

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
ACCOUNTABILITY IN HIGHER EDUCATION AND ACCESS
THROUGH DEMAND-DRIVEN (AHEAD)
WORKFORCE PELL COMMITTEE
SESSION 1, DAY 3, MORNING
December 10, 2025

On the 10th day of December, 2025, the following meeting was held in-person, from 9:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MS. MACK: Good morning. My name is Kayla Mack, and I am happy to welcome everyone to day three of week one of the Department's Negotiated Rulemaking with the AHEAD Committee. My co-facilitator, Mike Franczak, and I commend everyone around the table and around the room on a productive two days, and we are confident that today will be just as engaging and constructive. I'm going to begin with our roll call, and then we will move into a few housekeeping items, some remarks from the Department, and then eventually into our substantive items. I want to call constituency name by your abbreviation. I will say primary. Please state your name for purposes of our public transcript and attendance. And then I will say alternate and you will do the same in announcing your name. Students, primary?

MR. ATCHISON: Eric Atchison.

MS. MACK: And our alternate? Thank you. Veterans?

MR. FEEHAN: Matthew Feehan.

MS. MACK: And our alternate? Thank you. And for employers?

MR. KAFAFIAN: David Kafafian.

MS. MACK: And our alternate.

MR. CARIELLO: Dennis Cariello.

MS. MACK: Thank you. Legal aid,
primary?

MS. HOFFMAN: Tamar Hoffman.

MS. MACK: And our alternate?

MS. KEMMERLING: Zoe Kemmerling.

MS. MACK: And I would note for that
constituency that the alternate is at the table at this
moment. Public institutions, primary.

MS. HULTQUIST: Kristin Hultquist.

MS. MACK: Thank you. And alternate.

MS. WILLIAMS: Tonjua Williams.

MS. MACK: Private nonprofit?

MR. LACEY: Aaron Lacey.

MS. MACK: Thank you. And alternate.
Thank you. And if you can, please turn on those mics and
speak directly into them so that we capture that. For
state workforce agencies, primary.

MS. STEPHENS PARKER: Rachael Stephens
Parker.

MS. MACK: Thank you. And alternate.

MS. DESANTIS: Andrea DeSantis.

MS. MACK: Thank you. And state grant
agencies, primary.

MR. MORROW: Ritchie Morrow.

MS. MACK: And our alternate.

MS. MCCLOUD: Elizabeth McCloud.

MS. MACK: State higher Ed, primary.

MR. STAMPER: Randy Stamper.

MS. MACK: And alternate.

MS. DELANGE: Heather DeLange.

MS. MACK: Thank you. Accrediting agencies, primary.

MR. MCCOMIS: Michale McComis.

MS. MACK: Thank you. And alternate.

Not present. Thank you. Taxpayers and public interest?

MR. COOPER: Preston Cooper.

MS. MACK: Thank you. And alternate.

MR. POLLACK: Ethan Pollack.

MS. MACK: Thank you. Who did I miss? Proprietary, please.

MR. ARTHUR: Jeff Arthur.

MS. MACK: Thank you. And alternate.

Thank you very much. I knew that I missed one in my list. For the Department, Federal Negotiator?

MR. MUSSER: Present.

MS. MACK: Thank you, Dave. And I know that we have Department attorney, please.

MR. ATCHISON: Jake Lallo.

MS. MACK: Thank you. And our Deputy Assistant Secretary.

MR. MUSSER: Jeff Andrade.

MS. MACK: Thank you all very, very much. For a few procedural reminders and updates, I have a very strong request for the facilitators' emails going out as formal distribution to all committee members. Please do not reply all. I know it's an effective and quick way to communicate with everyone, but it makes it really difficult for us in real-time to decipher whether that is in fact just a quick share or remark, or it is a formal question, proposal that we need to capture in a formal official way forward on and document. So please don't reply all to the facilitators' outreach. In the final moments of yesterday's session, we did in fact make an exception and allow both a primary and an alternate to speak on a topic given where we were in the process and the final few moments of the day. We are in fact going to stick to protocols today. And over the course of our remaining session, only the primary or alternate can speak at a topic, and we ask you to make that exchange formally and at the start of each topic. Feel free to send messages to each other, pass notes. But again, we'll be looking to follow the protocols on that. And finally, we are going to anticipate a series of pulse checks today to gauge where the committee is on each of our seven topics. I want you to remember that these are not

official or formal or decisive, as in a consensus check, but they are a way to suggest to the Department where we're making progress and where, in fact, we have more discussion and deliberation to take place. I want you to take these seriously, though. Be honest with the Department, yourselves, each other, and you will again express where you are with a thumb up, a side, or a down, not to be confused with upside down. All right. So we'll be looking for those. We'll be capturing those, and we'll be getting each of those on the record. I would like to now turn it over to both Dave and Jeff for a few opening remarks.

MR. MUSSER: I'll turn it over to Jeff for just a few remarks before we get started.

MR. ANDRADE: Thank you, David. I just would like to announce a little bit of sad news. The Department mourns the passing yesterday of Dr. Rod Page, the seventh Secretary of Education, at the age of 92. Our condolences go out to his wife, Stephanie, and the rest of his family. While Secretary Page was probably best known for his leadership on the bipartisan No Child Left Behind Act, he was first and foremost an educator. He grew up as the son of a librarian and a school principal. He was a strong leader who demanded an expected excellence from everyone. And he viewed education as an

interconnected system, not just a set of silos. In higher education, Secretary Page began his career coaching college football at Jackson State and Texas Southern. And I can tell you that coaching experience became an integral part of his leadership style, having worked very closely with him. He went on to become a professor and eventually the Dean of the College of Education at Texas Southern where he helped prepare generations of future teachers and educational leaders committed to education reform. During his tenure here at the Department from 2001 to 2005, he had inherited an agency that was embroiled in well-publicized incidences of fraud, waste, and abuse, and which faced nearly 800 outstanding audit findings. I had the honor to work closely with him as he set high standards and improved accountability. And while the solutions that we came up with came up with were often simple, they were not easy. But his perseverance and his mental toughness helped our team push through these challenges and align our programs, which culminated in clean audits for the remainder of his term. After he left the Department, I also had the opportunity to continue to work with him. He stayed active on education reform and was a trusted advisor to numerous reformers and innovators. While we mourn his passing, we also celebrate his life of service over nearly a century. We

honor his legacy today by continuing to strive for excellence and to expand opportunity. Thank you.

MR. MUSSER: Thank you, Jeff. I appreciate those comments. All right. We will get started this morning. Just, just one or two things from me before we get into the substance of the work once again. So the first thing I want to say is just, again, thank you all for your thoughtful and, and, and you have done exactly as we've asked. You've given significant and clear reasoning for your proposals this -- thus far. We really appreciate that. It helped us get through quite a few of them last night. And we're going to talk through what the, the Department's reactions to many of those proposals this morning. We have a lot more that we have not yet had a chance to fully digest and to work through. We are going to continue to do that over the course of today into tomorrow. But to that end, I think we are at the stage now. We're going to go through topic seven this morning. We'll get through that regulatory text. We're at the stage now where we need to start narrowing the proposal -- the amount of proposals that we are able to consider that we're able to make changes for. So we would like to set a deadline on new proposals for 7:30 a.m. tomorrow morning. Obviously, there may be some negotiations and discussion after that. But in terms of

the, the substantive proposals that you're sending in, we would like to set that deadline so that we can take those into account and evaluate them, work through them, and get back to the committee by the end of that day for a final -- potentially for a final vote on Friday for formal consensus on the Workforce Pell provisions. So let me pause there and see if our -- any of our negotiators have any comments about, about that approach. Okay. In that case, let's go through some of the proposals that the Department is taking. We're going to start with the good news again this morning, and we'll work through all the other pieces of news after that. So if Aaron could pull up the list of changes that we are proposing for day two, we will -- we should be sharing this with negotiators as we speak. Okay. So we'll start here in 690.93. So if you could scroll down, Aaron. Here, we're discussing the various requirements for the state to publish its approval process. And here we are requiring the State to publish its methodology to determine and periodically review which occupations and industry sectors are high-skill, high-wage. We received a number of requests to -- well, we received a request from Rachael specifically to focus the -- this on a -- the period that the state plan was being evaluated. So we did add language here at the bottom. So we're when we're

talking about the review of the occupations and industry sectors, we say now at the end, such review shall be done not less than every two years, concurrent with development and modification of the state plan under section 102C of the Workforce Innovation and Opportunity Act. So it's not exactly the language, Rachael, that you proposed, but we believe that it addresses your concern. We've lost the language here on the big screen. So just one second. Well, so as we're waiting, I do want to just give just a few remarks about the Department's response to that. We agree that it makes sense to, to require governors to perform those reviews consistent with that - - with its reviews of the state plan, not only is it efficient, but it sets the outer limit on how frequently the, the governor needs to do that so that they don't have the option of simply waiting around and never evaluating these over time.

MR. ARTHUR: David, I can't read the highlighted text on the handout. It's kind of tricky to read it there. Can we get this emailed to us so we can see it on our devices and deal with our hardships in seeing.

MS. MACK: It should be hitting your inboxes momentarily.

MR. MUSSER: Yeah, that's right. Okay.

Any other comments on this one?

MR. ATCHISON: And just to follow up with Jeff, if all -- if future iterations could also just use the yellow, that would be helpful. Thank you. The yellow highlight.

MR. MUSSER: So we are planning to use different color highlights for each day of changes, so it's clear, but we will endeavor to make sure that it is as light as possible in the future. So understanding, understanding the issues with reading. Yeah, thanks, guys.

MS. MACK: We will not be taking a consensus check on the color of the highlights. Thank you.

MR. MUSSER: We added it and then we redacted it. All right. So let's move down then to the next change. And again, if you guys -- once you're able to see these clearly, if you have concerns, please let us know at any juncture here. The second set of changes here, these are changes requested by Michale where this is the portion of the state policy related to their written policy for institutions to establish that the program will ensure the award of academic credit towards certificate or degree program upon completion. We got a number of different comments about specifying what this

really means in practice. And Michale suggested language that we largely adopted here, which is such as through articulation agreements, transfer of credit agreements, consortium or partnership agreements, or similar arrangements. These are the -- in our view, the most common forms of written documentation of credit articulation. We think this is a reasonable way to express the Department's expectations for this.

MS. MACK: Do you want to take questions as we go along, Dave?

MR. MUSSER: Each of the changes, I think we can take questions.

MS. MACK: Michale, please.

MR. MCCOMIS: I just want to say thank you. And for the record, our alternatives here, if you want to --

MS. MACK: Welcome, Gary, alternate for accrediting agencies. Thank you. No problem. Jeff, did you have another comment or question?

MR. MUSSER: Okay. Then we can move on. Okay. So this one is a little odd. There were -- there was -- there were several suggestions that we clarify the process for governors to designate another office within the state as their representative for the purpose of evaluating the workforce programs for this

purpose. When we went in and thought about this, we spoke at length with our Department of Labor colleagues and in our view, one of our biggest concerns about expressing a formal process for designation is that the process works best when the governor does involve themselves and is engaged. There are provisions in the Department of Labor's guidance for the governor to identify other agencies to assist them, and the Department recognizes that that's likely necessary, including for the purpose of providing certifications of the governor's approvals to the Department. So because we have only added the word -- we had previously only added the phrase, or their designee here. We have struck that from this, and we do not propose to include references to designees or the designation process anywhere in the regulatory language. But we do plan to explain in subregulatory guidance that in accordance with the Department of Labor's requirements and the state's own policies, they have the ability to assign other agencies for assistance and that those agencies can, can be the ones to submit -- to provide the certification from the state to the Department for purposes of program approval. Operationally, we are going to need to do some work to determine how the Department will collect those and ensure that we're getting the right information from the right people. But we don't

believe it's appropriate to include all of that in the regulatory language. I'll pause there again to see if we have questions or comments.

MS. MACK: Zoe, please, you have the floor.

MS. KEMMERLING: Thank you. I'm sorry. Do you mind if I briefly move back to the language that's on the top of the screen?

MR. MUSSER: Yes, absolutely.

MS. KEMMERLING: I just comment that the -- you know, the articulation agreements and the other ones you, you specify there are very useful ways of measuring transferability, but the such as language, I'm concerned that it kind of weakens the effect of putting that language in there as opposed to a more direct, you know, prescription that those are the types of arrangements that should be reviewed.

MR. MUSSER: That, that -- we understand and we thought about that too, as we discussed this last night. The issue, I think, is that we, we feel it's necessary to include that last clause or similar arrangements. And once you say that, we still -- we are still talking about a -- something that is written and that includes enough information for this to be useful. But if we don't specify such as we would essentially be

limiting it in a more significant way. So we believe that those such as phrasing is necessary here. We still intend for this to be a requirement that it be done through one of these written forms. But it is broad enough that we don't feel that we can say that it must be done through one of the options that's expressed here.

