

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
AFFORDABILITY AND STUDENT LOANS COMMITTEE  
NEGOTIATED RULEMAKING SESSION 1, DAY 1, AFTERNOON  
OCTOBER 4, 2021

On the 4th day of October, 2021, the following meeting was held virtually from 1:00 p.m. to 4:00 p.m., before Andrea González, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MS. MACK: Welcome back, everyone. I hope that you enjoyed your lunch. We're now going to start the afternoon session. We have three hours together this afternoon, and I can tell you that the plan will be to take roughly a 10-minute break around 2:15, so plan accordingly. Again, we'll try to keep that very brief to 10 minutes. We're also going to conclude this afternoon around 3:30 Eastern Time with 30 minutes of public comments. So, I'll let you know when we need to begin that part of our program as well. According to the agenda, we had hoped to kick off this afternoon with our first substantive topic item for which you should have all received an issue paper and perhaps a revised issue paper. Persis, I see your hand, please.

MS. YU: Yes, thank you. And good afternoon, everyone. Is there an opportunity to add items to the agenda?

MS. MACK: In terms of items, you mean additional topics?

MS. YU: Additional topics, yes, additional issue topics.

MS. MACK: If you want to make a motion to entertain additional topics to add to our agenda, then we could hear those, discuss those as a committee and

ultimately that would be subject to a consensus vote by this committee. Are there topics that you wish to add, Persis?

MS. YU: Yes, I would like to add -- I'd like to make a motion to add two additional topics to the agenda.

MS. MACK: What are the --

MS. YU: The top first topic that I would like to propose is to create an additional pathway out of default. And the second pathway -- Sorry, the second topic that I would like to propose is to eliminate the acceleration clause upon default, when borrowers default on their federal student loans, and limit collections to an income-driven payment amount. And I have sent a proposal to the facilitators, and I'm happy to share that as well or provide additional information.

MS. MACK: Okay, can you -- when you get a chance -- put a brief headline of that in our chat? Just so that everyone can look at that, as we dialogue about that. But let me ask the group, what are your thoughts or clarifying questions on what is being proposed for your consideration? Jennifer, please.

MS. HONG: Thank you for that, Persis. I'm wondering if those issues we can address when we talk about income-driven repayment. They may -- that might be

the best place to discuss them, in terms of relating that issue to one of the topics we already have on the agenda. I just want to caution -- We have a very, very ambitious agenda. And I just -- I'm very eager to kind of get started in talking about the substantive issues here. I'm concerned that we're going to run out of time if we add too much to this such already full agenda. So, to the extent that some of these issues might have a fit -- a place where it might fit within the existing agenda. As you might know, some of the issue papers are open ended and we do have a lot of kind of questions on IDR. But we really want to get to the issues that we have proposed on the table as much as we can.

MS. YU: So, I would be willing to table this discussion to the IDR conversation if we can commit to discussing default. One thing I did notice was the IDR papers did not include issues for defaulted borrowers and, so, if that is something that the Department is willing to take up at that time, I'd be willing to fold these proposals in to the income driven repayment proposed topic. But I would -- I'd ask for some kind of commitment that we will actually discuss defaulted borrowers at that time then.

MS. MACK: Jen, what are your thoughts on that? In terms of potentially committing to address this

at that time.

MS. HONG: I can assure you that we are here in good faith, and we really want to tackle these important topics. My only concern is our -- we want to get through even everything that we have on the -- that we've proposed and it's hard to predict those things. We're really taking this day by day and depends on how much conversation -- discussion each issue warrants and how much time it is going to take on discussing some of those things. So, if I say yes, we're interested in discussing all angles of this. But as far as me -- as far as us committing and saying that we -- if we -- when we get to that issue and we've -- if we can tie it to some of the proposals that we have, we are more than willing to discuss that.

MS. MACK: Thanks, Jen. David, please.

MR. TANDBERG: Yeah, I think these topics seem relevant to the larger topics at hand. So, I see no reason why we couldn't fold them into the existing topics. I would certainly like to discuss them and consider if there are proposals to make amendments -- changes to the existing regs relevant to these topics. I'd like to hear them.

MS. MACK: Does anyone else want to comment or ask any clarifying questions on this piece? Then, can

I suggest perhaps we hold off on a consensus check on this and, as we work our way through additional issues, that we can revisit this as we are addressing those relevant topics? Persis?

MS. YU: Yes, I just would like to request if I can send a memo -- the proposals around to our negotiator so that they can have those for further consideration when the income-driven payment topic does come up.

MS. MACK: Yes, at that time. And you have already shared those with us. If you would like the facilitators to go ahead and send those out, we can do that as well, at the right time.

MS. YU: That'd be great. Thank you.

MS. MACK: Okay. Anything else on that point? Okay. Then, I am happy to move us into our very first issue, and that is Total and Permanent Disability discharge. I'd like to turn it over to the Federal Negotiator, Jennifer, to walk us through that issue. And, Jennifer, I'll remind you if there are provisions at any time that we need to share on the screen that we should give Vanessa and/or Aaron a heads-up to do that.

MS. HONG: Thank you for that reminder, Kayla. In fact, why don't we do that now to give Vanessa some time to cue the TPD, Total and Permanent Disability

discharge issue paper up while I provide some background? I guess, just a couple general comments before we dive into our first issue.

As you know, we tend to use, at the Department, a lot of acronyms to refer to the different programs, and we may take them for granted, so please do interject if you need clarification. One that we use quite frequently for the purposes of this agenda is that we will refer to our authorizing statute, the Higher Education Act of 1965, as amended, as the "HEA". And all the programs we are discussing for this negotiated rulemaking is authorized under Title Four of the HEA. Total and Permanent Disability discharge we will refer to as "TPD", Borrower Defenses to Repayment is "BD", Public Service Loan Forgiveness is "PSLF" and, while I'm sure the committee members may be familiar with this shorthand, I just want to be sure that the listening public can follow along.

Finally, you will notice that there are various degrees of detail in each of the issue papers, a few include proposed regulatory text, others are more open-ended. We've tried to be transparent in those areas where we had some possible solutions that we wanted to invite your thoughts on.

For some areas, we will need more

discussion, so, you will notice these variations in areas where we could perhaps advance the conversation. And with that, I will begin with our first issue, which is improving the process for granting Total and Permanent Disability discharge, which is issue number one. Section 437a of the HEA provides for TPD discharge a federal student loan for borrowers who are totally and permanently disabled.

A Total and Permanent Disability is defined in the statute as a medically determinable physical or mental impairment that prevents an individual from engaging in substantial, gainful activity and that can be expected to result in death, has lasted for a continuous period of at least 5 years, or can be expected to last for a continuous period of at least 5 years.

Under current regulations, a borrower may receive a TPD discharge based on a disability determination by the Veterans Administration, or VA, or Social Security Administration, SSA, or based on a physician certification. Borrowers in the latter two categories, those identified through SSA or who are certified by a physician, are subject to a 3-year monitoring period.

If a borrower fails to meet certain



conditions during the 3-year monitoring period, the discharge loan may be reinstated. One of those conditions is annual earnings from employment that exceeds 100 percent of the poverty guideline for (audio).

So, as you may know, the Department has already taken an important step to improve TPD for eligible borrowers, and that is by automating the process through a data match with the Social Security Administration. We published a final rule toward that end on August 23 of this year. The Department also announced in March 2021 that we would be relaxing the monitoring period requirements during the national emergency and reinstating discharges for any borrower who had not responded to requests for earnings information.

So, relatedly, as to our first point of discussion for TPD, we would like to eliminate the income monitoring period altogether. And we found that, rather than acting as a guardrail, requiring borrowers who are totally and permanently disabled to submit annual income information has been a barrier and a burden for borrowers, which has caused their loans to be erroneously reinstated. We believe this is not effective policy. Around half of TPD discharges get reinstated

because of failure to respond to the request for earnings information.

The vast majority of these reinstatements are occurring for borrowers who are low income. So, with that said, we are open to hearing how the committee feels about eliminating the income monitoring period for TPD borrowers. And once Vanessa is able to pull up that issue paper, I can point you to -- for this particular issue, we have -- there it is. Thank you, Vanessa. Some proposed regulatory text, we can find that on page seven of the issue paper.

MS. MACK: Really quickly, I just want to make sure that you all can see the document on the left-hand side and the faces on your screen on the right-hand side, and Vanessa's going to scroll to the applicable place. I see already that we have hands raised. Let Jennifer, if at all possible -- you don't have to put down your hand, Bethany, no problem. That will track the order when we get there. Just give me a second to start calling on folks for comments and questions until we walk through that part. Thank you.

MS. HONG: Sure, so I will just point -- Vanessa, if you could scroll up to subparagraph seven: Conditions for reinstatement of a loan. That is -- I'm sorry, on page seven. Page seven. Yeah, subparagraph

seven: Conditions for reinstatement of a loan after -- yeah, there you go. That -- and that is the proposed language for eliminating the income monitoring period. And at this point, I will be quiet.

MS. MACK: Alright, so let's focus on that first piece of this issue based on what has been shared out by the Federal Negotiator on this point. Does anyone have any comments or questions? Bethany, please.

MS. LILLY: Thank you. And I want to start off by just saying that we completely support the Department in this move, we think it's a great idea. Substantial evidence from GAO reports to other documentation of this has made it incredibly clear that the monitoring period is just a barrier. And no doubt that's because, by definition, the population that TPD is serving are people with disabilities, so, many of them are going to have limitations in one way or another complying with paperwork requirements.

I am -- one thing that this raises that I just am a little bit curious about and that -- something we have seen come up in the veterans' space since you guys automated that and I imagine we might see come up in the context of the automation for folks with disabilities that started last month, is there are current students who are on SSDI or SSI, the disability

programs where you have that automatic match, who are currently in school.

And, so, I just want to flag for the Department that I don't know that this is something we need to necessarily address in regulations, but I think in the context of kind of adding that -- you're getting rid of "the income piece" but you're keeping the "if someone takes out new loans piece" and, I think that, thinking about that population of folks, as you're thinking about the kind of new loans reinstatement piece, is going to be important.

And I don't know if you want to add something about reinstatement if there happened to be errors in the automation or things like that, but just -- I think you are going to have a small, but some folks who are in fact in school who are going to run into this challenge, perhaps particularly, so I just wanted to flag that. And then -- on kind of a related point here -- no, I think I can hold it. I'll stop there.

MS. MACK: Okay, thank you, Bethany. And that was beautiful. You did not go over your three minutes. But I was remiss in reminding you all that we have in the protocols a three-minute limitation. I've asked one of my fellow facilitators to remind anyone if they hit the 30-second remark, alright? So, just as a

reminder in our protocols to keep our conversation moving forward. Does anyone else have any questions or comments on this particular subpoint? Persis, please.

MS. YU: Thank you. And I echo Bethany's sentiment that I 100 percent support the idea of eliminating the monitoring period. The clients that we serve routinely have their loans reinstated due to the monitoring period. And so having that eliminated would make a big difference.

One question that I do have for the Department is when they will consider this to be a final discharge if we don't have the monitoring period, which we should not. But, so, to be clear, when -- before the tax changes in the tax code, people would receive 1099s after the 3-year monitoring period. Right now, obviously, this is not taxable. But those provisions will sunset at the, I believe, end of 2025, or 2026. And so, if this is not considered to be a final discharge until after the 3 years, that timeframe is actually going to come up pretty quickly for us.

So, I just -- my question is when do we consider -- if we still have -- kind of have a monitoring period because of folks who will -- might take out new loans, when will this cancellation be considered final?

MS. MACK: Thank you, Persis. Do we have an answer for that question or is that something we'll need to deliberate on and return to?

MS. HONG: Let me get back to that question, Persis.

MS. MACK: Okay. Any other questions or comments on this? Daniel, please.

MR. BARKOWITZ: So, this is really more of a question for clarification. Again, I completely agree with the moves the Department is making and support it. My question goes back to the issue that was raised by Bethany. Is the -- so, the Department is waiving the 3-year timeframe around monitoring, but maintaining 3 years for the new loan or to trans -- is that the proposed understanding? Is that a period up for discussion or negotiation, or is that a recommendation? The 3-year timeframe is the question I'd be asking specifically.

MS. MACK: Jennifer, I see your hand, please.

MS. HONG: Yeah, we're open to hearing your -- yes, your thoughts on the reinstatement for new loans. I know Bethany touched upon it, but if there's more that you can share with us, and your thoughts, we are open to hearing them.

MS. MACK: Do any of you have thoughts on that particular piece raised right now? Marjorie, I see your hand.

MS. DORIME-WILLIAMS: I just have a question of clarification about the reinstatement as well. And so, it says under B that the reinstate will be no longer than 60 days after the date of notification. Is there a rationale for that "60 days" or is there a reason that it couldn't be longer?

MS. MACK: Bethany, did you want to answer that question or have a thought on that? Okay, did anyone want to answer that particular question or speak to it?

MS. HONG: I just want to make sure looking -- Marjorie, can you point me to where your --

MS. DORIME-WILLIAMS: It's -- so, I read ahead a little bit so it's right under the new language so after what's been struck through. There's --

MS. HONG: Paragraph seven.

MS. MACK: We've scrolled, and I think we are showing that B on screen.

MS. HONG: Okay.

MS. LILLY: It's on the next page.

MS. DORIME-WILLIAMS: Next page.

MS. LILLY: (Interposing).

MS. DORIME-WILLIAMS: Right there.

MS. HONG: An explanation that the first  
(audio).

MS. MACK: Yeah, we've got it on the screen  
there under C, little --

MS. HONG: B.

MS. MACK: -- (iii) B.

MS. HONG: Right. An explanation that the  
first payment due date on the loan following  
reinstatement will be no earlier than 60 days after the  
date of the notification reinstatement. I think this is  
just how we've operationalized it in terms of -- yeah,  
I'll have -- let me circle back with you with a better  
answer. That's, that's been the existing process for the  
Secretary's notification for reinstatement of loans.

