

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
ACCOUNTABILITY IN HIGHER EDUCATION AND ACCESS
THROUGH DEMAND-DRIVEN (AHEAD)
WORKFORCE PELL COMMITTEE
SESSION 2, DAY 4, MORNING
January 8, 2026

On the 8th day of January, 2026, the following meeting was held in-person, from 9:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MS. MACK: Good morning, everyone. Well, we did much better at that yesterday. Good morning, everyone. Here we go. My name is Kayla Mack. It is my pleasure to be back here working with the Department and the esteemed AHEAD Committee. We are going to begin today, as we always do, with a quick round-robin roll call for our students constituency. We have our primary.

MR. ATCHISON: Eric Atchison.

MS. MACK: Thank you, Eric, and our alternate?

MR. NOBLE: Magnus Noble.

MS. MACK: Thank you. And for our veterans constituency?

MR. FEEHAN: Matthew Feehan.

MS. MACK: Thank you. And our alternate?

MS. HOWELL: Julie Howell.

MS. MACK: Thank you. And for our employers constituency, we have our primary.

MR. KAFAFIAN: David Kafafian.

MS. MACK: Thank you. And our alternate?

MR. CARIELLO: Dennis Cariello.

MS. MACK: Perfect. And for legal aid

today, our primary?

MS. HOFFMAN: Tamar Hoffman.

MS. MACK: Thank you. And our
alternate?

MS. KEMMERLING: Zoe Kemmerling.

MS. MACK: Thank you, Zoe. For public
institutions, we have our primary.

MS. HULTQUIST: Kristin Hultquist.

MS. MACK: And our alternate?

MS. WILLIAMS: Tonjua Williams.

MS. MACK: Thank you. And for private
nonprofit, we have our primary.

MR. LACEY: Aaron Lacey.

MS. MACK: And our alternate?

MS. ROUSH: Joanna Roush.

MS. MACK: Thank you. For proprietary
institutions, we have our primary.

MR. ARTHUR: Jeff Arthur.

MS. MACK: And our alternate?

MR. CLAYBAUGH: Ryan Claybaugh.

MS. MACK: Thank you both. For state
workforce agencies, we have our primary.

MS. STEPHENS PARKER: Rachael Stephens
Parker.

MS. MACK: Thank you, Rachael. And our

alternate?

MS. DESANTIS: Andrea DeSantis.

MS. MACK: Thank you. And for state grant agencies, we have our primary.

MR. MORROW: Ritchie Morrow.

MS. MACK: Thank you, Ritchie. And our alternate?

MS. MCCLOUD: Elizabeth McCloud.

MS. MACK: Thank you. For state higher education, we have our primary.

MR. STAMPER: Randy Stamper.

MS. MACK: And our alternate?

MS. DELANGE: Heather DeLange.

MS. MACK: Thank you, Heather. For accrediting agencies, we have our primary.

MR. MCCOMIS: Michale McComis.

MS. MACK: Thank you, Michale. And our alternate?

MR. LITKE: Gary Litke.

MS. MACK: And for organizations representing taxpayers, we have our primary

MR. COOPER: Preston Cooper.

MS. MACK: Thank you, Preston. And our alternate?

MR. POLLACK: Ethan Pollack.

MS. MACK: Thank you very much. For the Department, from the Office of General Counsel, we have?

MR. LALLO: Jake Lallo.

MS. MACK: Thank you. And our Deputy Assistant Secretary?

MR. ANDRADE: Jeff Andrade, heavily caffeinated.

MS. MACK: And last but not least, we have our Federal negotiator. And I would be remiss if I did not take this opportunity to wish him a very happy birthday today. Mr. Dave Musser.

MR. MUSSER: Dave Musser.

MR. STAMPER: What a gift we get today.

MR. MUSSER: I was really hoping no one would find out about that.

MS. MACK: Just wait. There's more surprises as the day goes by, yeah. David, did you have something? Would you like to lead us in that effort?

MR. KAFAFIAN: Happy birthday to you, happy birthday to you. Happy birthday, dear Dave, happy birthday to you.

MR. MUSSER: I didn't have a chance to give a thumbs down to that. Thank you guys, I appreciate

it.

MR. ANDRADE: We'll bring out the sombrero after the next caucus.

MS. MACK: Sounds good. Your cheeks are pretty shade of pink now, Dave. To get us started, I would like to circle back to where we left off yesterday. A caucus was called by the Department to meet with Legal Aid. And as always, we ask for a quick report-out coming out of that caucus. So I know folks are interested in seeing how that went. Dave, I'd love to turn it over to you.

MR. MUSSER: Yes. Thank you. So we had a great discussion with our colleagues from the legal aid community. The Department gave some information about our intent with this rulemaking, focusing on why we designed the rule in the way that we did. And we discussed with our colleagues what their concerns were, what kinds of things that they were still interested in seeing in the rules that were not currently there.

MS. MACK: Thank you very much. And I'll turn it right back to you to get us started with today's agenda.

MR. MUSSER: All right. Thanks, everybody. So this morning, we would like to go through a fairly large number of changes that we made overnight,

and talk through each of those. I will also go through several proposals for either guidance or other agreements that the Department would make. We'll talk through some of those, and just to give you guys a quick run of show for the remainder, we do plan to do another update on data requests. Cody will join us at least one more time for that. And then after that, the Department will begin calling a few caucuses with negotiators to have some further discussions about where we are on the rule. Okay. With that, I think we can pull up today's document. So I believe we have printouts for folks of these changes. I would note that as we go through the changes, I'll note a couple of places where some -- the Department does need to make a couple of corrections. We noticed them this morning. But I'll note them for you. So just maybe put a note on your paper copy. Or just note them -- note these areas where we will make these changes before we have final language prior to any vote that we take later in the week.

MR. ANDRADE: The color of the day is aqua.

MR. MUSSER: And Jeff reminds me to mention that we do have color coding at the top of the printout so that you can see which changes were made on which days. Today's changes are in this lovely aqua

color. Just wait for a moment for folks to get their handouts. Okay. So we'll start going through the changes. The first change we've made here is for the first time we have added an explicit definition of earnings. This is in 34 CFR 668.2, definitions. And we've heard a number of concerns about exactly what, what constitutes earnings, what kinds of things does the Federal agency with earnings data provide to -- when they are calculating the earnings for individuals, which ultimately result in the median earnings for programs. So we included a very basic, but we think pretty encompassing definition here. And again, this only applies for purposes of Subparts Q and S of this part. We wanted to be sure that it was a little narrow, narrow but it includes wages, tip income, and other earned income, including from self-employment. Our commitment here is to publish -- if we reach consensus, we would publish with this definition. And we would also include a directed question to the community to solicit information about where some of the unearned -- some of the earned income that perhaps is untaxed may be located on tax forms so that the Department can conduct further negotiations and discussions with our Federal agency partners to determine where that information might be obtained and ensure that it ends up in the earnings if it does fit into this definition. So

I'll pause there to see if anyone has questions about this component. All right. I can go ahead and scroll down here.

MS. MACK: Michale, please.

MR. MCCOMIS: From the conversation that we had in caucus yesterday, I think that is part of this definition coming out of that. So it seems to me that one of the questions that was raised at that time was whether there are compensatory benefits that can be counted as income. So I don't know enough about nothing to know how to say that, but I don't know that that is necessarily captured here when we're still talking about income, but we don't mention the compensatory benefits that are equitable to income or are otherwise counted as income.

MR. MUSSER: So I'll let Jeff explain in more detail. But I would say that we do believe that the definition does encompass those things. And we -- and when we publish the NPRM, again, if we reach consensus, our proposal is to explain that we do believe that certain types of this -- of those types of income would be included in self-employment. And Jeff can speak a little bit further to the specifics on what we mean and where it fits into this definition.

MR. ANDRADE: Sure. And thanks, Dave.

We looked at -- and this is really wording on, you know primarily from the 1040. We looked at earned income as it's reported for taxable purposes. And we looked at the instances. For example, clergy, which has certain types of earned income which are not taxable. Parsonage is a good example of one of those. And while they are not subject to Federal income tax, they are part of the basis for self-employment tax. And so a lot of that information is available on other IRS forms that are attached to the 1040. And so that's -- that was the basis. So, however, if there were benefits that were not considered to be part of earned income, you know, or untaxed earned income, we would not include those. So but again, where they were specifically counted as earnings but excluded for income tax purposes, we tried to find a way to count those back in so we have an apples-to-apples comparison.

MS. MACK: Thank you, Dave. Thank you, Jeff. Michale, any follow-up before we move on? Okay, Dave, back to you.

MR. MUSSER: Okay, great. So we'll scroll down here. And we're here in the definition of the earnings threshold. So we are making a number of changes here. And I'll just start -- it's a little bit difficult to connect all the changes. So I will -- we're going to do it in the chronological order of the regulations. But

I want to start here by giving the broad context for what we're doing with this set of changes. This set of changes is in response to a proposal to exclude territories and freely associated states from calculation of the earnings premium metric if there is not state-level census data available for those territories and freely associated states. And so we agreed with that approach. And so we have modified our proposal here to essentially calculate the metric, establish an earnings threshold, and calculate the metric in all cases where the state-level census data exists. And in any case where the state-level census data does not exist, we will not calculate an earnings threshold, and we will not perform metrics for programs that are located in those states. In the cases where at least 50% of the students are, are from the state or the territory or freely associated state. And where they meet that test if more than 50% are from outside that state, we would use the national standard as we would in any other case. So you'll see these changes scattered throughout. The first change here that is designed to implement this, we took out the distinction about State of the Union and replaced it with just State, because the definition of State in the Department's regulations includes the US territories and freely associated states. So this essentially says that we will

calculate it for a state. But you'll see as we go through, we've -- we express the exceptions in other places in the regulations. So let's scroll down here unless anybody has any questions about that. Okay. So this is a separate change. We'll come back to the other one in just a moment. Here we have incorporated a proposal from David to give the Department the ability to establish an earnings threshold using the four-digit CIP code. As such, data is available and statistically reliable. Currently, we do agree that it would be preferable in many cases to use a four-digit CIP code benchmark. It is more specific and we believe more indicative of the earnings for those individuals. For who would be graduating into that field. But it simply doesn't exist right now. So we are unable to use it. So essentially, here we are establishing the ability for the Department to use that in circumstances where it is available if that ever becomes the case. Pause for a second to see if anyone has questions. I think I see one from Eric.

