

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
AFFORDABILITY AND STUDENT LOANS COMMITTEE  
SESSION 2, DAY 5, MORNING  
November 5, 2021

On the 5th day of November, 2021, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MS. JEFFRIES: Good morning, everyone, and welcome back to session two, day five of the Negotiated Rulemaking Affordability and Student Loans. I am Cindy Jeffries, I will be your facilitator this morning and to kick things off, we're going to do our roll call of attendees for this morning. So first I'd like I will call the constituency and then the primary and then the alternates name. So for the Department of Education federal negotiator Jennifer Hong.

MS. HONG: Good morning, happy Friday, everyone.

MS. JEFFRIES: Good morning, Jennifer. From Office of Attorney General, we have Brian Siegel this morning assisting Jennifer.

MR. SIEGEL: Good morning.

MS. JEFFRIES: Good morning. Accrediting agencies, Heather Perfetti.

DR. PERFETTI: Good morning, everyone.

MS. JEFFRIES: And her alternate Michale McComis. It's our understanding he's not able to join us. Dependent students, Dixie Samaniego.

MS. SAMANIEGO: Good morning, everyone. Happy Friday.

MS. JEFFRIES: Good morning, Dixie.

Greg Norwood. It doesn't appear as though Greg is with this right now.

MR. NORWOOD: Oh, good morning. Good morning from the beautiful city of Houston, Texas.

MS. JEFFRIES: Good morning, Greg. Federal Family Education Loan lenders and or guaranty agencies, Jaye O'Connell.

MS. O'CONNELL: Good morning from frosty Vermont.

MS. JEFFRIES: Good morning and Will Shaffner.

MR. SHAFFNER: Good morning. I'm on the road for a little bit today, but I am with you. Hi, everyone.

MS. JEFFRIES: Perfect. Thank you. Financial aid administrators at postsecondary institutions, Daniel Barkowitz.

MR. BARKOWITZ: Hello, everyone from a still beautiful but yet very wet Orlando, Florida, today. So welcome everyone. Happy FriYay!

MS. JEFFRIES: It is very wet down here today, Daniel. You are correct. Alyssa Dobson.

MS. DOBSON: Hi, good morning.

MS. JEFFRIES: Good morning. Four-year public institutions, Marjorie Dorime-Williams.

DR. DORIME-WILLIAMS: Good morning, everyone. Dr. Dorime-Williams here.

MS. JEFFRIES: Good morning. Rachelle Feldman.

MS. FELDMAN: Good morning. Happy Friday, everyone.

MS. JEFFRIES: Good morning. Independent students, Michaela Martin.

MS. MARTIN: Good morning.

MS. JEFFRIES: Good morning, Michaela. Stanley Andrisse.

DR. ANDRISSE: Good morning, everyone. Happy Friday.

MS. JEFFRIES: Hi, Stanley. Individuals with disabilities or groups representing them, Bethany Lilly.

MS. LILLY: Good morning, everybody.

MS. JEFFRIES: Good morning. John Whitelaw.

MR. WHITELAW: Morning, from the proud first state of Delaware.

MS. JEFFRIES: Good morning, John. Legal assistance organizations that represent students and or borrowers. Persis Yu.

MS. YU: Good morning from chilly

Boston, but I think we're still warmer than Vermont.

MS. JEFFRIES: I would, I would, uh, I would take you up on that one, Persis. Joshua Rovenger.

MR. ROVENGER: Morning, everyone.

MS. JEFFRIES: Good morning. Minority serving institutions Noelia Gonzalez.

MS. GONZALEZ: Good morning.

MS. JEFFRIES: Good morning. Private nonprofit institutions Misty Sabouneh.

MS. SABOUNEH: Good morning from sunny Arizona. Happy Friday, everyone.

MS. JEFFRIES: Good morning, Misty. And Dr. Terrence McTier.

DR. MCTIER: Good morning, everyone.

MS. JEFFRIES: Good morning. Proprietary institutions, Jessica Barry.

MS. BARRY: Good morning, everyone.

MS. JEFFRIES: Hi, Jessica and Carol Colvin.

DR. COLVIN: Morning.

MS. JEFFRIES: Morning. State attorneys general, Joseph Sanders.

MR. SANDERS: Good morning from Chicago, everyone.

MS. JEFFRIES: Hi, Joe. Eric Apar.

MR. APAR: Good morning, everyone.

