

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
NEGOTIATED RULEMAKING PROGRAM INTEGRITY  
AND INSTITUTIONAL QUALITY  
SESSION 2, DAY 2, AFTERNOON  
FEBRUARY 6, 2024

On the 6th day of February 2024, the following meeting was held virtually, from 1:00 p. m. to 4:00 p.m.

P R O C E E D I N G S

MR. WEATHERS: Hello, everyone.

Welcome back from lunch. We are actually going to, at the request of the Department, take a 15-minute caucus to start this session, this afternoon session. So, we'll actually be back in approximately 15 minutes. Greg, anything else we need to address before we do so?

MR. MARTIN: No, I think it'll be brief, and we'll just come back [inaudible]-

MR. WEATHERS: Excellent. Thank you. Alright, alright. See everyone in 15 minutes. Alright, welcome back again, everyone from the lunch and our short caucus. Before we get into the continuation of state authorization, I'd ask Greg, is there anything we need to talk about before we begin that?

MR. MARTIN: No, we can go directly into the discussion of state authorization whenever you're ready.

MR. WEATHERS: Excellent. Thank you. Greg. Alright. We have, two people that were in line. Questions, I've got Robyn and Carolyn before we move along. So-

MR. MARTIN: Oh, actually, John, I forgot there are questions in the queue. So- but prior to entertain- we're going to go right back to the queue

obviously when I'm done. So don't want to preclude that. First of all, I want to thank everybody for their indulgence during that brief hiatus we had. This is important because this question was implied before we left for lunch. I do want to make some clarifications here. So, with regard, if we could go back and look at 600.9 again, (a), (a)(1) romanette one where I think a lot of the confusion stems from here. So we have an institution described under 600.4, 600.5, and 600.6, is legally authorized by a state if the state ensures the institution complies with any applicable state authorization or licensure requirements, except as described in subsection three of this section, and continues to meet the state's general purpose or educational-specific laws and regulations. We want to acknowledge first of all, back to Jillian's point and some others that the language there is not optimal. It's somewhat confusing, but we understand that, and we are going to think about how to clarify that. But I want to talk about the intent. I understand that there probably are multiple ways at least two different ways of reading what is there. But our intention is that this section is only to apply to institutions that are not in a reciprocity agreement. We'll see how that interplay of this works when we get to subsection D, where we talk

about the general purpose of this. Lastly, in considering, we want to make it clear to Rob's point in considering education-specific laws. If a state chooses to exempt institutions in a reciprocity from its education laws, we agree that that would be allowable. We are considering how to allow states that want to enforce their specific laws can have the ability to do so. So, we'll get to what's in (d) and read what the language is there but we are soliciting discussion and comment on exactly how states could enforce within the confines of a reciprocity agreement, their laws, both a general purpose and education-specific. So, I want to, before we move on, invite my two colleagues, either Denise or David, to add to anything I've said or any clarifications they would like to make before we move forward with the discussion. Okay, hearing nothing from them on this topic right now, we can move forward with who's in the queue.

MR. WEATHERS: Thank you, Greg.

Alright, I had Robyn, then Carolyn. Robyn?

MS. R. SMITH: Sure. Thank you.

MR. WEATHERS: You're welcome.

MS. R. SMITH: I just want to sort of do a couple of things. I want to give some examples of some higher education consumer protections. And I also

want to just refer back to the question that's at issue here. And the question is, should online out-of-state students not have the same consumer protection as in-state students who are online or brick-and-mortar campuses? And I don't think there's any justification for not giving the out-of-state online institutions the same level of consumer protection as those that are in-state have. There's no reasonable justification, and there's no evidence that out-of-state institutions and online-institutions are not likely to engage in fraud to the same extent as in-state institutions are. So, we need to really think about what protections are students deserving. And I think the problem is that SARA sort of goes way in the direction of reducing and getting rid of most of the burdens on schools for complying with out-of-state laws. What I think the Department is possibly suggesting, and certainly what Carolyn is proposing, is to sort of make it a more balanced process where schools don't have to apply for approval at every state that they're doing business in, that other states can accept those approvals. And I understand that's a very burdensome process, both for the state agencies and for schools. But on the back end, make those schools subject to the consumer protections in state laws to the same extent in-state schools are. And have to comply with

those provisions to the extent the state determines they have to apply. So, for example, if a state determines public institutions don't have to, they can exempt those institutions. Typically states again focus mostly on the riskiest state actors and schools which are the for-profit institutions because of the profit motive. So, I just really think we need to keep that in mind as we engage in these discussions. And then I wanted to provide, and probably running out of time already, but one example of a consumer protection that we're talking about that's extremely important is the refund rights that are often provided in state laws, which provide that if a student withdraws early, and there's different time periods, sometimes it's 60% of completing the terms, sometimes it's 75%, depending on the state law, the school has to provide a refund of any funding it's received for that student, a pro-rata refund. That can include [30 seconds]. It also provides a protection, which is that the school cannot then go after the student for the unpaid portion of the tuition for the remainder of the contract. Otherwise, state contract law allows schools to go after students and collect from them on the interim of the entire contract, even if they've withdrawn after 10% of the program. That's a huge consumer protection for students that people need to be aware of

that is not in SARA.

MR. WEATHERS: Thank you, Robyn.

Next, I have Carolyn.

MS. FAST: Thanks. I appreciate that, Robyn. I think it's helpful to point out the issue of making sure that online students are protected and that states have the ability, if they so choose, to extend protections to those students. It was raised before that SARA itself has some kind of prohibition on making misrepresentations. And that's true, but SARA doesn't address the issue for a couple of reasons. First of all, it doesn't have the specific higher education-specific laws that many states do. And I think this is a very important point. There are, as mentioned before, there are state laws that prohibit schools from doing specific things like misrepresenting government affiliation or affiliation with the military, promising or guaranteeing employment, misrepresenting outcome metrics, misrepresentations related to accreditation or transferability of credits, practices such as recruiting outside welfare offices, paying compensation to students in exchange for signing enrollment agreements, enrolling students who are unlikely to be able to complete the program or qualify for employment. Those are just examples. And to the extent those are completely

prohibited from states being able to enforce those rules with respect to SARA schools operating in their states that are based outside of their states, to the extent that SARA has its own prohibitions on misrepresentations, there's also the problem of enforcing those standards. There's no mechanism for a state attorney general, for example, to enforce a SARA standard, since it's not a state law. And while states can take some actions under SARA with regard to in-state school, there's no mechanism under SARA to take actions that they otherwise would be getting refunds for students who are harmed or ordering specific actions to rectify violations under SARA, even for in-state schools, to take those kinds of actions. And moreover, SARA prohibits states from applying their own misrepresentation laws, to protect students that are enrolled in out-of-state schools. That means that states are hamstrung from protecting students in their state from misrepresentations made by schools operating in their state that are based out of state. Even under SARA's rules, there's no way for a state to take action. So, these are the reasons behind our proposal to try to give states the option of enforcing laws where they wish to, even if they wish to also participate in a reciprocity agreement, our proposal is intended to accomplish that. Thanks.

MR. WEATHERS: Thank you, Carolyn. Barmak, I saw that you were in queue, then out of queue, then back in.

MR. NASSIRIAN: That was intentional.

MR. WEATHERS: Okay, fantastic. Thank you. Alright, Robyn, you're next.

MS. R. SMITH: Oh, sorry, Barmak, did you want to go? Okay, okay, sorry. Okay, thanks. Just to piggyback a little on what Carolyn said, the reasons that those specific prohibitions are important is, number one, they're based on the fact that for-profit schools have engaged. Those are very common misrepresentations that are explicitly prohibited by higher ed-specific laws. The reason it's important that those prohibitions are there is that because the state legislature has then made the determination that those are deceptive and illegal business practices, neither the AG who can typically also enforce those laws, nor the state agency has to prove under a UDAAP statute that they're unfair, deceptive, or false. And that means it removes a huge burden from both the state licensing agency and the AG from having to go through that to take action against a school. It also provides licensing agencies with authority to go to the school and say, hey, you need to stop doing this, and then the school can stop without

sort of the extreme measure of an AG trying to stop through a lawsuit. So again, we need to be mindful that licensure isn't always just about closing down a school. It's often about dealing with issues that they see as they are occurring, so that a school can continue to operate when it is meeting its standards under state law and fix small problems that arise. And that is precluded pretty much by SARA as it's currently drafted.

MR. WEATHERS: Thank you, Robyn.

Barmak.

MR. NASSIRIAN: Yeah, I again want to caution against any attempt at parsing applicable state laws. You know, this conversation reminds me of the early days of internet commerce when out-of-state providers were exempted from the requirement to collect taxes. And that's, you know, when you asked why the only cocktail party invocation, we got was the internet. Somehow the internet was this utopian device that was going to alter everything. Well, it did alter some things. And what it altered was that it gave an enormous advantage to out-of-state providers vis a vis brick and mortar operations that were actually located in various states. And it took some time for regulators to kind of wrap their heads around the fact that this was fundamentally unfair and put people at a disadvantage.

The big difference here is that we understood that we couldn't do without the collection of state sales taxes. My concern with the Department attempting to articulate what laws do apply and what laws don't apply to out-of-state providers is that you're creating a tremendous incentive for the elimination, instead of application of state laws to out-of-state providers, you're creating an enormous incentive for the removal of consumer protection laws to in-state students. So be careful about the dynamics of how this thing is going to unfold. A question was asked earlier about what is it that I meant by mega universities? Mega universities are the extreme examples. What I would hope to see is an example of some predetermined size of enrollment beyond which the proper remedy is to say, look, you know, you have enough of a presence in this state to go through the front door of approaching this state authorizing agency and obtaining direct authorization. We can talk about what that size might be. It can relate to the average size of institutions within the state, etc., but there has to be a proper mechanism by which institutions that do significant business in a given state to obtain direct authorization from that state. Thank you.

MR. WEATHERS: I see Denise has her hand up. So, Denise?

MS. MORELLI: I was just wondering, I'm not trying to stifle anybody's comments or anything, but would it be helpful if we would go into the 600.9? Unless somebody has a discussion about what we talked about this morning, because we did try to add some stuff in (d), I'm sorry, 600.9(d) on the reciprocity agreements that it might facilitate the conversation if we kind of look at what we did and whether that meets anybody's desires. But I don't want to cut anybody off.

MR. MARTIN: We can take the people in the queue and then move into that.

MR. WEATHERS: That's what we'll be doing, everyone. So, I've got, Diana, John and Erika, and then we'll be moving on to 600.9(d). So, Diana, please.

MS. HOOLEY: Thanks. And I going to piggyback on Carolyn's proposal and the points that Robyn made. I just wanted to add to that, that I think some of the question posed earlier about what are the potential harms that we see and whether or not to allow states to enforce their education-specific laws. And I think some of the harm in not allowing it, again, it's not just the current inability to enforce, it's the concern that that may have, if it isn't already, a future chilling effect on states responding to the proliferation of distance

learning, as we've seen, that's continued to increase over the last ten years. And so, I just want to make that point that it's not just a concern of what we currently can't do. It's a concern of, is this prohibiting states from meeting the occasion, being able to respond to the harms against consumers that they may be seeing sort of going forward as the number of people enrolling online out-of-state. So, I just wanted to state that point.

MR. WEATHERS: Thank you, Diana.

John Ware.

MR. WARE: Yeah, appreciate all the comments on states enforcing their consumer protection laws. And I've gone on record previously, a number of issues, concerns I've had about SARA. But I think that this whole issue, if you're going to let states enforce whatever consumer protection laws, they deem important, I don't know who would even make the decision. I'm assuming the states would have to pass some law to do that. I think it would create quite a chaotic situation and may just really implode the whole reciprocity thing, whether that people feel that's good or bad, I don't know. But, and, you know, getting back to my earlier point about I think there's a lot of focus here on state enforcement actions. And as somebody who takes state

enforcement actions, I can tell you that I don't ever recall taking an enforcement action against a school in another state. And I think those are extremely, extremely rare. And by the way, there's a lot of online institutions and still some correspondence schools that operate outside SARA, and they're big ones too. We have one in Ohio that are 6,000 students, not accredited, not online. And again, as far as I know, no state has ever taken an enforcement action against that out-of-state school. And I know they enroll schools all across the country. So my belief is that the Department in focusing on what's really important for Title IV purposes. I think, at the state level is to make sure that states can protect students in the event of closure. I think that's the biggest issue. And, you know, if they take enforcement actions, it may end up in closure anyway. But, again, I appreciate the sentiments about consumer protection, but I don't know that that's ever taken place before SARA, and that it's taking place right now in terms of cross state enforcement actions.

MR. WEATHERS: Thank you, John.

Erika is next and, Robyn, we were going to be ending with Erika before we went on to 600.9 sub (d). So, Erika. Go ahead.

