

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
NEGOTIATED RULEMAKING  
SESSION 1, DAY 2, AFTERNOON  
JULY 1, 2025

On the 1st day of July 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. WEISMAN: Good afternoon. Thank you for joining us again for the afternoon session. As a reminder, we are going to be going into caucus for half an hour. I'm going to recap the parameters around the caucus. The caucus will include non-Federal negotiators, primary, and alternates. It will last for 30 minutes. Discussion issues include organizations that share an employer identification number or an EIN. We'll also cover buybacks, reinstatement, and regaining eligibility. No facilitation was requested for the caucus, and no ED staff will be part of the caucus. As a reminder, we will have some production staff in the back who are not participating in the policy discussions that will still be in the room but will again not be working on the caucus. The live stream will be stopped during the caucus and will resume once we're all back to the room and reassembled. Any questions before we clear the room? Because a reminder the caucus participants will stay in this room, given the size of the caucus. All of the rest of us will, will step outside for the half an hour. So, if we can all be back here. Oh, I'm sorry. Scott has a question.

MR. BUCHANAN: Yeah, just a quick reminder. I mean, I think from a protocol perspective,

obviously, this has all been in public meetings with the caucuses or private and confidential discussions.

MS. WEISMAN: Correct. No live stream, no members of the public. And again, in this case, no ED staff. It will be non-Federal negotiators only. So we will come back here at 1:40. We do have a question really quickly from Laurel. So the question was whether a subject matter expert could join the caucus. We did not stipulate that in the protocol. So we would ask that it only be the non-Federal negotiators as outlined both primaries and alternates.

MS. ABERNATHY: (inaudible) I can't move the chair. I wasn't mad about going to the microphone. I couldn't move the chair. Excuse me. As Annmarie stated, the protocols don't speak to it, and the only subject matter experts that would be available are Department staff, which we need to stay separate and apart from this. And also, you know, what you've been submitting to us already has been in regulatory paragraph structure. So I think you do have a good handle with the people around the room that understand regulatory paragraph structure enough to get you through, to give us something to look at.

MS. WEISMAN: Alright, you all, I tried to get you an extra three minutes, but we'll be

back at 1:40. Good afternoon, everyone. Thank you for returning promptly. We are going to start back up for the afternoon following the non-Federal negotiator caucus. Tamy, do you have anything you'd like to start with before we hear a report out from the caucus? If the non-Federal negotiators would like to do one.

MS. ABERNATHY: Can we just do the report out?

MS. WEISMAN: Yes.

MS. ABERNATHY: Thank you.

MS. WEISMAN: Betsy, are you going to do the report out?

MS. MAYOTTE: Yes.

MS. WEISMAN: Thank you very much.

MS. MAYOTTE: With some help- with a little help from my friends. So the, the primary topic that we spent our 25 minutes and 37 seconds on was the significant concern we have about a large entity like the City of Boston or the State of Massachusetts, where there is a party that did bad things and then a division- the rest of the divisions or rest of the parties didn't do bad things, and they become collateral damage. So what we all agreed on was that the language that has already been submitted to the Department by Rebecca, be implemented with an additional clause that we did not have time to

draft in our 25 minutes and 37 seconds. That gives the incorrectly maligned entity the ability to appeal. And we're happy to work on crafting that additional clause. But we just didn't have time to do it during, during the caucus. And then we solved all the world's problems on one thing because of an oar. Alyssa, if you want to share that.

MS. DOBSON: Yeah. Actually, before caucuses, we, a small group of us was reviewing our concern with reinstatement- eligible reinstatement because or is there with the five years or, you know by working with the Department and submitting a corrective action plan is a non-issue. So. Our original, yep, one of our original concerns for caucus was employee eligibility for Public Service Loan Forgiveness reinstatement. We were concerned initially with the five-year timeframe as we took a deeper dive into what the verbiage actually is now. Because there is the or so they, they could either wait the five years or work with the Department and submit a corrective action plan. It's actually a non-issue for us. Yeah.

MS. WEISMAN: Anything else from the caucus that anyone wants to raise? Rebecca?

MS. STANLEY: Just clarifying, since I did submit several things, that it was the submission on

qualifying employer the differentiation.

MS. WEISMAN: Emeka? Oh, your comment card was up. Okay. Seeing no other cards. Tamy, do you want to move into some additional content?

MS. ABERNATHY: Thank you for the proposals. We were able to look at them, even the additional ones that came in. And so, let's just go ahead and start looking at the red text. And we're going to just- I'm not going to read it because you are all wonderfully intelligent individuals. And we are going to pass out copy in color. Now, see, isn't that a great way to start our afternoon? Tables, I mean, a podium for our commenters for our comments from the alternates, and now reg text. That has the majority of all of the proposals that we received to date. The few that we received at the end, we'll talk about those in a couple of minutes. They are hot off the presses. Michael, would you share your screen? Annmarie, are we ready to start? Okay. We're not going to go over every word because you guys can read and you have it in front of you now, and you're freshly made hot off the press copies. B is definitions. We talk about the following definitions. We haven't changed anything in definition one. I'll just remind everybody about the paragraph restructuring, which is part of these negotiations. I don't think it's a pain point, but the

paragraph restructuring, the numbering is there. Currently, we are going to- chemical castration mutilation stays the same. Number four, the definition of child or children for the sole and specific purpose of this section means an individual or individuals under the age of 19. We appreciate the proposals from Tracy, and I think that was the only one on the age. We received two from Tracy about the age. We are going to keep that the same. We feel like there's a long history of states and Federal regulatory behavior identifying individuals under the age of 19 as adults, or excuse me, identifying them up to 21. And so we feel like ours under the age of 19 complies with that as well. And applicable to other standards, we still think that, that is a very fair age to set for the purposes of these regulations. And we just thank you all, you know, for providing this information, but we're going to respectfully decline and keep the age at under 19. Okay? So that is the first part and the two proposals that we received regarding that. So you look at 10, foreign terrorist organizations, no changes. No changes to illegal discrimination in 12. Point your attention to number 17. I apologize for the blue over the blue, red line. It looks a little prettier on the screen if you want to point your attention there. But otherwise strain your eyes and try to see blue on blue. And if you

all pass, you get an A. So other Federal immigration laws mean any violation of the Immigration and Nationality Act, 8 U.S.C. 1105, et sequence or any other Federal immigration laws. So we heard from the proposed, from the proposed Amendatory text that we received in the proposals, that, and what was around the table, from I believe it was Bob, we added this language to clarify exactly what we mean there. Jeff did some research, and we were able to amend that regulation to address your concerns.

MS. WEISMAN: Bob, did you have a comment?

MR. CAREY: Yeah, I was actually saying it should be the exact opposite, that you should only, you should only site-specific laws. The term other, any other Federal immigration law was too broad. And so what I submitted was to get rid of the any other Federal immigration law and only have specific immigration laws cited.

MR. ANDRADE: Can I speak to it? Okay. Yeah, so we took a look at it, Bob. In terms of what other immigration laws were out there, and that we wanted this to apply to. So there are other laws within Title VIII of the U.S. Code that are outside of the Immigration and Nationality Act of 65. There are also a number of

laws that have been passed with regard to border security and national security post-9/11. There are references in Title XVIII, Title VI, and Title XXII. So we wanted to capture those because- to get, to get the full, the full breadth of, of immigration law violations, we did not want to limit it solely to the INA.

MR. CAREY: I'm not saying a limit solely to the INA, I'm saying specify the other laws. If you have other laws that you think need to be included, cite them by Title and code.

MR. ANDRADE: And that would also fix us at the current place and would not leave additional- and again, because these deals- these deal in more recent times with national security and border security, we did not want to fix it at a- at this particular place in time by referencing just those particular sections.

MS. WEISMAN: If I can just note for the alternates, and then we'll go to you. Scott. Alex, over on this side of the table, and Faisal, over on this side of the table, now that the tables are up for you all. I don't have a clear sightline on you. So if you are putting your cards up, if you could just be extra careful, you may need to wave them in the air like you just don't care. I will be watching for you as best I can, but I really- I don't want to slight anyone. I don't

want to miss anyone. So if, if the two of you could just be particularly aware of that. The other thing is, I would say if an alternate were going to speak if you could please go to the podium for this afternoon, and we'll see how that works rather than having someone come to you. If for some reason you're not able to do that again, just flag me down. Scott?

MR. BUCHANAN: And I apologize. I asked for a little bit of grace, but I have to step away from the table. But I just want to make one comment about one you haven't gotten to yet. Before I leave, but just- I think it's more technical in nature, on page eight, the application process about putting in or notifying borrowers about a corrective action plan. Keep in mind, I certainly get the goal, but this would not be practically possible. Because you're talking about an application which is coming in at one time. And so I think the intent of this is to notify the borrower who maybe who has applied in the past that corrective action is being taken or something like that. But I'm happy to work with- I think Mary Lyn was the one who submitted this. But to talk about alternate viewing of, because I think that practically would not achieve much of anything in terms of- because the app comes in, (inaudible) moment in time, are they in corrective action or not, as opposed to

what's their actual status, which is sort of irrelevant to the application process. But, Mary Lyn, maybe we can talk about that because I think maybe we could put it elsewhere.

MS. ABERNATHY: Yeah. So when we get there, we'll have a conversation about that. And if there's something that you would like to propose additional amendatory text, if you could get that as early as possible to us this evening, that would be great. Thank you, Scott.

MR. BUCHANAN: Yep.

MS. ABERNATHY: Thank you. I just want to make sure you heard me. I don't want to- alright. Going on? Annmarie, are we ready to go on? All set?

MS. WEISMAN: Alex, I was just going to ask if you could put your card over there? Thank you very much.

MS. ABERNATHY: So we have not made any additional changes to any of the other definitions, 18, 19, 20, all of those, you get down to qualifying employer, and we didn't make any changes there. Qualifying repayment plan, library services. Thirty, we have made- I'm sorry. Was that not already there? It's not flagged. It was already there. Correct, Renee?

RENEE: That's correct.

MS. ABERNATHY: Okay. Alright. Oh, you scared me for a minute. Hot seat. Alright, let's go to 30. Substantial illegal purpose.

MS. WEISMAN: Tamy, can you hold on for just a minute? I think we need- we have a clarifying question that we need from Betsy.

MS. MAYOTTE: So we talked a little bit about this yesterday, and I was taking the- so let me just back up a little bit. There's a lot of lawyers in this room. I am not one of those. So I hope people have a little bit of patience and forbearance with what I'm about to ask or talk about. When I go and read the statute of PSLF, I don't see where the Secretary has the authority to remove employer eligibility definition from a 501(c)(3) organization or a government entity. And Jacob's snapping at the bit on this one but hear me out. You know, I can see where there might be some wiggle room about non-government entities and non-501(c)(3)s. But my understanding of regulations and executive orders is that they cannot be contrary to the statute. And there are no ifs, ands, buts, maybes, or semicolons or otherwise under government and 501(c)(3)s.

