

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, AFTERNOON  
December 10, 2025

On the 10th day of December, 2025, the following meeting was held in-person, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MS. MACK: Welcome back from lunch, everyone. I would like to just very quickly note that we have the alternate for state workforce at the table. I want to welcome Andrea.

MS. DESANTIS: Thank you.

MS. MACK: Thank you. Dave, I'm going to turn it over to you to get us started for this busy afternoon session.

MR. MUSSER: Thanks, everyone. So we heard at the very tail end, before the lunch break, some discussion about distance education. We recognize that this is a topic that is of interest to a number of folks. And so some folks have stronger views on this than others. We'd like to call a caucus on this to talk through what we think may be some disagreements among some of our negotiator colleagues. Caucus of the Department, employers, private nonprofit institutions, legal aid, and veterans.

MS. MACK: Okay. One second. Will you be taking this to the first floor conference room?

MR. MUSSER: The conference room, that's right.

MS. MACK: Can you give us a rough estimate of how much time so we know when to check in?

MR. MUSSER: About 30 minutes.

MS. MACK: And it looks like we have some questions. Can we take some comments and questions before we head into caucus?

MR. MUSSER: If. Yeah, if folks have - - if -- want to talk briefly, yeah, that's fine.

MS. MACK: Richie?

MR. MORROW: Dave, one of my questions was about SARA, the State Authorization Reciprocity Agreement, which I think might play into this. So would you mind if I join you?

MR. MUSSER: Yep.

MR. MORROW: Okay. Thank you.

MS. MACK: Okay. Please.

MS. DESANTIS: Similarly, this will likely involve governors. And if possible, we'd love to join.

MR. MUSSER: Okay. Yep. We can add governors to the list.

MS. MACK: Kristin?

MS. HULTQUIST: I'm assuming that those you invited are on record of having a point of view on this? Okay. Okay.

MS. MACK: Jeff, will you turn on your mic so we capture it?

MR. ANDRADE: Sure. Yeah. I think we've had different proposals from different folks, and we're trying to identify interests at a more granular level and to see where we can maybe have some common ground.

MS. MACK: Thank you, Kristin. Eric?

MR. ATCHISON: I would just request that students be involved in that caucus as well.

MR. MUSSER: So if it's okay with folks, I mean, we plan to talk about this topic more broadly when we return. Certainly not going to be something that we make a decision on, you know, fully in the caucus. But we do want to work through some of what we think are some of the biggest disagreements in that caucus. So we'd like to keep it to the folks that we've identified so far, if that works.

MS. MACK: Thank you. Tamar? Jeff?

MR. ARTHUR: Yeah, I can attest that -- proprietary institutions, and I definitely have some strong opinions on this topic.

MR. ANDRADE: Do you have a -- you haven't submitted a proposal. So I guess what we're trying to, what we're trying to find the people that have had proposals on it. We're not working -- we're not making a deal and bringing it back to the table.

MR. ARTHUR: Yeah. I guess my position was that I didn't see any discrepancies on modality to respond to in time to submit that, but I certainly would have.

MS. MACK: Richie?

MR. MORROW: Dave, Jeff, I'm fine not joining. I haven't done a proposal, but I did just have a question on it, so I can wait till you come back.

MR. ANDRADE: Okay, thanks.

MS. MACK: Okay. We're going to take that constituency group out. Andrea, are you going to say the same thing?

MS. DESANTIS: Similarly, if that's the -- if that's a group of just those who've submitted proposals, happy to sit out there.

MR. ATCHISON: I also rescind my request.

MS. MACK: Perfect. Then we are going to go with the original constituencies identified by Dave. We are going to take roughly how much time again, Dave?

MR. MUSSER: About 30 minutes.

MS. MACK: About 30 minutes. And the facilitators will check in, and we'll do that on the down floor -- the downstairs here, first-floor conference

room. And we have folks over there ready to escort others. We've got one last comment from Richie.

MR. MORROW: Sorry, I started all that.

MS. MACK: Let the record reflect. Thank you.

MR. MUSSER: Okay. Thank you, Richie.

MS. MACK: Welcome back, everyone. Thank you for the patience during the caucus. We're going to jump right in. Dave, I want to turn it over to you, around how you'd like to proceed, or if there's any report out coming back from the caucus. Thank you so much.

MR. MUSSER: Yeah. Thanks, everybody. Yeah, I want to do a quick report out from the caucus before we go on to other business. We had a good discussion with all the folks who joined us. We talked about the proposals that have already been submitted related to distance education. We talked about the statutory authority at the sort of limits that we have on what we could do in the, in the area of distance education. And we talked through sort of the, the major challenges, major concerns of all of the folks that we discussed with who had submitted proposals, where there were obviously strong views. We -- we're planning to do

some more thinking about this and then come back to talk with the table in more detail with the entire table. We're not quite ready to do that. But, but I think we have a better sense of where folks stand. And I think that was -- it was a very successful meeting. So with that said, we would like to call a second caucus on another topic. But actually, did I see a question real quick?

MS. MACK: Please, Richie.

MR. MORROW: So I don't know if this plays any part, but I was going to ask the question if those institutions that have been approved by the state to participate in SARA, the State Authorization and Reciprocity Agreement, if their programs in Workforce Pell, they will still be authorized to cross state lines if that institution has been approved?

MR. MUSSER: So I want to give you the basic context first. The, the reciprocity framework that is currently established in 34 CFR 600.9 is still applicable here. However, the discussion and the concerns that have been raised so far are about whether that framework alone is adequate given the statutory limitations that Congress has imposed here, and the concerns of some folks. So just the foundational question is, yes. SARA, State Authorization and Reciprocity, does

apply at the authorization level. But we're thinking a little bit more about the governor approval process.

MR. MORROW: Okay. Thank you.

MS. MACK: Thanks, Richie. Preston?

MR. COOPER: We would also like to call a caucus at some point pretty soon.

MS. MACK: Let's hear the Department's first so we know who's participating, and then we'll move to that.

MR. MUSSER: So yeah, we'd like to call a caucus on an issue that was brought up yesterday, where we heard a number of folks express concerns about, about the issue on program length. Folks expressed concerns about the fact that you could have a program that is, you know, longer than 14 weeks for part-time students, but has the same number of clock hours as a full-time program that is 14 or fewer weeks. The Department has some, some concerns about statutory authority there, and we wanted to hear the viewpoints across a number of different folks there as well. So for that caucus, we'd like to invite a larger group. So we have employers, all of the institutional folks, so all sectors, public, private, nonprofit, and proprietary state higher education officers, state governors, accreditors, and students.

MS. MACK: Again, roughly how much time do we anticipate, Dave?

MR. MUSSER: We didn't get that quite right last time. I genuinely think this one is more of a 30-minute one. I think we can get that done. Apologies to the group for taking a little bit longer than we expected, but we think this one will be 30 minutes, and we'll be back.

MS. MACK: Preston, is there constituency overlap with that?

MR. COOPER: There is. We would like the Department and legal aid in our caucus.

MS. MACK: Then we'll pause on that one, since we can't run them simultaneously, return from this, and decide how to proceed. Thank you, Preston. We'll break for 30 minutes.

MR. MUSSER: Thank you.

MS. MACK: Welcome back, everyone. We're going to move forward with this afternoon's programming. Dave, I'd like to turn it over to you to see if there is another, in fact, report out from the last caucus.

