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OFFICE OF POSTSECONDARY EDUCATION

NEGOTIATED RULEMAKING

ACCOUNTABILITY IN HIGHER EDUCATION AND ACCESS

THROUGH DEMAND-DRIVEN (AHEAD)

WORKFORCE PELL COMMITTEE

SESSION 2, DAY 1, AFTERNOON

January 5, 2026

On the 5th day of January, 2026, the following meeting was held in-person, from 1:00 p.m. to 4:00 p.m..

P R O C E E D I N G S

MS. MACK: Welcome back from lunch, everyone. I appreciated our conversations prior to lunch. Before we move on in our agenda, I did want to open it back up to see if there were any final questions or comments about our first topic from the committee. Please, Eric.

MR. ATCHISON: Thank you, Kayla. This is just a quick clarification on 668.91. I noticed that you struck 668.404 and left 668.403, which is describing the calculation of debt-to-earnings rates. Is that intentional?

MR. MUSSER: Give me one second to look for what's there now. So the -- we'll get to this in -- later on. The reason that we're referring to 403 -- previously, it referred to both 403 and 404, which were the debt-to-earnings and the earnings premium, respectively. We are -- because we are striking the entirety of 403, the earnings premium becomes 403, and that now is the only reference that we're making.

MR. ATCHISON: Thank you. That helps.

MS. MACK: Thank you, Eric. David, let's go to you.

MR. KAFAFIAN: Wanting to be respectful of the kind of order of operations that you've laid out, I guess something that a couple of us had discussed offline is just a recognition on my part, at least, that where we draw the lines will change certainly how I and maybe others feel about various topics, some of them that we've discussed around Pell, around what disclosures are needed, etc. and I guess I just wonder, like, I don't know if it's a conscious decision, but the data does currently say that 1% of bachelor's programs fail, 4% of master's programs fail, 29% of undergrad certs fail. And I would hate to wait to catch and discuss the undergrad certs item in the, in the future only to find that if we do make a change there, it's going to kind of change a little bit of the way we all think about every one of these ingredients, or at least it will for me. So I'm just curious, is that something at least the Department can just opine on is like, what was the thinking around having such a higher bar, especially given that that was not the area that Congress actually, you know drafted in OB3?

MR. MUSSER: Go ahead.

MS. MACK: Please, Jeff.

MR. ANDRADE: So I think what you're seeing there on the undergrad certificates is GE was already there, but it's GE under the regulations as proposed as opposed to GE on current regs. So there was always going to be an elimination of programs in that category.

MR. KAFAFIAN: Certainly, but I think the design decisions around maintaining 25 to 34 and basically around every -- like you can't do a lesser of concept for the same field because that doesn't really exist there. So there's all these kind of design decisions that the Department has made elsewhere, appropriately so, that also had to be made here, the results of those being a 29X higher bar. I think we would all expect direction that would be higher. I don't know that I expected it to be that much higher. And so I guess I just wanted to posit early, is that something that we can talk about? Because if there's going to be changes there, that -- I mean, when we look at the programs that fail, they are disproportionately undergrad certs. So you know, all of the other debate is, I'm not going to say irrelevant, but it's much smaller magnitude if we're looking at bachelor's and master's. So a lot of the game, as it relates to this, is in undergrad certs. And so if we're going to make tweaks there, I think it changes the way many of us would feel about other aspects.

MR. MUSSER: Understood. So I'll go back to first to what I said earlier, which was that -- I mean, the first and foremost reason was harmonization in the treatment of all programs alike. And that's -- you know, what you described is also part of why the Department will find it challenging to accept tweaks to the metric that would only affect the one sector. In our view, parity among sectors is valuable unto itself and is an important part of how we designed these proposed regulations. You know, the Department had two options that we could have pursued as well. We could have pursued -- we could have left them alone with the debt-to-earnings and the earnings premium. Or we could have eliminated them entirely. We felt that including the certificates under the statutory framework made the most sense. Cody will give some explanation of -- sort of what the data showed when we went through that, and you guys know already quite a bit about that and we'll also talk a lot more -- Jason Delisle, our Chief Economist, will talk a lot more about why we chose -- why the debt-to-earnings ratio we felt -- we feel is not worth keeping from a policy perspective. But once we did that analysis and we realized that the debt-to-earnings was not giving us that much given the complexity that it entails, the parody became the strongest argument for maintaining that across all sectors.

MS. MACK: Thank you, David. And for the reactions, Jeff and Dave. Jeff?

MR. ARTHUR: Yeah, just a quick question. If it's in the code book and I missed it, I apologize. But when you determine the institutions that -- or when you built the cohorts, because there's a lot of programs that aren't measured, did you use the new methodology to aggregate cohorts or did you use like the traditional, the two-year cohort period or one year?

MR. MUSSER: I'm going to let Cody actually answer this. I think he's -- yeah.

MR. CHRISTENSEN: Yes. Thank you for the question. And I know there's lots of questions about the data. Preston, for example, raised questions on the definitions that are used. We are going to have -- that presentation is upcoming. So just be waiting for that. The short answer to your question is no. The existing PD data set that was published is not using an aggregation -- is not doing that -- the aggregation.

MR. ARTHUR: Okay. So to David -- along David's lines then, we're representing an X percent that have failed. And I think some people are -- I think in some ways we're looking at a failure rate percentage over the entire number of programs, including those that weren't counted. And I would say we should be looking at the -- of those that were measured, the percent that failed to understand the impact. And it could be that when we -- it's very likely we expand these cohorts, we're going to capture a lot of those that we didn't have data on. And that could change -- significantly change the failure rates and the impact of the rule.

MR. CHRISTENSEN: That's exactly the analysis that we'll show you. The denominator will be the programs that are measured, as you're saying. We do not have visibility, though, at this moment into how the aggregation process would actually change the earnings. So we have very little ability to speak to that specific issue. But as you said, the denominator for the analysis we're going to show are among programs that are measured, not the total 209,000 programs that are in the data.

MS. MACK: Thank you, Cody. Aaron, please.

MR. LACEY: Just David started with the question and I'll just ask it for the Department now. I think a lot of I mean, you all have solicited conversation around debt-to-earnings rate. I think there are a number of people who have thoughts about the sort of metric that is being used to assess non-degree programs. My question is, just when do you want to have that conversation?

MR. MUSSER: Yeah. We will first have our Chief Economist give the presentation about our analysis and how we got to the decision that we got to. And I think at that point, it's -- we should have the full conversation about debt-to-earnings and the pros and cons of removing it.

MS. MACK: Thank you. That is all the comments and questions. So we're going to conclude our discussion around topic one at this juncture, and move into topic two. I believe we have a presentation to tee this up. So Dave, I'll hand it over to you to introduce Cody in this presentation.

MR. MUSSER: Thank you, Kayla. And yep, we'll bring Cody back up to the podium for a couple of presentations -- for a presentation on cohort aggregation.

MR. CHRISTENSEN: All right. Hello, everybody. The topic we are about to enter into is discussing how the cohort aggregation process works for when programs are small, as everybody here probably knows, the One Big Beautiful Bill Act specifically directs the Department to aggregate programs that have -- that are small, and that threshold is defined as fewer than 30 Title IV completers. So this presentation is going to explain and provide some analysis on how the cohort aggregation process that we've proposed in the amendatory text would work. And then we can answer questions specific to the cohort aggregation process. The other caveat I would say at the start is that cohort aggregation also overlaps a little bit with timeline questions. Specifically, when is the cohort of earnings, when is all this happening? Some of those timeline questions have already been raised. We do have, I believe it's tomorrow morning, a specific carve-out of time to discuss specifically the timeline of all of this. So while I will be speaking in high level about the timeline, the focus of this presentation is on the cohort aggregation. So let's go to the next slide. So the simple, the simple objectives of this presentation is we want to describe how the program aggregation process works that we've proposed, and then how often it's going to be needed, how much it's going to be needed, and then the share of programs and students that will ultimately be covered that we estimate after we do the cohort aggregation process that we propose. Next slide. Standard disclaimer. All the analysis here is preliminary analysis. And also, I would just note that this presentation contains data from NSLDS which is not publicly available. This data is not coming from the data set we produced. The reason that we needed to use NSLDS data is because that information is measured at the six-digit CIP level, whereas the data set that was published that you all have had access to is measured at the four-digit CIP level. But the cohort aggregation process inherently relies on six-digit CIP level, which is why we had to look internally to do this analysis. Alright, next slide. So the cohort aggregation method that we have proposed is if a program has fewer than 30 Title IV completers in the award year, we would start rolling up prior cohorts for up to four years, slowly expanding the CIP level that we're at, starting at the six-digit CIP, then moving to four, and then moving to two. And we would do that roll-up process for up to four prior award year cohorts of completers. So to explain that in crystal clear terms, if a program, for example, is very small and only has a couple Title IV completers, you would start at the six-digit CIP level and you would walk back to 2025 and then 2024 and then 2023, all at the same credential level, at the same college, at the same six-digit CIP code. And if you do that for four years and you still don't hit 30, then you start over at the current year and you expand it to the four-digit CIP and start rolling up completers in that process. And at any point if you hit the threshold that we're trying to hit, you would stop the cohort aggregation process at that time. So you start rolling up prior cohorts until you hit the threshold, when the cohort is determined to have a statistically reliable size, and that's when we stop. So let's go to the next slide. The amendatory language we've proposed says that we will roll up cohorts until the number of Title IV completers equals or exceeds 30, or until the Secretary determines that the cohort has reached a statistically reliable size. Admittedly, we know that that is vague language. Let me explain to you what we're trying to do here with this language. In essence, we are still in the process of finalizing how exactly the data transfer will work. Well, there's several reasons. The first is we are still in the process of figuring out how the data transfer process will work with Treasury and the -- and the IRS, and how that data will come back to us. And we need to make sure that we don't write down a specific threshold like 30 in the regulation. That will ultimately tie our hands to prevent us from ultimately being able to implement that regulation if we later learn from Treasury or the IRS that the threshold we've specified is not feasible. As we pass back data between IRS and Treasury, they have really robust privacy suppression methodologies where if we pass back exactly 30 and then they pass back 15 working individuals that were matched, that's going to be privacy suppressed. And therefore the cohort would not get an earnings number. We would not see an earnings number at the Department for that program. And for that reason, we don't want to just specify as soon as you hit 30, stop. We want to figure -- we want to finish the conversations with Treasury so that we can understand that the process that we're going to send them -- maybe we send them a slightly higher number, maybe between 30 and 50 Title IV completers, so that if we sent them 40 and 20 of them matched, well, in fact, then we would get to see what that median earnings number is. We are not trying to be vague for the purpose of being vague. We are trying to not tie our hands so that we propose regulations that just won't work. And then we'd all have to be back here in a couple of months. But we want you to know that the threshold we're thinking is it would be somewhere around 30 to 50 Title IV completers is the number that we would likely need to roll up to until we get a cohort that is of a statistically reliable size to calculate the earnings metric. Okay. Let's go to the next slide. Some people commented that they liked the flowchart from the first one. I -- okay, so we're on a streak now. Hopefully you guys like this one as well. The process that we've proposed, when you talk about rolling up for four years at three different CIP code levels, it actually creates 14 individual steps that you could ultimately aggregate. So this is what this chart is showing. The -- you start where it says start. Let's say the current year is 2025. If you're a small program that has fewer than 30 Title IV completers, you would start this roll-up process. So at the same six-digit CIP level, which is the top row, you would walk back to 2024 and add those completers. Still not at 30? You would keep walking down the path. You'd go to 2023, 2022, 2021. You'd be snowballing the completers and at any point along the way, if you hit the statistically reliable threshold size, which would be between 30 and 50, you would stop. But let's say you get to step four and you still haven't hit 30. Following the path, you'd go down to the second row and now you're aggregating at the four-digit CIP level. So you jump back to the current year, 2025, and then you start the one-by-one year process of walking back. But now you're aggregating completers from other programs at the same credential level at the same college. But they share now the same four-digit CIP umbrella category rather than the same six-digit CIP umbrella category. So you do the current year and then step six, seven, eight, and nine are the four years that we roll back to. The final, the final steps from 10 to 14, you repeat the process one more time, but now you're at the two-digit CIP level. So you start -- you jump back in step 10 to 2025, which is the current year in this hypothetical example. You would take the -- all the Title