MS. WEISMAN: Jacob, did you want to respond?

MR. LALLO: Yeah. So I know you've

gotten tired of me hearing this or saying this, but there is broad rulemaking power for the Secretary to promulgate regulations that interpret statutes. That is a long-standing part of American agency and administrative law. And moreover, I think while your point is well taken that the statute does clearly lay out different categories of public service jobs. The reason that these have to be broken out further and are broken out further in these regs and in previous ones, is you can't just apply a common sense read to all of them. You know, again, in the most ridiculous example you can make is the fact that it says military, but it doesn't explicitly say United States military. Obviously, we would not want to consider joining another military as a public service employer. The point I'm trying to make with that is we're allowed to interpret within those, and we are still effectuating the intent of Congress by pushing for reform the public service writ large. And moreover, within the bounds of the illegality and public policy doctrines articulated by the IRS, which we're using as a basis for this. And I think just beyond that fact that it says, you know, it articulates categories in there, unless it's naming something explicitly and saying that we have no authority to regulate over it. We're allowed to work on this as long as we're not operating directly contrary to statute

and by, you know, providing standards by which 501(c)(3)'s can participate and become qualifying employers, or rather be removed as qualifying employers, that is not taking away from the statute, which just defines them as a category of public service job.

MS. MAYOTTE: Can I respond?

MS. WEISMAN: Yes, please.

MS. MAYOTTE: I agree that the IRS has the authority to remove the status of a 501(c)(3) if they're not complying with the definition of a 501(c)(3). So why aren't we in that room? Why is that in this room? And just, I'm old and I lose my train of thought really easy, Jacob. I'm sorry. Speaking of congressional intent, because, you know, my social life is so full, when I heard this neg reg, I went back and read all, I believe, with 207 pages of the Congressional Record for when PSLF was written into law. Spoiler alert. So they, they talk a lot about what their intent about what PSLF was. And one of- and so starting with page one of the 207 pages. No? Alright. One of the few quotes I want to bring out is, we want to encourage more young people to go into public service. Our policy should respect that choice, not denigrate it. Under the loan forgiveness program, the remaining loan balance and a loan forgiven for a borrower who has been employed in a public sector job and making

payments on the loan for ten years. These jobs are essential to the communities that they serve. So the intent of Congress was not to narrow the eligibility. It was to, to make it as expansive as possible under the statute that they wrote. Going back to what you said is about the statute list and categories of jobs. The statute specifically lists 501(c)(3). What are the job responsibilities of a 501(c)(3)?

MS. WEISMAN: Jacob, do you want to respond?

MR. LALLO: So two things. First off, so first off, the reason we're not in the room with the IRS is that's still a separate issue. While the IRS does have the authority to, you know, grant and revoke 501(c)(3) status. Our- we're working off a basis that they've, you know, articulated because they have a certain amount of expertise here in terms of determining what constitutes a 501(c)(3). And we are applying that writ large over the concept of public service. Because those two things are very much related and I think very, very compatible, especially when we're talking about, you know, behaving in a way that furthers public policy, which is the intent of PSLF. Now, that being said, and I don't want to, you know, question the validity of the Congressional record. I think it's important to consider,

you know, the intent of Congress at all times. But the Congressional record is not, you know, the red-letter text that dictates what the statute says. The statute is what the statute says. And I think, you know, we've had this conversation when we've gone back to the room, there's a lot basically within PSLF. And that is a short section of the regs. And we have to really interpret and work within that to make PSLF work properly. I think we've heard from multiple people who've commented about just how many 501(c)(3) organizations there are. They provide a lot of services and a lot of different things. I would challenge that a 501(c)(3) is not a true public service job on its own here. It is a classification of different types of organizations, and we can't take all 1.3 million 501(c)(3)'s and put them all into one box. It's practically impossible, and it's reductive as to, you know, the nature of 501(c)(3)'s. I think to say that they're all basically the same for this purpose.

MS. MAYOTTE: Okay. So I feel like I've put on my chaos pajamas now. So, and maybe I misheard you, but a minute ago I heard you say we're following congressional intent. And then just now we read out congressional intent, we say, well, congressional intent is not always congressional intent. And then also, when we started this conversation, you said that the

statute is just listing jobs, but then you said that it's not just listing- I mean, if Congress intended for it to just be a list of jobs, why would they have specifically included the term 501(c)(3)?

MS. WEISMAN: Alright. Let's let Tamy respond to that. And then, Jacob, if you have something else, we can go back to you.

MS. ABERNATHY: So we are not negotiating what is or is not a 501(c)(3). Right? We're not negotiating whether or not a 501(c)(3) is a qualifying employer. We already know that, that is right now as it stands. We met with the IRS. There were no changes to the IRS code that would change a 501(c)(3) employer from being a 501(c)(3). We do not have the authority to change an employer from a 501(c)(3) status. That is not what we are doing. So while the statute does speak to the fact that a 501(c)(3) is an eligible employer for the purposes of PSLF, we now have subsequent rules that are going to go into place, proposed rules right now, that amend and say an agency participating in a substantial illegal activity for the purposes of PSLF will not be an eligible qualifying employer. We are permitted to do that under the Secretary's authority. And that is why we're here today. We are not changing that employer's status. But for the purposes of PSLF, if an

agency government wide or a private agency, nonprofit agency, non-government, participates in substantial illegal activity, they no longer get to be a qualifying employer.

MS. WEISMAN: Jeff?

MR. ANDRADE: So what we're doing here is we're not defining 5- we're defining a 501(c)(3), we're defining what is public service. And if you want to be a strict constructionist and go back to the statute and go back to congressional, the congressional record, then things like buyback of payments and some of the other things that have been done in the seven times this, this regulation has been opened up. We're now here at the eighth time. Then you would say all those things, you know, should, should go back because they weren't mentioned in the statute. And so we, you know, if you remember when this was originally promulgated, the term was public service organization. It wasn't qualifying employer, and qualifying employer had been- has been broadened through the regulatory process, has been regulated through that process. So but what we're, what, what we're defining here is, focuses around whether or not this is public service, not whether or not this is a 501(c)(3).

MS. WEISMAN: Betsy, did you have

another comment? And then Abby, after that.

MS. MAYOTTE: Yeah. So first to respond to, to Tamy and Jacob, and then to Jeff because I don't want them to feel left out. I do understand that you are not trying to change the definition of 503 C3. I understand that completely. I'm saying that if, if the concern is that a 501(c)(3) is performing an illegal activity, let the IRS do their job and remove the 501(c)(3) status. So I'm clear on that aspect. And to respond to Jeff, you're right, buyback is not in the statute. But with that argument, I would take it in a similar direction, an adjacent path, so to speak, and say if memory serves, the statute also doesn't specifically exclude a for-profit so therefore we should be expanding the definition of eligible employer to anybody who works one of the jobs that are listed in the statute, regardless of whether it's for a nonprofit or for-profit or a government or whoever.

MS. WEISMAN: I'm hearing areas of agreement.

MR. ANDRADE: I mean, we're violent, we're a violent (inaudible). I think it goes back. But again, it goes down to the job. Is the job public service? And that's really, and that's really what we are, what we are focused on. And we've tried to make the

case and to show that in these instances, the work is actually going against the public good and not for, for public service.

MS. WEISMAN: Jacob, do you want to comment?

MR. LALLO: Yeah, just to your initial point there. I want to clarify the reason we're doing this and not the IRS, is there are several processes where we work closely with Treasury, we have overlapping jurisdiction of some things. It's not really that like we're regulating the same things, but what we're doing sometimes bumps into each other a little bit. While we recognize that they could revoke, you know, a 501(c)(3) of an organization for illegal activity, they're not going to catch everything. And this is a program that is under the administration of the Department. And so it falls to us to administer it. And if that results in some degree of overlapping jurisdiction between us and the IRS, so be it. But we, at least in those cases, serve as a second check and a second line of defense. And in cases where it's not necessarily under the purview of the IRS, as Jeff and Tamy mentioned, with state governments or other organizations, that is only really under our purview. And so it's necessary for us to step in here and cover this.

MS. MAYOTTE: So why not continue your interagency cooperation and, you know, throw them an elbow, hey, you should go look at this guy. They have a process. They have an appeal process, and I'm not- I you have not convinced my non-law degree brain yet that the Secretary actually has the authority to do what you're proposing to do. So, again, going back to something I asked yesterday, what problem are we trying to solve? You've articulated the problem you're trying to solve quite well, but I argue that there's already a solution in place that's already been done through the IRS.

MS. WEISMAN: So I'm going to go to Tamy. But really quickly, one thing I would ask, and again, I'm going to start getting a little more assertive here to challenge some positions and to try to get you to think in ways that are different than the ways you've already been thinking. Is it possible that while this wouldn't be your first pick, and I'm not asking you to answer right now, I'm asking you to think about it. Betsy, is it possible that although you don't agree with that way of doing it, that you say this would still be an acceptable way? Perhaps your preference would be to have the IRS do this. You've outlined that, I think very well, but is it possible that there is that other way that you could live with? So as we start to look for agreement,

hopefully not too violent, that, you know, we really do look for ways that we can say, okay, I can live with it. Again, not asking for a response, just for thoughts. Tamy?

MS. ABERNATHY: We met with the IRS, and we discussed this, and the very thing the IRS said to us was, you don't have the authority to do anything with a five- with a status, with an employer's status. And we said 100% correct. We're not trying to do that. They do not have any directive that is going to change the 501(c)(3) status at this point. There's been nothing that tells an agency at this point to change a status for a 501(c)(3) if you have participated in a substantial illegal activity. So absent the IRS getting their own directives, which we do not dictate to another agency what they should or should not do, nor do they dictate to us. In these instances, we worked with Treasury. We worked with every agency that would work with us on these definitions. We went to HHS, we went to the IRS. We went everywhere we could to go across agencies to clearly work collectively to make sure we got it as air quotes, right as possible. And in this case, we're stuck where we are here. It is what it is. We understand, Betsy, where you're coming from, we appreciate you coming to us and saying these things. This is basically a moot point, and

I think we need to move on past this because we're not going to be able to do anything more with that. I'm sorry.

MS. MAYOTTE: The last thing I'll say for now is that in response to your explanation, which I appreciate, is that I, I feel like that executive order was requesting an outcome, not a path. And I'm suggesting that the path that you are taking, you don't have the authority to take.

MS. ABERNATHY: Thank you.

