFRIES: Oh, they're not on here.

MS. ABERNATHY: Yes. Soren is on the list.

MS. JEFFRIES: They're not on my list. I gotta fix that. We have Brian Siegel and Brian, are you with us? Brian?

MR. SIEGEL: Yes, I am here, present.

MS. JEFFRIES: There you are. Alright.
And Soren Lagaard.

MR. LAGAARD: Present.

MS. JEFFRIES: Okay. Toby Merrill.

MS. MERRILL: Present.

MS. JEFFRIES: Okay. Anyone else,
Tamy, did I miss one?

MS. ABERNATHY: Well, just say hello
to Ben. I'm sure he's there as well.

MS. JEFFRIES: Okay. And Ben Miller
deputy Under Secretary of the under-Secretary's office.
Ben?

MR. MILLER: Morning.

MS. JEFFRIES: Okay. Thank you very
much. We'll update that list a little better. Alright.
So, moving along, just some follow-up administrative
business. Okay? As we move through the regulatory text
that's before us today and tomorrow as well as the
discussion on hardship, just a reminder to please keep
your questions and data requests to the topic of
expanding the Secretary's waiver authority. I want to
make note that public comment periods, which were
expanded to 1 hour starting today, are completely full as
well as the wait list for both days. There will be
another opportunity for public comment opportunity at the

next table in December. Kyra, you have your hand up.

MS. TAYLOR: I do. I just want to raise that the public is currently not able to watch. Many folks have not received the link for day one, and so I'm still hearing from borrowers and colleagues that they are not able to view the negotiations happening currently.

MS. JEFFRIES: Okay. The link is on the Department's website.

MS. TAYLOR: But when they register, they're not receiving the link to watch it.

MS. JEFFRIES: Oh, that's what's going on? Okay. Alright. That we can work with the technical Department on, okay, from the Department to try to correct that if there is a correction to it. But anytime that they can't- they don't receive it, they can always go on to the website and grab it.

MR. FRANZAK: Cindy, looks like IT indicated another link was sent at 10:07 AM EST. So, if folks log back to that site and log through, they should be okay this time.

MR. ROBERTS: And feel free to- you can direct message me if the link is still not working after that and I can communicate that to the IT folks?

MS. JEFFRIES: Brady will be our

technical person from FMCS today. So, any of these technical problems, you can private message him in the chat, and he'll get right on them for us. Okay? We're gonna ask that as we move through this that we have a flow that will be happening this morning. I will be addressing- announcing the topic, Tamy and or others will be presenting an overview of them. We ask that you hold your questions for the discussion period that will immediately follow that when we open the floor for discussion. Again, according to protocols, you are limited to three minutes, and we ask that those are used to deliver new questions, etc., and ask that time not be used to reiterate previous positions statements, discussions, or questions, or to act in support of a comment that's already been made. You may certainly express your support of anyone's comments, in the chat for the day. That's all the administrative business I have for the Department, do you have any additional administrative stuff you want to talk about before we go into the follow-up from last session? Okay. So, let's forge ahead here and ask if we can have some follow-up from last session.

MS. ABERNATHY: Cindy, I'm assuming you're turning this over to me, correct?

MS. JEFFRIES: I am, Tamy. If you're

going to do the follow-up for us.

MS. ABERNATHY: I'm going to do the follow-up. Good morning, negotiators. It is a delight to see you virtually again, and welcome again to the second session of negotiated rulemaking on student debt relief. Last week we posted publicly and sent proposed regulatory text to you. The Department focused on developing regulations that provided greater specificity around the Secretary's waiver authority, not expanding, but greater specificity around authority. We look forward to our conversation over the next two days of any meeting requests separate from table conversations. Also, if you have any proposals for changes to the proposed amendatory text, we ask that you make those in track changes or what we refer to as red lines, which is in the version of Word that we're using. It keeps it so that we know what the changes are and send them through FMCS as well. As a reminder, anything you submit will be publicly posted on the negotiated rulemaking website as they are part of these negotiations. As Cindy mentioned, we have a packed agenda today, so let us get started by cleaning up old business items. I have a few updates from our last meeting. During the last session, we mentioned that we'd provide responses to the questions you placed in the chat. We have responded to some of those questions

already, and there are two specific questions that we are answering this morning. It was asked if there was an existing definition of reasonable as used in the FCCS standards. There is no statutory or regulatory definition for reasonable in the Federal claims collection standards. The Department is interested in exploring with the committee what reasonable could mean in a specific context of borrowers repaying Federal student loans. It was also asked what authority the Department has to forgive older loans and Perkins loans not held by the Department. The Department believes we have the authority to do this under the same authority used to waive the other types of loans as we compose in 682.403. When we discuss this later today, we are very interested in hearing your thoughts around this, particularly our fellow constituents. You should have received the data request submitted by Sher for older borrowers and Wisdom, parent borrowers this morning. These will also be posted on our website if it has not already been posted. We wanted to let you know for the protocols, we are still compiling the data Kyra requested on defaulted borrowers, and we'll be sending it to you and sharing it with the committee later this week. FMCS will share the defaulted data with the negotiators when ready and will be posted on the website. In case you missed that the first time, I

just wanted to repeat that. We're happy to follow-up with clarifying questions, but since these do not specifically or explicitly relate to the regulatory text we are discussing, we do not plan to walk through them here. Going forward, the Department will make every effort to respond to your questions during the session. However, there may be instances where we will not be able to discuss further, and we'll have to circle back to you at a later date. Our hope is that your questions will be focused on these negotiations, which is specifying the conditions under which the Secretary will exercise his waiver authority related to student loan debt. We are unable to focus on things not related to the issues and the topics we are discussing in these negotiations. We hope to respond to relevant items during the sessions where feasible and possible. However, it may not be possible for us to respond effectively to some of your questions until we've had a chance to consider them thoroughly. In those cases, we'll need additional time to consider. I also want to mention that as a part of these negotiations, if you have proposals or items that you wish for us to consider to please circulate them. We'll try to get to them. We have a packed agenda getting through the reg text today. If possible, we'll try to get through some of those tomorrow or we'll circle back at a

later date. Cindy, we'll turn it back to you for any additional comments and to introduce the first session for discussion.

MS. JEFFRIES: Okay, thanks. Josh, you have your hand up.

MR. DEVINE: Yes, thank you. Good morning. Thanks, Massachusetts, for yielding the floor for just a few minutes. I want to make some comments that are a little bit broader than the specific regulatory text at issue today. I know time is brief, so I'll just cut to the chase. I'm a litigation attorney and was not able to attend all the last session due to preexisting conflicts. But in the last few weeks, several constituents have reached out to provide feedback to me stating that there are several issues from the first session that they have concerns about. First is that the tenor of the conversation has reinforced their concerns but not all the interests are currently represented at the table. So, for example, last year or earlier this year, oral arguments in the student loan cases, the Chief Justice and Justice Alito asked questions about the fairness of the Department's previous student loan program. Namely, was it fair to individuals who have already paid off their loans after years of frugality? And was it fair to individuals who have elected not to go

to college in the first place? Based on the tenor of the conversations last month, there have been constituents who have raised concerns to me that those groups are not well represented here. For example, the Department chose as a representative, somebody from the Massachusetts attorney general's office as a primary negotiator. Now there's nothing wrong with that. It's a valuable perspective, but Massachusetts is a state with the highest percentage of adults who have college degrees. Missouri, which I represent, has a very different economy. 70% of adults in Missouri do not have bachelor's degrees. So, our constituents are very concerned with the questions the Chief Justice and Justice Alito raised. So, I've been asked by communities of interest to put in a formal request to also be made a primary negotiator for those purposes. Second, these constituents have also said they've expressed concern that there's been insufficient attention paid to legal authority the Department has invoked. So, the Department has invoked the Higher Education Act, which states that the Secretary can quote waive certain student loan requirements, but the HEROES Act, the statute used by the Department last year include the same term, which the Supreme court found to be insufficient for the program last year. Two years ago, the principal deputy general counsel of the Department

similarly concluded that the Higher Education Act does not support any kind of substantial student loan reduction program. So, I haven't come to any firm conclusion either way, but constituents have reached out and said they would like to see some more in-depth discussion about this issue. Third and finally, constituents have expressed concern that the rulemaking process might have the unintentional side effect of making colleges more expensive in the long term. That's because the discussion has focused on debt forgiveness on the back end and not very much on cost control on the front end. They would like the Department to seriously consider measures that place direct accountability on colleges for the debt loans of their students. That's all I've got today, so I'll yield the floor. Thank you.

