

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
REIMAGINING AND IMPROVING STUDENT EDUCATION (RISE)
SESSION 2, DAY 2, AFTERNOON
November 4, 2025

On the 4th day of November, 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: Welcome back to day two of session two of our rulemaking committee work. I hope everybody had a good lunch. We have no cards up, so I'm going to turn it over to Tamy to take us into the afternoon.

MS. ABERNATHY: Wonderful. Thank you, guys. Thank you for your patience as we navigate through all of the many pieces and parts that we are trying to bring to you, almost in real time, almost not quite making it, but close to real time. All right, I do have some good news. So what's standing in the way of our discussion of professional student is just these last few pieces. I thought I would just throw that out there for you, Alex. Isn't that good? You like that? My mama did not raise a fool, right? Alright. Let me get to where we are. There's just a few things. Seriously. There's just a few things we fleshed out during lunchtime that we just want to go over. It should not be too, too long getting through that. -Our Under Secretary is still looking at the proration of student loan payments for married filing jointly, so we will not be discussing that this afternoon, so stay tuned for that. Okay. We received the proposal to set minimum rehabilitation payment amount to avoid future default. Based on our Office of General

Counsel's analyses, we still do not have any changes for any kind of rehabilitation changes under OBBB, so we are not able to make those changes at this time. So, thank you for the proposal from our legal aid constituents, but we are not able to make those changes. We had a proposal from Alex that talked about the program of study, and I think Jeff wanted to talk through that. Did you want me to finish this last one, or do you want to go ahead and start with that one?

MR. ANDRADE: (inaudible). So, I wanted to provide some context because I wasn't able to participate in the discussion this morning regarding program of study and what the intention there was. So the provision that we're dealing with is a grandfathering provision for parents of undergraduate students who have taken out plus loans. And so looking at it in that context and looking at the possible situations and how things are accounted for in the Department's common origination and disbursement system in terms of coding of programs, and (inaudible), we didn't want to have a situation where a student, for some technicality, either they were maybe perhaps undeclared and then declaring a major or opting to get a degree in a program that was similar but not exactly the same, to lose the benefit of the grandfathering provision which is temporary that

Congress wanted to have. So, if you look at the statute and the regulations implementing the statute, you will notice that program of study is used both in the graduate and professional context, as well as in the parent situation with the undergraduate students. And so what we tried to do here was to define program of study for this purpose, only for the purpose of that subparagraph and not more broadly. And I understand that there was some concern that there were spillovers. Program of study, when we looked at it, it is used inconsistently throughout the statute to refer to different things. Sometimes it's referred to an eligible program, sometimes it's referring to a degree program overall. Sometimes it refers to programs that aren't eligible in some of the different grant programs. And so, Congress chose what they chose. They didn't use the term eligible program. So, we thought we had some leeway with regard to program of study to define it here. So, the alternative is for us to come up with some other concept that may be narrower. I will tell you, we thought we took the broadest definition that we could to allow parents to have that benefit because we think the concept here was that someone who is currently a PLUS Loan borrower for parent and was a parent for students that were currently going through, was allowed to continue, let that person finish

out their program, and then for other students that they have basically we wanted to give them the full benefit of that exception that was provided in the statute, similar to what we have for graduate students. Now, graduate students we think we didn't really need to have to define it. There's a lot less back and forth in terms of people changing programs, but you do have the situation, I think the one that we were most focused on, was the undeclared. And so that's the purpose of it. We do think it does not extend beyond that subparagraph. And so I don't know if that sheds any light on this morning's discussion, but that's the context of where we were coming from. And I think if we were not to do that, we would end up somewhere that would be more restrictive than, than what we're proposing here.

MS. WEISMAN: Jenna?

MS. COLVIN: Thank you.

MS. WEISMAN: Alex Ricci.

MR. RICCI: I just want to make sure I understand the Department's interpretation here, because I fully appreciate that program of study is used four dozen times throughout the Higher Education Act in several different ways, which, Jeff, you enumerated. But taking a narrower look, the phrase was used several times in H.R. 1, so I'm not as worried. My concern didn't stem

from how it was, it initially stemmed from how it was used throughout the HEA. But for purposes of this rulemaking, we're trying to define and clarify congressional intent. And I'm wondering how we're able to define a different program of study, that exact phrase, differently in one section versus another for purposes of implementing just H.R. 1.

MS. WEISMAN: Jacob?

MR. LALLO: Yeah, I think it's a salient point. But I think, as you pointed out, because of the heavy use of the term program of study throughout the HEA, and because it is never defined within the HEA, the context that's used within differ from place to place, meaning that it doesn't necessarily have the exact meaning from one place to another, which means that a broad, overarching definition of program of study would, to go back to your point, this morning, have a lot of second-order consequences. We think it's appropriate to define it within this narrow section, because we don't want it to have those second-order consequences. But we also believe that there needs to be a definition for this section to offer clarity to borrowers and to prevent it from just being interpreted too broadly. As a lawyer the litigation risk is always top of mind to me. If we don't offer a definition to something, somebody else can,

right? So that's why we fix it. That being said, we think because of the varied usage of it, it is possible that there are multiple permissible permutations of program of study within this. And we offered a broad definition generally, but as I said earlier, we believe that it could very easily be restricted. We think there's enough discretion being granted to us because of the usage of the term to allow us to take a much more restrictive interpretation of it. So we came to the table with the broadest definition possible, but we wanted to hear input, to hear if it should be a more restrictive one.

MR. RICCI: So to clarify the current status of this, it sounds as if the Department continues to be interested in ways that we can define program of study narrowly, as applicable only in this section, and that that remains an open issue.

MR. ANDRADE: Yeah. And we took the shot at program of study because that's what it's referring to. The other way is to try to construct some type of, you know, exception or qualify what this actually means by adding more words, I guess, this seemed to be the most efficient way to do it by saying program of study in this context means this. Because it doesn't obviously using the term associate degree and bachelor's degree doesn't apply when you use that same term later on

in that section to describe graduate programs. So it's clear, but, if folks have other suggestions on how we can do a carve out there, but again, the concept is, as Jake pointed out, was to be as broad as we could to allow for all of the things that that happen in terms of people basically staying on the same path, but not necessarily being in a particular program code for purposes of disbursement, for example.

MS. WEISMAN: Alex Ricci.

MR. RICCI: Thank you. That's helpful and extremely sensitive to specifically the instance you described of an undeclared undergraduate. And so this is helpful as the committee continues to think through how best to do this. So thank you for providing that clarity.

MS. ABERNATHY: All right. Moving right along. So we have a question from Andy regarding the HEAL response from the Department. I am going to have Jeff talk through that. And then Jake will talk through the other pieces of it.

MR. ANDRADE: Sure. So I think in terms of the question and the underlying assumptions, a number of statements are inaccurate in this, so I'll try to set the context as best I could. So in section 428H of the FFEL statute, section of the statute, there is language there that was, I believe put in the mid-90s

when the HEAL program stopped originating loans over at the Department of Health and Human Services. And the intent of that language was to allow the Department of Education to make loans to the universe of institutions that were formerly benefiting from HEAL, but make it under the Stafford Loan Program. And so that practice had continued up until the One Big Beautiful Bill under OGC's interpretation, which we did get the authority to service and take over the existing HEAL portfolio, but there were no new loans made under HEAL. And these loans made under these loan limits were not the -- what's that?

MS. ABERNATHY: Since '98.

MR. ANDRADE: Yeah, since, since '98, there have been no new loans originated. So, these loans that were getting the higher loan amounts were FFEL loans primarily in the beginning and then gradually direct student loans. So that's the one. So, there's no reauthorization of HEAL. And I'll let Jake talk about sort of the mechanics of when the new loan limits were put in the One Big Beautiful Bill, how that impacted that 428H authority.

MR. LALLO: All right. So yeah, the language that Jeff pointed out in 428H, section 455, which provides terms and conditions for Direct Loans, provides in section A1 that, unless otherwise specified,

part loans made to borrowers under this part shall have the same terms, conditions, and benefits and be available in the same amounts as loans made to borrowers and first disbursed on June 30, 2010 under sections 428, 428B, 428C, and 428H of this Title. I read that because the exceptionally high program or cost program, which is, baked in the 428H, that seems to bring it over to 455 under parallel terms. However, there is the language that starts the paragraph, which is unless, and specifically unless otherwise specified in this part. The loan limits that were put in place by OBB very specifically state that graduate loans and professional loans as defined in that section effective on July 1, 2026, that's the limit. And so, we read that as being very much within that unless otherwise specified within this part. We operate off the basis that Congress knew that that exception in 428H was there, and they chose to impose loan limits anyways. They didn't provide an extra carve-out for exceptionally high-cost programs, nor authorize the Secretary to designate such high-cost programs going forward. So, we think that that clause in 428H no longer applies for loans after July 1, 2026.

MS. WEISMAN: Andy?

MR. VAUGHN: Okay. So, two follow-ups on that. One, maybe that provides another pathway for

professional designation of consideration for these programs. I think 9 of the 12 are already on the 10 that Congress said are examples but not limited to. But there's a few programs that might help with consideration. If you're looking for parallels to similarly situated programs like MD, that would be another pathway of about a dozen out there for some of these programs. Number two, and separate, but related, would be if then what you're saying is true, and I take your word for it, then why wouldn't it qualify for the grandfather clause or legacy program? So, I guess my first question is, does that then qualify if a student has been using, I'll just call it top-up money for one explanation of what that money is. The old HEAL money is now top-up money on Direct Stafford Loans, 12 to 16,000 per academic year. That would then continue until June 30th of 2029 or the expected end of completion of their program, whichever comes first, correct? So that money, too, would be grandfathered in for active students that have received a disbursement of a loan using that top-up money no later than June 30th of '26. That would qualify them for the grandfather clause, correct?