MR. LINDEN: Thank you. I appreciate

the opportunity to ask this question. And perhaps it's hypothetical, but I guess I don't understand what is preventing or what's stopping states and regulators who are dissatisfied with NC-SARA, for example, with creating an alternative reciprocity arrangement that then states could choose to join and schools could choose to be part of. And because I think one of the concerns is obviously there are some negotiators who don't like, how SARA operates now, which is fine. There's always ways for improvement, but what's stopping there from being an alternative to that then makes broader choice for both states and institutions? So, I'll end there. And I know we want to talk about the next section, and I may want to follow up with another question. Thank you.

MR. WEATHERS: Thank you, Erika. Alright, I'm going to hand it back to Greg to go to the next section.

MR. MARTIN: Thanks, John. We're going to go look at (d). I mean, we should reference (c). Most of the changes in (c) conform to repositioning of language from other sections into D, so I'll move right to D, which is if an institution is authorized to offer distance education in another state under a state authorizing reciprocity agreement as defined in 600.2, such an agreement must. And before we go into that, a

couple things, I think. I'm not going to read everything in there, but a couple of observations on what we've done here. So, in 600.9 (d), we have created a new section to specify the requirements of a state authorization reciprocity agreement outside of the definition. Most of the language here reflects language that we did receive from negotiators. First, we added a provision that the agreements must provide a state-led process for states to adopt, modify, or eliminate substantive policies of the agreement and specify that external entities cannot overrule that process. Next, we move to the provision from the definition that says such agreement cannot prohibit participating states from enforcing general purpose education laws. We would like feedback on the negotiators' proposal to also include education-specific laws. I think I referenced that earlier that we do want discussion on that. In romanettes three through eight, we added language from negotiators related to the requirement for state authorization reciprocity agreements to include a process for providing student complaints to the state in which the student is enrolled. Lastly, we moved the proposed language related to governing bodies of reciprocity agreements from the definition of 600.2 into 600.9(d)(2). We narrowed this provision to simply require that governing bodies consist

of representatives from state regulatory bodies, enforcement agencies, and attorneys general offices. While this proposed language was new for session one, the provision is simply a clarification of the Department's established position on the regulations. So we'll go into (d) and you will note that where we wanted clarification, especially and not just this, but especially you'll note that in romanette two any member of any member state of the agreement to enforce its own general purpose state laws and regulations outside of the state authorization of distance education. That was moved from 600.2 and still does reference general purpose laws. But again, we invite discussion on whether or not education-specific should be included there and what parameters ought to be put around that term. So, with that, I'll open the floor to discussion on what we proposed in (d), 600.9(d).

MR. WEATHERS: Thank you, Greg. Any questions or comments about what Greg just spoke to (d)? Alright. Jo?

MS. BLONDIN: Yes, Greg, would you mind clarifying? And this may seem like a really simplistic question, but I don't think it is a state-led process. I know what state-led can mean in Ohio and other states, but specifically, where is that clarified?

Thank you.

MR. MARTIN: I think the intent here for the state-led process is that the authority for proposing collectively to adopt or modify or eliminate policies of the agreement that that's moved to the state and the states are generally directing that. And I think that that's clarified where we say such process and such state-adopted modified policies cannot be overruled by any external entities that administer the agreement, so that the process of changing these should be at the state level, and that they can proceed with that without any interference from any other entities. I would invite Denise or David to offer any additional comments if they'd like to. I think that's what the intent is.

MR. WEATHERS: David or Denise?  
Okay. Go ahead, Dave.

MR. MUSSER: I just said we're okay.

MR. WEATHERS: Okay. Thank you.  
Appreciate it. With no other comment from the Department, I do want to note that Rob Anderson is going to be coming in for state regulators in place of John Ware. Next on our list is Carolyn. Go ahead, Carolyn.

MS. FAST: Thanks. I just want to start by saying that I appreciate the Department's attention to this issue. I think it's one of the major

concerns about a reciprocity agreement is that it is supposed to be an agreement between regulators, and it is intended to be a vehicle for essentially oversight. And so, as a result of this, it's very important that the states cannot delegate to any other entity, the responsibility for developing and administering oversight over regulated institutions. And that means it's very important that regulated institutions don't have control over what the standards are, and the determinations made. And it also means that people who are not state regulators should not have that kind of control, as they are not accountable to the states and/or may have conflicts of interest and/or don't have the expertise in regulation that would be useful. So, all of these things are important. And I appreciate the Department for entertaining these proposals. However, I don't think that state-led process works at all here because state-led process is kind of what already happened and exists. I mean, state-led as they being the people working on it, view it as state-led. That's why I think it's important to be more specific about who has control over decision-making, and to make it clear that those people are state agency regulators. I know that there's language later on about the governing board, but the governing board is just one particular way that a reciprocity agreement

could delegate power to a non-state regulator. And we see that even within NC-SARA, there are other ways that they do it. I think I mentioned last time that the NC-SARA board president has authority to overturn decisions about in-state schools on provisional status made by a member state. You could imagine any other sort of delegation. They could delegate to a working group to come up with policies. It just seems to me that we need clearer language that says something to the effect of the decision-making and determinations about state and institutional membership in the agreement not delegated outside of state agencies.

MR. WEATHERS: Thank you, Carolyn.  
Robyn, you're next.

MS. R. SMITH: Thank you. I just want to piggyback sort of on what Carolyn said, which is it's really important to make sure the language is clear that it's state regulators who must be the ones that are making the decisions and overseeing any kind of reciprocity agreement. And that's because state agencies have a very specific expertise. A) They understand and they're trained on the specific provisions of the laws that they're charged with enforcing and that's a very specific type of expertise; and B) They are trained in investigations and how to conduct investigations, how to

obtain evidence, particularly with specific kinds of businesses like for-profit schools. They are trained often by investigative people from the AG's office and from other agencies. They also have specific regulatory powers. They have subpoena powers. The statute grants them authority to request documents from the school to talk to employees. And so, it's really important they are the ones that have the administrative authority, the legal authority, to take action against a school, either by revoking a license, putting a school on probation or taking other actions. And so, this is why you really want it to be the state regulators, who are the ones that are making these decisions. The other issue is, of course, the state regulatory body is answerable to a state legislature. There are often sunset review processes where they have to report to the legislature, and the legislature could change their authority depending on how well they're doing. They're subject to taxpayer oversight as well through the budget process that the legislature enacts. And so, there are checks and balances within a state government that is there to make sure that the state regulatory agency is doing its job. And so, again, that's why it's really important to ensure that it's a state regulator and not some other entity that is going to be the one doing any type of work

on reciprocity. And so, I think I would propose that the language be tightened to make sure that that's very clear from the federal regulation.

MR. WEATHERS: [Inaudible] Robyn.

Barmak, your next.

MR. NASSIRIAN: You know, I obviously want to echo the comments that Carolyn and Robyn made. And I want to be very specific. You know, delegated state authority and derivative state authority can be a pretty slippery slope. I know that my colleagues, for example, within the compact view themselves as state actors. In my book, they tend to be higher ed folks. They're not state regulators. I think you want to be very concrete and very explicit that this authority should remain with people whose business it is within the state system to be authorizers. And that's where their expertise is. So, that's really important. And I want to make sure of that for two reasons. One, I think we all agree that fraud deception and predatory practices are probably easier on the internet than in person. And yet, if you don't have a robust system that actually protects online people in lieu of whatever it is you want to waive, you're actually engaging in an odd practice of providing less protection to the people who are more at risk because they're online than the folks who are in

person and under the direct jurisdiction of some regulator. So that's really important. The more tightly the organization remains a regulator-only organization, the more comfort I have that maybe whatever it is they end up substituting for their own rules and regulations is deemed, sufficient by people who know what they're talking about. So that's a really critical piece of this. The other comment I wanted to make is, and this is a mistake that in my humble opinion, we make too often, just because you describe something on paper doesn't mean it's going to happen. It is important for the Department in provisions like this to kind of operate like a prudential regulator, where there is no mention whatever of adequacy of funds, adequacy of administrative resources to actually implement whatever essay is submitted to the Department as the substance of the agreement. It is really important that resources flow to the folks whose job it is to do whatever these agreements mandate. And I don't see any mechanism here where you couldn't just come together [30 seconds] with some critics of accreditation, alleged accreditation where the people come together, write a nice essay, and the fact that there is looting and pillaging going on outside is completely ignored because the essay reads right. So be mindful of requiring resources and adequate

administrative financial capabilities here.

MR. WEATHERS: Rob Anderson.

MR. ANDERSON: Thank you. You know, I have some counterpoints to make, but I want to step back first. And, you know, as I think about this, when we started last month, we were mainly talking in this camp about complaints and board governance, which I think we've addressed in a lot of our comments. And, you know, kind of the Department had no stance really, but wanted to hear from us. And now, put forward a new provision that's education specific. So, it seems to have changed a bit since last month from what I kind of thought we were addressing. But it is what it is. And I know how these things are organic. And with that said, we did put forward language that we're very happy you adopted trying to limit what some thought is overreach by our board, that fact that they did have that veto and taking that out of play, that we see ourselves as stewards of a process that has been created and in place for over a decade. And no, we will not veto decisions made by states. And when it gets to states, you know, SARA is an agreement amongst states, not regulators. States make these decisions for how they go about those processes. It remains within state purview how they want to address that. And even if it's to use representatives, which

they often have through their compacts, many of these which are in code and are within their own state regulations regarding the relationships and how they want to manage that. Many, most don't have the resources to put towards a lot of these specific, education-specific statutes and, excuse me, regulations that they've agreed upon this reciprocity baseline. And getting at what John Ware said earlier, if this ability to agree upon these as a reciprocity agreement is taken away, states will peel off quickly. And as he also noted, maybe that's not such a bad idea to some people around this table. I think it's a travesty to some of our students. I think while there are gaps, while we are working on policy modifications, there is a process. All 49 of those states are involved with it. They're free to put forward proposals. And when they decide to adopt them, we'll raise that. If it doesn't meet their needs, just pull out of the agreement. So that's where I stand on this.

MR. WEATHERS: Thank you, Rob. Next, I have Jillian. Jillian?

MS. KLEIN: Yeah, thanks. I just have a question on romanette five in this section. I'm just thinking- wait, is that right? Yes. Just thinking through. So, I don't have a concern with this. I'm just thinking through from the lens of the student perspective

and what's most efficient in getting the students' issue resolved. And I'm thinking in particular, California has a process similar to this already, where students can send complaints directly to state prior to working with the institution, which is fine, but a lot of times what we find is, some of those complaints are literally students complaining about a grade or a grade change or something like that. And the process, as you can imagine, becomes much longer than it needs to be for the student. And so I don't have a suggestion, but I'm asking in the spirit of opening up a conversation with Robyn and Carolyn and Barmak and others, if you have any ideas about ways we can still get at what you're suggesting, which I think is super important, but also make sure we're not creating the conditions where the student is automatically going to the state and getting their issue resolved ends up taking much longer than it would need to take if they went to the institution. So just throwing that out there in the spirit of trying to find something that works the best for students. Thanks. If the Department has an idea on that too, that's fine. Sorry. Didn't mean to exclude you from the conversation.

MR. MARTIN: No, I don't feel excluded. I think you do make a point that not all complaints are created equally. As someone that's dealt

with plenty of very serious complaints against schools that were very, very valid, you also get the one about the professor didn't give me the grade I thought I should have received. Well, that's pretty much a complaint all of us have had. It's one point or another and sometimes complaints are born of misunderstanding, just not understanding a process you know, well. And some of the stuff is pretty complex. You know, for instance, I've got lots of complaints about SAP, for instance, which is just born of the fact that if you're not in this business, it's a little bit difficult. It's opaque. So, I do take your point. I don't know how the problem with it is, though. You've asked for comments on how we might look at that, but it's awfully difficult to. I think, bake into a regulation how you know, how you're going to separate- I don't know what you would call them, nuisance complaints or ones that don't carry a lot of weight from those that do and how they would be broken out. Obviously the more important points would go here, but those that aren't somewhere else, because someone has to make that decision and as soon as you put a person in there, you create the possibility of somebody gaming it by weighting the scales, you know. So, I think your point is a valid one. I just don't know if there's a solution from a regulatory standpoint but certainly

that's my perspective. And I open it up to anybody else who has comments on that.

MS. FAST: Would it be okay for me to comment?

MR. MARTIN: Sure, go ahead.

MS. FAST: Okay. Thank you so much. I think the idea is to give the state regulator discretion so they can make a determination whether they want to take a complaint before it goes to an institution or not. That's how we attempted to write it in our proposal. The issue is that right now, SARA policy manual says that a state can't even if it wanted to, accept or investigate or resolve a complaint that hasn't gone through the school's institution first, and we just want the state that is the SARA state or the state where the student is located to be able to, if they choose, accept, investigate and resolve the complaint. So, if they think it's a nuisance complaint, they don't have to look at it. We just want them to have a choice, which they don't have right now.

MR. MARTIN: And I think if it came to language to that effect could be clarified in the preamble discussion about what we- what is intended there.

MS. FAST: Yeah. And we included

language like at the state's discretion, because we're trying to show that the state doesn't have to take it. We're not trying to force states to take complaints. We're just saying that if they want to, they can.

MR. MARTIN: Good point. Thank you.