MS. JEFFRIES: Thank you, Josh. The Department, do you have any immediate response, or do you want to take all this under consideration as Josh indicated they would like you to do?

MS. ABERNATHY: What I'd like to do, Cindy, if it's possible, is let's move forward with our discussions for right now and after lunch, we will circle back with any additional information on that. Thank you for your comments.

MS. JEFFRIES: Thank you. Okay. So,

Yael is back as the primary. I'm going to ask all alternates to turn your cameras off at this time unless you are sitting at the table in the primary's place. Okay. Yael, do you have a comment?

MS. SHAVIT: Thanks. And I'll make this quick, but I do want to make a quick comment and note that both as a result of my selection as negotiator for this rulemaking and generally, sorry, representing the constituency of state AGs and in the course of my consistent work on behalf of student loan borrowers as an assistant attorney general, I'm in contact about these issues with many other state attorneys general's offices that fully support and share the positions that I've been taking in this rulemaking. And I want to note that our office started the first in the country's student loan assistance unit because of our commitment to helping student loan borrowers and the unfortunate necessity of this assistance. So, the views that I'm stating are informed by countless conversations with borrowers who've had their lives turned upside down due to insurmountable debt that continues to burden them because of the historic failures of our student loan system and the abuses of predatory schools. And I'll note predatory schools that offer low value education often to first generation students in states across the country. I

continue to commend the Department's efforts to find avenues to provide much needed debt relief to students for whom it will make a world of difference, and I look forward to engaging in the detailed discussion of the Department's regulatory proposals.

MS. JEFFRIES: Okay. I appreciate that comment, Yael. There's a couple more administrative stuff that I want to cover. Just as reminders, that we want you to conform with the naming convention. I forgot to mention that with indicating, first, P or A for primary alternate. Your name, how you would like to be addressed, just a brief description or naming of the constituency group you are representing and that unless you're sitting at the main table, your cameras need to be off. Also, just a quick reminder, the chat is not confidential. It is subject to being transcribed and posted. So, we're good, on that. So, with that, I think we're going to move into the reg text itself. And I'm going to turn it back to Tamy for 34 CFR part 30, overview and discussion.

MS. ABERNATHY: Thank you, Cindy, and thank you negotiators for your previous comments. Our wonderful screen sharers will be placing a section of the reg text that we are reviewing on the screen for us. It looks like they're ready to go, so let's just get started. Part 30 is where the Department's general debt

collections regulations exist. We are making some small technical corrections to this section because these regulations have not been amended since the late 1980s and many references are out of date. For example, the reference to where the Federal claims collection standard regulations are in the Code of Federal Regulations has since changed. We have also added text about waiving the repayment of debt in subpart G. If the team would share the 30.62 document, please. We have also made conforming changes in three areas in this paragraph as well. I'm going to turn it over to Soren and ask the team to flag the 30.70 document for the reviewers or for the negotiators, excuse me.

MR. LAGAARD: Great. Thank you, Tamy. So, if we could get 30.70 up on our screen. I'll wait a second. Are we able to see 30.70?

MS. JEFFRIES: We're not seeing anything yet, Soren.

MR. LAGAARD: Okay. Well, I'll just proceed to note a couple of things and we can go back to it.

MS. JEFFRIES: There we go.

MR. LAGAARD: Great. So, on 30.70, you will see we adjusted the language on the usage of the Federal claim collection standards from the Secretary

uses to the Secretary may use. And this is really a clarification. It's because the Federal Claims Collection Act allows agencies to use their own standards alongside the Department of Justice (DOJ), and the Treasury Standards contained in the FCCS. This has been the Department's rule and also our general practice, and it conforms to the FCC regulations. This came up in the last meeting, so we wanted to address this. We'll also note here a mention of \$100,000. As Tamy mentioned, we had a question and this \$100,000 comes from the FCCS regulations, which, are not ours, and they've been unchanged since they were issued by the DOJ and the Treasury in 2000. And keep in mind that this threshold only applies if we are in fact using the Federal claims collection standards. However, as we've noted, the proposed regulations here, for the committee's consideration today do not rely on or use the FCCS standards to provide debt relief. I will turn it back now to, Cindy.

MS. JEFFRIES: Okay. Thank you, Tamy and Soren, for that overview. At this point, we're going to be opening up that section and that overview for discussion. So, the floor is open. Any questions, comments? Jessica Ranucci.

MS. RANUCCI: Hey. I just wanted to

Speak in support of adding HEAL Loans in that last section. I think it's really important that HEAL Loans are considered along with other types of loans.

MS. JEFFRIES: Okay, thank you. Anyone else? Okay, seeing no further hands on that section. Tamy, I think it's back to you.

MS. ABERNATHY: Thank you, Cindy. We should have, subpart G, a brand-new subpart G up. Kinda toggle between to make sure it's up. Okay. So, let's get started. Thank you, team. As mentioned, new proposed regulatory text is now in subpart G. We believe that creating a new section that relates specifically to the waivers of Federal student loans is appropriate here. Proposed paragraph (a), is introductory text, which outlines the Secretary's authority to forgive some, or all Federal student loan debts owed and specifies which loan programs, Direct Loans or DL, Federal Family Education Loans or FFEL, Perkins Loans, and Health Education Assistance Loans or HEAL. This authority applies to loan debts that are held by the Department. We will have a separate discussion a bit later about the proposed regulations related to the commercial FFEL. Proposed paragraph (b) is how we address the concept we raised before about borrowers who owe more than they originally borrowed. We think this language provides

conciseness and clarity for this issue. The language says, that if borrowers owe more than their original balance, then they would have it restored to what they originally borrowed. For consolidation loans, we propose using the total balance dispersed for the original loans and then the total amount they currently owe. In other words, we have considered the original balances of the loans paid off consolidation and how the total amount of those loans compares to the borrower's total balance now. The goal here is to deliver relief for borrowers who do not benefit from the Department's recent actions that ended interest capitalization, where it is not required by statute, and not charging unpaid monthly interest, which is a provision found under the SAVE plan. We wanted something relatively straight forward in terms of calculating the benefit. While this is our proposed suggestion, we welcome your feedback and are open to other ideas to best target relief to people who would have benefited from SAVE had it been available. There are three areas with missing text. These are places where we want committee feedback on the proposed draft additional language. Let's first talk about the size of the benefit. This provision mentions that all or a portion of the amount by which the balance exceeds what the borrower originally took out. You'll notice this is in the comment

bubble in brackets in the text. Romanette 2, we stated that we are interested in thoughts for how to define this period such that the borrower would have likely paid off their in-school interest. If we do not forgive the entire excess balance, how much should we forgive and on what reasoning? The second area is about how long a borrower has to be in repayment in order to qualify for this benefit. Due to data limitations, we propose calculating this off the original principal balance instead of the balance owed upon entering repayment. But we are not looking to forgive interest that accumulated while borrowers were enrolled in school. By law, that interest accumulates on unsubsidized Stafford loans and parent loans. This proposed language is an attempt to capture a time in repayment that differentiates between interest that is coming from being in school and repayment struggles that we are addressing going forward. We believe this should be no more than a couple of years. However, we are interested in ideas about how long loans should have been in repayment. We did consider using the balance owed when the grace period ends due to address this issue, but we do not think the balance at that point would be accurately captured, and so it is not operationally feasible. Here's one way to think of this period. A borrower with \$10,000 unsubsidized loan at a

five percent interest rate for one year of college would enter repayment owing about \$10,750. If they repaid that amount back on the 10-year standard plan, their balance, after making 11 payments, would fall below \$10,000, the amount they originally borrowed. So that would suggest a standard along the lines of 11 months in repayment. The third area is other borrower eligibility requirements. We want to identify borrowers who are struggling from the accumulation of interest and provide a benefit that will truly help our borrowers. We are interested in ideas that are consistent with that policy rationale. That could, for example, mean setting eligibility requirements based upon income. We are interested in your ideas. Before we turned over to discussion, I wanted to also note that we considered a suggestion from one of you during the last session to remove the capitalizing event and then apply the payments. Because we think this is not administratively feasible, we will not be pursuing ideas based upon payment data. There are too many instances where loan consolidation would complicate the process. We think obtaining the necessary data on payment history would be prohibitively complicated. So, we are interested in ways to best approximate these issues without creating something that is too complicated to administer. Cindy, I'd like to turn it back to you for discussion.