MR. ANDRADE: I don't think it does because of that. Those grandfather clauses don't specifically speak to 428H. It basically says if you were

getting loans, the new loan limits apply and specifically on the loan, it's silent with regard to the other limits under 428H. So I don't think there is a -- to, to Jake's sort of logic in terms of what -- how OGC thinks the provisions --, the new loan limits supersede what goes on before, I don't see the grandfathering clauses addressing that particular section. Jake, I don't know if you have any more color on that.

MR. VAUGHN: But isn't it true, though, that you're saying that it is Direct Stafford Loan money after all, which is why it would be phased out with O triple B? So, if that's the case, why wouldn't that then be the same parallel to grandfather clause?

MR. LALLO: The grandfather clause -- let me find the specific section, because I want to be very clear here. So, it is 455(a)(3)(a) romanette two. So that is baked in already. 428H is accounted for here. So it says for any period of instruction beginning on July 1, 2012 and ending on June 30, 2026, the maximum annual amount of Federal Direct Unsubsidized Stafford Loans that such a student may borrow in any academic year as defined in section 481 A2, or its equivalent, shall be the maximum annual amount for such student determined under section 428H, plus an amount equal to the Federal Direct Stafford Loans the student would have received in the

absence of this subparagraph. Does that make sense?

MR. VAUGHN: No, it does not. No.

MR. LALLO: Okay. I think discussing this is valuable. But I -- knowing that the public is watching this, I would suggest that we do this in a caucus to go further, if you want to keep discussing this, because I don't want to create confusion.

MR. VAUGHN: Yeah, I agree with that.

MS. ABERNATHY: And I would suggest that perhaps we explore the definition of "professional student" so that we can get that conversation on the table before we go into a separate caucus.

MR. VAUGHN: That's fair. Thank you.

MS. ABERNATHY: And so, we only have a few little reg provisions to discuss before we can dive into -- I think we're going to need the time this afternoon. That's another reason why I would like to do that, because we have heard from -- you guys are anxious and awaiting this particular -- I think Alex and Alex over here are really wanting us to move forward with this, so -- just teasing. Thanks. All right. We have a few minor little reg text changes based on our discussion from this morning. And the reason we were late again from lunch is to go over some of the reg text changes based on our discussion this morning. If we could look at 685.209.

And I believe it will be up on the screen, yes? It will be on the screen. Okay. The first part, I think we want to go all the way up at the top for the purposes of -- yeah, thank you. Okay. If we -- oh, I'm sorry, Linnea, you were so right. I didn't understand what I was looking for. Yes, ma'am, would you go down to the bottom? I'm sorry. I'm trying to see it on this little, tiny screen. Okay. What we are going to do for the purposes of the Repayment Assistance Plan for 209, is we are going to define -- we just don't know where we're going to put it yet, that a borrower's monthly payment under F5 of this section is considered on-time if the payment is received on or before the due date for the current month, but after the due date for the previous month. Defining on-time, what on-time means, takes off the ambiguity that was on the table with will it, does it qualify here? Does it give us this? Defining this term specifically under the Repayment Assistance Plan will set the parameters around interest subsidy and matching principal that had lots of questions this morning about will the forgiveness piece be in? So, so for this purpose and for when we go into the PSLF regulations, this definition is going to be on time. And what that does is, if a borrower makes an on-time payment per this definition, they would receive the interest subsidy, they will receive the matching

payment if all other eligibility criteria, under the Repayment Assistance Plan, with all other eligible, eligible criteria being met. So if a borrower comes in and pays \$200 on time, it takes off the case that they did not meet any criteria to get any kind of prepayment because it wasn't made -- you have to be on time for the Repayment Assistance Plan, and that means what they paid in that due date from the last date, the day after the previous due date, through the due date of the month that they're having to pay, they make that payment that is considered on time. By that definition, anything extra is not on time for the next month. So, therefore, it takes all of the ambiguity off the table about a prepayment and what happens to that. The same principle applies if they give us extra money during that on-time -- or in that on-time payment, that would be applied towards their principal, just like it is now, and the due date would be advanced. They would have to tell us not to advance the due date if they do not want the due date advanced. And unless the prepayment satisfies a whole month's payment, it would not be applied -- it would not push out the due date. Right?

MS. WEISMAN: Ashley, and then Alex Holt.

MS. NAPORLEE: Thank you for the

explanation. Can you also -- or if you had a chance to review the email with the hypothetical, address that as well? Because I believe that's a different scenario.

MS. ABERNATHY: I believe, by the way we have defined it, it does answer it. Let me find my little piece of paper on this. The situation is the borrower owes \$100 a month. In January, they make a \$300 payment, and by default, the next payment due date advances to April, and the extra \$200 is applied to principal and/or any outstanding interest or fees. It is actually applied to principal, not any fees, because they wouldn't have any fees if they made it early. Borrower doesn't realize payment due date has been advanced or doesn't understand the importance and makes otherwise on-time monthly payments in each of February and March. Borrower does not get any interest subsidy for February or March, despite having made both prepayments to cover those months. I would say, based on our definition of on-time payment, that the \$300 payment only satisfies January's payment anyway, so you would not get -- because you are not making the payment -- so if you look at what the due -- the on-time definition is -- so if you're paying -- you're in January. So as of December 2nd, through January 1st that payment of \$300 would be considered on time. Okay. It would not be considered on

time for February or March because it is not January 2nd through Feb -- through January 2nd through February 1st, and it is not March 2nd through April 1st. So, by the definition, it takes care of that scenario. What would happen is that extra \$200 that that borrower pays would go toward the principal that is owed, because we've defined on-time payment, what an on-time payment is, and we're giving them the moment that the previous payment was made, the date that that payment was made, the very next day, all the way up to the due date, which is the 1st, we're giving that amount of time for that borrower to be on time. Anything extra is not going to go for next -- a subsequent month because the definition of on time is after that payment would have already been applied.

MS. NAPORLEE: Understood. But in this case, they also make their \$100 payments in each of February and March.

MS. ABERNATHY: Yes. If they make -- so at the time that they make -- and this is where they still would have advanced, they will need to not advance their due date to make sure that they get -- right?

MR. ANDRADE: I think in the scenario that Ashley is saying, sorry, it seems like they make a, they make an extra payment, correct? Yeah. And then they continue to make payments in the following month. Those

payments made in the following month are also counted because they're made during that period when the payment is due.

MR. LALLO: So, I think the --

MS. ABERNATHY: The first payment of \$300 is applied the way I said. But because they're making, they're making an on-time payment for February and an on-time payment for March, separate from the \$300 that they made for January. February and March, get the on-time -- right, they're on-time, they get those benefits should they have all other eligibility criteria met.

MS. WEISMAN: Alex Holt?

MR. HOLT: Okay, so -- sorry, schools, I know you really want to get to the professional limits. So, with this, I guess I just want to clarify something. So under current regs for stuff besides RAP, if somebody makes an overpayment, the Department assumes that it is in fact a prepayment and advances their due date. Automatically, the borrower would have to designate that it is not prepayment. I'm sorry that it is not an advance payment. They don't want to advance it. They just want to -- yeah. So here, I guess the word isn't necessarily superseding the regulation, because the regulation -- that other regulation I just said would still apply to

the other repayment plans. But you are effectively saying that if a borrower makes an extra payment, it is automatically assumed to -- in fact, it is impossible for it to count as an advance payment. It must count only as an overpayment. Is that correct? Because it's --

MS. ABERNATHY: Say that one more time.

MR. HOLT: Okay, so if a borrower makes an overpayment in RAP, it is not an advance payment and it cannot be an advance payment based on this definition here.

MS. ABERNATHY: Well, I thought what we were looking for here is making sure that they don't get the principal matching and the interest subsidy.

MR. HOLT: I like this, just to be clear, but what I'm saying is that it is counter to the way you do it in other plans.

MR. ANDRADE: But I think in this case, if you pay and you're within the window -- so you've made a payment. There's another payment due. The 30 days between the payments are counted towards the next payment, but nothing over and above that. Right? Is that what --?

MS. ABERNATHY: Eric, are you wanting to come up here and be Batman?

MR. HARDY: Yeah. So, I got a little lost in going back to another answer, but that's okay. So, in this scenario, the borrower, they're prepaying the full amount that would have been due in the subsequent month, yes? The borrower must request that we not advance the due date and then they have to make a payment, an on-time payment for the following month in order to receive the benefit.

MS. ABERNATHY: Right. Yes.

MR. HOLT: So, they still have to request that it not be advanced?

MR. HARDY: Yeah. We do -- right, because our --

MR. HOLT: Okay, so then in Ashley's example, if they don't request the advance, then that's not going to count.

MR. HARDY: Right. Our systems don't know to credit a payment if a payment is not due. And in the situation where advance -- where a due date has been advanced, there's not a payment due for that month.