MS. JEFFRIES: Hi, Eric. State higher education executive officers, state authorizing agencies and or state regulators, David Tandberg.

MR. TANDBERG: Good morning.

MS. JEFFRIES: Hi, David. Suzanne Martindale.

MS. MARTINDALE: Hi. Good morning.

MS. JEFFRIES: Good morning. Student loan borrowers, Jeri O'Bryan-Losee

MS. O'BRYAN-LOSEE: Hello from the lovely Albany, New York at 36 degrees this morning.

MS. JEFFRIES: Yikes! Welcome Jeri. Jennifer Cardenas.

MS. CARDENAS: Cardenas, yes. Buenos dias, good morning, everyone.

MS. JEFFRIES: Good morning. Two-year public institutions, Robert Ayala.

MR. AYALA: Good morning, ladies and gentlemen.

MS. JEFFRIES: Hi, Bobby. Christina Tangalakis.

DR. TANGALAKIS: Good morning, from Los Angeles. I have no right to complain about the weather from here.

MS. JEFFRIES: Good morning, Christina. U.S. military, U.S. military service members, veterans or groups representing them Justin Hauschild.

MR. HAUSCHILD: Good morning.

MS. JEFFRIES: Good morning, Emily DeVito.

MS. DEVITO: Good morning.

MS. JEFFRIES: Good morning. Then we have our two esteemed advisers, Raj Darolia, on economic or higher education data.

MR. DAROLIA: Hello from Lexington, Kentucky. Thirty eight degrees here.

MS. JEFFRIES: Good morning, Raj. And Heather Jarvis qualifying employers on the topic of Public Service Loan Forgiveness.

MS. JARVIS: Good morning from Wilmington, North Carolina. Forty-four degrees.

MS. JEFFRIES: Good morning. Did I miss anyone this morning? Okay, perfect. So with that, I think we'll jump right into our agenda today and pick up where we left off yesterday on the Income Driven Repayment issue paper. And I believe, Jennifer, you were going through A through D. Sit tight, I see Heather has her hand up.

MS. JARVIS: Thank you, Cindy. I just

wanted to ask a couple of questions of the Department so that I could be more expeditious in providing regulatory text between sessions. Two specific questions. First, whether the Department has evaluated establishing a both/and approach to qualifying public service, such as working for a qualifying public service employer as we currently have and adding a well-defined limited number of qualifying public service jobs. So, my first question is whether the Department has evaluated the idea of establishing a both/and approach? If I can receive an answer to that at some point before the next session, I'll be able to better compile materials in an expeditious manner and get them to the Department very quickly. And the second question I have is whether the department has evaluated, including full time public service employment in specifically defined and limited for-profit settings? So, the question being whether the Department has considered including some for-profit employment as qualified? And that's those are my two questions.

MS. JEFFRIES: Okay. You got that, Jennifer?

MS. HONG: Yes, thank you, Heather. You know, we talked a lot about this, we talked about this even in crafting the proposal, I alluded to the

original rulemaking that we did in 2009. We've stewed on it. We've put a lot of thought into this whole concept of of just starting with the employer. And so we we have not found a way to operationalize that by job description or by type of employment. So we are staying with this concept. So if we could keep our discussions regarding, you know, first accessing the program through employer to your concept. So first entities, we are still taking that into consideration. But again, our challenge with that piece is knowing where to draw the lines and we haven't found, nor nor did our discussion yield a clean way to do that. So we're open to ideas, we realize we are going into the third session. So, to your first point, we are staying with eligibility by the employer and to your second point, we haven't closed the door, but we we just at this point in time, we don't have any good answers for that piece and it's very slippery as we conceive of it right now.

MS. JEFFRIES: Thank you, Jennifer. Daniel and Dixie, let me just make one point of clarification. There may be some confusion on the introduction of Mr. Brian Siegel, he is from the Office of General Counsel, and is here to assist. Daniel?

MR. BARKOWITZ: Thank you. Jennifer, can I ask, is the concern one of compensation or is the

concern one of role? Because I think either either concern, I'm speaking specifically about someone working in the private sector, either either a concern has a solution or maybe it's a combination of both. I'm just trying to get a better sense of the Department's concern.

MS. HONG: Well, I think it's twofold. I mean, that it's qualifying employer employees by the type of work that it is public service, but it's also the real challenge of finding a way to operationalize that. And so and to either ensure that we capture those individuals that are performing a public service, I think that's a priority. It's just are they performing a public service? So the way that we would, we've been able to operationalize that an employee level. It's just not not feasible for our for the Department to be looking through individual job descriptions. Or it's just so then if we start drawing lines about types of jobs that can be very slippery as well in terms of inadvertently including individuals that aren't performing a public service, for example.