MS. JEFFRIES: Okay. Thank you, Tamy. I appreciate it. So, let's open the floor up to the negotiators for questions, comments, surrounding the issues that were just overviewed by Tamy. Lane Thompson.

MS. THOMPSON: Hi. Thank you. I think I just have a clarifying question for the Department. I heard you just say Tamy that the possibility of removing the capitalizing event would be too administratively burdensome. Are you also saying that any consideration of the amount paid would be too burdensome overall? Because as I look at this, what I'm thinking is that there should be some language in here around how much money has been repaid? So, any clarification there would be helpful.

MS. ABERNATHY: Trying to find my mute button, sorry. We think going back in and recreating payment streams is very complicated.

MS. THOMPSON: Thank you.

MS. JEFFRIES: Thank you. Next up, we have Richard Haase from graduate borrowers.

MR. HAASE: Yeah. My question or concern was in a similar area. I worry that just looking at the amount in excess of the original balance the loan is not going to do enough to right the ship here. We all know, I think, from personal experience and also from the testimony of even people who spoke at the end of the last

two sessions, that we have scenarios where people borrow 80, \$90,000, pay a \$110,000, or whatever the number is towards their loans and find the entire balance is still there. So, I think that just removing whatever is sitting on top of the original principal and ignoring all of the hard work people did in good faith to try and drive their balances down. I mean, it's great to have these conversations, but I don't know that it's a big enough step towards what people need. People take out these loans and make payments that many of the people I've spoken with for 10, 15, 20, 23 years. And, if you know, our best crack at this is to basically leave them where they started 23 years ago, I think we might have missed the mark if I'm understanding correctly.

MS. JEFFRIES: Okay. Thank you. Next, we have Vincent Andrews and followed by Jessica Ranucci.

MR. ANDREWS: Yeah. I'll echo that pretty much the same comment as Richard was the same things were coming to my head. The one thing that I thought about was perhaps reducing the amount would actually impact what their principle actually was. Because if you're, like Richard was saying, if you're only paying off the original interest it's just going to put those people right back in the same situation, and there's still these questions of affordability. So, I

think if there is any sort of reduction to that capacity, it just needs to be considered there. It's gonna be lowered enough that their payments are gonna make an impact on their principal and they could see that, to kind of move to where they wanna ideally be in not be put in a position where interest is just gonna undo everything that they're doing again. Because I imagine this won't be something that comes up again in the future for a lot of these people. And they pretty much would be left in a position where they have no other options after this one-time thing potentially happened.

MS. JEFFRIES: Thank you, Vincent. I wanna just reiterate that if you have ideas for consideration, you may put them in the chat. You also, as Tamy mentioned earlier, can submit proposed amendments to this proposal that they have. Remember to use the word format and the red-lined format as well and submit all proposals and requests for meetings, whatever, through FMCS, and we will get them to the Department. Okay. Jessica, you are next.

MS. RANUCCI: Thank you. A couple points. One, I strongly encourage the Department, to waive all of the interest. I believe this is the essentially the benefit that is forwarded to new borrowers under SAVE, and I think it's appropriate going

backwards. Second, I understand the Department's position regarding the accrual of in-school interest or school for unsubsidized loans accrual of interest while borrowers are in school. I think that there's a point at which that's probably not a realistic concern for old loans, and I have some concern that wiring the monthly repayment history, particularly for old loans, would be, if the documentation is not there, that people may not get the benefit to which they're entitled. So, I would encourage the Department to, for example, have multiple prompts to this. For example, this could apply to all loans that are more than, say, seven years old, and then for the newer loans have some requirement about the monthly repayment when the records are more likely to be there, and there's a real possibility somebody's been in school the whole time. And finally, this is just a minor drafting thing, but going up to subsection (a), I think that probably, that last sentence should just say under the conditions described in these paragraphs and not have the words in that section, but that's just a minor dropped in point. Thank you.

MS. JEFFRIES: Okay. Thank you, Jessica. If you'd like to put any of that in the chat, please feel free to do so. Next, I believe up was, Kyra Taylor and then Yael.

MS. TAYLOR: I think it was Yael and then me. Sorry, Cindy.

MS. JEFFRIES: Okay. She didn't pop up until just now, so that's fine. We'll go ahead and go with Yael.

MS. SHAVIT: Okay. Thanks. I'm always happy to speak after Kyra. So, I agree with Richard's comment, and I won't belabor the point. I do think that forgiving debt only after the original balance for borrowers who've spent years in repayment is insufficient to address the circumstances, they're in and the systemic failures that contributed to those circumstances. If nothing else, I think the Department should generally waive all accrued interest under this provision. But to respond directly to the Department's question in the draft regarding the inclusion of the language, all or a portion of in, 30.80 (b). I would encourage the Department to give itself the flexibility to waive all accrued interest, and not to over define the section in a manner that will make it harder to do so. Thank you.

MS. JEFFRIES: Okay, thank you. Kyra? Where did you go? Okay.

MS. TAYLOR: I also, as a general matter, we are supportive of the Department's proposal here to cancel interest and also to cancel capitalized

interest to bring people back to their original principal. If I understand, Tamy, what you were saying correctly, the problem is reallocating payments, not being able to capture interest that has been capitalized. And so, we are very grateful that, the Department is considering providing retroactive relief that complements the forward looking solutions that it's already implemented. We also support the calls that have already been made, to reduce the original principal by payments made as well. That is important. In addition, we also, strongly support the calls to waive all interest, that has accrued as well. It makes more administrative sense, and it will also be easier for borrowers themselves to understand. The one thing I would like to raise here is 25 years, is too long. It does not, oh, excuse me. I will stop there. I'm jumping ahead.

MS. JEFFRIES: Alright. Thank you, Kyra. I appreciate it. Any other questions, comments? Scott Buchanan.

MR. BUCHANAN: Yeah. I'll just offer this. I think since we're talking about sort of this section and particularly subsection (a), which is sort of a general definitional matter. I think it's important, and I think we've shared this as well with the Department that, we would look at the drafting of this to make sure

we're clear about which loans things are applicable here. I know sort of the definition of in general is sort of- we understand the Department's intent here, but I think it would be helpful for the Department to sort of revisit some of this drafting to make sure that it's clear to which loans each particular section herein is applicable. I know we'll get later to the section that sort of describes, you know, the distinction between FFEL and Direct Loans or those loans that are held by the Department. But again, I think there's some confusion in section (b) here. What loans are those applicable, especially when we define it as Federal consolidation loans or direct consolidation loans in the same paragraph. Further clarifying that would be useful to make sure we're- everyone understands what loans these provisions apply to.

MS. JEFFRIES: Thank you, Scott. I appreciate it. An announcement that Jalil Bishop is coming to the table comments. Jalil?