MS. ABERNATHY: Right. So to clarify, Ashley, if you're advising your constituency, they need to request that a payment -- the -- oh, well it doesn't matter because -- yes, it does matter because the extra money that they paid initially in January would put them

in advancing their due date, which would not allow them to be able to know that there was a payment due in the subsequent month of February and March. So, you would want them to request that the Department does not advance their due date. They would make their subsequent payment in February, the \$100 that covers all of that. They would -- if all other eligibility criteria are met, they would get the matching principal and the interest subsidy. Same thing that would happen in March. So, in essence, what would happen with that first payment of \$100, it would satisfy January's payment. \$200 would go towards principal. They would have requested that the due date not be advanced. And then upon paying in February, they would be evaluated for the matching principal, and the interest subsidy given all other eligibility criteria is met. March rolls around, as long as that payment is on time per this definition, the same thing, because that prepayment you've specified to the Department you do not want to advance that due date. So, when the next due date comes due and you have paid it on time, you will reap the benefits of the Repayment Assistance Plans, matching principal, and interest subsidy.

MR. HARDY: Can I also clarify just real quickly that if a borrower is on autopay and they prepay it all, the autopay also gets pushed out to the

next due date? We're not going to just take it in the following month because they're on autopay. It literally -- like there must be a --

MS. ABERNATHY: Can you say that -- I'm sorry, could you say that one more time so I --?

MR. HARDY: If a borrower is on autopay and let's just say they make that extra payment in the month of January, just because they're on autopay, we would not automatically take for February. We would wait until March or April, whenever the next due date is before --

MS. ABERNATHY: Okay, but even if they ask you not to advance?

MR. HARDY: No, if the borrower is on autopay, we're automatically going to -- that's not going to stop us from advancing the due date. A lot of people assume because someone's on autopay that you're committing to paying this amount every month, you're committing to paying this amount when it's due and (inaudible)

MS. ABERNATHY: And so, for the purposes of what we are saying here, even if a borrower comes in and says, hey, I don't want my due date advanced, if they are on autopay, too bad, they're getting it anyway.

MR. HARDY: No, they'll have to -- they'll still have to contact their servicer (inaudible)

MS. ABERNATHY: Okay, so that's what I'm saying. If they say, I do not want this advanced and I do not want my autopay to be impacted, the servicer can accommodate that.

MR. HARDY: Yes.

MS. ABERNATHY: Okay, so back to Ashley's point. We would say, make sure you contact the servicer to suspend your potential autopay if you're on autopay, and please make sure that you contact the servicer so that we do not advance the due date. Well, not suspend, but don't take out the money the next -- I mean --

MR. HARDY: You do want --

MS. ABERNATHY: You do want --

MR. HARDY: (inaudible). So as long as you tell them not to advance the due date, we'll pick (inaudible)

MS. ABERNATHY: Not to advance the due date, even on autopay?

MR. HARDY: Yes, ma'am.

MS. ABERNATHY: Okay, so I thought you just -- I thought --

MR. HARDY: It's all about when a

payment is due, not --

MS. ABERNATHY: Okay, but for the purposes of this, if they say they do not advance my due date, that covers auto pay as well?

MR. HARDY: It does.

MS. ABERNATHY: Okay, I misunderstood. I thought you said it didn't cover.

MR. HARDY: No, I just wanted it to be super clear.

MS. ABERNATHY: Okay, now I'm super clear. If they do not want their payment advanced, whether they're on autopay or not, and they contact the Department if they are on autopay, that also stops. If they're not, it just doesn't advance the due date. Okay.

MR. HARDY: And I'll probably have about 15 IMs about this once I get back to my computer from everyone listening in.

MS. WEISMAN: I have cards up from Alex Holt. Okay. Then we go to Scott, and then Alex Ricci.

MR. KEMP: Sorry, Eric. I meant to catch you before you sat back down. So, what we're talking about there is if you make an -- if you pay more, there's a lot of stuff that needs to be taken after the fact to make sure all the money is applied. Is there a

mechanism in place for a borrower to make that extra \$200 payment without having to -- like ahead of time and say to the loan servicer, here's \$200, I want it to apply to my principal and it doesn't change anything. Or is the only mechanism for a borrower to apply additional money towards the principal making -- taking the corrective actions that we've talked about so far after the fact? Because it seems like it'd be easier if I just say, here's \$200, apply it to the principal, rather than pay \$300, and move my due date back, don't advance my due date.

MR. HARDY: I'm going to suggest that we take a couple minutes to chat. I also got an indication I might have given the wrong information on autopay. So, I want to make sure that I'm giving you accurate --

MR. ANDRADE: So, Annmarie, can we call a caucus with those who have questions about applications of payments so that we can work on that off -- offline briefly? Just --

MR. HOLT: Could I recommend that maybe we move to professional loan limits while you guys maybe departmentally are trying to figure this out so that we don't hold everybody up?

MR. ANDRADE: -- I think we have

people that sort of have responsibility on that. So, if we could maybe do that offline. I understand your time issues on that as well. We're at 2:16 so maybe about 15 minutes for that, for anybody that wants to talk with Eric and company.

MS. WEISMAN: So, I need to know which members are going to the caucus. If you could just put your comment cards up and I'll try to go around. So, we have Deborah, we have Ashley. Deborah is representing borrowers. Ashley is representing legal aid. So, it would be you and your alternate. We have Scott representing states and his alternate, Alex Ricci, representing servicers and so on, I'll say. Alex Holt, representing the taxpayer, and your alternate. Did I miss anyone? And of course, the Department. So, we have Margo and Val in the back. If you could go with them, they will take you to the conference room. And we're expecting about 15 minutes? Thank you. Welcome back. Returning from the caucus, we had the Department, along with borrowers, legal aid, states, servicers, and taxpayers. If the Department would like to give a short readout on the results of the caucus?

MS. ABERNATHY: The results of the caucus are that we are taking some things back. We have heard the concerns from the committee. There are some

logistical and system concerns that we want to take back and vet clearly and thoroughly. We're not able to get to this probably in the morning. It will be more likely tomorrow afternoon or even on Thursday. And I know that there had been some questions about whether we're coming in tomorrow and we're going to have a work day. We will be working tomorrow on this stuff, so we will have a full day of negotiations tomorrow instead of a workday, as we had anticipated. The one thing if I can move on from that, we've heard all of the comments. PSLF is going to have some corresponding edits along the on-time payments and some of the other things that we talked about. There's not really a reason at the moment for us to jump right back into the same conversation that we've had here, but I do want to talk about one provision of PSLF so that we can get it on the record and off the table for future discussion, because once we solve that other issue, then we'll be good to have the edits in both 209 and in 219. So, for the purposes under the Repayment Assistance Plan, the -- what we call buyback for the provision of buying back time when a borrower has been in a forbearance or deferment, certain forbearances and deferments under PSLF, because of the Repayment Assistance Plan's on-time monthly payments, it is the expectation that payments are made monthly. So therefore,

time spent on forbearance and deferment will not be allowed to be bought back and credited as time to forgiveness. Borrowers will not lose any of the benefits for which they have already bought back. But going forward, the effective date of the regulations, that provision would no longer cease to be appropriate or in effect for the borrowers who are paying under the Repayment Assistance Plan. Okay. And so, any questions about that before we jump into where we would like to go?

MS. WEISMAN: Card up from Ashley. And Jeff, your card is up.

MS. ABERNATHY: All right. I think at this time, we have made you wait long enough for us to talk about the professional student. As I mentioned early on when we were talking about where we landed on October 3rd, we stopped with a potential interim definition that our undersecretary had presented to the committee. During negotiations, we heard from you that that definition did not quite get us where the committee thought was as helpful as it needed to be. So, when we came to negotiations on November 3rd, we reverted back to the original definition, with the exception of adding a comma and the word and removing the provision that we would publish through a Federal Register notice. So, our starting point for coming into these negotiations, we had

numerous proposals, several from Alex and others on this committee that spoke about the professional student and what they thought the professional student definition should encapsulate. So, we are very interested in hearing about the professional student definition, but we are going to turn it over and have Jeff speak to you guys about this. And then from there we will go into our additional discussion.

MR. ANDRADE: Thanks. Go ahead, Scott.

MS. WEISMAN: We have a card up from Scott.

MR. KEMP: We would like to make a swap, alternate from primary.

MS. WEISMAN: Okay. So, Bennett Boggs coming to the table for the state constituency.

MR. ANDRADE: Okay, thanks. Thank you for being patient. So, I think what we're going to try to do today as Tamy mentioned, we clarified our proposal in terms of our initial language, what we had talked about in the caucus in the last session. We didn't see that as a viable path to consensus, given some objections. And so, we want to sort of level to make sure everybody's on the same page what the particular definitions that we're dealing with are. And then we want to do a deeper dive into the consensus or the non-Federal negotiator proposal

that Alex put forth and ask a few more questions. We've had some chance to look at it. There are some things that are interesting to us. We want to make sure that we're looking at all the viable paths forward as we proceed in that. So that's how I'll go through. Linnea, can you go to the first slide, please? So, the One Big Beautiful Bill Act defines professional student using a definition of professional degree that's defined in 668.2 of our regulations. One important concept to keep in mind here is that that is not a specific cross-reference to that, meaning that if we change 668.2, it doesn't change the underlying content. So, what we're looking at here is making sure that our definition of professional student captures the types of programs that Congress was referencing to as on the date of enactment of the legislation. And so, what we're looking at is, was that program a professional degree as of the time of enactment? Next slide, please. And so, what we have put on the table -- well, here's actually -- here's the, the three elements of this degree as it appears currently in the regulation. So, the first concept, and I think this is a very important concept, is that the degree signifies both completion of the academic requirements for the beginning -- for beginning practice in a given profession. And I'll talk about a little bit later the

concept of first professional degree, where that's drawn from. The second element of that is that the degree is at a level of professional skill that's beyond what's normally required for a bachelor's degree. And then there are ten examples of the degrees that are named out in the particular fields. And they're all up there. So, we took that definition -- next slide, please. So, we took that definition, took out the language, includes defined those specific ten. That's what we're starting off from. And then we added the information and -- or the requirements in paragraph two. Now, one question I actually had for you, Alex, in your proposal, you made changes to one -- are we assuming that everybody's okay with number two? That your changes were only to paragraph one?