MS. MACK: Any follow-up, Zoe, before I move on?

MS. KEMMERLING: Not at this moment. Thank you.

MS. MACK: Thank you. David?

MR. KAFAFIAN: Thanks to the Department for this inclusion. This is very helpful. One thing I would want to call out, because I do believe it's in the statute, is that we may want to add a tweak here that incorporates language around the actual institution that itself is delivering the Workforce Pell program may also have a pathway within its own institution for that student to receive credit.

MR. MUSSER: That's exactly right. And now -- and you're right, we have one or more eligible institutions. It doesn't call out specifically the way that the statute does in a parenthetical, that it could be the same institution. Are you requesting that we add that to the regulatory language? It sort of assumes here

that the one or more could include the institution, and it is set elsewhere in the regs, but are you concerned -- ?

MR. KAFAFIAN: I can live with that. My instinct was maybe, you know, such as at such institution or through established etc., but I think it's just a point of --

MR. MUSSER: Okay. We can take that back.

MR. KAFAFIAN: Yeah.

MS. MACK: Thank you. David. Thank you, Dave. Randy?

MR. STAMPER: And just a little further clarification there. If the training institution that is receiving Workforce Pell for the student is the institution that is issuing credit, is that sufficient or must there be also transfer of credit to another institution?

MR. MUSSER: Can you say that one more time? I just want to make sure I understand the distinction.

MR. STAMPER: Sure. I'll try to state it more clearly than I just did. Is it sufficient that the institution that issues the credit, that the credit stops there, or must it transfer to a second institution?

MR. MUSSER: No. Yeah, so if the institution has a degree program that it can accept the credit into to meet those -- that program's requirements, that is also acceptable. It could be the same institution or another institution.

MR. STAMPER: Very good. Thank you.

MS. MACK: Thank you, Randy. There are no additional questions. Dave, back to you.

MR. MUSSER: And then I think, unless I'm wrong, Aaron, if you could scroll down. Oh, here we go. So there's one more, I think substantive change. This one is a little bit more significant. So I do want to go through it a little slowly and carefully. So first we had some comments about the ambiguity of our original language related to the one year in existence requirement. So, as you guys recall, the statute requires that prior to the Secretary's approval of a program of an eligible workforce program, the program must be in existence for at least one year. And it's our belief that, that is intended for the program to have enough time to have students graduate and be able to establish completion and placement rates for the program. So we previously had language that said it's that the program must be in existence and it must meet essentially two sets of conditions. The first set was the requirement for

the program to fit within the statutory length limitations, meaning between 150 and 599 clock hours and between 8 and 14 weeks of instruction. And it needed to meet the state approval requirements, so all of the conditions for the state approval process. So we think it wasn't quite clear exactly how the two entities, the governor and the Secretary would work to make those approvals. And we got, again, some feedback that it wasn't entirely clear just in general what it meant to be in existence. So we actually separated the process of confirming those two factors. Here, we're requiring the governor to include in its certification to the Secretary that the program currently meets and has met for the 12 months immediately preceding the certification, the requirements described in paragraph A of 690.93, and if you guys recall, paragraph A is the -- are the statutory requirements for the governor approval process. So essentially, you know, all the things that we -- that we've been talking about throughout the academic credit is applying to a degree program stackable and portable. All of those things need, need to have been met for at least the 12 months immediately preceding the certification. So in addition to that -- let's scroll down a little bit, Aaron. We also made some changes to the 690.94 language. That is what the Secretary is doing.

And so here we're requiring the institution to submit to the Secretary documentation that the program has met the conditions under 34 CFR 690.92(a) and (b), and we've struck the 690.93(a) language. And that's because we don't expect the institution to provide us with evidence that it has met the state approval requirements. The institution would probably find that very difficult without getting it directly from the governor anyway. So the governor is going to now certify that in the previous section, as I just described. And here the institution is just providing the Department evidence that the program has met those length requirements in 690.92(a) and (b), and it's -- and we also have added to make it this a little bit clearer, the exact time frame that we're talking about, that the program has met those conditions for the 12 months preceding the date on which the institution applied for eligibility for the program. So that last language is reflective of language in 34 CFR 668.8, which we've had for many years related to one year in existence. So I will pause there, and see if anybody has any comments about these provisions.

MS. MACK: Jeff, please.

MR. ARTHUR: Yeah. Just for PPA purposes, we're not going to be having to indicate an option to opt into the Workforce Pell program separate

from the Pell Grant program, correct?

MR. MUSSER: That is correct.

MS. MACK: Thank you, Jeff. Zoe,
please.

MS. KEMMERLING: Thank you. If you don't mind, once more, could you scroll up to the upper section? I just wanted to briefly respond after I process some of the points that were made. One, striking the -- relating to striking the designee language, we wanted to make sure that it was still possible for a governor or a workforce board to get the input of the state higher education agency here.

MR. MUSSER: It's not only possible, but we would encourage it. It's -- we're not in any way preventing or attempting to prevent the governor from seeking assistance from other state agencies in this process. And, in fact, we think this is a particular area where input from the state authorizing organizations would be very helpful. We're just not specifically requiring a designation process to completely delegate the responsibility for the approval to another agency.

MS. KEMMERLING: And my second comment is just once more to return to the issue of transferability of credits. And we do believe that it is important to have clear articulation agreements for

transferability, not just to the same institution that the student is at, but to other institutions to ensure that the certificate will be of maximum use to the student.

MR. MUSSER: Okay. Thank you.

MS. MACK: Thank you, Zoe. Michale, you have the floor.

MR. MCCOMIS: Just a quick clarification on -- is the 12 months preceding the date on which the institution applied to the governor or applied to the Secretary?

MR. MUSSER: Well, this is an excellent point that we also talked about this morning.

MR. MCCOMIS: Thank you.

MR. MUSSER: Yes. So in 93, which is what we're looking at here, it's the 12 months prior to the governor's certification because the governor can't certify a time that he doesn't -- that he's not aware of later. If you -- if now, if we scroll down to 94 when the institution submits this, they're, they're asserting that the program has met these requirements on the 12 months prior to their application for eligibility because that's -- they have that information all the way up to that point.

MR. MCCOMIS: Is it useful to stay

here in, in this particular section? Again, this is this is the, the conditions that they have to meet to the -- as determined by the Secretary. So is that what they are attesting to that it's been 12 months' eligibility -- the preceding 12 months from when they sent it to the Secretary with the governor's certification?

MR. MUSSER: No. So this is a -- this -- the institution here is documenting that the program has fit within the length limitations for the 12 months immediately prior to the submission of the application to the Secretary for approval.

MR. MCCOMIS: Okay. It might be useful just to think about applied to the Secretary there just to make that more clear.

MR. MUSSER: Okay, yeah --

MR. MCCOMIS: That's all I'm suggesting.

MR. MUSSER: We can take that back. Yeah, that makes sense. Okay.

MS. MACK: Thank you, Michale. Thank you, Dave. Eric?

MR. ATCHISON: Thank you, Kayla. Thank you, Dave. Just a quick two questions. One, on the guidance to the governors, will the Department consider including that in the preamble to make it clear about the

state agencies' involvement, higher education --?

MR. MUSSER: Yeah. Yeah. We mentioned earlier that that's our intent. We jotted it down. But that we -- not only is it our intent for the purposes of -- I think making folks at this table feel more comfortable that we are expressing it, but we believe it's necessary operationally to explain this process because our eligibility analysts at the Department are going to need to know which is the appropriate office who will be giving their signature on this certification. And we're going to have to explain that is something that the governor is able to seek assistance on, through, through their own process.

MR. ATCHISON: Thank you very much for that consideration. Also, to the term stackability. I know it's written as a policy, but will there be any evidence that this actually exists? Because I'm concerned that there may not be much in terms of activity there.

MR. MUSSER: So the language that we included, the idea is that there is evidence that the governor is their policy includes an evaluation of that evidence.

MR. ATCHISON: At the governor level, right? Okay.

MR. MUSSER: Yeah.

MR. ATCHISON: Thank you. And just for the record, everybody, if you look on page three on the electronic handout, it doesn't necessarily match the screen. And so I've asked just --

MR. LACEY: Yeah, what's happened is the strikes have been accepted. So we're not seeing exactly the same thing.

MR. ATCHISON: Thank you.

MS. MACK: Use your mic if you have a comment like that. We want to make sure to capture it.

MR. LACEY: Yeah, the issue is that the strikes have been accepted. So the PDF we've got, yeah, basically the track change strikes have been accepted. So they're invisible on the thing that was circulated. I think that's the distinction.

MR. ATCHISON: Thank you.

MR. LACEY: Yeah.

MR. ATCHISON: Aaron, yes, I just noticed when I was going back and forth. Thank you.

MS. MACK: Thank you. We'll look into that and distribute something updated.

MR. MUSSER: First, just apologies guys for, for any, any issues with the paper document. And we will make sure that we get you better ones in a few minutes.

MS. MACK: Thank you, Eric. Going to go to the next card. Aaron? Or was that the issue you were going to raise? Perfect. Back to you, Dave.

MR. MUSSER: Okay. So those were the ones that -- where we made language changes as of today. We do have a number of areas where when we looked, when we looked at the proposal, we were unable to make a change. And I want to go through those now and talk through them. So first I want to talk about the proposal offered by, by Preston related to value-added earnings. So first of all, I just want to express my appreciation, Preston, for that recommendation. I think it was well-thought-out. I think it was detailed and you gave a -- we think, a strong rationale for why you think it's important. And once we evaluated it, we really have two concerns about it. The first one being probably the more important. We just don't see the statutory basis to do that because the statute refers to Title IV recipients, the individuals that -- whose earnings would be evaluated in the process that you described would be individuals who were not necessarily Title IV recipients even at the same institution or even at any institution. They were just graduates of the program. And so that is the biggest impediment to establishing the process. We did also have some other policy concerns about the approach. The --

there could be significant differences between the wage data and the, the data that ultimately gets processed as part of the value-added earnings information. We would like to think that those two systems are going to match perfectly. We don't know if that's always going to be the case. So we saw the potential for some disruption in cases where the program was shifting over from wage data that may or -- that may not -- they may not reflect exactly what the Internal Revenue Service or another Federal agency has in terms of earnings. So we, we considered that there could be some significant disruption during that transition from the preliminary process that you described and the final process. So for those reasons, the Department, at least at this point, we don't see a path to getting to that process.

MS. MACK: Please, Preston.

MR. COOPER: Thank you very much. I really appreciate the explanation. Would the Department be open to potentially a modification of this proposal to address some of your concerns?

MR. MUSSER: So, we can look at it. I think our hard line is that any proposal cannot speak to limitations on the published tuition and fees of the program based on earnings that are not of Title IV recipients. If the proposal does not include that, we can

consider it. We would be open to it, yeah.

MR. COOPER: So, would you be open to proposals to not adjust the tuition and fees, but to establish just eligibility outright? So, for instance, if a program has earnings that are below 150% of the poverty line, there is no scenario where their tuition and fees can be set at a level to qualify them for Workforce Pell. So, if from that initial data, we could establish that the program's earnings are below that threshold, would that be acceptable to basically deny initial eligibility for that program?

MR. MUSSER: I just don't think so. I will look to Jake to see if that changes anything, but, but at least in, in my initial read of that, I'm still hearing that we would be establishing an eligibility criterion that is not based on explicit statutory criteria. And generally, you know, the Department's -- there are cases where we say you can't become eligible for the first time under certain criteria. I don't think that's what we're talking about here. These -- this could end up being -- affecting ongoing eligibility. I don't know if we, if we could quite get there either, but, Jake, do you have thoughts on it?

MR. LALLO: Yeah, I think we can look at anything that you send. I mean, certainly, we always

consider any proposal. That being said, I think this is a very difficult one from a statutory authority basis. The statute to me reads as a pretty clear look-back thing. I think there's high litigation risk for blocking programs' eligibility based on a, you know, projection. And I think it would be very difficult for us to support. That being said, you know, if you can find a way to make that statutory authority comport with your 150% mark, I think it stands to reason that there's probably some way to, you know, either improve transparency or do something there. But I think Dave is correct. I think given that the statute pretty clearly contemplates a look-back period -- I think the only other way you could read that is that basically, programs have to demonstrate three years of value-added earnings before they could even come into the program. And I don't think that reading comports with the rest of the statute and would be incredibly restrictive on programs. And as Dave said, I think, you know, any limitation based on a projected thing for eligibility, again, creates high litigation risk for us. I don't think because it's not really contemplated by statute and would have a massive chilling effect on institutions coming in. So again, if you think you can find a way to square that with the 150% thing, like you're saying, I think there's some logic behind that,

please send it in. We're happy to look at it. I just don't see a good statutory authority for it at this point.