MR. MUSSER: Yes, there is. So we had a very fruitful discussion with our colleagues. The Department laid out our thoughts and concerns about the

statutory limitations that we have around what constitutes a week of instruction and how Congress defined the limits on the length of an eligible workforce program. But we also discussed the various flexibilities that exist within that framework, and some of which we've talked about before with the larger group. For example, programs don't have to have 14 contiguous weeks of instruction. They could take place at various times. We discussed the fact that a week is defined as any week in which one, at least one day of instruction occurs. Schools have various ways that they could work with that to extend the time frame over which a program is offered. And we also made the point that that's a facet of program design, whereas an individual student may take longer than the 14 weeks that's been established in order to, to complete the program, although of course that would affect the institution's completion rate for the program. So after the discussion, I think we got folks to a place where, you know, people were comfortable that there was enough flexibility to and any of my negotiator colleagues correct me if I'm getting this wrong, but there's enough flexibility without making changes to the regulatory language, which we don't think we have statutory authority to make but there's still enough flexibility to get a long way in terms of what the needs of students

are.

MS. MACK: Perhaps a couple of comments. Eric and then Preston.

MR. ATCHISON: Thank you very much, Dave, for the time and attention that the Department put into this question. We all understand that students walk into and experience higher education very differently, and so this flexibility is going to be very helpful for institutions to help them along their path.

MS. MACK: Thank you, Eric. Preston?

MR. COOPER: Yes, I would like to call a caucus.

MS. MACK: Okay. Can you please give me the particulars? Subject matter, anticipated constituencies, and anticipated time frame.

MR. COOPER: We would like to take 15 minutes. The subject matter is job placement rates, and we would like taxpayers, legal aid, and the Department.

MS. MACK: Okay. We'll be heading to the same conference room. Okay, then we'll be headed this way to the green room, if you will, behind the stage. Thank you all. We'll take a 15-minute break. Welcome back, everyone from that caucus. As with our protocols, we've been doing this afternoon, this afternoon. Preston, I would like to prompt you for a report out of the caucus

that we just returned from.

MR. COOPER: Thank you. We discussed the measure of job placement rates, and we may be submitting a proposal later for some modifications.

MS. MACK: Thank you, Preston. Dave, where would we like to go next in the remainder of our time this afternoon?

MR. MUSSER: So I think we're winding down for Wednesday. I think we'd like to start getting to some pulse checks to get a sense of where the entire table is on some of these topics. I appreciate everyone's patience as we went through some specific areas of concern, but I think now it's time to talk through the broad strokes of our -- of each topic. So, we'll sweep back around to the very first topic for a pulse check. And just to reiterate, we will walk through the regulatory language before we do that.

MS. MACK: That is perfect. Can we pull up topic one text to walk through? And Dave, I'll have you walk that through. If there are any remaining questions for clarification before we take that pulse check, we'll make some time for that, and then we'll go over the pulse check rules. Thank you. David?

MR. KAFAFIAN: On the off chance it is available, is there any consolidated red line that exists

that could be sent around, or?

MR. MUSSER: One sec. So we'll make sure it's cleaned up. But yes, that is what we're working from. Yeah. Yeah, but we're not right this second, but we will as soon as possible.

MS. MACK: Thank you, David. Matthew?

MR. FEEHAN: Yeah. So on that point, just really quick housekeeping note, so pulse check based off of discussions that we had this morning, for example, not based off of language that's currently in place in the draft language?

MR. MUSSER: So it would be based on the language that, that the Department has brought to this point. So it would include any changes that we have added since, since the beginning of negotiations. There may be things that have not been added yet, but this is your opportunity to identify the areas where we still quite -- aren't quite there for you, if that's the case. And so that we can focus on that.

MR. FEEHAN: Perfect. Okay. Thank you.

MS. MACK: Let's walk through the specific text around topic one that will first take a pulse check on. Dave?

MR. MUSSER: All right. So we're back all the way at the beginning, part 690, the Federal Pell

Grant program, 690.5. So I'm not going to necessarily read the whole thing, but I want to point out the places where changes have been made. The Department added grant or scholarship assistance, did a little bit of renumbering, and, as you guys all recall, we specifically excluded sources of assistance that are also excluded from the definition of other financial assistance in section 480 (i) of the Higher Education Act. Scrolling down. So we made a number of changes here. So instead of requiring schools at all times to take into account cases where non-Federal assistance equals or exceeds cost of attendance, we assert here that an institution must do -- must either reduce a student's Pell Grant to zero and cancel disbursements or reduce non-Federal assistance to lower than the cost of attendance, if they become aware of the non-Federal assistance equaling or exceeding cost of attendance before the final disbursement of the student's Pell Grant or the award year. So I'm just going to pause for a second. Everyone can read through that. And then we'll open it up for questions. If anyone has questions. We can certainly talk through that before we, before we go to the pulse check.

MS. MACK: Remember, these are clarifying questions to understand what is being proposed. Eric?

MR. ATCHISON: Dave. Right here at the very bottom about returning Federal Pell Grant funds. Is there any consideration for also holding students harmless in terms of their Pell eligibility LEU, Lifetime Earning Units?

MR. MUSSER: So the Department is still looking at that one. We have not -- we are still trying to figure out statutory authority to do that. We're not sure that, that is there to be, to be very frank. We, like, I said, we're -- we are still looking at it. No, no final decision, and we will certainly address that when we do have one. But right now we're not proposing to include that.

MS. MACK: David, please.

MR. KAFAFIAN: Apologies if this is outside of what is being asked for us to discuss right now. There is a proposal out that I think a few of us have submitted around further defining, although in a short and tight way, the non-Federal assistance here. I just want to confirm, is the Department still considering that, or is that closed?

MR. MUSSER: We hadn't come to a final no on that one, but we are definitely leaning toward leaving the definition as open as possible. Keeping in mind that what we have in mind is actually what's

consistent with section 480 of the Higher Education Act. If you guys want to go down that road, I think we could consider a language that expressed, you know, types of aid that would be consistent with that, minus any Federal sources of assistance, of course. But as of right now, we're not including that in our proposal.

MS. MACK: Are we ready for our topic one pulse check?

MR. MUSSER: I think we are.

MS. MACK: Okay, for this, I'm going to quickly run through the constituencies. I'd love you to show your thumb, but I'd also like you to say either primary or alternate and up, side, or down. So two words, primary or alternate, and then either up, side, or down, that way it's read into this transcript, and I can capture it here. So for -- I would like everyone to show me your thumbs.

UNIDENTIFIED MALE SPEAKER: Sorry. Can I ask you to just also clarify the significance of the thumbs?

MS. MACK: I would be happy to. So we've gone over this a few times, but it's always a healthy reminder. We are taking a pulse check. This is not consequential and decisive like a consensus check. It is an opportunity for everyone to signal to the

Department and fellow committee members where we are in terms of progress around the text for topic one. We will be taking a decisive consensus check at the end of this week. If you could support the current text as proposed, you are a thumbs up. You support it. If you perhaps have some lingering questions or concerns but would not block consensus, you are in fact a sideways thumb. If you would block consensus, have serious reservations, and would dissent, you would be a thumbs down. One or more thumbs would, in fact, block full consensus of the committee. Only if every committee member is either sideways or up have we reached consensus. Jeff, do you have an additional question?

MR. ARTHUR: I'm trying to understand how the Department might, for a pulse check, might interpret a sideways thumb to know whether I should go sideways or down. I mean, are you going to feel like, okay, we've gotten far enough, and we're good? Or is this sideways going to mean, hey, yeah, let's keep -- let's see if we can try to get that to a thumbs up.

MS. MACK: I'd be happy to hear. Jeff?