MR. HOLT: I'm reading. So, I don't want to speak for anybody besides me because this question wasn't discussed, but I don't have a problem with that. Although I guess I'm wondering where it comes from.

MR. ANDRADE: I think part of it is that we're basically saying a professional student can't be -- I mean, they're essential logic questions. You can't be a professional student if you're also an undergraduate student during the same period. And that it reemphasizes that the professional student has to be in a

-- in the degree, so.

MR. HOLT: Right. So, I don't mind the language, I like restricting professional degrees. I just didn't -- from a legal perspective, I was concerned that you're just further differentiating this definition from the cross-reference definition. And if you want to do that, I think you need to have very strong grounds for how you arrived at those additional criteria. So, it's just a legal risk issue.

MR. ANDRADE: So, they appear as part of the definition of professional degree on -- you know, so like the three-year requirement, for example.

MR. HOLT: What do you mean, they appear? They appear --

MR. ANDRADE: So, Linnea, can you go back one slide? Actually, two slides? So, in the -- actually, no, forget I -- my mistake. Go back. So we'll put a pin in that one, Alex. And we'll revisit that later in there. So let me just go through. Yeah, I know that's (inaudible). So let's go to the proposed language that we received from -- on the next slide, please. So --

MS. WEISMAN: Jeff, before you go on, we have some questions. Do you want to go to those, or do you want to continue?

MR. ANDRADE: If they're brief and

they're what we're talking about at that's on the screen.
Okay.

MR. CAREY: So, we're not talking
about number two now?

MR. ANDRADE: We're not talking about
number two. We're going to put a pin in number two. I
just since we were on that, I was asking a clarifying
question because that wasn't addressed in Alex's
proposal, and that was an outstanding question. But it
seems that it's probably appropriate to have it elsewhere
in our discussion today. Okay. So, this is an amendment
of the -- I think the first-round language or actually of
the 668.2 language, the strikes examples of, and then
limits it to specific programs. Alex, do you want to sort
of provide a little bit of color in terms of what you're
thinking was, at least on this initial stage?

MR. HOLT: Yes, happy too. I do want
to note that this is not actually the, the latest
proposal that I sent. And that's just because I changed
three years in length to 80 credit hours. But I
understand that this was the proposal submitted by me and
the schools, I think. So, I'll just talk about it sort of
both at the same time. So, the idea here is actually that
-- and specifically here we were proposing to replace the
668.2. Not replace the 668.2 language, but rather to

clarify the 668.2. So, Jeff, this is not the latest one I sent that has sort of the legal justification. I'll talk briefly about --

MR. ANDRADE: I have your legal justification. This was the last language that came in and you had attached the earlier proposal to your analysis of how that would impact regarding specific programs and -- hold on. So, the example that I'm working off, just to make sure that we're on the same page is you had an analysis. Let me just scroll up to the top. October 2, 2025.

MR. HOLT: Right, so --

MS. ABERNATHY: (inaudible)

MR. ANDRADE: Well, that's what I -- no, I have October 2nd.

MR. HOLT: So, the latest proposal that I sent was sent during the week after session one. So, Jeff, we have a couple options here. I can talk broadly through the criteria that are here. But this is not actually the latest language. So how do you want me to handle this?

MR. ANDRADE: Yeah, why don't you talk it through? At some point, we'll take a break. We'll make the modifications there. I'm not sure. No, we're talking through his proposal.

MR. HOLT: Okay, great, so --

MR. ANDRADE: In terms of the differences and it's -- my apologies, I had asked for the latest one to put up on there, so that's on me.

MR. HOLT: Okay. So basically, the concept here is that the original definition of 668.2 says professional degrees are included but not limited to. And it lists a set of examples. The concept here is that if something includes but is not limited to, then it can't inherently only be the things listed. It must include at least something not listed because otherwise the but not limited to phrase wouldn't make sense. And so the general concept that the taxpayer constituency used here was to say, well, how are we supposed to define what Congress intended on the date of enactment when they pointed to this, given that this definition is too broad to actually implement, the Department needs to do something. And so, what we generally decided was to say, well, let's look at the examples and assume that the examples are indicative of the general types of programs that count as a professional degree. And are there any other generally accepted ways of thinking about a professional degree from Congress and the Department at the time of enactment that we should also include? So, what we -- there's something called a class -- a CIP code

classification. Anybody? Classification --

MR. ANDRADE: Classification of Instructional Programs. And that's actually the first topic I want to get into after that. But so, if you can, if you can give sort of the general -- well, just sort of the general overview.

MR. HOLT: Yeah. Okay. So, there's a code that we use to organize types of programs. The Department uses it. They've used it for a long time. And so, it goes from sort of broad classification to a narrow. So basically, what we said was let's take the examples, which are narrow, and broaden it out to the sort of more broadened structure of the classification, and we'll include any programs in that classification that are also at least three years, because all of these programs are generally at least three years. And I think there was another thing, but the definition is off the screen. And then the next thing we did, includes psychology as well, is we looked at the IPEDS data. So, in IPEDS, which is another Federal data system, schools had to classify whether their doctoral programs were research or professional. So, what we did was we said, well, let's take a look and see what programs classify themselves as at least 50% of the students enrolled are professional, and every single one above 100 students was

within our broadened definition using the CIP codes, except for clinical psychology. And so, we felt that clinical psychology merited that exception as a generally understood professional degree program at the time of enactment. I think I should stop talking now because that was (inaudible)

MR. ANDRADE: Okay. Thanks, Alex, and we'll get your actual language back up there in a moment. I wanted to talk Linnea, why don't you go ahead if you already have it teed up, and we'll just look at Alex's language before we start talking about CIP codes, if that works.

MR. KING: Can I ask a question real quick?

MR. ANDRADE: Yes, sir.

MS. WEISMAN: Timothy.

MR. KING: I'm trying to understand what doctoral degree does not require research?

MR. HOLT: It's not that it doesn't require research. It's -- in IPEDS, it's whether it's generally a research kind of doctoral degree or it's mainly -- leads to like a profession. So, for example, I need to be careful here. Well, no, if you're getting a PhD in political science, that doesn't lead to a political scientist profession, right? That leads you to

be a professor maybe, but that's a research degree. Where as a Doctor of Medicine is not a research degree, it's a professional degree. This is still not correct. Oh, yeah. No, not at the end, at the beginning, please. And scroll and -- yeah, keep going. Yep. There we go. Okay. It's on two -- yep. Okay. Just scroll down a tiny bit. Okay. Perfect. All right. So, what we ended up determining was that it was legally the safest to not replace the definition of 668.2 because Congress literally pointed to 668.2. And so, at the same time, you can conclude that because the definition is so broad, Congress did expect the Department to regulate on this definition, because otherwise you'd have no idea what counts and what doesn't count. This is way too vague to figure that out. So, what we did was we proposed not changing a single word of the existing 668.2 definition but rather adding additional language to clarify the meaning of the 668.2 definition. So that is why there is no strikeout language. There is only added language in red. And this language clarifies, based on the examples and the generally understood meaning of professional degree at the time of enactment, what these degrees are. And so, they have to be -- they are substantially similar to the examples, that is our entire legal framework, that they have to be substantially similar to the examples, both in length and

field of study, length being 80 credit hours. How do we get to 80 credit hours? like one exception in all the programs of one school. All the examples listed are at least 80 credit hours. Theology Masters of Divinity is between 80 and 90, and some law school programs are now between 80 and 90. Everything else is way above 80 or 90. And that was easier than doing three years. And that was at the suggestions of the schools, right, that the credit hours were an easier way to count. Okay. The second part is the field of study. That's where you get into the CIP codes, which I understand Jeff is going to explain more where we say it's in this broader classification within this and clinical psychology, for the reason that I mentioned before that it was this strange exception inside the IPEDS data that we thought warranted. Probably Congress meant this one also, based on the way it's classified in IPEDS.

MR. ANDRADE: Okay. Thank you. Okay. Sure. Jake?

MR. LALLO: So, I just want to ask a quick, clarifying question. I don't want to derail us here, but why do you think -- why do you need to repeat the statute word for word here, where, you know, our regulations are obviously based off a statute. We interpret statute. We can't contravene the statute. So

how does repeating it so thoroughly here, like, give us any legal protection, especially given that the statute will continue to exist in the form and screen, notwithstanding what we do in the regulations?

MR. HOLT: So, I wasn't proposing to repeat it. I was proposing to directly modify 668.2. And the reason for that is because, to me, it seems that it would be better for all involved, including the schools, when they submit information to IPEDS to all be working off the same definition. If you create a new definition here, but then you keep a professional definition somewhere else, it has two different definitions of professional degree in it was mostly a consistency thing.