MS. MACK: Eric, please.

MR. ATCHISON: Thank you. Dave, I appreciate this change. But just wondering for the sake of priority, is it language-specific that the four-digit would be used if it is reliable? Because two-digit comes

first and so I just want to make sure.

MR. MUSSER: Yeah. So the intent here is that if those conditions are met, if the CIP -- four-digit CIP code data is available and statistically reliable, we would use that. That's what that means. Yeah.

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

MR. MUSSER: And, and just this -- I think that's a good point. I want to just note for the record for my colleagues and for our transcript later on that we will explain that in more detail in the preamble. We can scroll down here. And we did the same thing in B here. And keep scrolling. Okay. So here's the next place where we deal with the issue of US territories and freely associated states. And this is the more specific exclusion. For states where the Census Bureau data necessary to perform the calculations set forth in subsections one and two are not available, if 50% or more of the students enrolled in the institution during the award year, the calculations are made are from the state and where the institution is located, there will be no earnings threshold. Pausing here.

MS. MACK: Aaron, please.

MR. LACEY: My only comment is you

guys adopted that language during the award year calculations are made. But then when we got the presentation from Cody, it sounds like you might actually be crunching the numbers prior to the award year to which it is attributed. So you may want to massage that a little bit. I mean, I understand the intent of this, but that language may not actually work given the timing you're planning for, if that makes sense.

MR. MUSSER: Yeah, we'll take this -- take that back. I also think -- we were working on this last night and trying to get it as close as we could to what a final would look like. I think we also considered having some of this language in the metric calculation section. There is already some, but we'll consider moving some of this there. I think that would also take the timing issue out of the definition itself.

MS. MACK: Thank you, Aaron. Thank you, Dave. We have a couple more cards. Preston, please.

MR. COOPER: Thank you. Just for clarity on like which jurisdictions you have data for right now. So you have Puerto Rico, you have District of Columbia, but not the other territories and freely associated states?

MR. MUSSER: Exactly right.

MR. COOPER: Okay.

MR. MUSSER: Yep. And to be clear, there is census data for some of the other territories, but it's not the -- in the age range that we need currently. Yeah. So that's why it's unavailable. And we wouldn't calculate it for those territories.

MS. MACK: Thank you, Preston. Thank you, Dave. Tamar, you have the floor.

MS. HOFFMAN: Thank you. That's, that's really clarifying. And knowing that the issue is the age range, I'm wondering if that is perhaps an adjustment that could be made as opposed to getting rid of the accountability metric entirely.

MR. LALLO: So yeah, this is generally a statutory issue. The statute's pretty explicit about what the age range is. It's not like small, I guess, how far off it is. You know, the age range in the statute is 24 to 34. The problem is -- and Cody can speak to the problems of data more generally, but the actual range given in the census data for those areas is 25 through 44, so it expands it up ten years. Also, it only covers obviously the US territories there. It doesn't apply to the freely associated states. Those -- we don't have that data because they're independent countries. No US census is performed there. The data also is just frankly a little weird to work with as conducted now. It's a

decennial survey instead. It's not done with the same level of granularity. We also thought about this really heavily, the amount of schools that are going to be affected by this are relatively small. I think there's only a single school in any of those territories that even offers Direct Loans. That's University of Guam. The rest of these places have one school each, I think, and they are only Pell-participating schools. So the overall impact is relatively minor. We think that this is a legally safer route given the way the statute specifies what data to follow. I think we would -- I think it's unlikely that anyone would probably be substantially negatively affected if we did it the other way, but this is more defensible on the off chance that somebody lost eligibility and sued us over it.

MS. MACK: Thank you, Jake. Tamar, did you want to follow up? Okay. Thank you. Randy, please.

MR. STAMPER: Yeah. I just want to thank the Department for the flexibility and recognition of the difficulties here. Really appreciate it.

MS. MACK: Thank you, Randy. Dave, back to you.

MR. MUSSER: I think we can continue scrolling down. Okay, so here in the definition of an eligible non-GE program, just reminding everybody that

this definition is specific to Subparts Q and S, although it now appears in a few other places in the Department's regulations. We have added a component here to indicate that these programs are subject to the Higher Education Act, Section 454 C, which is the section that was added by the One Big Beautiful Bill Act that provides the statutory authority for the calculation of this metric and accountability consequences for programs. This was in response to Preston's request for more -- additional language to support severability in the event that a portion of this language was potentially struck down due to a lawsuit, so that we would have a little bit more certainty that the framework the Department sets up is durable for those programs where there is clear statutory authority. I'll pause here.

MS. MACK: Thank you. Randy, did you have something additional? That's okay. Preston?

MR. COOPER: Thank you. I appreciate this change. I just -- I have a question about how this works, though. So I guess part of the concern here is that there is -- there are certain programs which are subject to overlapping statutory authority. So you have Gainful Employment, you have OB3. And then kind of within the Venn diagram of that, you have graduate certificates and degree programs at for-profits, which are subject to

both authorities. And I'm not sure that this actually fixes the problem, because the language other than a GE program still makes the categories mutually exclusive, so that if it were to be -- sorry, go ahead.

MR. MUSSER: Well, so that's a really good point. The Department has a specific view on this that -- we've actually talked about it quite a bit this week, and I'll let Jake speak to it a little bit further. In our view, the requirements that are established in the One Big Beautiful Bill Act override the GE status of the other programs. So the -- as you guys know, as -- and as Preston is pointing out, there is an overlap between the types of programs that are considered required to lead to Gainful Employment and the programs that are covered by the One Big Beautiful Bill Act's accountability framework. And specifically what we're talking about there are degree programs at proprietary institutions, certificate programs and graduate certificate programs. Undergraduate certificate programs are not covered by the OBBB. But they are GE programs. So it's our view that the statute essentially overrides the GE concept for -- at least in terms of the metric that we're calculating for all of those other programs. If you still think that there's a concern because technically those programs are GE programs, we can go back and look at this language a

little bit further. And I think we could also redefine the GE program definition to be a little clearer about which ones are and which ones aren't covered under the OBBB framework. Would that help?

MR. COOPER: Thank you. Yeah. I think probably what sounds like the best solution might be in the definition of a GE program to say that these are -- this does not include anything covered by OB3.

MR. MUSSER: Yep. We can go back and add that.

MR. COOPER: Okay, I appreciate that. Thank you.

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

MR. MUSSER: Okay. I can keep going down here. Okay. So here we incorporated some suggestions to amend the definition of institutional grants and scholarships. These were really, I think, clarifying concepts for the definition. And this is now only used for reporting purposes. This would not have any effect on the metric calculation. But, but we are indicating that it would include a grant or scholarship which could convert to a loan if the student does not meet certain requirements, that is currently the Department's view. But it is now more explicit in the definition that those

types of grants would be included. We also made an adjustment to express that the institutional share of all campus-based programs would also -- would -- is not included in this definition. And that also is our view here. It just wasn't explicit in the definition. So we made those changes here. Okay. And we can continue scrolling down unless anyone has other questions about that. Okay. And this is the third and final change affecting the overall set of changes related to the territories and the freely associated states. For programs which do not have an earnings threshold, and there's a little area where we didn't get the blue text on here, and we'll fix that. No earnings premium measure will be calculated, but the Department will make earnings data publicly available. This essentially reverts back to the current -- much in large part, although not entirely, the current approach, where for the territories and freely associated states that are excluded or exempted under the current regulations, we still collect the data that we need to calculate their median earnings. And we do still plan to publish that earnings data and make it publicly available. Okay. I think we can continue scrolling down here. I think we've got a ways to go before the next one. Okay. Well, not quite. Okay. So this is a change recommended by a couple of negotiators that

we -- instead of referring to enroll -- this is -- I'm sorry. Let me give some context first. This is the section that it describes the students who would be excluded from having their earnings incorporated into the median earnings. So here, the student would be excluded if they as we had currently written it, they were enrolled in an eligible program at the same institution or another institution. We've heard a number of comments expressing concern about that there are numerous cases where the intent is to avoid including earnings for somebody who is still enrolled at -- in college and is unlikely to be working in a meaningful way. So there are programs that are not eligible programs where that could be occurring. And we, we got one of the recommendations had us striking the concept of a program entirely here and focusing only on general enrollment in an eligible institution. We looked at that and thought it was a step too far because that kind of enrollment could constitute just a two-week class for one credit and would -- and could actually result in some gaming by institutions if they decide that they want to try to bring people back in for like a program four years later that they would like to have a refresher course, for example. And it's just a -- too small an amount of enrollment to actually affect their earnings as well. So we -- on the other hand, we

understand the concern and we don't -- it is not our intent to only focus this on eligible programs. So we've amended this to refer to an educational program which has a separate definition in 34 CFR 600.2. It is not necessarily eligible. But it is a program that's offered at an eligible institution. So if a student is enrolled in a program, and educational program also means generally accredited or at least authorized by the state -- the -- if the student is enrolled in one of those programs, then they still would be excluded. And we do obtain information about such enrollment in the Department system.

MS. MACK: David, can we hear from you?

MR. KAFAFIAN: Thank you. Appreciate it.

MR. MUSSER: Okay. Any other comments on this? Seeing none, I think we can keep moving. Here we -- this is a replacement of the language on the graduate roll-up concept that Preston requested, and we put that back here.

MS. MACK: Preston, please.

MR. COOPER: I just want to say thank you for this change, I appreciate it.

MR. MUSSER: Okay. Continue scrolling

down. Okay. So here we have reached the section on reporting requirements for institutions as part of the STATS process. And this section, as you guys recall, the Department had proposed eliminating a portion of the requirement for reporting on licensure. We have added back some language here, and we've actually expanded it beyond what the original requirement was. Where now the requirement is that the institution will report whether the program meets licensure requirements in the state where the institution is located. And all states where the institution has determined that the program meets such requirements, including under their obligations in 668.14(b)(32). That section requires institutions to ensure that its programs lead to licensure in all states where the institution is located.