MR. WEATHERS: Thank you, Carolyn. Thank you, Greg. And just a reminder, folks, a protocol note, please keep the comments, fresh and anew for the sake of efficiencies as time runs short. Alright, next, I have Robyn. Go ahead, Robyn.

MS. R. SMITH: Just in relation to the last conversation, I don't think there's any prohibition about the student going to the school either. So, the student still would have available the grievance procedures. And they could raise those directly with the school. They wouldn't be required to go to the state. I want to push back a little on John's statement that no state has taken action against an out-of-state online school. I think, first of all, I'd be interested in seeing a study or data to show that. And second of all, I think we need to remember that there's different processes at the state level. There's the formal administrative process where a state agency will file a complaint and actually seek to do something to the school, either revoke its authorization or limit it in

some manner. But there's a lot of activity that states engage in dealing with student complaints or issues that are brought to their attention, where they engage in investigations, and they ask the school to do something so that's all informal. And there's no administrative record necessarily about that. And so, I would be cautious in concluding that no states are doing anything about out-of-state online distance education providers, because I think that if you look at the complaint processes and what they're doing behind the scenes, you probably find some activity going on, number one. I also caution people about concluding that if states haven't pulled out of the agreement, then they've made that decision. It's very hard to pull out of NC-SARA with no alternative available, because, again, if they do so, suddenly all of their students are without Title IV Aid. Second of all, we just need to remember the severe power imbalances at the state legislative level. Institutions have lobbyists, well-paid lobbyists at the state level. Students don't. They also have them at the Federal level. Students don't. For a state to pull out, they would be required to probably get legislative approval. And that's very difficult to get when you have many, many institutional lobbyists, pushing legislators not to do that. And I think people need to remember there's a

severe power imbalance here, which is why the Department needs to get involved in the state authorization regulation on this issue.

MR. WEATHERS: Thank you, Robyn. A couple administrative notes, Scott Dolan, and for private, nonprofit institutions. And he'll be next. And also, folks, a reminder, I'm hearing some suggestions. You have two options. One would be to put those suggestions into the chat. Another would be if you have some red-line language that you'd like to provide, do so under the protocols that we have previously discussed sent to us in a Word document. Thank you. I've got Scott. Go ahead, Scott.

MR. DOLAN: Yeah, thanks. Just, you know, echoing a little bit what Rob noted earlier around where we were in the previous round of negotiations, where the Department raised concerns, and focused those concerns mostly on compliance and governance. And since that time, we've introduced, language related to education-specific laws. You know, at one point earlier in our conversation, Greg, not to put you on the spot here, but you made the statement that the Department has no stance on this issue, yet those provisions are introduced in language earlier. And then also there's a wider question asked of us as constituents. I think even

by raising the question, it clearly suggests that the Department has concerns, and it would be helpful for the Department to outline those, so we can really identify what the problem is that we're trying to solve from the Department's perspective, not just from the other constituencies that have introduced language. And you made a mention of adding language to a preamble. But in the new language, I don't really even see a full preamble for some of the language that's been added. So, I think it would just be helpful to hear a bit more from the Department's perspective about what we're trying to accomplish. We'd love to give input, love to inform. But also like to better understand the Department's position here.

MR. MARTIN: I'd like to say. Well, first of all, what you see here with respect to the reciprocity agreements was the result of a proposal we received. And you will see that in (d). We can go back to (d) again, we have the language as written states, allow any member state of the agreement to enforce its own general purpose state laws and regulations outside state authorization of distance education. So, we did not include education-specific in the language we proposed here. We do seek discussion on it. When I said the Department doesn't have a stance, the Department

certainly does have concerns in this area about the enforceability of state laws. Not just general purpose, but education-specific because those can give very real and specific protections to students. So, we do seek conversation on that. The other thing I mentioned is that with respect to the term education-specific, the Department hasn't nailed down exact language that we have offered about what that means we want to hear from the negotiators as to what they believe it should be whether they believe it should just be left broad, education-specific with no qualifying language or something else. So, I mean, the Department does clearly have concerns. If we didn't, we wouldn't have proposed any of this. We want to hear from both sides. And as far as it being in this paper and not in the original paper, it is something that was not specifically proposed in the original paper, but I would say that, again, it represents proposals that we have received. We invite all negotiators to make proposals to us. We don't include everything we get or sometimes none of it, sometimes all of it. But we invite those proposals and we come back to the table with language that can be reflective of what we have received and that's the case here. I do think that while we didn't raise this particular issue in round one, that it is in keeping with what the Department generally

expressed in our first round of negotiation. But I do want to say that our goal here is to present this language, but we want to facilitate some discussion around what we've got here and specifically with respect to general purpose versus education-specific. As I said before, we've included, just general purpose here, but want to hear what members of the committee think about that.

MR. DOLAN: Yeah, I can say, you know, I think the implications are concerning certainly to me and the constituency that I represent. So, I think we can really enter into a good faith negotiation around what we're trying to solve here, I think is really important. And time is short, right? I mean, we have two hours left today to address this particular issue and another round of negotiations. And it's unclear to me how much time we're going to really carve out to have what seems to be a pretty in-depth conversation about the consequences of moving in this direction. So, I would urge the Department to either address some of these concerns more clearly here with the time we have left or a bit more directly as a follow-up to this conversation today.

MR. MARTIN: The Department obviously wants to get input from everybody. Our overriding

concern is always students or Title IV recipients. The fact that this is the stewardship of our programs and the fact that these programs exist solely for the benefit of students who use them, and that we have an obligation to those students and program money, and schools have an obligation as fiduciaries. So, I mean, that's where we're coming from, as a general rule. So, we always have concerns about student protections. These laws that we're referencing here are put into place by states to do that. And we are concerned about how that functions within the confines of a reciprocity agreement. So, I want to say to you that as far as the preamble goes, I'm talking about when we actually write the NPRM, not anything that you see here. So, I hope that's clear - I mean I- our- I expressed our concerns. I mean this is the language we put out. But it's meant to provoke discussion. And, you know we certainly want to listen to both sides of it. If we just come down on one side, we could have made this language different. But we do want to hear, all perspectives on it and understanding that there's a- you know, there is definitely a spread of opinion on this committee.

MR. DOLAN: Right. I can certainly speak for the institutions I represent. We share the same concern about our students, our students first. And

I think in order to be able to come to the table and work on regulations that work in their interests and the interests of the organizations that serve them, including the Department, I think it's important for us to be clear on what we're negotiating and where we're coming from. So, we're being asked to provide that perspective. I think we're doing that. I think it would be helpful for the Department to share theirs in a bit more detail than what we've seen thus far. And again, I've certainly seen some of the justifications from the other constituents in the language that was introduced, just haven't fully seen a clear perspective from the Department based on those regulations that have been introduced and that language. So, thanks. Appreciate it.

MR. WEATHERS: Thank you. Scott. I see that Dave has his hand up. Go ahead, Dave.

MR. MUSSER: Yeah. Can I actually just ask Scott for a little bit of extra clarity on what you need some additional information about that from the Department about? If it's specific language, if it's very specifically the provisions that we have introduced in this round. So, if you want to put those in the chat, I think that'd be helpful. And we can respond and give you guys a much more clearer idea of exactly where we stand at this moment and where we still have questions.

MR. DOLAN: Will do. Thanks.

MR. WEATHERS: Thank you, Dave. As Scott alluded to, our time is running short. We usually endeavor to take a break in the afternoon session, and we still do have distance education to address this afternoon. So, I think what we'll probably do is we'll be taking these three questions and then move forward. Barmak, your next.

MR. NASSIRIAN: Very briefly, addressing a point that's been made several times already that participation in SARA is a voluntary choice by the states. I accept that, but I want to point out, those of you who are old enough to remember Jim Barksdale of Netscape. He had a famous line about there are only two ways to make money in life, bundling and unbundling. And it's important for the Department as a partner with state regulators to understand that reciprocity agreements make it an all or nothing choice for state regulators, that the state regulator loses the nuances absent some of the proposals we have submitted. State regulators have to weigh taking action against one bad actor by opting out of SARA, against the putative benefits that flow to other students who are in the hands of good actors. So, one of the efforts we are engaged in is to make sure there is nuance and discretion at the state level, that the

reciprocity agreement doesn't create the only other option for the state to be exiting the arrangement altogether. That's a really critical piece of this. The second comment I want to make is, again, there's some sort of an ex-nihilo creation going on here, because if John in Ohio is currently budgeted and tasked with overseeing institutions in Ohio, and if reciprocity extends his domain to the entire nation, where is John going to get the resources to do the job? That's my question. And if the answer is NC-SARA will make grants or some alternative reciprocity arrangement, I want to make sure those grants add up to a fractional fee that actually allows him to do the job that we're assigning him. Otherwise, we're writing fiction. So that's the second observation I just want to make, that these have to kind of click together and work together. It's not enough that they work on paper as feel-good assurances that people will be protected, but that they will actually protect people. And I want to address finally, one other point that's been made several times about 668. I think it's 614, the administrative capability change - no, the program participation changes in subsection 32 that address closures only. Part of state authorization is to prophylactically [30 seconds] prevent closures. So don't hang your hat on the idea as long as we can address

closures, we're done. Well ideally, we want to prevent triage after the disaster. You want to prevent the disaster. And that's why the states need to be empowered to do the job. Thank you.

MR. WEATHERS: Thank you, Barmak. I see Robyn and John. Robyn and John, do we have anything new to add to this discussion?

MS. R. SMITH: Yes.

MR. WEATHERS: Okay, Robyn, go ahead.

MS. R. SMITH: My comment goes to sub (vi). I just want to point out that, again, as I said earlier, state agencies often lack authority to impose general purpose laws because it's not in their higher education section. The second is to piggyback on Barmak is that they don't they can't charge fees to the schools, they often will not have the resources to follow up on complaints because most state agencies are funded through fees to the schools that they license. And so (vi), while helpful, is not really meaningful if they can't charge fees and if they can't take action based on general purpose state laws.

MR. WEATHERS: Thank you, Robyn. And I did want to note administratively that Erika is back as primary or back to the table in her role. Thank you, Robyn. And lastly, we have John. Anything new to add to

this discussion, John?

MR. WARE: Yeah, quickly. Just a note on the proposal regarding the governance. I'm not a state regulator, so I guess, you know, in theory, I would be eligible to serve on the SARA board, but I'm not as confident as some on here that that would kind of remove politics from the process because, you know, state regulators are subject to political pressure just like anybody else is. So just because, you know, John Ware thinks something is a good idea doesn't necessarily mean that that's going to end up in the SARA realm. And quick example, when the SARA Law was being proposed in Ohio, I opposed it and testified against it and I don't remember the vote in the House, but I remember in the Senate it passed 32 to 1. So, you know, many of the issues that were raised here, I raised at the time, but, you know, the state of Ohio felt that this is the way to go and I think that's the case in many, many states, that the states in general are not as concerned about the consumer protection issues. They're more concerned about, you know, making sure that the reciprocity that the schools and the state don't have burdens, unnecessary burdens for serving out-of-state students. So that's where it seems like the states, for better or worse, have placed their priorities.

MR. WEATHERS: Thank you, John. Greg, are there anything else to address, or are we prepared to take a temperature check at this point?

MR. MARTIN: I think we can take a temperature check at this point. I'm keeping in mind that some of us are widely disparate from what we've heard from the conversation. But we have taken temperature checks and everything else. So, I do want to take one on both sections together where we are and I want to reiterate again that this is not a vote. This is not consensus. This is not indicating how you will vote, ultimately just a temperature check to see where people are, how people feel about where we are currently in a completely and utterly non-binding way. I know I've said it a million times, but I think it bears repeating, so thank you.

MR. WEATHERS: Okay. Thank you, Greg. So, we'll be taking a temperature check on both 600.2 and 600.9 as it relates to state authorization. Can we go ahead and do that at this point, see some thumbs?

MS. KLEIN: I'm sorry. I had a question before. I'm sorry, I know you didn't call on me, but I'm unclear if we're temperature checking on what the language actually says or what the Department is

suggesting the spirit of the language. I think I feel personally a bit uncomfortable with the thumb because I feel like what I read in the words is different than what I think Greg told us after lunch. I'm sorry.

MR. MARTIN: No, I understand that there are some language that we need to work on. I can see that. We've taken temperature checks for everything else, and I'd like to do one based on what's here, what's actually written as you see it. So I mean, what I'd say, Jillian, is if you don't think something's clear or it's not what you thought, then you need to consider that in how you express where you are on the thermometer of the temperature check. Let's put it that way, right? So I understand your misgivings, but I just wonder if it's a protocol we're using, so I want to make sure we adhere to that.

MR. WEATHERS: Okay, so we're crossing the T here, and if there were anything to add, please do so in the chat. Or, like we had said earlier, submit to FMCS in a Word form. So, with that being said, could we go ahead and take a temperature check and then I believe we'll probably be taking a break. So, let's see some thumbs. Okay, hold them there for a moment while we allow FMCS to note these. Alright. Do we feel okay, getting the nod from my co-facilitators. Thank you.

Greg, it is 2:11, 2:12 eastern time. Did we want to take a break or-?