MR. LALLO: So as a follow-up to that, just a couple of things. First, why do we need to have the definition in the regulations at all at that point? And secondly, if given that the statute explicitly says as existed as the date of enactment, why do you think that this allows -- like this is permissible and allows us to modify 668. --

MR. HOLT: So, I'll go backwards. I'll answer the last question first. So, it's pointing to the date of enactment. So, if it said 668.2 and it didn't say the date of enactment, then maybe you could argue that

you're not allowed to modify it, but because it's saying at the date of enactment, that's a snapshot in time. It doesn't matter anymore. So that's you can clarify now because it's like archive.org. We forever know what it said on that day. We don't need to keep it frozen in time now because we already know what it said then. Do you have a follow-up?

MR. LALLO: Yeah, I mean, I guess a couple of quick ones. I don't really understand how this doesn't contravene the statute there again, it says as of date of enactment that feels like it fixes it in time. So, you can then create a definition of professional student for the purposes of loan limits. But you're modifying the definition that's incorporated into the statute, which is a different thing entirely here. You're changing the definition that's now been written into --

MR. HOLT: So, I'm clarifying the definition as it's written into the statute. I'm not --

MR. LALLO: But I guess to that point, why is it not easier to, one, just create a new definition and then, two, just list the degree --

MR. HOLT: So, it is easier, except for the fact that institutions of higher education are going to have to resolve the difference between two definitions, which seems suboptimal. This is not my

biggest fight, right? But it's a little weird to have two definitions and like one is clearly clarifying the other. So, if you have a definition on the date of enactment, we can strike this definition now, we can do whatever we want from the regulations. Because even if you strike this definition in this reg, it still is referring to the reg on the date of enactment. So, I don't think you're contravening statute by acknowledging that regulations can change in the future. That's why the statute was specifically pointing to. And so, the same problem exists what you're saying. If you go to a different section and you create a new definition, you still face the same fundamental legal problem of what gives you the right to change this definition in every way. And my answer is you're clarifying it because you have to.

MR. LALLO: Got it. I just -- I guess the point I was trying to make was that if this is incorporated into the statute by reference directly, and then we're going back and changing the definition that's then incorporated into the statute, so then we have that plus the definition that's incorporated into the statute. It seems just as confusing and just as circular, and if anything, more confusing because now the statute differs from the regulation.

MR. HOLT: It's certainly not

confusing to the institutions of higher education because they only have one definition in the present. Go ahead, Tamy.

MS. ABERNATHY: Okay, maybe I'm missing something. Professional degree 668.2 definition of professional student would pull in partially -- so not 668 -- 668.2. We're not trying to change 668.2. We're trying to take what is in 668.2, put it into a new definition in the professional student section and enhance that with the clarifying language. Is that what you are trying to do?

MR. HOLT: So again, it's sort of like -- yeah, that's fine, except I just see this problem where an institution of higher education still needs to classify their program in IPEDS, right? And so, we're going to have this weird situation where professional students, as defined in one section, is not necessarily in a professional degree. They're just not the same. Go ahead.

MR. ANDRADE: Which is sort of why I was trying to level set. So, the definition of professional student in the statute incorporates the regulatory definition of professional degree as it was on the date of enactment. And so we adopted that structure in defining what a professional student is by describing

what's encompassed within professional degree.

MR. HOLT: Yeah.

MR. ANDRADE: And so, we can, we can -

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MR. HOLT: This isn't the crux of the debate.

MR. ANDRADE: It's not. Exactly. And we can have some additional discussion on that. And so maybe we should talk a little bit about the CIP code and the use. And because it's an interesting concept that you bring to the table in terms of using this taxonomy and in trying to get some more granularity with regard to degree programs. Linnea, can you go to the next slide, please? So just so everybody is on the same page --

MS. WEISMAN: Jeff, we have a clarifying question from Ashley.

MR. ANDRADE: Yes, ma'am. I'm sorry.

MS. WEISMAN: If that's all right.

MS. NAPORLEE: I guess I was just tracking a little bit with what Jacob was saying and just kind of referencing professional degree as defined in 34 CFR 668.2 and just leaving it at that. Is that what you were saying?

MR. LALLO: No, I was just asking if -
- given that it's incorporated into the statute why he

was -- as an act at the time, modifying the definition that currently exists there, rather than creating a new definition. I was just trying to suss out if there was a specific legal basis that he thought was stronger by doing that clarification than pointing to something.

MS. NAPORLEE: I guess I'm just wondering why we're not just referencing the definition in 668.2. I'm just using that.

MS. ABERNATHY: I think this is Alex's proposal. So, I'm not sure we are doing anything yet, but just kind of to talk through.

MS. NAPORLEE: You're just looking to expand it. Is that what it is?

MR. HOLT: No. So, it can't just be that definition because it's clear Congress meant for the Department to clarify the definition somehow, because that is so broad that every school would be choosing their own thing. That's why I think it needs to be broadened because of the but not limited to language. But I still think it needs to be -- it's not like a wide open playing field where every school just gets to decide if they're -- they have a professional degree.

MS. NAPORLEE: Okay. And do you have a cite to that -- congressional intent that you're so adamant about?

MR. HOLT: So, I think there's precedent that when -- I'll find you the, the Supreme Court ruling. But I do think that there's precedent that when something is not easily defined, that the regulatory agency tends to have to step in to define it.

MS. WEISMAN: Bob?

MR. CAREY: I guess I'm having difficulty understanding your belief that with OB3A, simply saying professional student is defined as 688.2 (sic), why that therefore implies congressional intent of greater specificity?

MR. HOLT: Do you want me to keep doing this, or do you want to go through your presentation? I'm open to --

MR. ANDRADE: We can go. We had some we had some specific questions. I think those have been answered. And we will ask them along the way. With regard to the proposal, we want to sort of look at the various elements in your proposal and determine the viability of some of those elements as a possible pathway forward.

MR. HOLT: Yeah. Okay. And I will just say one thing. It's very clear that Congress intended for there to be limits to some graduate programs. And so, you need to define what gets limited and what doesn't. And I would argue that this -- that just -- that definition

doesn't actually limit anything.

MR. ANDRADE: And, and again to, to go back to the original statute, and to Bob's point, a professional student is a student who's enrolled in a program of study that leads to a professional degree. So that's why we're sort of having this discussion around professional degree. So let's talk about the structure of the use of CIP codes, or Classification of Instructional Programs. So, this taxonomy is a taxonomy developed by the National Center for Education Statistics here at the Department for coding instructional programs. I think it's important to note that these are general categories that were intended for program completion data. And they're not a catalog of specific majors or titles actually used at individual institutions. They're not exact duplicates. It's a taxonomy that's updated every ten years on on the zero year. And while it's generally not valid for IPEDS reporting, it is and has become the accepted Federal government standard on instructional program classification. And it's used not only by the Department but also other education information surveys. And then since 2020, it's part of the Title IV COD, Common Origination and Disbursement system, and programs are coded in that using the CIP code. So, it has developed parallel to this definition. Next slide,

please. And so, the organization and, and the language that Alex reviewed talks about the different levels. There are three levels of organization in the CIP code. The one in the proposal that we're discussing uses the two-digit series. There are currently 48 groupings in that proposal. The next level down called the four-digit series are groupings within that sort of -- I mean, you think of it as a pyramid. There are about 450 groupings of programs. And then when we talk about the specific or the six-digit series, that's the basic unit, that's specific types of programs that we're looking at. This is an open process, I guess I have some questions around the language and whether or not we're locking in the 2020 taxonomy where we would be -- update or the, the intention was to review it. Updated in 2020, 40 new four-digit codes were added. And 300 new six-digit codes were added to just to give you an idea of, an idea of how dynamic that is. And the general rule in order to add programs is at least five Title IV institutions must be offering programs in that code. Next slide, please. So, as we see it, the proposal is using CIP to try to identify other programs to address the issue in the current reg of -- including but not limited to or including these as an examples are adjacent in the ten enumerated degrees. So, overlaying that on the CIP code,

current CIP code structure, we would have one degree, which is in the agriculture, agriculture operations and related sciences grouping. That's for the veterinarian degree. We have programs that would be adjacent in the legal professions and studies grouping adjacent to the J.D., L.L.B., and theology and religious vocations which are master's in divinity and masters in Hebrew letters. We would have that grouping. And then by far the largest grouping from 51 is all our health professions and related sciences degree. I would note that under the proposal, a doctorate, the PsyD of at least three years in length, which has now changed to 80 credit hours would be yet another two-digit CIP grouping for psychology. So, one of the set of issues that I have on this, Alex, is whether the two-digit CIP groupings may be too broad potentially. And we've done some analysis which would bring in, I think probably using these approximately 70% of the programs we overlay the 80 hours on it. I understand that that knocks up and so I want to have some discussion around the two-digit versus we're at six-digit, for hours because it's specific and some discussion around four digits at the intermediate level CIP codes.