MR. COOPER: Thank you.

MR. MUSSER: But, but again, thank you, Preston. It was a -- I think, a well-thought-out proposal. Appreciate it.

MS. MACK: That is all the comments and questions that we have at this juncture.

MR. MUSSER: So we'll go on to a couple more proposals that we've looked through, and we're unfortunately unable to take at this time. So we do have another one -- another proposal from Jeff, which was to require publication of an online list of programs approved by the state governor. Although we definitely understand the reason for the proposal, I'm trying to get more information out to the community, to the public, we see some significant challenges with data exchange between the Secretary of education or Labor and the governor. The governor isn't necessarily going to have the full list of programs without that kind of data exchange. We also feel that the governor is likely to have an incentive to publish that information anyway, to get the information out for their -- for workforce purposes. And finally, this was another area where we

struggled a little bit with the degree of authority that we have to compel states to do this, to publish a list in this exact way. You know, we're asking for published publications of their written process, which we think flows directly from the statutory requirement for them to have an approval process. But this is a separate list that isn't part of the process. It's sort of expressing the results of the process. And that was a little harder for us to get to legally.

MS. MACK: Go ahead, Jeff.

MR. ARTHUR: Just a quick question. Does the -- is there anywhere the Department publishes lists of approved programs from the ECAR database basically? I'm not recalling if there is, and I was just thinking that might be a resource.

MR. MUSSER: So I want to call on my FSA colleagues for this one. My understanding is that the Department does make a database available of information from our Partner Connect system for school eligibility. But I am not quite sure the degree of specificity that it includes. And I'm not sure that it includes grant program-level information that would be accessible. It includes institution-level information generally. But let me turn it over to my colleague Kerri Moseley-Hobbs from FSA to say a few more words.

DR. MOSELEY-HOBBS: No, I just want to confirm that you're correct. We are limited on that type of data, but I can go back and explore to see what might be available, but I don't think that we'll have that.

MR. MUSSER: Yeah. Thank you, Kerri.

MR. ARTHUR: Actually might be a really interesting thing for people to have access to research etc. I mean, and it -- you've got a collected database. Easy to share, I think.

MR. MUSSER: Yeah, point taken. Thank you, Jeff.

MS. MACK: Aaron, please.

MR. LACEY: I think maybe the PEPS data extracts may include that data.

MR. MUSSER: So sorry. That was what I was referring to. That's the -- that's now Partner Connect. But -- the data extract I was referring to and -- you think -- you, you say you think it includes program-level information? We know -- I know it includes institution-level information.

MR. LACEY: I can't remember, but I was not 100%, but we can look.

MR. MUSSER: Yeah. Okay. So then we wanted to -- a couple more that we looked at in detail. We had a proposal from Eric that would have required data

coming from the state that showed at least 20% of students have obtained additional credentials through career pathways, in their written policy for determining whether a credential is stackable and portable. We think that the language that we gave for articulation is -- will -- goes a long way toward this, and we just don't think we can be so specific about a specific threshold for that. So we weren't able to take that particular request. We also had a couple of requests which we understand and think are very reasonable about lifetime eligibility. So the requests were mostly around requiring institutions or -- and/or the Secretary to notify students about the potential impact of enrollment in an eligible workforce program on their Pell Grant lifetime eligibility. So just level setting, make sure everyone here and out in the public is aware of the issue. Students are limited to six, the equivalent of six full academic years of Pell Grant eligibility by statute. And the Department implements that by essentially looking at a percentage of their scheduled award taken up by Pell grants received every year. So, for example, if a school -- if a student receives their full Pell grant for a given award year, they would -- that would be 100%. And the -- our systems calculate that going for, you know, for the entire lifetime of the student. If the student

reaches the 600% threshold, which is the equivalent of six full academic years, they're no longer Pell, Pell Grant eligible. So the issue I think that folks are bringing up, which I think is reasonable, is there could be students who are enrolled in an eligible workforce program prior to enrollment in an associate degree or a baccalaureate program, who, who ought to know that doing so could potentially limit their Pell eligibility down the road. And we share the same concern. However, we do already have several mechanisms for making students aware of their lifetime eligibility at any given point. Schools are required to provide information to students about the Pell Grant and all of its eligibility requirements, including the limits on eligibility related to lifetime use. The Department also provides regular updates to students about their lifetime use of Pell Grant funds through the FAFSA, the FAFSA portal that this -- that the student accesses once they submit the FAFSA each year. The Department also makes institutions aware when students reach the 400% and 500% thresholds, essentially because that -- they are nearing the end of their Pell Grant eligibility at that stage and we expect schools to act on that information and notify students that they need to seriously consider that their Pell Grant eligibility may soon run out. So we believe that there

are a sufficient number of methods that we currently use for that process, and we are concerned about adding a disclosure only related to eligible workforce programs here, as opposed to Pell Grants generally, on this particular topic.

MS. MACK: Eric, please.

MR. ATCHISON: This actually goes back to the stackable question I had earlier or that you mentioned earlier. Is there a possibility of considering a phrase that doesn't specify 20% as a requirement or an expectation, but just data showing that a percentage of students that have obtained additional credentials through career pathways?

MR. MUSSER: If you have language that is a little bit less prescriptive, we can certainly -- we can look at it, yeah.

MR. LACEY: Thank you.

MS. MACK: Thank you, Eric. Ritchie?

MR. MORROW: On the Pell issue, on the FAFSA submission summary, there's a comment how much Pell the student has used. This may come as a shock, but students don't always read everything, especially if there's a lot of stuff on that page one. Maybe if they hit 400%, could it be bolded so it stands out a little bit more for that student and keep bolding it until they

hit the 600%?

MR. MUSSER: I'm looking to my FSA colleagues. And I don't know the extent to which they can do that, but I think it's an interesting idea, at least from my perspective. Kerri?

DR. MOSELEY-HOBBS: Sorry, repeat it to me again, friend.

MR. MORROW: So like when they hit the 400% of Pell, can it be bolded so that it just stands out to them a little bit more, so it calls their attention to it?

DR. MOSELEY-HOBBS: Out of the comment code?

MR. MORROW: On -- yeah, on that FAFSA submission summary page one.

DR. MOSELEY-HOBBS: I can take that back because, I mean, we potentially might make changes to FAFSA language around Workforce Pell, like we wouldn't say on the FAFSA Workforce Pell, because that's going to throw the average student off. But we're looking at messaging, acknowledging the existence of Workforce Pell programs in like '27-'28 or '28-'29 FAFSA, so we can take that back.

MR. MORROW: Okay, that'd be great.

MS. MACK: Thank you, Ritchie. Back to

you, Dave.

MR. MUSSER: And thank you, Kerri, for, for your remark. Oh, do we still have a card? Yep.

MS. MACK: Apologies. The water bottle. Please, Zoe.

MS. KEMMERLING: Thank you. I just wanted to ask if the Department would be open to putting some of this language about disclosures to students in the preamble. In our experience, I think, as others have noted, we find that students often miss disclosures in the FAFSA, for instance, or you know, institutions aren't always consistent with making their own disclosures about this issue.

MR. MUSSER: I'm willing to agree to that. Given, given the, given the nature of this -- the new Pell Grant eligible program, it's a -- it's potentially a different population of students that would be served that schools are not accustomed to. We can address the fact that the Pell LEU is a particularly important topic for schools to address and cross-reference their responsibilities under the consumer disclosure regulations and 668.42, so I can commit to that.

MS. KEMMERLING: Well, thank you.

MS. MACK: Thank you, Zoe. Eric,

please.

MR. ATCHISON: I'd like to request Magnus be available to come speak to this at the table.

MR. MUSSER: Because we're not within a topic right now, I can -- yeah, we can do that.

MR. ATCHISON: Thank you.

MS. MACK: Welcome, Magnus, to the table. You have the floor.

MR. NOBLE: Thank you. This is just regarding the notification to students about their LEU. So we know that schools are required to speak to students once they hit around that 450% threshold. But especially as a student myself and as one who understands what that means and where to find that information, it's easy for me. But most students, as Ritchie pointed out, don't really understand that information or where to find it. And I believe that once students hit that 450% mark, that's a little too late. We want students to be able to have a proactive awareness of their LEU. That's why we proposed a 200% level and a 400% level as far as a notification. That could be simply an email or some other quick electronic notification.

MR. MUSSER: Definitely an understandable request. We can't commit to an email necessarily. We will take it back. And I'm looking to

Kerri again for, for one more thing to take back one more proposal. This one, like I said, I don't think we can commit to this, given the technical constraints, but, Kerri, go ahead.

DR. MOSELEY-HOBBS: I do want to add for the purpose of the subject of this negotiated rulemaking, if you have suggestions about things in this area, like for the FAFSA submission summary, you can submit them during the comment period for the FAFSA submission summary because we do respond to all the comments. And the team that is here is also part of the team that reviews those comments and suggested changes to the FAFSA, the FAFSA tax, Studentaid.gov help articles, FAFSA submission summary, Studentaid.gov in general. We'll think about it for all of those resources.

MR. NOBLE: Okay. Thank you. One final note is that I just -- I think it's important that those messages go directly to students. Sometimes things can get lost in translation when it's the institution's responsibility to pass along that information to students.

MS. MACK: Thank you, Magnus. Kerri, could you once more for the record and transcript, say your full name?

DR. MOSELEY-HOBBS: I am Kerri

Moseley-Hobbs.

MS. MACK: Thank you, ma'am.

DR. MOSELEY-HOBBS: You're welcome.

MS. MACK: I'll note that Eric is coming back as primary to the table. And, Dave, I will turn it back to you.

MR. MUSSER: All right. Thanks. So -- and I just want to return to what I said a moment ago, which is that if we do reach consensus, we will commit to that preamble or other subregulatory language that indicates that our expectation is that schools will inform students about the impacts of Pell Grant use on their lifetime eligibility when they're enrolling in a program like an eligible workforce program, as part of their consumer disclosure requirements.

MS. MACK: Thank you, Dave. Matt, let's go to you.

MR. FEEHAN: And for purposes of consensus, I just want to add for the record that student veterans, student service members and organizations who represent them would be supportive of this proposal.

MR. MUSSER: Thank you.

MS. MACK: Dave, are there additional proposals that we need to walk through?

MR. MUSSER: There are.

MS. MACK: Then back to you.

MR. MUSSER: But at this point, I'd like to invite my colleague Marek from the Department of Labor to the table, as some of these proposals that we're going to talk about now, we discussed extensively with him, and I just wanted him to be able to speak with them. Thank you, Marek.

MS. MACK: Marek, if you could state your full name once again for the record before you get started, that would be most appreciated.

MR. LACO: Yes, Marek Laco at the Department of Labor.

MR. MUSSER: All right. Thanks, Marek. So one of the recommendations that we received, I think this was from you, Kristin, was to include -- was to require inclusion of state higher education agencies in this process. And this goes back a little bit to what we discussed previously about designation, but this isn't necessary -- this proposal wasn't about designation, exactly. It was a requirement that the two agencies work together. While we think it would be great if they did that and we would strongly encourage it, in fact, we don't believe it's appropriate to require that coordination, partly because of limitations on our authority. But also because we think that states have to

make that decision for themselves. However, we did some research or my colleagues did some research on how states comprise their state boards. And I just wanted -- Marek, if you could speak a little bit to that. We see lots of cases where this is already happening.

MR. LACO: Yeah. I would just say that in our statute, the state board membership specifies certain populations and individuals that are included, but also gives governors discretion. So section 101 of WIOA includes language may include other representatives and officials as the governor may designate, such as, and one of those specific examples in the statute is state agency officials responsible for education programs in the state, including chief executive officers of community colleges and other institutions of higher education. And with that, we know that several states do have an active role for higher education on their state workforce development boards. For example, Alabama's Workforce Development Board includes the chancellor of the Alabama Community College System. The Virginia Board of Workforce Development includes the Virginia Secretary of Education. The Missouri Workforce Development Board includes the Commissioner of Higher Education and Workforce Development. Oregon Workforce and Talent Development Board includes the Executive Director of the

Education -- of the Higher Education Coordinating Commission. North Carolina's NC Works Commission includes the President of the North Carolina Community College System. This is just a few, not all the examples, but it is common for states to do this, and the state board is at the prerogative of the governor if they think that's an important role, which we've recognized can be valuable. It's encouraged to include them in that state board so that explicit consultation that was contemplated by Congress and included in the statute can include higher ed representatives as part of that state workforce agency, as well as any other consultation the governor may choose to pursue.