IV completers from 2025 that share the same two-digit CIP code at the same credential level, and you would just walk back one more time until you get to step 14. If you get to step 14, you've done this 14-step cohort aggregation process, and you still haven't gotten to 30 Title IV completers, you would -- do not have a statistically reliable cohort size. We aren't able to -- we would not be able to get an earnings metric for you, and your program would be exempted from the accountability provisions in the proposed rule. Let's go to the next slide to do a different type of example. So what this table is showing, it's the exact same undergrad certificate program at the exact same college at the exact same credential level. The aggregation period column is showing the 14 steps that we just described on the prior slide. So step zero to step 14 correspond exactly to the 14 steps along the path in the prior slide. You can see the award year and lookback year where you can actually see what year that would be referencing and reference to the prior slide. The Title IV completers column, these are the number of Title IV completers in each individual year that would be aggregated together. And then the final column is the rolling snowball size for the threshold we add. So for example, let's -- in 2025, in the current year, this program, this hypothetical program had five Title IV completers. Obviously below 30, we need to do a roll-up. Next year, it had nine. So it had five, you added nine, now you're at 14. The next year you're at 11 -- you had 11 and the next and the next prior year. So in total you're at 25. And you can see you just follow the exact cohort aggregation process. That was a 14-step process that was discussed on the prior slide. And you see that if -- for example, if 50 is the threshold we use to determine a statistically reliable cohort size, and again, that's a big if, we're still determining that, but if that's the case, you would need to do 10 steps of cohort aggregation for this program to ultimately hit the threshold. At that point, we would stop the aggregation process. That would be the batch of completers that we would send to the IRS, and they would do their earnings calculation. So let's do the next slide. We're moving on to the second topic of the presentation, which is discussing how often cohort aggregation will occur. And the answer is quite often. Overall, only 9% of programs have more than 30 Title IV completers in 2025. Now rest assured, those 9% of programs enroll well over half of students. So it's 10% of programs are enrolling, you know, a majority of students. But for the 90% of programs that are enrolling the other half of students essentially, there will need to be a cohort aggregation process. This graph is just showing that there is variation in the percent of programs that need aggregated across different credential levels. So first professional programs, for example, two-thirds of them would need aggregated because 35% of them, about a third of them, have 30 or more and wouldn't need to trigger the roll-up process. But for example, post-baccalaureate certificate programs, only 1% of those programs have 30 Title IV completers in a single award year, so 99% of them would need to go through this cohort aggregation process. Next slide, please. And then cohort aggregation will require numerous prior cohorts. So this graph is showing you that among, among conditional on being a program that needs to be aggregated and that you get to this statistically reliable threshold size, which in this presentation we're using it as 50, about 7 to 10 steps along the way is about the average number of steps that are taken for programs to get to the sufficient cohort size. Now again, let's go to the next slide. This is showing you the step-by-step process. So you can see how much each individual step is getting you along the way. So after the first aggregation step, just 2025 and 2024 in the same -- at the same six-digit level, 10% of programs are covered. After five years of -- after five -- not five years -- after five steps of aggregation, you get to a quarter of programs are covered by the -- give a sufficient sample size. At the very end of this 14-step process, 58% of programs get covered. They do hit the statistically reliable cohort size. Let's go to the next slide. As mentioned though, the share of students that get covered is far, far larger. So the prior slide was showing you shares of programs. Now I'm showing you shares of Title IV completers that get covered. So after zero years at step zero for the aggregation, i.e. programs don't need aggregated, 56% of students are in those programs, 44% of students are in programs that will require some amount of aggregation. And you can see that three-quarters or about 77% of Title IV completers are in programs that achieve this statistically reliable cohort size by the second step, so after two steps of aggregation. And then after all 14 steps, you see that 94% of Title IV completers get covered. So the takeaway here is that this aggregation process ends up covering the vast majority of students, 94%, and it ends up covering over half of programs. Now the 40-some odd programs that don't get covered, they're only enrolling 6% of Title IV students. So you have a large number of programs, but they're very small and only enrolling 6% of Title IV students. Those would be the students that would be exempted from the earnings test because they are unable to achieve a statistically reliable cohort size after this 14-step aggregation process. Go to the final slide. So I would just conclude by saying remember these results are estimates, not the actual results. These estimates were derived using NSLDS data from 2021 to 2025. To the extent that enrollment patterns change or anything, obviously this -- those estimates could change. But the takeaway is that we're covering, we're covering the vast majority of students. Again, 94% of Title IV completers get covered. And that's about six out of ten programs. I will take questions now. I believe that's the end of the presentation. Yes. Thank you.

MS. MACK: Thank you, Cody. Questions? I see a number of cards going up. Preston, let's get started with you.

MR. COOPER: Thank you very much. This is, this is a super helpful presentation, and I think we all really appreciate your flowcharts. So thank you for that. A few clarifying questions. So in the cohort aggregation, say you get to -- so you aggregate using the six-digit CIP code. You aggregate five years of past data. You still don't have enough students. Do you then aggregate the five years of the six-digit CIP, plus the one year of the four-digit CIP?

MR. CHRISTENSEN: Sorry, it's not --

it's never five years because we only look back four. So we look at the current year and then four prior years. Is that what you're talking about?

MR. COOPER: Yeah. So, say you like you do that. You do that, the current year and the four prior years for the six-digit CIP. And you don't get to the threshold. The next step is adding just the current year for four-digit?

MR. CHRISTENSEN: That's correct.

MR. COOPER: Okay.

MR. CHRISTENSEN: It's a standalone step. So you go back -- if the current -- let's say the current year is 2025. After you do 2025 and then '24, '23, '22 and '21, the fifth step is you jump back to the current year, which is 2025, but you only added in the four-digit CIP, the people, the Title IV completers who are in the same four-digit CIP from the current award year.

MR. COOPER: Okay. So it's the current plus four back for the six-digit CIP plus just the current for -- excuse me, current plus four years back for the six-digit CIP plus the current for four-digits.

MR. CHRISTENSEN: But that last point is a separate step. So if you didn't -- if it's 2021 and you're at the six-digit CIP level, you looked back four years and you got to the statistically reliable threshold limit, you would stop. But if you still needed to continue expanding the next step along the pathway -- we can go to the path -- we can go to that path slide if it would be helpful.

MR. COOPER: Yeah.

MR. CHRISTENSEN: It's -- we're imagining that as a standalone step in the process.

MR. COOPER: Okay. Gotcha. Gotcha. So what about if you're combining multiple six-digit programs into a four-digit, if you have multiple six-digit programs under that four-digit, one of the six-digit programs has enough students so that you can get an estimate just based on that six-digit program, but then you're combining like a smaller six-digit program sharing the same four-digit CIP code, does the aggregated, does the aggregated four-digit sample like, speak for both of the programs, even though you're getting a six-digit sample for the -- for one that's reliable? I'm sorry, I'm not explaining this well.

MR. CHRISTENSEN: I would classify the question -- the class of questions you're bringing up are these edge cases or what happens when you're right around the threshold. So let me explain it like this. Let's say the statistically reliable threshold limit is 50 just for the sake of argument, and let's say you're at 49 students and you need to go back one more step because you're one student below that threshold. But then on the next cohort you added, added four more students. Do you take all four of those students or do you just take one to get to 50? This is still a question the Department is contemplating, but I know that we're thinking that you would take all four of those students, otherwise you'd randomly be picking one of them. So there are edge case questions. I think, Preston, your question that you're raising is -- falls into that group where you need to aggregate up to the -- you move from the six-digit to the four-digit CIP and another four -- another six-digit CIP, but shares the same four-digit CIP is very large and would alone cover it. I think the way we're thinking about it is you would need to bring in all of those students regardless to not sort of pick and choose which ones you're bringing in. It would be -- you would equally bring in everybody. There are edge case scenarios where that could put you well above the statistically reliable threshold size, but we think those cases would be exceptions and not the rule because -- yeah.

MR. COOPER: Gotcha. Okay. Yeah. Sorry. I think my question was more like, so if you're combining two six-digits under the same four-digit, one is large, one is small. Let's just say you have like nursing and alternative medicine. I think that's actually two four-digits on the same two-digit. But like nursing already has like 50 students in the first year. Alternative medicine, like you have to roll up with four-digit CIP codes. When you make that determination at the four-digit, like CIP code level, that's only speaking for the small alternative medicine program, not the large nursing program. Right?

MR. CHRISTENSEN: I believe so.

MR. COOPER: Okay.

MR. CHRISTENSEN: If I follow your question, I believe that's correct.

MR. COOPER: Okay.

MR. MUSSER: Yeah. That is correct. Each program goes through the roll-up process separately. Yeah.

MR. COOPER: Okay. Great. Thank you.

MS. MACK: Thank you. Eric, please.

MR. ATCHISON: Thank you, Cody. From a statistical reliability standpoint, are you thinking about measuring that against sector-level -- like where, where are we looking at determining reliability in various --

MR. CHRISTENSEN: So those are all

things that we're still trying to figure out because obviously students have different connect, different connect -- different levels of connectedness to the labor market based on the credential level that they're completing. And therefore, you might -- if we send over 30 -- for example, if we send over 30 students who completed from a bachelor's program four years later, 28 of them might be working. But the match rate at the IRS may be much smaller for different sectors or different credential levels. So all of those things are still things we're thinking about. But that's why we haven't pinned down a specific threshold, because we don't want to pin something down that would then have been artificially too low for us to implement the rule.

MR. ATCHISON: Sure. I would just think that you would probably want to take the same approach across all programs in a specific level.

MR. CHRISTENSEN: That point is well taken.

MR. ATCHISON: Yeah. Second, 42% of programs is no small number here, 6% of Title IV recipients. What are those 42% of programs that represent such a small proportion of Title IV aid?

MR. CHRISTENSEN: I can -- I did not prepare analysis on that specific question. I'd be happy to follow up with it, but I think the representatives for the colleges here would agree that the way that higher education operates is that there are just a lot of really tiny programs that take a student or two every other year. And so you have a vast number of programs that end up being really small. I do agree that 42% is nothing to shake a stick at, but they only enroll 6% of the Title IV completer population, so it is -- it's a ton of really small programs.

MR. ATCHISON: So the way this measure is -- or the process map, which also support that, thank you, is those programs would not necessarily be captured in these outcomes, these earnings (inaudible).

MR. CHRISTENSEN: The reason for that is the law states to roll up to 30 programs. And if you can't get to 30 after you do this robust aggregation process, what -- there will be a point where you would have to send the whole -- at some point you have to stop doing a roll-up and just exempt a program is sort of the position that we've always felt. And so we believe that looking back four years and rolling up at the six-digit CIP, then four-digit CIP, then two-digit CIP is a comprehensive way to do that. If we were to go back and look even further, five years, six years, seven years, you don't actually get up to 100%. You get up to maybe

95% instead of 94%. So it's -- you're not getting a ton more, but the risk there is, you're just looking almost a decade in the past if you don't draw a cutoff at some point. So we are balancing recency plus what we think is really good coverage. And even if we went back way further, we still wouldn't get to 100%.

MR. ATCHISON: I completely understand. I just think that 42% is a pretty large number of programs that institutions offer that would be left out of this.

MR. CHRISTENSEN: Yes, the 42% is a large number of programs that enroll 6% of the completers. So on one hand, you could say 94% of students get covered by this, which is a sizable share.

MS. MACK: Thank you. Dave, please.

MR. MUSSER: Yeah. And I would just say when you're thinking about this from a policy perspective, we were doing our best to adhere to the intent of Congress here to get as many programs included as we could without getting into either cohorts of students who were so far in the past that they don't really represent the -- what's happening in the program now or rolling all the way up to the institution level, where you're comparing programs that have absolutely nothing to do with one another. So we landed on this based on our analysis of getting as many students as we could in these periods of time and up to the two-digit CIP code level.

MS. MACK: Thank you, Dave. Okay, I've got David and then Jeff.

MR. KAFAFIAN: I guess I'd first start by thanking you for another presentation and a really thoughtful approach. I don't think there's a perfect way to do this, and I think this is a great start. One, just clarification on slides eight through ten when you're coming to 94%, 58%, all of those numbers, that is based off of 30 data points, 50 data points? What's the --

MR. CHRISTENSEN: That threshold was 50.

MR. KAFAFIAN: It was 50.

MR. CHRISTENSEN: But again, that is a -- that is an example to show you that -- so if it was lower than that, it would be even higher. Exactly. We did that for the specific purpose of giving you sort of a most conservative estimate for what it would be, so yes.

MR. KAFAFIAN: Okay. Terrific. That's helpful. The other one is just a technical question of, you know, when you start winding back to four-digits, you run the risk of double counting if you don't think about it correctly. Right. The six-digit you've already counted is already in that four-digit, so --

MR. CHRISTENSEN: The --

MR. KAFAFIAN: Mathematically, you probably just -- I'm sure the whole four-digit.

MR. CHRISTENSEN: It is actually a complicated mathematical thing to think about. You want to make sure you count everybody else, but not you. That is what this analysis represents. So yes, we are not double-counting students.

MR. KAFAFIAN: Great stuff. Thank you.

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

MR. ARTHUR: Yeah. I'd just point out that if you -- when you introduce a new program, it's going to take two to six years before it's counted. It's going to look like an unmeasured program, which it is. Also, when you, you know, program demand ebbs and flows and when you start teaching out a program, I mean, that's going to phase out so that when you introduce and when you phase out, you're going to have a large number of programs that are in that period that aren't going to get measured. And that's just fine. That makes sense. Nothing's being evaded there. And I also point out that, you know, we had a big change to the CIP code structure in 2020 from 2010. We'll have another one in 2030. I mean, there are new fields that come into play, and I would suspect for 2030 we might see a number of new fields, and those are going to take a while before they're measured. So I think a lot of that missing data, so-called unmeasured data, really isn't that small. And frankly, for the institutions in my sector, if you go through 14 stages of roll-up and you don't have 50, we're not -- that's not going to happen. We're not offering that program. It's not viable. And I wouldn't think it is for anybody after that -- after those steps.

MS. MACK: Thank you, Jeff. Kristin?

MS. HULTQUIST: Thank you. I try not to pile on, but you've done a phenomenal job, so I'm going to repeat my colleagues. On that slide with the dots, the illustrative example of cohort aggregation. So --

MS. MACK: Kristin, can you speak more directly into --

MS. HULTQUIST: Yes. I'm sorry.

MS. MACK: Thank you very much.

MS. HULTQUIST: -- cohort, are we sending then to a Federal agency with an agreement for matching data -- are we sending them data saying we need wage information from '21, '22, '23, '24, '25? So the wage year of the tax year matches the academic year?

MR. CHRISTENSEN: This is right. And this does get into the timeline question. The way that it would work is if we had to do an aggregation process, we would send a batch of completers to the IRS. But for the different groups, the different prior cohorts, we would need a -- we would need the four-year earnings metric for each of them. So let's say you had to aggregate from step zero to step three, we would say hey, for the -- for these group of 2022 completers, send us the four-year earnings, which would be measured in 2026. Again, four years later. But then for the 2023 completers, we would need the 20 -- so each one would be a four-year earnings measure. And the IRS would need to -- would calculate the consistent window based on when they completed. That's right.

MS. HULTQUIST: Okay. That's helpful. Thank you.

MS. MACK: Thank you, Kristin. Tamar?

MR. MUSSER: One quick point. Sorry, Kayla. Just, just to clarify that it's -- that that concept is the same as what we agreed to in Workforce Pell.

MS. MACK: Thank you, Dave. Apologies for missing your card. Tamar?

MS. HOFFMAN: Thank you. I just had a

quick clarifying question. So in cases where you're going backwards in time to achieve a sufficient cohort size, let's say you're going to cohorts that are now six years back. Are you measuring their wages at the four-year mark to make sure that it is equal across cohorts?

MR. CHRISTENSEN: Exactly. Correct. And you only go back four years, right? So the six-year mark would be --

MS. HOFFMAN: Well, you're measuring wage -- four years --

MR. CHRISTENSEN: Exactly, so --

MS. HOFFMAN: -- (inaudible) but let's say you're going two years back there but you're measuring it at the four-year mark still.

MR. CHRISTENSEN: Correct. We're talking about the same thing. Yes, exactly. And it would be measured at -- each cohort would be measured at the four-year mark, which is again identical to what we agreed on in Workforce Pell.