MR. ANDRADE: Yeah, we're going to -- what we view that as is in some cases where we've had caucuses with you recently, and you do a sideways thumb, we generally, you know, are going to assume that it is

related to the issue that we're working on. For those of you who weren't in some of those, and it's a sideways thumb, we're going to most likely ask you what, you know, what's your heartburn, and what do we need to do? And that'll give us an indication of sort of where everybody is. So that basically just means we have a little bit more work to do to show you some language until we can get that up.

MS. MACK: And building on what Jeff just said, as we've already covered in our pre-sessions and earlier on, if you are in fact a down thumb right now, I will be calling on you so that you can articulate your rationale to the Department and the rest of the committee. Once we hear from folks who may or may not have a down thumb, I'll also be inviting anyone with a sideways thumb who wants to share their rationale to do so as well. Keep in mind that if you are a down thumb or sideways thumb, in addition to the rationale for why you are that, we also invite ideas for what could get you up. Because the ultimate goal here truly is consensus. Richie?

MR. MORROW: So I apologize. We just had a question come up. So if Pell -- so award year are we talking, fall, spring, summer? Or are we just looking at the academic year if the Pell has to be sent back, how

would that affect the summer award?

MR. MUSSER: So when we say award year, we mean exactly that, which means every payment period that the institution assigns to the award year. So if they -- if they're a header school, it would be summer, fall, spring. If it's semesters, if it's (inaudible) school, fall, spring, summer, everything that's assigned to the award year. Yeah, it could be, in some cases, it could be student-based, and if schools do it that way. Yeah.

MS. MACK: Thank you, Richie. All right. For the text on topic one that Dave just walked us through, can I please see your thumbs? Okay, I'm going to read these into the record. For students. Name and articulate your thumb.

MR. ATCHISON: Eric Atchison.  
Sideways.

MS. MACK: Thank you. Veterans?

MR. FEEHAN: Primary. Down.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: This now going around the table thing is hard. Primary, neutral.

MS. MACK: Side?

MR. KAFAFIAN: Yes.

MS. MACK: Thank you. Legal aid?

MS. HOFFMAN: Primary, thumbs up.

MS. MACK: Thank you. Public? Thank you. Private nonprofit?

MR. LACEY: Primary, side.

MS. MACK: Thank you. Proprietary?

MR. ARTHUR: Primary, thumbs up.

MS. MACK: Thank you. State workforce?

MS. DESANTIS: Alternate, thumbs up.

MS. MACK: Thank you. State grant?

MR. MORROW: Primary, sideways.

MS. MACK: Thank you. State higher ED?

MR. STAMPER: Primary, up.

MS. MACK: Thank you. Accrediting agencies.

MR. MCCOMIS: Primary, up.

MS. MACK: Thank you. Taxpayers?

MR. COOPER: Primary, thumbs up.

MS. MACK: Thank you. And the Department? Primary, thumbs up. Thank you. Gotta get it into the record, Dave. Alright. As promised, in keeping with our protocols. Matt, you were a thumb down, dissent. I would like to invite you to explain your rationale and ideas for moving forward.

MR. FEEHAN: Yeah, of course. I think this is really just a timing issue. And we addressed it

this morning. I think we're already there by as far as proposed language, but just because the proposed language is not current, sorry, draft language is not currently in the language as drafted now, I can't vote neutral or up until I see the language in the actual draft, but I think we're there.

MS. MACK: Thank you, Matt. Dave, any response? Folks who had a side thumb. Would any of you like to speak to that position? David?

MR. KAFAFIAN: I think going back to my prior request. I do think we all should operate in the backdrop of understanding that there is a relatively small number of dollars that are going to go out for these programs. That's not just my assertion that CBO's. And so we should not be doing anything that's going to quell outside private dollars that are going to support students pursuing these programs. And so I do think a slightly broader explanation or articulation of what non-Federal assistance means is to not quell those outside dollars, is essential to the success of, frankly, the Workforce Pell endeavor more broadly, not just the, you know, the Pell program from a grant aid perspective.

MS. MACK: Jeff, please.

MR. ANDRADE: I just wanted to clarify that, that provision that deals with the Pell over awards

applies to the entire Pell Grant program, and it's not specific to Workforce Pell.

MS. MACK: Thank you, David. Thank you, Jeff. Eric?

MR. ATCHISON: Just to clarify, my sideways is to the point Matt made, I'm just waiting to see the revised language. Thank you.

MS. MACK: Shall we move on to topic two?

MR. MUSSER: All right, here we are looking at topic two. Now, we're in, this is if you guys recall, this is the technical and conforming changes that relate to Workforce Pell. So now we have narrowed the scope of our discussion to Workforce Pell as opposed to all Pell grants, which is what we were talking about just a moment ago. So, again, we'll just scan through the language that, that we've discussed so far. So, Aaron, you can scroll down here, and I'll just remind folks of what each section indicates. Here we are requiring the Department approval of an eligible workforce program. In the second section here in part 668, this is one of the - - couple of changes that we're making that express, sorry, this is the section that prohibits a program from being contracted out to an ineligible entity by more than 25% of the program. So the ineligible entity cannot offer

more than 25% of an eligible workforce program. Scroll down here. No changes have been made to that section since we introduced the language. Keep going, Aaron. All right. These are just conforming changes. This is just a technical change, including that in, in that section. And the next section are limitations on remedial coursework that's eligible for Title IV aid. We haven't made any changes here, but this is implementing the statutory limitation on remedial coursework, noncredit remedial coursework. And as I mentioned, this applies to programs offered in credit hours. Let's go ahead and scroll down. So here's the first of the two changes that incorporate the Department's interpretation of the law that individuals with a baccalaureate degree can qualify for Workforce Pell. Scroll down a little bit further. We've added a definition of eligible workforce program as a technical change. Keep going. Here we are also making a change that would incorporate our interpretation of the law that an individual with a baccalaureate degree can qualify for Workforce Pell if they otherwise meet the requirements. Here we have indicated, again, consistent with our understanding of the law, that a student cannot concurrently receive a Pell Grant for enrollment in an eligible workforce program and any other program at the same institution or another institution. And that's the

last one for that section.

MS. MACK: Thank you, Dave. Any clarifying questions on the text before we move to a pulse check? Randy, please.

MR. STAMPER: Yeah, on the last, yeah, it's on. On the last, I'm sorry, on the last piece about concurrent, it said it is not concurrent within a program year, so it could be, or, I'm sorry, it is concurrent within a program year, but they could be successive sequential.

MR. MUSSER: Yeah. Yeah. So we talked about this just a tiny bit earlier in the week. But the Department considers enrollment to be concurrent if at least one day of the payment periods that they're enrolled in, each program overlaps. If they do not overlap, or if the student withdraws from the one program on a day prior to beginning enrollment in the other program, that is also not concurrent.

MR. STAMPER: Okay. Thank you.

MS. MACK: Aaron?

MR. LACEY: Yeah, I was trying to remember. I thought we were having some conversation, and genuinely, this may be misplaced, about whether we should be using graduate credential or graduate degree.

MR. MUSSER: So we did, in fact, talk

about that.

MR. LACEY: Yeah.

MR. MUSSER: So we -- the Department did have a little bit of discussion about that. We -- after, after attempting several different versions of language, the technical term here really is graduate credential, and graduate credential is intended to be a broad definition that incorporates all graduate programs, graduate students, and professional students. And we can clarify that again in subregulatory guidance and make that clear elsewhere. But that, that is what this refers to.

MR. LACEY: Okay.

MS. MACK: Okay. If there are no further clarifying questions, we are in fact going to move to a pulse check on topic two, as the text Dave just walked us through. I would ask everyone to show your thumbs. I'm quickly going to go round robin again. For students, our primary?