MR. BARKOWITZ: So my alternate has mentioned.

MS. HONG: And inadvertently excluding those that are. Sorry, go ahead.

MR. BARKOWITZ: Oh, no problem. So, so

my my alternate has mentioned several times SOC codes is a way to get to that as a practical method. And you know, I understand the concern, but I know my alternate has mentioned it a few times. And actually, it's a it's a SOC codes are a federal designation for occupations, and we've used them in the past in other ways with federal student aid. So again, I would highly encourage us, and maybe I can ask Heather if that's something that she'd be willing to look at. Is is is (inaudible) as a way to get to your concern or the Department's concern?

MS. HONG: So we have used that, I know that was raised, and we've there still some it doesn't fill in all the gaps for us going by CIP codes.

MS. JEFFRIES: Okay, thank you. Dixie?

MS. SAMANIEGO: I think Heather might have something to say, the PSLF advisor, I'm not sure if it's on that. Some of the stuff that I'm talking about is not on PSLF, so if, Heather wants to jump in right now before I ask my questions?

MS. JEFFRIES: Okay, thank you, Dixie. Heather.

MS. JARVIS: Thank you, and I don't want to take time away from the conversation about Income Driven Repayment, I fully recognize that that is absolutely vital that we get to immediately. But in

response to Daniel and Jennifer, I do have some very clear ideas and would be happy to continue to work with this committee and representatives of the Department to hash that out. I want to acknowledge what Jennifer has said that I agree completely that that we must have the system that the department has put in place of qualifying the overwhelming majority of borrowers for Public Service Loan Forgiveness based on their employment with government or 501(c)(3) nonprofit organizations that is necessary to administer the program in a way that is possible. But it is also possible to have a very, very narrow and specifically defined additional category that borrowers can apply for consideration and meet the requirements of the Department so it would not be administratively burdensome. I have some suggestions that would make it. In fact, I think much less difficult to administer than the current system because what the Department presently has to do is look at organizations and bend over backwards to try to determine which organizations are providing public services that are not (c)(3)s or governments. And the reality is that virtually all public service workers and public service work is done in government and 501(c)(3) nonprofit organizations. The difficult question is what other public service is happening outside those contacts and the Department

presently has to try to look at nonprofit organizations and figure out how much public service they do or whether they get any public funding or or what their primary function is and that is very difficult and has resulted in litigation and issues for the Department and administration. It would be much easier to continue the current system and say we have for qualifying. Everybody works for the government and everybody who works for a(c)(3) based on their organization of employment. And that process is in place. Then you don't want to miss other people and you don't want to include folks you shouldn't include. So then you look to your definitions that the Department has offered and potentially additional ones from SOC codes, and I have very clear ideas about how that can work in the current regulatory structure. Statutorily approved, the Department does not have to only qualify people based on employment in a specific type of organization. They could continue to do that and add a little other something, and I have very specific ideas, happy to go back and forth on that. But I don't want to spend a whole lot of time and write a lot of things if the Department has completely rejected the notion of ever allowing someone to qualify, who does not work for an organization that the Department has already approved through a process that is difficult. So I'd love

to provide some additional text to the Department, and I can do that very quickly, next week, but I don't want to spend a lot of time doing it if you're not going to consider it.

MS. JEFFRIES: Thank you, Heather.

MS. HONG: Yeah, we we'd be happy to take that, Heather again, given the given our very real reservations. That being said, that was how we broached this discussion for session two, but we didn't. I don't know about you all, but we left that discussion, feeling that we had more questions rather than answers. So we did try to propose new definitions. We solicited other definitions. If you had more that you could offer us, Heather and certainly will take a look. But I just want to emphasize what we're trying to balance here in terms of having some rails around the program. Also, it was, oh, I, I realize Daniel and I were saying CIP codes SOC codes, and we wouldn't be able to rely exclusively on SOC codes unless I know you've broached that several times. We have used that in the past to kind of as a guide when we receive certain applications, but there are some gaps with SOC codes, so we wouldn't be able to be able to rely exclusively on them.

MS. JEFFRIES: Thank you, Jennifer.

Dixie.