MR. MARTIN: I think so. We'll come back at 2:30 and pick up with distance education if that's okay.

MR. WEATHERS: 2:30. Okay. Yeah, no, perfect. Thank you. Alright, folks, 2:30, be back promptly so we can be efficient, and we can break. Alright folks, welcome back from our break, afternoon break. Without any further ado, I'm going to hand it off to Greg to introduce the next issue, distance education. Take it away, Greg.

MR. MARTIN: Thank you, John. Our next issue that we're going to take up is distance education. And that would be issue paper number three. And David Musser is going to take over at this point and talk us through that issue paper. So, David, whenever you're ready.

MR. MUSSER: Alright. Thanks, Greg. So, I think I'd like to recap, and go through the issue paper first, before we talk about anything else. And you guys will notice that we can scroll down a little bit. We have not made any changes to the Department's original proposal in our issue paper. Currently, the proposal includes only the addition of a virtual location, through

which the institution offers 100% of an educational program through distance education or correspondence courses, notwithstanding requirements for students to complete on-campus or residential periods of 90 days or less. And then if we scroll down, we have left in our other proposal from the first round, which is to strike references to asynchronous coursework, where they appear in the definition of a clock hour, effectively preventing schools from counting asynchronous clock hours toward additional Title IV disbursements for purposes of disbursement and making a number of conforming changes to support that. We'll scroll down just a little bit more. That includes adding the terms in a credit-hour program offered through asynchronous coursework to make sure that's clear that it's only credit-hour programs in the definition of an academic year, and a week of instructional time, I should say. So, I think you can pull that down. So today, what I actually wanted to talk about with the group is not necessarily those proposals, although I will go through and do temperature checks on those proposals after we discuss some of the proposals that have come in from negotiators since we started discussions on this. First, what I want to talk about is, well, we've received two different proposals that would have the Department collect information about a

student's distance education status at a more granular level and I think generally, the idea is that it would be collected through the National Student Loan Data System, NSLDS. And we received one of those proposals early on, I believe, and then we received one, very recently, from a larger group of negotiators. So, the first thing I wanted to confirm with negotiators who submitted the original proposals are, is your intent to discard that original proposal and to focus on the new proposal that has just been submitted?

MS. KLEIN: Can I answer? I think that was a question for me. So, please just take one of them. We got the sense from the lack of its inclusion in the red lines that y'all sent out, that you were not in favor of that approach. So, we tried to get creative and give you the same, but slightly different proposal. So, you can take one or both. Just take one.

MR. MUSSER: Okay, helpful. Appreciate that. But I think the overall view, at least from your group, Jillian, was that you'd like to collect this information through NSLDS. I think the question that I have first for the group is, is the intent here to do that in lieu of the Department's proposal or in addition to the Department's proposal?

MS. KLEIN: So, the group, especially

that large group that signed on this morning to the proposal that I sent, we did not talk about that. So, I don't want to impart a perspective on any of those folks, because I'm sure they have their own individual feelings on virtual location. So, I think that the reporting language and again, anybody's welcome to jump in and the reporting language is just discretely different from that. I think from the conversation we had in January where I had just indicated that, of course, we're in favor of data on distance education students at a more granular level. And I think you joked about, well, maybe we'll make you do both of these, and that's fine. I mean, I think everybody's going to have a different perspective. So, I don't want to speak on behalf of anybody else that signed on to the specific reporting language. But it wasn't teed up with anybody in that group as a replacement for the virtual location idea, though some people may want it that way, if that makes sense.

MR. MUSSER: Okay. Does anyone else want to speak to that who signed on to the new proposal before I make any more comments from the Department's perspective?

MS. R. SMITH: No, I think that Jillian's right. I think from our perspective it would

be in addition to the current proposal. Because I do think they cover different areas.

MR. MUSSER: Okay. In that case, I want to give a few remarks about the Department's view on the most recent proposal. So, we agree that having that level of granularity in the data would be beneficial to both the Department and to the field. We also think that as Robyn just said, our original proposal provides additional benefits that couldn't be captured by the NSLDS reporting specifically. So, we are amenable to adding the NSLDS enrollment reporting concept to the regulations in addition to that existing proposal. We took a careful look at the place that it's been proposed to add that to the regulatory language. We have a few concerns about adding it to the program eligibility regulations. We understand why it was suggested to add it there, because that is a place where there is a specific requirement that focuses on enrollment in distance education. But we're concerned that, legally, that could, cause program eligibility implications for a school that failed to report. That's not necessarily what we want to do. We think, legally, we may be able to open up another part of the regulations that would be more- it might make more sense to add that language in, for example, the consumer Information Regulations. So,

we'd like to take some time to go back and offer what we think would be the best place for that. It sounded like there was fairly broad support for the idea. So, as we start that work, I wanted to pause one more time and ask if any of other negotiators had other thoughts on this topic, wanted to comment on any of the proposals that are already out there, or wanted to say anything else on the subject before we start on that work and provide the committee with actual language.

MS. KLEIN: I'll just say one thing, which is, I think that makes total sense, Dave. I think we tried to go with what was already open, so it's, I mean, that's the sort of spirit behind where we put it, but I think it doesn't make the most sense. So, appreciate you guys being willing to look someplace else. The one thing I will say to your very first question, so I personally feel like this language, the most recent one that we sent this morning is clearer in terms of what the expectation is on institutions because I think we did get some feedback on the first one from some of the negotiators that- like the word hybrid was- it's never been defined, right. So, we had that in the original one, which is why this one looks a tiny bit different, where it just talks about exclusively online, exclusively in person or both online and in-person to stay away from

that. So just to save you time from a language perspective, that was the spirit behind that change. So, it would be more clear to institutions that they wouldn't have to make a determination about if their program was hybrid or not, so.

MR. WEATHERS: Jamie, I see your hand. And if we could queue up for any other additional comments or questions. Go ahead, Jamie.

MS. STUDLEY: In general, the idea of understanding where helping the Department do the tracking that it's talking about makes sense. I would just be interested in institutions explaining if they- if different types of institutions have the same view that this would be manageable, what kind of workload and effort is there, and whether the definitions that are being used are consistent enough with something else that they fit as opposed to having lots of different definitional targets to have to use if that's not essential to the project.

MR. WEATHERS: Okay, thank you, Jamie. Alright, DC, go ahead.

DR. PRINCE: Yeah. The question is for Dave. I caught what you were saying, and then it kind of got lost. So, help me understand the Department's assumption of why this particular writing

wouldn't fit in the current regulatory text, but might fit somewhere else? You started to speak to it, but I think in my sense it kind of glossed over into where you wanted to go. And I wanted to hone in on that particular piece. So, could you just help me understand why?

MR. MUSSER: Sure, sure. So, I'll speak to the most recent language, since I think that seems to be where a lot of folks are coalescing around. The proposal was to add some language to the definition of a Title IV eligible program in 34 CFR 668.8. And right now, that section in 668.8(m) includes requirements for programs offered through distance education. So, it was a natural place to put some additional requirements related to distance education. The Department's concern about doing it there as opposed to somewhere else, is that generally everywhere else in the program eligibility regulations in this section, if one of these requirements is not met, a Title IV eligible program could lose eligibility. That meaning that all the students in that program are no longer Title IV eligible as soon as that requirement is met. And we wouldn't want to because there are numerous occasions where schools may report data slightly incorrectly, they may be late. And it wouldn't be the kind of problem that would the Department would want to take, you know, a compliance action on and

end a program's eligibility. So that's really the main source of our concern about putting it in this section. We could, I don't mean to say that it's impossible, but in thinking it through, there are better places to put it. And I think, as Jillian noted, the group might have suggested another place if other parts of the regulations had already been opened, which they aren't right now, but the Department can propose another place like the disclosure requirements that we think it might be more appropriate.

DR. PRINCE: The [inaudible] question is one, why would it be in more than one place? And then too, what is this issue around risk aversion that I'm hearing you say that people would lose because they can't report? Which I think I'm interpreting as more of a risk aversion of your institutions rather than as I'm approaching this as a cultural change in higher education that needs to probably happen. That just seems like we're not really addressing the issues that we need to in a systematic way to say, if we put it over here, it doesn't seem to be less important, let me just say in the discussion, then if we kept it where it currently is.

MR. MUSSER: I see that Denise has her hand up. I think she may be wanting to speak to the consequences of having it in the program eligibility

regulations, so I'll let her speak for a moment.

MS. MORELLI: So, I don't think there's an issue about risk aversion, but I think from the Department's perspective right now and having just read this, and we haven't had a lot of time to digest and talk about it, the Department believes it's more aligned with other reporting requirements, which, as Dave said, might be in the disclosure. We had talked real briefly about potentially it would be in the PPA section, because it will have implications for that program eligibility if it stays in. 668.8. So, if that's what the negotiators would like, they certainly can voice those concerns or they advocate for it to be in 668.8. But that was the Department's initial reactions when we spoke about it this morning. And so, we just don't know that reporting-in general, most of the reporting requirements that we have do not implicate like a loss of program eligibility or loss of institutional eligibility. They might warrant a fine or something like that. But they don't usually result in a program or the institution not being eligible and putting it in 668.8 could result in a loss of program eligibility.

DR. PRINCE: And so, as I understand it, this would be a new requirement that they have that institutions haven't necessarily done before. Is that

correct?

MS. MORELLI: Correct.

DR. PRINCE: So, Jillian, I guess you're the author of this.

MS. KLEIN: Sorry. I mean, I think the original one was Robyn and Sophie and I worked on it, and then I thought you were on the email when I sent it around earlier this week. I'm sorry if you weren't, but.

DR. PRINCE: I was on the one this morning or the one at 12:35 on the 2nd of February.

MS. KLEIN: Yeah, okay. But yes, then other folks because there had been broad support when we talked about this in January, other folks wanted to sign on as well. You can also sign on. It's not too late.

DR. PRINCE: I'll hold judgment. But my only thing is whether or not it makes sense to move it. But if the authors are okay with that, that's fine. I would just take into consideration the justification for moving it seems more risk averse, which it would seem to be a lot of- a huge problem for, you know, trying to make some adjustments of what we're trying to achieve, which might be more important than some other things that we're having discussions about in this particular space.

MS. KLEIN: Yeah, thanks for asking.

Thanks for raising that question. Like I said, we don't have concern. We literally were just trying to find a section that was already open that we could put it in. So, if the Department feels like they have the legal authority to open a different section, that's magic I'm unfamiliar with, but I think that it makes sense to put it in the right place more than the places we tried to shoehorn it into.

MR. WEATHERS: Alright. Thank you, Jillian. Thank you, DC. Dave, I presume you wanted to direct this conversation a little bit more.

MR. MUSSER: I just first wanted to just point to JoEllen's comment in the chat that she's a little concerned that if a school is struggling with reporting requirements, students in that program could lose aid eligibility. And that's sort of the same concern that we were voicing earlier. And if it gets where negotiators want to go, you know, when we come back with language and with our proposal, we'd be glad to hear the counter proposal, you know, to put it back in program eligibility regulations, as Denise just said. Well, I appreciate that. I do think we also heard a separate proposal that noted the array of different distance education definitions that are out there in various Department requirements, including IPEDS. I think one of

the Department's intents here is to try to keep any requirements for reporting Title IV purposes to be as consistent as possible with IPEDS reporting. That may not always be possible if there are distinct differences in what's being reported on, etc. But we'd like to keep that as closely aligned as we can, so we will also keep that in mind as we draft language to put forth in the final round here. The other part of that earlier proposal was to define a distance education course and a distance education program. And part, I think, of the intent of the proposal, if I understood it correctly, was to create greater alignment between the IPEDS definitions of those terms and the Title IV definitions of those terms, which are becoming increasingly important, that they are now referenced in the accreditation regulations that the Department is proposing. As we'll see tomorrow, I'll give you a sneak preview, the return of Title IV regulations now points to a distance education course when speaking about an important requirement related to attendance taking. So, the Department is also amenable to adopting a definition of a distance education course. We thought that the proposed language was good. I can put that in the chat for everyone to look at and I think because I want to have everyone's thoughts about exactly what was being proposed here. So, the proposal for the

course definition was distance education course. The distance education course is a course that follows the definition of distance education in 34 CFR 600.2, where that's located, and instruction takes place exclusively at a distance, notwithstanding face-to-face engagement for orientation testing and academic support services. We think that's a reasonable definition for a distance education course. We wanted to be sure that if we define this term, we're careful not to include courses that, for example, are primarily on campus, in person, and merely have a little bit of interaction through online electronic means, for example, maybe there's an LMS, you get assignments through the LMS, you submit assignments through the LMS. That is not a distance education course and we don't think that we would want schools to report that as a distance education course. It also would not be something we think that rose to the definition of a distance education course for purposes of the substantive change requirements in the accreditation rules. So, I just wanted to pause for a second and seek some comment from the committee on that definition. Do you have concerns with it? I know that it's been a little while, probably since some of you have looked at it. But does anyone have other thoughts about what you think would be more appropriate? Or if there are, if you have

particular concerns with what's in there now?