MS. MACK: Okay, we can circle back to that  
and make a note of that. Bethany, I saw your hand next.

MS. LILLY: So, I want to agree with  
Marjorie on that point. And I have another clarifying  
question that you may need to get back to us on, which  
is, presumably some of the folks who have their loans  
reinstated may be current students who are in deferment  
while they're finishing school. And so presumably, that  
60-day window wouldn't apply to those students. I just  
want to explicitly state that, though, so that, if there



needs to be something added on that point, you'll think that through.

And I just wanted to add -- I mean, if the Department is open to it, I certainly think that revisiting the 3-year date, I -- it does seem to be fairly arbitrary. And I -- to Daniel's point -- I mean, I don't know that I have a particular number for the Department, but I don't know that we should stick with three simply because that was the number chosen.

And so, I might need to get back to the Department with a recommendation once I've thought through some particular data on that point, but -- I mean, we all know that the heightened costs of having a disability in this country make it incredibly difficult to afford many things. I mean, the National Disability Institute estimates it's about 25 percent more expensive for folks to live with a disability. And so, I think recognizing that, which the TPD program does initially -- doesn't necessarily mean that folks won't have need of additional schooling in the future to maybe adjust to having a new type of disability. I think of folks who have had traumatic brain injuries, who have gotten into car accidents and had spinal cord injuries, there's a possibility that education can be incredibly helpful at that point to shift career paths. And so, I need to do a

little thinking on that.

MS. MACK: Thank you, Bethany. Michaela, I saw your hand next, please.

MS. MARTIN: On the topic of the date -- the days deadline, is that -- the days throughout the requirements are all different and can be kind of hard to track. And so, I was just wondering -- so, I've been -- for example, there's 90 days of the date the physician certifies, right, which also is a very short amount of time, and then another date is 120 days. If maybe they could all just be 120 days to kind of standardize that time limit and make it easy, so people weren't like, "Was that one 60 or 90 or 100?" Would add kind of a -- an easier-to-track timeline.

MS. MACK: Thank you, Michaela. Jennifer.

MS. HONG: So, I think this -- looking at this process -- is important. I just want to emphasize that these rules were last negotiated, I believe, in 2012. And so, at that point in time we discussed it. I'm sure that it's in the preamble, we can have staff look at it, why we arrived at the timeframes that we did. For the blackened text, that means the current regulations.

If we could hone in on the actual amendatory text, I think that that is where we're trying to shine the spotlight in terms of what we want to

change. And what I'm understanding is that there's -- folks have voiced their support for the concept of eliminating the income monitoring period, but there is some question about the 3-year time period for the reinstatement of loans for getting -- if you get a new loan. Is that -- I think that's what I'm hearing. Is that correct? Or are there questions of retaining -- okay, of retaining the reinstatement for any conditions?

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

MR. BARKOWITZ: Yeah. So, I guess I'm struck by the fact that the Department notes that 92 percent of students -- 92 percent of the half of those who don't certify -- would be eligible for full cancellation anyway. So, that would argue that there are 8 percent that wouldn't be. So, by and large, we're acting for the majority -- or the vast majority here -- and understand that there may be some folks who wind up slipping through. I wonder -- and it's more than an "I wonder" question -- what it would look like if we were to eliminate this condition entirely. Because there may be some students who have a significant disability and then need retraining in a career program. And what would it look like if this entire clause were removed along with the income piece? Is that -- how does the Department

feel about that as a possibility?

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

MS. HONG: Yeah, I would just say that we would be interested in understanding and hearing more from you all on that point. I mean, I think we've honed in on the income monitoring keys because that was really what was identified as the barrier. And I guess the assumption underlying the reinstatement once a new loan is taken out -- and so, I don't know, I guess that's the question that we wanted to pose to you all.

MS. MACK: Bethany?

MS. LILLY: As a -- I know that we're supposed to email the facilitators about data requests. So, I will certainly pass this along, but I just as a -- I think it might be helpful and get us some of the answers to this if we had a sense of folks who maybe go back and look at new loans, if you have any data on that -- if that's an element of kind of the analysis that GAO or other folks have done of the monitoring period, that would be interesting for me to see. I don't remember it from any of the GAO reports, but if there is anything on that, I think that could be useful. Because I could certainly see somebody exactly in a situation Daniel outlined, who had a particular career, then encountered

a type of disabling condition that requires a completely different career, and how that would work there. So --

MS. MACK: Okay, thank you, Bethany. Any other clarifying questions or comments on this particular part that we have not already addressed?

Okay, I am seeing none. This is going to be a great opportunity for us to take a temperature check for tentative agreement. I just want to see, folks, thumbs on what has been redlined so that the Department can have some meaningful feedback, and us, facilitators, have some meaningful feedback on what's been proposed thus far. This is not an official consensus check. We are not taking a check for agreement, just a signal on how we feel about this redlined text. Can I please see your thumbs?

Okay, I'm seeing everyone has an up or sideways thumb. Thank you for that. That is extremely, extremely helpful. There are a number of questions here that we want to circle back to Department of ED to address these things and I'm understanding that some data points and some other suggestions may be forthcoming around that subpart. Anything else before we move on to the next? Joe, I see your hand.

MR. SANDERS: Yeah, I just wanted to clarify that temperature check was just on the elimination of

the 3-year monitoring period, is that correct?

MS. MACK: That's correct. Okay. Shall we move on to the next subpart? Jennifer, you walk us through.

MS. HONG: Yes. The next subpart has to do with the fact that, for those who currently qualify for TPD discharge based on an SSA Disability Determination must be in the Medical Improvement Not Expected or MINE category, and that is outlined in current regulations in order to qualify.

However, we are aware that there are other data sets, perhaps, that SSA has available that someone could potentially meet the statutory definition for TPD, and we want to ensure that we're encompassing all those individuals that could potentially qualify for TPD discharge.

And a couple of statuses came to our attention and that is Compassionate Allowance, which is a status where the borrower has one of a predefined set of serious conditions that SSA can fast track because a condition is highly likely to qualify for disability determination. Now, of those individuals that are -- request a review for Compassion Allowance, how many of them may be -- may qualify for TPD discharge and how can we ensure that we -- those individuals get captured in

the match. The next status is a Medical Improvement Possible or MIP status, and that has been renewed at least once. So, it's our understanding that SSA focuses on how long it expects that a disability is to persist.

MINE is the only status -- current status the Department employs, and it requires an individual to be reviewed every 5 to 7 years, thereby meeting the 16-month continuous disabling condition as outlined under the statutory definition. MIP requires disability reviews within 3 years. So, a borrower who is approved for disability benefits in an MIP category once and then whose approval in the MIP category was subsequently renewed, would be in that disability status for 6 years, thereby meeting the statutory definition of a condition that's lasted or expected to last 5 years. So, we wanted to consider the MIP status.

And finally, we recognize that there are individuals that have been placed in the retirement file in SSA but were previously in MINE status. So, therefore, once a borrower in the MINE or MIP status hits retirement age, they often move into SSA's retirement file and no longer show up as eligible for disability benefits. So, we would like to allow those borrowers receiving SSA retirement benefits with a disability determination date at least 5 years in the

past to qualify for TPD discharge. So, there are some details that we would need to work out in terms of the process of finding these individuals for an SSA match.

While SSA can report the date of disability determination, it cannot report who in the retirement file has had a prior MINE status. That means the Department will not be able to identify borrowers who had a MINE status but entered their retirement file prior to any of the matches conducted with SSA. So, we have questions about that as well. So, we are -- we would like to hear your thoughts on the inclusion of these three statuses into the regulatory text. And I will direct your attention to -- let's see, this would be on page four, Vanessa, the amendatory text at the bottom of page four and into page five, addresses some of these issues.

MS. MACK: While Vanessa is scrolling, I'm going to invite questions and comments for this particular subpart of the topic. Bethany, I see your hand.

MS. LILLY: Sorry, you all are going to be hearing from me a lot this time around.

MS. MACK: Please, (audio).

MS. LILLY: So, going back to your first definition of the statute -- because I'm not sure if



there's just a disconnect between ED understanding how SSA uses diary categories and how that works. So, apologies if this is stuff you already know, but there seems to be some confusion here.

So, there are three categories of folks in the statute who are eligible for the discharge, folks who are -- die or likely to die, and that's the Compassionate Allowance list. I'm really glad to see that added to the list of categories here. This is -- these are folks with very likely to be terminal disability, so, I think that's a really great addition. Then you've got folks who, in the future, will have had their disability for 5 years. And though that's the prospective kind of category folks and those are the folks who are in the MINE category, who are in the MIP and have been reviewed once, those folks are likely to have their disability for 5 years.

But then there are also the folks who have had their disability for 5 years, and, as you said, that's something SSA tracks, that's something they could data share with you. There are lots of folks who might not be classified as MIP or be classified as MINE, but who have had their disability for 5 years, so who meet the statutory definition. And I don't see anything to help those folks here. And that concerns me because

those are folks that -- there's a responsibility from the Department. If there's statutory authorization to discharge this debt, you don't suddenly get put in MINE if you've been on Disabilities for 5 years. That's not how the system works, you actually -- they have a pretty strict rule about when they apply the MINE status, and it has to do with age, it has to do with how many times you've been reviewed. Sure, folks get their kind of medical diary category reviewed every time they go through a CDR, but it's not -- you're not going to magically capture everyone who's been on the program for 5 years, just with the MINE categories. That's not how those categories work. They're very prospective.

And so, I would really encourage the Department should be taking a look at the retrospective category here. You can look at the onset date of someone's disability, if it's 5 years out, and they've been on social security benefits since then, that's pretty clear indication that they've had a disability for 5 years. And I think that would help a lot of folks. I mean, one of the major concerns we have in this context is that folks oftentimes have their social security benefits garnished -- offset to U.S. treasuries -- (interposing).

MR. TONCHI: 30 seconds.

MS. LILLY: -- pretty language here. Thank you for the warning. And so, I just want to claim that I really think you need to take a look at that category of people. Because they're just missing now.

MS. MACK: Okay, thank you, Bethany. Anyone want to speak to that or have additional comments or questions? David, please.

MR. TANDBERG: So, I really appreciate that, Bethany and I'll admit to not having the technical expertise that you clearly have, although I think I'm convinced by what you share even if I -- I'll be honest, I couldn't follow all the acronyms. And so, I'm wondering if -- and I don't want to -- I'm very hesitant to give anyone homework -- but I am curious as to whether you or you working with someone could propose actual amended language to capture that group in a way that that you're suggesting because I'd like -- I'd love to consider it. And I think seeing the language would help me follow your argument a little better.

MS. MACK: David, I appreciate those remarks. It's very solution-oriented. So, Bethany and others, if there is a suggestion there for everyone to consider, I think I agree with David, that would be extremely helpful. Anyone else have additional comments or clarifying questions for this? Jennifer, please.

MS. HONG: Just real quickly, that they appreciate so much that you're here. And I just -- I want to be clear that you are supportive of what is currently in the issue paper, you're just saying to also include the retrospective piece as well.

MS. LILLY: Yeah, I'm very supportive of what you've added. I think it does a good job of capturing the -- I hate calling it this -- but the death category, and then also the prospective categories. I just -- I do think you need to add that retrospective piece. And I'll try and drop some language in the chat that would capture that to help out David.

MS. MACK: David and others, I'm certain, yes. Perfect. Okay, Persis, I see your hand.

MS. YU: Thank you. So, I completely agree with Bethany for the need for -- to both identify folks who have experienced their disabilities for over 16 months, because I think that's a lot of the folks who we see come in because they don't even know that this is a possibility. So, a lot of folks do -- are going to have met that criteria, and I think that that is easily identifiable. And I thank Bethany in advance for her language. The question that I have is, how does this fit in with the announcement about automating relief? I noticed that the language still continues to say that

the -- there will be an application process. And so, we were ecstatic to see that disability relief is provided automatically as of last month, but I'm not exactly sure how that fits in with this particular proposal. And we would hope that the Department plans to continue to automatically grant relief to everyone who can be identified through social security or whatever other processes.

MS. MACK: Department -- let me ask -- is that something you'd like to speak to and answer?

MS. HONG: Yes. Yeah. It just -- Simply, Persis, we have to retain that language in the regulation for anybody that wants to apply by physician certification, for example, that the automated process takes care of everyone else, you'd have to say.

MS. MACK: Okay, thank you for that, Jennifer. Jaye, I saw your hand.

MS. O'CONNELL: Yes, I -- the regulatory sites are focused on direct loans, and I wondered about conforming changes to fail to allow for the same automatic qualifiers.

MS. HONG: Yes, we just -- for the proposed -- for the draft language, we just -- we're just showing you the DL language, but all this would be conforming for the other loan programs as well.

MS. O'CONNELL: Thank you.

MS. MACK: Okay, thanks for that question, Jaye, and answer, Jennifer. Any add -- Jaye, please. Okay. Any other additional questions or comments on this particular section, which we have not covered? Okay. I would like to ask again for your thumbs. Not for a consensus check, let me be clear, just for tentative agreement, your temperature on this particular proposed section. All right, so, if I could see your thumbs in terms of support and agreement on this particular section, where are folks at. I believe I have seen everyone's thumb and, again, they're all for this juncture -- at this juncture up or sideways. Thank you. That was very, very helpful. All right, Jennifer, I am going to turn it back over to you to continue to walk us through the proposed solutions.

MS. HONG: Great, thanks. Okay, the next one in this text's subtopic is fairly straightforward. It's more technical in nature, and that is to expand the allowable SSA documentation. And we just need to amend the regulations to reflect the current practice of allowing borrowers to submit a Benefit Planning Query or BPQY, which is (audio) documentation produced by SSA, that contains similar information to the newest award and is -- excuse me -- easier to obtain. And where this

is all captured in the same section that Vanessa has up on the screen.

MS. MACK: Are we seeing the applicable provisions on the screen now or do we need to scroll at all?

MS. HONG: No, we're good. Right here under -- one minute -- "iii".