MS. MACK: Aaron, we'll start with you.

MR. LACEY: No issue with this. I mean, schools are already doing this. The only thing I think would be helpful is if in the preamble, the Department was clear that the expectation is that this list would match the list that schools are putting together, like, because there is, you know, this definition of what's a licensure program is a little bit of a term of art in some respects. And so I think it

would be good just to confirm for schools that the list you're coming up with for this other purpose, like that's what this list would be if -- unless there's a distinction, and if there is, I don't know.

MR. MUSSER: No, and in fact, I think we could add language that it says also consistent with the 668.43 requirement. Yeah.

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

MR. STAMPER: I was just going to agree with Aaron and put forth the exact same comment. So there's not much else to say except thank you. This will benefit the veterans constituency.

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

MR. MUSSER: Okay. Continue scrolling down here. And I think this takes us into, yep, Subpart S. We'll continue, continue down here. We have made a change in Subpart S first here. This is the first of several -- a couple of changes that incorporate the proposal that numerous negotiators agreed to yesterday. And that was proposed by Aaron late, late - later in the evening. Thank you, Aaron, for pulling that together for us. So here this is the area where we describe Direct Loan program ineligibility. So these are the consequences

of failing the earnings premium metric in two out of three consecutive award years. So in this section, we already have an exception for 668.26(d), which I've talked about a few times, the loss of eligibility and limited circumstances where students can continue to receive disbursements. But we've also added or as provided in paragraph four below, and we'll go down now to paragraph four. And this is the new language. So this is a section entitled Retaining Eligibility During Orderly Program Closure, and I'll just read it so that we can look at it in detail. Notwithstanding paragraph(1), the loss of eligibility paragraph I just mentioned, if the Secretary determines that a program has failed to satisfy the requirements of 668.402, the metric calculation, such a program shall not cease Direct Loan program participation. If within 120 days of the Secretary's determination, the institution and the Secretary agree to add an amendment to the institution's participation -- Program Participation Agreement that requires the institution to -- and there's two provisions here, one, cease accepting new enrollments on or after the date of the agreement. Scrolling down. Two, engage in an orderly closure of the program, in which the institution provides an opportunity for enrolled individuals to complete their program, regardless of

their academic progress at the time of closure. And I'll pause there for -- I see a number of cards.

MS. MACK: David, we'll get started with you, please.

MR. KAFAFIAN: I actually had something on the prior subpart, but maybe let's let everybody discuss this one, and then I'll take us backwards. Sorry.

MS. MACK: I'll come back to you. Matthew?

MR. FEEHAN: So I just want to thank my colleague here, Aaron, for the work that he's put into -- and all the negotiators for this collective effort to get this language right. This is a really important provision, and it significantly benefits my constituency from prior institutions either losing or at risk of their eligibility. And while that accountability is good, on one hand, what ends up happening has happened in the past is student veterans and service members get caught in a program kind of in a state of limbo. So just for the record, what this does is it corrects that limbo period, allows the institution to one, voluntarily work with the Department to get this right. And then two, allows the students, particularly students, veterans, and service members from my constituency, retain their opportunity to

either, you know, transfer or, in this case, particularly continue with the program. So again, I just want to thank all the negotiators and the Department for this language. It's wonderful.

MS. MACK: Thank you, Matthew. Tamar?

MS. HOFFMAN: Thank you. I'd like to note that I have some serious concerns, actually, about this amendment, and I've expressed some of these to the other negotiators as well. But just for clarity here, looking at this language, I'm very concerned about the fact that this enables institutions who we know are failing very low bar accountability measures to keep students enrolled, regardless of how much longer they have in the program. That means that even if they would have failed the second year, students could be enrolled beyond that second year into a third year or fourth year, and longer than that. And in addition to that, I'm concerned that there isn't anything here that prevents institutions from seizing and new enrollment in a failing program, but not at the same time standing up a substantially similar program within the same institution. To me, this seems like a giant loophole for institutions to try to maintain eligibility for Title IV funds when they aren't actually delivering adequate services to students.

MR. MUSSER: So, thank you, Tamar. So the first -- I think that to your first point I'd be curious -- it sounds like you're suggesting that we would -- that in order to improve this for you, we would establish a time limit. Something like, I'll just put -- just suggest whatever -- what it might look like, engaged in an orderly closure of the program in which the institution provides an opportunity for enrolled individuals to complete their program if the individuals have less than X amount of time to complete their degree or complete their program, something like that.

MS. HOFFMAN: I think that that would be a good start. Again, I still have other concerns, but I think that that would be a move in the right direction.

MR. MUSSER: The other -- on the other point, though, I -- the -- we -- I have to -- we could -- I could talk to Jake about this in more detail, but I believe the Department would treat this as a voluntary discontinuation of the program which would cause it to be unable to add other substantially similar programs to this. And it sounds like other negotiators agree that that is not -- that is reasonable. And so if we need to add language, we'll do that. But that really was our intent here. We didn't -- we do not want schools to use this as a mechanism to simply add another similar program

and gain this requirement.

MS. MACK: Thank you, Dave. Thank you, Tamar. I saw a number of cards. I know everyone wants to speak on this. I will get around as speedily as possible. David, I'm going to circle back to you. And then Preston, I'm coming to you.

MR. KAFAFIAN: Yeah, I would just say I would echo those sentiments. I don't think any of us were intending for that to be gameable in that way. And I think we could be supportive of something that capped it. I would love to see that capped at 100% of time for the student, so that the student can't drag out in perpetuity. I do hear the concerns, Tamar, I really do, to use an analogy, that is probably going to falter at some point. At the end of the day, the dollar is going out the door, and if we don't do this, then new students can step foot into this program that's failing, too. So there's student harm on both sides. It's just a question of whether a student who's already engaged in the program closer to completion, certainly, than any new student, whether they can continue at their own volition and choice, they can always choose to leave at that point, too. So I do hear it. I think it's a, you know, an argument at the equities. And my instinct is that it's meaningfully worse for a new student to be allowed into

the program than a student who's already in the program to be permitted to continue. So I think if we can cap it at 100% of time or something like that is something that we would be supportive of.

MS. MACK: Thank you, David. Preston?

MR. COOPER: Thank you very much. I'm definitely of two minds of -- on this proposal. I would strongly support the recommendation for a time limit here. And I also just have a question. So the way that I understood this proposal when we discussed it yesterday in our unofficial caucus, was that this would -- this option would only be available to a program that has failed once and that if you fail twice, this is no longer available to you. You're just out. And I'm -- I think that's the Department's intention. I'm just not seeing where in the language that is established.

MS. MACK: Dave, do you want to speak to that?

MR. MUSSER: I'll just say that that is the Department's intent. If we could scroll back up. We're open to changes to the language to get to that. So I guess the -- I see your point that if there was a second failure, this could still read to include that failure. But it is our intent that we only allow for this after the first one. Go ahead, Jeff.

MR. ANDRADE: Well, in the case of the second failure, then they would be out completely. And our understanding was that the -- we -- that you did not want to provide the option at that point. This is really a soft landing of someone who decides in the first year after the first failure, that they want to wind down the program after this. After that, it's a cliff. They're just cut off immediately.

MR. MUSSER: I think that part of the issue when we were drafting this was we wanted to -- how do I say this? We, we were concerned about cases, for example, a fail/pass/fail, for example. Would that be a situation where they were permitted to, to, to do this agreement? I would guess not. I think what you have in mind is it's the first time that the institution has failed in three consecutive award years because let's say this happened and then eight years from now the program fails again after it's reinstated and it's up and running again. I think the same thing would apply here. We'd want to give the institution the ability to do this the first time they fail in a three-year period. And then we wouldn't give them the opportunity if they fail again and in, in that period and lose eligibility. So I think we can write that in, if that works.

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

Jeff. Any follow-up question?

MR. COOPER: Yeah, I appreciate that. Thank you. And I would also recommend that even if the Department -- excuse me, the program decides to, you know, take this teach-out option and voluntarily withdraw, that the Department continue to calculate the earnings premium measured data so we can see how the program is performing in the years after the first failure.

MR. MUSSER: That is the Department's intent, and nothing in this would exempt them from reporting, or the calculation.

MR. COOPER: Great. Thank you.

MS. MACK: Thank you, Preston. Aaron?

MR. LACEY: Yeah, just responding to several of the things. 100%, the idea was only the first time you failed. Not only that, you only have 120 days to make the decision. So if the 120 days pass, it's off the table. On the substantially similar 100%, the thinking was that this would be treated as a program that was voluntarily withdrawn. And I think that would still fit in that definition, but certainly would not be opposed to just making that explicit in the regulation, just that the Department will treat this as a program that has been voluntarily withdrawn. So that will cover substantially

similar programs. I agree with the time limit, too. I -- just as a practical matter, and I'd be interested, Michale and I to put you on the spot, but if you or Heather or any of the folks who are regulators have thoughts on this, I mean, my experience is because this would have to be an approved teach-out program, typically when institutions enter a teach-out, like, there are no new -- I mean, obviously nobody can transfer into that program, like there's no one else coming into the program. There are no leaves of absence. Typically, you don't repeat courses. And a lot of that is just because from an institutional perspective, you know, as the number of students in the program dwindle, I mean, you don't want to keep offering a program for another six months with one student in that program. So I typically have not run into that. But also, I don't think anyone would object. The only idea here is to give every student who is in that program on the day this decision is made, assuming no leave of absences, assuming that they don't, you know, fail programs, they have the possibility of completing that program. And I think that's the idea. So putting that sort of limitation on it, I don't think is problematic. The only other thing I was going to mention for the Department, and I don't think this all needs to be in the regulatory text, but this is a complicated

decision for institutions to make. And to the extent the Department could float at some point, what that PPA amendment would look like, because it's going to have a lot of restrictions in it. I think that would be helpful for schools to see just so that they understand, like these are the terms. If you accept this, you are teaching out this program. It's done. You've got the period of ineligibility that begins after the end of the -- like, just so they understand what the consequences of the decision are. But -- and the other thing is, thank you to the Department for including this. I think it's a good idea and I appreciate it.