DR. BISHOP: Thank you. I think I have a similar question that would be really useful if the Department could provide an example of how consolidated loans would be, handled under this section, just a little bit more clarification. And then can the Department also provide clarification around, why at least 11 months, I

believe it was, for how long a loan needs to be in repayment. Both those things would just help for clarification for me, at least.

MS. JEFFRIES: Okay. Appreciate that. You wanna place that question in the comments? Okay. Any other, Angelika, you have your hand up?

MS. WILLIAMS: Yes, ma'am. I just wanted to, in this respect, advocate for waiving all portion of the capital interest intel. Because I want to look at this from a graduate student perspective, where the interest of their loan is continuously compounding, being mindful that there are low-income borrowers and graduate programs and the interest capitalizing while they're still in school trying to pursue their graduate degree because they would like to become more competitive in the job market. I think this is probably one of my most unethical views of looking at this and having the interest continuously compound while they're trying to pursue some type of avenue to have some economic stability.

MS. JEFFRIES: Thank you, Melissa, we appreciate your comments. Melissa Kunes.

MS. KUNES: Thank you. And I do understand and appreciate the concept of needing to reduce administrative burden on all of us. However, we

all come to the table here with the students best interests in mind. And so, to truly support our borrowers as we as schools have found in recent weeks, we are being asked to do certain reporting measures, certain supportive efforts to our students that will create administrative burdens on all of us, but we do recognize these are being implemented for the best interest of the students. So, I would like for the Department to revisit that concept. While it may be administratively burdensome in the short term, I do think long term, it would most benefit our students, and I think that's why we're all here. Thank you.

MS. JEFFRIES: Thank you, Melissa. I'm gonna call on Ben Miller from the Department. I understand he has some comments he'd like to make.

MR. MILLER: Yeah, just quickly on the two example pieces. So first, what we're saying with consolidation loans is we would look at the balance of the underlying loans rather than looking at the balance of the dispersed consolidation loan. But basically, otherwise, if we did that, like, let's say you've got a \$20,000 loan and a \$30,000 loan. You make some payments on them, you consolidate them together, if we just look at the balance of the consolidation loan, if there had been interest that had accumulated kind of prior to

consolidated, you would otherwise not see that reflected in this policy. So, we're saying we go back to the balances of the underlying loans there. Then regarding the 11 months, there was an illustrative example where basically what we were looking at if you take a period of time between disbursement and entering repayment and an interest rate, you can calculate essentially how much in-school interest a borrower has. Then if you assume that the borrower repays that loan on the 10-year standard plan, you can see basically how many months it takes them to have their outstanding balance dip back down to what their principal balance was. So, in the example we're giving, we're saying with a five percent interest rate and 18 months sort of from disbursement entering the payment year plus or six months grace period, to pay that balance back down to what you originally had in principal takes about 11 months. That was giving an example of how we would think about that question.

MS. JEFFRIES: Thanks, Ben. Richard?

MR. HAASE: I could be wrong here, and this might be part of what you're trying to propose, but just based on the description that was just offered, the idea of someone who's entering into loan repayment, being able to make their adequate payments, shave off all the interest and start tackling the principal within an 11-

month window is, like nothing I've ever heard of or experienced in the world of student loans. So, I'm not sure if that's part of what you guys are describing, but, you know, more often than not, we're finding 300 months of payments, and you still haven't started to take a dent at your principal.

MS. JEFFRIES: I appreciate that.

Sherri Gammage, you're up next.

MS. GAMMAGE: I put this in the chat, but I have a question about this section and how to provide actionable relief for those on IRB. It sets them back to the amount originally initially borrowed. If it doesn't deduct payments made and I wonder is the Department thinking about these borrowers in this section? And if so, how will it provide true relief?

MS. ABERNATHY: Cindy, I can answer that. Borrowers who are on IDR still have credit towards forgiveness on IDR. So, this is just a separate provision that we're talking about, forgiving the interest or waiving the interest that is accrued and going back to the principal balance.

MS. JEFFRIES: Thank you, Tamy.

Jessica Ranucci.

MS. RANUCCI: Thanks. I just wanted to restate what I said earlier because I think I explained

it so poorly that no one understood. Ben, I understand what you're saying about 11 months. For example, how long it might take for a borrower to be a repayment. My concern is that certain old loans may not have good records of repayment, and, obviously, in other programs, you've had to make certain assumptions about repayment history. I think that it would be reasonable for the Department to assume that a loan discharge or sorry a loan disbursed, for example, maybe eight years ago or seven years ago, would have almost certainly had 11 months in repayment because it's very rare that a student would have been continuously enrolled or in grace for that many consecutive years. And so to only apply this repayment counting requirement for a certain set of very new loans and for any loans that were originally disbursed that are pretty old to just essentially dispense with that requirement because they almost certainly would have been in repayment because I think that would make it more administratively simple precisely for the old loans for which the records are the most difficult to follow.

MS. JEFFRIES: Okay, thank you. Any other comments, questions? Kyra.

MS. TAYLOR: Can I ask the Department, to reiterate the question around borrower eligibility and

whether or not they're thinking about imparting an income limit to the borrower eligibility for this provision? I would say that it's our position that there not be extensive borrower eligibility criteria here to simplify the administration of this provision.

MS. JEFFRIES: I'm not seeing if the Department has an immediate response to that question, Kyra. Could you please put it in the chat so that they can look at it and follow-up?

MS. ABERNATHY: Cindy?

MS. JEFFRIES: Yeah, go ahead.

MS. ABERNATHY: I'm sorry. We were asking for feedback on if there should be other borrower criteria. That's kind of the clarification. Does that help, Kyra? Great. I like it when I get a thumbs up.

MS. JEFFRIES: Alright. Sounds good. Thank you. Sherri Gammage?

MS. GAMMAGE: And, Tamy, since you're looking for other borrower criteria, I want to add, hanging loans, those that have been consolidated and still are hanging out. How is it, I have a question of how the Department looking about waiving interest on those loans? Are those loans included in that criteria?

MS. ABERNATHY: Sher, if you could put that in the chat, we'll need to look at that. Thank you.

MS. JEFFRIES: Thank you. Alright. One last final call for any comments on this section for discussion. Richard?

MR. HAASE: Just for clarification, because some of the things that are coming up now, I feel like are a little further along within the document. So, what should we be limiting our comments and requests on to right now? Are we only going down to-, you know, because I wasn't even looking at discussing borrower eligibility just yet. So, you know, is this part of what we're doing, and just kinda looking at the scope of what we should be discussing right now.

MS. ABERNATHY: Our intent was to discuss everything that we mentioned during the remarks with 30, the overarching cosmetic technical changes and then 30.62, 30.70, and then all of 30.80. And I think, we are going to get to the other provisions, many of you were talking about the length, and things like that, 25 years and things like that. That is coming. I think it's the next topic, but our goal is to try to focus very narrowly on the sections for which we're discussing because, you know, we need to hear what your feedback is and we encourage you to make amendments, changes in red line and give us proposals if you guys think we're missing the mark, and we would certainly welcome your

thoughts and your comments on that and any proposals you wanna send, please do so through FMCS. Does that help, Richard?

MR. HAASE: I think so. So, this would be an appropriate time for us to also discuss, language that's further along here, like in, section (d), where we give the Secretary the authority to waive the outstanding balance for people who have not enrolled in some of these forgiveness programs but otherwise meet the eligibility. So that's part of where we're at as well right now?

MS. ABERNATHY: No. I think that also comes next.

MR. HAASE: That is next call. Okay. Just making sure.

MS. ABERNATHY: Yeah. So, yeah, we've tried to section this off into the provisions for which we wanna cover for today, and that is the negative amortization, the length of time and then eligibility for certain provisions, but they did not apply for those provisions. Then we're looking at doing gainful-, you know, financial value tomorrow and discussing hardship tomorrow. Does that make sense? That's a little bit better?