MS. MACK: Perfect. Okay. Let me open it up to the group. Any questions or comments on this particular subpart? Bethany, please.

MS. LILLY: So, this goes also to the eligibility stuff that we just discussed. But I don't want the Department to lose its flexibility to accept other types of documentation. And I know that you were starting to accept BPQYs earlier, and I think that's good. If something seems to be working and the Department wants to accept it, I don't want them to lose that ability to do that. And just technically, I think that could be done or other SSA documentation indicating this would be an easy statutory addition there -- or regulatory addition there. I will say that I think if you expand to the retrospective piece, there are a lot of other SSA paper that you could be thinking about. There are 1099 tax forms that folks could submit that would verify that they have received social security

benefits for 5 years. There are also printouts from the MINE social security website that might be appropriate. And so that's partly why I'm suggesting that I want the Department to keep that flexibility because if you're going to update the eligibility piece, I think there are other pieces that you might want to accept here. So that is the extent of my question there.

MS. MACK: Thank you, Bethany. Did anyone want to comment on that point or any additional comments or questions on this subpart? Okay, same thing, I would like to check for tentative agreement or temperature check on this particular portion so that you can indicate your support thereof, what are folks thought on -- thoughts on this subpart. Please, show me your thumb. Okay, so 17 of them. Thank you. Again, I think they were all up or sideways. Let me know if I missed someone. David, please.

MR. TANDBERG: In just a similar comment, I'd love to see those other forms of evidence that could be considered and ways that we could build in the flexibility for some discretion on the part of the Secretary to allow for some greater flexibility for those that can benefit from these benefits.

MS. MACK: Okay, and everyone continue to monitor that group chat, because there are some ideas



being shared and captured there. Okay, thank you, David. Thank you, Bethany. Let's move on. Unless there was anything else comments or questions on that point, we'll move to the next one. Jennifer?

MS. HONG: Great. The next subtopic is with regard to accepting TPD certifications from certain healthcare professionals who are not physicians. So, we want to expand the list of the eligible signers to include both nurse practitioners and physician's assistants who are licensed to practice in the United States. We've been able to identify a source for verifying licensure of nurse practitioners. However, we still are looking for some way to verify licensure status of physician's assistants, so we would be open to hearing from negotiators on that point. And the general point about expanding the list of signers.

MS. MACK: Okay, we have a number of hands raised. So first, I had David in order.

MR. TANDBERG: Yeah, and we're moving quick, which is awesome. Really supportive of moving fast, but just a procedure process question. We're having language suggested, which is awesome. But as to previous points, are we trying to run through everything and then we're going to go back to the beginning, or what? I mean, this is -- I mean, I don't know, since we're doing this via

Zoom, we kind of have to figure these things out so that we can kind of set the precedent moving forward. I just don't want to lose this text. Hopefully, it's being copied and pasted and saved to some place. But I'd also be good with returning to a point sooner rather than later so that we could resolve things.

MS. MACK: Great questions. And, David, I imagine that each issue will look a little bit differently in terms of how expeditiously we'll be able to move through it and its subparts. Right now, I want to make sure that we address any preliminary questions and comments about what's being proposed by the Department. If there are any data points that we need, I'd love to identify those. And if there are any suggestions for additions, I'd love to address those. I appreciate your invite for specific text. And to the extent that those are being shared in the chat, I think that we should in fact capture it.

I am not sure that this group will be ready to return to this for an official consensus check today, after revisiting these data pieces or language that's being put in the chat, but if the committee is ready, in fact, to move to a consensus check, I'm happy to do that. If not, then we will return to this for some additional dialogue, make decisions on whether

additional edits should be made, revisit those tentative agreements that we've talked today to signal where folks are out with this, and then move for an official consensus check. So that was an answer, not necessarily -- maybe not what you were looking for. David, did that answer your question?

MR. TANDBERG: Yeah, I think so. And I wasn't pushing towards a consensus vote, just iteration of the text. I don't want that to be lost. So as long as there's a plan to return to the suggested language and that topic for additional consideration, I'm happy. I -- we'll get to the consensus votes when we get to them.

MS. MACK: We will definitely track that and return to that for consideration and conversation. Okay, Justin, I saw your hand next.

MR. HAUSCHILD: Yeah, thanks so much, Kayla. I just want to say, we're probably supportive of this addition in terms of the types of certifications. It's these nurse practitioner, physician's assistant pieces of info and certifications are relevant in VA determination process. So, we think it's an appropriate area of priority between -- that was in the VA system and outside.

The one thing I would flag here, and not that it's necessarily inappropriate, but we'd love to

get some thoughts on the need for folks to be -- or for these individuals to be licensed by a state. Again, not that it's inappropriate but just with taking into consideration folks that may live overseas and perhaps have difficulty in identifying and/or getting somebody that's licensed in a U.S. state. So, maybe along the lines of the flexibility that was discussed previously, but just some thought to that will be much appreciated. Thanks.

MS. MACK: Thank you, Justin. Joe, I have your hand next.

MR. SANDERS: Hi. So, I spoke with my professional regulator here in Illinois on the topic of -- sort of related to what Justin was talking about on state licensure. They could give me a database, the AMA keeps a database. And there's a subgroup at the AMA that's the PAs, so that's a possibility. I'm happy to give a link on that.

The other issue that they raised was, in Illinois, during these types of certifications, they thought what probably be within a nurse practitioners' scope of practice, and they were concerned about physician's assistants because their scope of practice is often defined by collaboration agreement with the physician. These are often required for insurance to

cover procedures done by PAs.

I raised this with Bethany earlier and she helpfully pointed to some language that social security administration uses on this scope of practice.

So, I think that my professional regulators' concerns will be alleviated if we just put in a qualifier in the position that notates that any physician's assistants can make these certifications provided it's within their scope of practice.

And as to Justin's point, I don't -- I'm not taking a position on "yes, they should absolutely be licensed, but to the extent we're talking about state licensure we wanted to pull the last so that state and federal law are working in tandem as opposed to being at odds.

MS. MACK: Okay, thank you, Joe. Jeri.

MS. O'BRYAN-LOSEE: Hello. I just want to support everything everybody's been saying because there's a huge problem in poor or rural -- especially in rural and poor communities, where they don't have access to doctors.

So, I think this is really important to keep in mind as we're moving forward agreeing with everything everybody else said as well.

MS. MACK: Thank you, Jeri. Bethany.

MS. LILLY: So, generally, I want to agree with everything that's been said. I -- The list that Joe mentioned earlier is acceptable medical sources, SSA has a list on it and it's a subregulatory list and if you take a look at it, you may notice that they have folks who have particular specialties in dealing with particular types of disabilities. Because we're talking about disabilities, mental health disabilities are a big one, visual impairments are a big one. And so, there's a collection of other providers that have particular specialties in this that the Department might want to think about.

Given that, SSA has already done this with the regulatory work, I think that might help just in terms of have -- giving you guys something to take a look at it.

One thing that I really wanted to emphasize here is, disparities when it comes to mental health care across this country. You really can't access a psychiatrist in a lot of places, so SSA has expanded their criteria to include psychologists, there are also licensed clinical social workers who in some states can in fact diagnose things.

And I would just say that that is a massive shortage across this country right now that lots of

folks face.

Jeri is completely right and I will echo all of her points about rural and specifically low-income communities also having those challenges.

And so, as you're taking a look at this and thinking about other criteria, I would specifically say looking at mental health providers would also be important, and looking at other specialists too who have that particular expertise in a particular disability piece, because, I mean -- I think that there are plenty of doctors who might feel uncomfortable filling out the form for someone if they don't have that particular specialty.

And so, that's just something to flag to all of you.

And I would also flag -- because I thought about this when I was looking at -- thinking about the PAs licensure piece -- there are other agencies that verify kind of the providers in one way or another.

You have Medicare reimbursement, you have Medicaid reimbursement, you have federally qualified health centers, you've got NIH, you've got VA medicines. I assume you have some type of out-of-state or international -- I don't really know how it works on military bases internationally and I'd be curious if

there's something that -- where you have the implementer of the folks saying, "hey, these are the doctors you can go see in the current foreign country."

And so, I would be curious if there is something there that you can look at in terms of both getting at Justin's question, but also maybe getting a little broader than licensure databases if you are going to be extending their criteria.

MS. MACK: Okay, thank you, Bethany. If someone else had their hand up and it's now down, I'm going to assume that your remark or question is no longer to be made. But -- So, make sure you raise your hands if you're going to -- inadvertently lowered it. Bobby, please.

MR. AYALA: That was me, but everybody had already said it so beautifully, so I didn't want to repeat what everybody said, so --

MS. MACK: Perfect, that works for us, we appreciate not being duplicative. Any other questions or comments on this particular section? Daniel, please.

MR. BARKOWITZ: So, the Department indicates that it's having difficulty finding a way to certify PAs and I wonder if (audio) looked at NCCPA, which appears to be a licensing body or certification body nationwide, and whether or not the department has considered their



certification as a potential source. And I can put the link to the information in the chat if that would be helpful.

MS. MACK: Okay, thank you for putting that in the chat so the folks can refer to that. Any other comments or questions at this time? Okay, I am not seeing any. If we put a -- excuse me, a kind of agreement check on what you see here from -- proposed by the Department, would you indicate your support and agreement again through a tentative agreement temperature check at this time?

Okay, so I'm noting that we would not all be in agreement at this particular point. Anyone who have their thumb down, I would appreciate very much if you could articulate the reason for that, so that we may all have that to consider as we move forward. Joe, please.

MR. SANDERS: I would just want that phrase that I put in the chat in there, so that -- it acknowledges that the state's scope of practice matters in terms of signing the certification.

MS. MACK: Okay, that is extremely helpful and we are going to track all of the suggested text over there so we can refer to that back in our dialogue together. Any further coins on this before we continue

to move on? Okay, Jennifer, can I turn back over to you?

MS. HONG: Yes. It's so helpful. Okay, and the final subtopic on this issue paper is concerning providing greater protection around the physician's certification of the TPD discharge form.

We just want to add some language stating that we will analyze physician's certification forms to verify any patterns that suggest potential cause for concern.

This could include large numbers of forms from a single individual, for example.

We would have the ability to refer concerning practices to the OIG, the Office of Inspector General, and to decline to accept physicians' certifications from that individual. And we just feel this is important as part of eliminating the income monitoring period and giving more options on physicians' signatures and documentation.

We do want to include some language giving us some ability to deal with potential fraud in the physicians' certification process.

This is a better situation for borrowers and it really helps us avert potential fraud, which is important because of the concerns in this area back in 2012, which is why I created the monitoring process in

the first place. So, I welcome your thoughts and discussion on this piece.

MS. MACK: Thank you, Jennifer. Michaela, please.

MS. MARTIN: I was just wondering if there is any definition for patterns of concern, just because that seems so ambiguous and just kind of -- I wasn't sure exactly what would qualify.

Also, when you're opening up something to a nurse practitioner or PA that otherwise hasn't been able to sign this document, there's the potential, especially in the beginning, when you're going to have a higher volume of folks who previously couldn't assist patients in this way that now are going to, so you likely could have quite a few -- multiple from one particular PA, especially in rural communities.

For example, I see a PA and he serves quite a few people there.

So, if he's now able to sign this documentation when he wasn't previously, I just wonder how that's going to factor into what you're calling patterns of concern.

And again, particularly in that start up time.

MS. MACK: Okay, thank you for those

questions, Michaela. So, I will invite folks who can answer some of those questions around the patterns of concerns to raise their hands so that we can circle back to that. The next hand that I saw is Bethany, please.

MS. LILLY: This actually builds on Michaela's question, which I think is excellent.

I really think that this is an area where ED might want to think about working pretty closely with the SSA, Office of Inspector General as well, because they do an extensive amount of work on the disability determination process and analyze doctor patterns and analyze other patterns, and I'm sure they could tell you kind of things that they look at rather than -- and just have been doing this for a lot longer.

So, I would just really encourage that the two Offices of Inspector General kind of work on those criteria together, because I think we don't want to find ourselves in the situation where somebody, as Michaela described, in a rural community is verifying everybody, because they're the only provider who can, and get that person in trouble when really -- they're doing exactly what we want them to be doing.

I really wanted to flag that as something that you can think about going forward.

MS. MACK: Okay, thank you. Can we scroll,

Vanessa, to just ensure that we are looking at the right page? I think it's on five. Okay. Is this where we need to be, everyone? Yes, perfect, alright. Persis, I saw your hand next.

MS. YU: Thank you. I'm largely -- want to echo on what Michaela and Bethany had said. But this section causes me a fair amount of concern.

I said that when I worked for a legal services provider in Rochester, New York, there were not a lot of practitioners and most of my referrals came from a single source, and so, we worked through it with VA clinics, we worked with HIV clinics, and it would typically be the same person who I would engage with.

I would be very concerned about creating some kind of chilling effect where those folks would no longer feel comfortable signing the certifications.

And so, I would like a little bit more of information from the Department about what they would consider to be a pattern of concern and why they would find it concerning. Thank you.

MS. MACK: Okay, that's very helpful. I just want to welcome Greg to the main table. Dixie, the primary, is having some internet issues, I believe, so Greg is going to step up for this particular topic in her absence. Thank you and welcome, Greg. Justin,

please.

MR. HAUSCHILD: Yeah, thanks so much, Kayla. I just want to echo the concerns raised by Michaela and Bethany, particularly when it comes to rural areas.

A quarter of veterans returning from active military service end up residing in rural areas, it's somewhere in the neighborhood of 4.7 million individuals perhaps, and so, that is a concern.

In addition to what has already been mentioned, when it comes to particular specialties that might be relatively specific, a particular practitioner that specializes in that, they might see a disproportionate number of certifications, and so, I just want to flag that as well, thank you.

MS. MACK: Okay. Thank you, Justin. Does anyone else have any additional comments or questions on this that we have not already covered? Jaye, please.

MS. O'CONNELL: I just wanted to say that Will as my alternate would like to speak. I'm not sure if that's the right protocol, but --

MS. MACK: Yes. Will, we will welcome you to speak on this particular subtopic.