MR. HOLT: I appreciate the Department's like really taking this into account and

thinking through the CIP code level. I don't necessarily, and I am speaking only for my constituency right now, to be totally clear -- I don't necessarily see why it couldn't be a four-digit CIP, like if it were a four-digit -- if you went to the four-digit CIP level, I think that that would satisfy the but not limited to language, to be totally clear. The concern I had was that there are certain health degrees that show up in that IPEDS test that I mentioned that sort of seem really, kind of obviously should be included, for example, audiology, which is just not really any different than podiatry. It just happens to be in a different four-digit CIP. And so when we looked at this broader list, which is included in appendix A of the proposal that I sent on after the first session, which you can probably find on the New America website because they're posting everything, I think that there's just a number of degrees that wouldn't have made it that I think . for example, also physical therapy where I think by most -- in physical therapy, 100%, I think of the students were enrolled in a profession classified as a professional program under IPEDS. So, it just felt like a way to, to include things. On the other hand, I will note that there are certain programs in there that I think definitely don't qualify. For example, social work is inside 51, the health CIP, for everybody

who's following along. And I do not think social work counts. Now, under the 80-credit-hour minimum, social work is not even close, right? So that was why and I think that the 80 credit hours -- Jeff, I see you say not in regulations, but we believe 80 credit hours is very on solid legal ground because it is substantially similar to all of the degrees listed. And if I can just finish up, sorry. It's audiology -- yeah. That's it for now. That's, that's what we were thinking.

MR. LALLO: Yeah, I think, you said like audiology seems like it should be obvious here. I assume that, if it's obvious that audiology is in here, it's obvious that some of these other degrees are. So can you just kind of elaborate a little bit --

MR. HOLT: Yeah, so --

MR. LALLO: -- how these things fit together, I mean, I understand the overall grouping but -

MR. HOLT: Yeah, I'm going to give you the legal thing and then I'm going to give you the, you know when you see it answer. Okay. So, the legal one is this -- we created a test, which is that we looked at programs and we said, what programs have at least 50% of the total number of students enrolled in a professional versus a research program? We chose 50% because it is the

least arbitrary of all percentages available. And from there we got a list, and things like audiology and physical therapy, they are like 100% classified in IPEDS. Now you could say, what does that matter? It means nothing. I would say, well, probably Congress at the time of enactment thought that programs classified at 100% professional degrees in IPEDS, which is based on the definition of 668.2, by the way, that's where the IPEDS definition comes from, they probably thought that was a professional degree. So go ahead.

MR. LALLO: So, okay, just where, where do you get 51 or 50% from here? Like how are you making that classification? And I guess more broadly with this three-year minimum you've created this operative definition here. You have degrees within that that don't fit that. So how are you justifying --

MR. HOLT: I don't have degrees within what that don't fit?

MR. LALLO: The 80-hour window. I mean, you --

MR. HOLT: No example is below 80, 80 credit hours.

MR. LALLO: Sure. Okay. But I'm trying to see how you're getting to the 50%.

MR. HOLT: Okay.

MR. LALLO: How you're factoring all that into your conclusion. Because I think moving to a two-digit is a huge thing. It's a very big expansion. So, I think we really just want to understand what went into the thought process and how these groupings fit together.

MR. HOLT: Yes. Okay. So, when you ask another question, I'm going to pull up my document just to make sure I have all my working hypotheses that -- I had a different word but hypotheses, basically, trying to derive congressional intent. But basically, the working concept is that we should take the examples listed and find substantially similar programs to the examples listed. So then I must ask, what programs are substantially similar and what legal tests can I create to find substantially similar programs? Okay, so the tests are they included in the examples? That's number one. And then when we're trying to think of what else could be substantially similar, we do type of program and program length. So, type of program could either be four-digit CIP or two-digit CIP. I'm conceding that, okay? Program length is actually very important. I mean, it's not like there's one that's 30 credits and one that's 300. They're all at least 80. So, I think you're on very solid legal ground. I think Congress is very clear that they're only picking post-baccalaureate degrees that are

not short in length. Right? I mean, that's just from the examples listed, that's very clear. And then you have this last question of what's substantially similar. And I would say, I think that Congress probably would think that programs that have a high proportion of students in -- classified as professional and IPEDS would count. Now, on the 50%, Jake, you're a lawyer. I'm not. I'm trying to find the least arbitrary number. Right? So, 50 feels like the least. But I'm open to other ones as long as we think it'll get -- because just to be clear to everybody, why is the taxpayer proposing opening this up, right? So, the reason is because, one, I think that the Department's first definition was concerning in terms of its viability. And I also think we need to be cognizant of congressional intent to create a sustainable definition that can get through the legal process, because we all know people love to sue the Department for negotiated rulemaking rules. Okay. So that's where we're at. And that's how I got to where we got to. But I concede, Jake, both that two-digit is not necessarily the correct level of classification, and that 50% is not necessarily the correct percentage.

MR. LALLO: So, I guess to that point, and we can unpack this as we go too. I just want to understand how you are justifying, having to include

degrees in this list where half of those students are not going into a professional role? You mentioned that there are some that are 100%. Those should be obvious, in your words. But if half of the students aren't, how do those still fit within?

MR. HOLT: Do you want to go first?

MR. ANDRADE: Yeah. Well, and I guess I'll piggyback on that question with where's the connection to the clause in, in 668.2 on professional degree where you make the connection to beginning the practice in a given profession? I don't see the focus here. So, I guess I would, I would add that element. Where's also the connection to the profession?

MR. HOLT: Okay. I'll take it in order. So, for -- sorry, did you --

MS. ABERNATHY: No.

MR. HOLT: Okay. I'll take it in order. So, Jake, for yours, we must acknowledge that this was kind of a quasi-meaningless thing, the CIP codes, that schools were not necessarily completely accurate on. I spoke to one school that told me that they have for ten years been attempting to contact the Department to answer their question on how they were supposed to classify their program under IPEDS. And every time they contacted the Department, they said, "we will get back to you." So,

I think we need to allow for the fact that perhaps some of these programs are misclassified. So, for example, you created 100% threshold, that's not allowing for different types. And there are also just some programs where sometimes they do research and sometimes they do profession. But it's still the case that a school program has to follow the rest of the definition. So, if you have a research in medicine PhD, they should not be a professional program under my definition because it doesn't lead to a first professional degree, which is inside the definition. Secondly, Jeff, to your question, how does it connect to first professional degree? You must remember that the IPEDS definition includes the concept of first professional degree.

MR. ANDRADE: Which is my next --

MR. HOLT: Okay. Go ahead.

MR. ANDRADE: The next set of slides.

Okay. Go ahead --

MS. WEISMAN: Jeff, before we go there, Bob has had his card up for quite a while.

MR. ANDRADE: I'm sorry, Bob.

MS. WEISMAN: Oh, okay.

MR. ANDRADE: Okay.

MS. WEISMAN: Then Jacob, and then back to Jeff.

MR. LALLO: Yeah. I just have one last question before we do that, which is if CIP codes are as quasi meaningless as pointing them out to be, how can we rely on those as a basis for a definition if they're unreliable?

MR. HOLT: Jake, I am open to something that is better for substantially similar if you can come up with it. But we need to use something. And I think it's reasonable to assume I was not careful with my language. They're not quasi meaningless, but they didn't carry the same consequences before the CIP codes. But there is a difference between the way a school classifies whether they're professional or research, versus the taxonomy of the CIP code. The Department clearly thinks that the taxonomy is meaningful, and it is the best proxy I could find to substantially similar for a field.

MR. ANDRADE: Okay, thanks. And before I move on to the next slide, one more question here. And it's on the 80 credit hours as a proxy for length. And since, as you point out and we'll discuss a little bit more, the current definition in 668.2 for professional degree is based on the concept of first professional degree, which now refers to a doctorate instead of 80 credit hours, refer to doctorate programs that are in particularly doctorate professional degrees?

MR. HOLT: Because one of the examples is master's of divinity and master's of Hebrew letters. So, if I'm trying to stick to the definition, I would clearly be being arbitrary by picking doctorate because it includes master's. That's what everybody has asked from the beginning. Wait a second, there's master's of divinity. Why can't there be masters of everything else? And it is clear that master's of divinity and master's of Hebrew letters are different because they lead to a first professional degree in ordination as a substitute for licensure and a number of other reasons. But if you were to just pick doctorate, you're just contradicting the literal examples in the definition. And so instead of using doctorate, which by the way, it's not like we have super tight accreditation in this country. Why doesn't everybody just change their program to doctorate next year? Instead, we should use length of program as the correct proxy.

MR. ANDRADE: I'll defer to Jake because Jake's done some work on the master's of div -- and I mean, I'm glad that you pointed to him as first professional degrees and the long-standing interpretation, Jake, do you want to talk a little bit about master's in divinity and master's Hebrew letter?

MR. LALLO: Yeah, I can actually

explain that. So when we brought this in, the language included within a professional degree. As Jeff said, it was originally first professional degree. It came from the definition that NCEES was using and when it was brought in in 2008, they brought it in in substantively the same -- or they brought it in directly from NCEES with a minor substantive change. NCEES, it had the same definition in place since, I believe, 1975, without modification. The only change that was made when it was incorporated into 668.2 was, they struck the words ordination instead of licensure. I can't actually speak in terms of legislative - or regulatory history to why that strike was made. It wasn't really elaborated at the time. But the logic, I think, seems to follow to me, which is that because it was required for ordination. Ordination is effectively similar to professional licensure in the sense that this is a profession. It's a professional degree that's obtained after a bachelor's degree. And it was a degree needed to do a certain field or a job in a certain field. So that's how we interpret it at least, why the master's of divinity and master's of Hebrew letters were incorporated.