MS. MACK: Thank you, Aaron. Dave?

MR. MUSSER: Yeah. And I just -- I do want to respond to that point, and we agree. If we do reach consensus and this is included in the proposal, the Department's intent would be to provide guidance to the community about how this process works and also give the sample addendum, which would always be the same. It's not -- we don't anticipate having a different one in different cases. Now, just to be clear, there could be cases where a different addendum is signed in addition to that one. If there are unique issues because of provisional status or financial issues or whatever. But the addendum for this purpose would always be the same.

MS. MACK: Thank you, Dave. Michale?

MR. MCCOMIS: Thank you. And thank you for taking a stab at this in such a short period of time. Just a couple of things. You know, not every program that fails the earnings premium is a program that's providing inadequate services to students. So there's a bell curve here. And maybe there's more concern for those programs that are also subject to some kind of action or even sanction by an accreditor, like a probation or the equivalent. So it could be that in those instances, those programs might not be eligible for this soft landing because to Tamar's point, you know, those we have more concerns about in terms of letting the spool out. So if the Department's open to some additional ideas around the language that could, you know, maybe put some additional conditions on what programs might be available for that, I'd be happy to try and provide something along those lines. Also, 120 days for a shorter-term program, a four or six or eight-month program may be too long to give them that opportunity to make that decision. So you might consider that for programs less than 12 months in length, they have a shorter time frame potentially to put that in -- put that plan in action.

MR. MUSSER: So we did think about that, Michale. And our thought was that because we -- of

the concept that we are envisioning, where they would have six months between the determination and the loss of eligibility, we thought that that 120 days would be taking place during that period, such that the program remains eligible during that period -- well, it would remain eligible in any event, but that they'd have some time before they even would have a chance to appeal the decision -- to finalize their appeal if they do that. So we thought it fits into the time frame where this is still sort of under consideration. But yeah, they still would have to do it during that time frame.

MR. MCCOMIS: Very good. And was there thought given to specifically calling out the requirement for a teach-out plan to be submitted to the accreditor? Because I submitted some other language along those lines. I get why you might want -- might not want to do that, and just think that it's part of the normal closure process.

MR. MUSSER: Well, I wanted -- we actually wanted to talk about that at the table this morning. So we didn't include it because we thought it might be something that is automatically required in -- under certain circumstances. However, this is not actually ending the program at the outset. We believe that in many cases, this would be something that an

institution would be expected to report to its accrediting agency. If you think there are gaps there where this would not necessarily -- because of the unique nature of the agreement, would not fall into that category, it is our intent that this would be something reported to the, to the accreditor. And we could add that to the series of items in the agreement.

MR. MCCOMIS: Yeah. Let me think on that for a minute, because I want to go to the comment that Aaron had made about delimiters and parameters on teach-outs. They're not always to the degree of, you can't have any new entries. There are some instances where a teach-out might provide opportunities for not new enrollments, but for students that were close to completing their program to come back and finish two or three or six courses or whatever they may need. And so I would want to make sure that we've got some tight parameters around what the expectations are, that it's no new enrollments or re-enrollments into the program. And that it's not just an opportunity for them to -- or maybe it is just an opportunity for them to complete it at the program or to provide transfer or articulation options. You know, I just want to think about how much do we want to -- because this is really, again, the off-ramp for students. So how much support and allowance do we want to

give the institution to really be able to get that last cohort of students through to the finish line?

MS. MACK: Jeff, did you want to respond to some of these remarks? And then I'll come to you for a response, Aaron.

MR. ANDRADE: Yeah. And I think there's also -- we have questions with regard to the state role as well in terms of the notifications, but we specifically were trying to avoid triggering it and calling it a teach-out. Because it is a voluntary action. It is a wind-down of the program. But we are cognizant of the fact that the accreditors and the state regulators need to be aware that the program is going away. And we're facing that out. So we would be open for questions. But again, we're -- we didn't want to trigger specific provisions that are there for teach-outs right now.

MR. MCCOMIS: But you mean they -- as they are defined in 600?

MR. ANDRADE: Yeah. I mean, as opposed to like a program, like a program -- an abrupt program closure.

MR. MCCOMIS: Yeah.

MR. ANDRADE: We didn't see it as the same thing.

MR. MCCOMIS: Yeah, right. Term of art

and term of action. Because those -- you know, precipitous closure is different from an orderly closure is different from voluntary closure. At the end of the day, the intent of the teach-out plan and any of those instances is to just say, precipitous, voluntary, involuntary, whatever. What's the plan? How are we protecting and taking a -- yeah, so let me think on that for a minute about the way that things are defined in 600 and 602 and other places and see how to thread that needle.

MS. MACK: Thank you, Michale. Brief response, Aaron, and then I'll get to the cards. Jeff, I'm coming to you now.

MR. LACEY: Yeah. The sole purpose of this is to provide an off-ramp for folks who are in the program when this decision is made. So if the Department wants to, you know, explicitly say for purposes of this process, just to be very clear, you know, no new enrollments, no one transfers in. No, I'm fine with that. That is the whole purpose of this is just to give an off-ramp for people who are in the program, whether I'm fine with it or not. But I'm just saying that's in the spirit of what I was contemplating. The other thing is I -- to Michale's point, if we -- I mean, certainly in our practice, it has always been our view. It does not matter

if it's compulsory or voluntary, if you are stopping enrollments in a program and teaching that program out, our expectation is you've got to communicate to your state and regulator that you are teaching out the program, whether you call it a teach-out or a wind-down or whatever you want to call it, and it would be subject to these requirements. And that certainly would be my expectation here. And I have no problem with that. I think that's appropriate. I mean, that's what you're doing, you're teaching out that program. And if you're accredited and regulated by State, I mean, I think you've got to communicate to them that that's what you're doing and comply with those requirements.

MS. MACK: Thank you, Aaron. Jeff?

MR. ANDRADE: And the other important point to keep in mind is that it's also voluntary to continue on behalf of the student. The student has that off-ramp themselves so they don't -- if they decide they don't want to use their Pell eligibility and continue on, they can go somewhere else. So I think it gives a number of options here for folks. So I just wanted to keep that in mind that students are not going to be forced into that path. That's just an option available to them.

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

MR. ARTHUR: Yeah. When -- and some of the -- some of what I'm going to comment may be appropriate in guidance or preamble, but when an institution makes a decision to stop enrolling students, those programs start to disappear pretty quickly, I would assume. You've seen that, Michale. But also, you know, you're -- when you've got students that have completed a number of credits in that program. Well, first, my point, the published length of the program is probably going to be adequate. It probably will be -- there will probably be no students left by the end of that period anyway. And if you have a student that wants to return, I think you absolutely need to accommodate that student. But if they can't complete the program in the remaining time period, of course you're going to have to notify them of that. And the fact that it's a program on warning before they would reenter. And that's probably a guidance thing. But, but definitely if an institution wants to -- if it allow a student to return, they can't get aid for the rest of that program, that they have a clear understanding of how that would be compensated to complete. I think that's pretty important. I am concerned about the language in -- is it the intent that -- and again, you put -- you guys put this together really quick, impressive. Is it the intent that this is an option for -- that they may choose

or is this an -- the intent that the Secretary may choose not to?

MR. MUSSER: This was intended as an option that would be given in all occasions. The -- I guess there could be circumstances where the Secretary had other concerns. And again, I mentioned, you know, schools on provisional, the Secretary has concerns about other, other issues about the potential for precipitous closure. But I think those, like, in most cases, are largely resolved by the fact that the school is agreeing to, to wind-down a program here. I think our intent here was to allow for this in all -- on all occasions

MR. ARTHUR: And when I read this, it does appear that the Secretary could arbitrarily decide not to enter -- allow an institution to enter such an agreement.

MR. MUSSER: Yeah. The only reason we have the Secretary's agreement in there is because we would -- we have to countersign the Program Participation Agreement amendment. So we can -- we'll look and see if there's a -- if there are some language changes that we can make to make it clear that the option will be afforded to the institution.

MR. ARTHUR: And that just brings up my concern over the time frame limit, that you must have

an agreement that you've got to assume that the Secretary is going to be cooperative in getting that done within that timeline.

MR. MUSSER: Yeah. So I guess we would -- first thing I would say is that we will publish guidance about, you know, if you want us to do this, you have to reach out to us at a certain -- you know, within, within 100 days at least. Something like that. The other thing, I guess I would say is, I wanted -- I'll go through the remaining comments here, but I do want to be sure that if folks are supportive of a time limit, that we can incorporate something here so that we don't have significant dissent. You know, the intent of this was to try to bring folks together around a concept that ultimately would have failing programs, exit the Title IV programs, and give students the opportunity to seek out a different program or to finish that program while also not giving indefinite eligibility to the program. So if folks -- I'm making a limited exception to the limitation on new proposals. If folks have proposals about that timeline, we would be interested in seeing those today. We can evaluate them on this topic.

MS. MACK: Thank you, Dave. Thanks for everyone's continued patience. Matthew, you're next.

MR. FEEHAN: Okay, got a few points to

address on this, so one just the background. And so when I first raised this for concerns for student veterans and service members who I've seen, and this has happened many times in the past, where a school will lose its eligibility. And again that student, veteran, or student service member is essentially left holding the bag through no fault of their own. It's not -- it's a student-focused, a student-friendly student protective measure to allow currently enrolled student service members and veterans who, who otherwise need to finish up their program. So this -- so that's the background of this. Where it became an issue was after two failures, the Department's not actually able to fund any form of a teach-out program under the statutory language. So if we allowed student veterans and service members and all students, if you don't mind, Eric, to the point where we get to that two-year mark, well, now there's no more statutory authority to even fund these programs. So now the student service member or veteran is, is out of luck because there's no argument that can be made that funds can continue to help that student. So this is the, this is the solution. And again, to, to everyone's point here, to Aaron's point, Aaron turned this around very quickly. And it's a wonderful first stab at it. And to my colleague Legal Aid's point, I'd be more than happy, more

than amicable to get some changes to this language that gets it across the goal line, because this is a student-centric protective measure for currently enrolled students who otherwise need to continue their program or help them transfer or what have you. I could absolutely hear my colleagues concerns that this could be framed as a loophole. I don't believe that was the intent of any of the parties here when we negotiated that. So if Legal Aid has proposals to the specific language regarding timeline or any other measure that will get us across the, the goal line, this will protect students and this will protect student veterans. So I'd be more than happy to work with Legal Aid to -- on language that would help.