MR. WEATHERS: Thank you, Dave. I see Jo's hand is up. Go ahead, Jo.

MS. BLONDIN: David, could you repeat the last comment that you made about substantive change requirement? I'm sorry. That just flew right by me.

MR. MUSSER: Sure. The proposed language in the accreditation section, which I will say right now that I am not an expert on, so I don't want to get too deep into that. But it references thresholds for when a substantive change evaluation would be required. And there is a threshold that relates to a percentage of distance education courses. That's what I was referring to.

MR. WEATHERS: Thank you, Dave. Barmak, go ahead.

MR. NASSIRIAN: It suggests you need the same symmetry in terms of commingling of physical face-to-face encounters with distance delivery as you have here in the other direction. I can see reasons why institutions may schedule a nominal face-to-face encounter, for the sole purpose of evading this definition. So, my suggestion would be to use some language to exclude incidental or minor physical interactions from rendering a course not subject to this

definition. You see my point, right? I mean, it doesn't have implications here. First of all, you really kind of do want to know what courses are primarily delivered via distance, even if there is a one-session requirement for people to meet face-to-face. I think just for purposes of data, you want to have that information. But more importantly, there could be reasons why an institution may wish to avoid the substantive change requirement by scheduling classes a particular way to evade this definition.

MR. WEATHERS: Thank you, Barmak. Go ahead, Jillian.

MS. KLEIN: Thanks. I was frantically trying to scroll the language that goes into effect in July, and I don't feel like I need ten more minutes, but, so I'm just going to throw this out there. And Dave, I'm sure you have it at the top of your brain, but I remember in, I think it's certification procedures, but it might be administrative capability. There's language that Department put in around, I think distance education programs, programs that are fully online not being subject to something related to making sure that programs lead to licensure. If you give me like five minutes I'm sure I can find it. But that was the only thing that occurred to me when I was reading your

definition is wanting to make sure that we're not getting crosswise with that, or another place where the Department has sort of leaned in on how much of a program is or isn't offered online. Do you know what I'm talking about?

MR. MUSSER: I do.

MS. KLEIN: Okay. Good.

MR. MUSSER: The Department established exceptions to the requirement for a school to adhere to the state's minimum requirements for licensure and have a program that has no more hours than that. We exempted schools that are offered exclusively online from that requirement because that requirement is primarily a place-based requirement. So, schools that are programs that are being offered in that physical area, in the Department's view should be subject to the requirement that distance education programs that didn't make as much sense. We'll take that back and think about the interaction between those requirements. That's a good point.

MS. KLEIN: Okay, I can take a look, too. Thanks.

MR. WEATHERS: Thank you, Dave.  
Barmak. You are muted, Barmak.

MR. NASSIRIAN: I'm having flashbacks

to that regulatory process, and I just want to suggest there was another mechanism that the Department could look at, and that is the location of the student at the point of enrollment. I think that's only pegged to the program, not to the particular courses. But my recollection is that for licensure purposes, you had to satisfy licensure. The program had to have the accreditations needed for the student to be eligible to sit for licensure in the state in which the student was located at the point of enrollment. And for programmatic purposes, that would not be a bad definition of who's in distance ed, because it may well be that the student is online most of the time, even if they have to come in for a weekend, you know, for one term, just to satisfy some other requirement.

MR. MUSSER: We could consider that. What about students who are living across state lines, sort of the nearby but they're commuting to schools. I think that'd be an exception. But we could consider how that would work.

MR. NASSIRIAN: If they're crossing from Maryland into Virginia to physically attend, their location is Virginia, not Maryland. It's not residency, it's location. We went through a very careful sort of discussion of, we don't want to peg it to residency. We

want to peg it to the physical, geographic location of where the program is delivered. So, a student who voluntarily crosses state lines physically and subjects him or herself to the jurisdiction of whatever state that a distance ed student, but a student who sits across the state line and somehow is delivered education, you peg the definition to that location. No, I don't see any reason why you couldn't do it on a course-by-course basis in terms of who you count as online versus in person.

MR. WEATHERS: Alright. Thank you, Barmak. Anything else as to this specific question?

MR. MUSSER: Yeah, I would just say, we don't think that it's a good idea to create a definition of a distance education program, especially the one that is used by IPEDS. It did raise for us the potential differences that the Title IV program concept of a distance education program might have with the IPEDS definition. But the Department's current policy position is that a program is a distance education program under that 668.8(m) language if even one course is offered through distance education. And that's also another reason we think it might be a good idea to define a distance education course. And the reason for that is also related to accreditation. The Department's view right now is that once a school decides to get far enough

into the distance education realm to offer a course fully through distance education, or, as Barmak is suggesting, nearly fully, we believe that they should be evaluated by their accrediting agency for their ability to offer courses through distance education. So, our hands are somewhat tied in that respect. And right now, we're not leaning toward adding a definition of a distance education program, separate from what's already in 668.8(m). So, I want to pause one more time. Does anyone have any comments about that before I move on to the other section of the distance education regs?

MR. WEATHERS: Jamie. Actually, I'd like to make a quick administrative note that we have public comment coming up in just over 30 minutes. Those of you that have been notified of your participation, please remember to log on approximately 15 minutes prior. Thank you. Jamie, go ahead.

MS. STUDLEY: Yeah. Dave, I appreciate the sensitivity to the interaction with accreditation requirements. An institution, in order to be able to offer any education through a distance modality, has to get approval to show that they have the capacity to do that on whatever scale, or institution wide. And then they have other requirements to both continue to assure us of that capacity some changes for

courses by distance education are reviewed in a particular way and so on. Could you be a little more specific between the two so that we and institutions can let you know if there are dilemmas, or do you think that you've solved it by the way you've done it and it leaves the accreditations' regime in place related to distance?

MR. MUSSER: I think we had in mind that defining a distance education course in this way would effectively make it clearer when a school is subject to each of those requirements that you just described. Meaning if they offered that first course, they're subject to that initial review. And then under our proposed accreditation requirements, they offered 50% of their courses through distance ed. They're now subject to the substantive change evaluation that looks at ow they're really offering a substantial portion of their courses through this modality.

MR. WEATHERS: Alright. Anything else? Anything to add to this? Alright. Not seeing anyone else. Dave- oh, Diana, go ahead.

MS. HOOLEY: Thanks. I'll just be quick. I had raised in the first session whether the Department had considered the feasibility of also tracking the OPM servicer through this process and I was wondering if you could speak to that question.

MR. MUSSER: It's a good question. The Department is watching the area of online program management companies and their relationships with institutions and their distance education offerings. We do have some concerns about some of the effects of those agreements between institutions and those entities. However, the Department has not yet reached a particular conclusion about its exact policy approach toward those entities. We do plan to provide more information about that in the near future, but these particular requirements we are proposing to add exclusive of anything that we did in that realm.

MR. WEATHERS: Thank you, Dave. One more opportunity. Okay, Dave, as a matter of process, were we doing temperature checks as we go along or?

MR. MUSSER: Well, before we do. I did want to talk, at least briefly, about the second set of changes that the Department proposed last time. First, we are still in receipt of the request for additional data on clock-hour programs and which ones are offered through distance education. I will tell you that after looking at the data that we have and talking with our experts, it is going to be very difficult for us to give meaningful information to you guys on this topic because while we know how many clock-hour programs there

are and we can do at least a rough job of determining how many students there are in those programs, we don't have the distance education status of the program. We don't know how much of the program is offered through distance education. We don't know whether it's being offered fully online. And in fact, the requirements that we're proposing right now are intended to, you know, help us avoid this in the future to give us this information about these programs, moving forward so that we have a much better idea of what we're dealing with. We think there might be a way to identify at least institutions that are solely comprised of clock-hour programs that offer at least some distance education. I'm trying to see if our data people think that's worth giving us. But if so, we will provide that information to you guys, as soon as it's been validated. But just in general, I want you to understand it is a difficult data point for us to produce right now.

MR. WEATHERS: Okay. Real quick, Scott, obviously, Scott Dolan is in for Erika for private nonprofits. Go ahead, Scott.

MR. DOLAN: I guess understanding the difficulty of potentially collecting that data on the number of institutions that are offering at distance or using asynchronous as a component. But on the flip side,

maybe data that the Department has around the issues and concerns that are raising to the elimination of this provision around asynchronous learning, which I would imagine, given the fact that that's what's motivating, the change in regulation. There's a bit more information about specifics there, including instances and examples of, of where institutions are not following the guidance and the rules that are currently established, which is what I think is motivating the change. So, maybe you were going to address that and I'm jumping the shark, so I apologize there, but that was also part of the data request.

MR. MUSSER: Yeah. So, to get to that one, we did give some examples already of the challenges that we've already seen in schools that are attempting to implement the programs. There is probably going to be limited information about compliance with this in large part because the Department has not been able to include some of these requirements in audit guides until very recently. So nonfederal auditors, which are the ones responsible for evaluating schools annually, would not have been able to review this. We are still trying to track down program review data to see if we can track down exactly how many times this has come up in program review settings. So, if we have that, if

we can get that information, we'll get that back to you as well before the last session. But appreciate that request, it makes sense, and we'll get back to you on it.

MR. DOLAN: Is it fair to ask a question because one of the last parts of the data requests was around what sort of guidance or guides were given to institutions and, you know, in fairness to institutions who have the technology, who are able to do this, and there are examples that could be shared, now or later, it's hard to say you haven't been complying with this without first giving the true guidance around what compliance would look like. So it sounds like you suggested that these guidelines or these audit guides were not yet shared with institutions at a level that would, kind of mirror their expectations around compliance. So that was the last question and part of the data request, too. So, I guess what I'm hearing is that some of those guides were not yet provided to these institutions delivering clock-hour programs.

MR. MUSSER: Those were the audit guides. Those were the guides to the auditors of the institutions. The schools have gotten some guidance on how to implement these provisions. And you're right, that's another item that we can get to before the next session.

MR. WEATHERS: Thank you, Dave.  
Thank you, Scott. Anything additional, go ahead, Dave.

MR. MUSSER: Go ahead, go ahead,  
John.

MR. WEATHERS: Oh, I was just going  
to ask if there was anything additional before I hand it  
back to you. Alright, Dave.

MR. MUSSER: So, I think that's the-  
most of the discussion that we wanted to have on this  
topic. Before we go back to the drawing board and make a  
few additional changes and bring it back to the group.  
I wanted to be consistent with what we've done up to this  
point. I think I'd like to take temperature checks on  
the existing reg text that you guys received in the issue  
paper. So, none of the additional proposals included  
just what's in the original text, so that we can get a  
sense of where people are on what's currently been  
proposed. And then we can go from there.

MR. WEATHERS: Erika Linden is back  
for private nonprofits. And Dave has proposed doing a  
temperature check on the prior red line.

MR. MUSSER: And if possible, John,  
what I'd like to do is do two checks, one on the addition  
of a virtual location, and one on the changes related to  
asynchronous coursework offered through clock hours. So

actually, if we could pull up the text really quickly for the addition of a virtual location. This is the one I'd like to have a temperature check on first.

MR. WEATHERS: Give people a quick moment before we go ahead and move to a temperature check. Okay, we can take the language down. Alright, could we do a temperature check on the language we were just looking at? I see some thumbs. Hold them for a moment so that we can make sure we get everyone. Dom, okay. DC, okay. Thank you, DC. Alright, it looks like I do not see any down thumbs. Alright, thank you. I presume, Dave, that you're going to throw up the language on asynchronous, also?

MR. MUSSER: Yep.

MR. WEATHERS: Go ahead.

MR. MUSSER: Throw it up on the screen one more time. Definition of a clock-hour striking async references to asynchronous. Scroll down. And then adding to the definition of a week of instructional time for academic-year purposes, the terms credit-hour for the word program.

MR. WEATHERS: Okay. Alright. Let's go ahead and take a temperature check on that. I see some thumbs, hold them there for a moment so that FMCS facilitators can record these. Hold for a moment. I see

several down thumbs. Okay. I think we're good. Okay. Thank you. Thank you folks. Alright. Dave, anything else?

MR. MUSSER: Yeah. I think since we have a few minutes here, I'm a little reluctant to start the R2T4 discussion, although I'll defer to Greg on whether he wants to do that. Would any of the negotiators who gave thumbs down to the proposal on asynchronous coursework like to explain their objections?

MR. WEATHERS: I see Jillian's hand. Go ahead, Jillian.

MS. KLEIN: Sure. I think Mike, two things. One, I know that Scott asked for a variety of items, which I know you just talked through, and I feel like that would be helpful to me to get in a better place in terms of what the proposal says. I also think I'm still a bit unclear, and I understand that the language as written, relates just to clock-hour programs, but I am still struggling to find the line that sort of disaggregates between making this change for clock-hour programs and what the Department may be suggesting with respect to credit-hour programs. In the absence of what I feel is a sort of strong rationale for the Department's decision to take this approach, aside from it's hard for institutions to keep good records around this type of

work. So, I'm not maybe a forever thumbs down, but I feel like I need more information, both from the Department with respect to sort of a clear rationale on how this is different from what the requirements are on credit-hour programs and also some of what Scott asked for in terms of artifacts from the Department.