MS. WEISMAN: So as we all start to think about what's been proposed, there may be others who feel that way too. And I guess what I would ask is, in some cases, you have to let the Department decide where it feels that there is risk versus not risk. So if the Department feels that it has the authority and has a legal argument and position to make, can you get behind the proposal that assumes that is there? Again, just food for thought. Trying to find some agreement. I don't see any cards up, Tamy. Do you want to move on then?

MS. ABERNATHY: I do, thank you. I believe we are on 30. Substantial illegal purpose means. Do we agree on that? Okay. I'm knowledge checking myself here. Yes? Okay, good. Alright, so you'll see in romanette three, the pretty blue, where we've removed the

semi or we, we've removed the or the, and we've added in violation of Federal or state law. Thank you, Michael. I don't have that note on here to make sure he's screen sharing, so thank you. In violation of the, thank you, Jeff. In violation of Federal or state law, we have added under romanette three, engaging in the chemical and surgical castration or mutilation of children. Romanette four, engaging in the trafficking of children to states for purposes of emancipation from their lawful parents, in violation of Federal or state law. We have removed, in violation of applicable law. Because what we determined and what it should have been, was it did apply to both of those things. And the way that we wrote it did not necessarily do that. So we have remedied that. Four has now become five. And engaging in a pattern, and I'm sorry, what we did was we, we changed three to be two subparts instead of just one. So we added, we added it as four. So now we have a five engaging in a pattern of aiding and abetting illegal discrimination or and then six engaging in a pattern of violating state laws against trespassing. And again the, the edits that are in yellow, I believe, Tracy, this was from your proposal from the night before. So the stuff in yellow are the proposed languages from yesterday. The stuff in blue is what we've come up with based on our discussions, based on your

proposals, and based on other- if there's anything else that we've based it on. You'll see going all the way down to 34. Thank you, Michael, we have removed the old 34, which is violating state tort laws and all that compiled underneath. And now 35 became 34, violence for the purposes of obstructing or influencing Federal government policy. So we've had yet another paragraph restructuring. Yes. Sidebar. Abby? We could play- we, we heard your concern about removing the non-default judgment and making it more than what we wanted it to be. And while we have struck out 34, we're willing to go back. Unfortunately, we didn't realize that we were willing to go back until right this second because we missed it during our conversation. So we're going to- it wasn't on the list, so we apologize. But we'd like to go back if you feel very strongly about making sure that language gets in there. Let us go rework- we've tried to do some of that elsewhere, but we did not put in there about the non, sorry my glasses aren't- non default judgment. So we're going to go back and do that. I just wanted to make a mention of that because you did bring that up. And I apologize that it was- we missed a lot during lunch. We didn't miss a lot; we missed that one during lunch. Thank you.

MR. ANDRADE: And I think what we

would do is we could strike out tort, the word tort in there, to make it a corresponding change to the other section. And then just keep it as, as we had in. We took it out because we thought it was redundant to the change that we made. And but, you know, but you have a point that the language that we wanted to put in there, which was final default judgment by, by state court, needed to stay in there. And it doesn't fit in the other section very elegantly, so.

MS. ABERNATHY: So we may go back to having a 34? Just kidding. We're not changing it. No, we may go back to that, but we'll give you final tomorrow. But I just want to tell you, if you see that coming back to the table, that's why we're going to make that change, to make sure that we have final non-default judgment in there somewhere to clarify based on our legal aid concerns. Pretty important. Okay? Alright. Borrower eligibility. Let's move on to the application process E. The application process under subsection E is not new. What is added, 9, 10, and now brand spanking new 11 has been added. We know that there's some practical, practical issues with 11 that, that we'll look at. But right now, 9 are changes from yesterday and 10 are changes from yesterday. And then 11 is what's changed from today. If the Secretary approves a correction action

plan under J2, the Secretary notifies the borrower of the employer's status. We're going to review that again based on Scott's concern. So stay tuned. You'll probably see some additional language and some additional justification on that particular point.

MS. WEISMAN: Alex?

MR. LALLO: To follow up there, I think you heard Scott say this earlier, and to provide more clarity for people watching on the live stream, and folks around the table, as currently constructed in the application process, it's unclear if this is the best spot in the process in which to notify borrowers that there is a successful corrective action plan. It- upon initial reading here, it looks like it might make more sense in the reconsideration process. And so we will be taking that language and offering suggestions for where best to place it in the reconsideration borrower reconsideration process so that it's operational.

MS. ABERNATHY: I would just caution that we are trying not to have borrowers apply for reconsideration for qualifying employer, because that is not something that they can get reconsideration for. So while we appreciate that, please keep that part in mind as you're trying to craft some regulations around this.

MS. WEISMAN: Tommy?

MR. AIELLO: Just a quick question. We might have already touched on this already, so please forgive me, but why don't we include a timeline for how quickly the Department, or the Secretary has to let a borrower know if either their employer might not be- might be ineligible, and then subsequently, if they are finally no longer the qualified employer?

MS. WEISMAN: Jacob?

MR. LALLO: I think if you have proposed regulatory language on that, give it to us, let us know. I think it was flagged yesterday by Tamy as something that we would like input on. So if you have proposed numbers, please send them to us.

MS. WEISMAN: I see no other cards at this time. Tamy, do you want to continue?

MS. ABERNATHY: Yes, ma'am. Thank you.

MS. WEISMAN: And then I think after this next little grouping, we should take a break.

MS. ABERNATHY: Okay. You tell me when. Standard for determining qualifying employer in H. We have added 1, where it will now be H1. The Secretary determines by preponderance of evidence through everything. We talked about substantial legal purpose by considering the materiality of an illegal activity, of any illegal activities or actions, by gauging both

frequency and severity. We renumbered final judgment to romanette one. A plea of guilty. Paragraph two romanette two. Romanette three is a settlement. We've added number 2. Nothing in this subsection shall be construed to authorize the Secretary to determine an employer has a substantial illegal purpose based on the employer or its employees exercising its First Amendment protected rights. We talked about this a little earlier today. We'll jump, jump down to I. Process for determining when an employer engaged in activities that have a substantial illegal purpose. We have changed number 2 to determines that the qualifying employer engaged in activities that have a substantial illegal purpose under subsection H of this section, unless prior to the issuance of the Secretary's determination, the Secretary approves a corrective action plan, which includes the factors set forth in subsection J2 of this section. We heard you, and this is our attempt at remedying the concern that you presented to us about this. Jeff says it's basically a settlement that we've put it here, memorialized the language here for your consideration. Any discussion? I'll turn it over to Annmarie.

MS. WEISMAN: Faisal?

MR. SULMAN: Just a dumb question. So in the correction action plan. That's something that the

employer is the one that who creates and submits that to the Department. And then. If so, would there- is there ever a possibility where the correction of action plan takes longer than five years? And if so, would it just default to the five years being the lesser of the two?

MS. WEISMAN: Jacob?

MR. LALLO: Yeah. So the corrective action plan if entered into before the final determination. So, you know, we set up this process by which, you know, the employer has given notice of a preliminary determination that they have engaged in this activity and then has the opportunity to respond. So we anticipate within that, and you know, what we were building in here is that, especially in some instances, you know, a corrective action plan is really the best way to fix this. We want to curb bad behavior and encourage good behavior. And especially, you know, again, we built in the materiality qualifier because we want to basically take more minor issues and just address them rather than push anybody out of the program. So with that, we anticipate that this is just going to be negotiated as part of the process. There- there's no five years yet, because that wouldn't kick in until a final determination is issued. So once that final- the, the clock starts running on that five years once that final determination

is issued. So if the employer submits a corrective action plan and we go back and forth for a while, and it, you know, never gets approved, they've never lost eligibility during that time. So as long as there hasn't been a final determination- now, this doesn't technically bind the Secretary. And so far as we could move forward without a corrective action plan. And as we've discussed, you know, there are some forms of conduct that we think are far more material than others. And, you know, again, going to the extreme, engaging in terrorism doesn't mandate a corrective action plan. But everything else might. So this basically lets that process, you know, play out there. And then in terms of corrective action plans afterwards, you know, if they do still lose eligibility, an employer can still come in and submit a corrective action plan and work through that process with the Secretary. But if that's happened, they've lost their qualifying employer status at that point, and then they regain it at the point that it's approved. But assuming that it's done within this process, they never actually lose their qualifying employer status.

MR. SULMAN: And the date of effect is still July 1, 2026, that's assuming. But okay, say, for example, I guess someone loses, an employer loses, their eligibility a month or two before they go through the

correct action plan process, and the Secretary determines then and there that, you know, like, I don't know, June of 2026 that's- they lose their eligibility then. But like, there- do you see my confusion?

MS. ABERNATHY: They would lose eligibility in June. They can only lose eligibility beginning July 1, 2026.

MS. WEISMAN: Jeff, did you want to make a comment?

MR. ANDRADE: So, so what we're trying to do here is avoid the situation of having to make a determination and then have them come back in, and then there's a gap where the borrowers are not eligible. If the, if the employer admits that they, you know, didn't, didn't do something the right way, we're trying to give an opportunity for them to correct it before we make the determination. And I'll yield to Jacob.

MR. LALLO: I just want to add a quick clarifying point. You said this, of June of next year. This is for engaging in substantial illegal activity after July 1st. So the June issue wouldn't come into that. No determination can be made on activities that happened before July 1, 26.

MS. WEISMAN: Tommy.

MR. AIELLO: I'm a small government

guy. I really don't like when we give a lot of power to one person, whether it's Secretary McMahon, Cardona, or whoever might be the next Education Secretary four years or ten years from now. Is there a way to address that, the Secretary having all of this power- because the last administration, the way they treated schools like Grand Canyon University or Liberty University, I thought was very unfair. I'm concerned that we could be bringing that same precedent this time around. If a school or an institution says, this is my corrective plan, we're doing all of these things. The Secretary says, no, it's not enough; we need more. Is there a way to alleviate some of those concerns, whether it's a multi-person panel or some other constituency aside from just one person? Or is it in the statute that it only has to be one person?

MS. WEISMAN: Jeff?

MR. ANDRADE: Where we're going on this is we're- the rules don't change. We're just trying- we're changing the timing. Right? So, if somebody was going to lose- was going to have a determination go against them, the facts of that don't change. If somebody was going to do a corrective action plan after that determination, the facts don't change. So what we're, what we're really trying to do is to protect the borrower and to make- and to combine the two processes together.

So we're not changing, we're not changing what happens within the two processes that we had, had laid out. What we're changing is the timing of the two, and Jacob, did you have anything to add to that?

MR. LALLO: I think that's a pretty good summation. I think that's you know, that's the risk, I suppose, a qualifying employer runs by agreeing to enter into a corrective action plan. But the standard for what gets you tossed for being a qualifying employer, you know, engaging that activity, is already there. So we're offering a mitigation. And so that may include, you know, different- that they have to impose certain standards. But that's the benefit they get to come back, or they get the benefit of coming back in early if they do that.