MR. HOLT: So, Jake, I agree with you, and I have the same interpretation. Right? But a master's in counseling, which, fun fact, I have, also leads to

licensure and first professional degree. And I don't think that's meant to be included. And I don't think it was ever understood as a first professional degree. So, we've got two problems here. One is that you've got master's specifically listed. And in my opinion, what you just said does nothing to prove that it should be doctorate instead of master's. And second, we've got to understand that generally professional degrees appear to be understood based on this list as requiring a certain length of time as opposed to just a doctorate, because otherwise we're going to get every program in the country just changing themselves to doctorate. Lastly, under the two-digit definition of physician's assistant would count as a professional, even though they don't have a doctorate. Their program length is like 120 credits. They get it done in two years because they work really hard, it seems. I don't think they sleep based on their requirements. And you're just saying, well, they better change it to Doctor of Physician Assistant before we give it to them. And I'm kind of like, why are we doing that, guys? That's gameable beyond belief. And instead, we should base it on what's actually substantially similar among these programs, which is length of time.

MR. ANDRADE: Right. I think generally in agreement that there's a program length dimension to

this because it's been in the definition of first professional student historically. But just not to beat a dead horse on the doctorate issue, there is, I think, a concept of what level of professional skill are you looking at beyond the bachelor level that relates to licensure. And so, the question becomes whether or not that's captured only in program length. And, and there's, there isn't a qualitative measure of professional (inaudible)

MR. HOLT: I think I would just have to ask, what do you do with the exception of master's of divinity? How do you sort of justify that if you also require doctor?

MR. ANDRADE: If you look at the classification of divinity, I believe the next level down, which is a bachelor's in divinity, is viewed as a master's program under IPEDS. Even though it uses the term bachelors. So, I think there's some

MR. HOLT: It's functionally a doctorate, yeah.

MR. ANDRADE: Yeah. In the --

MR. LALLO: I think it's also important to remember the distinction that again, the only other modification we made when we ported this definition over was that we struck the word first and

changed it to professional degree. These were degrees that were meant to represent entrance into a profession after a bachelor's degree. So I think the master's degree is salient there because this is a doctor or a master's of divinity is different than a doctorate in theology. Right? That's a degree that's typically obtained later on. These degrees that were seen as necessary for ordination into particular churches or denominations, and so they were treated as professional degrees within that concept. So, we're -- and I want to clarify here, I'm not poking holes in your concept. I -- we really appreciate --

MR. HOLT: Jake.

MR. LALLO: -- the thoroughness. No, seriously, we really appreciate the thoroughness of this. And so, we are trying to fully, work this through with you. And I appreciate you being a good sport and talking us through each part of it.

MR. HOLT: Yeah. And to be clear, I'm not opposed to including doctor. I worry a little bit about that exception, but I feel like if you can justify it, then that's fine. I'll just say I still think that you're going to need program length also in that case.

MS. WEISMAN: Okay. We have three cards up.

MR. ANDRADE: Okay. On this particular topic? Okay.

MS. WEISMAN: We have Bennett, then Jenna, and then Timothy.

MR. ANDRADE: Okay.

MR. BOGGS: Thank you. Before we get too far from it, I'd like to just go back to the CIP codes just a second. We seemed to launch off the idea that it perhaps is not as reliable or precise, and I would just like to go against that and say it is absolutely the code that we all follow. I invite the institutions and the independents to back up on this. We use it at the state level. We use it with the accreditations. It is the precise code by which we identify down to the precise academic program, what it is and what it offers. It is reliable. It's the currency by which we do our academic policy.

MR. ANDRADE: Yeah. I don't think I heard any discussion with regard to not using CIP code. It's whether or not when you're applying the taxonomy, at what level do you put it in and whether two -- for a two-digit CIP code, which is a very broad grouping, would be the appropriate level to use.

MR. BOGGS: And just to say, I appreciate the debate at that level, just not to dismiss

the idea that CIPs might not be reliable.

MR. LALLO: Yeah. I don't think we meant to assert that they aren't reliable. I was just responding to Alex's assertion or statement there about CIPs and how they've been treated in the past to substantiate your basis on them. We don't have a position that they're not reliable. Obviously, they're part of our data sets. So we just wanted to hear from you guys why you wanted to rely on them here.

MR. ANDRADE: Yeah. And so. Well, maybe this next topic will take a little bit of the discussion away from you and to others here on the group. And the question (inaudible) why PsyD, and I know you had mentioned social work as being in the same category as health professions. I believe it's actually in the same category as PsyDs in 44, perhaps, I'm fairly confident it's in 44, medical, social work being 51. And under a two-digit CIP code, this would add a new grouping to the four that are already up there. And I guess you can sort of explain why I think others will probably opine as why PsyD is on there. But if you can just sort of kick us off on the PsyD issue.

MR. HOLT: Yep. So, as stated, we had a secondary test to try to determine what would probably Congress would have considered a professional degree at

the time of enactment, and we decided to use how schools classified their doctoral degrees between professional and research. We used a 50% threshold, and we found that basically every single program in that test counted within the other four-digit CIPs, except for clinical psychology. And so therefore we determined that it should be included as well. We were just following the test.

MR. ANDRADE: Okay, so given that logic then, and maybe Andy can speak to this as well, why would a PhD in clinical psychology not be here and why? Because that is the older of the degrees also required in licensure.

MR. HOLT: Okay. The definition would not necessarily exclude PhDs. The definition -- if the PhD program leads to a first professional license -- so for example, in Louisiana, they have no PsyD programs. They only have a PhD program. And that's how you become a clinical psychologist in Louisiana currently. And so that is a first professional degree. It wouldn't inherently exclude PhDs. It would, it would exclude research PhDs.

MR. VAUGHN: I can add to that. So, the professional psychology schools are mostly PsyD programs, and that's the vast majority of the licensure programs. However, there are so many small PhD programs, mostly at the state universities that Timothy represents,

that when you start adding all those up, they do lead to licensure, but they classify them as PhD. So, when we did the research, I think it was about 68, 67% of all these degrees lead to licensure in clinical psychology. One way that the Department could consider is that only the programs that lead to licensure, since the definition of 668.2 says generally leads to licensure, would to put a safety net on the programs that only do licensure, so the non-research degrees. But the vast majority of clinical psych, PhD, and PsyD, do lead to licensure. They are four and five-year programs. They are almost identical to the medical doctor degree, where you have post-degree licensure requirements of 2 to 3 years after you graduate, making a small stipend. They do residencies, clinical rotations. They work in hospitals. There are 12 places in statute in the Federal government, not just in the Department of Education, but other places, including Medicare and Medicaid, where a clinical psychologist that's licensed has the same exact treatment as an MD and DDS in reimbursement rates. It is the number one profession in the Veterans Affairs hospitals for mental health care, and another ten or so CFRs throughout the Federal Government, where it's treated the same as an MD program. And they work side by side with MDs as well. But the PhD question is because of all the state universities

that offer that licensure program. Typically, state universities take in about ten new students a year. The professional psychology cohorts usually do 30 to 40. That's the difference.

MR. HOLT: And can I just say, Jake, the Department has to recognize that ultimately schools are going to self-police. So, at a certain point, a school will just have to read the definition and decide whether they're a professional degree. So, the Department doesn't ultimately have a way to police the PhD, like the school has to determine whether the PhD leads to a first professional degree, right?

MR. ANDRADE: Well, it also has to be in line with their institutional accreditors and their specialized accreditors in that field as well.

MR. HOLT: Yep.

MR. LALLO: Yeah. I guess I'm just trying to figure out how you draw the distinction there. Right? I'm hearing Andy, there's the PsyD programs differ from the PhD programs. But I know, because I did look into this, every single state allows a PhD in psychology to be licensed as a clinical psychologist. So, is there a way to split up the PhDs there? Are you proposing to include all PhDs in psych, or do you think there's a way to split up a PhD in psych so that a student who's not

planning to be a professional and is going to do research gets the lower loan limit? Or do you have to include all of them?

MR. HOLT: If I could do the definition again, I wouldn't have put parentheses PsyD. I would have just put clinical psychology because the purpose of the parentheses was just to match the examples where the PsyD is meant to be an example of a degree within that CIP, but it is not exclusive just to a PsyD. So, to answer your question, Jake, I think that the schools know which, like -- okay, clinical psychology is weird. Let's just point that out. Most PhDs in most fields do not lead to a professional degree. In fact, I can't off the top of my head immediately think of another one, at least not as salient as this. Okay, so we're dealing with an exception, and I think that the school, if the school is just training clinical researchers, which Andy says doesn't really exist, but let's pretend it did for a second, that some school only trains clinical research. Like how do you best clinical psychologize? And in that case, the school should know based on the definition that they do not qualify for the higher professional limits because they're not a professional degree. So, I don't see the need to separate it. But to answer your question, yes, a PhD in clinical

psychology that leads -- that is a professional program because of the historic weirdness of this particular field, would qualify under the definition that I've given.

MS. WEISMAN: Okay. We have three cards that have been up for quite a while, and I'd like to bring some other people into this conversation. We're going to start with Jenna, and then we'll go to Timothy, and then Andy.

MS. COLVIN: So, my comments are not about PsyD. If, if we can go back because we started -- so the first thing I would say about the CIP codes, to Bennett's point, the schools do use it. And, you know, as I was preparing to come here, I thought that was a good measure because schools were classifying as professional when there was no consequence. Right? There was no financial consequence to how students were classified in that. Right? And so, to me, that felt like a good measure. The issue I had is that IPEDS didn't require it at the master's level, when we know there are a handful of programs where the master's degree is the terminal degree. Architecture, as an example. Architecture, you can't you get a master's in architecture. You go then you get your license to practice. So, a master's of licensure -- I'm sorry, a master's in architecture to me

is comparable to the M.Div. in that it's the terminal degree in field. Same for engineering, right?