MS. SAMANIEGO: I have a couple of questions, and I'll ask them one by one so that Jennifer is able to give an answer to each and every single one of them before we move on to today's topic. So, basically, some of these questions are in preparation for next week's prison education subcommittee and ensuring that the department is prepared for that. And so I have a question about whether or not materials will be distributed to the subcommittee folks before the actual start of the week so that they actually have a time to come or they have the time to come prepared. Or if there's like a timeline when the Department of Education is going to release those materials for the subcommittee?

MS. HONG: So you're asking, Dixie, specifically about materials or whatever that may be distributed for the prison education subcommittee?

MS. SAMANIEGO: Yeah. I'm not asking for them myself, but rather is the Department allowed to give them out before the actual start of the week for them?

MS. HONG: Yes. And I see my I see my colleague on the on the line here.

MS. SAMANIEGO: Yeah, I was going to ask if it might be a better question for Aaron since he's the one leading that.

MS. MACK: Aaron, has his hand raised, Aaron, you can come on screen if you'd like to share.

MR. WASHINGTON: Yeah, so we are working right now to finalize the language, and we fully expect to send it out before the beginning of the subcommittee before we start on Monday.

MS. SAMANIEGO: So like ten minutes before or like time before? Just so that were clear.

MR. WASHINGTON: We hope to send it out as soon as possible. And that's our intent is to get out as soon as possible, but it will go out before Monday.

MS. SAMANIEGO: Okay. And the two other questions I have are probably best answered by Aaron. So I'll just keep you a little while longer, Aaron. So will the Department have proper FMCS or Department staffing for next week for the next session Prison Education Subcommittee. Since that was like that was kind of answered when we were talking about it earlier when Stan, Professor Andrisse and Dr. McTier had presented earlier about the first session of the subcommittee. So just wondering.

MR. WASHINGTON: I think Emil explained it a little bit last week because the subcommittee or yesterday and maybe today, because the

subcommittee is organized differently than the main committee, you all have the rights, the power to vote on the issues and you all will be making the ultimate decision on what happens. Whether you vote for consensus on a prison education language we won't be having full facilitation from FMCS for the next for the 18th, 19th, and 20th. However, we do have, Dixie did you get a chance to view some of the subcommittee? I'm just I'm just wondering.

MS. SAMANIEGO: I did not. I've talked to some of the subcommittee members, that's why I'm asking the questions.

MR. WASHINGTON: Okay, so we did have a member from the Department of Education from my my specific team noting hand, who was raising their hands, calling on individuals, and I did take on a little bit of the facilitation role in some of the temperature checks, but we generally we did we do have a note taker. We have Vanessa Gomez, who projects and projects the red lines. Our facilitator was Sophia McArdle from the Department of Education for the second two days and Brian Schelling the first day. So there are multiple, we had David Musser, who served as a technical adviser, providing FSAs, the office of Federal Student Aid addressing the operational perspective. We also had three lawyers, we had a Soren

Lagaard, Steve Finley, and Ronald Sann. So we did have a lot of collaboration and a lot of support from the Department staff during the committee. I hope, I hope that answers your question.

MS. SAMANIEGO: I have one more Cynthia. I'm so sorry.

MS. JEFFRIES: Dixie, let me just weigh in on that FMCS facilitation. According to your protocols that everyone accepted it says that the Department would be the facilitator, and that is the best practice of these rulemaking (inaudible) that they have facilitated the subcommittees. Okay, thank you.

MS. SAMANIEGO: I've asked because subcommittee members have been a little bit confused about it, so yeah. And then my last question, I'm so sorry, Aaron, since we voted earlier in this week to have a new negotiator to the full committee, is there going to be any actual proper onboarding for that person? And then also so that they can participate in the subcommittee next week?

MS. MACK: There's we've reached out, I'm sorry, I don't want to speak over you, Aaron, but FMCS reached out to that individual on behalf of the committee, and I know that the Department has reached out to that individual on behalf of the subcommittee. There

has been no response to either one of our groups from that individual, Dixie. So yeah, the outreach was there to do the onboarding, but thus far we haven't heard back.

MS. SAMANIEGO: Alrighty, that's helpful. Thank you.

MS. JEFFRIES: Thank you. Okay, David.

MR. TANDBERG: I wonder if in our outreach to that individual, if we offered them the option of just serving on the subcommittee. I've always felt all along that asking them to serve on the main committee was probably a shot too far, given the topics and the time commitment, the short-term notice. But maybe the subcommittee would be more attractive to them given their expertise and the much smaller time commitment.