MS. HOFFMAN: Okay, great. Just confirming. Thank you.

MS. MACK: Thank you, Tamar. Michale?

MR. MCCOMIS: Thank you. Exceptional. I think I might understand some of it, thanks to this presentation. But on slide number seven, we had been on that one. I just want to make sure that I'm understanding that only 9% of programs -- slide seven with the -- yeah, with the bar chart, only 9% of programs have more than 30. And that's because you're limiting that by the CIP six.

MR. CHRISTENSEN: And Title IV completers.

MR. MCCOMIS: And Title IV completers. So they've graduated from the program, however we define completers, but they've graduated from the program. And just so -- you know, I'm -- let's just say that a school graduated 250 students in a year. And then when we look at, look at the data downstream, we try to capture them, less than 10% of them are similarly situated in a CIP six code. Is that, is that what we're saying? So of those 250 Title IV completers, less than 10% have jobs that are like one another and that are related to the field in which they --

MR. CHRISTENSEN: I don't think that's the exact interpretation that I would have for this. I would say that when looking at a six-digit CIP, so the most specific level of program that we can get, 9% of programs have 30 or more and wouldn't need this aggregation process. So if a program had a two-digit -- -- are you suggesting that a program at a two-digit CIP would enroll -- would complete 250? I guess I need more clarification on what is the 250 number that you're --

MR. MCCOMIS: I'm just -- that is completely -- I'm just -- for -- if it's a, for example, a, you know, I'm just trying to get a sense of when you say only 9% of programs, are only in any given year, are yielding 30 completers at the CIP six level. But I think anecdotally, we know that there are hundreds and hundreds and hundreds of programs that graduate far more than 250 students from a program in any given year.

MR. CHRISTENSEN: So let's use this example. Let's say that the program is a political science program that is not a six-digit CIP. It gets more specific than that in the --

MR. MCCOMIS: That's my question. So --

MR. CHRISTENSEN: So you would need -- and maybe that's a bad -- maybe -- I believe -- somebody can correct me if I'm wrong, but I think political science is broken out into maybe four or five different highly specialized areas. Maybe US political science, international, whatever it is, it's that that more agg -- that more granular level that you need to have 30 or more. So if your political science program graduates 250 programs, that's not -- or 250 Title IV completers, that's not what we're talking about here. We're talking about the more granular level that there needs to be at least 30.

MR. MCCOMIS: Right. And thank you for that example. And not using history as my undergraduate would, would -- so, so did you do the analysis, I guess? I'm just trying to get down to what's the tipping point between CIP six and four? Like, do you see -- oh, it goes way up at 4 in most of those programs?

MR. CHRISTENSEN: The tipping point is between four and two, mostly.

MR. MCCOMIS: Okay. That's -- I thought that you might say that. So we, we really need to get far beyond the granular to these much bigger caches of categorization in order to actually be able to run this aggregation model.

MR. CHRISTENSEN: The only response I would have to that, though, is we don't -- we do not want to jump directly to aggregating at the two-digit CIP, because some programs do get covered by -- at the four-digit CIP level, and those programs are more alike than at the broad two-digit umbrella. So while it is -- while the tipping point, as you referenced, is between the four and two-digit level, we didn't want to skip the four-digit level. We think that's a valuable part of this proposal.

MR. MCCOMIS: No, I understand. I just wanted to make sure that, that I got the model. So, thank you.

MS. MACK: Thank you, Michale. Thank you, Cody. I'm going to go to Randy next. Thank you for your patience, Randy.

MR. STAMPER: Sure. It took me this long to figure out what I wanted to say. So, if you're saying that more often than not for this -- to assess this earnings measure, we're going to have to go back relatively deep into four-digit and maybe even into two-digit in CIPs that have wildly varying types of occupational and earning outcomes. How accurate is -- is there -- has there been any study of how accurate that will be if you're assessing a program like Athletic Trainer and eventually you're adding in EMTs and nuclear medicine technologists and that sort of thing?

MR. CHRISTENSEN: I would just fall back to the statutory language that says the Department should roll-up small programs that are similar in -- that -- essentially says that are similar in length or type. And so we believe that the best way to do that is using the well-known taxonomy of classification of instructional programs. And while it may be true that within a two-digit CIP, you have -- was it physical therapy and another example you said could be wildly different? This is the best classification system we have. Congress specifically explained to us, told us to do a roll-up method and we would say that this is the best way we can do it with the existing taxonomy of programs that we have, barring creating an entirely new or different taxonomy. I don't see an alternative to this approach.

MR. STAMPER: Understood. Okay. Sure.

MR. LALLO: Yeah. The statute doesn't explicitly command us to use the two-digit CIP, but in the definition of, you know -- or where it's talking about the calculations for lowest median earnings, it explicitly suggests using the two-digit CIP. There's a parenthetical that says as determined by the Secretary, such as by using the two-digit CIP code. So Congress contemplated using CIP codes in this way, and they contemplated the two-digit issue.

MS. MACK: Thank you. Back to you.

MR. STAMPER: Follow up, if I may. So, so my concern is not skewing an earnings measure lower. It's skewing an earning measure higher for a program that by the letter of the law, Congress would probably not want to be including. So that being the case, and I don't know if this is even wise to suggest, but does the Department believe that it would have authority and would it want to entertain some sort of -- it's not an appeal necessarily, but some sort of an additional justification or other provision of information about the variation of potential salary exaggeration?

MR. MUSSER: We -- the Department has some authority under the appeals section. What I would say is we do have fairly strong feelings about keeping the appeal process relatively limited to the data that that we're establishing. But we will entertain other proposals around appeals for loss of program eligibility.

MS. MACK: Thank you. Jeff?

MR. ANDRADE: And just to clarify, you’re basically talking about appeals that would be on the basis that it was a de minimis number.

MR. STAMPER: Yeah. And I'm not even sure it's an appeal, actually. I'm thinking more that this might be a legal services or a taxpayer issue in that a program that could be very small and also so niche that it would never meet the earnings metric is going to be approved because it's going to get lumped in with those that do.

MS. MACK: Tamar, did you want to add something to this?

MS. HOFFMAN: Yeah, sure. Randy actually did a great job explaining a point that I was going to make as well. Like just to give like an example of this. So I'm looking at the CIP codes now. Being a medical office receptionist falls under the same two-digit CIP as being a doctor. Do we want to basically have a situation where it's possible that a medical receptionist program continues to get approved because it's suddenly getting lumped in with the salaries of doctors? That's the concern.

MR. STAMPER: I think -- and I think that the -- that from the six to the four is really, I think, where it's really glaring. I mean, I don't think you're going to get a lot of twos, but that six to four, you can go from really narrow to just, you know, the whole barnyard.

MS. MACK: Dave, please.

MR. MUSSER: So that is -- I mean, I understand the point, Tamar, but keep in mind that we're defining these both in terms of CIP code and credential level. So, unless the receptionist is at the MD level, then they won't be lumped together in that way. That's not to say that there won't be programs where there are high earners in you know, in the baccalaureate degree, one of them is not getting high earnings. And the other one is. We think that the number of those cases is quite a bit lower, though, than if you had -- if you were combining the credential levels.

MR. CHRISTENSEN: That's a key point, Dave, thank you. It's -- we're staying at the same credential level always. If you're an associate degree program, you're never getting rolled up with a bachelor's program or anybody else. We're just moving at the associate degree level, broader and broader. But it's still an associate degree program. So that case, I don't think would ever apply.

MS. MACK: Thank you, Cody. Thank you, Dave. Jeff, did you have anything else on that point? Okay, Aaron, I'm going to move to you.

MR. LACEY: I want to go back to the interval question between award year of completers and the earnings year, or the year for which earnings are measured. As a threshold matter, I think if the intent is to keep the interval the same, I don't think that's what the regulatory text says, the proposed text. It says -- I'm looking at 668.404 for the Department obtains the data, earnings data, the most currently available median annual earnings of the students who completed the program during the cohort period. So the cohort period is all the students on the list, and the most recently available earnings for all those students is going to be the most recently available earnings year. So I think if your intent is to create a consistent interval, you probably are going to have to revise that regulatory text. But let me give you two things to think about. The first is as opposed to Workforce Pell, here your comparison data point from the Census Bureau does include individuals who have been in the workforce for different periods of time. Right? It's everyone who's been out of high school who's between 25 and 34. So you've got a staggered set of individuals who have been in the workforce for different numbers of years. Let -- taking everything from the same earnings year on your completer side would actually make for a better apples to apples comparison, right? Because you would be including on the completer side as well, people who've been out in the workforce for different, different period of years. So it's a, it's actually a better apples to apples test. The other thing is, I have to think it would be administratively much easier for the Department to do, because now you're just reaching out to the earnings agency and you're saying for everyone on this list, we want the earnings for a single year. It's going to be vastly more complex if you're having to pull earnings from different students from all these different years. So I think it makes for a better test and a better comparison. And I also think it'd be a lot easier for the Department to administer.

MR. MUSSER: If that -- if you want to submit that proposal, we can certainly take a look at it.

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

MR. KAFAFIAN: So this point may be moot because it's on the other side of what Aaron was just saying. But if you weren't to take that, and I don't honestly have a perspective in either direction, then I do think you need to also add that you're going to inflation-adjust for any of these, right? Because if you're not looking at current year and you're comparing to a current year benchmark.

MR. MUSSER: That is the Department's plan. That's right.

MR. KAFAFIAN: The only thing I would just say -- would share for our colleagues is, you know, the backdrop is if we run all 14 steps and we don't reach a statistically significant cohort, we get to exemption. So the backdrop is as imperfect as it may be, doing this daisy chain only creates the possibility of additional programs that would be deemed ineligible. And so I gather that it is unfair. But to your point, Randy, if we did none of it, we would just end up with them de facto getting to exempt anyway, because to Eric's point, we'd have far lower coverage levels. So yeah, I would just say I'm at a bit of an impasse of how to make it better than (inaudible).

MS. MACK: Thank you, David. Kristin?

MS. HULTQUIST: Thank you. Why did I put my hand up? Oh, we -- back to before the cohort interval issue. Randall -- Randy was talking about the issue of what we were calling in the public sector as material similarity. And so I realized that this isn't necessarily a question about why, but has there been any analysis done by the Department when you go to that level, what is the material similarity within this? And are there areas where -- it's analysis. I just -- we just don't know. It seems like you've done the best you can with the data you have. So that -- to me, it's not that, it's the so what.

MR. CHRISTENSEN: I would just take -- how would you define materially similar? That's a tough question. Right? And so the best we have is the CIP code taxonomy. It's been in existence forever.

MS. HULTQUIST: Just good future -- will this data be publicly available so that the field could do these analyses and provide this information for learning?

MR. CHRISTENSEN: At this time, the data is from NSLDS, and I do not believe it will be made available as is our common position here.

MS. HULTQUIST: Okay.

MS. MACK: Thank you, Kristin. Thank you, Cody. Preston?

MR. COOPER: Thank you. I think the most relevant chart in this presentation is on slide number ten, which is the cumulative share of Title IV completers that achieve a sufficient cohort size, you know, weighted by the number of students. And I just want to point out that at the fourth aggregation step, you're covering 84% of students. I mean, the vast majority of students, without having to aggregate up to a higher CIP code level. So for the vast majority of students, we're not having to do any of this aggregation. It is actually really just a small number of cases where we're having to aggregate it up to the four-digit or to the two-digit CIP code level. It's a large number of programs in an absolute sense. But that's because all those programs are tiny. You know, most students are in a program that's not going to be combined with a higher four-digit or two-digit CIP level. So I think there's no perfect way to solve this problem. But like, I think, you know, the Department has done a very good job, you know, coming up with the best solution here. And I think, you know, this is -- I'm not sure we're going to get to a better solution on aggregation than this. One small suggestion I have is this chart on slide ten, broken up by credential level, might be interesting because, you know, aggregation up to the four-digit CIP level can mean different things at different credential levels. For certificates, for instance, you know, sometimes you can have very different types of certificates sharing a four-digit CIP. But for bachelor's degrees, I mean, history is like a two-digit CIP. And I know a lot of historians are going to be mad at me because I'm, you know, saying that American history and European history are similar, but, you know, sorry, Michale, but, you know, if you're aggregating up to the four-digit or the two-digit CIP level at the bachelor's degree level, like that's a little bit different than aggregating up, you know, two different trades that might share the same four-digit level. So that just might be an interesting run to do is to look at the chart on slide ten, broken up by credential type.

MR. CHRISTENSEN: We can do that.

MS. MACK: Thank you, Preston. Let's move to Tamar. And David. Look at them all falling. All right, Kristin, back to you.

MS. HULTQUIST: Pardon me. Okay. This is not negotiator for the public sector. This is chair of the board and HCM working at the state financing level. But these data are critically important we get out about program size and number of completers in programs. We have issues with productivity that the states are trying to address in different ways. You have, you have -- in trying to interpret Congress's intent for practical purposes for institutions, you can empower state policymakers to think about how most programs are very, very small. We don't have good cross-subsidy data in this country, but we do know what the implications are for affordability. So I just wanted to flag, as Congress is clearly interested in value and affordability and time are key variables in value, I'm just publicly advocating for as much as you can get out about how many programs are small. I sure would appreciate it as board chair because I get glazed eyes about, well, we just cross-subsidize that, and -- but it does add up at some point.

MR. CHRISTENSEN: It's a point well taken.

MS. HULTQUIST: Okay.

MS. MACK: Matthew?

MR. FEEHAN: Super short and to the point. I would second that and just stress, because I have a data request pending with the Department that some of these programs that active duty service members are enrolled in are really niche and highly specialized in the defense sector. So, yeah, just second that point.

MS. MACK: Thank you, Michale?

MR. MCCOMIS: I think probably along the same line. So on slide nine, if I'm reading this right, 42% of programs would be exempt.

MR. CHRISTENSEN: That's correct. But they enroll 6% of the Title IV students.

MR. MCCOMIS: Yeah. So those -- that 42% of programs only enroll 6% of all of all the students.

MR. CHRISTENSEN: That's correct. Title IV -- I'm sorry, of all Title IV completers, yes, correct.

MS. HULTQUIST: So, cross-subsidy with no ROI?

MR. CHRISTENSEN: I don't think the slide contained information about cross-subsidization.

MS. HULTQUIST: I know, I'm sorry.