MR. ATCHISON: Primary, thumbs up.

MS. MACK: And our veteran, primary?

MR. FEEHAN: Primary, thumbs up.

MS. MACK: And our employers, primary?

MR. KAFAFIAN: Primary, sideways.

MS. MACK: Legal aid, primary?

MS. HOFFMAN: Primary, sideways.

MS. MACK: And our public, primary?

MS. HULTQUIST: Primary, thumbs up.

MS. MACK: Even though I'm saying primary, you all are, again, you follow directions very well. Thank you. Private nonprofit?

MR. LACEY: Primary, thumbs up.

MS. MACK: Proprietary institutions? Primary side. Okay. State workforce?

MS. DESANTIS: Alternate, thumbs up.

MS. MACK: Thank you. State grant?

MR. MORROW: Primary, up.

MS. MACK: Thank you. State higher ED?

MR. STAMPER: Primary, sideways.

MS. MACK: Thank you. Accrediting agencies?

MR. MCCOMIS: Primary, sideways.

MS. MACK: Thank you. And taxpayers?

MR. COOPER: Primary, sideways.

MS. MACK: Thank you. And for the record, the Department?

MR. MUSSER: Thumbs up.

MS. MACK: Thumbs up. For those of you who are sideways, would anyone like to speak to your rationale, questions, or thoughts around that position? I

see a number of cards. Jeff, can we start with you?

MR. ARTHUR: Sure. I guess we're covering a lot of ground here, and I'm thumbs sideways, because when I see certain things that may limit innovation and where, you know, I always look at regulations done today and are they going to accommodate where things are going to be years from now. And so I look at things like a 25% limit, and other elements in here is potentially having the effect of stifling future innovation in education. And we're on a, you know, a technology, you know, roller coaster right now, and who knows where learning and all this is going to go.

MS. MACK: Thank you, Jeff. Preston?

MR. COOPER: Yeah. I just want to reiterate Matt's point from the first pulse check that I think we really need a full document with all the red line to actually to evaluate this, because I find myself going back and forth between the original text and the modifications, and I'm having trouble actually figuring out what we're voting on here.

MS. MACK: Thank you. David?

MR. KAFAFIAN: No fault of the Department's because I haven't submitted anything yet. But on the 25 to 50 issue, I think to the extent we could get a response to the, the data request I submitted

around how those programs perform. I do have concerns, I've spoken to a few constituents, two of the largest health systems in America and a program provider who say that depending on how the Department is thinking about a didactic, in-person classroom, in-person simulation and clinical kind of hybrid experience, depending on how you would break down each of those four, it may actually really constrain the way those programs, which are some of the most in demand across the country work. So I intend to submit something, but that's the only reason.

MS. MACK: Thank you, David. Randy?

MR. STAMPER: Yeah, it's the 25% for me as well. And for a mix of the reasons that Jeff and David have articulated and I'll be, you know, working with David to help propose something.

MS. MACK: Thank you. Tamar?

MS. HOFFMAN: Thank you. We have a proposal still pending with the Department around lifetime Pell eligibility. I appreciate that that's still under consideration, which is part of why we're still tentative on this one. We also appreciate the Department's position on the 25% maximum. We believe that that should -- that that is an absolute maximum. We actually think it should be much lower than that, given the short-term nature of these programs.

MS. MACK: Thank you. Are you gentlemen good here? That's okay. David?

MR. KAFAFIAN: I don't know if Tamar could you maybe articulate, like, would there be any practical programs that we could put forward to show you the visual there that would cause you to change your perspective there?

MS. HOFFMAN: I'm always happy to have discussion about examples to see if we can reach some common ground. I don't know if now's the time that the Department wishes to do that, but I'm happy to have that conversation.

MR. MUSSER: Yeah, we'd like to keep going through the sections to get some better sense of where you guys are at.

MS. MACK: Jeff, did I miss your card? Did you want to speak on topic two?

MR. ANDRADE: Yeah, I just wanted to just make a brief comment to my friend Jeff Arthur. This is a new program. And so rarely do we have the luxury of creating a new program and never having to reexamine it again. So we -- give us a little grace on that one would be my request. Thanks.

MS. MACK: David, anything else? Okay. Topic three?

MR. MUSSER: I think we can move on to topic three. Okay, so starting out here, this is the scope and purpose section related to Workforce Pell. And just as a reminder, we're entering into the Workforce Pell specific regulations, now. Here we established the basic, the basic information about the scope and purpose of these regulations. And we also specify that programs that are eligible workforce programs qualify only for Federal Pell grants and no other Title IV program. No changes have been made to this section since the original presentation. Going down into definitions. And I won't go through all the definitions here. So we can just scroll down. I will -- I just want to point out a couple of things that we have done here. We removed the -- this component of the recognized postsecondary credential definition, recognizing that the Higher Education Act requirement for a recognized credential is not the same as a recognized postsecondary credential, which could include activities including work as part of an apprenticeship that extend beyond the instructional component of the program and that an eligible workforce program constitutes in many cases, the sufficient amount of instruction for the program. So we've struck that piece referring to 668.8. We could scroll down a little bit more. And we've added that back in a different

section in the definition of an eligible workforce program itself. But otherwise, we have not made changes here. Let's scroll down a little bit more. And that's the end of that topic.

MS. MACK: Thank you, Dave. Inviting clarifying questions. Randy?

MR. STAMPER: Yes. Thank you. This came up earlier today, two days ago, which seems so far away now. You gave an explanation of the definition of governor and how that applied to outlying territories, and something about Palau. We got a question from an education consortium specifically about the Marshall Islands and some others. So could you give us the five-cent tour of who's in, who's out?

MR. MUSSER: Yep. So the definition of governor here refers directly to the term chief executive of a state or outlying area, all of which have definitions under section three of the Workforce Innovation and Opportunity Act. This is intended to be -- to maintain consistency with the -- with WIOA, which has established a framework that includes all states, all US territories, and Palau. It does not include the other freely associated states. Okay?

MR. STAMPER: Thank you.

MS. MACK: Thank you, Randy. Richie?

MR. MORROW: If we could scroll up to the scope and purpose right at the top, there. With apologies to my high school English teacher for using the same word multiple times in the same sentence and subsequent sentence, I had a note written that we were going to add eligible before institutions in the first line. Was that just something that we talked about in passing and decided not to, or?

MR. MUSSER: Yeah, we talked about it. We think it's implicit here. We are open to adding it. If you'd like, if that will affect your vote here. You know, we can -- I think we would commit to adding it here. So if that's the case, we'll just put it on our list to add the word eligible here.

MR. MORROW: If nobody objects.

MR. MUSSER: We can do that.

MS. MACK: Thank you, Richie. Randy, did you have another? That's okay. Seeing no others, I would like to invite everyone's thumb on a pulse check for topic three as was presented. I will go a round robin again and ask you to read it into the record. Please make sure that you're turning on your microphone so that we can catch you for the transcript. Thank you. For students?

MR. ATCHISON: Primary, sideways.

MS. MACK: Thank you. For veterans?

MR. FEEHAN: Primary, sideways.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: Primary, up.

MS. MACK: Thank you. Legal aid?

MS. HOFFMAN: Primary, down.

MS. MACK: Thank you. Public?

MS. HULTQUIST: Primary, sideways.

MS. MACK: And private nonprofit?

MR. LACEY: Primary, sideways.

MS. MACK: Thank you. Proprietary?

MR. ARTHUR: Primary, sideways.

MS. MACK: Thank you. State workforce?