MR. SHAFFNER: I appreciate that. Thanks. So, it'll be quick.

I do appreciate the comment here for

suggesting patterns of concern. I'm also leaning on the side of not defining this and keeping it broad. And I understand the concerns that folks have mentioned so far. Based on information we found, it appears that about 46 percent of all borrowers have engaged or are currently engaged with some type of organization such as a Doc Prep or a Debt Relief Organization that is assessing additional fees when they don't need to be and borrowers are paying these fees when their federal servicers and other organizations are offering this for free. And so, these organizations are nimble, they are quick and they don't use the same efforts over and over again.

So, the Department does need flexibility when it comes to evaluating what is happening when it comes to forms and the completion of forms.

And it's not only to protect and make sure that someone might not -- might be certifying TPD incorrectly or doing TPDs inappropriately, but it's also to protect the borrower, to make sure that there's not some type of abuse that is happening by another organization filling out a federal form on their behalf.

So, I really agree. I understand the concerns, but the Department does -- they need the ability to look and just see if any patterns arise. So,

it's very difficult to predefine that because these organizations are tremendously sensitive to enforcement, and if they see that something's being tweaked, they're going to pivot.

So, I don't want to pin the Department down too much in this area, so I just wanted to ensure there's thoughts on this. Thank you.

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

MR. TANDBERG: I definitely share Will's concern about these organizations that are attempting to profit off of students and former students. And so, I think there may be a place within the regulations that we could do some additional work there.

This language here, I'm not sure if it's relevant to that. Maybe I'm missing something since it specifically mentions physicians, nurses or physicians' assistants only in it, and it doesn't mention any other organizations that may be working on this area. I'm not sure if there's a connection there, but I could be missing it. The other -- I welcome others who could enlighten me on that.

The other question that I have is, do we have data on how often this happens? Specifically, with health care providers. I'm sorry, my dog's making noise in the background. But do we have data on how often this



happens? Is this really a concern? Do we have anything to validate it? Are physicians just doing this on behalf of students in a way that we should be concerned about?

MS. MACK: David raised two questions. I encourage anyone that can speak to either one of those to please raise your hand so that we can get some feedback on those, and not lose track of those questions raised. Joe, I saw your hand next.

MR. SANDERS: Yeah. I can address one of David's questions. First of all, I certainly hear Will. That student loan debt relief scam is a big problem. My office has something like 10 lawsuits over the last five years against these entities. We get -- Over the last couple of years, we've probably had over a hundred complaints. They're definitely nimble, all those things are true, but I agree with David that I don't know that this section is particularly relevant to SLDRs.

In Illinois, we made some amendments to our Debt Settlement Act, which specifically addressed SLDRs. There's other federal regulation on this, the Stop Act, it's a new one.

And so, I don't know that this -- I would be more concerned with the -- in terms of priority -- with the concern that Persis raised, where you have a provider that works for legal services and that person

might want to get out of the business because they don't want the Department breathing down their neck.

So, I have a lot of experience with student loan debt relief scams. That is where I would fall on this one.

MS. MACK: Thank you, Joe. Brian, please.

MR. SIEGEL: Hi. Just a couple of things. I've worked on these programs for more than 30 years, and every few years we get some very significant criminal prosecutions in this area of -- usually, one or two doctors on a particular practice falsifying borrower disability discharge applications, sometimes in connection with SSA, sometimes not.

So, this language was just intended to address those situations. Is it -- Do we have specific numbers? I'm not aware of any. But they tend to be large cases when they come up and, I think, at least what I've seen is, then -- they give the program a blackeye and then you have more pressure on the Department to tidy things up.

So, this language is designed to just put people on notice that we're going to analyze the information that's out there, and we're going to take a look at it and take action to protect the federal office.

I understand the concerns about how it's phrased and the concern about when these new certification authorities -- go into effect for people who are new and in new areas, and that's something that we can certainly look at and possibly address it.

I also note that we have this authority whether or not we include the language, so it's more that we're including the language as a way of putting people on notice about that we intend to do this.

MS. MACK: Thank you for that, Brian. Persis, I see your hand next.

MS. YU: Yeah, so this kind of actually gets into the last piece that Brian was just mentioning that the Department already has the authority, these forms are first signed under penalty of perjury of law, so whether or not this language is truly necessary, given that the Department does already do prosecutions if they have reason to believe that somebody has -- is committing fraud in this way. And so, I'm just concerned that since the Department can do this anyways, whether or not -- on the balance -- whether or not, the chilling effect is going to be more detrimental to borrowers than the effects of the fraud, given that we can already do it anyways.

MS. MACK: Okay, thank you for that. Any

other comments or questions that we have not already fielded? Okay, I'm seeing none. Let's do what we have done for the prior subparts. Based on the conversation, the questions asked and answered, and the clarification provided by our general counsel from the Department, what are everyone's thoughts in terms of a tentative agreement on the language specifically proposed here? Again, this is the temperature check for tentative agreement. Can I see your thumbs?

Okay. So, for this one we actually have a number of downward thumbs. Then we know we have some more work to do on this particular subpart.

Jen, is that all of the proposed solutions and subparts of this particular topic?

MS. HONG: Yes

MS. MACK: Perfect. Pretty good. We said we were going to take a break right at 2:15 Eastern time. So, we are right on schedule. Let's take a quick 10-minute break, and as soon as we come back, we will get ready to start with our second issue. Thank you all very very much. I'll see you in 10 minutes.

(Recess from 2:15 p.m. to 2:25 p.m.)

MS. MACK: (audio) issue and invite the Department to address that. But before we do, we have a couple of announcements by way of primary and alternate

participants for this next issue, which is closed school discharge. Again, I believe that Greg will be stepping in for Dixie, for their constituency group, and then Persis, primary, will be stepping away for this particular issue, so we're inviting Josh to the table as the primary. Josh, I see your hand raised, please.

MR. ROVENGER: Yes, thank you. I'm very much looking forward to the conversation on closed school discharge, and before we move to that topic, I did just want to revisit the conversation we were having earlier about adding a specific borrower to the committee and who has attended a for-profit school.

We've been able to secure one such borrower to be a primary negotiator and another to be an alternate, and both of them are members of the Sweet class but not the plaintiffs.

I'll just reiterate the points that Persis made before that these two borrowers are not only important to discuss their experience with their schools and the unique experiences that they have there, but also their interactions with the Department of Education and the difficulty that they had for years to this point.

MS. MACK: Would you be able to share with us the identities of these individuals, Josh, that you

are putting forward?

MR. ROVENGER: Yes, I'll put them in the chat right now.

MS. MACK: Alright, and for our viewing audience who cannot see that chat as we post, would you also read them aloud for me, Josh?

MR. ROVENGER: Of course. For primary we would nominate Ashley Pezzuti (phonetic) and for alternate Evelyn Cervantes, and both of them are watching the livestream right now ready to jump in.

MS. MACK: Okay, thank you for that, Josh. Jessica, I see your hand.

MS. BARRY: Yes, thank you. I've been thinking about this since we talked this morning, and I think if we were going to add another seat to the negotiations, I think we should have time to think about nominees.

It's really difficult, in my mind, I'm racking my brains over the last couple of hours thinking if I could nominate someone, and it would be very hard for me at this point to find someone immediately who can take off work for this week and get up to speed on these issues and be able to really become a part of the committee and be effective.

So, I'm wondering if we're going to add a

seat, could we think about doing that for the next session? That way we have time to think about nominees and put them forward and give them the time that they need to prepare.

MS. MACK: So, there are a number of hands going up. Let me remind you all that the protocols do say if we're going to nominate someone and if we reach consensus on that, those individuals become and the expectation is they are readily available.

So, Jessica, if there is someone that you want to nominate at a later date, we can subject that individual to a consensus check at that time.

I think that Josh, on behalf of their constituency, are nominating these individuals with the expectation or hope that the committee will take a consensus check on that at this time, if and when -- if you are in fact ready. David, your hand was up, sorry I missed you. No? Okay. Does anyone have any questions or comments on the nominations that are up for your consideration at this time?

I'm giving you a long pause so that you can think about it. Noelia, please.

MS. GONZALEZ: Hi, yes. I have a question. Are we looking at -- or have we decided to add another seat? So, are we voting on the idea of putting in --

opening up another or the actual people?

MS. MACK: So, we're going to take a consensus check, if and when the committee is ready, on these actual participants. That would not prevent individuals from bringing forward new nominations at a later time.

Any other questions or comments? Committee, I'm going to ask -- Heather, please.

MS. PERFETTI: We're just going to inquire if there's any additional information that can be shared about each of these individuals. I think that would be helpful what went forward with all of our nominations, including some additional pieces of information about us.

So, I think that would be helpful, at least to me, in having a better sense and understanding of who these two students -- I believe they're students from -- representing the experience at a for-profit institution, but I'd like to have a little bit more information if you have it.

MS. MACK: Great question, Heather. And Josh, if I can ask you to provide some additional information on these individuals, so that when the committee takes the consensus check they can do so in an informed manner.



MR. ROVENGER: Sure. Both of them were students of the Brooks Institute, which is a for-profit school that has since shut down. Both of them have asserted to the Department borrower defense claims a whole host of issues and based on both their recruitment and their experience at those schools.

And both of them for both of those applications the Department has sat on the applications, which is why they're members of the Sweet class action, which sought to compel to the Department to decide their claims.

So, I think they're unique. One, because they're able to speak to the dynamics that are at play when we're discussing for-profit schools, particularly one that has since shut down, and two, able to speak not only to the application process of borrower defense and these discharge regimes, but also to the impact on their lives, of -- the Department of Education's failure to decide their claims.

And they got a particularly important point, given that one of the specific questions that ED --- that the Department has on borrower defense does relate to the time that it should be taking to decide those claims.

MS. MACK: Okay, thank you, Josh. Any

further questions or comments? Daniel, please.

MR. BARKOWITZ: So, a question about the public comment period and the ability to caucus.

So, if we do not accept these two as proposed, they can still serve as public commenters in the public comment period, correct?

MS. MACK: Yes, they could register just like anyone else through that link that was shared earlier and try to access the public comment periods, which we will get as many folks as we can each day in the final 30 minutes of our sessions.

They also -- the public can register for a link for it to be livestreamed. (audio) Okay. Thanks, Daniel. Josh, please.

MR. ROVENGER: Thanks. I just want to respond to that point from Daniel. So, first, I think public comment, at least for the near term may be (full) so they may not actually have that opportunity as a practical matter.

But I do think, as all of us here could attest, there's obviously a distinction. Public comment is essential and important, but it's not the same as having a seat at this table.

And I think for-profit students are in a unique situation. They have not only been -- many of

them have not only been defrauded by their schools, and with respect to the Department of Education, have been failed by their government entirely. And so, I do think it's a perspective and a voice that is really important to have at this table.

MS. MACK: Okay, thanks for that, Daniel. Thanks for that. Cindy, please.

MS. JEFFRIES: Yeah, I just wanted to make sure that Daniel's question was answered in its totality. I thought I heard two pieces to that, one with the public comment piece and the other piece was about the ability to caucus with anyone that you wanted to during your caucus time. And I'm not clear if we answered both segments of that. Daniel, can you respond?

MR. BARKOWITZ: That was also -- thank you, Cindy. I was also curious about the ability for them to be a part -- or part of any caucus that might take place with the representatives of student borrowers or the other representatives that might be called upon.

MS. MACK: I'm sorry. Thanks for bringing that to my attention, Cindy, and apologies, Daniel, if I was remiss for that point. If they are not on the committee, we will not bring them actually into the Zoom platform to caucus, but just like anyone else, once you are in those breakout caucus spaces, you could call

those individuals for consultation separately. Right?  
Thanks again, Cindy and Daniel. Marjorie, please.

MS. DORIME-WILLIAMS: I just have a clarifying question about -- I believe we talked about this earlier, and so, it's just not clear to me, are these students not a part of this legal case? And if they are, doesn't that mean that we -- they aren't able to serve -- I apologize, because I feel a little bit confused about that point.

MS. MACK: That's okay. We have addressed that somehow, but let's provide some clarification. Josh, can you answer that question?

MR. ROVENGER: Sure, so, the Sweet class action, I don't, off the top of my head, remember the precise number, but I think it was in the hundreds of thousands of class numbers. And so, they're not named plaintiffs in the case, because the Department of Education had this giant backlog of borrower defense claims that they were sitting on and there's just a whole bunch of borrowers who are included in that class. And I think, as Mr. Siegel pointed out before, just by virtue of the nature of the class action, there was no way for them to opt into it or optout of it once the class -- once the court certifying the class, they were in that class.

MS. MACK: And Jennifer or Brian, if there is more that we need to flesh out to answer Marjorie's question or provide clarification, please let me know. David, please.

MR. TANDBERG: I'd like to recognize my alternate, Suzanne Martindale. She has something she'd like to share with the group.

MS. MARTINDALE: Thank you, David.

MS. MACK: Suzanne, (interposing) go ahead, Suzanne, please.

MS. MARTINDALE: Yeah, so, on this point about the inclusion of student borrowers who have had to live the experience of seeking borrower defense claims, I think their perspective is incredibly valuable.

We have representation, I think, whether it's wearing our official hat or unofficial hat at this table of folks who have tried to get an income driven repayment, who have experienced interest capitalization, who are seeking Public Service Loan Forgiveness. But I think -- and people who are seeking TPD discharge, but in terms of folks who may have tried to get a closed school discharge, and/or tried to file a borrower defense claim, I think centering the first-person experience of those folks is very very valuable to get into in detail during these negotiations.

As a state regulator, we receive consumer complaints on student loan issues, and so, a lot of the work that we do at the Department is trying to understand what the borrower thought they were supposed to be doing when they were interacting with a loan servicer or with the Department of Education or with their lender. And I think that centering the borrower's experience on all these different kinds of discharge options is going to be really crucial to make sure that we'll get it right in terms of the regulations. This, Department, I applaud you for pulling together an incredible committee of people, and it really demonstrates your commitment to tackle long overdue problems and to address the fact that we put the burdens on student borrowers way too long, to have to navigate all these different repayment service and discharge options. So, it's a great opportunity to right that wrong.