MR. CHRISTENSEN: So, I can't speak to that. I will say that there are privacy laws and policies in place which prevent us, in a lot of cases, from revealing (inaudible) sizes or program sizes of ten or of nine or fewer students. And so a lot of the data that you're requesting through these would be not -- we would not be able to share those, unfortunately. So it -- that is a bigger issue. It's not just a decision of, oh, we could hit a button and make this data available. It's not that simple.

MS. MACK: That is all of our questions. Cody, thank you so much for the presentation and fielding those. With that, with that, Dave, I'm going to turn it over to you. And I believe we're going to begin with topic two.

MR. MUSSER: That's correct. Thank you, Kayla. We're just waiting for that to come up. Okay, so here we are in topic two, which only includes one section of the regulations. That's 34 CFR 668.2. These are definitions that pertain to the whole of the Title IV programs. So a little narrower than the part 600, the institutional eligibility regulations. So scrolling down, the first change here is removing the debt-to-earnings rate definition, given the Department's approach. Let's scroll down a little further. Here again, the first couple of these are eliminating the concept of debt-to-earnings. This is a definition of a cohort period. So this is where we will actually enact the process that Cody just described. As I mentioned, this only applies now under the Department's proposal to the earnings premium measure. As you can see, we changed it from two to a single year cohort period. Previously in the FVT/GE regulations, we were using a two-year cohort at the outset. Here we are starting with a single year cohort to calculate the earnings premium measure. So let's just scroll down just a tiny bit further. Again, some conforming changes removing 403 and making the -- making it 403 because that's the -- now the earnings premium section. Again, any -- anywhere that you see the two-year, we're changing it to single, and we explained that we're sequentially expanding the cohort period in the manner described below. So once we get down to the bottom here, we say the cohort period includes award years that are. So let's just keep scrolling down. For the single-year cohort period, the fourth award year is prior to the year for which the most recent data are available from the Federal agency with earnings data pursuant to 668.403. So then -- scrolling down -- and then we get to, for the expanded cohort period, the Secretary will sequentially add prior award year data to the single year cohort in the following order, until the cohort equals or exceeds 30 students. And then you see the parenthetical that Cody discussed. Unless the Secretary determines the data are unreliable, in which case the cohort size may be increased until the Secretary determines that the data are statistically reliable. And then we scroll down a little further. Sequential prior award years within the same program are the first set of cohort expansions, the fifth award year prior to the year for which the most -- for the most recent data is available. Going down to the next one. Now B, the sixth award year, the same language. C, the seventh award year, the same language, and then D, the eighth award year with the same language. Then we move into to romanette two. Sequential award years for all programs within the same four-digit, four-digit CIP code and credential level. So again, moving down, we have A, the fourth award year. Fifth, B is the fifth, C is the sixth. Going down past D is the seventh, E is the eighth. And then moving into romanette three we do exactly the same thing, sequential award years. And part of this is just we, we felt it was important to be extremely specific here to express how the Department will move backwards in time and across the CIP code levels in these cases. So again, the fourth award year under A. B, the fifth award year, C, the sixth award year, D, the seventh award year, and E, the eighth award year. So let me pause there before we move on to other definitions, since that is plenty complex on its own, as only Cody could have explained.

MS. MACK: Thank you, Dave. David, let's start with you.

MR. KAFAFIAN: For the Secretary's determination, is that expected to be at the school level, at the CIP level, at the credential level, or is that something -- like how, how much discretion will the Secretary have to make various changes for different schools, different programs?

MR. MUSSER: You mean in terms of the statistically reliable concept? All I can say there is that we are still analyzing what approach is best to determine what constitutes statistically reliable? The Secretary likely would shy away from determining that on a school-by-school basis. I'll just say it that way. We will do our best to determine it in a way that again, goes back to our original intent to create parity across all programs.

MS. MACK: Thank you. Tamar?

MS. HOFFMAN: Thank you. I just wanted to make sure that I wasn't missing the boat. One of the very first things is the conforming change about debt-to-earnings. This has been sort of throughout. I know that you all had telegraphed that you wanted to discuss that, but I wasn't sure at which point. And I wanted to be appropriate about when the right time to do it.

MR. MUSSER: It would be the next topic.

MS. HOFFMAN: Okay. Thank you.

MR. MUSSER: Yeah.

MS. MACK: Thank you, Tamar. David, did you have something else? Okay, then back to you, Dave.

MR. MUSSER: Okay, so we'll move down then. Credential level. This is again how we explain -- even though there were no changes here, I just want to point out, this was included under the existing FVT/GE regulations explaining the various credential levels which include undergraduate certificate, associate degree, bachelor's degree, post-baccalaureate certificate, and then the graduate credentials are master's degree, doctoral degree, first professional degree, and graduate certificate. Those are all the different credential level groupings that are in this definition. So moving down, we've deleted the definition for debt-to-earnings rates. And again, we had discretionary and annual debt-to-earnings rates. We've deleted both of those. And here we get to the earnings premium definition. So let's keep scrolling down. We first -- we have a conforming change to 668.403. Keep going. Okay, and then we get to the earnings threshold concept. So keep in mind that the -- in the financial value transparency Gainful Employment regulations, the earnings threshold is the -- is essentially the comparative -- the earnings of the comparison group. And so we've taken that concept and we have adapted it for the One Big Beautiful Bill Act's approach to distinguish between graduate and undergraduate programs as well as to make somewhat more complex the graduate -- the process for determining comparison groups for graduate programs. So I'll go through this slowly to make sure that we cover how that works. You saw, though, in the earlier presentation, excellent presentation by Cody, how this plays out in terms of which, which comparison group is used in which category. That presentation is going to be the simple version of how, of how to understand this. So, for undergraduate programs starting out, since those have a different approach than graduate programs, based on data from the Census Bureau, the threshold is the median earnings for working adults aged 25 to 34, with only a high school diploma or the recognized equivalent who worked and who were not enrolled in an institution during the year of the associated measured earnings. So one quick note about this. We did talk a little bit about the concept of working. And we think it's important. We want to talk a little bit more about the definitions that we are proposing to use, even though they aren't in the regulatory text. We want to be, we want to be fully transparent about how we reached our proposal for what to use. So Cody is also going to give a short presentation after this about that so that you guys have that information as well. But here, we're talking -- we are talking about the concept of worked and who were not enrolled at that institution during the year of the associated measured earnings. And scrolling down. So it's either in the state in which the institution is located or nationally, if fewer than 50% of the students enrolled at the institution, so note the change here. Previously, this was done -- this test was done at the program level. Now, because we are adapting this to the OB3 approach, it is done at the institution level for all programs at the institution. This was -- this is part of what is in the statute. So if 50% of the students enrolled at the institution are from the state and -- where the institution is located, we use the national value. So the undergraduate programs have a relatively straightforward approach compared to graduate programs. So let's get into the graduate programs now, scrolling down a little bit further. For graduate programs, the earnings threshold is based on data from the Census Bureau. The median earnings of working adults age 25 to 34, with only a baccalaureate degree, who were not enrolled in an institution of higher education during the year of the associated measured earnings. The median earnings will be, so romanette one, the lowest of the median earnings of working adults, A in the state in which the institution is located -- scroll down -- B, in the same field of study as the two-digit CIP code in the state in which the institution is located, or C, nationally in the same field of study under the two-digit CIP code. So Congress here was attempting to, I think, get as close to a apples to apples comparison as possible for graduate programs, recognizing that many graduate programs are more focused than many undergraduate programs, especially undergraduate programs at the baccalaureate degree level. I don't want to put, you know, ideas of what the Congress was really thinking here, but that, that is our understanding here. Then, romanette two, if fewer than 50% of the students enrolled in the institution reside in the state where the institution is located, the lowest of the median earnings of working adults, either nationally or nationally in the same field of study under the two-digit CIP code. So that's the graduate -- the method of determining the graduate comparison groups. Finally, we have a third and separate category. So these are for programs offered by institutions located -- sorry, not --

we have a third -- we actually have one more after this -- for programs offered by institutions located in the US territories or the freely associated states. So romanette one here, for undergraduate programs in these territories, based on data from the Census Bureau. The threshold would be the median earnings for working adults age 25 to 34 with only a high school diploma or recognized equivalent -- and scroll down a little bit -- who worked and who were not enrolled in institution during the award year of the associated measured earnings in Puerto Rico, which is where we have at, in our view, adequate data from the Census Bureau or -- and we're going back to the same language -- if fewer than 50% of the students enrolled in the institution, we use the national value for those individuals. So I think we can scroll down a little bit further here. Or -- so if we have graduate programs, we do essentially -- we essentially are doing the same test. But we are relying on the data in Puerto Rico for the in-state students, but I'll go through it. For graduate programs in these territories, based on data from the Census Bureau, the median earnings of working adults age 25 to 34 with only a baccalaureate degree, who were not enrolled at an institution of higher education during the year of the associated measured earnings, the median earnings will be the lowest of the median earnings of working adults in Puerto Rico in the same field of study, under the two-digit CIP code in Puerto Rico or nationally in the same field of study under the two-digit CIP code or -- and again down to B, this is the national test. If fewer than 50% of the students enrolled in the institution reside in the territory where the institution is located -- and that -- this means the territory where the institution is located -- the lowest of the median earnings of working adults, either nationally or nationally, in the same field of study under the two-digit CIP code. Finally, going down to the -- now, this really is the last category, for programs offered by foreign institutions, first as Cody -- well, generally, as Cody pointed out, we're just using the national values here, and we're not breaking it out by an individualized state value. So for undergraduate programs offered at foreign institutions and same language -- let's scroll down -- comparing with the high school graduates who are not enrolled at an institution during the year of the associated measured earnings, or for graduate programs. Again, we're using the national value, either, either nationally in the United States, or -- if we can scroll down a little bit more -- nationally in the United States with the same field of study under the two-digit CIP code. So let me pause there so we can talk about this definition.

MS. MACK: Thank you. Eric, will you get us started?

MR. ATCHISON: Happily. Thank you, Kayla. Thank you for the walk-through of this. Very interested in this section specifically because this connects us back to census ACS in a lot of ways. First, I want to start with the section on credential level. You mentioned doctoral degree and then first professional degree. Example given, MD, DDS, JD. The work of the RISE Committee explicitly delineated what a professional degree was for the purposes of loan volume. Is that same definition going to apply to first professional degree in this analysis?

MR. MUSSER: So I actually will bring Jeff in a little bit more who worked on the RISE rulemaking. However, my understanding is that that definition was professional student and it is not exactly the same as this one. But Jeff, do you want to speak a little bit more to this one?

MR. ANDRADE: Yeah. That's exactly correct. The RISE Committee dealt with a definition of professional student for the purposes of loan limits. That -- the definition -- there's a definition of professional degree in the definitions of -- in the general provisions which did not change in the RISE Committee. So that's the distinction between the two. So this would reference professional degree as it's in the definition section of the general provisions in 668.2. Yeah.

MR. ATCHISON: Thank you. And just a second question as far as how the American Community Survey collects data on folks by educational attainment, currently it offers a couple of different options starting with GED or regular high school diploma. Then it goes into a couple of options for some college credit, but less than one year of college and then one or more years of college credit, no degree. Thinking about the Workforce Pell conversation we had in December, those students would not necessarily have college credit. And so I'm wondering where there -- where that student who graduated or finishes that Workforce Pell program would then report their own wages as an educational attainment level within ACS, because not necessarily getting college credit if it's clock hours specifically. And so again, these Workforce Pell programs being assessed underneath this broad framework would, would then maybe come back to not align earnings across those categories because they're not getting a -- they would still be technically -- I don't know if they'd be high school or less.

MR. MUSSER: So I want to be a little careful here to make sure I understand the point. So the Workforce Pell students would be if they had not -- if they had obtained a high school diploma and were within the age group that the ACS is collecting the data for, their earnings would be incorporated into the very broad data set. Or I guess, or the state-level data set for ACS. If you're talking about the earnings of the individuals themselves those would be incorporated, as we mentioned earlier, into the median earnings of the program that the Department is calculated. But that's not the ACS data. That's the, that's the median earnings for the program that the Department is getting from the -- from it through the other Federal agency through the process that Cody described. So that's what -- we would obtain that information. We will do this calculation for Workforce Pell programs. But under the Department's proposal, there would be no effect on those programs because they do not -- they are not Direct Loan eligible.

MS. MACK: Thank you, Eric.

MR. ATCHISON: Just at this point, because we have a couple of proposals about including Pell.

MR. MUSSER: Yeah, yeah. I'm specifically referring to the Department's current proposal. Yep.

MS. MACK: Thank you. Ritchie?

MR. MORROW: So just a quick clarification on enrolled. So you have a person that is enrolled full-time but is taking a three-credit-hour course in the evening. So they would not be included in the earnings? Am I --?

MR. MUSSER: So --

MR. MORROW: It's somebody who is not enrolled.

MR. MUSSER: Yeah, I believe that in the existing FVT/GE regulations, we exempted students who are enrolled full-time. We -- under the statute, we are looking at any enrollment that -- to exempt the student. So if they have any enrollment. And the only way that we exempt them is seeing their enrollment in the national student loan data system. So if they show up as less than half-time enrolled, they would -- at the time of the earning -- in the earnings year, they would be exempted.

MR. MORROW: Do they have to be degree-seeking or just enrolled?

MR. MUSSER: I actually -- I'd have to go to my FSA colleagues on that. They are in the process of finalizing design for the current FVT/GE regulations, and that is one of the factors. They're obviously looking at full-time enrollment rather than part-time enrollment. But I'm not sure offhand what -- which one they use in that case. Is there an FSA colleague who might be able to speak to that? If not, we can take it back, but --

MS. MACK: We'll take it back. And, Jeff, did you want to speak on it?

MR. ANDRADE: Yeah, I just want to -- I mean, but the general concept is if it's not in NSLDS, we would not exempt them out of the calculation.

MR. MORROW: Okay.

MS. MACK: Thank you. Jeff. Thank you, Ritchie. Preston?

MR. COOPER: Just really quickly on that. So if -- my understanding of the question was about the benchmark, are you including enrolled students or not? So the ACS questionnaire says, like, at any time in the last three months, has this person attended school or college, that's just any school or college. You know, it doesn't have to be full-time. So I believe those people who are enrolled in school, even if they only have a high school diploma, they would not be included in the sample for the benchmark.