MS. WEISMAN: Laurel?

MS. TAYLOR: I just wanted to thank you for this, this change. I think from aligning incentives and incentives driving behavior. I think it also addresses some of the concerns around whistleblowing and encouraging once an employer becomes aware of an issue to work it fast and hard, and the corrective action plan protects the borrower, minimizes damage, provides employer with an opportunity to respond. So, thank you. I think this was really thoughtful.

MS. WEISMAN: We're getting to break

time. But I also recognize that there's not too much more to go. We have Kaity with a comment.

MS. MCNEILL: I just wanted clarification on something you said earlier. I know, like that topic of terrorism is sort of a touchy one, but were you just sort of clarifying that if that is sort of what, what the issue is, that in no case will they receive a corrective action plan if that is the accusation?

MR. LALLO: I was just referencing that as the kind of most extreme example. I know, every time that's been brought up, it's been kind of used as the outlier for the most severe thing on that list. Obviously, we can't speak to how we would behave in any particular future incident. Everything would be considered on a case-by-case basis. But I think, you know, it's just been a useful proxy for the worst thing on the list throughout.

MS. WEISMAN: Kaity, did you have a follow-up up or are you okay?

MS. MCNEILL: Categorizing things that way.

MS. WEISMAN: Okay. Thank you. We ready for a break or? Betsy?

MS. MAYOTTE: Are we still going to talk about H? Or should we talk about H now?

MS. ABERNATHY: Didn't we talk about H? I'm sorry, did we?

MR. ANDRADE: We didn't make any changes.

MS. ABERNATHY: We didn't- we- wait, I don't have glasses on. Give me one second. We did not make any changes to H. We talked about it. I went through it. We- the only change we made was putting in a number 1 and putting it into paragraph structure. There were no other additional changes. We talked about- all the stuff in yellow was from yesterday, so we did discuss H.

MS. WEISMAN: Abby?

MS. ABERNATHY: Now, I have not gotten to your proposals yet.

MS. SHAFROTH: Okay.

MS. ABERNATHY: Going through that, if that's what you're looking for, remember we got some of that really late. And so we did that during lunch. This was what we had finalized. And then after we finalized this, we looked at where we could include things and where we couldn't. So after our break, I'm happy to go through very quickly what we've received so far, and our rationale for whether we accept it or did not accept your recommendations for proposals.

MS. SHAFROTH: Okay. Yeah. I knew that

there was a proposal on H specifically that I was hoping we would have an opportunity to discuss, so I can, I can wait if there will be that opportunity later.

MS. WEISMAN: So let's do that after the break. I do see that Bob has his card up, so let's do Bob and then the break.

MR. CAREY: I just want to say that's very helpful to know, because when you first came back in, it sounded like you had gone through all the proposals received by the lunch break and that you had incorporated where you guys wanted to, those proposals that had, that had been received by the lunch break, so.

MS. ABERNATHY: That is true.

MR. CAREY: So, if there's any possibility of knowing what proposals that have been submitted by what time.

MS. ABERNATHY: We'll discuss that after the break.

MR. CAREY: Okay, great. Thanks.

MS. WEISMAN: So if we could come back at 2:50, please. That gives you just over ten minutes. Welcome back. As a reminder, we have a little bit more time for our discussion, and then we are going to stop at 3:25. I'll do a short intro and instructions for public commenters. Public comment will be from 3:30 until 4, and

then we will be finished for today. We'll give more instructions as we get closer as to what we think tomorrow will look like. I know there was some discussion about walking through H again. Tamy, did you want to start with that, or did you have another path?

MS. ABERNATHY: I have another path. We're going to go through the proposals so that you all know that, that we've looked at them. I'm going to ask my colleagues to help me. Some of them did not have who they were from, so my apologies. I mean no disrespect to not address the right person. Please feel free to correct me if this is your proposal, but this is one that came in about the Higher Education Act 27, qualifying employer means and E, a nonprofit organization, seem to have changes done to that. So I'm not sure which one of you put this through. This is- oh look, there it is right there. Excuse me. To the negotiators for consumer advocates and legal aid organizations. I looked all over for that twice. We are not able to take the changes to qualifying employer because we are remaining neutral, neutral across the board for Public Service Job and Higher Education Act lumps into one bucket. It doesn't take it out of different buckets. So we're going to keep it in those- that one bucket. We're not going to carve out a separate path for nonprofits. We don't believe that

is in the intent under the Higher Education Act. So we do appreciate the thought process that went into suggesting this proposed language. But the Department is not going to accept that language. We have accepted suggested text, excuse me, from Mary Lyn, that borrowers should also be notified when the employer is approved for corrective action plan was reinstated. What we did was we, we took 11- I believe we added 11, but we took out some of the text. So it is just if the Secretary approves a corrective action plan under J2, the Secretary notifies the borrower of the employer status. So we did take a modified version of your recommendation, Mary Lyn. Thank you. Bob, you proposed- you articulated your concern and your proposed language to include State or Federal law for chemical castration and mutilation. And what we chose to do in lieu of that was to change B30 instead, and confirmed that, that is the intent of the policy that in violation applies to both. So we changed, if you'll remember, when we went over- or you may not have been here, so I- I'm sorry (inaudible) not 34. Oh, you mean romanette four?

MR. LALLO: And three.

MS. ABERNATHY: Yep. Three and, three and four. We, we changed from one romanette into two. And we added in violation of Federal or State Law to both of

those clauses. We, however, are not going to change the definition of child or children. We've addressed that already numerous times. We're going to retain the definition that we have currently in number four. Bob, you also had another proposal regarding the standard in H, where you changed the language in H and one, two, and three. We appreciate that. I believe- my notes here are a little vague, so I may ask Jake to- Jake or Jeff to support a little bit on, on the rationale. Something (inaudible) State or Federal Court. We cannot make the State or Federal Court tell us anything. So there's no way that we can make these changes where you're saying a criminal law by a State or Federal Court. We're not able to engage in that particular aspect of your recommendation, because we have no control over a State or Federal Court communicating anything to us. Jake, did you want to add something or is that good? But thank you, Bob. Additionally, we have Emeka. Did I get it right? Yes. Alright. Stuck the landing. First time I've ever heard that. We appreciate your change or your, your recommendation, but under the statute 1087E, we cannot go back retroactive. The way the statute is written, we're not able to look backwards. It has to be at a point going forward. So we're not able to do the particular when the corrective action plan is delayed, and you wanted us to

be able to go back and count those payments. We're not able to do that because- sir?

MR. LALLO: Can I (inaudible)?

MS. ABERNATHY: You certainly may.

MR. LALLO: We can't go backwards and for- or, you know, entertain reconsideration or retroactive, you know, qualifying employer status because for a payment to count, it has to be made to a qualifying employer pursuant to 1087E, and any time that they've lost eligibility, they're no longer a qualifying employer. So we can't work backwards and then allow them to make payments then and basically determine that those payments counted, because we've already made a determination that they're not a qualifying employer for those times.

MR. OGUH: I guess what I was really trying to mitigate was- let's say I have this good faith corrective action plan. I pass it to the Secretary, and it sits on her desk for a year, right? So, so being able to say if and when she does get a chance to look at it, I know she's busy, she's got other things she's working on. It's sort of approved for when that corrective act- like that's what- how, how can we mitigate that situation where it's just sitting on someone's desk for like a year?

MR. LALLO: Got it. And we can get into this more as we actually discuss the role. But I think this kind of goes back to the point that was made earlier about, you know, when a loss of eligibility- or a loss of qualifying status actually happens here. And so I think if that's submitted, you know, after notice that a, you know, a preliminary determination about substantial illegal activities has been made. If that's in discussion, there's no loss of that status until a final determination has been made. So this would really only apply if you knew the correction- corrective action plan is submitted afterwards. Yeah.

MS. WEISMAN: Emeka, your card is still up. Do you have a follow-up? Okay. Tamy, did you have- ?

MS. ABERNATHY: Yes, ma'am. We did in number two under I, for the process for determining when an employer engaged in activities that have a substantial illegal purpose, we added language to try to mitigate that very concern. Because the point here is, if they are under a corrective action plan and they have done this before getting a final determination, there is- they are still a qualifying employer. The payments borrowers would make while still going through this process until a final determination is made, they've met that standard of

losing qualifying employer eligibility. They still qualify. Those payments still come. So we, we heard you. We weren't able to accept your proposed language, but we tried to work in other language that would mitigate that concern as best we could within the parameters that we can operate in. (inaudible) turning that off. Alright. Tracy, you indicated- you- excuse me, you provided a recommendation for change to item four, child and children. We've spoken to this a couple times, but we are, and even though you have a list of, of laws that support those changes, we're going to hold to our particular change. I think we've addressed that already, but I wanted to just circle back to you. Bob, you also put in a recommendation for 12, illegal discrimination means a violation of. And we are trying- the, the edit here that you put in seems to make it less inclusive, and we wanted it to be more inclusive. So we are not going to make any changes to that. Again, Tracy's second proposal to support his- the definition of changing the child. Heidi, you put in a change in regaining eligibility as- excuse me, you put in a proposed recommendation for retaining- regaining eligibility as a qualifying employer. You added a three, the Secretary shall acknowledge receipt of the corrective plan within 60 days, and employer reinstatement is effective on the date

of acknowledgment of receipt of a corrective plan. So one of the things we wanted to mention is we may not agree with that corrective action plan. So we certainly could not take action or take that date as the actual date, because it might not be a fully executable correction or corrective action plan. That is something that we may still be engaging in discussion with the qualifying employer. So we're not able to take point number three. And employer reinstatement, what we tried to do here is if they're in, in the process of completing a corrective action plan prior to getting a final notification, although under this section, this is regaining eligibility, so they would have been notified already, we're not able, we're not able to have a respective acknowledgment of the receipt of the corrective action plan by the Secretary. So we're not able to take your, your recommendations, but thank you. I am unaware of who put in the revised language to be added to protect those sharing an EIN with an employer who is awaiting reinstatement. We are still- although, who- do we know who put that in? Thank you, Miss Rebecca. Somebody told me that and I forgot to write it down. My team told me, and I just didn't get it down. Thank you. We're going to hold this one. We need to do additional thinking on this and come back tomorrow with a response because we are

still investigating and exploring the ways in which we can remedy the very points that you brought up that we are considering. We just didn't- we ran out of time to come out with a final, but we do expect to, to have something to share with you all tomorrow in hopes that that might mitigate some of the concerns about the EINs and how we determine right now a loss of- well, how we would propose to determine a loss of eligibility for a qualifying employer that has one EIN, that uses one EIN. So we are looking at that. We've heard you and we intend to discuss some more this evening and circle back.