And for these reasons I think that having this category in this instance, given that a few of your issues pertain to borrower defense as well as the closed school option, it feels like a valuable addition to me.

And also, for what it's worth, I've served on past committees where new categories, new folks were added on day 1, and it ended up being very valuable for

the ensuing sessions. Thank you.

MS. MACK: Thank you, Suzanne, for those remarks. Any final comments or questions around this motion for nomination? Heather?

MS. PERFETTI: Thank you. So, I think I heard that these two students have a similar experience from the same institution, and if that is accurate, is it better to consider students who have different experiences to hear a broader perspective than one that may pertain only to one institution and one experience going through that, then, with the Department? So, I just put that out there for thought and consideration.

MS. MACK: I appreciate that, Heather, and I will just remind you all that the protocols contemplate adding members, not necessarily primaries and alternates, so it would be such a thing that this committee could add one of these individuals and not in fact both as primary and alternate. I apologize, I saw a hand, but it went down, so if I've missed someone, please don't hesitate to re-raise that hand. Okay.

MS. MARTIN: You've answered my question, thank you.

MS. MACK: Not a problem. Alright, let me ask the group this. I am inclined to ask you for a consensus check on these individuals separately at the moment,

unless you indicate to me that you need additional time to contemplate the space on the conversation.

Okay, I'm not seeing anyone indicate that they do in fact need additional time, so, I'm going to ask each of you about adding these individuals as members to the group and will ask all of you to show me your thumbs. Before I do, Josh, can you pronounce these names for me one more time so I do not butcher them for all to see?

MR. ROVENGER: I'll do the best I can. Ashley Pizzuti () and Evelyn Cervantes (phonetic).

MS. MACK: Cervantes and Pizzuti (), thank you for that. Michaela, I see your hand.

MS. MARTIN: I'm sorry, it's a little bit different of a question. So, I know it sounds like there's some folks that have reservations right now about adding someone without having the opportunity to consider, and I was just wondering if maybe we could consider, let's say, we voted on an alternate right now. That way if folks want to present a different person, then either that alternate could become the primary or this potential new person could be the primary and they would work together. Or that gets too convoluted?

MS. MACK: I don't think we intend to add multiple alternates that could sub in for one primary



person. I do in fact think that that would be (difficult). Did I misunderstand you, Michaela?

MS. MARTIN: Yeah, I just meant one -- as a place holder -- because I think that for this next topic it's really, really important that we have that voice at the table, right? So, my fear is that right now, because folks feel like they haven't had enough time, that they're going to vote "no" because they want that additional time, but then we'll have this whole conversation, and a -- I don't know -- saying that I hear often is that "nothing about us without us," and I think having that voice while we're having this conversation right now is important. So, if it's possible to vote in one alternate that for today would operate, of course, as the person at the table for this conversation, but that still leaves the opportunity to readdress at a later time who would be the primary moving forward. Could this -- could that work for folks?

MS. MACK: I think I'm following you. Per the protocols, if we vote in an individual, they will take their place at the table immediately. It does not designate or deem them to be an alternate, but another primary for the purposes of consensus vote. So that's -- I think, to be true and consistent with the protocols, we need to take a consensus check on whether you are adding

these individuals to be a primary at the table from here throughout the remainder of the process. The protocols do not contemplate adding additional members solely for the purpose of being an alternate, or to be part of the process for just one issue. So, if you are adding these individuals, I want to be clear that you are doing so as a primary for consensus check throughout the remainder of the process. Does that address your thoughts, Kayla -- Michaela? Kayla and Michaela. Josh, please.

MR. ROVENGER: Alright, so I hear what Michaela is saying and one thought I have -- and I don't know if we can do this under the protocols -- is just having an initial vote on whether we want to add a seat dedicated to this constituency of borrowers, and then from there we can consider Ms. Pizzuti (). And, for what it's worth, I think it's telling that both of these borrowers not only have been watching today but are ready to jump in to have their voices heard, but that may be one way to address the concerns that Michaela was flagging. Do we want this constituency at the table just generally?

MS. MACK: Understood. My thought is that we would in fact vote on these individuals becoming members rather than voting on just a seat, and then needing to take a separate vote to find the right person to fill

that seat. But I will ask the Department if my interpretation of the protocols and plan for moving forward is the same. Otherwise, I think my fear is that we're opening it up to multiple consensus checks. "Should there be a seat? Is this the appropriate constituency? And then, who do we fill it with?" But, Jennifer, if I'm mistaken, please, let me know.

MS. HONG: No, I think you're thinking about it the right way, Kayla, take a vote on the individuals.

MS. MACK: Okay, then I am going to move your committee to a consensus check, first, on adding as a member for the duration of the process, to be included in all consensus decision making, Ms. Pizzuti (). May I please see your thumbs?

Okay, Ms. Pizzuti () will not be admitted as a member of this committee because we have not reached consensus on that. For adding Ms. Cervantes, and again, apologies if I am not pronouncing the last names correctly. Does the committee wish to add this individual to (audio) for purposes of the remainder of the process in consensus decision making?

Okay, I'm again seeing a number of thumbs down, which means again we are not in consensus on adding either of these individuals to the committee. Right? I appreciate that dialogue and the motion, Josh, and the

ensuing conversation. If short of anything else, I am going to move us into our next issue.

Okay. The second issue on our agenda today was "closed school discharge" and I'll invite Jennifer to open that issue up for us.

MS. HONG: Thank you, Kayla. This is issue number two. Among your issue papers for closed school discharge, I will ask Vanessa to go ahead and pull up that issue paper. Would you have the proposed regulatory text associated with it? And you can go ahead and put us on page eight of that issue paper, to the amendatory text at the bottom of the page. Vanessa, thank you so much. Give me one second here.

MS. MACK: Jennifer, while you're hunting that down, I did want to let folks know that right now public comment is closed for today, but it is still open and there are slots available for tomorrow and through the rest of the week, for those in the public who are viewing this right now and are interested in participating in that. Sorry, Jennifer, back to you.

MS. HONG: Okay, thank you for sharing that. So, our next issue is "Improving borrower access to closed school discharge." Again, this issue is listed as issue paper number two on the website. Just as a bit of background, section 437 (c) (1) of the HEA authorizes the

Secretary to discharge the loans of certain borrowers when a school closes.

In order to qualify for a closed school discharge, a borrower must have been enrolled at the institution on the date of its closure, or have withdrawn no more than 120 days prior to its closure, or 180 days for loans to made on or after July 1st, 2020. They must not have graduated from the school, or transferred their credits to complete the same or comparable program at another school. We have several concerns we feel we could remedy in the closed school discharge regulations for the benefit of borrowers who have experienced this type of disruption and who look to have a fresh start.

The first issue we would like to start with is to restore automatic discharge. We see when we put up paperwork requirements for borrowers, it does create roadblocks to relief. We would like to reinstate automatic discharges for borrowers who do not enroll elsewhere, but reduce the period before automatic discharges occur from three years to one year following closure.

As you may know, just last week the GAO noted that over 50 percent of the borrowers who received automatic discharges were in default, and without automatic relief, only a small percentage of eligible

borrowers ever got the relief they were owed. And this is precisely why we want to reduce the automatic discharge window to one year. It would make it far less likely that a borrower who did not apply for closed school discharge could end up in default before receiving automatic relief.

So, at this point we'll go again subtopic by subtopic, but I would like to hear from the committee on restoring automatic closed school discharge within -- with a one-year wait out period. We have an attendant regulatory text pulled up already.

MS. MACK: Okay, thank you, Jennifer, and thank you to Vanessa for sharing the screen and pulling up the relevant text. Questions and comments about this particular portion? Josh, please.

MR. ROVENGER: Thank you. And I just want to start all by saying that we are broadly supportive of the Department's decision to reinstate automatic closed school discharge, and it's particularly important, and as discussed -- The data from 2014, for example, showed that about 6 percent of those eligible for a closed school discharge actually applied, and between 2011 and 2015 only about 20 percent of those eligible actually had their loans discharged. So, we really are excited and pleased that the Department has decided to reinstate the

automatic closed school discharge and reduce the time limit.

We are concerned, however, that the proposal denies that automatic relief to borrowers who attended school before 2014. In our experience, those are the borrowers who are least likely to even know of their right for this relief, who had been burdened for the longest by these loans, and whose unpaid federal loans may have prevented them from ever starting over, for example, because their loans are in default, or because they are already closer at the federal borrowing limit. And, in our view, it's particularly unfair to treat these loans worse than those who have attended school more recently. We're thinking we're happy to discuss this later on when we get to the comparable program requirement, but the easiest solution here would just be to go back to the statutory language and eliminate the comparable program requirement, which isn't actually in the HEA to begin with.

We can discuss that more fully then, but some other alternatives that the Department should consider, in our view, would be eliminating it specifically from this group or, an absolute minimum, flipping the presumption that the borrower transferred credits to any comparable program. Because right now, as

I understand in the regs, it essentially presumes that they did transfer credits and requires an attestation form if they did not, and one possible solution here would be just to flip that around, give them some sort of time period to inform the Department whether they had in fact transferred credits and otherwise made the automatic discharge for anyone who attended a closed school from 1986 to 2014.

MS. MACK: Okay, thank you very much, Josh. Jessica, please.

MS. BARRY: Sure, thank you. At first, I have a broad question for the committee and for the Department. I think obviously we're all trying to think what is best for students during these difficult school closures and always felt that the higher education community has been aligned in thinking that teach-out plans and transfers of credits to other institutions were the best options for students. I know the recent GAO report exposed challenges that students are facing when completing teach-outs and transferring credits, and it seems that there are some pretty significant issues that need to be addressed to help students complete their education in these situations.

But if we suggest moving forward with this proposal that reinstates automatic discharges, I think



more students will receive closed school discharges and fewer students will complete teach-out plans and transfer their credits to other schools. I fear that the Secretary will discharge thousands of borrowers who withdrew from their institution for personal reasons and were not impacted by the school closure or the degradation of educational quality. And I just wonder if the Department and other committee members could share their thoughts on that.

MS. MACK: Thanks, Jessica. So, if anyone wants to speak to that and share some thoughts on what Jessica raised, please raise your hand. David, you are next.

MR. TANDBERG: Yeah, I'm wondering if the provision regarding if the borrower did not subsequently re-enroll in any other institution -- is that statutory? Because I've always felt like that disincentivize re-enrollment, which is, I think, ultimately what we want is the students to re-enroll and subsequently complete their education, but they're -- now they're faced with the decision of, if I re-enroll, my loans aren't discharged. So, is that statutory or is that language that we can consider here?

MS. MACK: Okay, another question that I would like us to keep track of, so that we can circle

back to that, so if anyone, including Brian, has the answer to that, please let us know. Jeri, please.

MS. O'BRYAN-LOSEE: Hi, just in support of the discharge. The teach-outs and transferring? Great idea, but you're talking about institutions who have been spiraling, they just don't close on a whim, there's something leading up to accreditation being pulled, or -- the committee last week that met talked about cops being at the front door locking the doors on people who were trying to go to class. It's not a knee-jerk reaction to close, and with an institution -- I've worked in higher education for almost 25 years in an institution that has been steadily going downhill. To lead to closure there's an issue with transferring credits, and I just want everybody to keep in mind the process for closing down a school is not a weak decision, so there are issues that come along with that.

MS. MACK: Ok, thank you Jeri. Heather, please.

MS. PERFETTI: Thank you. So, like some of the others, we too found broad support in the proposals here, but what I would just comment about in reaction to some of what's already been stated is, closures have distinctions, and we have seen institutions that have managed their closure well, and we have certainly seen

sufficient examples of those where it was not handled as well. So, we're seeing ranges of closures.

We also have unique transactions that are contributing to closures and they probably don't think of some of those as closures. So, mergers, consolidations, acquisitions, all ultimately end with an institution officially closing, and in many of those circumstances the institution is in good standing, but an institution - multiple institutions made a decision to engage in a transaction that hopefully results in a stronger institution in the end.

I think the teach-outs are critical, the transfer issues are critical, the process of teach-out plans and teach-out programming is iterative. What you see at the beginning is not always what translates at the end once an accrediting agency is reviewing that for consideration and approval. So, all of those issues I think embedded here where the range of closures are so wildly different.

MS. MACK: Thank you, Heather. Josh, please.

MR. ROVENGER: Thank you. So, I'm going to tackle a few of the points that have been raised so far. In the first, I just want to take a step back and say that when a school closes -- a closed school discharge is never going to make a student whole. It kind of provides

a borrower some necessary relief, but even for those who are able to transfer credits to another program, it's still devastating to students who have given up jobs to go to school, or spent months or years in this program that they can no longer finish, many of whom it should be noted, have taken out private or institutional loans to further that degree that isn't addressed in something -- It isn't addressed in the closed school discharge.

In -- with respect to transferring credits and teach-outs -- So, the data just doesn't back it up that this is a viable option. A 2019 GAO study found that about 4 percent of students who attended for-profit schools between 2004 and 2009 were actually able to transfer their credits, and even those who did, approximately 94 percent of them lost credits and weren't actually able to fulfill their degree requirements for their intended major. More recently, the GAO just reached -- released a report saying that only a 13 percent of those students who transferred after their school closed actually completed the program.

So, the idea that these -- that we should be pushing for transferring or these teach-out programs rather than discharging the loans, and that the student wants to transfer elsewhere -- It should be a "yes, and..."

approach rather than one or the other, and I think, again, to the question that, I think, David raised before, it's the comparable require -- it's the comparable program requirement statutory here, is it something that actually has to be in here, and it's not. The HEA is very, very broad in its language, and that the Secretary shall discharge the loan if the student was unable to complete the program in which such student is enrolled due to the closure of the institution. So, it's a regulatory burden that's been added and has just prevented borrowers and our clients from obtaining (interposing).