MR. MUSSER: Yeah, thanks to Preston. Yeah. So we're talking about the benchmark here, right. So that's how the survey deals with it. That's right.

MR. COOPER: Yeah, I had another question, but I don't know if there are people in front of me in the queue. No? Okay.

MS. MACK: You were next.

MR. COOPER: All right. Thank you. So at the top of page 19, this option about the same field of study under the same two-digit CIP code in the state where the institution is located. I wonder how the Department is thinking about small sample sizes in the American Community Survey. I'm particularly looking at law, which is very common as a graduate degree, very uncommon as an undergraduate degree. There are 20 states where the American Community Survey for 2023 has fewer than ten individuals who have a bachelor's degree in law. And so I'm wondering, you know, if you can't get a statistically reliable sample size from the American Community Survey to calculate the earnings for same state, same two-digit CIP code, I guess what is -- what happens then? Do you just -- do you not look at that? Do you look at one of the other potential benchmarks? Is there some sort of estimation process to get a better estimate? I'm just wondering how the Department's thinking about that.

MR. MUSSER: So I actually wonder if Cody is here and can speak to that point. We don't --

obviously, we don't express it in the regulations here. We don't have a provision here for excluding the benchmark group, which would essentially mean that the -- we don't calculate in those cases. But go ahead, Cody, if you have something on those.

MR. CHRISTENSEN: Yes. Preston has raised an issue with the American Community Survey. When you get down to the same state and same field of study, the American Community Survey, even though it has more than 16 million individuals in it, when you disaggregate to that fine tune of a level between 25 and 34 who are working, you get to really small sample sizes, in some cases less than ten. There's a couple different ways that the Department has at least contemplated thinking about this, the first of which is just sticking to the same two-digit CIP code. And if a reliable sample size in the ACS is not available, this entire issue is specific to graduate-level programs, so there's always at least one or two other benchmarks that they would be compared to, so there would still be an available benchmark for those graduate programs. It would just not be the same field, same state benchmark as option number one. Option number two, we could consider or have at least contemplated CIP code aggregations using other common definitions for aggregating two-digit CIP codes into even broader groups, the most common of which I think is a definition of field of study that's available in the NPSAS. It aggregates two-digit CIP codes, which there's about 40 of them, into about ten different broad fields of studies. So in Preston's example, law would be aggregated with other as closely similar two-digit CIP codes as that case. And there are -- the final example would be there are statistical ways you could look at -- you could stay at the same two-digit CIP code and work with the US Census Bureau to get a more precise estimate, even though it doesn't show up in the American Community Survey. That's at least an idea that's been contemplated. So there's at least three different options on the table. We have not determined what it means to be in the same field of study. In the forthcoming presentation, Preston, you asked about the definition of working and earnings earlier. Same field of study is another definition that we would articulate on as well.

MR. COOPER: Thank you very much.

MS. MACK: Thank you, Preston. Randy?

MR. STAMPER: Thank you. I've been in contact with some folks in the territories and associated states. And, Kristin, you may be able to say this more eloquently than me, but to put it just simply, there is concern that there is -- there's a lack of comparability between wages and outcomes in Puerto Rico with these other island communities and that that comparison -- they would like to know, has there been any analysis done to see is Puerto Rico a fair proxy?

MR. MUSSER: Yeah, absolutely there has. We looked at the data that was available that -- from census, and I guess I might bring Cody up to speak to it in more detail. Puerto Rico was actually very similar to most of the territories in the majority of cases. It was -- it would be beneficial to students to programs in the other territories, but there were a couple where the Puerto Rico standard was slightly higher. Yeah, Cody, can you come up and talk just briefly about, about the comparability? Because we looked at this and we determined that we did have a solid data set that we could use. And yeah, Jeff wants to make a point.

MR. ANDRADE: Actually, before Cody starts, the other -- the only other option is to look at -- compare it to the United States national average. So it's closer to Puerto Rico than it is to the national average. But I'll let Cody talk.

MR. CHRISTENSEN: That's right. And we have conducted a fair amount of analysis on this Puerto Rico to Guam to Virgin Island question. Perhaps throughout the week, if you're interested in seeing specific analysis, we could call a caucus to walk through some specific numbers. But the long and short of the number is, is that while, while your colleagues in Guam or the Virgin Islands might not like being compared to Puerto Rico, it actually is a more favorable number for them in almost any case. Puerto Rico is, by a large margin, more low-income than any of the other island territories by a substantial margin. So that in other words, by using the Puerto Rico benchmarks for high school students and bachelor degree holders, it is what we believe would be an artificially or lower number than what the number would truly be if we had data for Guam or the Virgin Islands. So in other words, while colleges in Guam might not like being compared to Puerto Rico, their median household income is two to two and a half times higher than that of Puerto Rico. People are just more wealthy in Guam. And so many -- few -- much smaller shares of programs in those territories would fail. And then to just put a size point on this, less than 1% of programs and students attend programs in these foreign territories. Of that, 1% of, of students, 90% of them are attending programs in Puerto Rico. So it's 10% of 1% of all students are in programs in Guam, the Virgin Islands, Northern Mariana Islands. It is just an extremely small number of programs.

MR. STAMPER: Understood. And just a quick follow-up. You know, I am voicing their concerns. I have no idea about their relationship to Puerto Rico or their desire to be compared to it or not. The information I have is they do not believe that the earnings are similar, but if it works in their benefit, I'll pass that along. Second, and Cody, thank you very much. I would totally support a caucus on that if it's held in Puerto Rico.

MS. MACK: And only if I can facilitate that caucus. All right, Aaron, please.

MR. LACEY: Just two or three drafting notes. I'm focused specifically on the definition of earnings threshold. I don't know if it's possible to bring that up or not. But in one for undergraduate programs, we say -- we're talking about the median earnings for working adults 25 to 34 with only a high school diploma who worked and were not enrolled in an institution. If you go down to the comparable definition in two for graduate programs worked and is not part of that sentence, my understanding is these are intended to be identical. So I would suggest including who worked and were not enrolled in an institution in the graduate programs definition as well. Similarly, going back to that definition for undergraduate programs and Roman numeraltwo in the national standard, it says nationally, if fewer than 50% of the students enrolled in the institution, I would suggest adding during the award year the calculations are made. We talked earlier about clarifying the year in which this determination of enrollment is going to be made. And I think you could include that in the definitions. I'd do the same thing for graduate programs. Finally, still in under -- undergraduate programs, Roman numeral two, it says nationally, if fewer than 50% of the students enrolled in the institution are from the state where the institution is located is determined, if you go to the definition for graduate programs, which is way down in C, Roman numeral two, it says if fewer than 50% of the students enrolled in the institution reside in. I would change that to are from as well. I mean, the Department's been pretty deliberate about wanting to make that a little more flexible. I know reside is in the statutory language, but we talked about how the Department plans to do that. And again, it's just a parallel drafting note. I can supply those if you need me to.

MR. MUSSER: We will take those back. It would be helpful if you're, if you're willing. But we will take those back. Thank you.

MS. MACK: Thank you, Aaron. David,

please. And then we'll go to Jeff.

MR. KAFAFIAN: Again, appreciate the thoughtfulness here. I do want to go back to this earnings threshold for undergraduate programs. The comment here calls out, as I referenced earlier, the Department's desire again to unify and pull in undergrad certs more through the GE lens rather than through the OB3 text. My concern, if I'm cutting the data correctly, is that choosing to use 25 to 34 and choosing to not have some similarly narrowing function, just like we have the lower of field, just empirically in the data you've shared us results in nearly 30% of the programs that fail being cosmetology certs, nearly 58% of programs that fail in aggregate being undergrad certs, generally. And so I just want to make sure that we're all operating off the same numbers. And if my math is incorrect, please let me know. I did try to normalize this to remove all of the nulls, but we're talking about 1,600 -- 1,658 -- sorry, I should go the other direction. We're talking about 28 -- 2,900 programs that, that fail under -- in aggregate, based on what's been shared out of 7,600 that could be analyzed here. We're talking about 1,600 of those being undergrad certs. And so it's just -- it's really bizarre to me that we're ending up in this place. There's also something bizarre about me having to defend cosmetology.

I just struggle with something that creates so little accountability everywhere else and creates so much accountability in the one place that Congress didn't discuss it. And so I do totally align with the idea of getting to kind of a unified mechanism. But undergrad certs are not unified in the sense that they don't disproportionately serve middle career or, you know, mid-early career learners. And so I would just encourage us to think about how can we rightsize this, because we just have such a disproportionate impact in that regard. So, yeah, Jeff --

MS. MACK: Jeff, please.

MR. ANDRADE: Yeah. So again, I think you have to make the comparison. You're starting from a base of the GE program. So if we did nothing, more programs would lose eligibility and they would lose eligibility for everything under current regs. So that's your base. So this is actually an improvement over current regs for that particular group of schools.

MR. KAFAFIAN: I think a presentation on that would be extremely helpful to just do a comparison, because I deeply align with the Department's goals of simplicity as a design principle, unification as a design principle. I just want to make sure that we are getting to a place that is creating the accountability we're looking for, and not onerously hampering a couple of industries where I'm not sure where the labor force comes from if we proceed as it's been drafted.

MR. MUSSER: So we are going to have a presentation this afternoon on the removal of the debt-to-earnings and the effects on the overall numbers. I don't know if that's going to speak directly to your concern or this particular point. However, at that point, we can talk about if there's any other data that we can pull to, to look at the comparison.

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

MR. ARTHUR: Yeah, just with the overlap among topics on our discussions, I'm not really sure where we're hitting different things, but I just want to make sure I lay down a marker that, you know, I have concerns that we need to use comparison groups that reflect labor market graduates. And when you get into the -- some of the rural areas and the impact on certificate programs and where -- and certainly that's -- I think that's an area where, you know, Congress left the door open a little bit. So I just -- one point, I do have a number of concerns, and I think we talked about addressing proposals in the morning. So I'm not going to belabor it now -- I don't believe -- I think that's accurate.

MR. MUSSER: Yeah. No, that's appreciated, Jeff. And we do want to hear the substance of that proposal in the morning, yeah, thank you.

MS. MACK: Aaron, please.

MR. LACEY: Yeah. Sorry for -- I think it's the same. I just am trying to understand. So it sounds like we're going to talk about the debt-to-earnings rate as a measure this afternoon. And then maybe have a separate conversation about more generally the Department's proposal regarding the -- you know, the earnings threshold that has been proposed to be applied to non-degree programs tomorrow morning. Is that the agenda?

MR. MUSSER: So we're going to have two -- well, we're going to have three presentations this afternoon. So one of them will be on the definitions, as we mentioned, of earnings working, that sort of thing. We are going to do one on the way that the earnings premium calculation works out and our analysis of that data based on what we have. And then we are also going to talk about the elimination of the debt-to-earnings metric and how that will affect the calculation. Again, I don't know if those are going to get quite into the level of detail that you're looking for, but if they don't, then we can talk through that at that point.

MS. MACK: Michale.

MR. MCCOMIS: If I could just go back to the earlier presentation on the statistically reliable language under 668.2. You know, I've sat around this table a few times and have heard the phrase the Secretary's not particularly in the business of regulating itself or some variation of that. However, having said that, I wonder if there's -- you know, unless the Secretary determines the data are unreliable, in which case the cohort size may be increased until the Secretary determines the data are statistically reliable, is there an opportunity for some transparency around that? You know, maybe -- you know, which will be published so that institutions, programs will understand, hey, the number changed from 30 to 50, and here's, you know, some rationale as to we determined this was reliable or more reliable?

MR. MUSSER: If you'd be willing to submit that as a request, just a general request, I -- you know, I don't know whether it's more appropriate to do that as a preamble language to describe sort of the principles that the Department would use. I think we'd be willing to do that, even if we don't get, even if we don't get into the exact way that we plan to or yeah, we can talk about other kinds of explanations in -- that are public.

MR. MCCOMIS: I -- maybe that's even further than what I'm -- just -- what is the final number once it's been determined? What is statistically reliable or is that a moving target?

MR. MUSSER: Well, I think, I think that would also fall -- and I hear your point. Frankly, I think that's maybe why the principles are worthwhile for us to sort of express so that there is an understanding across all sectors about what we really mean, you know, should they expect this to change every year? Should they expect this to change every five years? Should they -- you know, is this going to be something that they, they know is going to be the case every year? We -- I think we can, we can come up with something to make that a little clearer.

MR. MCCOMIS: I'll put a marker down.

MR. MUSSER: Thank you.

MS. MACK: Thank you. Dave, I'm going to turn it back over to you to work through the rest of topic two. And then maybe a break before we move into the presentations.

MR. MUSSER: Yep, that's exactly right. All right, so we will go back to the amendatory text here. All right. So pausing here, this is existing regulatory text, no changes, but I just want to call it out so that you guys can see it. We define here an eligible non-GE program. And you, you will see this scattered throughout the regulations. The definition here is an educational program other than a GE program offered by the institution and included in their participation. And again, this is where we express that it's as -- you know, we do it with -- in the definition of a GE program as well, that it's the combination of a CIP code and a credential level, which is why we don't jump across credential levels when we expand the cohorts. The other thing I wanted to mention here is, as we talked about earlier, there are a small number of programs that don't fall into one of the two categories, including those teacher certification programs and transfer programs. But the vast majority of programs will fall into one of these two categories. We can scroll down from there. Federal agency with earnings data. So this is a concept that you guys recall from our Workforce Pell discussions. And here is where all we do is remove the concept of debt-to-earnings rates. And we add value-added earnings because this definition also applies to Workforce Pell and that calculation. And we can scroll down a little bit further. I'll pause if -- Eric, if you have a point about that.

MR. ATCHISON: Yeah, Dave, thanks. I was just going to ask, does this imply that one agency will always be used for both?

MR. MUSSER: It does not. So we are describing broadly that the agency is, is performing these functions. But we reserve the right to use even multiple agencies for the same calculation if we deem that that is the most appropriate way to obtain accurate earnings information.

MR. ATCHISON: That was actually my follow-up question. Would the Department end up using multiple agencies to do the same calculations across this analysis?

MR. MUSSER: I can't speak to that. You know, not being able to see the future, although I wish I could, it is possible that we would determine that an agreement with an agency might help us obtain data that is not otherwise available from our -- generally, the Department is going to engage primarily with one agency to be upfront. The interagency agreements are complicated, challenging, and time-consuming. And usually we will work with one agency primarily that has the best possible data, which in the past has been the Internal Revenue Service. But if we determine that we need data from other -- if that ceases to be the case, or if we determine we need data from another agency, we absolutely could enter into an agreement with another agency to either fill in gaps or for them to be the primary.