MS. JEFFRIES: Okay. So having had that clarification, we are still, open to comments. As

Tamy indicated, around the topics that were in the review and overviews. So, Amber.

MS. GALLUP: Hi. Just swapping in for the higher education. I'm curious whether borrowers who have faced defaults are included in this provision? Since a lot of default is for bad servicing.

MS. JEFFRIES: Not sure we have a quick response to that question, Amber. If you could please put that question in the comments for the Department to take a look at a later time. Once again, I wanna reiterate the naming convention. We need to see either a P or an A before everyone's name, so that we're able to identify who's speaking when and what their role is and if they're stepping in for someone else. Kyra, you are up next.

MS. TAYLOR: I just want to respond to Amber's mention of defaulted borrowers. It's my reading of this provision that it would include defaulted borrowers. However, broadly there- we would hope that there are more provisions that would apply to borrowers in distress and particularly defaulted borrowers. Amber mentioned that many defaulted borrowers are in default in part because of servicing failures. That is absolutely right. We hear this from borrowers all the time. And we hope that the Department considers proposals for

distressed and defaulted borrowers in particular. As I noted during the first session, many borrowers in distress can already have their loans be discharged under the Federal claims collection standards, yet the Department hasn't done so to date. And so, to the extent that the Department needs it, we will be submitting a proposal suggesting revisions to section 30.70, that simply codifies the authority that the Department already has.

MS. JEFFRIES: Thank you. Jessica.

MS. RANUCCI: Thank you. I also just wanted to respond to Amber's point about defaulted borrowers, I think it is very important to include defaulted borrowers, which they are here, but to encourage the Department perhaps to, change the requirement from a borrower who's quote unquote in repayment for a certain amount of months to a borrower who's, first entered repayment a certain number of months ago, which I understand is a framework that's used later on in the regulation. Many defaulted borrowers, in fact, will have paid, their in-school- the interest accrued during school through tax offset or garnishment, so I think they're similarly situated with respect to this provision. And by rather than counting repayment months, I think it would be more appropriate to count a gap since

they first entered repayment that would affect those borrowers, who could barely deserve to be here.

MS. JEFFRIES: Okay. Thank you. Any other questions? Comments? Okay. So, I'm going to now bring you into issue number two on this, which is the long time in repayment. Correct, Tamy?

MS. ABERNATHY: Yes, ma'am.

MS. JEFFRIES: And you're up next, Tamy.

MS. ABERNATHY: Wonderful. I'd like the team to share that section of the reg text, please. There we go. Wonderful. Thank you, guys. So, you can see in proposed paragraph two, our language for borrowers have been in repayment for a long time since first entering repayment. Here, we are in the time frame of no later than July 1, 2025, which we drafted this way to clearly emphasize that this is a one-time measure. As with our earlier discussion, we see this as fixing issues that more recent borrowers avoid to the Income Driven Repayment (IDR) Plans. We are proposing 300 months or 25 years because essentially all borrowers have access to a 25-year repayment time frame from an IDR Plan. That would include Parent PLUS borrowers who have to consolidate to gain access to the income contingent repayment. This also proposes including all the time after entering repayment,

including default, forbearances, etc. Under proposed paragraph (c)(2), we propose how this works for consolidation loans as well. Before we turn it over to discussion, we wanted to mention an idea that we've heard from negotiators here about applying this policy to commercially held FFEL loans. We do not think such a policy would be appropriate. Waiving the balance of these outstanding loans would be providing forgiveness after 13 years, but many borrowers have repayment plans that are longer than 13 years. We do not see a basis for an across-the-board waiver at 13 years when Congress authorized Income Based Repayment to last up to 25 years. Cindy.

MS. JEFFRIES: Thanks, Tamy. I appreciate it. So, at this point, we are gonna open up discussion, pertaining to long-term repayment and what Tamy just outlined for us. So, Kyra, you are up first.

MS. TAYLOR: Thanks, Cindy. So, first things first, we are thrilled that the Department is including time and default here, especially since time of default was excluded from the IDR account adjustment. And as I mentioned before, many borrowers in default are in default despite being eligible for a \$0, IDR Plan, and despite calling their servicers asking for help and then being provided with the wrong information. So, we are

very glad that is included here, because many of those borrowers watched their balances balloon when they could not get access to student loan relief. However, I would ask that the Department consider shortening the period so that it mirrors the IDR account adjustment and forgiveness periods under the other IDR plans. Having a 20-year repayment period for people who just borrowed loans for their undergraduate education and 25 years for Parent PLUS borrowers and borrowers who borrowed further, graduate school education. I also would ask the Department to consider applying the SAVE repayment time of 10 years for borrowers who originally borrowed a smaller balance, to all borrowers as well. As the Department noted in its recent final rule for the IDR plans, we know that borrowers with smaller balances are also more likely to be in default. And so, we would like to see those borrowers get relief.

MS. JEFFRIES: Thank you, Kyra. I appreciate it. Lane Thompson.

MS. THOMPSON: Thanks, Cindy. Two thoughts. One is regarding the one-time nature of this. While I understand that the SAVE Plan will likely avoid the large-scale nature of folks who have been in repayment for more than 25 years, I still have a concern that, due to poor record keeping that there will still be

people who end up in repayment just for this very long time. So, I would really urge the Department to consider kind of taking off that one-time cap. I think that this is something that any loans that have been in repayment for 300 months, I mean, I can't think of other than a mortgage, I can't think of a lot of types of debt that require that kind of repayment period. And then the other thing I just kind of wanted to add here is that, by marking the start date for this as when somebody enters repayment, I think that's also missing the mark because as the Department already indicated today, it's a big administrative burden to figure out when payments were actually made and what those payments were, particularly if we're looking 25 years ago. So, I think it's more valuable to look at when loans were disbursed rather than when payment started because there are for example, one borrower who shows 25 years of grace period. No joke. Just an error, but that would be an example of somebody who might be missed under this proposed regulation as it stands. Thank you.

MS. JEFFRIES: Okay, thank you.

Jessica Ranucci.

MS. RANUCCI: Thanks. I just want to echo Lane's point that I understand that the definitions between a borrower who's been in repayment for a certain

number of months, borrower who first entered repayment in a certain month, a loan that was dispersed to a certain month sort of capture the same rough universe of borrowers, but it really makes a difference at administrability, which definition is used here. And I think I agree that the disbursement date or origination date would be the ideal way. But even between the two choices. I think that this reg sets out, which is a loan that first entered repayment 25 years ago versus a loan that has been in repayment for 300 months. That's a tremendous difference. I have seen a lot, like Lane, a lot of records that anyone would want to go scrutinize payments. What we're talking about, 1999, 2000, 2001 to see every single month and try and count months, I think that would be a tremendous administrative burden, and I think that the framework that's set out here in (c)(2) is a more appropriate way to go for just a certain date of entering repayment, and then I think that my point earlier was that the framework could be applied to subsection B above. I think we want to avoid any exercise that is continued counting of payments because I think that it's left with some headaches.

MS. JEFFRIES: Okay, thank you. Yael Shavit.

MS. SHAVIT: Thank you. I want to

thank the Department for putting forward a proposal to address the needs of borrowers who've been in repayment for lengthy periods and join the comments that were made by Kyra, Lane, and Jessica. I also want to add to the encouragement that Lane gave for the Department to remove the buy no later language that would ultimately serve to make this a kind of one-time tool. By noting that while I share the Department's hopes that the SAVE program does a lot to help borrowers who are presently in these situations avoiding these situations in the future. I imagine that people felt that way at different times about the PAYE program and the REPAYE program. And to the extent that, you know, servicer misconduct is one of the reasons that we have addressed or that we are in the situation that requires the Department to go through this regulatory process. I encourage the Department not to tie its own hands in the future. And if we're going through this process now of creating mechanisms by which the Department can choose to use its discretion to forgive the debt of people who've been in repayment and they have been burdened by these loans for longer than I'd anticipated that having a mechanism in place that could apply in the unfortunate event and hopefully unlikely event that we find ourselves in these situations in the future would save the Department from needing to go

through these types of regulatory processes, unnecessarily again. So that's- I choose [inaudible].