MR. TONCHI: 30-second warning.

MS. MACK: Do you have anything else, Josh, after that 30-second warning?

MR. ROVINGER: No, thank you.

MS. MACK: Okay. Now, thank you for your remarks. Jennifer, your hand is next, please.

MS. HONG: Thank you. So, I just -- I want to make some clarifications and I realize that we're taking these subtopics, these discreet subtopics one by one just to kind of get a temperature check on how everybody is feeling, but they are interrelated, so, Josh, I appreciate you jumped in ahead to the comparable program discussion.

I just want to make abundantly clear that our goal here is to create more ways for a borrower to stay eligible for an automatic discharge, even if they do not enroll in college again. And re-enrolling would not preclude them from getting a discharge. We simply don't have data prior to -- reliable data prior to 2014, so this is when we're proposing -- what we are proposing under a comparable program, and that is an attestation that they did enroll in a comparable program, which we would define as a program with the same credential level and in the same field of study, and which accepted most of the credits transferred from the closed school. That is a question to be raised, whether that is a reasonable standard, most credits transferred. The 2016 rule on automatic discharges said that anyone who enrolled elsewhere was not eligible for a discharge regardless of the program enrolled in, and under current practice, a borrower is not eligible for a closed school discharge if they identify that program is similar and some of their credits transferred. We wanted to adopt a more generous set of eligibility criteria, so that's what we're opening up for discussion, in terms of comparable program. We do -- there's some just straightforward -- trying to get an idea of how people are feeling about automatic closed school discharges, and then also, the one right after

that is just establishing a consistent window. We have one window applying to one set of loans, and the other -- to another. So, we're just going to make it all one eighty (phonetic). So those are the first two. I don't want to jump around too much, but I do appreciate that these issues are interrelated, but -- my point being, is that the Department is absolutely, we want to get behind more generous standard here, so that we can discharge these loans for students.

MS. MACK: I'm going to piggyback on something Jennifer said, and perhaps reiterate it. These are in fact broken down in the issue papers in the subparts, so let's stay focused on one time. I'm going to lean on all of you to help me hold that accountable, because you are the subject matter experts, and as a non-subject matter expert, it's not always very clear to me that we have in fact jumped ahead, so I'm going to ask for each and every one of you to help me regulate that. Focusing on this first subpart, I'm inviting additional comments or questions. Marjorie, please.

MS. DORIME-WILLIAMS: So, thank you, again, I think there's agreement that this is certainly a good proposal and a good start to the conversation in supporting students being able to discharge their loans from institutions that have closed. There are a couple of

points that I wanted to -- I guess maybe clarify, and maybe bring up for a general discussion. One, in some of these conversations, it almost seems like we're shifting the burden from the institutions to the students, through no fault of their own are these institutions closing, and so, to hold them responsible for these loans from an institution that -- for whatever the reason it no longer exists -- seems to be punishing the students.

In addition, for many institutions that have closed, there are often institutions that predominantly serve marginalized students, so, women, lower income students, older students, adult learners. So, there are lots of students who are within these groups who are further discouraged from continuing education if they've already had these loans that are not discharged automatically. So again, if we're thinking about equity and equitable access to continued education and post-secondary education, it wouldn't make sense that we support this for all the students that are across the board.

And then, for the issue of transfer, transfer is a really difficult topic, and even within the same systems -- so, New York, Texas, California, we have large university and college systems -- even for students within the same system it's very difficult to get credits



to transfer, and so, to sort of use students within this group to simply say, well, they can transfer their credits and then go somewhere else. The research and scholarship doesn't support that. We know for a fact that (audio) often need a lot of time trying to get their credits transferred, only to find out they have to take these courses again, and so, we're almost charging these students twice if we're not allowing for automatic discharge across the board, regardless of whether or not they enrolled in different programs, or whenever they might decide to go back to school. So, that's just one part of the language that I think could be addressed to provide more clarity, and make it clear that we're not holding students responsible for these closures, which are not their fault.

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

MR. TANDBERG: Yeah, echo what Marjorie said, she said it very well. A promise was broken to the students, and so, not their fault, and the repercussions, I think, as Justin said earlier, the repercussions echo throughout their lives and their educational career, and we want to provide every incentive for them to move past that, re-enroll. And so, what I would suggest, as far as changes to the language, is that we keep the proposed

language, one says "If the Secretary determines"  
etcetera, etcetera -- comma, "The Secretary may discharge  
the loan without an application from the borrower,"  
period, and strike what comes next. So, we would strike  
"If the borrower did not subsequently" on, and on, and  
on, close period. So, that would -- all of that language  
would be struck, we'd just end with a period after  
"borrower".

MS. MACK: Okay, thank you for that suggested  
edit, David, and perhaps when we do a consensus check for  
tentative agreement, we can take into account the  
existing language as is here, or the proposed friendly  
amendment from David. Thank you. Josh.

MR. ROVENGER: Thanks, I'll be quick. I don't  
want to monopolize the conversation. I do want to start  
just by echoing and amplifying everything Marjorie said,  
and agree entirely, and it was very -- just on point. I  
do also want to respond to something that Jennifer  
mentioned in her last remarks. We appreciate that the  
Department here is trying to create a more generous  
standard, and one that will facilitate the discharge of  
these loans, and we are, as I mentioned before, in  
support of automatic school discharges for as many  
students who are eligible as possible. I guess one  
specific question I would have is, what data is the

Department missing to be able to grant these discharges for students before 2014? And then, as a follow-up, if the Department only rescinded or eliminated the comparable program requirement for that group of people, at that point would the Department still be missing data or would it be able to effectuate the automatic closed school discharges for those specific students?

MS. MACK: Thanks, Josh. And actually, Jennifer, you are my next hand, so, I know you have some thoughts, and if you have any feedback to Josh's questions, that would be helpful as well.

MS. HONG: Sure. I just -- well I was still on David's suggestion here, and I just -- I wanted to point out that we need to retain this one-year period, remember, because we don't want the students going into default. So, it's not that we're going to discharge the loans, it's just that for the automatic discharge we can't let -- as espoused by the GAO, if we keep that window too long, those students are going to go into default, right? So, we want to make sure -- we want to find a way to help them -- most of them get their discharges within a year and a half. We have the window for a year to get their automatic discharge, and then what we have proposed for institutions based on their date of closure is to ensure that these students get

their discharge. They may not get it automatically, but to ensure that they get their discharge for their school closures.

For example, for those institutions that closed between July 2014 and June 2019, if they did not enroll in a program at the same level and with the same four-digit CIP code as the program that they were enrolled in the closed school, they could still receive - - even if they enrolled in the same program essentially, they would still receive the discharge, but they would have to submit an application and state in that application that they did not transfer most of their credits. That is the only -- that is far more generous than what we had in '16, and the point being, is we wouldn't be able to issue the automatic discharge. We're proposing to limit the window to one year to (audio) -- to prevent those students from going into default. That's the idea.

MR. TANDBERG: So, could we just strike the "If the borrower did not subsequently re-enroll in any title for an eligible institution" and -- but keep the one-year window? It's the re-enroll part that I don't like, and I think that it's a negative incentive on students and doesn't recognize the harm done on them, so if we could get rid of that but keep the one-year period,

that would be great.

MS. MACK: Okay, thanks for the comments, Jennifer, and then that friendly amendment, David. So, the suggestion now is to cross out the re-enroll portion but retain the period of one year on part of that provision, and I'm seeing some folks in the chat saying that they support or appreciate that suggestion. Bobby, I saw your hand next.

MR. AYALA: Yes, I also really support David's proposal to strike the language, and I also wanted to give an opportunity for our alternate for two-year colleges to speak, so, if we can open the forum to Christina.

MS. MACK: Okay, let's invite Christina to the forum, to share with us on this portion. Hi, Christina.

MS. CHRISTINA: Am I connected?

MS. MACK: You are.

MS. CHRISTINA: Hi, good afternoon. I am speaking from -- doing many years of work outreach to displaced students and displaced borrowers, specifically through some volunteer work through our national organization, which is NASPA From a student's point of view, which I had the opportunity to receive, this is -- this process of closed school discharges and -- is

fraught with pitfalls and complications, and the minute you start mentioning CIP codes I start rolling back, and that's just so deep in the weeds of financial aid policy and academic structure that you don't -- that language gets so complicated to students, they just -- they're already stuck in a complicated situation, then they start to feel hopeless because not only are they facing discharge as months go by, they can't see their way out of it, and then we start throwing our wonky language their way, and the depths of despair just begin to exponentially deepen.

And so, what I also see in community college is that students come from other academic experiences and closed schools and etcetera, and they don't get many if all of their -- all or any of their transfer credits, particularly (audio) degree, so now we have this wasted time towards their new academic or continuation of their original academic goal. We've got Pell lifetime units ticking away, so they're no longer -- they begin to lose eligibility for their grant aid, they have lifetime borrowing limits --

MR. TONCHI: 30-second warning.

MS. CHRISTINA: -- that begin to be chipping away and then, again, with that despair, they see their resources diminishing and not making any progress, and it

becomes very disheartening. So, I would second David's proposal to eliminate the language that requires any type of re-enrollment. Thank you.

MS. MACK: Thank you, Christina. We still have a number of hands up, so I want to make sure that we're focusing in, again, solely on this subtopic and are only sharing questions and comments that haven't been previously made, in the interest of time, because our public comment is coming up in a very short period of time. Jessica, please.

MS. BARRY: Thank you. So, I have a question. If we are to keep the one-year window, is it actually 15 months until a student defaults? And this is just -- I'm just trying to clarify this, does this six-month grace period figure into that? Because I'm thinking about if we were to keep this, and if the student -- say, their institution closes in July, and they're going to a traditional type college, they probably would miss the application deadlines and would actually have to start that following August, which would be past that one-year mark. So, I know there's a couple of questions in there, but I just wanted to get clarified on that period.

MS. MACK: Okay, anyone has the answer to that particular question? Please, raise your hand so that we can share that information out. Greg, please.

MR. NORWOOD: Yeah, I wanted to be -- Jennifer mentioned (audio) some application process She went into a whole thing. I guess I just want clarification as to why that would be a need. What would the reason for that need? I don't think that was answered. I think she mentioned the process, but I would just -- Because I think what Christina is mentioning is just this added burden on students that I think Marjorie mentioned earlier as well. That -- it seems like the blame is been shifted, so there's yet another process on top of the process. So, I'm just trying to understand what would be the reason for that, if she can clarify that. If the Department could clarify that, excuse me.

MS. MACK: Alright. Heather, please.

MS. PERFETTI: I have a question, too, that is probably best directed to the Department, ensuring that this provision that we're looking at now -- if we do have three independently accredited institutions, whether for-profit or public, and they consolidate, so there's one surviving institution, are the other two then considered closed pursuant to this provision, even if they become a (branch) campus or and additional location of that now surviving institution?

MS. MACK: Okay, thank you, Heather. So, there are being a number of questions asked, and so the



Department hopefully -- we can track these if there are no -- if we don't have answers readily available for everyone, particularly given the time we have left. But Jennifer, your hand is actually next, please.

MS. HONG: So, just to bring us back, and for your pleasure, Kayla, we are actually discussing -- and again, I appreciate that these are interrelated, that we're actually discussing the comparable program issue, which is the third subarea -- I want to -- while the language -- proposed language is not perfect, we do want to get a sense of conceptually reinstating an automatic closed school discharge process as well as establishing consistent windows, so just keep those in the back of your mind, because Kayla will be taking a temperature check on those two issues.

We did anticipate a lot of discussion on this particular issue, we want to get it right. So, if we strike -- there's no point in a one-year period if we strike the re-enrollment language. I understand what you're trying to get at, but the full idea is that when a school closes, a borrower has the option to either continue their studies or walk away, and we want to give them that one year to decide whether they want to continue or not. If they do, if they do continue, they will still get a discharge. It just won't be an automatic

one. And again, the one-year -- the point of the one-year window is to prevent those borrowers from going into default. There was another point that I wanted to make. If prospectively we can be more generous, for example, for newer borrowers after 2019, you would receive borrowers -- borrowers who enrolled at another school would receive a discharge, so long as they did not accept and complete an accreditor-approved teach-out program.

So, this is much narrower than what we have currently in our regulations. And a clock on the automatic discharge window would be paused while the borrower is in a teach-out program, and would re-start after they leave the teach-out if they do not finish. So, I appreciate the complexity of this particular issue, we want to get it right, but I want to make clear that the whole -- the point here is to improve the process for borrowers.

MS. MACK: Okay, thank you, Jennifer. We only have a few moments left, and I know that there are several folks with their hands up. So, I want to make sure that anyone with their hand up truly has a comment or question that has not been shared or asked already and is solely around to the first solution, reinstate automatic closed school discharges. The remaining topics we will address tomorrow morning when we pick back up

with this issue. Okay, so, the hands are remaining up, so I'm going to count on this being about reinstate automatic closed school discharges. Josh, please.

MR. ROVENGER: (audio).

MS. MACK: Josh, unfortunately you are robotic right now. We're having a difficulty with your audio.

MR. ROVENGER: (audio).

MS. MACK: Unfortunately, that is not better.

MR. ROVENGER: (audio).

MS. MACK: No, it's not. May I move to the next hand and I'll come back to you in just a moment? Okay. Michaela, please.

MS. MARTIN: I personally -- and this has been asked, I think, in a couple of different ways, but just really want to hone in that it has not been answered. Why -- if there is going to be a discharge of the loan, why that wouldn't be automatic? Just very simple. If it's going to occur either way, then are we not creating an administrative burden for the Department of ED, but then also for students who have to go through the process? Particularly, I want to point out that one of the largest student borrowers are student parents and in specific student mothers who often can receive benefits also, and that time that you spend in school is

ticking the clock of how many benefits you are allowed to receive from the state. And so, that aspect of what students are losing isn't made up in any way during this process. And when you have to navigate benefit systems, and your school closing, and potentially going back to school, if you're trying to continue, and all of the other things that go with that, having -- then also another application process I think it's just too much to put on a student, and I think that we really should strike that, and if you get the discharge anyways, why wouldn't it be automatic?