MR. LALLO: I think it's also just important to consider, within the framework of the statute, you know, really the only limitations statute gives is that the governor consult with the state board. We don't really read statutory authority to go beyond, you know, requiring them to consult with anyone else. Certainly, we encourage it, but, you know, I think it's been -- it's very clear within the context of the statute that this is supposed to be flexible to the states. And certainly it's been a prerogative of this administration to return some flexibility and control of educational priorities to the states themselves. And we think that

this statute very much comports with that. This -- the country is full of states that run themselves in very different ways. Certainly, some states mix their higher ed board with their Workforce Development Board. Some include members of the higher ed boards on the boards. We don't want to do anything that would disrupt a state's ability to, you know, determine what programs they need and adding extra limitations to that could, you know, delay approval, slow this process down, and just make it harder for them.

MS. MACK: Thank you, Dave, Marek, Jake. Any questions or comments from the committee? Back to you, Dave.

MR. MUSSER: Okay. And so the one other thing that we wanted to talk through was a suggestion that we require states to provide information about their approval policies in prominent and plain language. And in our view, this is something that is already required in some circumstances through Department of Labor guidance. So I'd like to turn it over to Marek to speak a little bit to this as well, as to what kinds of things are already expressed.

MR. LACO: Yeah. Well, I'll, you know, I'll say that there's a sunshine provision in the WIOA statute on making, you know, things publicly available,

including the state plan and other provisions around meetings of the state board. But there aren't specific requirements on prominently and in plain language. And so when it comes to the workforce system, the public workforce system, that's at the prerogative of the state if they want to choose pursuing those. And so considering that, you know, in the detailed statutory language in WIOA, there isn't anything that asserts that and requires that. It's something that the states may want to consider, but not something that is imposed. I will say that there's other Federal programs administered by the Department of Labor where we do use that, as we're subject to statutes that direct the Department of Labor to do that. But imposing that as a requirement on all states is something beyond what we read the statute to direct.

MS. MACK: Thank you, Marek. Matthew?

MR. FEEHAN: Yeah, I appreciate the Department of Labor's comment on that. And it certainly makes sense not for the Department of Education or the Department of Labor to tell states exactly how they're going to write out their statutes, regulations. That said, just for the record, I think it's good practice.

MR. MUSSER: And we did talk about we can -- if -- again, if we reach consensus, we can commit

to including something in the preamble that expresses that, you know, this is not -- even if it's not a requirement by the Department, we -- it is our sincere hope that this information be made clear in accordance with the requirements that we have.

MR. FEEHAN: Thank you very much.

MR. MUSSER: Okay. So we've gone through quite a few proposals at this point. We have a lot still to go through. I know that we have not addressed many of the ones that you've already submitted, and especially some that you've submitted overnight or yesterday, in the afternoon yesterday. Still really appreciate all the submissions so far. We have quite a bit of work to do on many of them. So we recognize that -- there's a lot -- there's certain concerns that have not yet been addressed. But we are going to continue to work on that throughout the day and into tomorrow. So again, thanks, everybody, for all of your thoughtful proposals. I think with that, Kayla, we can transition to our final topic and walk through the Department's proposal for gaining and losing eligibility.

MS. MACK: As we walk through this, Dave, would you like to take questions and comments after each section or after you review? Perfect.

MR. MUSSER: Yeah, in this case, after

each section.

MS. MACK: Thank you. Zoe, you have the floor.

MS. KEMMERLING: Sure. I just want to say, as we start topic seven, I'll ask my primary negotiator to swap.

MS. MACK: All right. We welcome primary Tamar back to the table. Thank you for doing that.

MR. MUSSER: Okay. So let's go through the text here, unlike some of the other regulatory provisions. These -- this is a little shorter, hopefully a little bit clearer. Whether that's a good or bad thing, we will soon find out from you guys. So let's start with our proposed 34 CFR 690.96 loss, of eligibility. This is expressing the consequences of an eligible workforce program failing to meet the various requirements that are set out in other areas in the new subpart H that we are proposing. So starting with paragraph A, under 34 CFR 690.93, and again recalling that that's the state approval section, the program will become ineligible at the end of the payment period that begins following the date that, and (1), the governor withdraws approval for an eligible workforce program, or (2), the governor fails to reapprove the program. And also recalling that there

is a requirement in 690.93 for the governor to reapprove a program consistent with the institution's recertification and a new program participation agreement. Okay. And then into B under 34 CFR 690.94, so again, recalling that that's the Secretary's approval process, which includes the requirements for completion and placement rates. The program will become ineligible at the end of the payment period that begins after the date that the Secretary determines that the institution failed to meet the requirements. And finally, here under C, under 34 CFR 690.95, the program will become -- and this -- again, recalling that that's the value-added earnings requirements, the program will become ineligible at the beginning of the award year following the release of the value-added earnings. So I want to point out the C in particular. This is a, this is a little bit of an odd construction. We struggled a little bit with exactly how to frame this, keeping in mind that we will only be publishing value-added earnings one time per year, and then the institution is required throughout the award year that it applies to comply with the limitations on the tuition and fee, their published tuition and fees for the program. What this says is that if at any time during that year, the institution raises the tuition and fees for students above the appropriate level and, and the

Department identifies that, then the program will become ineligible from the beginning of the award year. So it's a pretty severe consequence if the institution does raise its tuition beyond the established limit. All right. And then I'll pause, and we can talk through that section.

MS. MACK: Tamar, please.

MS. HOFFMAN: Thank you so much for putting together this thoughtful language. I just wanted to flag for the Department at this time that we've already submitted a proposal amending some of this language. In particular, about liability in case of loss of eligibility. I just wanted to make sure that it's on your radar.

MR. MUSSER: Would you be willing to just briefly describe your proposal here before --

MS. HOFFMAN: Yeah, absolutely. Sure thing. So our proposal was just that an additional clause be entered under C. Sorry, the language was just taken down. But basically making sure that there's liability for institutions that fail to meet the eligibility requirements. We think that this is an important accountability measure, given frankly, the fact the eligibility requirements right now are pretty low bar in terms of value-added. And we'd like to make sure that institutions pay close attention to making sure that they

meet those requirements and take precautions to make sure that that's happening.

MR. MUSSER: Thanks, Tamar. And I just wanted to point out that it is the Department's intent to assess liabilities in cases where we determine that a program is ineligible under these circumstances. But we will -- we are still looking at your proposal for the language.

MS. MACK: Thank you, Tamar. Preston?

MR. COOPER: Thank you very much. I just wanted to say that I cosign Legal Aid's proposal to assess liabilities in cases where there is -- where it is determined that the program is ineligible. And I just wanted to clarify. So under this proposal, if the program does raise tuition and fees above the level of value-added earnings for that award year, it would become ineligible from the beginning of that award year, and the liability would then be equal to the total amount of Workforce Pell aid disbursed for that award year?

MR. MUSSER: All funds disbursed to students for that award year.

MR. COOPER: Excellent. Very supportive of that. Thank you.

MS. MACK: Thank you, Preston. Jeff, you have the floor.

MR. ARTHUR: Yeah. I think one of the, you know, the worst scenarios that happens is when students are in the middle of a program and the institution loses eligibility. And I think we're dealing with students that aren't taking out debt. They've got a short period of time usually to complete. Sometimes it is just one payment period, but sometimes it's not going to be. And we also have the opportunity to transfer somewhere else isn't immediate. And there is some time that would elapse before that would happen. And I would say, notwithstanding all of the, the conditions for A through C that we consider allowing an institution to -- or rather consider it that A through C, you can't start any new students in the program, that we at least allow them to make the final payments of minimal amounts of Pell Grant money for them to complete the program and just treat students a little better and not in a way that's going to harm them. The way I see it, I think it's strictly a consumer, student-friendly approach to dealing with this.

MR. MUSSER: So I definitely hear you, Jeff. Two things, though. First, the -- when -- let me make sure I get this right. The new limitation on published tuition and fees for a program applies to only students who first enroll in the award year that it

applies to. So you're not talking about people who are, for example, who started in the prior year, who are still enrolled into over the summer, for example. I don't think that's what you were talking about, but I just want to clarify that that's the case. But the other thing that I want to be really careful about here is that we actually just talked earlier this week about a separate regulatory provision under 34 CFR 668.14 B33, where the institutions, if they make an error, are not permitted to, to hold the student responsible in any way for the error. So institutions, in fact, would be the ones required to return the Pell Grant funds that they disbursed to students, and then they would not be required to go after the students for any -- the amount that they might owe the institution. So it is the institution that would be subject to the penalty in that case. Now that's -- there's also obviously downsides to that. But it wouldn't be at least in accordance with the regulations, it would not be the student that would end up with the burden of that issue.

MR. ARTHUR: Yeah, I guess I would hope that given such a scenario, that most institutions would go ahead and teach-out, that -- those students -- and let them complete and not have any disrupted but I just -- if there was any vehicle to allow them to support

that student with the Pell Grant funding, it just seems to make sense.

MS. MACK: Thank you, Jeff. Thank you, Dave. Michale?

MR. MCCOMIS: Just a quick note on what you just said. I think you said the institution would not be required to seek that -- I think you meant allowed.

MR. MUSSER: Sorry, I meant permitted. Yeah, that's exactly right.

MR. MCCOMIS: Yeah. So that's not my -- mine is under the process, under 96, loss of eligibility. When under A2, is it the intent there that is the governor in fact, failed, meaning they didn't follow their process that's been established and required under 93. They in fact, did not do what they were supposed to do.

MR. MUSSER: So that includes that category of issues. I think the other one is that they -- maybe they intended and they followed their whole process originally, but they didn't do either anything or all of the -- they didn't take all of the steps prior to the recertification. Yeah.

MR. MCCOMIS: Okay. So there is a distinction between 1 and 2, meaning that one is they --

I might suggest they act to withdraw because it becomes -
- you know, and then they act to -- I'm trying to
distinguish between fails to re-approve as opposed to act
to not approve.

MR. MUSSER: And I think you've hit on
the intent there, which is that the one is intended to be
the active withdrawal of the approval. The second one is
the governor did not act, but the approval expired at the
end of the payment -- of the PPA.

MR. MCCOMIS: Maybe that's what you
say. Or at least the governor fails to re-approve the
program and the eligibility or something expired or
something, but that might just be one scenario that
you're looking at, because I think you indicated that
there might be some others that you want to --

MR. MUSSER: Yeah. And it is a little
bit of an ambiguous language because as -- I think --
yeah, as I said earlier the governor doesn't go through
the entire process.

MR. MCCOMIS: And I'm trying to
distinguish this in my head as an accreditor, because we
have to work with the states in our own approval process
of what they approve and don't approve. And so I just
want to make sure I understand that. My last question is
under B when they -- the Secretary determines that the

institution failed to meet the requirements. And so that's under 94. And so that the way I read that is if an institution fails to demonstrate a completion rate or a placement, a job placement rate at 70%, that is the bright line. And there's no process. An institution doesn't have an opportunity to say, hey, that was less than X number of students or, you know, there are some extenuating circumstances. It is a bright line. And then it's kind of -- there's no process like there is in other -- like cohort default rates where you can file an appeal or something like that, or, yeah, gainful employment or something.

MR. MUSSER: So to be clear, there's no Secretary of Education established process. If the state offers a process for a school to challenge its calculation of the placement rate, remember that the state that the governor is doing those calculations then that, that could be a vehicle for this. Our presumption here is that the governor does -- takes all those steps before they certify that the placement rate is what it is for a given year and that we are -- we will act as soon as we learn from the governor that they have failed the placement rate. But we recognize we left this a -- that's partly why we have the time frame different here than the full award year, because we recognize that the Secretary

may learn from the governor at various times during the year that the placement or completion rate has -- that it was failed. And only then -- it's not fair to hold the institution responsible for the period prior to that, before we knew about that and before they were aware of it, because there may be challenges that occur during that period.

MR. MCCOMIS: Okay. So I just want it to be clear then, the Secretary is not necessarily making an independent determination of a failure to meet a graduation or job placement. It is the function of the governor to make those -- collect that data, do the reporting, make the determination, and act or not act according to their own process.

MR. MUSSER: That's exactly right, and we will react to that in using this rule.

MR. MCCOMIS: Thank you.

MR. LALLO: I think we normally frame like what we do as working within the regulatory triad. This is a kind of regulatory polygon. And so we've constructed this, as Dave said, to kind of allow a little bit of wiggle room to, you know, allow institutions to go through this process at the state level.

MR. MCCOMIS: Yeah, I think it's more of a rhombus, but yes, I understand that.

MS. MACK: Matt, please.