MS. JEFFRIES: Thanks, Yael. Jalil, can you hang on one second here for us? It looks like Tamy may have something to say.

MS. ABERNATHY: Yes. Yael, thank you for that. I'm not going to speak to that, but I am going to go back to a couple of things because I want to clarify something. I did mention that we don't want to look at the commercial FFEL for 13 years, but we are looking at separate language, to discuss 25 years for commercial FFEL as well. I felt like I kinda left that hanging and wanted to make clarification. The other thing I wanted to mention is that the collapse for IDR is based on disbursement. So, we think the date of entering repayment is okay to use, and it's not the same as the grace period data. So, we just wanted to clarify that. We heard what you said and we just wanted to clarify.

MS. JEFFRIES: Thank you, Tamy. Okay. Jalil Bishop, thank you for your patience. And Jalil has come to the table in place of Richard Haase for graduate school borrowers.

DR. BISHOP: Thank you. I think that I really want to comment around how we can maybe expand some of the frames we're using, for these different

categories. I think the idea has been already provided by the Department that they're trying to align this repayment period to IDR plans which have been authorized by Congress, but what has already been pointed out is that in the SAVE Plan, there has been this carve out that I agree with for those who have balances of 12,000 or less. Some of the evidence the Department has provided in the past is that those who have balances of 12,000 and less are more likely to experience default and other hardships. So, I'm wondering if that same logic of hardships can be applied to borrowers in this situation to bring them down from the 25-year repayment plan to put them on the 10-year carve out, due to whatever we decide is hardship or however we're defining as hardship categories or a hardship approach. But I think the 25 years when the Department has acknowledged in this session that the standard repayment plan was 10 years, in itself is already revealing that borrowers are experiencing hardship. And I think we need to really wrestle with why we would have this moment of not only marking 25 years as a repayment, but then putting the no later than clause in there that ignores the long history of the Department loan service and loan servicer not being able to deliver relief in a given time. I would argue that if we're gonna do a no later than, then it

actually should be something that falls more on the Department. That if the Department can't deliver relief by a certain date, then borrowers should be eligible for some type of relief or some type of regard for how, again, they're experiencing the hardship of bad servicing and ineffective or not implemented policies. So, again, I just want to highlight the fact that borrowers shouldn't have to carry the burden of something going wrong before July 2025, and that we really shouldn't be trapped by the 25 years because we've already seen the Department carve out a 10-year repayment or 10-year cancellation clause for other groups of borrowers.

MS. JEFFRIES: Thank you. We appreciate the comments. Tamy?

MS. ABERNATHY: Cindy, I need to make sure that I clearly articulated something. One of my teammates thinks that I did not say the right words. I wanna make sure that I'm on the official record of saying that the clause for IDR is not based on disbursement they're based on time and repayment. So please, let's make that clarification known.

MS. JEFFRIES: Thank you, Tamy, for that. I appreciate it. I'm not seeing any further hands. Oh, here we go, Kyra?

MS. TAYLOR: I would just like to note

that while we are broadly supportive of this proposal, one thing that is concerning to us that we'd like the Department to consider is that people who fall short of that 300 months or whatever the cutoff is, who have had time in default still will be no closer to cancellation under the IDR plans even though they were subject to the same servicing misconduct that gave rise to this provision. And so, we would encourage the Department to consider proposals that put people in default, in particular, closer to cancellation, especially since they are more likely to redefault in the future even if they took advantage of current proposals that would enable them to get out of default.

MS. JEFFRIES: Thank you, Kyra. Scott Buchanan.

MR. BUCHANAN: Yeah. I think one thing that's important in the context of this provision, probably several others, though, it sounds like, the Department has some meaningful revisions that they're gonna be sharing with us in terms of the draft regulation coming up here. But I think, you know, for all these provisions, you know whether we want more or less. I mean, for this package to work, it has to actually reach borrowers and that means that whatever these provisions look like they need to be scoped in such a way that they

can survive judicial scrutiny. That's critical because otherwise we're just talking about what we'd like to see borrowers get that may not ever show up. And so, you know, for example, a 25-year period is in direct conflict with some of the statutory repayment plans in the HEA. And therefore, we have to be very thoughtful about does the regulation try to interfere with what Congress intended here, whether we like it or not? This is something we've got to look at. The Department, in addition, and the HEA have been very clear that consolidation loans are new loans. Right? The Department has asserted this repeatedly in past neg regs and other provisions. And so, in order to sort of peel back and look behind underlying loans is inconsistent not only with practice, but also with the Department's interpretation of law. And not only that, I mean, even on the issue of default. The HEA defines default as the period that is not in repayment. And so therefore to extend these things is particularly challenging. I don't know that we necessarily have an opinion on these things, but I think the Department has got to be very careful, in looking at the drafting of this to ensure that we don't get into the same position we got into last time or make a promise through the regulatory package that it doesn't survive and therefore can't provide any of these benefits

to borrowers. It's scoping this carefully to make sure that it can reach borrowers is incredibly important, so just want to make that observation. Generally, I think that's particularly applicable to this provision, but again, it sounds like the Department has some regulatory text changes that they will see in short order.

MS. JEFFRIES: Thanks, Scott. I appreciate it. Lane Thompson.

MS. THOMPSON: Yeah, I kind of wanted to go back to what I said about the dispersal versus entering repayment. When I look at this provision, what I'm thinking about is who's not included in the one-time account adjustment. Right? Because at least in theory, anybody who's been in repayment for 25 years is getting this account adjustment. Well, so who's being additionally included is defaulted borrowers, right? But what about those people who have missing loan histories? Those broken records, that data that's missing is impacting people hugely and I don't see that covered here. So I really just want to say that the fact that the IDR plans are based off of the repayment months doesn't actually address my concern about these borrowers because I want to see folks who are being left out of the one-time account adjustment just because nothing they did, it just happens that their records were kind of messy on the

other side. I'd really like to see them be included here, so I just wanted to reiterate that.

MS. JEFFRIES: Thank you, Lane. Wisdom Cole, from civil rights.

MR. COLE: I was just making a comment to Tamy's point around the clause for IDR, then if they are not based on disbursement but based on repayment, then they should be automatically discharged.

MS. JEFFRIES: Okay, thank you. Yael Shavit, state AGs.

MS. SHAVIT: Thank you. I just want to briefly respond to Scott's comments to note that the Department is already empowered to cease collection of loans under a number of different circumstances. One of which is where there are questions around the legal enforceability of the debt. And as I discussed during the last session, we in the state AG community have had the somewhat unique experience of looking under the hood of the servicing systems and have made findings of widespread systemic violations by student loan servicers that have resulted in borrowers being steered into less advantageous repayment plans, into forbearance and deferment. And we've seen widespread systemic violations that have resulted in borrowers getting inaccurate information about loan consolidation. So, we think under

the Department's existing authorities that the Department's in a position to effectuate a lot of what they're trying to do here. Certainly, when we talk about the regulations the Department is proposing now and intends to propose, I think, in other contexts within this rulemaking, we think the Department is well within its legal authority to do so, based on a number of factors including the reality of the servicing system to date. I know that we're sort of veering away from discussion of the legal authority, but I do want to note this is something that we've thought about considerably, and we've seen the efforts to support it. Thank you.

MS. JEFFRIES: Thank you. Jessica Ranucci, from consumer advocates.