MS. MACK: Okay, so I'm going to note that question, why it can't be automatic, Michaela. Heard loud and clear that that's an answer the committee is desiring. David.

MR. TANDBERG: Just point of clarification, because I think Michaela and I are asking the same question. Michaela, you're referring to those students who re-enroll, why can't their discharges be automatic. Is that correct? Okay.

MS. MARTIN: Yes.

MR. TANDBERG: Yeah. That's my same question. I don't understand why we couldn't just make it automatic for all students, whether they re-enroll or not.

MS. MACK: Okay, thank you, David. Josh,

let's try again.

MR. ROVENGER: How is it sounding now?

MS. MACK: So much better, thank you.

MR. ROVENGER: Perfect. I apologize for that, but thank you, now, I just --

MS. MACK: No problem.

MR. ROVENGER: -- I have some questions for the Department, and I can submit these formally, as well to the facilitators, but I'm interested for the group of borrowers who attended schools that closed between 1986 and 2014. Number one, can the Department confirm that it provided individualized notice to all of these borrowers, that they were entitled to closed school discharge relief? -- or potentially entitled --. Two, how long after the school closed, on average, did the borrowers receive the notice? And three, has the Department provided any such notice since that -- if the Department did provide any notice, has there been anything more recently?

MS. MACK: Okay, thank you, Josh, for those questions. Do we want to --

MR. ROVENGER: (interposing) questions I think will inform, in our view, some -- will inform the discussion over on why an automatic discharge (audio).

MS. MACK: Unfortunately, Josh, we have lost

you again, so if you do log out, we'll admit you again as soon as we can. Apologies for the connection right now. So, we have noted a couple of questions that we will need to come back to for this particular subpart to move forward with the process and the dialogue around this.

I do in fact want to take a check with you all for tentative agreement. If the language were as proposed, as you see on screen, for this particular subpoint, where would everyone land? So, this will be my last invitation of your thumbs for the day. So, could I see your thumbs on the proposed solution around reinstate the automatic closed school discharge?

Okay, so we are primarily sideways and several thumbs down on this particular issue. Alright. Tomorrow we will be picking up in the morning with our closed school discharge and solution number two, and opening it up to the Department to give us an overview of that, and continue the dialogue there.

Any questions, comments about the process or beginning tomorrow before we start with our public comment portion of the day?

MS. MACK: Okay. I also want to remind us -- because we had a lot of engaged dialogue around borrower representation -- that all borrowers are represented by the appropriate folks on the committee and the

constituencies, and are encouraged to reach out to the committee to consult with them and provide their input and feedbacks, so that it does get incorporated into the process. We just wanted to remind you all of that.

Alright, I believe we will open up the public comment portion. We're going to admit these individuals one at the time to the actual Zoom meeting, so that they can come on screen. They will have a max of three minutes to share their thoughts and feedback with the committee, and then we will ask them to conclude within three minutes, we'll move them back to the waiting room out of the meeting, and then (audio) the next person for public comment.

So, first I would like to invite in -- and Brady, I'll ask that you move her in from the waiting room, we're going to invite in Ms. Jennifer Esparza, representing Veterans Education Success.

Welcome, welcome, Ms. Esparza. We would like to open it up for your public comment. You'll have three minutes. Thank you.

MS. ESPARZA: Thank you. Good afternoon, my name is Jennifer Esparza, and I'm a law fellow with the Veterans Education Success. I wanted to speak with you today, because I'm on the frontlines, observing defrauded student veterans. It's my job to try to help them.

But the sad truth is, there isn't much help available to them. Veterans tell me they feel like their country is even letting them down. Each week, without fail, we receive emails and phone calls from veterans who were cheated out of their benefits and lied to by college recruiters.

Because of the high cost of predatory schools, many veterans are forced to take out loans, sometimes without their knowledge, leaving them with a crushing and unfair debt. For instance, one veteran told us that American Intercontinental University had her sign paperwork without explaining she was signing up for student loans. In fact, the paperwork was presented to her as a hardship grant, for being a single mother at the time.

Another veteran told us about coercive and aggressive recruitment tactics used to get him to sign up for an MBA at a for-profit school, which included the promise of career counseling that never came true and a claim that the bachelor's degree that he obtained at this school would not be taken seriously unless he also obtained that MBA.

And it's not difficult for me to believe these experiences because I've been there too. I spent 11 years enlisted in the Marine Corps, and while still on



active duty, I was lured by a recruiter to enroll at Ashford University. The recruiter's tactics were so sleazy, and he asked me for very personal information. I was young and he used this against me.

Now, I'm lucky to have had a brother who helped me leave Ashford and attend a really good school, but most veterans aren't so lucky. I've learned some lessons from working with the veterans that contact us, and first, I can tell you that having a robust closed school discharge regulation without a strong borrower defense rule is not enough, because predatory schools are successful in preying on students long before they're shut down. And veterans don't often know that they've been victimized until they hear about lawsuits or other students speaking out.

In following that point, the current standard for borrower defense relief is just too high, and it leaves veterans feeling hopeless. They're asked to prove more than any student could possibly prove on their own, and they're so discouraged by the fact that the Department of Education continues to allow these schools to operate with federal funding --

MR. TONCHI: A 30 seconds warning.

MS. ESPARZA: -- Thank you. You have the opportunity to fix this, and I ask you to remember that

veterans and service members whose financial futures are ruined by the loans encouraged by predatory schools, they do need a strong borrower defense rule. Thank you for your time.

MS. MACK: Thank you very much, Ms. Esparza. We will move her back to the waiting room and next we're going to admit Mr. David Eger (phonetic) who is speaking as a campus president for the refrigeration school.

MR. ROBERTS: This is David McQueen (phonetic). Mr. Eger is not at the waiting room at this time.

MS. MACK: Oh, thank you for the clarification. As soon as he connects to audio -- There you are, sir, you have the floor for three minutes.

MR. COLE: Good afternoon. My name is Michael Cole and I'm the campus president for Tulsa Welding and I'm actually going to have one of my top students speak on my behalf, Mr. David McLane (phonetic), so, I'll switch places with him.

MR. MCLANE: Good afternoon, everybody.

MS. MACK: Good afternoon.

MR. MCLANE: My name is David McLane, I'm a student here at Tulsa Welding School and I just want to say that I enjoy here, I love it here, and all of you guys are great people. I just want to say this program

has helped me change so much from a kid from Columbia, South Carolina -- that's where I'm originally from. I moved here in Jacksonville, Florida, to attend the Welding School because, back home, I didn't want to attend a community college. When I graduated high school, I didn't know what I wanted to do. I went to school for welding for two years, and I have got my OSHA, I got certified my OSHA there.

It was just so much that was going on, and I was just -- I wanted to actually do something in my life, and it's here in Jacksonville, Florida, where is that change in my life. So, when I relocated here and I started school, it was just such an amazing experience for me, because it was something different. I wasn't used to anything else besides this. So, when I first moved here and I completed the program, it was just amazing. There was just so much changing, I enjoyed it here, it was just everything about this school, got the family here, the welcoming, just everything. They took great care of us. Currently, as of right now, I'm in pipefitting, as of right now, so I'm getting certified in pipefitting, which is another great step in my career that I chose to choose in my lifestyle, because I do see myself working at shipyards -- basically just doing the exceed [sic] amounts of work that it takes to be a

successful person in the lifestyle that I'm in. And growing up, it was just -- everything is changing, and you're growing up, because I'm only 19, I graduated last year in 2020, so, coming out being a pandemic graduate in a -- it was very tough. But for this school to have everything still in place and lined up and everything it has brought, and the organization and how organized it is, it's just amazing, bro, it's amazing. So, with the school changing to -- at the -- sorry, something popped up.

MR. TOTONCHI: A quick note. 30 seconds until -- you have 30 seconds.

MR. MCLANE: Okay. I also have -- during my time being here, it's been amazing. I graduated the first week of August and I have a lot of job employers lined up. I recently had an interview with General Dynamics, Tenneco, TTAs (phonetic). Just -- basically a lot of job employers are there. So, basically, just what I'm just saying is, any change that would be made within the community, just get the input of students, because we do play a huge and big role within this and after we will also be -- make sure that we're comfortable with whatever change that comes between any agreement, or something that got to be changed, that's --

MR. TOTONCHI: So sorry, time is up.

MS. MACK: Thank you very much for your remarks today.

MR. MCLANE: Thank you guys, appreciate it. I'll be going.

MS. MACK: Next, we will be admitting Timothy Babulski, representing Southern Maine Community College. Welcome, the floor is yours for three minutes.

DR. BABULSKI: Thank you. Good afternoon, I'm doctor Babulski, I'm an adjunct professor at Southern Maine Community College and a part-time faculty member at the University of Southern Maine, and I wanted to make a quick comment on the eligibility requirements that have been outlined in issue paper five as proposed by the Department.

The Department proposes creating an equivalency between one credit hour and two and a half hours' worth of work based on the idea that this is the student work requirements. However, adjuncts are -- except for some exceptions -- not students, and for an adjunct, a full-time 12 credit teaching load is equivalent to 40 hours of work a week. So, reducing that to two and a half hours of credit is equivalent to giving us three quarters credit. Instead of working 30 hours a week, we would end up being recognized for only working 22 and a half hours. That's, of course, untenable, and

because many adjunct positions are either contingent or part-time, assembling enough credit hours across various campuses trying to meet this increased burden of actually having to work more than full-time in order to be recognized as full-time is an insurmountable burden.

Adjuncts are also the most likely to have to work summers and winters in order to bring more credit hours. So, putting this in terms of credit hours per semester is simply a way of saying to adjuncts, "your work is never going to be recognized." I would recommend instead using an 18-credit hour per twelve-month period threshold. It's much, much simpler to calculate, and a lot less fuss, and it would recognize the diverse and split-up work that adjuncts are doing.

I would also recommend that the rules not insist on the term "adjunct". Many colleges and universities, some of whom are present, don't use the term "adjunct". Community faculty, part-time faculty, contingent faculty. Insisting that it be put in terms of adjunct again, will leave people out and ensure people are not included. As it stands, the purpose of the rule is to ensure clarity. Unfortunately --

MR. TONONCHI: (interposing) 30 seconds.

MR. BABULSKI: -- is that adjuncts really aren't going to be welcome in loan forgiveness. The only

real solution is to cancel student loan debt, all of it, for everyone.

MS. MACK: Thank you very much for your remarks today. Next, we have Warren Kohler, representing Wilde Spirit Productions.

MS. MACK: Thank you for joining us. You have the floor for three minutes.

MR. KOHLER: Hello?

MS. MACK: Thank you, thank you for joining us. We can hear you. You have the floor for three minutes.

MR. KOHLER: Okay, now I can hear you, I'm sorry. How are you today?

MS. MACK: We are well, thank you.

MR. KOHLER: Very good. Are you in D.C.?

MS. MACK: Everyone logged in here is from all over the place. Proud Coloradoan here.

MR. KOHLER: Oh, okay. Got it.

MS. MACK: You now have the floor for three minutes.

MR. KOHLER: Oh, okay. And you want -- I'll just talk about my experiences at the school, right? Correct?

MS. MACK: (audio) committee today.

MR. KOHLER: Okay, alright. Basically, I've

been working with Full Sail University since 2003. And since that time, I've hired -- let's see -- about 52 graduates. All of them are exceptionally trained and well-versed in their education, and it was the hiring was through -- entirely through their career development department.

I -- just this weekend, I hired -- I worked on a show with three others that Full Sail provided me, and in addition to that, I did an entire eight-city tour with -- let's see -- 18 of their students and grads, and basically, it's been a very good experience, and, in fact, I'm doing a career -- virtual career event -- hiring event, on October 18 -- October 20th, and they have 120 companies at that event to hire their students and grads.

So, my experience has been excellent. I've worked -- I know their career development department is made of about 75 plus people and probably have worked with over a dozen of those individuals and they're my go-to whenever I'm hiring entertainment industry crew. So -- and then also in the upcoming hiring event I will be hiring 20, 22 for all the film work that I'm doing for next year, so -- they've been great.

MR. TONCHI: Just 30 seconds left you have (audio).



MR. KOHLER: They've been very supportive of their students and graduates, so, it's a great school, with a great organization and support system for not only employers, but for their graduates and students on campus and online. So, that's pretty much it. It's been awesome.

MS. MACK: Alright, thank you very much for your remarks today.

MR. KOHLER: Okay, thank you. Have a great week.

MS. MACK: You too. Next, we're going to invite in to comment Ms. Evelyn Cervantes, representing herself. Ms. Cervantes, welcome, you have the floor for three minutes.

MS. CERVANTES: Hi. It sounds like I'm a little bit early. My name is Evelyn Cervantes, I graduated in 2003 and I'm a borrower's defense applicant. I applied for borrower's defense in September 2016, so it's been about five years, and I have yet to receive a decision.

So, today you actually voted not to include me in this rulemaking committee, and I can't tell you how disappointing and dismaying that is. Your votes not to include students impacted by borrower defense are incredibly reflective of your interests, and I'm looking at those of you who were previously involved with for-

profit educational organizations. You shouldn't have a seat at this table.

For-profit colleges have disproportionately affected communities of color, and looking at you now, I know that this committee is also not reflective of that. How can you say that you're working to make effective changes when the basic properties of this committee do not reflect those of the people you are serving? There are hundreds of thousands of borrower's defense applicants and you chose not to have their expertise and input in this process. You can't tell me that was not intentional.