MS. MACK: Thank you, Matthew. Tamar, you're next.

MS. HOFFMAN: Thank you. I appreciate all the folks in this room who have helped think through some of the concerns here. I appreciate the willingness to try to come up with a timeline. I think the timeline is only the beginning. I think just sort of looking ahead at some of the other changes we have here. It appears that substantially similar under the current regs is rather broad. And I'm concerned still that that provides too much spaciousness for institutions to continue to operate programs that they should not be operating. I

also appreciate Michale bringing up his concerns and especially, I know that for accreditors, and I imagine institutions too, there needs to perhaps be more thought to transfer and articulation agreements rather than keeping students enrolled in programs that are likely to fail these accountability measures. I'm very concerned with the idea that schools can continue to keep students enrolled just because they just happen to start a program, as opposed to transferring to other programs where they might have better outcomes in the future. So I'm hoping that the folks in this room and the Department can give that some more thought. And also to Michale's point about the 120-day window and whether that is too long for short-term programs, I appreciate the Department's reasoning for the fact that the -- we're working in data cycles of one year. But I do think that the intention behind this is to create some kind of incentive to close programs that are not working. And I worry that 120 days, if that represents two cycles or more of a program, it's not really meeting that incentive mark, and again, is just providing more runway for institutions to continue to operate programs that aren't working. So in addition to thinking through timeline, I hope that we can also think through some of those issues as well.

MS. MACK: Thank you, Tamar. Ritchie, you are next. And then Randy, I'm coming to you.

MR. MORROW: Thanks. I'm going to second my appreciation to Aaron for the very quick turnaround on this proposal and to the Department for your quick turnaround time on putting this in the reg, proposed reg. Putting on my student services hat for a minute. We know that students who drop out are highly unlikely to return, and if they have borrowed, are highly likely to go into default. So this is a proposal to allow those students to complete that program. And as Michale said, these programs could still have merit. If nothing else, the student can put on their resume when they're looking for a job, I have a degree. I completed a program of study, and that still carries weight for a lot of people in this country. One question I had, and not to step on Randy's SHEEO, but coming from a SHEEO agency, I think we would appreciate having some notification of programs that do fail the matrix. And I don't know if that's going to be publicly available on the website or if we can get notice sent to us like we do during program reviews of financial aid programs. I think that would come very handy in the SHEEO offices.

MR. MUSSER: So looking also to Michale, I think the Department can go ahead and agree to

it, add a third condition that the institution notify its accrediting agency and state authorizing agency. I don't think we have any issue with that, and I don't see any concern around the table about that.

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

MR. ANDRADE: I'm going to call another audible here. So to Tamar's issue with regard to the identical programs or the potential for a substantially -- the, the language that we had in the Workforce Pell about CIP SOC Crosswalk and, and you know, programs that train for the same occupation, would that give you any comfort and address your concern?

MS. HOFFMAN: Yeah, thanks for the question. I think that as I'm looking at this, my concern is that the definition is sharing the same four-digit CIP and an identical SOC code. And I'm concerned that programs can continue to operate a program with the same four-digit CIP, but maybe a slightly different SOC code. And that, that is not a -- that that does not really capture the universe of substantially similar programs. That's what my concern is right now.

MR. ANDRADE: So if you remember on the last table when we, when we talked about that, there was a recognition that using just the CIP code was

potentially too broad, and what we all agreed to on that was that as long as the program was not -- was training someone for a different occupation, it may have the same four-digit CIP code, but it's training someone, then that was okay. And so I think that's what we're trying to get here is, you know, it may be close, but we don't want a program coming back in that's basically training for the same occupation.

MS. HOFFMAN: Thank you. I appreciate that. I think that the context of the Workforce Pell programs is significantly different than the context of the greater higher education universe that we're looking at. And I think that's where this concern comes from. That when you're looking at very short-term programs that are meant to train for very specific occupations, perhaps the Crosswalk captures more accurately whether a program is substantially similar or not. When you're thinking about broader programs like in liberal arts undergraduate programs, I can see how this definition maybe could still lead to substantially similar programs being enacted. Just because you can qualify the same program as like, more than one occupation. I'm happy to give that more thought. We don't have to resolve that right this minute, but that's the concern.

MS. MACK: Everyone's waving their

cards. Everyone wants to speak on this. I am going to go in the order that they, they were raised. So I'm going to ask for everyone's patience. Ritchie, did you have any quick follow-up before I move on? Thank you. Randy, you were next.

MR. STAMPER: So continuing the Aaron Love Fest, well done. And also to --

MR. KAFAFIAN: He's no Cody, though.

MR. STAMPER: Huh?

MR. KAFAFIAN: He's no Cody.

MR. STAMPER: You know, I was going to mention yesterday that I want a nickname Cody, Cochart Flowchart. So I was going to make a comment about the accreditation and the state, state authorizing agency. I'll make that comment. But in thinking about the comment, it raised a question. So to Tamar's concern and what Michale said, in most if not all states, if an institution is going to shut down a program that triggers any number of levers at the state authorizing agencies about student supports and about process and timeline and all of that. So that's another layer of, you know, protection for students. But in thinking about that, the question came to my mind was if a state -- if a state's stringency standards were higher than this, would this -- would the state still be at liberty to do something

outside of the bounds of this expectation?

MR. MUSSER: Yes. So what this says is the Department notwithstanding the, the requirement that the program lose eligibility under the rule that they wouldn't lose eligibility, that's all that that's doing. From the Department's perspective, if this -- if the program loses eligibility for some other reason, if, for example, the state authorizing agency says, we no longer authorize this program (inaudible) would not preserve eligibility at all costs. The agreement preserves eligibility despite the specific program earnings premium process.

MR. STAMPER: Within the context of any other --

MR. MUSSER: Any, any other eligibility issue. Right.

MR. STAMPER: Thank you.

MS. MACK: Thank you, Randy. Thank you, Dave. Michale, we're back to you.

MR. MCCOMIS: Not particularly interested in making this, you know, romanette (i) through romanette M but I think there are potentially some additional guardrails to consider. One is, yes, it has informed the institution, state and accreditor and has met any program discontinuation or closure

requirements would be one. To Tamar's point, will not seek to reestablish eligibility for two years after the last student has -- for the program, or one that is substantially similar after the last student has completed the program. That was one of the caveats that we had talked about in our caucus, because again, we're talking about a bell curve here. An institution may be able to revive a program, may get -- you know, have capital, you know, an infusion of capital to buy new equipment to make the program better. So I don't know that missing one year of an earnings premium should be a death knell in perpetuity for a program, but it should provide space and opportunity for the institution to improve it and to demonstrate to its state and to its accreditor those improvements have been made before they can restart it, so that that might be just another opportunity to say, look, you know, close may not be closed forever, but you still have a period of time when you can't re -- you can't seek to reestablish eligibility, just like you would if you missed it in the second year. So that would be a caveat as well. And then lastly, Dave, you had mentioned that the use of the phrase and the Secretary agree is more formulaic or just because you're signing an agreement. Although when I first saw it, not knowing that, you know, my thought was

not that there would be an arbitrary reason to not agree, but that you are giving the Secretary some room there to say, no, not here. And whether that needs to be defined or not may be something to think about. I would again -- I would take off the table the eligibility for this offramp for any program that's subject to any kind of probation or equivalent action by its state or accreditor that you know, maybe those are not particular programs that you want to have the soft landing in, or at least that the Secretary has to give them less than kind of, you know, just signing the piece of paper, you've got to do some additional kind of review or something like that as to what the reasons and rationale are, because there could be really serious concerns. You know, it could be a flight school that has had a history of incidences or equipment failures or things, and where you have to act quickly on those and -- as opposed to just, you know, again, a failed earnings premium metric. So just some additional things to maybe tighten that up a little bit.

MS. MACK: Thank you, Michale.

Kristin, please.

MS. HULTQUIST: Thank you. And to all, I apologize. We have a mic system with my board that's a little different. Every time I want to talk, I hit the button and then everyone has to listen to me breathe. I

apologize. 24 years ago, I remember sitting this time with Dick Murnane at Harvard, and we had just adopted NCLB, and he says, this is going to fail. And I said, why? You're over-identifying failure, and you haven't given enough space and conditions for people to improve. And so when I look at the Department's accommodation of this request, no extra love for Aaron, is we haven't put this -- does this (inaudible) puts in place. We are not overidentifying failure. And we are providing -- we are protecting taxpayers and consumers, not all of them, and continuing to fight about the one or two of the couple outsiders, we're missing the boat. We are truly creating an opportunity for two things we talked about. First at Workforce Pell and then I talked about yesterday. The first in Workforce Pell is if you've got a set of programs in your state that are failing, you have an opportunity in that year one with the disclosure to the state. She and I'm a SHEEO, you're the head of the workforce agency. We can talk. These programs are going to go away potentially in another year. Where do we have workforce needs? How do we need to collaborate? How do we need to bring employers to the table? What do we need to do so that we're not facing a cliff in a shortage area. So that is planning time. That's a good accountability system. You guys know I'm chair of the board. The board

and the leadership team need time to recognize and have a frank and realistic assessment. Can we turn this program around? And if we can't, this is an excellent, transparent route for all of us. I've seen it head-on. Faculty do a lot of -- pardon me. This will drag out the denial stage if we don't put this in place. They'll argue with the data. They'll have value, they'll have value disagreements with whether it's their job to have anything to do with employer or with graduate earnings four years later. There's just a lot of magical thinking I think this will get in front of. You know, we have about 134 programs that will fail at the regional public universities that are part of the sector I'm in. I believe that our institutions will use this space to collaborate in ways I'm describing, and try and figure out whether these programs need to go away, be rehabilitated. I do think this will create the space and a good accountability system for the good intentions we have besides just protecting taxpayers and consumers.