MS. RANUCCI: Thanks. I echo everything that Yael said. I just wanted to respond briefly to two other points made by Scott. The first is that I strongly agree that it is confusing here to use the term repayment to refer- that's a term generally used in student loan servicing to mean one thing, and I think here it means something different. I think it makes sense for the Department to go the other way and use a date of entering repayment or some other certain date. But even if you're gonna keep this month counting, I would use a different term for it, so I agree with Scott there. But I

would say that on the other hand, Scott, I just wanna respond briefly. I think there are many times that the Department sort of looks under the hood of a consolidation loan to look at the originally disbursed loans of which the consolidation loan is comprised and has the authority to treat the consolidation loan as a practice of those original loans. I'm thinking, for example, if a borrower attended a school that closed shortly after attendance, then further attended other institutions, consolidates those loans, they're still, for example, eligible for post school discharge of the underlying loan to the extent that the portion of the consolidation loan is comprised of a loan for the school for which they would be eligible. So, I think that is well within the Department's power and appropriate to do here.

MS. JEFFRIES: Okay, thank you.

Richard Haase, graduate borrowers.

MR. HAASE: Hi. Yeah. I just wanted to speak a little bit to the deadline and some of the clips and timelines that are here. I think we're all here together doing what we're doing right now because for the last 30, 40, 50 years, students have subsidized widespread system failure, within the loan industry, and they did this all just on a path towards trying to make

their lives better. We recognize that it hasn't worked. Right? And that people, Americans, have been harmed by the process as a result. And I don't understand why armed with the knowledge that we have right now, we would put an expiration date on the Department's capacity to prevent this from happening again in the future. So, I think that the no later than July 1, to me, I feel like if we recognize that there's something wrong, that we need to make sure that we don't handcuff ourselves in the ability to prevent it from happening again in the future. And in terms of the number of payments required, whether it's 20, 25 years, I still think looking at a system that applies payments that have been made towards interest to be used to subtract off of the principal, also creates kind of a natural sliding scale that right sizes the amount of forgiveness in proportion to how long people have been making payments. So, I feel like this creates another opportunity to entertain something like that.

MS. JEFFRIES: Thank you. Jessica.

MS. RANUCCI: I'll be very brief.

Nobody has said so far, I think that there would be important systemic effects on the student loan servicing system of getting these old loans off the books. I think that would allow servicers to devote more resources to loans that are more recent and less likely to be repaid,

and I think that would have a beneficial effect on the student loan system as a whole.

MS. JEFFRIES: Thank you. David Ramirez.

MR. RAMIREZ: Yes, I just want to reiterate, I think it's imperative that we don't limit the Department's ability to provide relief for borrowers and so I would strongly encourage reconsidering the July 1, 2025, cutoff date. I believe I'm the only undergraduate student here on this committee, and so I've also heard from a lot of my peers about their worry that we're not solving a systemic issue. We're just delaying, what we can do for borrowers systemically, so just want to elevate that.

MS. JEFFRIES: Okay, thank you. David is acting in place of Angela Pizzuti the primary for that group who is not been able to join us yet. Okay, I'm not seeing any more hands or comments. Lane Thompson.

MS. THOMPSON: Hi. Sorry to get in there at the last minute, but I just thought since we have him on the call if Scott would be at all interested in speaking to or maybe we have the alternate now, but if anybody from the FFEL side would be interested in speaking to whether or not there would be a benefit for servicers to have less loans on their caseload. Because

something I'm working with the servicers that we license and they're very overwhelmed that there's too much being of them. So, I'm just curious to hear if getting rid of some of these older loans, particularly ones with messy history might actually benefit servicers as well.

MR. LEE: I'm currently at the table, so I think I can answer, and Scott can jump in if he wants to tap me on the shoulder. I don't think I've heard that from any servicers that there would be some sort of inherent benefit. That doesn't mean that there absolutely wouldn't be. I just haven't heard one way or another. It's not something folks have sort of discussed. And I do wanna reframe, I think, what Scott was getting at, which is more that we need to ground what we're doing within the HEA. While the operational concerns are definitely worth talking about, I think that was really his major point was that this has to be able to survive, possible judicial scrutiny.

MS. JEFFRIES: Does that answer your question, Lane? Okay. Great. Thank you. Jalil Bishop.

DR. BISHOP: Sorry. I think this is an important point. I think that we have seen loan servicers and folks who are representing loan servicers make comments about just lack of resources. We know just in recent media articles that we have seen comments from

loan servicers, from some representatives even on this call, that there's not enough IT support, that they are running ragged, to use the words, to put a band aid around these problems. That the idea is that they are able to meet even the current regulations and relief that's been offered to borrowers is something that seems really limited for them. I do think that while the comment was made that we have not heard this from any servicers, representatives of servicers associations are making public comments that are saying, we don't have the resources. We're not able to deliver relief under just the current policies. I do think we should take this into consideration. Would servicers bill to actually meet the requirements of their contract and service borrowers if they have less accounts to service? And based on what they're saying publicly, right now the number of accounts and the relief policies that are already on the books are too burdensome for them. So, I just want that to be on record that we do have public statements where loan servicers are suggesting they are not able to meet the duties of their job and the current relief policies.

MS. JEFFRIES: Okay, thank you. I appreciate it. I wanna just make note here for the record that Sarah Butts has stepped in, in place of Sherri Gammage for four-year borrowers. So, Wisdom Cole.

MR. COLE: I just wanted to bring up the relationship to the date, using IDR timed to credit folks who missed the cutoff. I think that's gonna be really valuable. That way there's no clip of winners or losers.

MS. JEFFRIES: Thank you, Wisdom.
Benjamin Lee.

MR. LEE: Yeah. I just wanted to respond that I think the quotes that Jalil was talking about have a lot more to do with the sort of compounding one-time very quick initiatives that the Department has rolled out in part as a response to the pandemic as well as FSA being flat funded. I don't think any of the issues that we're seeing in the student loan servicing space have to do with old loans somehow weighing the system down. But that's just my understanding.

MS. JEFFRIES: Thank you, Benjamin.
Anyone else? I'm not seeing any other hands. Are there any comments right now at this point from the Department? Okay. Seeing none, we are at a point where, I don't think it is prudent to move to the next topic because we don't want to break for lunch in the middle of that, okay? To break people's train of thoughts. So, unless hearing any objections, I think we would break for lunch from now and resume at 1 PM. Any objections? Jessica?

MS. RANUCCI: I don't know if others feel this way, but I have a lot of questions about the next section and I was just wondering if you're not ready, that's fine. But if the Department could do their intro at least so we could think about it over the lunch break. But if you're not ready to do your intro, that's fine we can do it after.

MS. ABERNATHY: I think we're going to have time this afternoon, Jessica. If that's okay, we'll go ahead and break and then we'll circle back. Thank you.

MS. JEFFRIES: Okay. So, let's go ahead and end this morning's session. And I would like all negotiators to return back here no later than quarter to 1 so we can get ready to go live at 1. Okay? Have a great lunch and see you in a bit.

**Zoom Chat Transcript
Student Loan Debt Relief Committee - Session 2, Day 1, Morning, November 6,
2023**

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

From ETVP 1 to Everyone:
Another link was sent at 10:07 AM ET.

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
Thank you!

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
Unfortunately the link is still not working

From P-Yael Shavit-State AGs to Everyone:
Josh Divine will be stepping in for State AGs briefly.

From P-Yael Shavit-State AGs to Everyone:
I will be coming back for State AGs

From P - Lane Thompson - state agencies to Everyone:
I want to echo Yael - I facilitate a group of other student loan
ombuds and am bringing perspectives from across the country

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
Agreed that HEAL loans should be included here

From A- Susan Teerink - Private non-profit
institutions to Everyone:
Replying to "Agreed that HEAL loa..."
I agree HEAL loans should be included

From (P) Richard Haase - Graduate Borrowers to Everyone:
While I understand there's administrative difficulty, I still
support a solution that applies payments borrowers have made towards
reducing what's left of their principal

From P- Jessica Ranucci (Consumer Advocates) to Everyone:
To clarify, I am proposing strike the starred language from (a):
under the conditions **described in this section** including but not
limited to those described in paragraphs (b)-(g) of this section.