MS. WEISMAN: Rebecca, did you want to make a comment?

MS. STANLEY: I just want to make sure that you got the proposal that was sent last night at 7:48. It was about the qualifying employer definition revision because it would have correlated with that as well.

MS. ABERNATHY: Hold on one second while I check, please. Rebecca. My apologies. Thanks for flagging. I did not get that one. Or if I did, I- we did not go over it. So I beg your forgiveness and let us take this back. But let us look at it quick and see if there's anything that we can do.

MR. LALLO: (inaudible)

MS. ABERNATHY: We're going to take it back. We are going to take this back because it goes along with the other one that we're looking at. Thank you for your patience. You're fine. If it's our oversight, it's our oversight. We own it. Well, just this one time. Where it doesn't really matter, so I can't get myself in trouble? Oh, yes. Thank you for bringing that to our attention. We'll get right on that. Thank you.

MS. WEISMAN: Laurel? Can you go to a mic?

MS. TAYLOR: On the topic of the EIN number that was part of our (inaudible) for today, I think we did also discuss having additional language that we would be providing working from Rebecca's work. We continue that discussion for caucus. So we may also have additional language coming to you all this evening.

MS. ABERNATHY: I'm sorry, would you repeat that? I was- I did find your proposal. I filed it so I would remember to look at it because we got it this morning, so we did get it. Please repeat yourself.

MS. TAYLOR: Thank you again for the sensitivity to this particular issue. So working from Rebecca's Foundation, this was the- one of the primary tenets behind the caucus. I think we may also, leveraging Rebecca's work, have another iteration to you this

evening.

MS. ABERNATHY: When this evening? And not that I- so let me- it's not that- we typically break- if we have all business discussed, then we're going to break, and we won't resume until in the morning. So if you're going to need time tonight to do that, and we have no other business other than the few little things that we have to, to touch point on, then we'll break and then we'll resume earlier in the morning if you can get it to us. Sorry- if, if you can't get it to us until later this evening, we can break and then discuss it earlier tomorrow morning. We can meet a little bit earlier in the morning if we have to, to come up with- not to come up with, to review it and decide as a team. So if you can get it to us in a reasonable amount of time, that's great. If you're going to need tonight to flesh it out, that's fine. We just need to know approximately when you could get it to us so that we can start to look at it and engage in conversations to make sure that we're ready by 9:00 tomorrow morning.

MS. TAYLOR: Thank you very much.

MS. WEISMAN: Rebecca?

MS. STANLEY: I think the concern would be, since you haven't had time to review it because it was accidentally left out, is that if you said we

would accept it with additional revisions. We're not really having the opportunity to make those revisions. And so is that-

MS. ABERNATHY: No. You have, you have the opportunity.

MS. STANLEY: Okay. (inaudible)

MS. ABERNATHY: Here's the question. We plan on discussing this tonight. If you need time to give us another iteration of that, that's fine, we'll do that. We just need to know your timing.

MS. STANLEY: Yeah, and I don't want to speak for everyone.

MS. ABERNATHY: And don't feel put on the spot. You can communicate with Annmarie. Annmarie will get to us.

MS. STANLEY: Yeah, because I believe we can submit it like it is. But then if, if it's something that you would consider, then we would like the opportunity to provide revisions and change it as needed. Is that correct, from what we had in the caucus? I don't know if that's-

MS. ABERNATHY: We have, we have- I believe we'll have time tomorrow. What I would suggest, perhaps, is if you have ideas of the things that you, in addition to what you've already put out here, you know,

tomorrow morning, one of the things that we can start with is this. Because we've gone through the issue papers, we've gone through the proposals that we've received so far. We've gone through and explained to you what we are keeping, what we are not keeping, and what we can do at this point is start here tomorrow. And if there's- if the changes that you are proposing are amenable to the Department, and we need to flesh out additional language changes live on the screen, we can do that as well tomorrow morning. So don't feel like you're locked into any kind of time. We got it. And we did get it in enough time to look at it at lunch. And it's completely my oversight, so forgive me. They gave it to me, and it just (inaudible) went in there. But thank you, Rebecca, my South Carolina friend. Thank you.

MS. WEISMAN: No cards at this time.

MS. ABERNATHY: Well, let's hurry up and break, then. I'm just kidding. We're here for you guys. Kind of.

MS. WEISMAN: We have about 15 minutes before we need to go to introduce public comment. Heather?

MS. BOUTELL: Tamy, I don't have a number for you. I just, I just have a question, okay? So we have- a lot of us have talked about our borrowers who

may get jobs, and they will be in jobs, and then suddenly that employer will be deemed ineligible. And those borrowers, those payments will no longer count. That's what you all are saying. And I'm just asking again, for the people who have signed contracts, perhaps my future doctors who have signed a seven-year contract for residency, that they're not able to leave, they really aren't. There is- there's no relief. And that's just one example. I know there are other examples of rural places or people that have signed contracts. There's just no flexibility with that whatsoever. I just want to confirm that. I think we've all talked about it, but it's a very important issue for me as we think about this legislation.

MS. ABERNATHY: So I think at this point, Heather, let us go back and have a conversation about this. Yes, that is our position right now. But when you, as a negotiator, present something to us, it deserves us taking the time to discuss it again. And so I can't promise that anything is going to change. But we will certainly take a look at this and hope that that will assuage your concern at this moment. Thank you for bringing that up. We know that this is important. Thank you.

MS. WEISMAN: Sarah?

MS. DORAN: Thank you. I just wanted to kind of bounce off what Heather was saying. And I have had from a large swath of my own constituents, as I am an educator, I am a part of the PSLF constituency as well as I am a member of the program myself. What she mentioned about people not being able to move, not being able to transfer positions and things like that, as a teacher, a lot of us are locked into our contracts, and if we have to leave, say, for example, our employers are no longer eligible and things like that, we have to pay to get out of those contracts. Often thousands and thousands of dollars just to cancel those out. And a lot of times in rural areas and underserved areas, that's just not possible for a lot of people to either move or even pay the funds to get out of those contractual obligations. So I just wanted to mention that and comment that in regard to myself and my constituents. Thank you.

MS. ABERNATHY: Thank you, Sarah. Again, we will take this back. We hear you. I cannot promise that there will be anything that we can do about it, but I- we do hear you. We do care. And we will at least discuss it again this evening.

MR. ANDRADE: Jeff?

MR. ANDRADE: Yeah, and to Heather and in particular, you know, you mentioned sudden loss. And

we've taken, I think, a number of steps here to try to prevent a sudden loss and to give the employer every chance to come into compliance. So we're addressing that part of it. I'm not sure we can address the contractual part. I do think there are a lot of restrictions in terms of how, how tight employers can make non-compete agreements with regard to geography and, and other restrictions. They can't make them overly restrictive. So I think some of those are in some ways red herrings in the discussion. But we have done everything we can to try to prevent a sudden loss, including setting up a mechanism where we can work with the employer without having a break in eligibility. So I think you need to look at your concerns in light of the change- the other changes that we've made at the table.

MS. WEISMAN: Betsy and then Abby, and then Emeka and Kaity.

MS. MAYOTTE: I actually want to push back a little on- and I hope you don't mind, Emeka's proposal about the response about the Department being unable to provide eligibility retroactively. I disagree, you do it all the time. For example, at the simplest level, if I got a new employee at the Institute of Student Loan Advisors, which is a 501(c)(3) that decided to pursue PSLF, and we've never had such an employee

before, but they didn't submit us as a new employer for five years. When you approved it, you would approve it back for however many months they worked for us. When a borrower is ineligible for Title IV Aid because they've defaulted on their loan, let's say it's for the 24-25 academic year. If they do loan rehabilitation and make their six on-time payments, and the letter goes out within that school period, you will award them retroactive aid back to the beginning of that loan- that academic period. So I think there is a lot of precedents and logic to- if an, an employer submits what ends up being an approved plan of action, that at least be effective the day that, that employer implemented that plan of action.

MS. ABERNATHY: I believe the way that we have crafted these regulations is we mitigate some of that. When we are looking at not issuing a final determination, when they are engaging in that corrective plan action, they are still a qualifying employer. And yes, while there are times that we would do retroactive things for students and borrowers, that is a little bit different than meeting the requirement of a qualifying employer, which is a fundamental requirement for PSLF. And so, yes, we hear you that, yes, there are ways that the Department has looked at other statutory things and

provided retroactivity, but in this instance, we can't make some an employer who is ineligible, retroactive. If, if the person working, the borrower working for that employer at a time that, that employer is ineligible, we cannot make that employer eligible. They can regain their eligibility. They can agree to a settlement. They can- we can go back, and we can look at it. But unfortunately for that particular period, the statute is quite clear that you must be employed at a qualifying employer, making payments, 120 payments, satisfying 120 payments. And that's kind of where we are locked into at this point. With that, we have tried to have as much grace around that as we possibly can. But at the end of the day, if you are not a qualifying employer, you do not qualify for- that borrower working for that employer would not qualify for PSLF first out of the gate because they are not working for a qualifying employer.

MS. WEISMAN: Okay, so at this point we've got a few minutes left. We have comments ready for Abby, Emeka, and Kaity. And I see now, Jacob, your tent is up, and Tamy. Okay, Betsy, why don't you respond and then we'll go to Abby next?

MS. MAYOTTE: I understand that you can't get credit if you're not working for a qualifying employer. I'm arguing that if that- the moment that the

employer implements the, the at some point accepted corrective action plan, they are eligible. It's no different to me. Then, again, let's look at TISLA. The, the day TISLA became approved by the IRS as a 501(c)(3) nonprofit is a very different moment in time than the day that, hypothetically, the Secretary approves TISLA as an eligible employer. However, in that scenario, the borrower would get credit back to the day that we became a 501(c)(3). I don't see this as a- let me put it a different way. Explain to me how it's different.

MR. LALLO: Yeah. So the difference is, it's- we're not- it's not about the implementation date of the corrective action plan. It's about the approval date of the corrective action plan. You could work prospectively. They could be passing ideas back and forth with us and not have, you know, implemented the plan until the point that it's approved. So we need to tie it to the approval date rather than the implementation date, because it's not practical, one, for us to track down when something's been implemented, but also the determination as to whether or not somebody is eligible and a qualifying employer under this is based on our determination that they weren't. So for them to regain that, we have to approve it because they have to hit that approval date. And I think just a further push

back at your previous statement about, you know, when a PSLF form is submitted by an employer and that being a retroactive thing. It's not really retroactive. You are still a qualifying employer for all that time, you just hadn't filled the form out.

MS. ABERNATHY: Correct.

MR. LALLO: So it's not a retroactive statement. This though, if you lose eligibility as a qualifying employer and then we, you know, we tied this to the approval date of the plan, you weren't a qualifying employer during that time. And so that would be a retroactive change which would go against the statute.