MR. ANDRADE: And so if that's the case, then where does that fit in the definition that I understood that you all were supportive of? It doesn't seem to fit in any of these, even on a two-digit CIP code, doesn't seem to fit into any of those parts of the taxonomy.

MS. COLVIN: That's correct. I mean, I think what we were going with Alex's proposal was a compromise.

MR. ANDRADE: Okay. Got it.

MS. WEISMAN: Let's move over to Timothy.

MR. KING: Yeah, we don't agree, but we are grateful for Alex. And don't let Andrew hide behind here because he had a lot to do with this as well. And I do appreciate your effort. And we have issues with it, but we're willing to compromise to get to some consensus. I still have some issues with some things. I really don't understand the theology and religious vocations, really. I mean those are not terminal. And ordination, I don't care how you chalk it up, is not licensure. In my church that I grew up in, yes, you must get a master's degree in theology, be ordained, but then

you can go get a, a (inaudible) theology doctorate, have a doctorate in it. You can also become a canon lawyer. Okay. So, this really is limiting. I have a master's just like this fella in clinical mental health, but then I have a PhD as well in counselor education. Same degree. It's a 60-hour degree. So, what you're saying to people in , social work, counselor ed, other mental health fields, is that their degree is not equivalent or applicable or useful. And I have a problem with it. So, the 80-hour mark, I understand how Alex and Andrew came up with it, but I really think that we're going to have to think hard about that, because there are a lot of people out there who are in the same boat as me. Well 20-something years ago, 25 years ago. We do have issues with it, but we're willing to compromise so we can come to some kind of consensus.

MR. ANDRADE: So, Timothy, if you don't like the 80 hours that Alex came up with on the program length, do you have another suggested proxy to use regarding program length? Something to use in the definition in lieu. We've had 80 hours -- I think we had three years. At what point --

MR. KING: I don't think you're going to find a doctoral program that's not at least three years. I took seven myself just because I worked full-

time. But 60-hour length to me is much more applicable to the types of degrees that we are talking about, at least what I'm talking about in terms of mental health care.

MR. ANDRADE: So, is it your view that a program at the doctoral level is an indication of that?

MR. KING: Absolutely.

MR. ANDRADE: Thank you.

MR. KING: For instance, I did master's and doctorate all at the same time. And a lot of people do that in my field. It is 120 hours total, 60 for the master's, 60 for the doctorate. But you can get your licensure after you get your master's degree. Most people in my field do that and then continue to the doctorate. I just don't want to be exclusionary if we don't have to. I mean, why do we want to limit it to just clinical psych? It's a great degree. And everything Andy said is spot on. But there are other needs out there that need to be addressed. And there are people where I'm from, who otherwise would not have an opportunity to get a doctoral degree if we go with the way it is that we're proposing.

MS. WEISMAN: We're coming up on time, and we have Andy and Jacob with cards up.

MR. LALLO: So if I can respond real quick. I have a two-part response to you, Timothy. First, on the two theology degrees you mentioned, I think the

reason that we're including those -- actually, I don't think, I know, is that by including it by reference in the statute because it says including but not limited to, we can't take those out. We can talk about the history of why ordination is included in there. And we recognize that that is not necessarily required within every denomination. I also did the research about becoming a canon lawyer. Fascinating. But yeah, those two degrees, we can't move because they're explicitly listed in there. Within the broader though I understand your concern about us being exclusionary. But I think we have concerns in general about including degrees that are overbroad or are going to work that capture nonprofessional students or capturing work that isn't professional in nature. That was kind of where I was going when I was asking Alex about how he made the 50% cut off of professional versus nonprofessional because I think OBB is very explicit that there is a divide there. And so, if the intention is definitely a limit, and we want to make sure that we're just including professional students within that degree. We don't want to leave out anybody who should be included by statute, those ten degrees. But we also need to figure out where we must draw that line. So, we appreciate your concern. But yeah, we're going to look at this more in detail.

MS. WEISMAN: Andy?

MR. VAUGHN: I just want to address the other mental health licensure programs and why I don't believe they should be included in professional designation. We have all those programs. I've worked in those programs for two decades. A social work master's degree, a master's degree in clinical counseling, a master's degree in marriage, family therapy, or couples' family therapy are two, maybe two and a half year programs at most. There's no reason those programs need a \$200,000 cap. If you were to include those programs on this list, colleges will raise their tuition, much like what Grad PLUS did over the last 20,30 years. So, a two-year program should be 30, 50, maybe top 60, 70,000, depending on the type of school where their tuition funding comes from. If they're subsidized, probably 25 even. So just keep in mind that it's not about excluding programs. It's using some sort of framework. And by the way, can we just say this out loud? The theology master's degree ruins almost every approach of a framework we tried to talk about in our committees. It throws off everything. Otherwise, this would be a lot easier. That one-degree kind of throws off the framework. It was very tough for us to kind of navigate through that one master's degree, But I think to Jeff's point that the,

the M divinity is almost equal to a doctorate degree, is almost a terminal degree. Maybe that's part of the framework, but let's not forget that 668.2 specifically says professional licensure is also generally required. The word generally probably means, in my definition is the majority of the graduates are the majority of graduates getting a license in that program. I think that's part of Alex's point to use the 50% threshold. The word generally to me means the majority. That's just my definition. I don't know if that holds up legally, but if over 50% matches the word generally, then I think we have some sort of framework we can go here. We're trying to be defensible in the framework we're creating for you. But again, I think it's really important that we don't put in degree programs, even through the framework approach, that don't need the \$200,000 cap. There are programs that will die without it. And so, I just want to keep in mind that part of the program length, whether it's months, years, or units, is set for that reason.

MR. KING: Sorry, I have to respond real quick because Andy's my good friend. He's bringing me to Phoenix one day when I retire. I'm not arguing for master's degree programs in mental health or social work or anything else like that to be included in that definition. No way. I am speaking about people who have a

social work degree, counseling degrees, something related to that, who pursue the doctorate, which requires whether you are a professor or in practice, licensure. Requires. It does not recommend it. In other words, I couldn't teach in the counselor ed program unless I had my license, license, and an LPC. So I just want to make sure I'm clear on that. I'm not advocating for the other.

MS. WEISMAN: We are at time, Jeff, Tamy.

MR. ANDRADE: Can I ask unanimous consent for about ten more minutes' discussion on that so we can wrap up for the day?

MR. KING: Yeah.

MR. LALLO: Yeah.

MR. VAUGHN: Can I reply too? Because Tim's my good friend too.

MS. WEISMAN: Okay.

MR. VAUGHN: We have a great relationship.

MS. WEISMAN: You all, we really do need to tighten up a little bit, though, with putting up your card and waiting to be called. What's happening is we have people taking a transcript, and it's much easier if they hear me say your name so that they know who's speaking. So, if we can just try to be mindful of that.

MR. ANDRADE: Appreciate that.

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

MR. VAUGHN: Yes. So, I think we're saying the same thing. So, in the mental health field, clinical psychology requires a doctorate for the license. Marriage, family therapy, clinical counseling, social work, you can get the license with a master's degree. I think that is also defensible as we create the framework. Can you get the license with a master's? In clinical psychology's case, you cannot. Just wanted to make sure we clarify that.

MS. WEISMAN: Tamy, did you want to comment on that?

MS. ABERNATHY: I need to comment that based on where we are with time, we literally have to be out of here by 4:15. So we do not have more than ten minutes. So, if there is something that Jeff would like for us to cover, we need to move on it now, and we can take additional questions later.

MR. ANDRADE: Okay. And again, I wanted to, to go back and clarify something that Jenna had spoken. The possible issue that we see here is that the two-digit CIP code may be possibly too broad. In particular, in the cases where there's maybe one degree

that has been added in there and whether or not a four-digit CIP code or even a six-digit CIP code makes, makes some sense in there. And like in the case of agriculture, for example, which is the vertical for veterinarian medicine, it brings in ag science and, and some other research-oriented programs. Let me just close on the last point, if you can go to the next slide, just to give some folks something to think about. So, in our definition and we've talked about it a little bit before, the definition of professional degree that's currently there is based on the concept of first professional degree, which had both requirements with regard to time and connection to professional licensure. This is a long-standing definition in terms of the programs that have been historically recognized. Goes all the way back to the HEGIS survey, which was the precursor to IPEDS. And at the time that this, this particular regulation in 668.2 was codified, it was the same as what was in IPEDS. IPEDS has since gone from first professional degree to just doctoral degree -- professional practice is sort of the -- so for those of you who are trying to follow the corresponding. So that is another area for possible proxy. And so with that, I appreciate your indulgence on this. We'll have more discussions, but we definitely wanted to have a table setting in terms of where

everybody was with regard to the proposals, what are some of the issues that we're trying to, to measure, and what are some of the possible hazards that we have to deal with? So, I appreciate everybody's indulgence this afternoon and patience for us to get there. And we'll start off once again early tomorrow, talking about, you know, ways that we can maybe find some common ground.

MR. HOLT: Do you have a proposed definition yet or?

MR. ANDRADE: I think we're going to probably stay with your definition and maybe look at possible changes to it.

MR. HOLT: Okay.

MS. WEISMAN: Thank you all for the very lively discussion and for another good afternoon. We will resume tomorrow morning at 9:00 a.m. Have a good evening.