MS. MACK: Thank you, Kristin.

Matthew, to you. And then you, Eric.

MR. FEEHAN: So I second my colleague's point there. And I'll also add too, that some of these boards actually extend their membership to students and also student veterans. So -- which

transitions to my next point about agency. It's really important to consider the backdrop here for background purposes, that these are men and women have been entrusted with the lives of others, many of times in combat zones with millions of dollars of equipment. They are highly professional, highly intelligent, and are capable of making their own decisions. When an institution takes the decision to voluntarily step back and have those discussions and think if this is a program that we should sunset, or if this is a program we should continue, that information is then provided to the student veteran or student service member who is fully capable of weighing the risk, weighing the options, and then potentially making the decision to remain in that program, to continue having the benefits and to, again, have more time, because time is very valuable. Without this provision, what ends up happening is that we're taking away agency from these student veterans and service members, and we are telling them that they don't get a choice. And that's my concern, is that we have to keep in mind the agency of these students. And if staying in the program for an X number of time is what's needed, then that's what's needed. And again, though, I'm more than happy to work with anyone on the floor here to get that language right, so all of our negotiators here in

the Department can be amicable to the changes.

MS. MACK: Thank you, Matthew. Dave, did you want to respond?

MR. MUSSER: I appreciate that, Matthew. And I also wanted to just revise what I said a little bit earlier. The Department will take recommendations for changes to the language on any part of this provision. I would ask that since this was a -- at least in general, a proposal arrived at via agreement, that folks work together to submit proposals for language as much as possible, and as many, if as many people as possible can sign on to the language as possible, that -- we would really appreciate that. I know that will take time. But we likely -- we believe we will have some time this afternoon during caucuses and other items to do that work.

MS. MACK: I'm going to continue to work our way through the remaining cards, and then I'm suggesting that we move on in our agenda so we can go over the remainder of the corrections. Eric, you have the floor.

MR. ATCHISON: Thank you. Kayla, I want to start counting negotiators around the table and realize I probably was the 12th one to congratulate Aaron and really on all negotiators for the collegiality of

putting together this proposal. I really think is -- this is a very student-centered way of approaching negotiated rulemaking. And I'm very proud of the work that we've done so far. I want to continue the thread that Kristin and Michale have touched on about, how we can enhance employability of those skills-based types of programs by providing this as an opportunity for institutions to really assess, at the onset of being notified of this type of outcome and think about the equipment that they're providing to their students to train on that may not be putting them into the proper employable fields that is going to make these wages be a reality and other types of service-related programs, and really try to normalize innovation within higher education. I do also want to come back to something that was spoken about earlier, about the transferability of students. The reality in many specialized fields of higher education and institutions of higher education is that there may be some colleges, some, you know, technical trade schools that really do provide the only specialized field training opportunity within a specific geography. And so in some cases, much more limited geography of opportunity in the United States for students. And so while I understand transfer may be a preferred option, it is something that just may not be available. And so this

provides an alternative for that as well. Thank you.

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

MR. KAFAFIAN: So, I'm sympathetic to some of the arguments. I do think that with a bit more time, we can, we can likely just look at the data again. I feel like a broken record. I think the reality is this provision is only going to affect associate's, bachelor's, master's professional degrees because a program -- it's not to say that there's not certs that are more than 12 months, but they are disproportionately under 12 months. So a program that's under 12 months, I don't see why a school, even if you just thought of them in the most capitalistic of ways, they have no incentive to take this offer. Right? I can, I can run the program in sub 12 months. So why would I take this and stop enrolling new people? I can just keep enrolling them. I don't -- there's no teach-out needed. So this is something that only impacts degree programs. I was trying to dance around a spreadsheet as quickly as possible and failing. The reality is we know that there's a very low number of degree programs relatively being -- failing the tests that have been outlined here. So at that point, we start to look at what are the degree programs impacted? And I think we should just look at whether this CIP SOC

thing works or doesn't tomorrow. My instinct is, from a quick look, the plurality of programs that are in that degree bucket that are hit end up being mental health and social and so -- mental and social health services and allied professionals. So we should look at what that SOC mapping is. I would argue that people who are failing -- or programs that are failing the earnings test in that space are not -- are probably at the tip of the spear of places, that it's not because the school is necessarily doing something wrong, it's because society doesn't appropriately monetarily value that profession. And so I would worry that that's exactly where we wouldn't want to cut this off. But I do think it's an empirical one that we can likely in a -- you know, over lunch, probably figure out. I'm open to the idea of taking the, the CIP SOC walk off the table for this or maybe more generally. But I do think it's knowable, and I don't think it actually creates a real impact, not in the way that we would desire based on a very quick and preliminary look.

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

MR. COOPER: Thank you. Two other quick things. On the time limit, one suggestion is to mirror the time limit on loan eligibility from RISE for students that were grandfathered into the, into the Grad

Plus program, which was you can continue to take out loans under the old loan limits for the lesser of three years or the remaining time that you have left in the program. That language is already ready, so that might make, make sense for the time limit here. Also, one other thing we discussed, which I just remembered in our caucus yesterday, is the -- that the two-year period of ineligibility for these programs in the teach-out would begin after the last Title IV student leaves the program, and it might be helpful to have some clarity on that, if that's possible.

MS. MACK: Dave, please.

MR. MUSSER: I think in that for that, the Department would prefer not to change the regulatory language here. We would be happy to confirm in the preamble that the discontinuation doesn't occur until the last student exits the program, and therefore, the discontinuation is the moment that the time frame starts. We can certainly make that clear in the preamble.

MR. COOPER: I appreciate that. Thank you. I also have something on the CIP SOC thing, but I think we're going to talk about that later. So I'll hold that till then.

MS. MACK: Thank you, Preston. Aaron?

MR. LACEY: Yeah, Take these a little

reverse. Actually. I think you guys would need to do that anyway because you've already got this situation. I was thinking about this the other day where, you know, schools, apart from this option, involuntarily or -- voluntarily discontinue a program. There still was this question of like, when does that period of ineligibility start? And my assumption had been at the point at which the program ceases. And so on that point, you know, to the concern, Michale, you raised, I do think it's worth -- I think there are going to be a lot of things you put in the addendum that maybe you don't put in here, and the Department will just have to decide what's important enough to put in the regulatory text and what isn't. You know, I think expressly stating in the regulatory text that anyone who takes advantage of this option, I mean, this is considered a voluntary discontinuation and you'd be subject to those same requirements makes sense. Which means the period of ineligibility, all of that stuff would attach and be treated in the same way. I think that was the intent, but it sounds like you're going to say something.

MR. MUSSER: Sorry, you're triggering something else that I realized in talking through this. So as folks think about that set of provisions, I'm realizing that I think the idea here is that not only

would the school be not permitted to add a similar -- substantially similar program after the discontinuation, but I think the idea is that they're also not adding it during the remaining period of eligibility while teach-out is occurring, but that's not stated here. So I do think if that's the intent, we do need to get that into the language.

MR. LACEY: Same question, though, for an involuntary discontinuation. I mean, if I -- I keep saying involuntary. If I voluntarily discontinue a program without regard to whether I'm doing this, I had always assumed that you could not roll out a -- actually, I think it does say you can't roll out a substantially similar program from the point -- so if you're treating this as a program that is voluntarily discontinued, I think it would be subject to the same restriction.

MR. MUSSER: So it is, but remember that the discontinuation is -- doesn't actually -- that doesn't occur until the program is no longer in operation. So the decision to discontinue a program could be a decision to discontinue it in three years. And that -- and it's not the intent of the Department to start the clock at that point. It's when the program ceases operation. Otherwise, you know, the metrics would continue to take place. And this is not this provision,

but in general, the metrics would continue to take place and the program would lose eligibility for that reason, under the normal process. It's when the -- if -- once the institution says this program is discontinued, the students are -- have left, it's done, that's the point at which the two-year time frame begins. So because that is true here too, the discontinuation doesn't happen until the last student graduates or withdraws from the program. And you still have the period during which there's eligibility that you have, that you have to deal with that. So I think we just need to make sure that that's clear in the language.

MR. LACEY: Okay. Well, I'll just say from my perspective, I'm flexible on that. If the determination is that schools are choosing this path, can't roll out a, you know, substantially similar program at the point at which they've determined to discontinue the program, I think that's reasonable. So I don't have issue with that. The other thing is, I just wanted to echo what David said. I know there's -- some concerns have been expressed about short-term programs, 120 days. And to his point, I could not imagine why a program less than 12 months would ever elect this option, because I think they can just teach it out on their own time. In fact, if it's less than six months, they could wait to

see if they got dinged a second time and still have time to teach-out the program. So I just expect that issue is not going to come up. But generally just wanted to say my sense is that concerns can be addressed and very happy to cooperate to do that and appreciate the Department again, including this idea.

MS. MACK: Thank you, Aaron. Ritchie?

MR. MORROW: I was really hoping I'd go before Aaron so he could have the last word, but I think we have to remember with this proposal that even though we're not using the term teach-out, it is still like a teach-out program and this is just an option for the student. It is making it available to the student. The student still has other options that they can do. You know, Eric mentioned, you know, there are some issues with programs, specialized programs. There's geographical issues possibly as well. But the student could decide to transfer into another program that's meeting the regulations at that institution. They could decide to transfer to another school that offers the same program, so they don't have to maintain and complete their degree at this institution. And I don't know what other options, you know, that are available in teach-out. That's not my specialty, but they have those other options that will be available to them. This is just one of them that they'll

be able to examine.

MS. MACK: Thank you, Ritchie. It looks like Aaron will take the last word anyway.