MR. ATCHISON: And to just close the loop, I think the conversation myself and others have had about statistical reliability should play a factor in that maybe.

MR. MUSSER: And it may if we have a group of programs, for example, that only -- where we can only find the data at a certain agency if the Department determines that that's the best way to approach it.

MS. MACK: Thank you. Back to you, Dave.

MR. MUSSER: All right. And we can continue moving down. So, as I mentioned, we have that here, the definition of a Gainful Employment program. Again, provided this is current reg text that we don't propose to change. But just so you guys know what we're talking about. Again, it's the combination of a six-digit CIP code and a credential level. And, and it's also an educational program as defined in 34 CFR 668.8, the eligible program regulations. Scrolling down a little bit further, here the -- there's a definition of institutional grants and scholarships that has now been put to use in multiple sections, but that has in the past caused some confusion at postsecondary institutions. So the original intent for this definition was part of the Financial Value Transparency and Gainful Employment regulations as specifically the debt-to-earnings rates. In that calculation, as in the existing regulations, the amount of tuition and fees charged by the institution, minus the institutional grants and scholarships that the institution itself provides to an individual serves as the -- once you perform that calculation, the result serves as the cap for the amount of debt that would be included for that particular individual when we look at the median debts that were, that rolled up into the larger calculation. So we were collecting this item from institutions. And we do propose to continue collecting it for transparency purposes. But that was the original reason for this definition. And the definition created some confusion because schools didn't understand in many cases what we meant by controlled by the institution or its affiliate. So we've just added additional explanatory language here to help, help aid understanding and make it clear what's supposed to be included for transparency purposes, even though this will no longer be used in any of the metrics -- in the earnings premium metric that we are proposing here. So, if we could scroll down. Right now, it says an institution -- I'm sorry, scroll back up for a second, Andrea. It's -- it indicates that it's assistance that the institution or its affiliate controls or directs to reduce or offset the original amount of institutional costs, and that does not have to be repaid. We include among the different types, a grant, scholarship, fellowship, discount, or fee waiver. It does -- and what we're adding here is that it does not include Federal education benefits, state, tribal, local, or private grants and scholarships that the institution does not control or direct. The institutional share of the Federal Supplemental Educational Opportunity Grants, the FSEOG program that many of you may be familiar with, or any assistance that must be repaid. So this is just clarifying what we mean by institutional grants and scholarships, because we feel that the amount of institutional grants and scholarships that an institution provides is a meaningful number, both for the public, policymakers, and for students. So we just want to make sure that we're getting this as close to, as close to correct as we can given the variations here. And if we could scroll down a little bit further. We have deleted the definition of metropolitan statistical area because it was primarily used in the debt-to-earnings calculation and no longer -- and we believe, no longer needed. We also deleted the definition of the poverty guideline, which was used in the calculation and is no longer needed. So, scrolling down. And then deleted the definition of a qualifying graduate program. So if you recall, I briefly mentioned this earlier, the definition of a qualifying graduate program was intended to provide an alternative type of program that would -- where the Department would measure the earnings of graduates later compared with their graduation date, because there was an expectation that they would be in additional training, for example medical students would be in their residency program for several years after graduating and would not be expected to have earnings commensurate with the amount of debt that they were taking on. So we included this as -- primarily to, to extend that period because we no longer have the debt-to-earnings in our proposal, we no longer need this definition. So, scrolling down. The definition was long. So, real quick, let me talk through the definition of student. If you could scroll up a little bit, Andrea. So this is really -- this is for your understanding, and this is a current definition for the FVT/GE regulations. And this is just specifying that it's an -- it is an individual who received Title IV HEA program funds because the Congress also limited this to Title IV recipients. And then we're scrolling down a little bit. We deleted the definition of a substantially similar program. We had an annotation here to explain what we were doing. This originally appeared in several places in the regulations, including as an exemption. We have eliminated the exemption. However, we do still have an area where the concept is used. And it's the same concept that, that you guys are familiar with from Workforce Pell, where if a program -- if it fails the metric and loses eligibility, then substantially similar programs cannot be added for several years after the, the loss of eligibility of the program. And although we are deleting this definition because it only appears in one place, the concept is still explained in that section, and we'll get to it later on this week. All right, we can scroll down a little bit further. And that's it. So that's it for that topic. And now we can take other questions or comments.

MS. MACK: Thank you, Dave. Aaron?

MR. LACEY: But my understanding too, I mean, even a simpler explanation I think you offered during week one when this topic came up, I think that's when it was just that you all really didn't expect very many programs that would be qualifying graduate programs to have trouble under the standard. My question is, do you have -- I don't remember if the data set that you all produced tagged programs that would have been deemed qualifying graduate programs under the prior definition or the definition that currently exists in the law. And my question would be, can you provide us with that information?

MS. MACK: Go ahead Jeff, please.

MR. ANDRADE: I think that the major issue there was on debt-to-earnings. And so by eliminating debt-to-earnings, we really don't need that analysis in this case. That's what was triggering -- that's what was throwing them into being noncompliant with GE.

MR. MUSSER: And to clarify, I mean, it still -- it's relevant for earnings, for the earnings premium. But I do -- to your point earlier, Aaron, we just don't feel that it's -- we would not have included it in the original regulations had earnings premium been the only metric that we were offering because we did -- we -- the thing that we were responding to in the community was -- were concerns about debt-to-earnings. So if you have a request for data, we can certainly entertain that. But that's the reason.

MR. LACEY: I mean, let me know if I need to put it in writing. And I -- just to be clear, I'm not suggesting I have an issue with this. It's just a lot easier to tell my constituency there are two programs that would have a problem under this if that's the reality. And when they don't know, it's harder to have that conversation. So I just didn't know if that was something you guys had available. I mean, yes, I would like to see that if that's a -- if it's possible to say these are the programs that would have been qualified graduate programs and under our analysis, X of them, we think would feel -- it might be zero for all I know. And that's what I'm just trying to wrap my brain around.

MR. MUSSER: Yeah. We would appreciate if you could just put -- it could be just, you know, a couple of sentences in a -- in an email for us. Thank you.

MS. MACK: Just not the body of the email.

MR. MUSSER: In the document. That's correct. Thank you, Kayla.

MS. MACK: All right. Seeing no other cards, I think we're concluding topic two. Shall we take a quick break and then resume with some presentations?

MR. MUSSER: Yeah, we can take a ten-minute break.

MS. MACK: Let's break for ten minutes. Thank you all. Welcome back from break, everyone. We have now made our way through the first two topics. We're going to, in our final hour today, engage in a series of presentations. So Dave, I'd love to turn it over to you to sort of tee up where we're going to begin.

MR. MUSSER: So we've been alluding to these presentations quite a bit over the course of the day. So now is the time that we will go through each of them. So one of them is one that we hadn't necessarily intended to provide. But since we got some questions and I think there's interest, we want to be totally transparent about some of these definitions that we're using around working and earnings for -- especially for the benchmarks. And then we want to go into presentations on the data that we've used to determine the effects of the earnings premium calculation. And then we want to talk about the effects of eliminating the debt-to-earnings metric, and have at least the beginning of a discussion on the pros and cons of that as we talked about earlier. We may not -- recognizing that we have limited time in the last hour, we may not fully have that conversation, but we can start again in the morning. So with that, I will call once again, our favorite, Cody Christensen, to the podium to start the series of presentations.

MR. CHRISTENSEN: Thank you, Dave.

Yes. And as you've mentioned, there's going to be just a couple quick presentations. The first one will be on these definitional questions that have come up several times. Then, we will move on to a presentation that is showing our estimates for the pass and fail rate for the proposed rule, and then the final presentation will be given by Jason Delisle, the chief economist, digging specifically into the debt-to-earnings test. And what the impact of removing versus keeping that test does to the share of programs that pass and fail. So to begin, I believe Andrea is pulling it up. I believe it's PowerPoint eight. And I believe it's coming around as well to the negotiators. Yes, this is the one. Okay. So as mentioned, we can -- we'll just wait for the slides to come around before we start. Alrighty. And next slide, Andrea. Thank you. This is standard disclaimer. As many people have raised, the American Community Survey is the primary data set from the US Census Bureau that we will be relying on to compute the earnings benchmarks that we discussed earlier. Remember, there were six earnings benchmarks. They're very specific. It's 25 to 34-year-olds who are working in a state or with a certain education level. All of that information is captured in the American Community Survey, which is why we would be using that information as a nationally representative survey. We don't think there's another data set at the US Census Bureau that exists that would allow us to calculate the needed metrics. But -- so next slide, please. That said, there are still key terms that need to be fleshed out. And I've highlighted three of them here. They've all been raised at least several times today. Earnings, working, and same field of study. Can we click to the next slide, please? So here are the six benchmarks again. But this time I've just highlighted the key words that are -- that need some definitions at some point. So earnings is highlighted in yellow. You see it applies in all six of the benchmarks. The word working is highlighted in blue. It also appears in all six of the benchmarks. Same field of study highlighted in green. It appears in two of the six benchmarks. So these are terms that do not have clear definitions. And with the ACS data, they will need to be defined at some stage. Next slide please. So as I said earlier this morning in the amendatory text that we've proposed, we have not adopted or provided specific definitions for these terms. The reason for that is the US Census Bureau is obviously an agency that is outside of the control of the Department. If at any point they decided to change the methodology in the American Community Survey, or for example, in the 2020 year when the pandemic struck, the ACS was a year late and they only captured some information and a lot of it was bootstrapped on after the fact. There are just unpredictable factors that could arise. The survey could be changed in a variable, could disappear or be altered in a significant way. For that reason, we did not want to put pen to paper to say this is the specific definition and variable will be using from the American Community Survey for the very -- you know, for the possibility that a definition or variable is changed or modified in the future. So that said, we do know the list of options that are available in the American Community Survey, and we wanted to be very transparent with you all to let you know the different possible definitions for these terms that we're considering, knowing that we would have to regulate on these with some sort of subregulatory notification in the future. Next slide, please. So the first term that needs a definition is earnings. And the American Community Survey provides what we believe are two primary options for defining earnings. The first option is personal income from wages and salary. Second option is personal income from wages, salary, and income through self-employment. In the data set, we provided the program performance data set, which was posted on the Department's website. The definition for earnings used to calculate the earnings metrics in the benchmarks is option number two, personal income from wages, salary, and income from self-employment. The reason for that is we think it is the most apples-to-apples comparison to the type of earnings data that will be available from the IRS when we're looking at 1040 and W-2s. We want to get income from wages and salaries and also self-employment income, which is -- necessitates combining these two variables in the American Community Survey. Again, it's not a final decision. We're just being transparent on what the earnings definition is used in the data set, and that these are the options that would currently be available to us in the American Community Survey. Next slide, please. For the definition of working, there are more options available to us with the American Community Survey. The first would simply be individuals that are in the labor force. This would include individuals who, at the time of being surveyed, are employed or unemployed, but classified still as in the labor market. Because even if you're unemployed, if you're recently unemployed, you would still be captured as in the labor market. The second definition could be individuals who are in the labor force and employed. So this would be people that are actively employed. Essentially, unemployed folks would not be included in the definition of working. The third option is labor force employed, and you have a positive non-zero income. So there's a lot of -- there are some people in the American Community Survey, which is a publicly available data set, by the way. Anybody here could go and download it and look at these thresholds and numbers themselves. There are some people who have a $0 annual income, even though they're classified as employed and working. But the question is, if you have a $0 annual income, what does that mean? And should you be included in the earnings metric? So one option would be to have a positive non-zero earnings annual income. And then the final option could be integrating some type of measure for work intensity, like people who are working full-time, for example. The American Community Survey has information on weeks worked throughout the year, which you could use to infer if folks are working full-time or part-time. So for the data set we published, we used option number three to define working. It's individuals who are in the labor force, employed, and had a positive non-zero income. So let's provide a quick table comparing these thresholds on the next slide. This table, these eight numbers, are showing you how the different thresholds would change under different definitions. So for example, the left-hand column is showing you the different definitions of income. And the four columns are showing you different definitions of working. So if you define earnings as just wages and salary and working as in the labor force, the national median income of 25 to 34-year-olds with only a high school degree who are not currently enrolled in college, is about $32,000. And you can hold that definition of earnings constant and then just change iteratively, going over to different definitions of working to see how much the sliding scale, how much the threshold changes. Or you can go down to the next row and see the different definition of earnings, which was wages, salaries, and personal business income, self-employment income, and the number highlighted in green there, you can see that's the number that we published in the data set, which is the national high school median of working individuals who are age 25 to 34, who are not enrolled in college using this definition of working and that definition of earnings. So the number you would see if you downloaded our data set is $34,808. But you can see that as you go over the threshold at most changes it from $32,000 to $36,000. So we are talking about a -- you know, at max the dial would change about $4,000. But it's just something to note, and our numbers are squarely in the middle of those two endpoints. The next slide shows the same sort of cross-tab. I'm not going to walk through it in the same amount of detail, but this is the national median income for working individuals. It's 25 to 34 with only a bachelor's degree who are not currently enrolled in college. You can do the same exercise seeing how steep or how much the threshold changes under these two different definitions of earnings and under these four different definitions of working. The number in green is the number we've published. And then the final set of slides is defining same field of study. This was a comment raised, I believe, by the taxpayer representative earlier. There's a couple different options we're considering for same field of study. One option that Congress clearly contemplated was just using two-digit CIP codes. The statutory text clearly says that. That is the option we use in the data set that we published. So we defined same field of study as you were, in the same two-digit CIP code as the graduate program to the bachelor's program. And then a second option is also some type of aggregation of two-digit CIP codes, such as the NPSAS definition, which combines about 40 different two-digit CIP codes into about ten different categories total. And the reason you would do something like that is via -- is because of the sample size concerns in the American Community Survey that Preston had raised earlier. So, next slide. The point of this graph is to simply show that the different definitions have just a marginal impact on the estimated share of programs that we believe would pass or fail the earnings test. The left-hand graph here shows the share of passers and failers using wages, salary, and income from self-employment, which is the variable that was published in the data set, versus the right-hand graph shows the same definition of working, but we've only changed earning that -- we've changed the definition of earning to now just be wages and salary. So this is just one illustrative example to show. It's not like we're changing universes here when -- as we quibble over these definitions, if you will. It does -- but we did want to at least identify you the current range of options that exist that we're considering and be transparent that it's not a massive magnitude shift with the specific definitions we pick here. There's a slight difference, but not a massive one. So we wanted to highlight that point. It sort of supports our argument for doing this through subregulatory guidance because it is -- at the end of the day, we're quibbling over smaller differences. So I can take questions on that. But this was the precursor presentation. The next presentation is the pass/fail and then the debt-to-earnings presentation.