MR. WEATHERS: Thank you, Jillian. Anything else? Anyone as to your thumbs down? Okay, Scott, go ahead.

MR. DOLAN: I guess technology is evolving quickly and there are plenty of instances that exist within clock-hour programs of technology that does allow programs, including cosmetology programs, to monitor and track asynchronous learning to the minute. And to do that well, in accordance with the guidance that the Department has provided. So, I guess I would at least caution some hesitation around kind of a blanket removal and elimination of the provision, which seems like it's an effort to address where we have seen some instances of bad actors. But to do so, and punish good actors, especially when we are in a world where technology should and will be able to allow us to do this in a much easier way. I don't want to sound snarky, but, since the advent of the printing press, learning has been asynchronous and in a good way. Right? And it's

democratized learning in a lot of, great ways. Right? So, there's plenty of learning that goes on around theory and concept, that can be done asynchronously and be tracked that way. And I just hesitate to go so far in the other direction because of isolated incidents, that we might have seen where maybe some folks were subverting the rule rather than following the rule. So I think a lot of this conversation in my perspective on this does really hinge upon the data and evidence that the Department does compile to the data of request. But, you know, there's also evidence to the contrary as well. So, I think it's a worthwhile discussion, though we've been given short shrift to have that conversation.

MR. WEATHERS: Thank you, Scott.

Obviously, Scott had stepped in for Erika for private nonprofits. I'd also like to make another note that Zack Goodwin will be coming in for JoEllen Price for financial aid administrators. Next, I have Barmak. Go ahead, Barmak.

MR. NASSIRIAN: I'm a little confused about the comment on technology. The issue we're dealing with is whether parking people in front of a passive information dissemination device qualifies as instruction. It may be educational. People learn stuff on YouTube. I don't think that's instruction. I think

that's just general sort of information collection. And general information collection is a good thing, and I hope it gets better. But it's not instruction. In language learning, there is tremendous progress. I agree, using technology on the road and mechanical components of foreign language instruction. But that's not instruction. Those are just educational aides that layer on top of real instruction. And I think it is important, unless somebody can give me an example of a modality of asynchronous delivery that is indistinguishable or substantially indistinguishable from actual instruction by a qualified instructor, I think the Department's move is the right one. We get a lot of complaints from veterans. Literally I mean, I'm capturing their verbiage about the school was nothing but a bunch of YouTube videos. We want to avoid that to the extent practicable. So, I think the Department is headed in the right direction. I'm happy to accommodate any reasonable exceptions if somebody can come up with something that would be violated by this language, that shouldn't be. But just the abstract invocation of technology is not very compelling to me.

MR. MUSSER: Well, do you want to go?  
I had one more comment there before-

MS. MORELLI: No, go ahead, Dave, and

then I'll go.

MR. MUSSER: So, I do want to point out in response to Scott and following on to what Barmak said, that part of our rationale for making this change is not entirely related to specific violations of the requirement as it's written. It's also a more fundamental concern about program integrity of the Title IV programs. And that's because I think I mentioned this the first time we discussed this, that since the inception of the Title IV programs, clock-hour programs have been treated differently from credit-hour programs. Clock-hour is defined as a unit of time during which the student wasn't receiving direct instruction. They were in the classroom with the instructor actually working face-to-face with them, which I think most of us would admit is a different experience than interacting with online coursework. In some cases, the online coursework might be great, and I think it has certainly a lot of value. But in the Title IV world, most students were expected in these programs to do homework, and the homework was assigned between instructional periods. And they did not get credit for that homework. When they completed the homework at home, they only got credit for coming back into class and actually sitting with the instructor and working on site again. So effectively,

the Department made the change to allow for asynchronous clock hours to be included in the definition of a clock-hour. We believe that we may have inadvertently expanded beyond what we had intended to do, the reach of the Title IV programs, and the expenditures that we were making for these programs, primarily because it may enable institutions to reduce the amount of in-person interaction that they have and replace it with interaction of another kind, essentially not with a human, which was never permitted before under the clock-hour definition. The credit-hour definition has always contemplated a portion of off-campus work. Credit hours traditionally have been comprised of both on-campus work and an expectation of work that's done at home by an individual. So that's partly why the Department does not have a fundamental sort of philosophical concern about asynchronous coursework counting toward credit-hour programs. But clock-hour programs are a different story. So, I'll pause there. That's one of the fundamental pieces of this. But the compliance part of it is important, too. And we do believe that you guys deserve some more information about that before, you know, we make a final decision on it.

MR. DOLAN: I know my time might be up, but I guess the question for me would be whether

we're talking about replacement or a supplement, right? And a supplement for how some of this instruction was delivered in place. And I think there are some providers that are concerned about space limitations, right? And kind of shifting that requirement back to in-person and what that might mean for their ability to deliver their programs at the right scale in areas where there are great needs. So, back to the original point, we'd love to see more data and have a more informed conversation.

MR. WEATHERS: I see Denise wants to make a comment. Go ahead, Denise.

MS. MORELLI: I just want to piggyback on Dave and Barmak, but part of this was a compliance and integrity issue. I do a lot of work out in the field with students, and we, as Barmak had said, we also have gotten a lot of situations where students were supposed to be in hands-on programs and were not getting the hands-on training that clock-hour was really designed for, right? It was a lot of hands-on cosmetology, welding, mechanics, all kinds of different things like that. And so, we believe that this is an area of abuse. And I know there's always this balance. Right? We can't really regulate down to the bad actors, but we have to regulate sufficiently to deal with the bad actors. And I think this is an area that we've seen

abuse in. And like they said, we'll get you the information that we can gather from our reviews. But having been out in the field and on the ground, I can tell you it has been a problem that we believe needs to be addressed.

MR. WEATHERS: Thank you, Denise. I'd like to make another announcement. Folks that have been notified that they are going to participate in public comment, please start signing in. And a reminder to sign in under the name that you registered with so that we can identify you. Thank you. Jamie, I see your hand's up. Go ahead, Jamie.

MS. STUDLEY: Yeah. I just want to say I appreciated the first part of the Department's proposal to collect information to allow the evaluation of where student learning and other outcomes are taking place. I think that makes a lot of sense. I long for the day when we will spend less of our time, maybe none, deciding what the modality is, and all of our time looking at the institutional capacity and most important, the outcomes, the things that both Denise and Barmak and many others are talking about are critically important issues. I'd rather be using what we know from the veterans that Barmak talked about to know whether they learned something in their program, and not debating over

what percentage of what input by what kind of faculty member, and so forth. Accreditors are moving toward outcomes. The Department is upping its game about the data that it's able to provide, and it's making smart recommendations like this to be able to help us know and test these assumptions. And Denise is right, but the problem is trying to regulate, to close the barn door when there are other ways out of the barn and so forth. Rather than talking about the definitions and think about all the person hours we have spent trying to regulate by category. Let's regulate by results, and as we are trying to do wisely in other pieces of this. I just think we are slicing up with these definitions when we should really be thinking about, do students get what they came for? Do they learn what, you know, what they wanted to? And do they know, and can they do what the program promised? And are we meeting our collective expectation for what Title IV should be used for? I know that sounds like a rant, but I think it just needs to be said into this conversation. We're working so hard to have smart regulations. Let's do them in a way that looks forward as the Department's first part of this proposal looks, and as the work that quality assurance entities are doing. Let's look at the results.

MR. WEATHERS: Thank you, Jamie. In

an effort to begin public comment on time, I see that we have Zack and Barmak left, and I still want to hand it back to Dave. Please remember, adding anything new. Go ahead, Zack.

MR. GOODWIN: Actually, John, I might be able to kind of pull back on mine anyway because I just noticed that Scott posted something in the chat about licensure clock-hour programs for those that do need to licensure. So, there are implications far beyond even what the students learn in the program itself.

MR. WEATHERS: Thank you, I appreciate that. And lastly, Barmak, go ahead.

MR. NASSIRIAN: Yeah, very briefly. I certainly agree with my friend Jamie that outcomes matter, but the fundamental epistemological problem, methodological problem with outcomes is that they are lagging indicators. They come in, in some cases, years after the decision to enroll, the decision to allow the program to be eligible is made. So that is the reason you want to have some guardrails on the front end based on history and what we have learned from prior experience. And based on theory to ensure that better outcomes will arrive when they do. So, I don't think the two are incompatible. I certainly think outcomes should be factored in, but they are always sort of a retroactive

recognition of decisions made in the past. And we want to prevent victimization on the front end. I have yet to hear from any vet who tells me, oh, you know, the program was nothing but a bunch of YouTube videos, and it was great, I'm so happy. They call us to complain, not to congratulate the fact that they were in very passive, essentially worthless, publicly available program for which they paid tuition. So, let's try to balance the two. I agree with Jamie. We do need to factor in outcomes, but we need guardrails.

MR. WEATHERS: Thank you, Barmak. I will hand it back to Dave for anything before we start looking at public comments. Dave?

MR. MUSSER: [Inaudible] for me. I would just like to thank the group for a robust and an interesting discussion. I appreciate all the feedback. Thanks.

MR. WEATHERS: Thank you, Dave. Alright, folks, we've got a couple minutes before the bottom of the hour. Were we endeavoring to go ahead and begin at 3:30 Eastern time, Greg?

MR. MARTIN: Yes. I think we should start at 3:30.

MR. WEATHERS: Okay, so we've got several minutes, prior to that, so, we will be back at

3:30 on the dot.

MR. MARTIN: Okay.

MR. WEATHERS: Thank you.

MR. WEATHERS: Thank you.

MR. WEATHERS: Welcome back folks.

We are now in the public comment section of our day. Remember, if you are still logging in to do so with your registered name. This is your opportunity to speak directly to the negotiating committee. And, you will have three minutes with a 30-second reminder and take it away. Krystil, who do we have first?

MS. K. SMITH: Our first commenter is Patrick Lane from Western Interstate Commission for Higher Education, and Patrick is in the room.

MR. WEATHERS: Excellent. Patrick, are you there? There you are. I see you're on camera. Patrick, like I said just a moment ago, you have three minutes for comment. You'll be given a 30-second notice and your time begins right now.

MR. LANE: Thank you. My name is Patrick Lane, Vice President for Policy Analysis and Research at the Western Interstate Commission for Higher Education, known as WICHE. I'm commenting to clear up confusion about the regional higher education compacts. And I'll be clear that I'm only speaking for WICHE. In

some of the materials presented to negotiators and in comments during sessions, the compacts and their role in reciprocity have been inaccurately described. Western Regional Education Compact is an interstate compact ratified by Congress in 1953, signed by President Eisenhower and adopted into law by the Western states, forming WICHE. To put that into context, that was 70 years ago and more than a decade before the Higher Education Act was adopted. Our membership now includes all Western states and territories and freely associated states and stretches from the Dakotas across the International Date Line into the Pacific. Our board, known as our Commission, is appointed by our members' governors. While WICHE is tax-exempt under Internal Revenue Code, our compact, which again is in state statute, establishes WICHE is an agency of each of our member states. Compacts can be and are both. To imply that WICHE is non-governmental and not serving states' needs is not accurate. Our mission is to work collaboratively to expand educational access and excellence for all residents of the West. While our states have diverse perspectives and may not always agree, we work on behalf of our states and their students. Our portfolio of work is broad. Our tuition savings programs save nearly 50,000 students more than

\$500 million last year. We also focus extensively on behavioral health care, adult learners, transcript holds, OER, and effectively serving students through distance learning, just to name a few. WICHE also plays a crucial role in the state authorization reciprocity agreement, known as SARA. WICHE is responsible for implementing the agreement in the West for the 13 states that choose to participate through WICHE. At the behest of our states and commissioners, we have worked in this role to center states and their wishes in the agreement. Working with the other compacts and NC-SARA, our states developed and led the adoption of an open and transparent policy process that reflects the collective will of participating states in setting the policies of SARA. Participating states now annually consider policy proposals submitted by any interested party and can submit their own proposals. Ultimately, we feel very strongly that the terms of a voluntary state authorization reciprocity agreement are best left in the hands of the states themselves, not nonprofits, not the Federal government, and the SARA policy process reflects that. The discussion would also benefit from clarity on specifically where the Department derives regulatory authority at this micro level over state authorization and how broad it believes such authority is, as it does

not seem to appear in section 495 of the HEA or the broader part H on program integrity. [30 seconds] Thank you for the opportunity to address this committee, and please feel free to reach out if there are any questions about the compacts or governance or our role within reciprocity.

MR. WEATHERS: Thank you, Patrick. Krystil, who do we have next?

MS. K. SMITH: Our next speaker is Kyle Southern who is the associate vice president of Higher Education Quality, T-I-C-A-S, and Kyle is in the room.

MR. WEATHERS: Kyle, hello. Welcome. This is your opportunity to speak directly to the negotiators on this committee. You'll have three minutes for comment, and you'll be given a 30-second warning, and that time is to run. Your time begins now.