MR. FEEHAN: Thank you very much. So I just got a few things here. The Department -- Department's already alluded to liability of overpayment. So as you're probably aware, there's already a pending proposal from my constituency group that we're working on that would have pretty close to consensus now for proposals as to that regulatory language. But I have a concern about student veterans, have seen this across multiple states. There's a very public example of this in California of midway through a program loses eligibility for whatever reason. There's no reason to name names or get into the specifics, but it lost eligibility. What happened was, you know, a good handful of student veterans that were essentially left, like hanging. So they were in the program. They weren't given transparent notice. They weren't given an opportunity to understand about the eligibility. So when the school lost eligibility for whatever reason it was, advocacy groups, etc., the student veterans were the ones who were harmed, one, because they didn't receive the transparent notice. Two, because they trusted that the institution would be giving them the right information. And then three, now they don't have eligibility, the payments don't come through. And then four, which goes back to my original

point and goes back to the original proposal that's with the Department right now is many enrollment agreements try to, I wouldn't say many, I'd say some enrollment agreements try to contract around the regulatory language of shifting institutional liability onto individual liability. So not only are those veterans not able to continue their programs because that school lost its eligibility, but they're also liable for the remainder of the funds because they signed an enrollment agreement that said any and all funds, regardless if it's an institutional or an individual liability, it's going to be on the individual. So on that, I would just -- I look forward to talking to the Department, working with the committee here on the liability of overpayments. And I would consider some form of an off-ramp or, as Jeff mentioned, like a teach-out provision or just some kind of safety net, where if an institution does lose liability, the student veterans and the student service members and their families aren't the ones responsible for the mistake.

MR. MUSSER: All right. Duly noted.

Yeah. Thank you, Matthew.

MS. MACK: Thank you, Matt. Thank you, Dave. Randy, I'm going to go to you.

MR. STAMPER: Thank you very much. I

wanted to ask a couple of clarifying questions about the value-added earnings in the context of losing eligibility because of it. So in the presentation, I believe the gentleman's name was Chance, yesterday presented the regional price parity index numbers. The examples were the state numbers. Is it expected that will be applied, that the state index number will be applied across all programs?

MR. MUSSER: The Department's intent is to take the metric -- the number that is most narrowly applied, meaning there are, there are parities for metropolitan areas as well as states. So if there is a metropolitan area that covers the area where the institution is located, we will use that. If there isn't, we will use the state number.

MR. STAMPER: Okay. And then the amalgamated numbers that are used for clusters of counties, if those are available, they would be used.

MR. MUSSER: That's right.

MR. STAMPER: Okay. Very good. Thank you. Secondly, the regulations state that, and we dived on this a little bit yesterday, that the Secretary will provide the list of the value-added earnings no later than 30 days prior to the beginning of the award year. Yeah, 90 days, three, yeah. In talking with some of the

colleges in, in my state yesterday, they are currently enrolling for classes all the way through August. And in February, most of them will start posting for fall classes. So we're just very concerned about getting a list well past the time that we have issued catalogs and our tuition rates and, and, and becoming ineligible at such a late date. Moreover, in looking at the presentation yesterday, the extremely wide range of value-added earnings from 1200 in one case to 7500 or thereabouts in another, I think would have a significant cooling effect on the interest of submitting programs for consideration. Thank you.

MR. MUSSER: Yeah. So if you guys have alternative proposals for the amount of time, we certainly can look at those.

MS. MACK: Thank you, all. And I've noted the cards. I do have them in order that I saw them going up. Aaron, you're next, please.

MR. LACEY: Just want to walk back through the, the off-ramp if an institution fails to hit the 70/70 requirements, the sort of timing and consequences because I just -- for the record, I -- that is 100% going to happen, right? I mean, and I think that's the big one here. I hope folks saw the spreadsheet the other day. I mean, there's a current eligible program

category already in Title IV that has a 70/70 requirement. I mean, there are 5,500 more or less Title IV institutions in the country, tens of thousands of programs. There are 79 of those programs running right now across all of higher ed in the United States. That is a really hard threshold for institutions to meet. And so I don't even know. You know, it begs the question, how many will decide to come into this? Also, I think schools are going to build this program -- these programs to run really without Workforce Pell. You got to run it for a year without it in the first place, and then you've got this risk of losing eligibility. So I think they're going to build them without Workforce Pell, and then if they can get it for some period, they'll get it. But they're going to have to think of it that way. Otherwise, you build this program, you run it two years, you got 11 students in a cohort, an employer quits hiring people, somebody gets a sick mom, whatever, and you're below 70%. And now you can't run the program. If it's built around Workforce Pell, you have to stop. So I think to mitigate that risk, even the schools that get into this are going to have to build it that way. But just to be clear, good schools with good programs are not going to be able to hit that threshold. It's a really high threshold. So you're going to have a situation for sure where these

programs lose eligibility. And I'm -- you know, like others here, I just want to make sure we understand what that consequence is and exactly how it happens. Now the way I read this, it is the date upon which the Secretary makes the determination as to the outcome's compliance that would -- that there would be a loss of eligibility. I read it says the end of the payment period that begins after the date that the Secretary makes this determination. So my understanding is the most we would be looking at would be two payment periods, right, in one of these programs? Many will be one payment period. And the financial aid folks, you tell me if I'm wrong on this. So what we're saying is, if I'm in the first payment period of a two-payment period program and I've got students, and then we get this determination from the Secretary, we don't lose eligibility until after the end of the subsequent payment period, which means at least at the point at which we get that notification, we should be able to fund everyone through the end of that program. Correct?

MR. MUSSER: So actually, the way Aaron described it is in fact, what we intended. Let me look -- let me go back to the, the exact language here. So the program will become ineligible at the end of the payment period that begins after the date that we make

the determination. So what that means is, yeah, in the two-payment period program, you would have -- if the students are in the first payment period when the determination comes in, then the second payment period would begin, and they would be eligible throughout that payment period. And then at the end of that payment period, eligibility for the program would cease.

MR. LACEY: Yeah. So this is the point

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MR. MUSSER: (inaudible) is the intent.

MR. LACEY: This is a critically important point. You know, I think it's the outcomes metric that's going to bump most programs out of eligibility. And I just want to be clear, there really should not be a scenario where students who are enrolled at the point at which they receive -- a school receives a determination, are not able to complete that program. The impact is going to be on students you've already recruited, so you'll have a recruitment pipeline, and you'll have people who've signed up and are planning to come in. You'll have to call them and tell them, we're not going to have funding. So if you want to do this, we're going to have to do it in an alternative model. But everyone who is enrolled on the date that the Secretary

tells me my program has lost eligibility should be able to complete the program with short-term Pell.

MR. MUSSER: That is precisely the intent. Yeah.

MR. LACEY: Thank you.

MS. MACK: Thank you. Preston's next.

MR. COOPER: Thank you. Just two quick points. So, number one, on the regional price parities, the Bureau of Economic Analysis does produce an estimate for the non-metro areas of states. So in Virginia, that would be everywhere outside the defined MSAs, Richmond, and so forth. So I think that might help address some of the concern about colleges in rural areas, because they will be using the lower regional price parity number for the non-metro area rather than something that includes the metro areas of the state. And then the second point I wanted to make is I just want to reiterate the Department's point that if the, if the program becomes ineligible because of value-added earnings, that is because they raised their tuition above the value-added earnings threshold. That is something that is directly within the, within the institution's control. If they don't want to lose eligibility under that, they can just not raise their tuition. And so I think, you know, that's just important to reiterate there.

MS. MACK: Thank you, Preston. Tamar?

MS. HOFFMAN: Thank you. I'd just like to draw attention to the fact that we've submitted another proposal that I think dovetails well with this, which is restoration of lifetime Pell eligibility in cases where institutions lose eligibility because they are unable to meet the accountability metrics. I think that this is critical because while I'm -- while I understand the perspective that perhaps students don't want to stop their education when a school loses eligibility, the reason they're losing eligibility is because it's not a good program under the accountability standards that the Department has established, and I think that's really important to hold in mind. The last thing that we would want to see is students lose their lifetime Pell eligibility on programs that are not worth the paper that the credential is printed on. And I think that the way to mitigate that is to make sure that students get their Pell eligibility back so that they can enroll in a different program that does meet the Department's requirements.

MR. MUSSER: Yeah, we're still looking at that one. But thank you, Tamar.

MS. MACK: Thank you, Tamar. Jeff, please.

MR. ARTHUR: Yeah, to Aaron's comments, I mean, the scenario where you lose eligibility, okay, it's a program that's probably viable without it. You continue. But there is one scenario where I'm not clear if we have a scenario now that anybody's proposed where an institution could be retroactively liable for Pell Grant funds disbursed other than raising the tuition, because that's just something that, you know, make that knucklehead move. You deserve it. But if there's any other scenario that we're looking at where there would be retroactive liability, we've got a scenario there where just another barrier for this program to moving forward. And if it's because of a metric and you find yourself in a place where, oh, the program, the outcomes didn't meet the requirements and now you're retroactively liable for anything, that's just -- that's going to stop. That's going to stop the program, I think. And, and I don't know if we are there. I'm just making that comment. I can't really tell what's --

MR. MUSSER: And that is -- it really is not our intent to put a school in a situation where they were not aware that their program had failed one of the metrics or that their governor was going to withdraw their approval for the program. It's only after that we

expect that the institution adapt to the situation. And as we -- and we have tried to design these requirements to kick in after a period so that the students who are currently enrolled can get through their program. As you pointed out, the value-added earnings is a very different scenario and the Department has a different view on that, which is why it's a different period.

MR. ARTHUR: And I don't know if anybody else had proposed something that was -- that would cause retroactive liability and -- or if they would end up submitting something like that just to point out what that does.

MR. MUSSER: And just to be clear, the restoration of Pell LEU does not result in liability, for the institution. It's just a restoration of the student's eligibility. And I don't think -- what that would -- the only time that would even be an issue is where the school was continuing to provide Pell Grant funds that was -- that it was perfectly eligible to provide during that period, so the school would not be returning money in that case.

MS. MACK: We have several more cards. Michale, you're next.

MR. MCCOMIS: Thank you. Aaron, to the comment that you were making, and I think Jeff as well.

Some accreditors may be looking at this to say, well, a governor's action to withdraw or failure to approve would also mean that an accreditor would no longer be able to recognize a program as well. As I understood it from Jeff or Dave, I'm sorry, on day one that these are eligible programs and eligible institutions, and therefore they have to meet all the requirements for accreditation. So a program that loses eligibility through because of the governor acting or not acting to not approve the program would be something that would need to be, again, and I think in many instances reported to their accreditor. The reason why I bring that up is from -- the thing in the way that my agency would handle this. I know that I can't say this is universal is, you know, again, the school would have some explaining to do here. And we would want to know, how did you inform students, what did you know, and when did you know it? And what have you told students? And there might be an institutional action that comes out of that, a warning or something along those particular lines. I can't -- again, I can't say that as universal, but I know that there are several agencies that would be at least monitoring that. And again, requiring some reporting on that loss of eligibility and then some follow-up reaction to that. And I -- I'm trying to rack my brain on 602 what Departmental requirements we

have for recognition to follow up on those kinds of things. But that may be something that factors in the equation to get that disclosure, Matt's concern around, you know, what happens midway through and what did students know, and how were they informed? I think accreditation potentially could have a role to play around that.

MS. MACK: Thank you, Michale. Randy, please.

MR. STAMPER: Thank you. Oh, I'm sorry. It's hiding behind my One Big Beautiful water bottle. I want to go back to the price parity, and that was a helpful clarification that the most applicable and appropriate index would be used for the area that the college is residing in. However, on the tuition issue, in many states, Virginia being one, a college does not independently set its tuition. It's handled across the board for all institutions. So the scenario that I am concerned about is that using these varying pricing indexes that one college could potentially at a state-set tuition level, fall into ineligibility, while in another area college could be perfectly eligible for the same, for the same program. That's what I'm trying to think through. And I would welcome, you know, anybody who is interested in trying to come up with a proposal of

language to try to prevent that. Be happy to work on that. Thank you.

MR. MUSSER: And I would just point out here and that, that is something that we thought about. One of the things that we're hopeful about is given that there is some lead time built in, given the way that we've designed value-added earnings process, that states will recognize that this is an issue. These programs are unique in a way that others are not in that they have a Federal government-established limit on published tuition and fees, that could run counter to existing processes for price setting within states. But the Department is -- we're still, you know, required to abide by the results of the value-added earnings calculations, which are program level. We don't -- that's the only constraint I want to put on, you know, any proposals is that we can't, you know, make institution-wide changes, anything like that. It has to be program by program.

MS. MACK: Matt, please.