MS. WEISMAN: Okay. Let's move to Abby. Did you have something you need to add, Tamy?

MS. ABERNATHY: Yes. We look at it from the standpoint Betsy, that that employer was qualified. If we did not finish our activities to, to make sure that they're up on the website and all of that is working, it did not- they were already qualified at that date. So while once they become a qualifying employer and we get caught up to our activities operationally, because sometimes it does take us a little bit, we would look at they were eligible at that time. In this case, they're ineligible. And the minute they become

ineligible that subsequent month, it starts their ineligibility for qualifying employment from- as long as it's July 1, 2026, and forward.

MS. WEISMAN: Okay. Let's- Betsy, could I- could you say that in the microphone? I couldn't hear that. Yeah. Okay. Thank you. Let's go to Abby.

MS. SHAFROTH: Thank you. I was hoping we could talk about subsection H, which is about how the Secretary makes a determination of substantial legal activity. And I heard the Department reject Bob's proposal which I thought was a very important proposal, which identified the fact that having the Secretary make an independent determination of whether an employer has engaged in substantial legal activity by a preponderance of the evidence standard essentially makes the Secretary- gives Secretary the authority to, to adjudicate immigration laws, to adjudicate anti-terrorism law, to adjudicate employment discrimination law. And that, that is, you know, not an authority that Congress has granted, but as a policy matter, something that we might be reasonably- be concerned about and would allow the Secretary to remove PSLF eligibility from state and local governments and nonprofits in the absence of a finding by a court that they've actually broken the law. Bob's proposal was to remove that, that authority and to

instead limit the Secretary's authority to determine that an organization is engaged in substantial illegal activity, two instances where there is either a court determination, a settlement with admission, or a guilty plea. And I heard the Department rejected on the basis that courts- the language used was the court notifies and the Department said, well, the courts don't notify, so we can't use this. I think, I think that's sort of like a nit and not a substantive disagreement with the proposal. And so I would like us to, to hear a rationale for why the Department would not limit itself to finding substantial illegal activity to only those instances where there is a court finding, an admission, or a guilty plea.

MS. WEISMAN: Did you want to respond to that quickly? I'd like to still try to get to Kaity if we can.

MR. ANDRADE: Okay. Quickly, I think you misinterpreted the reason why we rejected it. It was on the basis of the court doesn't- courts don't notify. That was the language that we took exception to. So- and we're, and we're still having discussions with folks.

MS. WEISMAN: Kaity? And then, and then we'll move to public comment.

MS. MCNEILL: I wanted to offer that

in terms of the actions that the Secretary can take, including making a determination and then being disqualified and waiting five years or making a determination and then there being an action plan, is making a determination and then a warning is provided. And one of the things that is- we see happening in North Carolina and other places is that- places is that there are activist organizations whose express purpose is to push- if you give them the opportunity to put something in civil court to push against, this is their express purpose to do that. And we've seen that happen with some of the DEI stuff that's happened in North Carolina, undercover work to put people in a spot for that purpose of snatching away that Public Service Loan Forgiveness. So even though it might not be the Department's intent to be overly punitive, if that stick is lying around, some other organization is going to pick it up and use that and say, well, here it is. We've got this civil judgment. And then that's how that could happen. So just in terms of- like I said, in addition to what we have, just putting on the table, that there's also the option of, yes, we have found a determination and due to the nature of it, this is a warning.

MS. WEISMAN: Jacob, if you could respond quickly so we can move on.

MR. LALLO: Yeah. I mean, there's a couple of things that are at play here. We hear what you're saying. That's why we built in a notice and opportunity to respond. We want the evidence to be weighed out. And, you know, basically, I think the thoughts have been raised a few times that there might be, you know, targeted lawsuits and stuff like that for the purpose of trying to trigger PSLF. Again, we're aware of that. So we want the Secretary to be able to weigh that and, you know, the organization to provide evidence against it. I think within the warning system, I don't think we necessarily feel that we need that. If it's not material or we don't feel it rises to a level materiality, the need for a warning wouldn't be necessitated in the first place. And if it does, you know that may fall under something that could be remedied through a corrective action plan. And if it doesn't, it was material enough that it needed to actually result in a loss of eligibility. That's a different thing entirely. So really, you know, this is something that's handled with the notice and opportunity to respond.

MS. WEISMAN: Okay. I don't want to cut off conversation on this. I want to be very clear that despite the fact that we're finishing for right now, we can revisit this in the morning, we can continue that

conversation. But we do need to get to public comment. So I don't want to cut off- Kaity, if you wanted to do some follow-up there or if others want to join in this conversation, I do want to make that very clear that we can go there in the morning. I know Tamy has some other things that we said we would do in the morning. So we did not go to any pulse checks today. I anticipate we'll do those tomorrow morning as well, and then the call for consensus in the afternoon.

MS. ABERNATHY: Yes, ma'am. Whatever you want tomorrow.

MS. WEISMAN: Okay. I'm told that we need just a very short break before we start. Five minutes or less? Two minutes. So we will get started in two minutes. If everyone could just stay where they are for now. Thank you for your patience. We are now going to move into public comment. We know we have some people who are here today who were not here yesterday. So I just want to review our process for public comments. All comments will be part of the public record. So please, if you are a public commenter, say your name and any affiliation at the start of your comment, I will attempt to do the same. But I may not pronounce your name correctly. And so, please again, you will be on the live stream, you will be recorded, and part of the transcript.

Public commenters will have up to three minutes. There is a set of lights here to my left, your right if you're standing at the podium. The light will start out green when you begin. The yellow light will shine when you have 30 seconds remaining, and I will also give you a verbal cue when you have 30 seconds remaining. The red light will come on when your time is completely up. I will also advise you verbally to wrap it up if you haven't already. Ideally, your comments will address material related to Public Service Loan Forgiveness, which is the only topic on the agenda for this committee. I would also ask that those providing public comment please speak and act in a way that is professional and courteous. I do reserve the discretion to mute the microphone of a speaker who is using foul language, attacking people, acting unprofessionally, or refusing to stop speaking when the time is up. Our first speaker is Tania Valenzia from Leadership Conference on Civil and Human Rights. If you could please come up to the podium and you will need to turn the microphone on.

MS. VALENZIA: Do I start the timer over here? It starts on its own? My name is Tania Valenzia, and I am the higher education senior program manager at the Leadership Conference on Civil and Human Rights, which is based in Washington, DC. We are a

coalition charged by our diverse membership of more than 240 national organizations to promote and protect the civil and human rights of all persons in the United States. As a first-generation American, first-generation college student, military spouse, and former teacher, my story is proof that the American Dream is not a myth. And what higher education has offered me is a testament to that. Although I grew up in poverty, my education offered me career opportunities and economic mobility never before experienced within my family's history. I knew I could pay it forward through public service, including my time as a fourth-grade teacher just a few blocks away. I did so because education is a promise we have made to generations of families, and a promise worth keeping. The unlawful proposals you have discussed to restrict eligibility of employers for Public Service Loan Forgiveness by engaging in viewpoint discrimination would harm our family, potentially leaving us in crippling debt, and would make it so much harder for us to keep food on the table. As the Department begins the process of considering changes to the regulations implementing the Higher Education Act of 1965, a law created during the height of the Civil Rights movement and at the demand of those communities Black, Latino, Native American, Asian American and LGBTQ+ people, women, religious

minorities, and people with disabilities who were shut out of higher education, and the pathway to full participation in the social, political, and economic life of the country. I would like to remind the Department that while much has changed in the past few months, two very important things remain the same. First, what students need and deserve to grow and thrive in school is unchanged. Students need strong preparation from safe, welcoming, and well-resourced K-12 systems. They need robust guardrails that will protect them from exploitation by shady, for-profit actors and unscrupulous lenders. And second, our laws have not changed. Our civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, including sexual orientation and gender identity, and disability have not changed. And our higher education laws that provide financial aid, consumer protections, and loan forgiveness, including for those who pursue public service, have not changed. Most importantly, our Constitution and its First Amendment remain the same. The Department does not have the authority to exclude employers, based on their participation, in disfavored speech and activities. Every major civil rights advancement, from the desegregation of schools to marriage equality, began as a viewpoint that challenged

existing power structures. When the government can pick and choose which perspectives deserve protection, it predictably suppresses the voices of marginalized communities. Not only is the underlying proposal unlawfully seeking to abridge the free speech rights of employers, the absence of a dedicated negotiator to represent the perspectives and interests of the civil rights community is inexcusable. The role of regulation is to fulfill the intent of Congress, and no regulation or any executive action can change the Constitution or law. I implore this Department and the state negotiators to hold true to their responsibility to advance equity and fulfill the promise of higher education and its most important Federal Law.

MS. WEISMAN: Thank you. Next, we have Sabrina McGhee from Rural Prosperity and Investment.

MS. MCGEE: Good afternoon. My name is Sabrina McGee, and I'm a social worker, a nonprofit professional, a student loan borrower, and an advocate for Public Service Loan Forgiveness. I serve rural communities in North Carolina and all across the South and my organization, MDC, stands for meaning, dignity and community, for all. That's a vision that to be realized depends on public servants of all kinds. When Congress wrote PSLF into law with bipartisan support in 2007, they

specifically designed- designated 501(c)(3) nonprofits as eligible employers. They deferred to the IRS definition because the IRS already had an established, nonpartisan framework for determining public benefit organizations. Congress understood that letting an education agency make objective determinations about which public services are worthy enough would inevitably lead to political interference and mission creep. For the Department to now claim that authority represents a dangerous overreach. I work every week for dozens of hours offering support to Federal Student Loan borrowers. I saw through hundreds, sometimes thousands, of questions from overwhelmed borrowers confused by announcements. People are paralyzed by anxiety because rules keep shifting. Borrowers organized entire careers around this promise, and now they live in constant fear of the next change. The currently proposed barriers will do little to stop wrongdoing but will create enormous administrative burden. Servicers and the Department already struggle to keep up with the administrative demands of this program. Proposals from this negotiation session suggest putting more burdens onto employers. That, despite yesterday's conversation, my experience says will mean withheld signatures either out of fear or simple confusion. This ignores the reality that employers already fail at basic

PSLF tasks, and often don't even inform their employees they're eligible to begin with. Employers will make mistakes. Employees will lose eligibility through no fault of their own, and confusion will multiply, and we'll fix it if we mess up isn't good enough for borrowers who are stuck in limbo. Every new barrier creates new implementation challenges. Every change creates anxiety for people overwhelmed by a broken system. These are teachers, social workers, nonprofit employees who shouldn't need to become Federal student loan policy experts to access a program Congress designed specifically for them regardless of whether we personally like the public they serve.