MS. DESANTIS: Alternate, sideways.

MS. MACK: Thank you. State grant.

MR. MORROW: Primary, up.

MS. MACK: Thank you. State higher ED?

MR. STAMPER: Primary, sideways.

MS. MACK: Thank you. Accrediting

agencies?

MR. MCCOMIS: Primary, sideways.

MS. MACK: And taxpayers?

MR. COOPER: Primary, up.

MS. MACK: For the record, our Federal negotiator?

MR. MUSSER: Thumbs up.

MS. MACK: Thumbs up. I would like to go directly to legal aid, primary. This was a down thumb, so I would ask you to speak to that, please.

MS. HOFFMAN: Sure, I'm happy to. And I'm still somewhat optimistic that we can turn this around. There are just a few pending proposals that we have that are significantly important to us that we can't just, you know, hope for the best. We need to know where they stand. The outstanding concerns are, one, what exactly accountability looks like in the three years until the value-added earnings test is met? Two, how exactly state governor approval is going to work? We had a caucus on this earlier today, making sure that approval is for the actual local state. Three, making sure that institutions that lose accreditation are not eligible for Workforce Pell, since that indicates significant concerns with accountability, and four, making sure that accreditation is actually for the program itself and not just for the institution, and with no actual review of the program.

MS. MACK: Any follow-up there helpful, or did you get what you needed?

MR. MUSSER: That's very helpful.  
Thank you, Tamar.

MS. MACK: Perfect. Michale?

MR. MCCOMIS: Yeah, that's a reason. A part of that is also part of my sideways that I'm trying to just do the mapping exercise of this. And I keep asking the same question, and I just want to make sure that I understand about eligible programs and eligible institutions and how accreditation play. If there is a way to make that maybe a bit more explicit, that I think could help to quell some of those concerns around what the expectations are with regard to an accredited -- accreditation status for the institution and approval of that program within the accredited status of the school.

MS. MACK: Thank you, Michale. Would anyone else with a sideways thumb like to speak to that before we move on to topic four? Matt, please.

MR. FEEHAN: I think the Department's got the -- is on the right track with respect to the governor level of authority. And so that point is really a non-issue for me now. I would just add, and I've already addressed this before regarding recognized credentials, that we're just in line with the Department of Labor. So I posted, I think it was day one or day two, the training and employment notice 25 tech 19 for recognized credentials. So I just want to make sure that the Department of ED and the Department of Labor are in

sync when it comes to definitions like that.

MS. MACK: Thank you, Matt. Randy?

MR. STAMPER: Yeah. We just submitted a few minutes ago, a proposal that several of us were working on regarding postsecondary credentials. And basically, it boils down to we feel that it should specifically cite registered apprenticeship, and that will then provide us a lot easier connection to what Matthew just spoke about, and probably align those very, very smoothly.

MS. MACK: Thank you, Randy. Kristin?

MS. HULTQUIST: Thank you. I acknowledge I did not bring this up earlier when we first went through these definitions, but it just came to my attention that there are two public institutions or a small public institution in each of the freely associated states. Is it possible for a third? There's the chief executive as defined by WIOA. Then there's the institutions located on tribal lands. Could be a third one if you are one of the three freely associated states, we defer to HEA, and they can receive dollars. I understand they do receive a WIOA block grant as a kind of the way to handle their workforce -- the Federal investment in their workforce system.

MR. MUSSER: So that's true. And might

have to have my colleague, Marek, talk a little bit more about that, if we want to get into the subject. I would - - I will just reiterate sort of the Department's broad strokes approach here, which is that our intent is to have Workforce Pell to the greatest extent possible, fit into the existing WIOA framework, which includes the, you know, work with state boards, etc., and that framework does not currently exist in freely associated states other than Palau. And at this point, it's not our intent to move from that perspective. But you know, if you guys have strong feelings about it, you certainly can look at a proposal for it.

MS. MACK: Thank you, Kristin. Thank you, Dave. Can we move on to our next topic?

MR. MUSSER: All right. Now moving into topic four, and this is, a state governor approval process. So we have proposed 690.93, components determined by governors. And here the Department has made a quick change here that -- we've made in a number of places, changes to these are technical changes, changes to either remove the term eligible workforce before program if the program has not yet been approved by the state. I think we can scroll down here a little bit. That's one of those. All right, so this was the more recent change. So this is a related, again, as we talked

about earlier, the state's methodology to determine and periodically review the occupations and industry sectors that are high skill, high wage, and we agreed to add this component that that review be done not less than every two years, consistent with the state's development of its state plan. And we can scroll down a little bit further here. We made some wording changes just to make this a little clearer here. Considers whether the expected competencies for which the recognized postsecondary credential intends. And I just want to note for our colleague Michale that we reverted to the original suggested language here, and that's why we've got the blue right there. We fixed that earlier today. And this would remove the concept of mastery while still focusing on, on competencies that are part of -- that are related to high skill, high wage, in-demand sectors. I can scroll down a little bit more here. So here are few a little bit complicated to explain changes here. But if you recall, we removed this component because we made a separate change elsewhere. This component was what was previously said that we considered any program that serves as related instruction for a registered apprenticeship program as meeting the hiring requirements of employers. But we felt that we didn't need this provision. If we could scroll down a little bit further, because of a

separate change, which we'll get to in just a second. So I'll refer to that in just a moment. So we changed it again, some wording changes here to ensure -- we did have a proposal at the -- so at the end here, we gave some examples of the types of things that would be included to document that an institution -- that this program is awarding academic credit towards a certificate or degree program upon completion of the program. We had some questions early on about whether that was at the same institution or other institutions. Here, we do intend that this means either the same institution or another institution. And as you can see there at the end, we also added some language such as through established articulation agreements, transfer of credit agreements, consortium or partnership agreements, or similar arrangements. We heard that there is a request to remove the language such as, we have not yet done that. We are still open to it. And but as of this moment, it's still -- we're planning to leave that in, so that's how we'll do the pulse check for the time being. So we can scroll down a bit further. And just more instances of fixing the eligible workforce issue. And this is where we remove the concept of, of their designee here. And we're going to -- we still intend the institution -- that governors will be able to work with other agencies that will assist them in

this process, even to the extent that those other agencies complete the certification that the program meets all of the appropriate requirements. But we plan to explain that in subregulatory language and refer only to the governor and the regulatory text. Here, this is the component of the program where the -- we're asserting what the governor needs to provide in terms of a certification to the Department when it certifies that the program meets all of its requirements. And this is where we made a change that the signed statement must not only assert that the program currently meets all of the state approval requirements in paragraph (a), but it also meets all of the -- it has met all of those requirements for the 12 months immediately preceding the certification. If we could scroll down a bit more. All right. So then the last piece, this is the reason that we made the change above to that paragraph (c). A program that serves as the related instruction component of a registered apprenticeship program meets the requirements of both paragraphs (a)(1) and (a)(2) of this section. So that was previously the second part was accounted for in (c). We don't -- we no longer believe that we need (c) because this now accounts for both of them. Okay. And I believe that takes us to the end of that topic.

MS. MACK: Thank you very much, Dave.

Any clarifying questions before we go to a pulse check?  
Seeing none. Please show your thumbs and we will once  
again go quickly around. For students?

MR. ATCHISON: Primary, thumbs up.

MS. MACK: Thank you. Veterans?

MR. FEEHAN: Primary, thumbs up.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: Primary, side.

MS. MACK: Thank you. Legal aid?

MS. HOFFMAN: Primary, side.

MS. MACK: Thank you. Public?

MS. HULTQUIST: Primary, up.