MS. MACK: Thank you, Cody. Does anyone have any questions at this time? Jeff?

MR. ARTHUR: So what happens if you use the salary and income from self-employment -- wages, salary, and income from self-employment for earnings if you include negative income?

MR. CHRISTENSEN: I do not have that number off the top of my head. I don't think it changed.

MR. ARTHUR: Is it there? I mean, I would guess that might have an impact. I mean, certainly --

MR. CHRISTENSEN: It's something we can look at, definitely. I don't have the number off the top of my head.

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

MR. KAFAFIAN: Similar vein. I think it would be helpful to understand. Can you just go into a bit more detail about what line items we're pulling from a tax return for self-employment?

MR. CHRISTENSEN: Sure. So, now you're talking about the program level earnings, though.

MR. KAFAFIAN: Categorically, when you're pulling self-employment, when ACS is pulling self-employment income, what are they considering?

MR. CHRISTENSEN: Andrea, could you click forward to the next slide, please? Nope, sorry, going the wrong -- other way. Go -- nope, forward to --

MR. KAFAFIAN: Earlier, yeah.

MR. CHRISTENSEN: Nope. We're going the wrong way. So -- nope, keep going to the thank-you slide. And then -- next slide. Here we are. Okay. These are how the ACS defines these key variables. This is not -- these are the appendix bonus slides that I just prepared for, just in case. The definition that you're looking for is each respondent's net pre-income tax self-employment income from business professional practice or farm for the previous calendar year. That is a specific definition that the ACS provides. It does not tell us what specific tax line is being used. It might -- also, I would defer to the experts at the Census Bureau or if anybody in the room has more clarity on is the A -- when sampled by the ACS, are used just self-reporting or is there a verification process? I'd be curious to know that, but this is the definition and the most specific information that the ACS provides.

MR. KAFAFIAN: Got it. And then I guess a similar point of clarification, I think slides eight and nine are telling us that definitions two and three are functionally the same. If you just go to slide eight, the employed and employed with positive income.

MR. CHRISTENSEN: So they are this

year for the five-year 2023 ACS. The reason for that, you might be wondering, wait, why are the numbers the exact same in the middle two lines right there? It's the way that calculating a median works when you have a -- when you're using sample weights. So if I had a whiteboard, I would describe how the median works. It is the same number. If this was the average, it would always be a different number. The median is not (inaudible).

MR. KAFAFIAN: Thank you.

MS. MACK: Thank you. Aaron?

MR. LACEY: I'm trying to better understand the significance or lack of significance of self-employment. And, you know, I appreciate that the difference between 5.3 and 5.8 is small. What I'm trying to understand is, you know, is that 1% of every program or, or if we took the CIP codes that fall in that delta, you know, if 90% of those are one kind of program because, because my expectation theory is that you're going to see a whole lot of one or two or three specific program in, in that gap are making up that, that 0.5, you know, and I'm going to assume it's cosmetology, massage therapy, and some of the other programs, you know, some of the studio music fine arts programs where people are (inaudible) and self-employed. Is it possible for the Department to provide us -- by the way, I know if I had any talent with spreadsheets that you could do this with the data set you've already made available.

MR. CHRISTENSEN: I was about to say --

MR. LACEY: I do not know how to do this, but what I'm trying to -- what I would be interested in seeing is the CIP codes, and by percentage, that make up that 0.5.

MR. CHRISTENSEN: I would say yes, we can definitely do that. Would you just put a couple sentences so there's just --

MR. LACEY: Sure. Yeah I can --

MR. CHRISTENSEN: I just want to make sure it's not forgotten in the shuffle.

MR. LACEY: Yeah.

MS. MACK: Thank you. David, did you have something else? Nope? Cody, do we want to move to the next presentation?

MR. CHRISTENSEN: Yes. Okay. Yes. So this next presentation is the -- I'm just waiting for it to get pulled up. Thank you, Andrea. Oh, not, not that one. That one's Jason's coming up next. I believe this one was number three on the list. Yes. Excellent. Okay. This presentation, the Department is providing its estimates for the share of programs that would pass and fail the proposed rule. The analysis we're going to show you is what the impact of the proposed rule does. And in the next presentation, right after this one, the chief economist will dig into specifically the impacts of the debt-to-earnings test. So if you have questions on the debt-to-earnings test, your time is almost here. It's just right after this presentation. All right. Let's go -- start going through the slides, please. Thank you. So three key objectives here. First, I want to provide an overview of the data. We've already talked a lot about the data, and based on the numbers that you guys are tossing out, clearly a lot of you guys have crunched the data as well. So we want to just do a brief description of the data, provide some caveats for the data, and then just walk through the estimated impact of this test. That's sort of the outline for this presentation. Next slide, please. Standard caveat that this is the Department's preliminary analysis. Okay. A brief overview of the data. We posted on the negotiated rulemaking web page, a program-level data set that includes performance -- program performance information for nearly all Title IV programs offered at US colleges. It draws on a bunch of different data sources, some of which were publicly available beforehand, others of which were only available privately. We've combined those data sources and put it out publicly available for you all with privacy protocols in place for masking small sample sizes of cell counts. The point of this data set is it allows us to estimate the types of programs that are most likely to pass and fail. And there's more information on the Department's website. Next slide, please. A few caveats about this, because this is often the most contentious part of these discussions is you start looking at the actual lines of which programs pass and fail. The first thing to keep in mind is that these data are not the final data that will be used to calculate the pass/fail. That data will not become available for the first time until late this year or early next year. So this is the most recent and updated data that's available at this current moment, but it is not the final data that would be used. So if you see a certain program passes or fails in the spreadsheet, it is not necessarily the case that it would continue to pass or fail. Second, the data set we put out is measured at the four-digit CIP level, whereas the actual test would be conducted at the six-digit CIP level. The reason for this difference is again due to privacy concerns. When you disaggregate to such a fine level, we would have to mask virtually every bit of NSLDS data if we didn't -- if we disaggregated at such a fine-grained level. So we have put this data set at the OPEID by credential level, by four-digit CIP level. As mentioned earlier, this data set has not implemented the cohort aggregation process for small programs. But the actual earnings data would implement that aggregation process. This means that the earnings data for many small programs and the public data we put out are privacy-suppressed. Again, that's because of the IRS privacy protocols. And then lastly, this earnings data is just for -- is for a pooled cohort of two groups of completers. It's for folks who completed in '17-'18 and '18-'19, Title IV completers measured four years later whereas the actual earnings data will not be a pooled cohort, it will be a single cohort unless that aggregation process is method. All of that to say, there are significant caveats to consider as you talk to your constituency groups, as you talk to your fellow colleges and college presidents. These are not the final data, but these are our best estimates with the most updated data we have available at this time. Next slide, please. And then the final point on the data set is there was a data correction made on January 2nd to the data set. All of the negotiators, I believe, were emailed this on Friday. And a public notice was also posted to the website on Friday to the data appendix that's available online. The correction made was that a small number of post-baccalaureate certificate programs in the original version of the data that we posted, were inadvertently being counted as failing when they should have been passing. We corrected this issue. I would just note that anyone who downloaded the data prior to January 2nd should redownload the earnings file to have the most updated and corrected information. Just wanted to flag this for both publicly -- but the negotiators have known about this for several days now as well. Thank you. Okay. I believe that is all of the data talking -- data overview. So on to the next slide. We can just have a brief reminder. This is the earnings test implemented. So if you're ever wondering how did a specific program get pegged to a specific earnings benchmark? It's based on the first presentation given this morning, which explains specifically how each individual program is matched to its matching earnings benchmark. And there are six different earnings benchmark. Just keep this in mind as we sort of go through this. This is just a helpful reminder. Next slide, please. So we're going to present now the analysis we've done. We're going to present five different types of analyses. We'll go through this with, you know, some speed here so that we have time for discussion in the next presentation as well. So there's five different types of analyses we're going to walk through. Let's start with the first one, which is the overall percent. Thank you. So our estimate conditioning on programs that report the earnings data. This was mentioned earlier. What's our denominator among the programs that report earnings data? 5.8% or roughly 6% of all programs are projected to fail the earnings test. That includes the earnings test from OB3, and also our proposed revisions to the Gainful Employment regulations that are harmonized. So when you stack those on top of each other, you get approximately 6% of all programs fail. Next slide, please. When you weight this by the share of Title IV enrollees in each program, it drops a little bit. It's about 5% of all Title IV students attend a failing program. So to say that again, 6% of programs would fail. Those 6% of programs enroll about 5% of Title IV students. In other words, they're disproportionately smaller programs that are failing. Next slide, please. This is the pass/fail rate broken out by sector, public, nonprofit and for-profit. And the public and nonprofit sector, fewer than 4% of programs fail. But in the for-profit sector, we anticipate about a third of all for-profit programs would fail the proposed rule. Next slide, please. And this is now the student-weighted numbers. So just like before where I did a student-weighted count in the for-profit sector, I'll just jump to that. It was about 35% of for-profit programs, but those 35% of for-profit programs enrolled just 19% of Title IV students attending for-profit colleges. So again, these -- this is shining a light on these are disproportionately smaller programs at the for-profit sector. For example, it was 35% of programs. It's just 20% of Title IV students at that sector. Next slide, please. And digging a little bit more into the sectoral analysis. In aggregate, we estimate that about 650,000 Title IV students attend failing programs across all sectors and credential levels. And about half of those students, so half of that 650,000, are attending for-profit programs. That's the dark purple bar on the right. The reason that this -- that the gap on the prior slide was so much -- so large for the for-profits and here it's relative, not parity, but, you know, a gap of two rather than a gap of ten is because the for-profit sector is just so much smaller than the other sectors. So although, although about 1 in 5 students at a for-profit institution attend a failing program, that -- since the sector is so small, it's only about half of all programs total that -- half of all students at failing programs total are attending a for-profit college. Next slide, please. We now break out the pass/fail rate by credential level. So you can see that undergraduate certificates here have the highest fail rate. About 29% of undergraduate certificate programs are projected to fail the proposed rule. Across the board, it ranges between 1 to 6.6% for the other credential levels. Next slide, please. And unlike the prior trends where we saw these were disproportionately smaller programs at the undergraduate cert level, it went from 29% to 31%. So those are just slightly larger on average. This is the student-weighted count now. So about 31% of Title IV students enrolled at undergraduate certificate programs are attending a failing undergraduate certificate program. Next slide. Thank you. So this is now a breakdown of states, which states have the most failing programs versus least failing programs. We stack this just to sort of show geographic distribution of the, of the earnings test. The bars on the farthest left, Louisiana, Mississippi, Florida, Utah, California, those are programs that have higher -- those are states that have higher shares of their programs within the state failing. So, for example, about 11% of all programs offered at colleges in Louisiana would fail the earnings test under the proposed rule. At the other end, you see in D.C., the share is less than -- it's about 2% at the less -- of, of programs in Washington, D.C. would fail the earnings test. Next slide, please. This is the student-weighted count. And when you weight by students, you see that Florida has the highest share of Title IV students attending failing programs. About 9% of all Title IV enrollees in Florida attend a failing program. On the other end, you have some states that have less than 1% of their students attending a failing program. Next slide, please. And now I'm just showing types of -- fields of study that most likely fail by credential level. So the most common undergraduate certificate programs that fail are culinary, entertainment, and personal services. We expect all of those programs would fail. 99% of English language and literature undergraduate certificate programs would fail, 96% of computer and information science, other programs would fail. So again, these are specific four-digit CIP codes that have the highest fail rate. I believe I put a baseline threshold of there needed to be at least 500 different -- 500 Title IV students. I need to look in my notes, but there is a threshold that took out super small four-digit CIPs. Next slide, please. This is at the associate level now. So you see that, for example, we project 100% of Title IV students attending associate degree programs in somatic body work and related as well as cosmetology would fail the proposed rule. This is at the associate degree level. I would flag that in the data set there's only approximately 10 to 20 cosmetology programs at the associate degree level. So that 100% is -

- you know, you could consider that a small total number of associate degree programs, but it is still 100%. Next slide, please. At the bachelor's degree level, there's a big -- there's -- and it's not close. The one bachelor's program that gets hit more than all others is religious studies bachelor degree programs. We project over half of religious studies bachelor's degree programs would fail our proposed rule. Graphic communications shows up as a second place at 17.7%. And then there's a handful of other programs that fail at about 10% listed on the slide, on the slide here and on the slides you're holding. And then next slide. We show the most common master's degree programs that fail. We anticipate that 98% of Title IV students attending master's programs in alternative and complementary medicine would fail the proposed rule. Religious studies is another -- shows up here as well. Let's go to the next slide, please. So in summary, I just want to reiterate that these are estimates. It's not the final data. It is the most updated data we have. But there are key differences to think about this data with the actual earnings data that would be utilized. That said, about 6% of programs will fail. They enroll about 5% of Title IV students, a majority of failing students, 55% are at for-profit institutions. About 1 in 3 undergraduate certificate students and undergraduate certificate programs attend programs that fail the earnings test. And I've listed the states and fields of study that had the highest share of failures as well. So this is a high-level analysis that presents our estimates for how we think this earnings test would impact the landscape of higher education programs offered across the country. As mentioned, I didn't say anything about the debt-to-earnings test. That's the next presentation. And that will specifically sort of dig into what taking it or leaving the debt-to-earnings test would do. But I'll stop there to see if there's any questions on this. And if not, we can move on to the next presentation.

MS. MACK: There are a few, Cody. Eric, we'll start with you.

MR. ATCHISON: Yeah. Thank you. Cody, for this preliminary analysis and for the full analysis that would come out of all this negotiation, would -- and I say this from a two-year perspective, institution, a lot of my institutions within the state of Arkansas, we stack credentials and oftentimes students don't graduate until they fully finish their associate's degree. So did your preliminary analysis look at certificate earners at the highest level of credential earned in that particular year, or are you not including them and maybe have them duplicated across the program year? Does that make sense? I just want to make sure that we're looking at the earnings test outcomes for students in their highest level of award in a particular year.