MR. FEEHAN: I just wanted to second my colleague's concerns about restoring eligibility. It's really important for student veterans and student service members. It's happened before. If a program loses eligibility, that should be a count towards the

institution and not the student. The student veterans shouldn't suffer for, you know, whatever ended up happening to cause that loss of eligibility. So I second that for restoring eligibility. And then again, I just raise that I think a lot of this, in responding to my colleague Aaron's concerns, a lot of this can be handled with transparency and disclosures through mandatory disclosures. So as long as the student veterans and the student service members are armed with information, they can do a lot with that. And we don't have to go so far into the weeds of now, what do we do with this program, are we doing teach-out? And, and one factor to -- I'd like to add and clarify as well is for student service and student veterans, they're not traditional students in the sense that they may not be in one state. So my constituency group moves around a lot and they're in different states at all times, very often very different countries at times. So for the, the loss of eligibility piece, there needs to be strong disclosures so they're fully aware even if they're not in the same state. And then two, they're -- even though -- even if there is a provision where the, the Department sees this as being fully funded through their second payment period, they may -- that may not be as neat as we're talking at the field level, where these student veterans may be going to

different institutions in different states. And that's all I wanted to say on that point.

MR. MUSSER: Thank you, Matthew.

MS. MACK: We have two more. I would note the time, we're almost at 11:00, so it may be a good time to either segue into the second section or take a break quickly. So maybe we get a couple more. And then Dave, I'll go to you for your preference on that. Aaron, please.

MR. LACEY: I'll be quick. I mean, I -
- my only comment is there might be some opportunity to clarify here that in the value-added earnings, we are talking about the release of the most recent value-added earnings. And then, you know, obviously, I don't know if this is something to clarify in the regulations, but certainly it would be beneficial to institutions if the Department is not releasing those the day before the award year or something like that, right? I mean, just to give them -- it shouldn't take long. I mean, a school should be able to process this and make the adjustment. Totally get it. But I would just hate for them to be, you know, in a situation where you had like four days to review this data and try to understand it and make a change or whatever. And sometimes the Department, you know, its cycles can differ right from one year to the

next. So I don't know if there's a way. I'm not trying to like -- schools need to make the change. I'm not -- I don't have a problem with that. I just want to make sure they have some reasonable amount of time to do it.

MR. MUSSER: I appreciate that, Aaron. And we recognize that there is a time frame needed for schools to adapt to that, to the change, and to prepare. That's -- we don't like to -- I'll just say this on the record because I know everyone knows it's true, but the Department does not like to regulate itself if we don't have to, but we felt it was appropriate here to hold ourselves to the standard of at least three months. Obviously, if you guys think that that's not the right number, you know, you can submit proposals on that front. But we, we are holding ourselves to a standard of getting this to schools with some time to prepare for the following award year.

MS. MACK: Jeff, please.

MR. ARTHUR: You know, in appreciation of Michale's astute observation, besides just accreditation reactions, I mean, those -- these kind of actions get reported to every one of your approving agencies generally. And it certainly -- I think it's a trigger for a financial responsibility. It's one of the triggering events for financial responsibility

requirements. You are going to have a lot of agencies. You're going to have a lot of questions besides your creditor. So it's a big deal. I mean, it is what it is. You lose eligibility. That's the way the rules work. But just to point out that there is an impact there or a consideration that's going to be factored into something that may be relatively minor, but you're going to put a lot of work into explaining that.

MS. MACK: Thank you, Jeff. Dave, would you like to go to the next section or take a quick break?

MR. MUSSER: I think we can take a break. Ten minutes.

MS. MACK: Ten minutes. Let's come back in ten. Thank you, everyone. Welcome back from that very quick break, everyone. We're going to dive back into topic seven. So I will turn it over to Dave momentarily. But I did want to note that the corrected language that we asked about and inquired about earlier this morning should have hit your inboxes a little bit earlier, so please check for that. Dave, back to you.

MR. MUSSER: All right. Thank you, Kayla. We'll go through the remaining section under this topic 690.97, regaining eligibility. And so we'll go ahead and put that up on the screen. Thank you, Aaron.

All right. So we just talked about losing eligibility. So the obvious question once a program has lost eligibility, what does it have to do to regain eligibility? So we have a new section here, 34 CFR 690.97, regaining eligibility. The section that we're proposing is about cases where a program has lost eligibility due to one of the requirements in the subpart and how it can regain eligibility once that happens. So first paragraph (a) if an eligible workforce program loses eligibility based on failure of completion or placement rates under 34 CFR 690.94(a)(2), or the institution voluntarily discontinues a failing eligible workforce program -- and I want to call this out here -- what we're talking about here is a case where the program has failed the completion or placement rates, and the institution quickly discontinues it before the Secretary is -- actually imposes the loss of eligibility on the program. And as we talked about earlier, there is a period between the Secretary's determination that the completion replacement rates have been failed and the loss of eligibility itself. So an institution can't get out of this just by discontinuing the program before the end of the payment period that begins following the determination. But at any rate, so this is a situation where the program has failed or it's been discontinued because of failing or just after

failing. The institution may not seek to reestablish the eligibility of the failing program or to establish eligibility for a substantially similar program sharing the same four-digit CIP code, Classification of Instructional Programs code, until two years following the earlier of the date the program loses eligibility under 34 CFR 690.96(b), the prior section, or the date that the institution voluntarily discontinues the failing workforce program. (b) if an eligible workforce program loses eligibility due to a lack of governor approval, the program may reestablish eligibility after the Secretary receives the governor's certification that the program has been approved, as provided under 34 CFR 690.93(c), and under (c), if an eligible workforce program loses eligibility because its published tuition is higher than its value-added earnings, the institution may, through a process described by the Secretary, request that the program's eligibility be reinstated by (1) providing to the Secretary a new certification of the governor's approval of the program that addresses how the institution complies with the value-added earnings requirement, (2) submitting to the Secretary documentation of the program's current published tuition and fees, and an attestation that the tuition and fees will remain equal to or less than the program's

recalculated value-added earnings, and (3) requesting a recalculation of the program's value-added earnings that will apply to the next award year, and I will pause for questions and discussion.

MS. MACK: Thank you, Dave. Let's invite comments and questions. Eric, we'll get started with you.

MR. ATCHISON: Thank you, Dave. I'm pleased with this language overall, but I did have two questions. First, under the language substantially similar eligible workforce program. How is that determined exactly? And who determines the substantial similarities?

MR. MUSSER: So the Secretary determines it. It is outlined here partly, and I can see the confusion because it's not necessarily intuitively obvious what we mean here. But keep in mind that every program is associated with a Classification of Instructional Program code, CIP code. Each program is associated with a six-digit CIP code that the Department, in other contexts, and by this, I'm really referring to the financial value transparency and gainful employment regulations, has established some similar regulations to the one -- to this one under 690.97(a) where if a program fails, one of the accountability metrics that's been

established, the institution cannot turn around and reestablish eligibility for a program that is very similar to the one that lost eligibility because essentially that is avoiding the consequences of the failure. So to do that, to determine what the concept of substantially similar means, essentially the Department just goes up one or two digits in the CIP code. So any program that, that shares the four-digit CIP code with the one that lost eligibility could not become eligible during the limitation period under this, under this requirement. That's how we determine what programs are substantially similar.

MR. ATCHISON: Just to ask a little bit more clarification, if there are other eligible programs within that four-digit CIP code, do they automatically lose eligibility then?

MR. MUSSER: So they, they do not because they are being subject to all of the metrics anyway. So if they also lose eligibility, then this would kick in again for the -- for programs at the -- at this four-digit level as well. But the other programs don't automatically lose eligibility because, because another program did. This is preventing new programs from being -
- becoming eligible.

MR. ATCHISON: Within the four digit -

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MR. MUSSER: Within the four-digit range.

MR. ATCHISON: Thank you for that clarity. My second question is really just getting at how institutions proactively manage their own curriculum through creating inactivations, for example, where an active program becomes inactivated so that they can go back and do redesigns and talk with the faculty to ensure that they're providing the students the curriculum that they need. I just want to go on the record, if you don't mind, get clarity that a program that is inactivated at the institution but still otherwise eligible for Workforce Pell would not be underneath this two-year window of unable to provide if it continues to make progress or at least pass the tests that have been put forward.

MR. MUSSER: Yeah, that -- that's correct. The language here says that it cannot establish eligibility for a substantially similar eligible workforce program, sharing the same four-digit ZIP code. Other types of programs are not covered by this.

MR. ATCHISON: Thank you.

MS. MACK: Thank you, Eric. Michale, we'll go to you next.

MR. MCCOMIS: So if an eligible program loses its eligibility because of the, the completion and placement rates, is there not a requirement that the governor will have withdrawn eligibility for that purpose under 690.94? Does that process require ongoing governor approval, and as a contingency of that ongoing approval, the graduation and placement rate?

MR. MUSSER: I want to make sure I understand the question. So the program has lost eligibility because it's failed the completion replacement rate. It's seeking to regain eligibility. Are you asking whether they need the governor approval to regain eligibility?

MR. MCCOMIS: No. It's -- if an eligible workforce program loses eligibility from the governor, is that correct? Is that what we're referring to in 97?

MR. MUSSER: 97 includes several different --

MR. MCCOMIS: The one that if an eligible workforce program loses eligibility based on failure of completion and placement rates under 6994A2, that's the governor's approval process, so --

MR. MUSSER: No, so that's the --

technically --

MR. MCCOMIS: I'm sorry.

MR. MUSSER: That's the Secretary.

MR. MCCOMIS: Yes. Yeah. So that's why I asked that question earlier about who is making the determination on completion and placement, because this appears to say that the Secretary is now going to make a determination of eligibility based on that.

MR. MUSSER: Yeah. So the reason that we pointed to the Secretary here is that there is -- although the Secretary is relying on the state to certify that the placement -- the completion and placement rates are successful, there is a -- we talked about this a little bit in the last section. There is a -- potentially a period during which the state may have made this determination. Maybe there's a process for appeal, etc., the state has to inform the Department about this, and then the law specifically gives the Department the authority to say yes or no about the completion and placement rates. So although the Department is relying on data from the state to make this determination, it is ultimately the Secretary's determination, so that's the legal construction here.

MR. MCCOMIS: Got it. And so could (a) not be a subset of (b), meaning you could lose your

governor approval based upon the completion or placement rate being below the, the threshold that the governor has determined as well? Because there -- is there not a requirement that governor approval requires that completion and placement rate? Or just that there's a process?

MR. MUSSER: There's -- it's really just that there's a process. If you look at 93 specifically, it doesn't say that the governor had conditions -- their approval on the completion and placement rate. Just, just that there -- yes, just that they approve broadly and that they have that process. The completion and placement rate is that we are requiring that they provide that information to the Department, and we make the final determination about the completion and placement rates. But technically, the governor could still be approving the program under all of its other conditions.

MR. MCCOMIS: Okay. Thank you for clarifying that for me. So then I only have one other very small suggestion, which is under 690.97(b), if an eligible workforce program loses eligibility due to a loss of governor approval, as opposed to maybe a lack of and again, it aligns with the actions above that are described, that they, in fact, lost it.

MR. MUSSER: Yeah, that's reasonable. If you want to send us an email to get that added.

MS. MACK: Thank you, Michale. Kristin, you're next.

MS. HULTQUIST: Thank you. I appreciate all the context you're providing to us negotiators about how you envision interacting with states. Can you share a little bit more about how you envision 690.96 and 97, which speaks to in loss of eligibility due to placement rates? And how you see that interacting with the waiver authority that the Secretary retains in 690.94(c), which is with good explanation from the state, we can waive accountability for placement?

MR. MUSSER: So it's not a waiver of the placement rate itself. It's a waiver of the use of the more specific and less flexible rate that is provided for award years beginning after the '27-'28 award year. The state still -- there's no waiver of the requirement. They would, they would just have -- they would be subject to the more flexible definition of an individual who is employed under the waiver so that all of that would still apply in this context.

MS. MACK: Thank you, Kristin. Thank you, Dave. Preston, please.

MR. COOPER: Thank you very much for

this language. I think it's very strong. I did have one note on section B of this section. It reads to me as if a bit like the -- that if an eligible workforce program loses eligibility, they could regain eligibility solely with the approval of the governor and not with the Secretary. So we actually submitted some -- just proposed clarifying language, clarifying that the Secretary would also have to reapprove the program.

MR. MUSSER: Okay. Yeah. Thank you. We'll take a look at that.

MS. MACK: Thank you, Preston. Randy, you have the floor.

MR. STAMPER: Thank you. I want to revisit the question that Michale asked about the governor having the approval of the program and then the Secretary receives information from the program about completion rates. So the -- is the governor -- but the governor is submitting a list of approved programs? Could the, could the governor not wrap up all of those criteria in a single submission, including the completion rates and the employment rates?