DR. SOUTHERN: Thank you and good afternoon. I am Dr. Kyle Southern and I serve as associate vice president for higher education quality at the Institute for College Access and Success, also known as TICAS. We have an organizational mission to advance affordability, accountability, and equity in higher education. As part of that mission, we advocate for stronger protections for students, borrowers, and

taxpayers' investments, and Title IV aid programs. The current negotiated rulemaking process addresses many critical issues facing higher education. But today, I will elevate our perspectives on accreditation and state authorization. Accrediting agencies serve as gatekeepers for institutions to access Federal funds, but recent and dramatic failures of institutional oversight demonstrate the need for clearer guidelines about how accreditors should treat institutions that fall short of quality control expectations and requirements. For example, weak oversight by the Accrediting Commission of Career Schools and Colleges over the schools operated by the Center for Excellence in Higher Education led to years of waste, fraud, and abuse. This lax oversight resulted in excessive costs to taxpayers when fraudulent colleges suddenly shuttered, and to students taking on a collective \$1.8 billion in Federal student loans they were poorly situated to repay. We share the Department's concern about a potential rise in accretitor shopping, as well as the potential of a disturbing but growing number of state laws that would compel institutions to change accreditors in advance of their next accreditation reviews. Such laws are recipes for a race to the bottom of quality assurance. Accreditation should be an indicator of academic quality, not subject to the

political whims of a given moment or legislative majority. We applaud the Department's effort to uphold this essential principle, protect students, and shore up the quality of institutions accessing Federal Financial Aid. We support an ambitious overhaul of accreditation regulations. For too many years, state authorization requirements have met too little, with significant variation and capacity, will and knowledge to conduct oversight, some states have virtually no effective requirements for obtaining authorization. We believe the SARA Agreement inappropriately limits the ability of states with strong protections to enforce their own state higher education laws and safeguards with respect to out-of-state schools. To better protect students interests, we encourage the committee to lift the floor for state authorization processes and capacity, ensure programs lead to licensure where applicable, and improve oversight of distance education programs through regulation. Thank you for considering these comments and for your work to advance a more affordable, accountable, and equitable approach to higher education nationwide.

MR. WEATHERS: Thank you, Kyle.

Krystil, who do we have next?

MS. K. SMITH: Yeah, John. So next we have Nico Castillo, who is representing himself. And

Nico is in the room.

MR. WEATHERS: Nico, welcome. This is your opportunity to speak directly to the negotiating team. You have three minutes and you'll be given a 30-second warning when your time is about to run out. Your three minutes begins now. Nico, you- you're muted. Down on the bottom there should be a microphone. There you go. Well, you're three minutes will begin right now. Take it away.

MR. CASTILLO: Sorry about that. Thank you for your time to explain my experience at Living Arts College. So, in September 2021, after a six-year stint in the U.S. Army, I decided to enroll because I was interested in film school and they seemed like a good fit. They advertised that their students landed jobs at major companies like Epic and Disney. At first, that seemed okay to me. I was one of the older students and mostly kept to myself and focused on my work. I started to notice things were not going well after talking to students who had been there longer. Classmates told me that the school had not given them enough support and resources, other students told me that the Career Services Office was not particularly good. While I was there, six different advisors left that office and even had three different directors of

education during that time. The turnover pointed to a general problem that the school was not stable, the classes were not well planned, we were given little time to prepare for and produce big projects. Because of the lack of preparation and training that makes students stop coming to class, I began hearing through the grapevine that the school was on a shaky footing and may be closing. Nevertheless, I stuck it out. In November 2022, the administration called for all-hands on deck meeting with the entire school. The vibe was that Living Arts was struggling to come up with funds. As soon as winter break started, the students were told that the school was closing. You might think that once the school closed, problems would end, but as soon as the school closed, the career office was nowhere to be found, leaving us to find jobs on our own. I now have a job that has nothing to do with what I studied, and because I use veteran benefits to pay for my education, I have to wait through the GI Bill restoration process for closed schools before I can even go back to school. I have had to throw the idea of going to school out the window and instead focus on work. I also know that some of my classmates recently went back to the school to pick up artwork they left there. When they tried to take it home, they were told they couldn't due to a clause in a

contract with the school, Living Arts reserved the right to restrain samples of the students' work for the college's permanent collection. There were too many red flags at the Living Arts for it to go fully unchecked. I think more should have been done to make sure that the school was sound and a good investment for students. And again, thank you for your time.

MR. WEATHERS: Nico, thank you very much. Krystil, who do we have next?

MS. K. SMITH: Our next speaker is Rachel Sumekh, who is the founder of Swipe Out Hunger and Rachel is in the room.

MR. WEATHERS: Rachel, welcome. You will have three minutes to make your comments to the negotiating committee. You'll be given a 30-second warning as your- before your time runs. And your three minutes begins right now.

MS. SUMEKH: Good afternoon. My name is Rachel Sumekh, and I'm the founder and former CEO of Swipe Out Hunger, a national nonprofit committed to ending college student hunger, which, as you know, one in three college students experience. I'm joining today to provide comment on the cash management rule about crediting a student's ledger account. I helped found Swipe Out Hunger back in 2010, along with my friends at

UCLA, as a single program to help our peers who were experiencing hunger. Today, we have scaled that program to 750 universities, demonstrating the incredible need and action universities are taking to support their students. Having dedicated the past 13 years of my life to ending student hunger, I was delighted to see the Department consider ways to ensure students can use every dollar of their financial aid to provide for themselves, instead of those funds being used by the school to just balance budgets. I applaud the cash management regulation that would send any unspent dining dollars back to students at the end of the year. Food should not be used as a revenue source for a university. 90% of students who receive Pell still face unmet need, and the difference between how much the college costs them and how much financial aid they receive, which systemically marginalized students are more likely to face unmet need when compared to their white peers. While the amount of money at stake of these leftover meal plans might seem small in context to college budgets, those extra funds make a huge difference to the students who are low income. As Greg Martin, the Federal negotiator, said earlier in these proceedings, this is the student's money, and they should be able to choose how they spend and support themselves throughout college. The proposal

on the table is good, but to avoid creating a loophole where colleges remove dining dollars and turned them into meal vouchers with assigned cash value, the proposal should include a provision with a student who used Title IV Aid to pay for that meal plan, should have that refunded as cash value, of both unused dining dollars and any unused meal vouchers. Including this language would protect against creative ways around the new regulations. Thank you for considering my comments and your amazing dedication to our students.

MR. WEATHERS: Rachel, thank you very much. Krystil, who do we have next?

MS. K. SMITH: Next we have Saige O'Rourke, who is from Pearson Campus Ambassador, and is representing herself. Saige is in the room.

MR. WEATHERS: Thank you for being here today, Saige. You will have three minutes to make your comment and you will be given a 30-second heads up. Your three minutes begins now.

MS. O'ROURKE: Hi everyone. My name is Saige O'Rourke and I'm a junior student at the University of Tennessee. I'm studying business analytics with a concentration in workforce analytics. To be transparent, you all should know that I'm also a Pearson Campus Ambassador, which means that I work directly with

fellow students to collect feedback through focus groups, surveys, and individual interviews. I hear from my fellow students about what they think about course material programs like Macmillan, McGraw-Hill, Cengage, and Pearson at the University of Tennessee, and I relay that information back so publishers like Pearson can constantly improve their programs. This is how I know that the proposed strike to the cash management rules that support access and affordability programs will negatively impact students across the country, and specifically at my campus, which has had an access and affordability program since 2016. And it saved students up to 70% of the retail value on their course materials. These programs are often called inclusive access, which allow universities to acquire course materials for an entire class of students with a single order, ensuring that students get the materials on their first day of class. These programs also allow students to pay for their materials using the Title IX Financial Aid to their grants and loans, rather than going out of pocket to get the course materials that they need. I personally appreciate not having to find outside sources of funding to get access to materials, because I come from a low-income household. Not incidentally, the current rules established under the Obama-Biden Administration require

that publishers offer the course materials included in these programs at below current market rates, and as a result, inclusive access programs have made a really dramatic contribution to affordability. In fact, the independent research group, Student Monitor, reports that these programs fueled a decline of 41% in spending in the category over the past decade. And the other groups that look at this student watch, they found a 57% decline in spending, also, in large part because of these programs. The College Board's most recent report on college pricing notes that students now spend an average of just \$310 a year in the category, making it a very rare but bright spot in higher education affordability. As a college student, I value the quality of the online learning solutions that are available through these programs, and I really appreciate the role that they have played in driving significant progress in affordability. The proposed rule changes will end the right of colleges and universities to provide these programs that have resulted in a decade long decline in student spending on course materials, and an improvement of student outcomes. I support greater transparency, and I do think that students should be able to know more about how the process around these programs work, so a rule change regarding greater transparency would make sense. But the

fact of the matter is that these programs have truly delivered [30 seconds] on the promise of affordability, and they must be protected and preserved. Thank you all for your time.

MR. WEATHERS: Thank you for your comments, Saige. Krystil, who's next?

MS. K. SMITH: Our next speaker is Austin Reid from the National Conference of State Legislatures. Austin is in the room.

MR. WEATHERS: Thank you very much, Krystil. Austin, welcome. This is your opportunity to speak to the committee directly. You have three minutes. You'll be given a 30-second notice of your time running. And your three minutes begins right now.

MR. REID: Thank you for the opportunity to make comment. My name is Austin Reid and I'm making comments on proposed state authorization language on behalf of the National Conference of State Legislatures, the nonpartisan organization that works in a bipartisan manner to serve all legislatures in the states and territories. Speaking across K-12 and higher ed contexts, state-led reciprocity agreements are inherently delicate and require significant coordination among the states involved. But these compacts, especially at scale, are formed by a push and pull among

states, often with differing standards. It's NCSL's sense that Federal involvement in these compacts makes them potentially more complicated to establish and manage, and actually may interfere with interstate cooperation. However, NCSL believes in cooperative federalism. So, I've been listening to these conversations on behalf of state legislatures to understand how these proposals might complement, but not substitute for, state authority and responsibility in higher education. To that end, proposals related to facilitating communication about student complaints could potentially be constructive to reciprocity and could strengthen existing agreements and protections for students. However, NCSL is concerned with new language that would define for states via Federal regulation what a state-led process to create a reciprocity agreement should look like, or what kind of state actors would qualify to serve on a governing board with a reciprocity agreement. Principally, these proposals do not promote a sense of cooperative federalism, as they would substitute Federal regulation for state authority, and these proposals could also unduly constrain states should they pursue adopting new agreements beyond the current SARA agreement. On the broader proposals of- or broader issues of reciprocity, state legislators have access to

pathways beyond Federal rulemaking to make important changes to reciprocity agreements. My experience working with legislators suggests that they are far more directly engaged with their regional higher ed compacts than they are in this negotiated rulemaking process, and I would observe that this rulemaking committee includes only one state representative among 15 sector representatives to discuss what is fundamentally a matter of state policy. In the end, these reciprocity agreements are created by states and are adopted by states on a voluntary basis. NCSL believes that states should lead changes to reciprocity and urges the Federal Government to defer to states when it comes to authorization and other matters of accountability in higher education. Thank you.

MR. WEATHERS: Thank you for your comment, Austin. Krystil, who's next?

MS. K. SMITH: Our next speaker is Doug Lundrigan, from Lighthouse Leadership, LLC.

MR. WEATHERS: Doug, are you there?

MS. K. SMITH: Doug is still joining. Doug is in the room.

MR. WEATHERS: There's Doug. Welcome, Doug. You, have three minutes to make your comment. You'll be given a 30-second notice of your time running, and your three minutes begins right now.

MR. LUNDRIGAN: Okay. Hello, everyone. As you said, my name is Doug Lundrigan. I became an immigrant to the United States in 1988 and a citizen in 1994. Thank you for allowing me to join today's public comment and share my insights into higher education. As I see it, we need more colleges and universities to step up and provide high quality degree programs for working adults like me, who are already well into our professional careers. When I chose the University of Phoenix more than 12 years ago, my employer at the time offered a tuition assistance program benefit that I took advantage of. They stipulated that the school I attended had to be accredited and meet the standard levels of academic program integrity and the price tag needed to fit our benefits package. I researched several master's programs and was thrilled to find University of Phoenix met all the criteria. I completed coursework in both online- on online and at a campus one night a week. The model of instruction worked perfectly for my schedule. I valued the faculty who worked professionally themselves and who brought tremendous real-world experience to our coursework discussions. At the start of my MBA, I heard negative comments about my choice to attend University of Phoenix from a close relative. I said, okay, let's compare the

coursework, the instruction, the textbooks, the rigor of assignments, and the quality of academic material. As we did so, it matched up almost identically to what my relative experienced at the University of Utah MBA program. Today, I am the CEO of Lighthouse Leadership. We train adults in leadership skills. My largest client has been the Federal Government, and I have performed my work in seven of these United States. I'm also on the Leadership Council of the National Small Business Association. I'm presently working on bringing my instructional materials to a popular online learning platform. I take great pride in upholding the highest evidence-based standards, and that is what University of Phoenix does as well. I've been very vocal with the Department of- with the Department. I've also weighed in with the University of Idaho, a longstanding state institution that sees real challenges on the horizon and is working to affiliate with University of Phoenix to address what is needed in higher education in this country today. I believe that University of Phoenix is filling that need, and so I will continue to share my story until leaders in this country acknowledge the needs of working adults in higher education. The regulations you are writing will directly impact working adult students, and I recommend that you seek out our voices

[30 seconds]. Thank you. I'm finished. Any questions?