MS. WEISMAN: You have 30 seconds left.

MS. MCGEE: Thank you.

MS. WEISMAN: Thank you. Next, we have Matt Clark from the American Federation of State, County and Municipal Employees.

MR. CLARK: Good afternoon. My name is Matt Clark, and I'm a senior policy advocate with the American Federation of State, County and Municipal Employees. We represent public service workers around the country and a wide variety of job classifications across state and local government, as well as non-profits. This

proposal is fundamentally unserious and a slap in the face for our members and public service workers everywhere. Punishing public service workers for the perceived ideological crimes of their employers by removing workers' eligibility for PSLF is both absurd and arbitrary. Our members faithfully and dutifully serve the public every day. They are carrying out the will of duly elected and appointed state legislatures, executive and judicial branch officials, county and city councils, and others, as well as the missions of the 501(c)(3) nonprofits they work for. There are any number of appropriate venues and methods for any administration to pursue legal recourse against actions that states or other public service employers undertake. There will always be a give and take in our Federal system between the values and the priorities of different levels of government, but the Department is simply not the appropriate arbiter of what constitutes a substantial illegal purpose. Further, should the Department of Justice take legal action and successfully halt an act of a public service employer, the appropriate remedy is not to remove eligibility for what is, in essence, an employee benefit that is a key tool in supporting the recruitment and retention of public service workers, who are often capable of obtaining higher pay in the private

sector. This proposal is an insult to all our members, including those who work across the criminal justice system and public administration in roles ranging from law enforcement to prosecutors, public defenders, and mental health professionals. They would not take kindly the assertion that they are not serving the public. Even if none of these other issues were in play, the simple fact remains that the Department does not have the authority to issue this rule. Congress created PSLF in 2007, and it was signed into law by a Republican president. Congress envisioned no such restrictions, and under the plain meaning of this law, the Department does not have the authority to issue anything remotely resembling this proposal. The Department itself has said, quote, the PSLF program was created to encourage individuals to enter lower-paying but vitally important public sector jobs such as military service, law enforcement, public education, and public health professions. End quote.

MS. WEISMAN: You have 30 seconds left.

MR. CLARK: The proposed changes would have the opposite effect, discouraging a generation of talented and dedicated professionals from pursuing a career in public service. This proposal should be

discarded in its entirety.

MS. WEISMAN: Next, we have Magin Sanchez from UNIDOS US.

MR. SANCHEZ: Good afternoon. My name is Magin Sanchez, and I'm the higher education policy analyst at UNIDOS US. We're the nation's largest Hispanic civil rights and advocacy organization. We were disappointed by the decision to dilute the voices of students of color and underrepresented communities by not including the seat, an individual seat for the civil rights community. The failure to do so indicates a process that, from the onset, willfully fails to capture the voices of all stakeholders impacted by these proposed regulations, undercutting their legitimacy. We also strongly oppose the Department's efforts to engage in viewpoint discrimination by restricting employer eligibility for Public Service Loan Forgiveness, as outlined in the recent executive order. UCEF was created as a vital investment in our country's future, empowering talented graduates to strengthen the very foundation of our democracy through public service. This critical program not only addresses severe staffing shortages in essential sectors like education and public safety, but also ensures access to careers without the threat of crushing debt. And for Latinos, like too many Americans

who are currently unable to meet their basic needs due to the burden of that, when borrowers dedicate themselves to years of public service as teachers, librarians, and firefighters, we have both a moral obligation and an economic incentive to honor that commitment through loan forgiveness. And this ain't it. As currently proposed, these changes represent politically motivated attempts to narrow this eligibility and break the long-standing commitment (inaudible) borrowers that we- who have been faithfully making payments for years. The expectation of eventual loan forgiveness. We reject efforts targeting nonprofits and local governments that serve the local communities. Point out to the clearly established statutory authority of Congress through the Higher Education Act, which provides broad-based eligibility for 501 (c) (3) organizations. Any limits to that broad eligibility must be exceedingly narrow and based in law. The Department's proposal is vague, overbroad, and would threaten the constitutionally protected rights of free speech and assembly. The administration actions only seek to confuse and frighten Americans pursuing careers in public service. It will stop doctors and firefighters from pursuing high-impact service work, out of fear of inadvertently losing PSLF eligibility for helping communities disfavored by this administration. This

completely (inaudible)-

MS. WEISMAN: You have 30 seconds left.

MR. SANCHEZ: -(inaudible) the bipartisan PSLF program was created as a tool to incentivize highly-skilled Americans to pursue public service, serving underserved communities, and recognize their decades-long dedication to it. For these reasons, we strongly oppose the (inaudible) proposed changes.

MS. WEISMAN: Next, we have Satra Taylor from P&J Flo Consulting.

MS. TAYLOR: Greetings. I am Satra D. Taylor, a current doctor- doctoral student and one of the many nominees who hoped to be part of this rulemaking as a negotiator. However, I was not selected. My experiences as a first-generation college student, a Black woman from a working-class background, and a public servant advocating for accessible and affordable higher education, would have provided critical perspectives that this administration, administration refuses to hear. I am disheartened and frustrated by what I have witnessed over the last two days of this negotiated rulemaking. It has become clear that this administration is intent on reversing the necessary and hard-fought policy developments in higher education, making college once

again exclusive to white, male, and wealthy individuals. These political attacks disguised as rulemaking are inequitable and target communities from historically marginalized backgrounds. To be clear, Congress established a Public Service Loan Forgiveness program in 2007 to offer public service workers student loan debt relief in exchange for a decade of service to their communities. Since its inception, the program has enjoyed strong bipartisan support, strengthening rural, suburban and urban communities alike, feeling critical workforce shortages and education, healthcare, public safety, and national security, and delivering relief for more than 1 million public service workers. The PSLF program has provided a vital incentive for Americans interested in serving our country and local communities, regardless of their political affiliation. The Department's efforts to engage in rulemaking and to change PSLF eligibility are directly related to the goal of Trump's executive order and exceed the administration's authority. The Higher Education Act clearly states that a public service job includes any employment in government or at a 501(c)(3) organization, and I strongly oppose any effort by the administration to limit PSLF eligibility to selectively chosen organizations that they may disagree with. I would like to leave you, ED staff and negotiators, with a few

critical questions to consider as representatives of various constituents. Why didn't the Department include anyone who would be most affected by these policy changes in the negotiating process? Not a single civil rights advocate, first responder, social worker, student or teacher. How will history remember this moment when the chips fall and the American people suffer at the hands of billionaires and policymakers focused on swelling their pockets, than ensuring individuals and families can make a living? These individuals and families are not abstract data points. They are human beings doing the best they can with what they have. Take a moment and think about that. Thank you.

MS. WEISMAN: Next, we have Javi Ayala.

MR. AYALA: Hi. I'm Javi Ayala. I'm standing here as a private citizen academician. My comments today respond to a June 26th article from Inside Higher Ed on a leaked draft proposal, proposal for changes to Public Service Loan Forgiveness. The Department appears to be taking the law into its own hands, proposing to redefine qualified employers, dictate vague standards for legal activity, and (inaudible) borrowers' due process. These moves are overreaching, undemocratic, and deeply troubling. Let's be clear. PSLF

has a contract. Borrowers took jobs and made life decisions based on the terms and conditions of that contract. Now the Secretary wants to unilaterally shift the goalposts. That's not reform. It's unscrupulous behavior in the face of responsibility. The idea that one person can redefine eligibility as a broad assumption of power. And what's worse, these new standards target individuals based on speech, immigration advocacy, or political views, none of which align with the intent of the Higher Education Act of 1965. Personally, I've made 116 payments over more than ten years of public service and yet I'm still navigating bureaucratic hoops with MOHELA, waiting for a buyback request to be processed, hoping that I don't have to spend another four hours talking to them. It should not be this hard to get a loan servicer to accept payment on a Federal loan. The system isn't just broken, it's absurdly cruel. Baffling. The realities of high-interest student debt and stagnant salaries are no longer mythology. It's a divisive problem that has been documented for the last 20 years. The burden of student loan debt has crushed an entire generation. Young professionals are delaying starting families, buying homes, or saving for the future, not because they're irresponsible, but because they're trapped in a system that's designed for them to fail. As

an academician, I'm already worried about the future of higher ed enrollment. I'm not for delinquency and payments or outstanding debt accruing interest at breakneck speeds, but we need real solutions and a crisis of conscience to bring all sides of this problem back to the table. Flipping the table is not a good deal or a solution. If you need a good starting point, I would point you to Congressman Joe Courtney's Simplifying and Strengthening PSLF Act, which has already gotten support from nationwide nonprofit organizations such as the American Federation of Teachers and National Association of Social, The National Association of Social Workers. We need changes that have alignment with reality of, you know, being a college student trying to contribute to the economy. We need a path forward that include a legacy clause for those in repayment, appeals process for borrowers impacted by rejected ECS buyback requests, etc., a warning system for borrowers. I know we said we wouldn't do that, but I still think it's a good idea. And I think we should also include- (30 seconds). I think we should also include active duty military, Peace Corps, and Parent PLUS borrowers, all people who can be public servants. And with that, I ask this Department to talk to higher ed institutions about how they price their product. Keep your clients, the students informed and

remember your role in protecting the American dream, not undermining it. Thank you for your time.

MS. WEISMAN: Next, we have Adaku Onyeka-Crawford, representing herself.

MS. ONYEKA-CRAWFORD: Good afternoon. My name is Adaku Onyeka-Crawford, and I am here to comment in opposition to the draft language proposing changes to the Public Service Loan Forgiveness program. This language would constitute illegal viewpoint discrimination and violate the Constitution in several ways. Specifically, it's targeted at organizations that are charitable organizations that provide equal opportunity to historically marginalized communities that this administration has targeted. Specifically, it would defund based on the viewpoints of immigrants deserving to have equal opportunity and go after organizations that advise and advocate for laws that make our country safe and welcoming for immigrant communities. It would also target hospitals that provide life-saving, gender-affirming care for patients of all ages. It would also target organizations that engage in civil disobedience that have been instrumental in, in advancing civil rights laws. And I want to add that all these things, these activities that these, that these proposed changes would target are currently legal. And so this would constitute

illegal viewpoint discrimination based on this current administration's opposition to those viewpoints. They also raise other constitutional concerns, specifically around targeting organizations that advocate or provide gender-affirming care. I want to highlight that last week, the Supreme Court decided the decision, *Skrmetti*, the Supreme Court decision *Skrmetti*, which while I disagree with that decision, did say that states can decide whether or not gender-affirming care is legal. But this change to Public Service Loan Forgiveness would implicate 10th Amendment concerns by taking the place of decisions that the state has made. I want to add that these- I want to emphasize that these are activities that are currently legal under Federal law. It would also deprive borrowers of due process by not allowing them an avenue to challenge any determination that the Secretary has made that an employer is (30 seconds). And as someone who has qualified and benefited from Public Service Loan Forgiveness, it is bad policy to create restrictions and dissuade individuals from pursuing careers in charitable organizations that benefit the public good, that benefit historically marginalized communities. And I urge that the committee take these comments into account.