MR. MUSSER: The governor can -- if the governor chose to condition its approval on the completion and placement rates, which in fact, I expect many governors will, they have -- they absolutely have

that ability that -- there are all of these conditions for approval, but the governor may have its own, you know, requirements outside of these provisions. If in that case, yeah -- that if they withdrew their approval, it would result in this. But the -- there is a reason for the legal construction here that I mentioned. It's because the, the -- if the governor chooses to do that, number one, we would expect that we would get that information. I think you might be pointing out a situation where the governor decides to withdraw its approval, but that the school should still be -- the program should still be subject to the limitation, because that could happen. I guess I could see that happening where the governor takes action to say we withdraw because we see some problems. But we -- but the Secretary hasn't been informed yet, so we haven't withdrawn the eligibility for the program. We can do some thinking about that. Ultimately, you know, it's our intent that the Secretary has a lot more authority when we are the ones withdrawing our approval. So that's why the limitation applies in that situation.

MR. STAMPER: All right. And then and then a couple of other sort of related. So, outside of A, on B if a program loses eligibility because a lack of governor approval, whether that is based on a governor's

decision or missing a deadline or whatever it may be, does that two-year eligibility window still apply? Or is that just for A?

MR. MUSSER: That's just for A. The governor, the governor may have its own period of ineligibility, but we leave that to the state to decide how, how long they want to leave the program unapproved.

MR. STAMPER: Okay. And then back to Eric's point, too. So workforce programs, because of the nature of being short and aligned to specific regional needs, demand is cyclical in many places, so if a program is approved and it runs for two or three years and it's hitting all its marks and it's great, but then it goes dormant because demand is -- has dropped off, it will not be penalized for a dormant year with no outcomes, would it?

MR. MUSSER: Generally speaking, if the program's not being offered at all, it's not considered an eligible program. But we might have to take a look at that from, from FSA's perspective, because we don't have insight necessarily when a program -- school hasn't told us that the program has ceased operation, and yet it's still on the -- on our list as an eligible program. I think what would happen if they did that, if they didn't tell us is that they would end up failing the

metric because that -- we wouldn't have -- they wouldn't be able to show that they have a 70% completion rate if there are no students to do that. I think you're raising an interesting point about the calculation of the placement rates. You know, I don't think we want to dissuade schools from saying the economy doesn't look good for this program. We want to stop offering it for a little while. And we might just have to operationally tell the school, okay, you better tell us about that then, because you're going to fail. I think that's probably our preference. I'll have to talk to my FSA colleagues about it. But I think we don't have much choice if they can't show that they've met the completion and placement rates, and it's still an eligible program, they fail. And there's really no way around that. But if they choose -- I think you're right that if they choose to cease offering the program, I don't think we would want to hold them responsible for that. That's a decision that we would support.

MR. LACEY: So yeah. And just to further the example, the phrase that we use is a program will go dormant. So it's -- it has demand. It serves demand. The demand drops off for a year or two, but we don't take it off the books or remove it from state board approval, because the demand will come back and we want

to be able to fire it up again. So in that case, for a year or two, maybe in your calculation, your numerator and denominator would both be zero. It just simply wouldn't be there.

MR. MUSSER: If you guys are willing to do a little bit of thinking about what that program dormancy looks like for you guys and how -- if you think that there is a place for it in the regulatory language, we'd be open to a suggestion. Otherwise, we will try to think of a way to deal with it operationally, as I just mentioned. So if you can't think of anything, that's okay, that's one proposal we won't have to look at. But if you do have one, we're interested.

MR. STAMPER: Thank you very much.

MS. MACK: Thank you, Randy. David, please.

MR. KAFAFIAN: Thank you very much for being so thoughtful on this. I just wanted to confirm, where did the Department determine the statute was pointing, as it related to assigning four digits and two years as the kind of guideposts for restating eligibility?

MR. MUSSER: So I want to make -- I don't want to speak for Jake here, but in other contexts, we have asserted authority to prevent gaming over

regulatory or statutory requirements. Essentially as a way of ensuring that the spirit of the rule is being followed. But, Jake, you want to say more about that from a legal perspective?

MR. LALLO: Yeah, I think that's, in essence, what -- the same way I would put it. You know, we don't want to create revolving doors to allow bad programs to come back in. And, you know, as we've established, you know, there's a lot of leeway for programs here, right? There's the job and completion rate thing, which is a, you know, a barrier, but it's a year-long barrier. And then value-added earnings is three years. We don't want schools immediately getting tossed out and then coming back in and then getting to restart those clocks, if you know, if they're not going to meet those metrics. And the way to do that is to, you know, ensure that these time frames actually put them out long enough that they have to fix whatever is wrong or, you know, have go back to the drawing board within their own states. And as Dave said, we do that elsewhere in regs, too. You know, we sometimes hold losses of eligibility for a longer period of time, depending on what it's for. Certainly, there are separate provisions for termination and suspension if there's, you know, actual like, misrepresentation or malfeasance, but even where, you

know, something is just flawed with a program, this kind of provides a basis or time for them to fix it and then ensures that it can't be abused.

MR. KAFAFIAN: So I want to be totally unambiguous. I fully align with every one of those goals. And frankly, the collective set of accountability goals that Congress laid out here. I don't want any of the things you just said. I also want to be clear that, like, the big picture is that Congress is looking to address in-demand fields, that we do have labor market shortages, and we do need providers to stand up programs quickly that meet the needs. And so we've talked a few times here about rural programs, sampling, small in sizes, all of those things to compounding with that, paired with the presentation we saw, which is just how few programs are going to be eligible based on, frankly, the very tight Venn diagram that Congress has drawn for us around placement completion, program duration, earnings. My stipulation is like, practically speaking, a four-digit code like 5108 for Allied Health catches, anesthesiology techs, speech language pathologists, PT, many roles that are, frankly, extremely different. And I think we're cutting ourselves off meaningfully from providers being able to build these programs in a way that's responsive to the workforce. If we set it at four digits, not six

digits, we've done six digits elsewhere in this statute in the reg text associated with VA. And if we set it as a two-year barrier, I think I could get on board with one or the other theoretically, but doing both really hampstrings the program's ability to be responsive to labor.

MS. MACK: Thank you, David. Jeff, did you want to speak on this?

MR. ANDRADE: I would agree with you to the extent in terms of standing up new programs and meeting in-demand needs. But I think given how wide the governor's discretion is in terms of designations, our assumption, and I think the correct assumption in this, is that those are fairly wide sets of programs across the economic needs. And so we wouldn't expect that they'll be so narrowly defined that they wouldn't fit within sort of the framework that we've established. I understand, like, you know, you're talking about there's -- there are specific fields, but our expectation is that the governors are -- because they're limited in terms of the scope of what they can designate as high, as high demand, are not -- are going to go with the ones that have fairly large potential clients.

MR. KAFAFIAN: Yeah. I think to that point, I agree with what the governor's initial

designation will be. My concern is that a given school will stand up an SLP program, and that might have a 69.2% placement rate for a given year. And then all of a sudden, we're wiping out their ability to offer PT, OT, and plenty of other fields that are relevant and pertinent within the broader four-digit categorization that the governor may have made. And I may be misunderstanding the mechanics of how you all are thinking about it, but that scenario seems extremely problematic and frankly, antithetical to what Congress's big picture goal was here. So I just would love to work together on how do we clarify that? I agree, big picture, what the governor will set up as in demand. I just want to make sure that we're not setting up exactly what you said, revolving doors, and also not setting up a capacity where, you know, we take providers who are good providers otherwise off the board, because a program with a six-digit designation wipes out their capacity to serve any of the four-digits that the governor was caring about.

MS. MACK: Thank you, David. any final words before I move on? Okay. Aaron, please.

MR. LACEY: Yeah, I'm actually on the same topic. I understand the gaming concern, and I think it is different in those other contexts, which I'm sure we will have opportunity to discuss at some point in the

future. But here, it seems to me that the risk scenario is very different because of what's required for programs to become eligible to participate. So let's say I've got a program that loses eligibility, right? When you talk about substantially similar programs, those are different programs by definition. Right? I mean, we've -- this is a program -- I mean, the whole thing is supposed to be a program-specific concept accountability framework. And what we're talking about is holding potentially other programs, different six-digit CIP codes accountable, right? But if, if you have a program that loses eligibility, in order for an institution to launch a substantially similar program, first of all, it's got to run that program for a year. And it also has to demonstrate that the program can meet the 70/70 requirements, and the governor has to approve that program. So, you know, the reasons program A would have lost eligibility, presumably is because the governor disapproved the program or it didn't satisfy 70/70. And now I've got a substantially similar program, which is a separate program that has been approved by the governor, and that has established that, for whatever reason, it is different enough from the program that lost eligibility that it is able to meet the 70/70 requirements before you ever approve it in the first place. In addition to that,

the Department has these programs on a pretty short leash. If for some reason, after that substantially similar program is approved, it fails to meet the 70/70, I mean, it's every award year that that's determined, right? So the worst case scenario is you have an award year -- and remember, it's already demonstrated it can meet 70/70. So there's reason to believe that it will continue to do so. But if things went south for this substantially similar program, you have a short leash to pull it down. The governor could discontinue approval of it, and it's going to be subject to value-added earnings. In that other context that you referred to, none of that is the case necessarily, right? You've got state authorization, but it's very different. But here, these substantially similar programs have to establish that they can satisfy these thresholds on their own two feet before they can even gain eligibility in the first place. So I think the -- I mean, you're not gaming the system if you're rolling out a program and showing before you ever get a drop of Pell, a dollar Pell, that you can meet all of these requirements. I think in that case, the school has demonstrated that whatever it is about this, that makes it different from program A, even if it's substantially similar, it is different enough that it can satisfy all of these requirements. So, I -- you know,

given the concern around labor, the fact that this is not in statute, there's nothing in statute that directs the Department do this and that this -- there's such a barrier to entry for a substantially similar program to establish itself. I mean, it's basically got to demonstrate quality. I encourage you guys to rethink this concept in this context. Thank you.

MR. MUSSER: And so if we've got multiple folks who feel the same way, we'd encourage you to get together and submit a proposal. I would say that the Department does have a fairly hard line about preventing gaming. So there has to be some mechanism for doing that. And we know that, you know, schools will try to set up very similar programs if they if they lose eligibility otherwise. But within that, we're open to your suggestions.

MS. MACK: Jeff, did you want to speak on this, too? Okay, I'll move on then. Eric, please.

MR. ATCHISON: Thank you. Just to go back to the one year of operations, right? Does a institution have to offer a program for another full year after they lose eligibility in order to regain eligibility?

MR. MUSSER: Yes. That's right.

MR. ATCHISON: And if an institution

decides voluntarily to not offer the program like we discussed earlier, inactive or dormant, does that same requirement exist?

MR. MUSSER: So, that's something that is -- yeah, it's not quite clear right now. And I think we -- a little bit more work does need to be done on that to, to get it quite right. So I can't answer that. You know, in every -- in most other contexts, if a school suspends operation of a program for a full year, they would have to operate it for another full year and regain eligibility. That's what has happened in other contexts. I can understand the concerns about that in this context, however. So I just think we probably need to do a little bit of thinking about how that's going to work, and we will take that back.

MR. ATCHISON: Thank you. And just to note that there's not language about initial approval and subsequent approval post, you know, reviewing the requirements and that sort of thing, and the language, so I just wanted to ask. Thank you.

MS. MACK: Thank you, Eric. Thank you, Dave. Rachael, I want to check in with you. I know you were patiently waiting, went down. Are you okay?

MS. STEPHENS PARKER: I think I'm okay for now. Thank you.

MS. MACK: Thank you very much. I'm going to go to Tamar, and then Michale.

MS. HOFFMAN: Thank you. I just wanted to thank the Department for this position. I think that we would echo the Department's current position as well, that in a case where a program is inactive, we believe that it has to go back through the eligibility requirements. We're also very concerned about gaming. We also, given how much this program is specifically intended to be responsive to workforce needs under congressional intent, we think that just allowing programs to reactivate would completely sidestep that intention, and we're very concerned about that.

MR. MUSSER: Thank you, Tamar.

MS. MACK: Thank you, Tamar. Michale, you have the floor.

MR. MCCOMIS: Again, I'm sorry if I'm being obtuse on this. So what happens when -- because there is an allowance for actually not just an allowance, but an expectation and a requirement for an appeal process, under six 90.93B3 in a process for an institution to appeal the governor's determination. And so what happens if a program is in an appeal process, but it is reporting a graduation and job placement rate that is below the 70%. And those two things are happening

concurrently. So the governor has not, in fact, made a final determination of either the accuracy of those or if that's, if that's being appealed by the institution. So what status then would that -- I'm just I'm trying to understand when the Secretary is going to make that determination relative to approval by the governor and otherwise eligible.