MS. MACK: Thank you. And private  
nonprofit?

MR. LACEY: Primary, up.

MS. MACK: Thank you. Proprietary?

MR. ARTHUR: Primary, sideways.

MS. MACK: Thank you. State workforce?

MS. DESANTIS: Alternate, up.

MS. MACK: Thank you. State grant.

MR. MORROW: Primary up.

MS. MACK: Thank you. State higher ED?

MR. STAMPER: Primary, up.

MS. MACK: Thank you. Accrediting  
agencies?

MR. MCCOMIS: Primary, up.

MS. MACK: Taxpayers?

MR. COOPER: Primary, down.

MS. MACK: And for the record, Dave Musser, Federal negotiator.

MR. MUSSER: Thumbs up.

MS. MACK: Preston, I'd like to start with you as the sole thumbs down here. Can you please speak a little bit to the rationale and perhaps some ideas for moving your thumb?

MR. COOPER: Yeah, I just am still concerned a little bit about the initial eligibility for, for Workforce Pell programs. A lot of that might be in the top five components determined by the Secretary. But I still do have some concerns that we're not doing enough to ensure that, you know, programs which are not likely to, you know, be compliant with the outcome standards are, you know, weeded out at the outset. We are also thinking about proposing some language around transparency that would go into this section to require potentially disclosure of outcomes that the governor has available to them. We hope to submit that very soon, before tomorrow's deadline. So I think we can get there, but that's why I am where I am for now.

MS. MACK: Thank you, Preston.

Department, do you have any questions for Preston based on that?

MR. MUSSER: Not at this time. Thanks, Preston.

MS. MACK: Okay. There were just a couple of side thumbs, so I want to invite anybody that wants to comment on that. Jeff, perhaps I start with you?

MR. ARTHUR: Yeah. And I second the transparency what Preston mentioned. But I remain pretty concerned that this process -- that some governors may not equitably recognize otherwise eligible Workforce Pell programs in certain sectors of higher education. And I know we, we discussed the idea about publishing what they had approved. But I had another idea that during the last caucus, it kind of occurred to me that it might be simpler and more straightforward. And if we look at 690.93 (b) (3), that requires the process and timeline for the governor's consultation with the state board and a determination that an eligible workforce program meets the requirements and the process for an institution to appeal that determination. If we added something like, and that such process shall include clear, transparent, timely procedures that are applied consistently and equitably to all eligible institutions authorized under Title IV of the HEA. Just something that brings some, you

know, gets that message across that this isn't a one sector program that other -- that governors should be compelled to give consideration to any program that would otherwise be eligible.

MS. MACK: Thank you, Jeff. David?

MR. KAFAFIAN: I would echo the support for the transparency piece as well as what Jeff just said. The others that just come to mind for sideways are the data standards, sorry, the distance education, and then the data standards. But I obviously understand the, the Department is still working on both of those.

MS. MACK: Thank you, David. Tamar?

MS. HOFFMAN: Thank you. I echo Preston's concerns. And in addition, I appreciate that the Department is still considering some of the language to tighten up the accountability measures for making sure that credits are actually transferable. So I appreciate the continued consideration.

MS. MACK: Thank you, all. Dave, can we move into topic five?

MR. MUSSER: Yes, we can. All right. So starting in 690.94, we made some significant changes here to (a)(1). Now, just, just reminding folks after -- this is after the governor determines that the program meets the requirements, the institution must submit to

the Secretary documentation that. And here, because we're accepting information from the state as part of its certification, that the program met all of the state approval requirements during the most recent 12 months. We don't need to include that here. Instead, we are only requiring that the institution submit documentation that the program has met the conditions under 690.92 (a) and (b), which is the program length limitations, for the 12 months preceding the date on which the institution applied for eligibility for the program. Scroll down a little bit more. And more instances of eligible workforce not, not being appropriate here. And just a little bit of a typo that we fixed here. And that's it for that section.

MS. MACK: If there are any clarifying questions, please indicate such. David? Okay. Eric?

MR. ATCHISON: Dave. I believe there's some proposals coming your way or have come your way about clarifying exclusions for the calculations of the 7070 rule in this. And so I'll -- I look forward to hearing more about that or considering how you approach it.

MS. MACK: Thank you, Eric. Randy?

MR. STAMPER: Yeah, just a quick. The, the 12 months prior to the institution making

application, that is the second application to the Secretary, correct? Or I don't know if it's the second application, but there is the process with the governor, then the correction to the --

MR. MUSSER: Correct. The governor process takes place before the institution brings the application to the Secretary.

MR. STAMPER: So it's 12 months prior to whatever that application to the Secretary?

MR. MUSSER: Correct.

MR. STAMPER: Thank you.

MS. MACK: Seeing none others. And in the instance of time, I'm going to move us directly into the pulse check and ask everybody to show their thumbs. And I will go around the room. Please show me your thumbs. For students?

MR. ATCHISON: Primary, thumbs down.

MS. MACK: Thank you. Veterans?

MR. FEEHAN: Primary, thumbs up.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: Primary, side.

MS. MACK: Thank you. Legal aid?

MS. HOFFMAN: Primary, sideways.

MS. MACK: And public?

MS. HULTQUIST: Primary, thumbs down.

MS. MACK: Thank you. Private nonprofit?

MR. LACEY: Primary, thumbs down.

MS. MACK: Thank you. And proprietary?

MR. ARTHUR: Primary, thumbs up.

MS. MACK: State workforce?

MS. DESANTIS: Alternate, thumbs down.

MS. MACK: State grant?

MR. MORROW: Primary, up.

MS. MACK: State higher ED?

MR. STAMPER: Primary, side.

MS. MACK: Accrediting agencies?

MR. MCCOMIS: Primary, side.

MS. MACK: And taxpayers?

MR. COOPER: Primary, down.

MS. MACK: For the record, our Federal negotiator?

MR. MUSSER: It's up.

MS. MACK: Thank you. And once again, I would like to check in with those who are down. That's several of you. So I will go in no particular order. But, Eric, if we could hear from you.

MR. ATCHISON: I alluded to this in my comments before the thumb, before the pulse check, but I believe that students and institutions, rather, should

not have their eligibility, you know, basically determined for instances of students' death and other exclusions that are also in Federal statute.

MR. MUSSER: And thank you, Eric. We are still looking into that one.

MS. MACK: Thank you, Eric. Thank you, Dave. Next, I would like to go to Kristin.

MS. HULTQUIST: I align myself with Eric's comments.

MS. MACK: Thank you, Kristin. I would like to go to Aaron.

MR. LACEY: Yeah, it's the same. I think we need to see the exclusions out of the placement calculation.

MS. MACK: And Andrea, please.

MS. DESANTIS: Yes. Similar to my colleagues here, I'm concerned about the exclusions. Also, we've been talking with our constituency group about the flexibility for the completion measures. We appreciate that there's multiple options here, but want to really talk through with them what the on-ramp looks like and if additional time is needed.

MS. MACK: Department, did you have any further questions for those folks to best understand where they are? Preston, I apologize, please.

MR. COOPER: Yeah. Just, just echoing my comments for the last pulse check about initial eligibility concerns, that the language is not strong enough here for that. And I also agree with the sentiments expressed by several of my fellow negotiators that I do think we need to define the exclusions in regulation to be sure we're getting consistent measures.

MS. MACK: Thank you, Preston, and apologies again. Would anyone who is sideways like to speak to their thumb? David?

MR. KAFAFIAN: I don't believe we've resolved the three-year issue, am I correct?

MR. MUSSER: I'm sorry, which?