I truly hope that you take all the time to caucus people outside of your own circles and make an effort to address the needs they share. When that time comes, it should be an extensive process. The borrower's defense process should be fair and timely. Instead, I've watched watch as the application for this program has gotten increasingly more difficult for people to understand and apply, while waiting years to hear a response, and that's not to mention the website's access issues and the consistent ignorance on behalf of phone operators on (inaudible) and borrower's defense hotline were constantly given different information. At this point, I'm led to believe that this has all been

intentional. How do we even begin to make informed decisions when there's no adequate help? We should not need lawyers to apply for borrower's defense. You need to make that language easier to understand and make the process clear.

Jennifer, earlier you said including students is not feasible because students are too busy, and that's just one more example of how these committees are formed in ways that intentionally exclude the people who need them most. Why not structure the committee in ways that are actually inclusive instead of putting on a show to make us believe that you have our interest in mind? How would you know that these changes will be impactful or helpful if none of the borrower defense applicants are there? And you can't simply continue to make decisions for all of us (interposing) --

MR. TONCHI: 30 seconds.

MS. CERVANTES: -- (audio) in 30-minute comment sessions. The rulemaking committee needs to take into account the intentional harm that was created by the previous administration, provide remedies for those harmed.

Regardless of the vote, we will continue to watch these public hearings and work with representatives to address our needs and hold you all accountable for the

changes you have to make to make this process fair.

MS. MACK: Thank you very much for your remarks today. I will let the committee know that at this moment we are waiting on a few other individuals who were pinged for public comments today to log in to the platform. We have no one else in the waiting room at this time. I can tell you that the Department of Education is now receiving more and more requests for public comment.

I want everyone to understand that, unfortunately, we cannot expand beyond 30 minutes for public comments, simply because we have so much substantive work to get done during our sessions. But I want to again encourage everyone in the public to reach out to your constituency representatives so that your input and voice can be heard in fact through them as well. So, I'm going to pause for just a moment to make sure that we don't get anyone else logging in in these final minutes for public comments. (interposing).

MR. ROBERTS: It looks like we have Thomas Gokey in the waiting room from Debt Collective. Do you want me to admit him?

MS. MACK: Please. Mr. Gokey, welcome. Sir, the floor is yours for three minutes.

MR. GOKEY: Hi, my name is Thomas Gokey, and I'm an organizer with the Debt Collective. We are a union

for debtors. Many of our members have filed borrower defense, and I've seen firsthand how broken the system is. Indeed, the Department of Education has never enforced the borrower defense regulations. Although the law has been on the books, they only started to create the regulations after students at Corinthian College got organized, went on a debt strike, refused to pay their loans, and shamed the Obama Department of Education into finally putting some regulations in place.

However, those regulations did not work. I still remember the words, the promises that Arne Duncan made to students at Corinthian College. He said, and I quote, "If you have been defrauded by a school, we will make sure that you get every penny of the debt relief you are entitled through -- entitled to through a streamlined process," end quote. Six years later, the vast majority of Corinthian College students are still waiting. Arne Duncan broke that promise.

At the time we prepared a two-page document that Arne Duncan could have signed to issue a group-wide discharge. He didn't do that and here we are. Making sure group-wide discharges are possible under borrower defense and that they are not merely the Department of Education who brings them, but outside consumer advocates who can bring group-wide discharge applications is essential. The

department of education has had ample opportunity to follow the law, follow its own regulations, and has failed every single time.

Why should we trust you to do anything different this time? To echo what our previous speakers have said, the only people who actually understand the borrower defense system are the people who have tried to navigate it, and you have locked them out of the room. This is clearly an undemocratic and illegitimate process where you have -- the Department of Education, who has been knowing partner in crime with the predatory for-profit industry and a predatory student-lending industry as a pack of wolves in a room, democratically, by consensus, deciding what to eat for dinner, and the people who are on the menu are not allowed in the room. Shame on you.

MR. TOTONCHI: 30 seconds, just so you know.

MR. GOKEY: What we are seeing clearly is that we have an anti-student Department of Education. I'll end by saying that it is not possible to fix income-based repayment or Public Service Loan Forgiveness, and that is not an adequate substitute for broad-based debt cancellation. Joe Biden can cancel your student debt today with a signature.

MS. MACK: Okay, thank you, sir, for your

comments today. Again, committee, we are waiting on a few others to potentially log in to the platform and I would like us to hold off and wait, so that if they do come in within our allotted time within the next ten minutes that we can in fact hear from them. As soon as we have someone else in the waiting room, we will let you know.

While we wait for just a moment, I might as well utilize this time to make a few announcements. We are going to start at the same time tomorrow, that's 10:00 o'clock Eastern. We will get started promptly on time with our countdown to livestreaming, so I'm encouraging you all again to log in somewhat early, so that we make -- can make sure there are no technical issues that we need to troubleshoot.

Keep in mind those naming conventions that worked really well. If you know that your alternate needs to step in tomorrow, or at any other time, please, don't hesitate to let us, facilitation team, know that in advance.

Also, I know that there were a few folks this morning who struggled with the link. You all should already have an invite and access link for all four subsequent days -- Tuesday, Wednesday, Thursday, and Friday --. If anyone does not have a link for each of those days, please let us know, so that we can get those

send back out to you. Persis, I see your hand.

MS. YU: Thank you. I just wanted to know if there's any way -- I understand that a lot of people signed up to do public comments and that they were turned away, and so, I'm wondering if there is such high demand for a public testimony, whether or not there is a way that we could extend the amount of time that we allow for this, so that everyone has the opportunity to be heard.

MS. MACK: Extend the time beyond our 4:00 p.m. hard stop?

MS. YU: Beyond either the 4:00 p.m. or if there's [sic] additional days that can be added. I am flexible on how it happens, but I think it would be important, if there are additional people who are signing up and are being turned away, that they have some kind of opportunity to participate.

MS. MACK: So, for now, I can tell you that the schedule has been determined and published, and I'm not sure that there's an opportunity to add additional days or times beyond 4:00. If I hear otherwise, I will let everyone know.

Again, I'm going to encourage everyone to sign up in advance for public comment. We will fit as many folks into the half hour as we can. Today is a little bit different because it looks like we didn't have



some of our anticipated folks logging in. There is high demand, so again, I'm going to encourage folks to reach out to your constituency representatives, so that you can have as much input and voice through them as well. David, I see your hand.

MR. TANDBERG: Just a -- there is precedent for adding days and time. We certainly did that in our last negotiated rulemaking. We added three additional days, something like that. Michale McComis would know better than me, but -- and the added time, different days -- I'm not -- I'm just saying that I think it's possible.

MS. MACK: Okay. That's something that us facilitators can check back in on as well. Thank you, David. I want to remind everyone also while we still have a few moments that tomorrow we will pick up with closed school discharge in the morning, and we will start with the second solution proposed by the Department. Let me ask, any other housekeeping matters that we can touch upon before we conclude? Daniel, please.

MR. BARKOWITZ: Okay, just a suggestion given Persis' comment and given the empty space we had today. Is it possible to have an alternate or a waitlist maintained of folks who might not be able to talk? If we do that, that spare time, like we did today, with primaries not showing up, or people not using their full

three minutes, we can move to an alternate or waitlist approach to handle at least -- additional folks who might want to participate.

MS. MACK: Okay, we can chat about that, and turn back to perhaps a waiting list. Let me just let you know it's going to be -- what we can achieve logistically in terms of limiting who we send the link out to, so that we don't have folks logging in that we're not prepared to accommodate in the public comment. But I absolutely hear your points, and it's something that we could follow up with the Department on.

Okay, we haven't had anybody else come in yet, so we will hold off for just a minute. I'm not sure that anyone was turned away, in fact, for today, and I don't think that it's common to have no-shows for folks who register the same day. Unfortunately, that's the experience today. Joe, please.

MR. SANDERS: Are we going to go into interest capitalization following closed school discharge tomorrow?

MS. MACK: Looking for my unmute button. Yes, that is the plan.

MR. SANDERS: Okay, and you anticipate that we will make it all the way to Public Service Loan Forgiveness tomorrow?

MS. MACK: I am not sure that we will get through closed school discharge, the rest, and eliminate interest capitalization, but if we do, then we will move on to the next one. There may be a slight edit to the agenda that I need to confirm, but I believe that there is an interest in bringing the issues six, seven, and eight, borrower defense, before the two issues regarding PSLF, which is four and five. Jennifer, do you have thoughts on that? Can you confirm?

MS. HONG: Yeah, I can confirm that. So, we are flipping the issue, so, after interest capitalization we will move straight to borrower defense and to repayment.

MS. MACK: Okay. Thank you for bringing up that question, Joe. So, if everyone (audio) tomorrow, we will begin with closed school discharge, move in to issue three, "eliminate interest capitalization for non-statutory capitalization events," and then move into issue six, the first borrower defense issue. Marjorie, please.

MS. DORIME-WILLIAMS: So, I'm not sure if this is a procedural issue, or consistency issue, but since we have a little bit of time left, I know we went back and forth between nominating individuals versus the conversation about "should we have representation on the

committee?" and I think -- particularly given the testimony that we heard from some of the public comments --, it might be important for the committee to revisit that conversation. Not about the individuals, but I do think the points about representation were important, and so, I don't know if that's something that we can handle through e-mail, or through conversation, maybe offline, about how we might go about that, since we're running short on time, but I did wanted to bring that point back up, because it seems like -- and again, this is sort of broadly looking at the group -- the concern wasn't so much representation as to how we went about choosing who those individuals might be.

MS. MACK: If that's a dialogue that the committee wants to further engage in tomorrow, we can certainly do that and discuss whether or not additional folks on the committee are needed to represent certain interest -- interests of folks. I would say, if we do discuss that, we will then have to have a conversation about who would be the appropriate representative (inaudible).

Alright, any final thoughts, questions? We are now reaching the final hour. I just want to thank you all and applaud you all. You have exceeded my expectations in the technology and the virtual space. We

had relatively very few hiccups today and it went extremely smooth. We look forward to working with you tomorrow and beyond. Again, we'll pick up with issue two tomorrow, alright? Thank you very much.

MS. HONG: Thank you.

Appendix

Department of Education, Office of Postsecondary  
Education  
Zoom Chat Transcript  
Affordability and Student Loans Committee - Session 1,  
Day 1, Afternoon, October 4, 2021

DISCLAIMER:

Note: The following is the output of transcribing from a recording. Although the transcription is largely accurate; in some cases, it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

From Persis Yu, (P), Legal Aid (she/her) to Everyone:

Proposed topic 1: Create additional pathways out of default

From Persis Yu, (P), Legal Aid (she/her) to Everyone:

Proposed topic 2: Eliminate the acceleration clause and limit involuntary collection to the income-driven repayment amount

From Bethany (P) Disability (she/hers) to Everyone:

Suggested additional text: (D) The borrower qualifies for SSDI or SSI benefits and has an onset date of disability of at least 5 years previous.

From Bethany (P) Disability (she/hers) to Everyone:

But an edit across the eligibility criteria, I think it should all be "SSA disability benefits" because we wouldn't want to exclude disabled widows/widowers or other forms of survivor benefits.

From Joe (P); State AGs to Everyone:

(ii) A certification by a nurse practitioner or physician's assistant licensed by a State, provided that the certification is within their scope of practice in the State they are licensed in, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §685.102(b);

From Joe (P); State AGs to Everyone:

Physician's assistant database information:  
<https://amacredentialingservices.org/credentialing/physician-assistant-profiles#:~:text=The%20American%20Academy%20of%20PAs%20%28AAPA%29%20maintains%20a,to%20practice%20as%20PAs%20in%20the%20United%20States>

From Bethany (P) Disability (she/hers) to Everyone:

The SSA POMS on acceptable medical sources:  
<https://secure.ssa.gov/poms.nsf/lnx/0422505003>

From Daniel (P) - Fin Aid Administrators (he/him/his) to Everyone:

<https://www.nccpa.net/>

From Daniel (P) - Fin Aid Administrators (he/him/his) to Everyone:

<https://www.nccpa.net/wp-content/uploads/2021/07/Statistical-Profile-of-Certified-PAs-2020.pdf> - Statistical Profile of recipients

From Jennifer - ED negotiator to Everyone:

bottom of page 5 for proposed language

From Jaye FFEL agencies P to Everyone:

I am hearing there are buffering issues for the public viewing. Just wanted to report this...

From CEMS Production 3 to Everyone:

Thank you. We tracked a single instance on a certain group of devices and provided remedy. Let me know if you receive additional feedback.

From Josh (A), Legal Aid (he/him) to Everyone:

Primary: Ashley Pizzuti; Alternate: Evelyn Cervantes

From Josh (A), Legal Aid (he/him) to Everyone:

Thank you for clarifying that re: public comment.

From David (P) - State hi ed agencies to Everyone:

language here:

From David (P) - State hi ed agencies to Everyone:

(c) Discharge.— (1) In general.—If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution or was falsely certified as a result of a crime of identity theft, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such



borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part H. In the case of a discha

From Christina (A), 2-Year Public to Everyone:

I support David's proposal

From Michaela (P) Ind. Students to Everyone:

+1

From Rachelle Feldman to Everyone:

+1

From Bethany (P) Disability (she/hers) to Everyone:

Also like David's proposal

From Misty (P) Priv & Non-Profit to Everyone:

+1

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

yes.

From Joe (P); State AGs to Everyone:

Loss of pell and loss of time are essential points. Students can't currently get the Pell back and can never get the time back.

From Marjorie, 4 Yr Public Inst (P) (she/her) to Everyone:

Wouldn't an automatic discharger eliminate the issue of default?

From Joe (P); State AGs to Everyone:

I do have a comment on consistent time period.

From Bethany (P) Disability (she/hers) to Everyone:

I have the same question as David and Michaela

From David (P) - State hi ed agencies to Everyone:

I love the automatic part. Just want it for all students

From Marjorie, 4 Yr Public Inst (P) (she/her) to Everyone:

Agreed.

From Stan Andrisse (A), Ind. Students to Everyone:

Or be sure to create a wait list of people so we don't have down time.

From Bethany (P) Disability (she/hers) to Everyone:

Agree w/ Stan

From Stan Andrisse (A), Ind. Students to Everyone:

Great meeting with you all.