MR. CHRISTENSEN: So this earnings data that we've presented for the programs is similar to how the current College Scorecard presents earnings data. So if students attended an associate degree program and later went on to finish a bachelor's degree program -- someone's going to have to remind me the exact way the College Scorecard handles that, but I believe that they would appear in both programs.

MR. MUSSER: It depends. So it depends on how the programs are reported in the National Student Loan Data System, NSLDS, and generally speaking, and I'll look to my FSA colleagues to correct me again, if a student earns a degree and earns a certificate along the way to the degree, often they're not required to -- if they only get the certificate, if they also get the degree, for example, they don't -- they're not reporting the student as enrolled in the certificate program necessarily. If they are reporting the student as enrolled in both, then the calculate -- the data would show the result for the completion of the certificate program and the completion of the degree program, and both would be handled separately in the data.

MS. MACK: Thank you. Jeff, please.

MR. ARTHUR: Yeah. It looks like you know, when we toss cosmetology and, and culinary into the volcano to appease the accountability gods, we're not -- the 10th iteration of this committee is not going to look near as good as we do or eat as well. But you know, just a couple of caveats that I think you need to add to that list. Well, first of all, I think enhance the -- for -- I would intuit that the four-digit CIP code probably passes many more programs in the six-digit CIP code might. Fair to say?

MR. CHRISTENSEN: We don't have visibility at the six-digit level. So while the four-digit CIP is theoretically the average of the six-digit CIPS within it, it could be a case where one six-digit CIP was awesome, but the other two were bad. And so at the four-digit CIP, it looks average. So there could be variation at that level. I'm not saying that that's happening a lot, but we just don't have visibility at the moment.

MR. ARTHUR: And the other caveat is this is looking at the measure one time. And any program that's within some percentage of that pass/fail line right now on your model is going to fail. With the wobble, it's going to fail. So I think when you look at this over time, over a period of years, you're going to catch a lot higher percentage of programs that get caught up in this.

MR. CHRISTENSEN: My only addition to that would be that to fail the earnings test that we've proposed, in the sense that two out of three consecutive --

MR. ARTHUR: Yeah, I get that. That's still going to catch a pretty good number of programs that aren't caught in this one particular model.

MR. CHRISTENSEN: Exactly. So, yeah, that would be -- it would be a lower -- I would anticipate the rates would go down if they're going to move because of the two out of three fail rate. That would be my guess for the direction that the bias would go, but --

MS. MACK: Thank you, Jeff. Thank you, Cody. Matthew?

MR. FEEHAN: Thanks so much. Also, as always, echoing my colleagues' sentiments here, these presentations have been incredible. So just to reiterate, not to put the Department on the spot here. But again, for the record, we're talking about Title IV students. So when people are looking at this data, they're -- how do I say this? For GI Bill recipients and for tuition assistance recipients, they're not factored into this data into themselves. So just want, one, to kind of put that as a comment, not so much as a question. But two, as a question, where the Department comes out with breaking out student veterans -- I mean, I can look at the GI Bill comparison tool, but I wouldn't even come close to this level of specificity. I'm concerned about how student veterans and student service members are going to be looking at this data, not knowing or not being calculated into this, and correct me if I'm wrong, but we pulled military science as an example from the data set, just as an example. So I guess my question is the Department making any progress towards or has a position on showing the student veterans' effects of these programs?

MS. MACK: Jeff, did you want to speak on that?

MR. ANDRADE: Yeah, I did -- when you sent your comments earlier over the weekend, I did have a chance to look at it and there's about a crossover of 40 to 45% between GI Bill recipients who are also Title IV recipients. And so I think that gives you a fairly good indication. We don't have anything right now on GI Bill only, but I think that is -- I mean, you do capture about half with this.

MR. CHRISTENSEN: And I can speak to the military science CIP family that was pulled out. That was simply because of such a small number of military science programs that exist in the country. That said, we are still looking -- we are looking back at that now to see if we can potentially add back in those programs. But we would just flag that since there are so few of those programs. And since there -- I believe -- my recollection is they're relatively small, there will just be a lot of privacy suppression. So when we put that back out, it would still be -- you know, we can add that, but it's not like we were -- it was a statistical reliability issue is why we did that, not for any other reason.

MR. FEEHAN: Yeah. And it's been a long time since I've taken stats. And I'll admit, I was probably not the best student in statistics. But yeah, it fully makes sense why you did it. From a statistical standpoint, I'm just concerned that when folks in my constituency look at this data, they may or may not reach assumptions or you know, presumptions that may not be fully accurate, considering that, you know, half of the not crossover is still exclusively GI Bill or tuition assistance.

MS. MACK: Thank you, Matthew. Tamar?

MS. HOFFMAN: Thank you for this

presentation. That's really helpful. I, first of all, wanted to just echo the request for the CIP six data on earnings because I know that that's something that we had requested. So if possible, it'd be great to get that. I just want to put that out there. And then, quick question. My understanding from the data that we do have available is that for the GE programs under the current regulations that because of how they're -- how the earnings premium test is oriented under the current rules, this is actually significantly more lenient on a lot of the GE programs. Is that -- does that bear out in the data that you have as well?

MR. CHRISTENSEN: Relative to the status quo, the current Gainful Employment regulations, the proposed rule would be more favorable to the college programs. That's for several reasons. Earnings are measured at four years, not three years. And the current -- and then the current rule measures earnings of both working and non-working people, whereas the proposed rule is just working people. So for the vast majority of Gainful Employment programs, they do more favorably under our proposed regulation relative to the current regulations that are on the books.

MS. HOFFMAN: Thanks for clarifying.

MS. MACK: Thank you. Randy?

MR. STAMPER: Thank you. Just pointing out a concern. And I don't know that there's an answer to this or if it warrants further discussion, but I note that in three of the four slides that indicate the programs at the associate bachelor's, master's degree level, that right in the middle of three of them are programs that are serving a societal need that -- whether that's early childhood education, allied health, you know, and mental health, many states require a master's degree to practice. However, while they are a great -- or social demand, and we are asked to produce more of those workers, they are not commensurately paid for whatever societal reason places await on the importance of their salary and wages. So I just worry that an unintended consequence here is going to be failing programs that we are under tremendous pressure to produce more graduates out of that -- to enter a field that, you know, I think David used the phrase earlier that is a calling that people choose to, to do that work, and their reward is not solely monetary.

MS. MACK: Thank you, Randy. Jeff?

MR. ANDRADE: I will point out that under this proposal, as opposed to GE, the undergraduate certificate programs would retain Pell eligibility. So there would be funding, there would be a way to rightsize that potentially.

MR. CHRISTENSEN: And I would also just point out that -- I would defer back to the statute. Congress passed an earnings test, and they did not include any exceptions for programs based on the need or social value. They provided no carve-outs for those.

MR. STAMPER: Again, like I prefaced, I don't know that there's a solution to that, it's simply a concern of an ancillary problem that could really put a higher ed in general, but particularly community college -- community colleges in a really sticky position.

MS. MACK: Thank you, Randy. Preston?

MR. COOPER: Thank you. I just want to point out kind of another perspective on this is that right now, through the Federal Student Loan program, the Federal Government is subsidizing training for employers that are underpaying their workers. I mean, for culinary entertainment and personal services, if 100% of those programs, the median earnings are below the typical earnings of a high school graduate, I kind of view that this is kind of, you know, a nudge for those programs if they continue to want to have subsidized training from the Federal Government to start paying their workers more so they get above that high school earnings threshold. I mean, if your typical worker is earning no more than a high school graduate, you know, somebody with a lower level of education, I kind of feel like this needs -- this can be a nudge for those, those industries to, you know, appropriately compensate their employees and not just rely on the Federal Government to subsidize training.

MR. STAMPER: I would respectfully reply that by the time that happens and that nudge is effective, our colleges will be closed.

MS. MACK: Thank you both. Kristin?

MS. HULTQUIST: So we've been talking today about -- and it's coming up soon -- about the inclusion -- exclusion of Pell from -- how do I say this right? The Pell eligibility would be retained if you -- if a program does not pass the earnings threshold. There is a value in this common transparency and accountability framework that Preston was starting to get to that's not just to inform institutions and students, but to inform those who co-invest. And I won't comment on employers, but I'll comment on states because we're co-equal investors in higher education. And we've seen in states, whether it's through financial aid or tuition waivers or increased appropriations, but through one of those three mechanisms, if we know that this is a helping profession that isn't getting access to Direct Loans, what is the state response? And in Colorado, we make those helping professions free. So that is an intentional investment strategy. Without these data, I think it's hard to protect that targeted investment. So remember that what the Feds are able to do in this, let's make sure we don't just -- we want a true definition of, does it right now pass this basic threshold? If it doesn't, then what is a response? It doesn't have to only be on the institution. So I hear you that you are in a state where they're like this about policy, right? Every four years, the waves turn. But I just -- I don't want us to negotiate away a common sense judgment that requires different subsidy from other partners.

MS. MACK: Thank you, Kristin. Matthew?

MR. FEEHAN: Preston beat me to it. So I was going to put my card down. But I would just add as well for, for military commanders out there, military leaders in particular, enlisted officers, doesn't matter, position -- decision makers within the military, I want them to be able to see that the message that we're sending here that if there are particular programs that are not leading to the earnings that they should be earning respective to a policy decision for our communities, then those particular programs should be receiving more investment, either from the state or from private sector.

MS. MACK: Thank you. Ritchie?

MR. MORROW: So, I'll use Randy's statement. I'll preface this -- I don't know if there's anything we can do about this, but there are -- some of those programs that are looking at 100% closure or cancellation, they're very heavily relying on tips. Cosmetology, culinary. You know, in Nebraska, for servers at restaurants, the minimum wage is $2.30 something. And everything else comes from tips and the -- that, that tip portion, I mean, is it always reported correctly? Is it always -- you know, so I think that's going to very negatively affect those programs. And I can tell you for a fact, during COVID, I had to help my wife cut her hair and I was not trained, and she said, I'll never help her again. So we need people in these fields, as other people have said. And so losing these fields, it's going to hurt our states quite a bit.

MS. MACK: Thank you, Ritchie. We've got only about four minutes left, so I'm going to get to David and to Aaron, and then I'll turn it back over to you, Dave. You're good? Okay, Aaron, please.

MR. LACEY: Well, as a native Louisianian, I have to say, it's nice to finally be first in something. It's not true, actually, number one or last in a lot of different polls. So, looking at the bachelor's degrees and master's degrees, I understand a lot of this is based on the statute, and I don't know what to do about religious studies programming, but I think that's going to make for some pretty uncomfortable conversations up on the hill. And that may just have to be what happens before you guys can do anything about that. Looking at the bachelor's degrees chart, for example. You know, video and photographic art, dramatic theater, art, music, fine and studio arts, design and applied arts. The issue here is not tip income. It's gig work. All of these folks do gig work, and most of them do the gig work early in their careers. Right? Because we're measuring them year four. So these are folks who are trying to make careers as performers, as artists, as -- you know, in photography, often before they enter into education or corporate work or other things like that. A lot of folks in that early phase are trying to do the gig work, and I'm just going to preview because this is going to be a conversation when we get to the appeal conversation. But, you know, I do think the intent of Congress is to accurately measure people's earnings. I'm not talking about somehow giving people an out -- our programs an out. My concern is having numbers for these programs that are not actually good numbers. And whether there is some way to come up with a better number than what is represented in their tax returns to the IRS, because it is just very clear that these are the professions that are having trouble, I think are the ones where people are doing gig work, particularly again, early in their careers. I mean, that accounts for almost everything on this list except for just a couple. So we can talk about it tomorrow for sure, but, but I think the evidence is pretty clear that that's a real problem with the nature of the test.

MS. MACK: Thank you, Aaron. David has changed his mind.

MR. KAFAFIAN: Just a quick point that hopefully we can address tomorrow. These data cuts are very, very helpful. I would wonder if the Department has looked at rural versus urban divides. I know we've submitted a data request here. I know we've attempted to do some joins that I've definitely failed at with other data sets federally, but I do think it's really important that we understand not at the state line level, but within states, what are the implications for the rural workforce? Because I do believe there's some concerning implications there as well.

MR. MUSSER: As with all, if you have

-- if you do want us to pull that, make sure you put it in writing for us. Thank you.

MS. MACK: Tamar, Jeff, and then I am going to Dave to close this out.

MS. HOFFMAN: Thank you. I'm sure that this will come up again tomorrow, so I'll keep it very brief. But just because it's come up a few times now, both tipped and gig work is often reported. And I think that the -- to the extent that it is underreported, it's pretty de minimis and I'd like us to hold that in mind throughout the conversation. And I'll end there, and we can pick it up again tomorrow.

MS. MACK: Thank you, Tamar. Jeff?

MR. ARTHUR: And I just wanted to point out that I did make a request for students at -- the Department for some data where if just looking at the FAFSA data -- FAFSA income for students that are entering certificate programs to identify the percent that are entering college, their first FAFSA with a poverty level income or below, and 150% poverty level and below. Just to get an idea of where these students are when they're entering, so that we can understand what the lift is and to understand what our expectations are. I mean, it should be all about are we providing value to the student? And if we can demonstrate that and if we see a very high percentage are very low income, I think that helps us get to a place where we can recognize the lift.

MS. MACK: Thank you, Jeff. Thank you again, Cody. Dave, I'll turn it back over to you.

MR. MUSSER: I think we are just about at time today, so we will postpone the final presentation until tomorrow morning to make sure we have ample time for, for questions and discussion about debt-to-earnings. The other thing I wanted to mention is that we have already received a number of data requests. We are going to do our absolute best to fulfill those requests. I believe we will be able to fulfill, either partially or fully, a number of the ones that you guys have requested, because the Department has done some work to prepare for the session. There may be some that we can't fulfill, but we will do our best and I'll give you guys updates as we go along this week. Otherwise, I'd like to thank you guys for a fantastic discussion today. Really appreciate the deep interest in the details, especially when this is one of the most complicated topics that we work on here at the Department, so thanks to everybody.

MS. MACK: Thank you, everyone. We'll pick up tomorrow. Have a good evening.