MR. KAFAFIAN: The idea that the way it's defined leads us measuring students based on a stub year when you do the three-year math.

MR. MUSSER: Yeah, we do still need to go back to that. Yep.

MS. MACK: Thank you, David. Kristin?

MS. HULTQUIST: I want to flag that I also am concerned about the lack of definition around comparable at the end of page 28. Well, this is the original regs. After year three, we, we need to have placement in 70% of programs that are related to the field or comparable. And I think that some clarity around

that would be helpful because the, the former expectation is going to be difficult for a number of states to provide.

MR. MUSSER: Do you guys -- do you have suggestions on sort of what that clarifying, clarifying language looks like?

MS. HULTQUIST: Yes, and I'll be glad to provide it in writing.

MR. MUSSER: Okay. Thank you.

MS. MACK: Tamar?

MS. HOFFMAN: Thank you. We have a number of outstanding proposals that I believe are still under review with the Department about limiting private lending arrangements, requiring that programs be within the same modality for the year, so that we can understand that the program that's being approved is actually the program that's being approved. As well as some of the concerns that others have already brought up.

MS. MACK: Thank you, Tamar. David?

MR. KAFAFIAN: Just want to say what I just said was not for this topic. So apologies to the Department, and you can just consider that next time.

MS. MACK: Noted. Thank you. We've got a few moments left. Do we have time to move through six? Let's do it. Dave?

MR. MUSSER: All right. Now we're moving through the value added earnings calculation. So starting out, just a correction of a typo here. So scrolling down. Again, just a correction. This -- we flagged this earlier. This is just some numbering issues. Scrolling down here. Otherwise, yeah, I don't think that, that we've made any other changes to this yet. We recognize that there are a number of outstanding proposals here. But I still think we'd like to take a quick pulse check just to see, you know, where everyone is on the topic.

MS. MACK: Any clarifying questions? David, we'll start with you. Kristin? Please use your mic, Kristin.

MS. HULTQUIST: I apologize. I heard you say a couple of times that this tuition and fees is at the program level. So I didn't see a change that reflects what we've heard to (c). The institution must keep published tuition and fees at or above the value added earnings. I think you mean for that workforce program.

MR. MUSSER: We do, and we will make that change. Yep.

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

MR. COOPER: Oh yeah, just something to put forward for consideration for the definition of cohorts and cohort roll-ups. I think when we all come back in January, we're going to be doing something very similar with the accountability measure under Do No Harm, and I wonder if it would make sense to postpone a consensus vote on this until we can also talk about that in the accountability section, because I think we'll want to probably align the cohort roll-ups between the two rules.

MR. MUSSER: So at this point, the Department is still proposing to take a consensus vote at the end of this week. And we can consider the, the roll-up process for the other parts of these provisions, in light of where we are here. We prefer not to hold on any portion of Workforce Pell. We treat these as, as very disparate and separate topics.

MS. MACK: Thank you, Preston. Thank you. Dave, we're going to move to a pulse check on six. And I would like you to show your thumbs. Very quickly, we'll go round robin. Please remember to turn on your mic.

MS. MACK: Students?

MR. ATCHISON: Primary, down.

MS. MACK: Thank you. Veteran?

MR. FEEHAN: Primary, sideways.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: Primary, down.

MS. MACK: Thank you. Legal aid?

MS. HOFFMAN: Primary, up.

MS. MACK: Thank you. Public?

MS. HULTQUIST: Primary, up.

MS. MACK: Thank you. Private

nonprofit?

MR. LACEY: Primary, down.

MS. MACK: Thank you. Proprietary

institutions?

MR. ARTHUR: Primary, sideways.

MS. MACK: Thank you. State workforce?

MS. DESANTIS: Alternate, down.

MS. MACK: Thank you. State grant?

MR. MORROW: Primary, side.

MS. MACK: Thank you. State higher ED?

MR. STAMPER: Primary, down.

MS. MACK: Thank you. Accrediting

agencies?

MR. MCCOMIS: Primary, sideways.

MS. MACK: Thank you. Taxpayers?

MR. COOPER: Primary, sideways.

MS. MACK: Thank you. And I will note

for the record that Federal negotiator Dave Musser was, in fact, up. I'm going to go through our downward thumbs. I'm going to start with state higher ED. Randy?

MR. STAMPER: Sure. I think for reasons that have been probably clear from comments I've made, I think that there is too much room for error given the timelines. And I think that there is a potential for massive variation across multiple, multiple institutions that would be all in good faith, delivering a consistent product at a consistent cost. But they could still be caught up in violating the value-added earnings calculation.

MS. MACK: Thank you. Randy. State workforce?

MS. DESANTIS: Yes. My comments are similar to Randy's, and I just really want to make sure we understand what we're holding institutions accountable for, especially those institutions that don't set their own tuition but are part of a system who sets tuition.

MS. MACK: Thank you. Private nonprofit?

MR. LACEY: The concern is the cohort period alignment and the idea that we would be measuring earnings in the same year that someone graduated. I just feel strongly that I get that worked out.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: Same as Aaron.

MS. MACK: Thank you. And students?

MR. ATCHISON: I applaud the Department for working quickly through this process with limited time yesterday and today, but I feel strongly that data transparency to students and their parents, as well as the communities they serve through the institutions, is vastly important here, and I believe we've got some pending proposals on that.

MS. MACK: Thank you, Eric. We have three minutes left. Would we like to try to get through a pulse check on seven, or would we like to? I believe we would. I'm inclined to --

MR. MUSSER: We definitely would.

MS. MACK: Okay. I'm going to take a facilitator power moment there and insist that we do. Dave, may I turn it over to you?

MR. MUSSER: You may. And this time, because we only introduced this today, we haven't made any changes to the language unless, oh, we did make a few workforce -- eligible workforce changes here to align this correctly with what we've done elsewhere. But just keep -- just reminding everybody, since this is relatively new and we just presented on it. Let's go back

up to the top. I will quickly go through these provisions. So we've got a program will become ineligible at the end of the payment period following the date at which the governor withdraws approval for the program. Scrolling down. Or the governor fails to reapprove the program. On (b), under 694.94, a program becomes ineligible at the payment period beginning again -- that begins after the date that, that the secretary determines that the institution failed to meet the completion and placement requirements. And then finally, (c), a program becomes ineligible at the beginning of the award year following the release of value-added earnings if it fails to meet those requirements. And then in regaining eligibility, we had a significant discussion on this this morning. The Department is still considering proposals on this one. But here it currently says that if a program loses eligibility based on completion or placement rates under 694.94 (a) (2), or the institution voluntarily discontinues a failing program, then a substantially -- that program or a substantially similar program would not be permitted to regain eligibility until at least two years following the earlier of the date that they lost eligibility, or they voluntarily discontinued the program. Down to (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 reapproval has then been granted. And then going down to (c). If the program loses eligibility because its published tuition is higher than its value-added earnings, then the institution may, through a process described by the Secretary, request that the program's eligibility be reinstated, and here are the three items. That they provide the Secretary -- to the Secretary a new certification of the governor's approval of the program that addresses how they'll comply with that requirement, they'll submit to the Secretary documentation of the program's current published tuition and fees, attest to the fact that those will remain equal to or less than the value added earnings, and they'll request a recalculation of the program's value-added earnings that will apply to the next award year. I will note that we have gotten already some, some suggestions on these topics that we are considering, and we will likely make changes to these in the morning. But we do still want to have a quick pulse check and see where people are.

MS. MACK: Any clarifying questions from the committee? Eric, please.