From A-Carol Peterson HBCU Langston University to Everyone:
I agree with Yael Shavit

From A- Jalil Bishop-Grad School Borrower to Everyone:
I agree with Yael arguing for interest capitalization to be
waived coupled with retroactive relief to reduce principal by payments
made

From John S. Whitelaw, (he/him) (P) disabilities to Everyone:
Echoing Yael and Kyra's comments.

From P - Wisdom Cole, Civil Rights to Everyone:
I agree with Yael

From P-Yael Shavit-State AGs to Everyone:
+1 to reducing principal by payments made

From P - Lane Thompson - state agencies to Everyone:
I agree with Yael and Kyra - waiving the interest would be the
closest approximation to the benefits of the save plan

From A- Jalil Bishop-Grad School Borrower to Everyone:
Jalil coming in as primary

From P- Sandra Boham, HBCUs, TCCUs, and MSIs to Everyone:

I agree the interest capitalization should be waived

From John S. Whitelaw, (he/him) (P) disabilities to Everyone:

Reducing administrative complexity is of great importance. Separate and apart from substantive rules administrative burdens are particularly problematic for students with disabilities. The concept of bureaucratic disenfranchisement is real and harms vulnerable individuals.

From (A)-David Ramirez-2yrBorrowers to Everyone:

+1 I believe interest capitalization should be waived

From P- Kyra Taylor, Legal Aid Organizations to Everyone:

Replying to "Reducing administrat..."

+1, John.

From (P) Melissa Kunes-Public 2&4 Yr Schools to Everyone:

I believe it is necessary in order to accomplish the relief we are hoping to achieve for our borrowers that all interest be waived and prior payments made should be applied to the principal.

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:

+1 on interest capitalization being waived.

From A- India Heckstall, Civil Rights Organizations to Everyone:

+1 to interest being waived and prior payments being applied to the principal

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:

Reacted to "+1 to interest being..." with 👍

From (P) Jada Sanford - Currently Enrolled to Everyone:

Reacted to "+1 to interest being..." with 👍

From A- Susan Teerink - Private non-profit institutions to Everyone:

Reacted to "+1 to interest being..." with 👍

From A- Jalil Bishop-Grad School Borrower to Everyone:

Clarification questions:

1. How will 30.80 impact consolidated student loans, specifically consolidated Parent Plus loans? Please provide examples.

2. Why is it important to wait 11 months/have a period where students would have likely period off their in-school interest?

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:

How will this section provide actionable relief for those on IBR if it sets them back to the amount originally initially borrowed if it does not deduct payments made? Is the department thinking of these borrowers in this section? And, if so, how will it provide true relief?

From A- Jalil Bishop-Grad School Borrower to Everyone:

Thank you, Ben

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:

Thank you for this answer.

From P- Kyra Taylor, Legal Aid Organizations to Everyone:

+1 to Jessica's point re: differentiating the standard for older loans that may be missing payment histories

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:

Reacted to "+1 to Jessica's poin..." with 👍

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
Reacted to "+1 to Jessica's poin..." with 👍

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
To reiterate we strongly urge the Department not to impose other borrower eligibility criteria that will be used to exclude borrowers from receiving this relief

From P- Jessica Ranucci (Consumer Advocates) to Everyone:
+1 to Kyra

From (A)-David Ramirez-2yrBorrowers to Everyone:
+1 to Kyra

From A- Jalil Bishop-Grad School Borrower to Everyone:
Burdensome eligibility criteria, for both the borrower and the Dept, should not be attached to this borrower relief regulations/proposals

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
Is the department considering hanging loans in the criteria, especially those older consolidated loans missed in a consolidation from no fault of the borrower

From A- Susan Teerink - Private non-profit institutions to Everyone:
+1 Kyra

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
Reacted to "+1 Kyra" with 👍

From (A) Edward Boltz (NACBA/NASLL) to Everyone:
Borrowers who filed bankruptcy were also placed in default/administrative forbearance illegally being precluded from enrolling in any IDR since at least 2016 and, despite ED changes, still by many servicer's poor service

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
+1 to entered repayment a certain number of months ago

From A - Amber Gallup- NM Adult Education Director to Everyone:
The question that I asked is that borrowers who faced default are included here. It sounds like the answer to that is that defaulted borrowers are included.

From P-Yael Shavit-State AGs to Everyone:
+ 1 to Jessica on changing language from "in repayment" to "entered repayment"

From (P) Jada Sanford - Currently Enrolled to Everyone:
Jordan Nellums will be taking over as primary

From (P) Richard Haase - Graduate Borrowers to Everyone:
+1 for looking at when loans were disbursed

From (A) Edward Boltz (NACBA/NASLL) to Everyone:
"entered repayment" also helps with the bankruptcy admin forbearance

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
Reacted to ""entered repayment" ..." with 👍

From A-Belen Gonzalez-Proprietary Institutions to Everyone:
Thank you Lane!

From (P) Richard Haase - Graduate Borrowers to Everyone:
Jalil in as primary for Grad Borrowers

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:
+1 on looking at when loans were dispersed

From P - Wisdom Cole, Civil Rights to Everyone:
I agree with Yael, we must plan for the future as well

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:
+1 for Yael's comments re: giving the Department future authority to forgive loans

From (P) Melissa Kunes-Public 2&4 Yr Schools to Everyone:
Agree that should not limit this to a one time waiver authority.

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
Reacted to "Agree that should no..." with 👍

From A- Susan Teerink - Private non-profit institutions to Everyone:
I agree that should not tie the Depts hands to offer only a one time waiver

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
+1 to Yael's comments re: providing ED with future authority to cancel loans in response to servicing failures

From A - Amber Gallup- NM Adult Education Director to Everyone:
I agree it makes sense to align this one-tie relief with the SAVE timeline. So 20 years for undergrad and 25 years for grad loans. Additionally, to prevent a cliffs there should be credits towards SAVE so a one month per month since first entered into repayment

From P-Yael Shavit-State AGs to Everyone:
I'll note that removing the temporal limitation will address Kyra's concern (which we share)

From A- Jalil Bishop-Grad School Borrower to Everyone:
SAVE carved out a 10 repayment plan for borrowers under \$12k...we can extend this repayment timeframe to other categories of borrowers

From P - Scott Buchanan - FFEL, Servicers, GAs to Everyone:
Ben Lee is taking the seat for FFEL

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:
+1 for Yael's comments, re: reality of servicing system and failures

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
+1 That the Department could use its existing authority to cancel the debts of borrowers now using its existing authority due to servicing errors that raise questions regarding the enforceability of the debt. And +1 that the Department has the authority to waive all or a portion of consolidation loans as well.

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:
Many borrowers were misguided and advised incorrectly by servicers regarding the need to consolidate. We should try to right these wrongs, including forgiving hanging loans.

From P- Kyra Taylor, Legal Aid Organizations to Everyone:
+1 that discharging old debts would have beneficial effects on the student loan system at large

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 on righting those wrongs. I hear from people constantly who are being denied after doing everything they were told to do

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:

Reacted to "+1 on righting those..." with 👍

From (P) Jada Sanford - Currently Enrolled to Everyone:

+1 David, as an undergraduate, prolonging the issue is insufficient

From Sarah Butts, (she/her) A- 4 yr. borrowers to Everyone:

I am going to step in as primary for 4 year borrowers

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:

Sarah Butts will step in as primary for 4 year borrowers

From A- Jalil Bishop-Grad School Borrower to Everyone:

Direct quote:

"We don't have money to add new IT people and the ones we have are running ragged trying to Band-Aid all these problems," said Scott Buchanan, executive director of the Student Loan Servicing Alliance, a trade group for loan servicers. "I'm not making excuses. I'm just saying we need to figure out a solution. And the solution is for the government to make clear decisions, give enough time that's reasonable for a partner to implement things, and also for Congress to give us enough staff and resources to do it."

(ED Note: Files are available on the Department of Education's [2023-2024 Neg Reg website](#))