MR. LACEY: On the -- (inaudible) I had the same thought you did about harnessing the loan limit concept that's about the lesser of the three years. My, my only thought about that was it is student-specific as opposed to program-specific. And because we're going to be trying to come up with something for the Department, I guess my question is -- because I had the same thought, and I think, I mean, you could still have bachelor's degree programs. I think you want to avoid a situation where somebody like, if they're halfway through their freshman year and a school likes this option -- although I was thinking, I think the way that is envisioned is like three more award years. So that ought to get them even through a bachelor's degree program. So I think that works from a student perspective. My only question for the Department is, do you think it's problematic if the time frame, if the time limit is attached to students as opposed to program length for purposes of like your regulatory approach?

MS. MACK: Dave?

MR. MUSSER: Yeah, it is a challenge overseeing that because essentially what that would mean

is the school would have to tell us what the longest period of time was for their student at the time the agreement was signed, so that the Department would know where the -- where to draw that line. Because, you know, the student's progress keeps changing after that. So it would be -- we would have to decide what the limit was every single time. And that is a bit of a challenge operationally. I'm not ruling it out. I'm not saying that we can't do that. I'm just -- it is -- it would be a challenge, and I appreciate you mentioning it.

MR. LACEY: What a school could do, though, is they could look at the currently enrolled student body and say, and the Department could dictate these parameters. You know, the Department could say at the time you file this, you know, you agree that you are only able to offer the program until the point at which the current students, assuming no LOAs, you know, no repeat classes, etc., all would have the opportunity to complete. And then I think a school could fix that date and say we -- if everyone passes all their programs, no one repeats a class, no leaves of absence, this would be the date of the last graduation.

MR. MUSSER: And that's the notion, yeah, that I'm describing, is that it would still have to be a fixed point but determined using those criteria.

MR. LACEY: Yeah. And maybe schools would be required to provide that within those -- okay, that's helpful. Thank you.

MS. MACK: Thank you, Aaron. Dave, we're at 10:30, so I'm inclined to suggest a break relatively soon. Do you want to do that before we work through the rest of the updates, or do you want to get through these and then do that?

MR. MUSSER: Let's get through the rest of the updates. We only have a few left.

MS. MACK: I love the optimism. Let's go to the next one.

MR. MUSSER: Hopefully there caffeine holds out a few more minutes this morning. Yeah, yeah, there you go. All right. So scrolling down here. Scroll up just a tiny bit, please. Yeah. So this is the section on establishing eligibility. And this is where we're talking about updating the list of programs. We added a paragraph at the end of this section. Let's scroll down here. And we also made this change. This is the change relating to CIP and SOC codes where we would prevent institutions from adding a program that has -- we originally proposed, that has the same four-digit CIP code as the one that failed or was voluntarily discontinued. Here, this essentially narrows it to one

that has both the same four-digit CIP code and an identical four -- SOC code, according to the Crosswalk. So let's scroll down a little bit more. I'll get to the other, other similar change. And this is the other change here, which is not the same issue, but I did want to mention that the intent of the Department was to apply the same CIP, CIP SOC relationship. It's not in there right now and we would change it unless there's a -- unless we have other disputes of this general concept and we pulled the whole thing out. But here we are adding back the provision that would prevent an institution from updating its list of programs to include the two-year loss of eligibility if -- where the school shares the same four-digit CIP code. And let me read through this here. Yes. And as a program that was both subject to the two-year loss of eligibility and is a failing program under 34 CFR 668.402 in either of the two most recent award years. So it's just a little bit of an expansion of the concept here. So let me pause and talk through these changes.

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

MR. COOPER: Thank you very much. This paragraph three was my suggestion. And this basically just says that, you know, even after the two-year period

of ineligibility expires, if the Department continues to have data showing that the program fails the earnings premium measure, they can't get back in until that data does not show a failure. Which I'm very thrilled about this addition, and I'm very grateful that you, you included it. I think it will make for a much stronger process to regain eligibility. I do -- on the CIP SOC Crosswalk, I was a strong supporter of this in the context of Workforce Pell because I think, as Tamar mentioned earlier, you know, for Workforce Pell Grants, those are meant to train for a specific occupation. There is often a much stronger concordance between the CIP code and the SOC code. I'm not sure this makes as much sense in the context of bachelor's degrees and associate's degrees and master's degrees, in which it's not necessarily training for certain occupation, it's a little bit fuzzier. I'm looking at, for instance, one of the degree types that's -- that has a higher failure rate such as music. I mean, the -- there's all these different six-digit CIP codes within the four-digit music CIP code that all have slightly different, you know, slightly different SOC occupations, which they're supposedly training for. There's broad categories like music general and music other. And I worry that, you know, if we were to adopt this SOC code proposal here, it might be much

easier for institutions to find another, you know, six-digit code within the same four-digit that has a slightly different SOC code occupations that it's training for than it would for -- in the context of the Workforce Pell Grant program.

MS. MACK: Thank you, Preston. I'll keep going with the cards. Jeff?

MR. ARTHUR: Yeah, I've dug into those Crosswalks quite a bit over the last decade, 10, 15 years. And I want to give institutions a heads up that there are -- when -- at least when I start looking at the CIP codes we offer and you do the Crosswalk, there -- there's a laundry list of SOC codes, potentially for each CIP code. And there's a lot of overlap in those SOC codes between some CIP codes that are materially different. And so that kind of -- this raises a red flag for me. And I can't -- you know, I'm not prepared to give you some analysis of the CIP SOC Crosswalk and the -- and differences in that kind of stuff on this in this kind of time frame. But I just -- heads up to, you know, all institutions that this could potentially be problematic.

MS. MACK: Thank you, Jeff. Dave, did you want to react?

MR. MUSSER: Well, just to clarify, you know, if I understood you correctly, Jeff. I mean,

this proposal to include the SOC code is a narrowing proposal of the cases where the -- that the school would be permitted -- would be not permitted to add another similar program. I think that what you're saying is that, in fact, there are many occasions where that's not narrowed very much at all because there's so many SOC codes associated with the CIP code in question.

MR. ARTHUR: Yeah. And I think that's my red flag that I don't think this is a narrowing, if I'm understanding that we're instead of using the four-digit or CIP code that we're going to expand this to, you can offer any program that the CIP code shares a SOC code with another program that has failed. Am I -- maybe I'm misunderstanding the intent.

MR. MUSSER: Yeah. No, this is the -- they have to have both the same four-digit CIP code and, and the identical SOC code that, that was training the program for. Not necessarily, you know, any of the other SOC codes associated with it. So I don't think that it is -- that it's an additional limiting factor.

MR. ARTHUR: Okay. So, this is actually a help and maybe, maybe you could help me understand this better, but I think I'm following you. I just -- when I saw that, I just know the expansive number of SOC codes that matched with CIP and I'm like, oh, is

that, you know, is that expansion? So if it's not, great.

MS. MACK: Thank you, Jeff. David, you're next.

MR. KAFAFIAN: Yeah. Jeff, this is the exact language from the Workforce Pell. And the idea is that this is broader than using Six-digit and narrower than using four-digit, because it gives you the capacity to look at the kind of both end category of the ones that have, you know, shared for. So I'm happy to walk you through it. But this is the exact one. To Preston's point, I think you make a fair one. I think what I want to say is I don't have an ideological like table to pound here. I want to look at what the Crosswalks look like. And we should be driven by what that says from an actual basis. So I'll circle back, but I do appreciate the Department including it and hopefully we can find some alignment.

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

MR. LACEY: All right. So walk through me with this. Stay with me. A program gets its first fail in '28. It gets its second fail in, in 2029. So I stop offering that program in 2029. Right? There's a two-year period of ineligibility under the rule. Prior to this clause, I would be able to start potentially

reintroducing that program in 2031. All right. Right, two years later, after when I stopped the program in 2029. Okay. But -- sorry, 2031. Sorry, but what you're saying is you're going to keep calculating numbers, and I'm not going to be able to come back into the program if you continue to have data showing that my earnings are still low, right?

MR. MUSSER: Yeah. So the -- what that is saying is if you continue to offer the program, we will use the data that we have for that program and we will continue to calculate the earnings premium metric. If you were to discontinue the program, if you don't have any students in the program, then we won't be calculating the -- we wouldn't necessarily calculate the metric for the program. That's something that's not clearly expressed there. We need to be, I think, a little careful about that concept. And given that we've added this language, I don't think it was as important previously when we didn't have this language in there. It is not the Department's intent to just say it was failing two years ago, you discontinued it, now you can never offer it again. The idea here, I think, from Preston, was we don't want a situation where the school loses Title IV eligibility, manages to keep the program running, but the program continues based on past cohorts, the program is

continuing. It's still not looking good. And it's still -
- it looks problematic going forward. So we would expect
in that case that the institution takes some time to
reorient and decide either this is not a program that's
really working, etc. So yeah, it's -- but if you don't
have the program running, it's not our expectation that
the program would be not allowed to come back in.

MR. LACEY: Yeah, I'm totally on board
with the idea that if someone is running a non-Title IV
version of the program and you have data showing that it
is failing, it doesn't make sense to allow them to come
back in and immediately fail. Totally get that, yes. My
concern was, I have stopped this program and it is a
decade before I run out of back cohorts that are failing
cohorts. Right? And there's nothing I could do about it,
so I would -- I do think making that clear is important,
but I appreciate that point.

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

MR. STAMPER: Yeah, I just want to --
I've been sitting here thinking through the CIP SOC and
the applicability. I mean, obviously it was applicable
under Workforce Pell and the shorter term programs, but I
think, I think it there are probably plenty of examples
of where it is also related to degree programs. And I'm

thinking about a college that has an associate's degree program in kinesiology and physiology for athletic trainers. Under that same CIP, you could have an associate's degree in nuclear medicine or radiography. So I think I think the CIP to SOC is going to be important in cases where you have, again, I'm looking at it now, I think 17 fairly different occupational paths within one four-digit SOC that are, that are degree-level programs.

MS. MACK: Thank you, Randy. David, did you have something additional? Okay, Dave, back to you.