MR. WEATHERS: Thank you, Doug. Who do we have next?

MR. MORRIS: Alright. Our next speaker is Greg Morris from Dallas College, and he's in the room.

MR. WEATHERS: Alright. Greg, welcome. This is your opportunity to speak directly to the negotiating committee. You'll have three minutes, in total, 30 seconds' notice, and your time begins now.

MR. MORRIS: Alright. Great. Thank you so much. Members of the Committee, thank you again for this opportunity to speak. My name is Greg Morris. I serve as the senior vice provost for academic services with Dallas College, and today I'm representing our chancellor, Dr. Justin Lonon, on behalf of Dallas College. And we just wish to express our concern about some of the implications and proposed changes that are being proposed with section 668.164, which deals with matters around textbook and learning material acquisition for our students. We really believe that these changes could have some real significant negative impact on our educational outcomes and ultimately our students. You may know this, but Dallas College serves a pretty wide demographic with 130,000 students that reflects the

broader diversity of Dallas College in the community. Our population is about 50% Hispanic, about 30% African American, and the remainder of other ethnic communities. Many of our students face unique educational challenges, particularly in acquiring essential learning materials they need for school. Historically, for us, about 20% of our students either delayed or skipped coming to class because they didn't have learning materials. And almost a third of our students went an entire semester without books and learning materials. With our inclusive access program that we launched several years ago, without it, our students would have continued to struggle to obtain textbooks. With the implementation of this program, we have been able to ensure that 97% of our students have access to essential resources at the day one of classes. This change has also helped us accomplish several significant things in reducing the overall cost for our students. We definitely understand the concerns about transparency and student choice in the context of inclusive access programs. However, our primary goal is to address our students' immediate and practical needs, who many of us- who many of them come to us with severe economically disadvantaged backgrounds. So, we believe the potential impact for this regulatory change would inadvertently heighten the barriers of success for our

students. It would lead to increased academic challenges, and it is for this reason that we respectfully request a thorough reconsideration of these changes. We're really eager to engage in dialog and to explore practical solutions that balance transparency, student choice, and the urgent need for accessible and affordable educational resources. With that being said, I really appreciate your time today and we look forward to supporting you in the direction that you go. Thank you.

MR. WEATHERS: Thank you very much, Greg. Have a good day. Krystil, who do we have next?

MS. K. SMITH: Our next speaker is Katie Cook, who is representing herself. And Katie is in the room.

MR. WEATHERS: Thank you. Katie, welcome. This is your opportunity to speak directly to the negotiating committee. You'll have three minutes in total and you'll be given a 30-second warning. Your time begins now. You are muted.

MS. COOK: Okay, here we go.

MR. WEATHERS: Your time begins now; we can hear you.

MS. COOK: Thank you. Hi, my name is Katie Cook. I am currently a cosmetology student going

to beauty school. As a future hair stylist, I am attending a 1,600 clock-hour program, of which 1,000 clock hours is physically on site at my school and 600 hours is completed online through asynchronous distance education. I complete both my on-site education five days a week for four hours a day with approximately two hours a day online. None of my hands-on portion are done online, only the theory portion. I wanted to share a little bit about myself. I am a nontraditional student. I am 42. I'm a 42-year-old mom making a career transition. My son is going to Washington State University, and my daughter is going to a high school where they have access to online education. I do not feel it's equitable that unless I went to traditional credit-based college like my son, I would not be able to participate in distance education like I am today. I heard that the Department is concerned about the learning that takes place at beauty school when it's done online. I believe the learning through my current program is tracked more closely than any credit-hour program would be. For example, when I study anatomy and physiology, any videos that I watch, quizzes that I take, information that I've reviewed is tracked on a per-second basis. If I get distracted and have to step away, the program automatically logs me out if I forget to. It allows me

to take my education away from the confines of the walls of a classroom. The current hybrid setup offers me the ability to study when I can. This often happens late at night, early in the morning, during my lunch, or when I'm caring for my family. If I need to reach out to my teacher, I can do so through our online setup, where they can respond back to me, or I can just connect with them the next day when I'm in class. I can assure you that the credit I receive in my current program is scrutinized more than any time spent at a more traditional college, and the hours are not awarded hastily. I would like to share, the platform that we use is utilized by over 75% of beauty schools across the United States. Eliminating asynchronous education from a program like mine would hurt many students. To take the asynchronous portion away would mean that I would have to be 100% confined to the classroom, which in turn would not allow access to this career change. I know other students that are with me, that are people of color, single mothers, immigrants, people caring for their parents, and those working two jobs that need access to the way that we are currently studying. Thank you so much for your time.

MR. WEATHERS: Thank you, Katie. And I believe Katie was our last commenter for the day. Greg, I don't know if you have any final comments before

we sign off.

MR. MARTIN: No, nothing for me.  
Just want to wish everybody a [inaudible]. Thank you  
everybody for your efforts today. And I look forward to  
seeing you all tomorrow.

MR. WEATHERS: [Inaudible] very much,  
folks, for a productive day. And we will see you  
tomorrow for session two, day three.

**Zoom Chat Transcript**

**Program Integrity and Institutional Quality- Session 2, Day 2, Afternoon, February 6, 2024**

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

From P, Jillian Klein, Proprietary Instit to Everyone:

I'm sorry, I'm still confused. Just to confirm, Greg indicated this section in question is intended to apply just to non-reciprocity schools, correct? I think I'm hearing Carolyn, Robyn and others speaking about this section as if it related to SARA schools and just want to make sure, again, we are all on the same page.

From Robyn Smith, Legal aid orgs. to Everyone:

I am also confused; and I was talking about Carolyn's proposal.

From P, Jillian Klein, Proprietary Instit to Everyone:

Reacted to "I am also confused; ..." with 😊

From P, Jillian Klein, Proprietary Instit to Everyone:

Replying to "I am also confused; ..."

at least I'm not the only one!!

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:

agreed, remain a bit confused about the language and which schools it applies to. Further complicated by Greg's comments about the interplay of language introduced later

From P. Jo Blondin, Community Colleges to Everyone:

I just want to know what institutions are referenced in 600.9 a (1) i

From P - Carolyn Fast, Civil Rights/Consumer to Everyone:

NY AG has taken enforcement actions against out of state based online schools including DeVry, Colorado Technical University/American International University, and others

From A, Emmett Blaney, Students/Borrowers to Everyone:

Reacted to "NY AG has taken enfo..." with 👍

From P, Jillian Klein, Proprietary Instit to Everyone:

Reacted to "I just want to know ..." with 👍

From P, John Ware, State Regulator to Everyone:

Rob Anderson has a comment on these issues

From A, Emmett Blaney, Students/Borrowers to Everyone:

+1 to Carolyn's point; it increases student protections to allow states to take up complaints at their own discretion instead of being prohibited.

From P - Erika Linden, Private Nonprofit Institutions to Everyone:  
Scott Dolan has a comment for the table. I am stepping away.

From P., Diana Hooley, State Attorneys General to Everyone:  
Replying to "NY AG has taken enfo..."

The MA AG has also enforced its regulations against out-of-state online schools.

From A, Emmett Blaney, Students/Borrowers to Everyone:  
Reacted to "The MA AG has also e..." with 👍

From P, Jillian Klein. Proprietary Instit to Everyone:  
+1 on Scott's comments. This is what I was suggesting earlier, that without specificity it is very challenging for us as negotiators to know what it is we are responding to.

From (A) Dom Chase - Business Officers to Everyone:  
I agree with those comments as well.

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:  
i will step aside and let the primary come back to the table

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:  
Will try to summarize the questions we have for the Department. Will want to take a minute to address the different issues succinctly.

From (P) Barmak Nassirian, Veterans & Mil. Students to Everyone:  
I misspoke when I cited the certification language that is scheduled to go into effect this July 1: the correct citation is 34 CFR 668.14(b)(32)

From (A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:  
Reacted to "I misspoke when I ci..." with 👍

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:  
I also wanted to make sure I didn't lose track of Dave's important question on the earlier subject:

- 1) Please define what is meant by an education-specific law?
- 2) In introducing the conversation about education-specific laws, what issues or problems is the department trying to address?
- 3) For the issues/problems identified, what evidence or data can the department provide about the scale and scope of the issues?
- 4) How will the introduction of education-specific language help to resolve these issues and in what ways?
- 5) Given the concerns raised by other constituencies about enforcement across state lines, will the new regulations actually work to the desired end?
- 6) Would the Department's proposed language disallow SARA's current policy that prevents states from enforcing education-specific authorization requirements on out-of-state institutions?

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:

agreed with Jillian that language this morning is clearer

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

+1 to the proposal, important to have such information to support oversight efforts from a civil rights perspective

From P. Jo Blondin, Community Colleges to Everyone:

Jamie--From the Community college perspective, the newest proposal is much more definitive. It will be a lift for some colleges, but it is important to capture.

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

Reacted to "Jamie--From the Comm..." with 👍

From P - Carolyn Fast, Civil Rights/Consumer to Everyone:

Reacted to "+1 to the proposal, ..." with 👍

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:

apologies, we did have one more question on state authorization: 7) Where, specifically, in the Higher Education Act does the department derive regulatory authority over state authorization? Such authority is not included in Section 495 on state authorization.

This question was asked at one point in the session 1 on this topic, but not fully addressed

From P. JoEllen Price, Financial Aid Administrators to Everyone:

I am concerned that if a school is struggling with reporting requirements for a specific program, students in that program would lose aid eligibility to complete the program.

From P, Jillian Klein. Proprietary Instit to Everyone:

Reacted to "I am concerned that ..." with 👍

From (A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Reacted to "I am concerned that ..." with 🙏

From P, DC, HBCUs, MSIs, TCUs to Everyone:

Replying to "I am concerned that ..."

@P. JoEllen Price, Financial Aid Administrators I think the question I still have is "so what"? Schools consistently struggle to report now and so it wouldn't make it any harder for them to report if it was added there.

From Dave Musser, ED FSA to Everyone:

Distance education course: A distance education course is a course that follows the definition of "distance education" found in 34 CFR 600.2 and instruction takes place exclusively at a distance notwithstanding face-to-face engagement for orientation, testing, and academic support services

From (A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:  
Replying to "I am concerned that ..."

I could be wrong, but I don't believe NSLDS enrollment reporting falls under institutional/program eligibility in the CFR. If the new reporting requirements are 'housed' there, it puts program eligibility -- and therefore students -- at risk.

From P. JoEllen Price, Financial Aid Administrators to Everyone:  
Replying to "I am concerned that ..."

I just don't want students negatively impacted, especially during a time that schools are experiencing staff turnover in all areas, especially offices that complete reporting requirements.

From P. JoEllen Price, Financial Aid Administrators to Everyone:  
Replying to "I am concerned that ..."

Enrollment reporting, for example, is a top audit and program review finding.

From (A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:  
Reacted to "I just don't want st..." with 👍

From P - Erika Linden, Private Nonprofit Institutions to Everyone:  
Scott Dolan will be coming to the table for private non profits.

From P. Jo Blondin, Community Colleges to Everyone:  
Yes--that was my data request.

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:  
apologies misheard that piece

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:  
Erika will step back

From P - Erika Linden, Private Nonprofit Institutions to Everyone:  
Scott back in

From P. JoEllen Price, Financial Aid Administrators to Everyone:  
Zack Goodwin will be at the table in my place as I need to step away.

From (P) Barmak Nassirian, Veterans & Mil. Students to Everyone:  
<https://www.newamerica.org/education-policy/reports/cautionary-tale-correspondence-schools/introduction/>

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:  
agreed, especially when there are licensing requirements for many of these programs

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:

Question for the department: is there a statutory definition of clock hour that we can refer to? Can be addressed between sessions

From P, Jillian Klein, Proprietary Instit to Everyone:

Reacted to "Question for the dep..." with 👍

From P-Jamie Studley, Institutional Accreditors to Everyone:

Barmak: Reasonable, sensible guard rails, with credit for effective past performance (so that we can use history wisely )

From A, Scott Dolan, Private Nonprofit IHEs to Everyone:

Reacted to "Barmak: Reasonable, ..." with 👍

From (P) Barmak Nassirian, Veterans & Mil. Students to Everyone:

Agreed!

From (A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Replying to "Question for the dep..."

Great question. Though the HEA mentions clock hours in many contexts (e.g., how many must be included for a program to be Title IV-eligible) I am not seeing a definition.

From P, Jillian Klein, Proprietary Instit to Everyone:

Replying to "Question for the dep..."

That's my read as well. I heard Dave say that there is a "direct instruction" requirement but it appears that is only regulatory in nature.

From (A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Reacted to "That's my read as we..." with 👍