MR. MUSSER: Great question. So under the current amendatory text, what we would anticipate is that the -- we would not make a determination until the state had undergone all of the appeals that are required and then provided us with a final value. We do not anticipate and we need -- we would need to make this very clear to our state governor partners, that they would give us a rate that the school had not had an opportunity to appeal. So, for example, if they say, here's your rate, you have 15 days to appeal, if it gets past the 15-day period, they could give it to us. Right? If it -- if they -- if within that 15 days, the school appeals, we would not want them to give us the rate because it's not final at that point. They are still within their appeal process. That is what's contemplated under this text. And if -- you know, that could be problematic in its own way. But that's what we currently contemplate.

MR. MCCOMIS: And given that, would

the Department be open to something like based on the governor's final determination of failure of graduation and placement rates, or is that --?

MR. MUSSER: And where do you have in mind that that --?

MR. MCCOMIS: 690.97, if an eligible workforce program loses eligibility based on the governor's final determination maybe?

MR. MUSSER: If we add it there, I think we probably should find some other places that it belongs. So if you do want to submit that recommendation, I would just encourage that you there may be other places in the loss of eligibility section, as well as the Secretary determination section, where that also is appropriate. Thank you, Michale.

MS. MACK: Thank you, Michale.
Kristin, please.

MS. HULTQUIST: May I ask, there are two questions the public sector has that don't fit here, that kind of go back and they kind of cross a couple places. Where's the right time for me to seek understanding on that?

MR. MUSSER: So we actually -- we plan to, in fact, probably when we come back from lunch, we plan to open up the floor for comments on any section

before we go into pulse checks.

MS. HULTQUIST: Thank you.

MS. MACK: How would you like to proceed? We are just under 20 minutes till the lunch time. Given that was our plan, are we wanting to jump into that now or -- Tamar, you changed my, my speaking points. Absolutely. Perfect time for it. Please, Tamar.

MS. HOFFMAN: I'm so sorry. I just -- as I'm sort of processing and thinking more, I just wanted to ask, under the reinstatement provisions, can you give us maybe a little bit of a clearer idea about how quickly a program could be reinstated? We're just trying to get a better sense of sort of how this works in practice. Thanks. And sorry to keep everybody.

MS. MACK: No need to apologize.

MR. MUSSER: No, that's fine. Yeah, sure. What -- under what conditions are you asking about?

MS. HOFFMAN: So if a program loses eligibility and needs to regain eligibility, like, how long do we think that takes?

MR. MUSSER: You mean in terms of -- yeah, so the -- assuming all of these things are happening, what would the process actually look like when they come back into eligibility? You know, it -- the -- in the first one, they have failed their completion and

placement rates. They've had to be out at least two years before they can regain eligibility. Generally speaking, what the Department does in those circumstances is it simply won't accept the application until the two-year period has elapsed. So then that -- then the Department would need to evaluate the application, which will require that we evaluate all the documentation. That's probably going to take at least a month or so. But then at that point, the program could get back into operation, if it was operating for that year, for one year without Title IV eligibility and met all the other requirements. Yep.

MS. MACK: Return to the question.

MR. MUSSER: Given that we've got only about 15 minutes until, until noon. I don't think that we can get through a whole lot. Let's say, if -- I think folks might have a couple of things that they want to talk about. If you think you can -- if you think we have a topic that we can chat through in about 15 minutes, I would -- I think it's okay to open up the floor for some comments. But that's the parameters, because we've only got a few minutes.

MS. MACK: I promise to take us to lunch on time. Matt?

MR. FEEHAN: I hope I'm not making a

bad assumption here, but I'm pretty sure we can do this in 15 minutes. It's just the liability for overpayment. And I noticed that the Department sent out an alternative proposal from student veterans where it's just a simple red line to be added. But I was hoping we could talk about the, the processes and procedures by which overpayment of Pell Grant occurs.

MR. MUSSER: Sure. So, yeah, what, what specifically are you interested in discussing about the overpayment procedures?

MR. FEEHAN: So the alternative proposal would just add in the current Department's draft language just at the very end, for example, saying reduce the non-Federal grant scholarship assistance until it does not equal or exceed the student's cost of attendance, and then add in there pursuant to section 690.79 liability for and recovery of Federal Pell Grant overpayments. So essentially tying the Department back to its own procedures for recovery of overpayments.

MR. MUSSER: Let me take a quick look at the language, one second. Yeah, so I guess the first thing I would say is in the changes that you're proposing for one, the -- reducing the Federal -- non-Federal grant or scholarship assistance is -- it's not something that is associated with overpayment. The return of Federal

Pell Grant funds is, and I think we're open to making a change there that if you think it's worthwhile, but reducing the non-Federal grant or scholarship assistance, we don't have any authority over exactly how they do that or under what conditions. It's -- our authority comes in when they -- if they don't do that, then the school is required to return the Pell Grant.

MR. FEEHAN: Yeah, in that case, then it's probably not going to be for 15 minutes. So that -- subsection two for pursuant to 679, if the Department's amicable to that, then that's problem solved. But that was actually kind of my point in the original proposal that I put out to the Department is that I just don't see practically how the Department's going to enforce non-Federal aid from a practicality standpoint.

MR. MUSSER: Okay. Give us one second to take a quick look at 79 to see the relationship. One second. This is -- this would apply anyway. So we're perfectly happy to add it in that section.

MR. FEEHAN: That's wonderful news.
Thank you.

MR. MUSSER: Sure.

MS. MACK: Thank you, Matt. Thank you, Dave. Kristin, I had you next.

MS. HULTQUIST: Thank you. I have a --

just a bundle of clarification questions around how SAP will be applied to Workforce Pell. Will we -- will students be allowed to attend part-time or less than part-time intensity? Can they -- you know, can eligible - - can learning occur over more than one semester? Those - - that bucket of questions is just not clear to me.

MR. MUSSER: So yeah, we talked about this briefly before, and it's -- we talked about it, we've talked about it internally a fair amount, because you're right, satisfactory academic progress as it's designed is a little bit of a square peg in a round hole here. It's the statutory design. And to be frank, a regulatory design of the policy is really intended to address longer programs where the student has more time to demonstrate that they are making satisfactory progress. There are some applications of the rules as they are currently written that would apply here. For example, especially in clock-hour programs, if that progress is measured in calendar time. So keep in mind that programs are designed to have a certain number of weeks of instructional time. That may not be the amount of time it takes an individual to actually complete the program, and especially in a clock-hour program. If a student fails to demonstrate that they have -- that they've successfully completed the material, they could

be stuck in a particular course for a period of time. That requirement ultimately will kick in based on the calendar time calculation that the school does. And the student would ultimately lose eligibility at that point. There are some other applications. I think Jeff may have a couple more as well.

MR. ANDRADE: Yeah. So the -- I mean, definitely the 150%. I think that's probably the most universal in terms of setting a, a maximum time frame. I think the interim qualitative standards become a little bit more challenging under it. But you would still assume a progression within any program. So there should be some checkpoints along the way.

MR. MUSSER: And I would just -- I would reiterate that although there may only be one payment period in a program for a term-based program, you know, if you're offering this as in clock hours or as a non-term program, you're going to have two payment periods, at least under the current rules. And the school has the ability to evaluate satisfactory progress after each payment period. And they have the ability to enforce that. They don't have to, so there are going to be cases where schools choose not to check for satisfactory progress more than once annually. And if they do that, then there won't be a satisfactory academic progress

check. To be frank, the Department's view on this is that the current requirements, they have an impact, and where they have an impact, it's appropriate. There are lots of other measures that, that are in place to look at how well you know, the students are doing after they graduate. And there's even a completion rate to ensure that students are completing the program within a specific amount of time. So we feel that those are sufficient.

MS. MACK: Thank you. David?

MR. KAFAFIAN: I sure hope that I'm not mis-evaluating how long this will take. Probably the -- one of the most substantial decisions that the Department's made was shared on the first day around the idea that Congress was not seeking to set up a new Workforce Pell product, but instead apply the existing product to a new type of program. In doing that, it kind of runs us into the decision, the de facto decision of probation. Things like that really reduce, as we saw on the screen, the number of dollars that students can possibly get for these programs. My instinct is the Department likely does have a statutory reason there. I missed that, certainly when I came into the room or when I think back six months, my understanding was that Congress's intent was hopefully to fund the full cost of

one of these programs because they are naturally shorter and there are tuition constraints. But if you could add some clarity there, I think that'd be really helpful.

MR. MUSSER: Sure. So if you look at the statute specifically, so here we're looking at section 83002 of the One Big Beautiful Bill Act. It amends section 401 of the Higher Education Act and it adds a K for Workforce Pell Grant program. So some commentators believe that because it's called Workforce Pell Grant Program, that it needs to be a standalone program. We don't interpret it that way primarily for -- because of a very specific provision in -- under K3. Terms and conditions of awards. The Secretary shall award Workforce Pell Grants under this subsection in the same manner and with the same terms and conditions as the Secretary awards Pell grants under the section, with a couple of exceptions. There was that -- the eligible -- work for eligible program language. And they also -- one of the exceptions is that the, the Congress specifically acknowledged that there were likely to be cases where the payments made to students were sufficiently small that they could go under the minimum Pell Grant that's normally established for Pell under which you -- you're not eligible for Pell and they wanted to ensure under that provision that's under C under 3, that students

remained eligible. So in our view, the statutory language is fairly clear that the Pell Grant program and all of its conditions still applies here. And not only that, the Department has a framework for providing Pell under those conditions that would, would need significant changes if we treated this as a separate grant program. We don't think that was the intent of Congress. And frankly, we don't think that that's a good idea here.

MS. MACK: Jeff, do you want to speak on that? I meant that Jeff, but understood as well.

MR. ANDRADE: I think the other thing to keep in mind, and one of the reasons why we try to be so tightly integrated with our colleagues at Labor is that in some instances, you may see a combination of Workforce Pell and WIOA as last dollar. And particularly in some of the longer programs in healthcare in particular, I think would be a group that would, that would apply. So again, that's always the possibility. There's not an expectation that this will cover the full cost of the program in all cases.

MR. KAFAFIAN: Incredibly helpful. Thank you all. I appreciate how thoughtful you've been on this.

MS. MACK: Thank you. Aaron? We have about five minutes.

MR. LACEY: I will take less than three.

MS. MACK: Yes, you will.

MR. LACEY: Thinking about online programs for a second. We've not talked a lot about that. I just want to clarify the regulatory framework here. So Workforce Pell programs state authorized, accredited, if I'm beaming them across state lines, and enrolling a student physically located in another state, got to be some sort of reciprocity or otherwise I have to be authorized there in that other state just to operate there pursuant to sort of standard state authorization framework. If I've got a program leading a professional licensure, I'm also dealing with the professional licensure regulations, right, which could be applicable here. I've got the governor in my home state where the institution is located going through this process that we've outlined. I want to confirm that there is not an expectation that if I'm in Alabama and I have a student in Oregon, that I'm also having my workforce eligibility program go through the entire process with the governor of Oregon as well.

MR. MUSSER: So that is the case under the current amendatory language. However, I want to point out that we've received some proposals that would amend

what's in the current amendatory text and would impose, we think, more substantial requirements for the review of other states. So the Department is actually -- we've been talking about this particular issue over the past day or so. And after lunch, I think we'd like to call a caucus of the most interested parties on this topic to talk through what we think are some fairly significant disagreements, to try to see if we can come to an agreement on how to approach this because, just back to your point, again, as it's currently written, authorization is what's required to offer the program across state lines, and authorization can be handled through reciprocity. The, the approval process for the eligible workforce program is handled by the governor of the state in which the institution is located, and the amendatory text does not provide for other governors' involvement, although they may seek to say yes or no. We wouldn't have necessarily control over that. But the eligibility of the program is determined by only the governor of the home state in the current amendatory text.

MS. MACK: Thank you, Aaron. Thank you, Dave. Tamar?

MS. HOFFMAN: Thank you. I'll be very brief. We appreciate the Department adopting some of the

recommendations for 690.63. That's topic three, I believe, under b romanette four. I'd like to just propose a small tweak, just taking out the words such as because I think that it dilutes the accountability framework that it sounds like it has in mind.

MR. MUSSER: I know this is a little silly, but would you mind sending us -- sending an email on that point so that we can put it into our queue for consideration?

MS. MACK: Thank you. And finally, we'll go to Rachael. Ritchie, will defer till after lunch. Thank you.

MS. STEPHENS PARKER: Just wanted to briefly note, I'll have to step away for the afternoon, unfortunately. But lucky for you all, my alternate, Andrea DeSantis, will take my seat for the session beginning at 1:00 p.m. Thank you.

MS. MACK: Perfect. We'll note that upon our return. Lunch, we'll be back right at 1:00. Perfect. We'll see you all then.

MR. MUSSER: Thank you, all.