MR. MUSSER: Well, before we go on to anything else, I just wanted to -- I think that was -- that is actually just looking through my notes here. That's the last change that we have of this set. We heard -- I heard some disagreement on that particular point among negotiators. So this is the other area where I would solicit group suggestions for ways that negotiators can reach agreement on this topic. If folks, once you look at the data, if you have time to glance through how this would affect some of your programs if you're able to reach an agreement, yes or no, or if there's other conditions that we could apply, we would accept proposals on this particular point today as well, so that we could get to a place where everyone agrees on this particular

provision.

MS. MACK: A couple more cards that I'd like to get to and then I do insist that we take a quick break. David?

MR. KAFAFIAN: So, a long time ago, I had said I had missed a section and wanted to come back to it. So one is, in reviewing one of the earliest updates we looked at around the two or four-digit CIP language for the graduate program benchmarking, I think there's just a technical miss that it's missed. It's not included in the foreign institutions section. So at the top of PDF page 16 -- and without page numbers, I'm not going to try to do that here. Top of page 16. It's just missing there.

MR. MUSSER: We'll take a look. And if that's -- yeah, if that's the case, we'll just add the language.

MR. KAFAFIAN: Okay. Terrific. And then -- and I would echo Eric's sentiment that if there's a way to make it clearer in the direct text that the four-digit takes precedence over the two-digit to the extent available, that would be ideal. It's not the thing I'm gonna harangue about, though.

MR. MUSSER: That, that is one that I think we can't get into the reg text, but we can agree to

put that in the preamble as well, that -- that's the intent of the Department to use the most -- and because we would consider that the most accurate data. If it's statistically reliable, we would rely on that.

MR. KAFAFIAN: Terrific. Thank you. And then continuing, but in a totally different line, I submitted a request/clarification/confirmation last night. I don't think it is textual here, but I do just want to make sure while all of the things we talked about this week contemplate an earnings test because it says so in the statute based on workers -- working students who are graduates or completers, I do want to make sure the Department's intent is still to collect data at the program and institutional level on non-completers and non-graduates, sorry, noncompleters and non-working.

MR. MUSSER: So we would -- we -- the reporting section still includes data on individuals who withdraw. That is all going to continue to be reported. The Department plans to use that for disclosures for public posting of data, all of those sorts of things. So that is definitely going to be included. Information on non-working individuals, I don't -- I -- that I can't speak to specifically because our -- the agreement that we reach with the non-Federal -- sorry, with the Federal agency with earnings data is if they're not seeking that

information and they're not returning information about non-working individuals, we wouldn't have that.

MR. KAFAFIAN: But the end value, like the number of people would show you that. I believe we've been able to use that historically.

MR. MUSSER: Let me take that back. And we have a data presentation from Cody in a few minutes after the break, I'll ask him to speak a little bit more to that particular part.

MR. KAFAFIAN: I do think it's important. It's not congressional intent. We shouldn't be using that to evaluate schools. But I do think it's helpful for research community, for the Department as you continue to grow, etc. Last one. I see institutional debt is still struck as a reporting requirement. I know we had submitted something there. I do believe it is knowable to Jeff's point earlier, it's even increasingly knowable based on technology advancements. I'd love to hear the Department's thoughts on that. Is that something you're still considering or no?

MR. MUSSER: At this time, it's not one of the items that we propose to add back. We still believe that especially small institutions struggle greatly with that, especially for withdrawn students. We also think that the withdrawn student concept is

complicated enough that we're not -- it's unlikely that we're going to get exact data that is consistent and shows the same thing. Part of the issue is that the return of Title IV calculation occurs at some point, and it might be late and it might not happen within the 45 days. There are just a lot of different variations of that for withdrawn students. It's not a problem for completers. We get that. But it is a problem for withdrawn students. If you're proposing that we collected only for completers, that's going to skew the data somewhat and make it a little less usable, we can consider that, but we don't intend to add it back for withdrawn students.

MR. KAFAFIAN: I think I'll reserve the opportunity to think about it. I think in context of the other massive change in OB3, probably the most massive change in OB3 coming out of RISE around loan limits, we should all expect that there's going to be more institutional loans, not less. Frankly, we should hope for that in some instances, because many of the students who will get cut off by PLUS Loan changes are going to be underserved by the private market. They will not have a cosigner. They will not have, you know, the capacity to borrow from a private lender because they won't meet underwriting requirements. Schools in those

instances, I do expect, will stand in to offer their students an affordable gap loan that, that allows that student to persist and does so at a rate that is not what the private market would need to price it at to make money, which could be, frankly, into the teens or 20% range. Schools will offer lower interest rate products to fill student need, and so we should expect this to be a growing portion. And I do think having some data collection on that will be necessary in light of the RISE Committee's outcomes.

MR. MUSSER: I'll go back and look at the specifics of institutional debt. And my understanding is that that value is -- only applies to debt that the student was left with at the time that they exit the program. And when you're talking about extensions of credit to students by the institution, that typically fits into the private loan definition and is reported as a private loan.

MR. KAFAFIAN: Well then, I totally stand down.

MR. MUSSER: So let me check it and make sure that's right. But that's my understanding.

MS. MACK: 30 seconds, Aaron.

MR. LACEY: Yeah, I can just confirm that that's been the case under prior GE. That's -- if

under reg Z, it's an extension of credit (inaudible) so if there's interest if it's more than a year, it's a private education loan. And you have to certify it even if the institution's the lender. So that's all being reported. What you're losing here is, you know, some sort of payment plan or something that doesn't constitute a private education, loans extended by the institution. And there's some potential amount left on that at the time of graduation.

MS. MACK: Thank you. Tamar, I'm going to go to you, and then we are going to break. So nobody else raise cards. Tamar, please.

MS. HOFFMAN: Thank you, Kayla. So on David's point, I actually couldn't agree more about how important it is to continue to document and report these things. If there is a limitation on students who withdraw, then I would ask that we at least include students who have graduated, because I know that from the -- from a consumer lawyer perspective, these things get very murky very quickly in terms of how institutions classify extensions of credit versus institutional debt. So I'd like to make sure that we have that information. And the last thing was just that -- and perhaps this is what Cody's going to address. We have some outstanding data requests. I thought now would be the right time to

bring it up since we've gone through all the changes. One is still about the six-digit CIP code level earnings data. Yes?

MR. MUSSER: I was hoping that you could ask those when Cody is here to give his data update. Or do you want to talk through, through them?

MS. HOFFMAN: Oh, no. I just wanted to make sure that we're tracking. So it's that one as well as the data on written arrangements between eligible institutions and ineligible entities. That was a condition of consensus during the last week. I just wanted to make sure that that was still a work in progress at least.

MR. MUSSER: Yeah. We'll take it back and look. Thank you.

MS. MACK: Thank you, Tamar. Dave, may we take a ten-minute break?

MR. MUSSER: Absolutely time for that.

MS. MACK: Perfect. Thank you. See you all in ten. Welcome back, everyone, and thank you for the discussion thus far this morning. I know, Dave, we had an update on some data, so I'm going to turn it over to you to get us started.

MR. MUSSER: Thanks, Kayla. So we have -- we are -- we have all of the data prepared. Our

colleagues who work on the Department's website are still working to upload all of that data. They have a few other priorities that they're working through. So we wanted to make sure that was available before Cody gave his presentation. So we're going to delay Cody's presentation on data until later this afternoon. However, I think we are ready to move forward with a caucus. The Department would like to call a caucus with representatives for taxpayers.

MS. MACK: Dave, can I get a rough estimate around how long so everyone else can plan accordingly?

MR. MUSSER: I think this would be about 20 minutes.

MS. MACK: Okay, let's plan for a 20-minute caucus. Michale, I see your card.

MR. MCCOMIS: Could I call for a caucus with everybody else?

MS. MACK: I like your style, Michale. Yes.

MR. MCCOMIS: Not to exclude you. We'll loop you back in. But I don't want to waste the time. So if we can just multitask on that, I've come up with -- based on our discussion around the offramp for closures, I have some language that I'd like to share

with the group and see if it's -- to just take a temperature on it with the group so we can get one thing back to Dave.

MS. MACK: That's great, Michale.

Eric?

MR. ATCHISON: I just request the topics of the caucus for the record.

MS. MACK: Okay. For the record, Dave, is there anything you can share about your caucus called with the taxpayers?

MR. MUSSER: Yeah, it's -- it'll be similar to our caucus with the legal aid representatives where the Department just wants to further clarify its intent behind the provisions that we've -- that we're proposing to establish and hear a little bit more about the concerns presented by the taxpayer representative.

MS. MACK: Thank you. And, Michale, once more, just for the record, can you chat about how you might use the time?

MR. MCCOMIS: The time is for potential preparing revisions on retaining eligibility during orderly program closure.

MS. MACK: Thank you, Michale. Thank you for the question and clarification, Eric. We're going to take a 20-minute caucus. The facilitators will be

checking in with both groups, and momentarily, we'll chat about where we're going to have these caucuses held. Thank you all. Thank you, everyone, for your patience during that caucus. I think everyone is eager to hear a couple of report-outs from that. So, Dave, I know that you called one with the taxpayer constituency. Would you report out on that one first?

MR. MUSSER: Absolutely. So we had a great conversation with our colleagues from the taxpayer constituency. The Department once again described its reasoning and its intent behind the proposals that we've given so far. And we heard from the taxpayer constituency what their concerns were at this point and whether they might be able to overcome them.

MS. MACK: Thank you, Dave. And Michale, you called the caucus with the remaining constituency groups. Could you give us a brief report-out?

MR. MCCOMIS: Yes. The remaining constituency groups met to discuss the topics related to voluntary closure of a program after a failure to meet the metric for one year. Discussed -- continued the discussion from earlier this morning, and the points that were made. Have put together some draft language that we're -- we'll continue to kind of work on and -- but

with the intent of sending something over to the Department very soon and also bringing our taxpayer constituents in as well, give them a chance to take a peek at it before we send it over and have a chat.

MS. MACK: Thank you very much for that report-out, Michale. Seeing the time, we're very close to the lunch hour. I'm wondering if we could break now and then resume at 1:00.

MR. MUSSER: That's our preference.

MS. MACK: Okay, let's do that. Please enjoy lunch, everyone, and be back to begin promptly at 1:00.