MR. ATCHISON: Primary, up. I'm sorry, I didn't. I didn't have my card up.

MS. MACK: Eric is ready to go. May I please see your thumbs? For students?

MR. ATCHISON: Primary, up.

MS. MACK: Thank you. Veterans?

MR. FEEHAN: Primary, sideways.

MS. MACK: Thank you. Employers?

MR. KAFAFIAN: Primary, down.

MS. MACK: Thank you. Legal aid?

MS. HOFFMAN: Primary, sideways.

MS. MACK: Thank you. Public?

MS. HULTQUIST: Primary, down.

MS. MACK: Thank you. Private nonprofit?

MR. LACEY: Primary, sideways.

MS. MACK: Proprietary?

MR. ARTHUR: Primary, sideways.

MS. MACK: State workforce?

MS. DESANTIS: Alternate, up.

MS. MACK: Thank you. State grant?

MR. MORROW: Primary, down.

MS. MACK: Thank you. State higher ED?

MR. STAMPER: Primary, sideways.

MS. MACK: Thank you. Accrediting agencies?

MR. MCCOMIS: Primary, sideways.

MS. MACK: Taxpayers?

MR. COOPER: Primary, sideways.

MS. MACK: Thank you. Federal negotiator was, in fact, up. I'm going to quickly go to the down thumb folks so we can get a little bit of rationale. State grant, I'd like to start with you. Richie?

MR. MORROW: I just -- the comments that were made earlier this morning about the four-digit CIP code, I just think they might be too broad and eliminating eligibility of a lot of programs that states need.

MS. MACK: And for public. Kristin?

MS. HULTQUIST: I align myself with Richie's comments. I also have a concern about the complexity related to the confusion related to time program approval to the expiration of the PPA. I thought program approval was to be tied to the work -- to the WIOA plan renewal cycle, as well as Secretary denial. So this third one seems additional and could really almost be stacked on top of one another for burden. And then we are -- the provision that the Title IV -- frankly, Title IV money can still flow to institutions that would be denied Workforce Pell eligibility. And this is specifically related to the subject of submission,

emergency action, etc. So, just wanting some reduction in burden and reduction in the kind of double jeopardy.

MS. MACK: Thank you. And for employers, David.

MR. KAFAFIAN: Along with my colleagues, the four-digit versus six-digit is important. I think we will absolutely include something about the anti-gaming, though.

MS. MACK: Thank you, David. Was there anyone sideways that would like to speak to that now? Randy, please.

MR. STAMPER: Definitely align with the four-digit concerns. Also have interest in providing some language about programs that, in our terminology, go dormant for a year and not being penalized for responding to cyclical demand.

MS. MACK: Thank you, Randy. Jeff?

MR. ARTHUR: Yeah, I remain concerned about the implications of losing eligibility for a program and what all that triggers. And I don't have any answers for the Department other than to say, consider whether this should trigger the financial responsibility triggers and things related to that. And just if there's any way to mitigate that and everything that entails. I mean, just every -- the accreditors, the whole works. I

mean, even if it's a preamble to try to influence how a creditor might react to a program like that or this to imply the seriousness. I don't think it's that serious of a, of a situation, but it triggers serious stuff. I guess that's what my point is.

MR. MUSSER: So I will say that we will consider whether there are pieces of subregulatory guidance that we could give on that topic. You know, it depends in large part, when you're talking about what this loss of eligibility, its effect on financial responsibility. It depends, obviously, on a lot of factors. It could constitute a trigger, but as I believe this one would be a discretionary one. And it's not necessarily the case that the Department would take that action in every situation. So yeah, we can consider giving our view about what constitutes a serious issue there, and we'll think about that for tomorrow.

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

MR. MCCOMIS: Because the approval process for the governor requires an appeal process, I'll send some language over that here, would -- both in the action to withdraw eligibility and to regain eligibility, would take into account that governor's appeal process before the Secretary acts.

MR. MUSSER: Thank you, Michale.

MS. MACK: Thank you, Michale. Aaron?

MR. LACEY: Yeah. I'm others -- like others, trying to be thoughtful about the anti-gaming concept. I mean, I certainly understand the Department's commitment to this idea and the concern. As articulated earlier today, I think in the context of these programs, you know, the quality assurance protocols are so robust that for a program to even get through a year and, and, you know, demonstrate 70/70 compliance and all those things, is different from what we might see in other contexts. But, you know, also trying to be constructive here, I would ask the Department if it would consider whether it would be amenable to like a construct where maybe, you know, there's a substantially similar concept, but and there's maybe even a rebuttable presumption that a program is substantially similar, but there's some opportunity for an institution to demonstrate that the substantially similar program in question is meaningfully different under some criterion from the program that lost eligibility. So if you -- your program that lost eligibility was an EMT program, and you're trying to stand up an athletic trainer program, you know, there would at least be a door open, so that, I mean, that creates administrative burden for you guys, and I get

that, and maybe there's some criteria we could come up with, but just something that doesn't automatically shut the door on programs. Because the problem is the four-digit CIP is just not a fine enough tool. It is in some cases. Sometimes there's just three programs in that bucket, but sometimes there's 40 programs in that bucket, and I'm just trying to think of a way to permit schools to demonstrate that this is a very different program. And there ought to, there ought to be something along those lines. So we can try to come up with something, but interested if the Department, maybe overnight, can just determine whether it would even be open to a construct along those lines would be helpful.

MR. MUSSER: So, yeah, I think if you, if you have something specific in mind that you think would be manageable, we can, we can consider it. As long as it's received before 7:30 tomorrow morning. And that's just a reminder for everybody. Again, really appreciate you guys. I know it's been an intense process. I know that folks have put a lot of work into the proposals, and the Department hasn't gotten to all of them yet. We are going to do a lot of work overnight tonight. But thank you all for working to get those to us as quickly as possible so that we can get, get, get through these by the end of the week.

MS. MACK: Okay. We have a couple more comments, I believe. Want to reiterate the 7:30 deadline? Please do not put us in the difficult spot of receiving it at 7:32. Treat that as a strict deadline, please. Tamar?

MS. HOFFMAN: Thank you. I'm sorry. I know that the Department's going to resent me, but it's about the 7:30 deadline. I'm a little bit concerned that we haven't gotten some more language back from the Department, and I'd like to see if there's any kind of opportunity to then propose additional language, depending on what comes back to us, just so we can be responsive.

MR. MUSSER: So, we can, so, you know, we feel strongly about the deadline. But obviously, and I shouldn't say obviously, it's not necessarily obvious. But when we come back if it looks like that, you know, our changes may have either created opposition elsewhere that we didn't intend, or if we need to work through some, some narrow changes, we can consider that. But we just -- until then, we'd like to stick with the 7:30 deadline. But you can certainly ask after that, and we can talk about it.

MS. HOFFMAN: Okay. Thanks for the consideration.

MS. MACK: Thank you. David?

MR. KAFAFIAN: Similar point. Just, can I just play back what I think I just heard? My understanding is that there should be no new issues raised post 7:30 tomorrow, but respond -- proposals that are responsive to the edits that are shared by the Department tomorrow are accepted after 7:30 tomorrow?

MR. MUSSER: Well, so again, we'll talk about the follow-on depending on the reception of the Department's changes after tonight. And then even through the day. But yeah, for the time being, let's assume it's a 7:30 deadline.

MS. MACK: Randy?

MR. STAMPER: Yeah. I just want to be on the record, thanking the Department for some seriously hard work and long nights. Thank you.

MS. MACK: Thank you all for another productive day. We look forward to seeing you at 9 a.m. tomorrow. Goodbye.