MS. WEISMAN: Next, we have Jaylon Herbin from Center for Responsible Lending.

MR. HERBIN: Good afternoon. My name is Jaylon Herbin, Director of Federal Campaigns at the Center for Responsible Lending, or CRL. We are a nonpartisan, nonprofit research and policy organization dedicated to protecting homeownership, advancing economic justice, and ending abusive financial practices, particularly for Communities of Color and low-wealth families. CRL has long-championed their fair lending and consumer protections in the student loan marketplace. I'm proud to speak to you today on behalf of the consumer advocate and civil rights constituencies. Also, a proud graduate of Winston-Salem State University and a current MPA student at Wake Forest Law, which is ironic. I just completed my public law class with an A, and here we are talking about the same thing we just talked about last week. So I come here with a clear message. The rulemaking process has gone off course. Let me begin with this. Many of us in the room feel the same way, that this session has been rushed, compressed into just three days. It failed to center the needs of those that- it failed to center to the needs of the very people PSLF was created to serve, the borrowers. I've listened to you all debate more- more and more on who qualifies or employees that qualify, then focus on how to improve the programs for teachers, nurses, social workers, faith leaders, clergy,

and public defenders, people who serve their communities while drowning in debt. Let's be honest about what borrowers are really up against. Nearly 8 million borrowers or excuse me, nearly 8 million Federal Student Loan borrowers are in default. Another 2 million are in long-term, long-term forbearance, and many of them are public servants lost in the system that was built- that wasn't built to support them. And according to the Department's own report, over 49,000 PSLF buyback applications remain pending, while fewer than 1,500 were processed as of April 2025. These delays compound years of broken promises, and according to the (inaudible) study, 63% of borrowers in Income Driven Repayment during the COVID pause now owe more than they originally owed. Despite these years of repayment, that is not just administrative failure, but that is also betrayal. Yet instead of addressing these real systemic issues, the proposed rule introduces new barriers, disqualifying employers based on vague policy- excuse me, vague politicized definitions of illegal purpose, purpose, including immigration aid, protest-related activities, and gender-affirming healthcare. It risks punishing people not for wrongdoing, but for doing good in ways that some disagree with. What is this? This is viewpoint discrimination. Let me be clear. If someone works at a

food pantry, a community clinic, or a legal aid organization, that is public service. Unless their work poses a direct threat to society, like acts of terrorism, who are we to tell them that they do not deserve relief? Public service does not have to be political (inaudible)-

MS. WEISMAN: You have 30 seconds left.

MR. HERBIN: -it must be purposeful and legal. This rule will not- this rule will narrow Public Service Loan Forgiveness to the point where becoming ideological. It sends a dangerous message. Unless you serve- unless your service aligns with our beliefs, your forgiveness doesn't count. If you truly want to strengthen PSLF, let's adopt a clear, nonpartisan definition of qualifying public service, free from political or ideological tests. The IRS should continue to determine which organizations are legitimate nonprofits. Issues involving political illegal violations, including criminal activity or terrorism, should remain under the jurisdiction of the Department of Justice or DOD-

MS. WEISMAN: Your time is up.

MR. HERBIN: -(inaudible) the promise of PSLF, the Department must move forward to automatic payments, tracking, and employer verification, using

existing government data to spare problems with paperwork.

MS. WEISMAN: Your time is up.

MR. HERBIN: Thank you.

MS. WEISMAN: Next, we have Ray Li from Legal Defense Fund.

MR. LI: On behalf of the NAACP Legal Defense and Educational Fund, my name is Ray Li, and I am commenting to share strong concerns about the proposed changes to the regulations governing PSLF. Founded in 1940 by Thurgood Marshall, LDEF is the nation's premier racial justice organization. Nonprofit organizations play a critical role in our democracy, whether by protecting constitutional rights or providing direct legal services to those who cannot afford a lawyer. Organizations like LDEF expand access to justice for all. As Congress recognized in the creation of PSLF, these nonprofit organizations are undoubtedly in the service of the public. But this proposed rule by ED attempts to subvert Congress's will and intent by establishing new restrictions on eligibility. ED has tried to misrepresent these restrictions as ways to keep taxpayer funds from going to organizations that violate the law. But in reality, the proposed language is another way for the administration to punish those who do not fall in line

with its political agenda or those that protest its policies. At the heart of the proposed regulations are clear and troubling missives to discriminate based on viewpoint. In particular, the substantial legal purpose definitions sweep so broadly, it is no doubt that they—that invite unconstitutional abuse by the Department. For example, proposed subpart 30 romanette four would kick organizations that engage in a pattern of aiding and abetting illegal discrimination out of PSLF. This language is novel, imprecise, and impossible to administer. Nonprofit organizations like LDEF commit to ensuring that Federal Civil Rights Laws are enforced justly, but reliance on the Department to determine what constitutes illegal discrimination would be ill-advised, given Ed's recent actions. This administration's OCR promulgated several guidance documents advancing warped and demonstrably incorrect interpretations of Title VI. LDEF and partners promptly sued, and Federal judges across the country summarily enjoined these documents as likely unconstitutional. If Ed intends to rely on court determinations of illegal discrimination, the proposed language still sweeps too broadly. The inclusion of the aiding and abetting standard is nonsensical. Not only is the definition of aiding and abetting a criminal law standard overlaid on a civil law determination of

discrimination, but one would be strained to think of any other instance in which the consequences of the violation of civil rights laws flow to actors not found to be discriminatory themselves. ED should similarly strike subpart romanette five, which-

MS. WEISMAN: You have 30 seconds left.

MR. LI: -which seeks to punish those that engage in a pattern of violating State Tort Laws, including laws against trespassing. This language nakedly attempts to punish peaceful protesters. LDEF's founder, Thurgood Marshall, famously represented individuals accused of trespassing in *Boydton v Virginia* and *Bell v Maryland*. In those cases, Black students dared to violate State Tort Laws by sitting in whites-only sections of restaurants. If ED refuses to remove this language from the proposed regulation, it will be clear what side of history it chooses to fall on.

MS. WEISMAN: And our last public commenter of today is Chavis Jones, representing himself.

MR. JONES: Hello everyone! My name is Chavis Jones. I work at the Lawyers Committee for Civil Rights Under Law. I begin with a quote. Cowardice asked the question, is it safe? Expediency asked the question, is it politic? Vanity asked the question, is it popular?

But conscience? Conscience asks the question, is it right? And there comes a time in one's life where they must do what is neither safe nor politic, nor popular, but they must take a stance because it is right. Martin Luther King Jr. Yesterday, my colleague Jaylon and I were denied a seat at the negotiation table after being duly nominated by the civil rights community. And although we were disappointed, we recognized that we stand in good company, for MLK himself likely would not have been seated for his work with the Southern Christian Leadership Conference, as he worked throughout America to ensure the rights and freedoms of democracy for all. Nor would he have received Public Service Loan Forgiveness for all of his public service, despite his education at Morehouse, Crosier, and Boston University. He engaged in substantially illegal conduct. He engaged in protest. He was arrested numerous, numerous times, and he was often deemed a public nuisance by the powers of his day. Before him were Dorothy Day and Susan B. Anthony, and a host of women's suffragists who fought for the rights of women to work and to exist in public and to engage meaningfully in our society. They would not have been seated, nor would they receive Public Service Loan Forgiveness for their work. Before them were Frederick Douglass and William Lloyd Garrison, Harriet Tubman, and so many of the

abolitionists who engaged in the act of aiding and abetting fugitives who were then known as slaves. These forced immigrants to our country, they would not have been seated, nor would they receive Public Service Loan Forgiveness for all of their work to make America better. Before them, the founders, the founders of this nation, engaged in civil disobedience. They engaged in dissent against the powers that be. They engaged in the right for all of us posterity, to have the right to disagree with the powers that be, to resist tyranny, fascism, a kingdom, a patriarchy. They fought for the right for us to disagree. They wouldn't be seated, nor would they receive PSLF. This country, at its best, is diametrically opposed to the type of viewpoint discrimination that is happening through book bans, bans on history of Black people and LGBTQIA folks, bans on the right to dissent, and the type of rule being proposed here. (30 seconds) (inaudible) dissent and made better by generations of protests. And our best, we are a bastion of difference, tolerance, and civil disobedience. At our worst, we succumb to the worst behaviors of every fascist regime, like Nazi Germany and apartheid South Africa. As we finish up, know that we are not the only ones watching. The live stream is not the only thing watching, but history is watching. Your children, your grandchildren,

and generations yet unborn will ask the question of what their ancestors did in this strange moment. How will you respond? Thank you.

MS. WEISMAN: Thank you very much to all of the public commenters. We really appreciate you coming, spending some time with us today, and sharing your views. I'd like to thank the committee as well. It's been a very busy day as, as yesterday was. We covered a lot of ground, and I know that we didn't get to do the pulse checks that we had hoped to get to, but I think that we had very meaningful discussion, and we will have those tomorrow. I think it's been very helpful that you've submitted so many proposals to give the Department something to look at, to respond to. That has been invaluable. So again, I want to thank you. You've all been very busy doing your homework, and it's clear to me that you have a little bit more that you're planning to do tonight. I will forward anything. I know that I have a few in my box now that I will forward before I leave. I will forward anything that I receive tonight. I will check again in the morning before I leave to come here. But I just- again, I, I thank you very, very much for all of your hard work. I want to remind you that you can leave your table tents. Please do take any trash with you. And if there are any questions before we break, I'd

be happy to take them. I'm getting thumbs up. Tamy, do you have anything to add?

MS. ABERNATHY: I do. First of all, Annmarie, thank you for keeping us straight, on track. It is a tough job to herd all of us, isn't it? But you've done it well. Thank you so much for all that you're doing for us here today.

MS. WEISMAN: Thank you all. You all make it much easier than it would have been, trust me. You've been a great committee.

MS. ABERNATHY: And to our negotiators, I cannot say that I look forward to any of you putting on your chaos pajamas this evening, because we have to come back tomorrow morning. But I promise you, it has been an entertaining and a very good day to hear not only from you, but also our public. Thank you for showing up and sharing your comments with us today. Have a wonderful evening. I look forward to day three tomorrow.

MS. WEISMAN: Just a reminder, we will begin tomorrow at 9:00 a.m. The room will open at 8:00, if you would like to come in early. Thank you again. Have a great night.