MS. JEFFRIES: Thank you, David. I'm going to let Kayla answer that because she did do the outreach to her.

MS. MACK: Yes, so this individual could in fact accept the role on the subcommittee and not the committee or both or the committee, not the subcommittee, since you all reach consensus on both. And that can be explained to her if and when we do do connect but agree, David, she's got to accept and be available for those. I hope that answers your question, David.

MS. JEFFRIES: Stan.

DR. ANDRISSE: Hi. Good morning, everyone. So just to weigh in on that, I've reached out to Director Anne Precythe's assistant and have a meeting with her today to talk and give a little bit more information so I can hopefully provide some information to the committee later today on that. And I also, you know, communicated to Director Precythe via email and will inform her assistant when I talk to her of the option of choosing one or the other. And, you know, kind of explaining what you've just said, David, and that you know where her expertise can best be suited. So I will look to update on that. Regarding the piece I stayed after and just asked a quick question to the FMCS team a couple of days ago about the facilitation in the subcommittee. And, you know, was the response was exactly what was just mentioned and as was also mentioned, you know, our concern was that, you know, Aaron, although amazing, is kind of doing two roles and serving as also the expert, you know, part of one of the part of the expert team on the Department and facilitating, whereas here the facilitators are, you know, just facilitating and not having to also be an expert on the topic necessarily and provide their thoughts on the topic. So there's a little bit of a conflict there that the facilitator is also one of the experts discussing the,

you know, in the discussion.

MS. JEFFRIES: Thank you, Stan. An additional point on this is that these subcommittees are working groups, they don't have the option to vote or do anything or do consensus checks. They're working groups in the sense that the people that have been selected have the expertise and knowledge to try to come together to bring a recommendation to the full committee for, you know, for your. So voting abilities, this subcommittee is the only one that has that, or this committee is the only one that has. That voting authority, so know if that's helpful or not, but let's keep in mind they are working group. Ok. So with that, I I would like to move ahead and continue the discussion on Income Driven Repayment plans. Jennifer, you started to walk us through yesterday Section A through D think we only got through A and B, but I don't know if your preference is to start fresh and go through those four subjects. We will be breaking this down into five different sections for the temperature check for ease of understanding.

MS. HONG: Thank you, Cynthia. So again, if we could cue the Income Driven Repayment plan proposed text. You may recall we had out of all the issues when we came to session one. This was the most open ended. We're coming back with the proposed text

again with a lot of questions for you all. So this we are soliciting your feedback, your targeted feedback, your priorities in the context of Raj's presentations on IDR in terms of which levers to pull, in terms of income protection and payments. So we have a lot of questions here. Just to reframe this discussion, there was a question about amendatory text again, we are introducing we've taken this opportunity to revise everything in section 209, even the existing plans. Not so much substantive issues on the current, the other four plans, other current four plans, IDR plans, however, technical tweaks here and there, and we've flagged those issues for you. We we stopped, I think, rather abruptly yesterday when we're really getting into this discussion. Daniel had a question on let's just ax everything and have one plan, and our substitute for that was to revise this to make it streamlined and less confusing. We can't get rid of existing plans because borrowers are currently on them, so we need some governing regulations while borrowers and students are still on those repayment plans. So that's what I wanted to respond to Daniel. The second one, we were soliciting definitions, so we've gotten through, I touched upon how this is framed under other definitions. Under one, we've basically pulled the relevant definitions and existing texts and just kind of

defined to which plan they're pertinent to. And we were soliciting, Hey did we captured it all, do we have all the definitions here? Jeri made a good point about buying, consolidate, consolidated loans, and I didn't get to look back with her. But we have, as you can imagine, we do have that defined elsewhere, and that is at the beginning of 685.102 under definitions. That's the general Direct Loan program regulations. So we do, we already have that elsewhere. So so where we left off was at the bottom. I think we did get to D. I think we did get through this first part. There were a lot of questions that we didn't get through. And again, the the flag at the bottom of Page two under D, eligible loans. We want to solicit feedback on types of loan types of loans here and considerations of how loan type eligibility interacts with cost and potentially other design parameters. And I do request that, as you, you know, as we touch upon these different levers and different priorities, if you could frame your suggestions in the context of those levers in terms of again, what we're what we're trying to get at here, we're trying to get at the affordability of these plans for lower income borrowers. Michaela had mentioned the 20 to 25 years again, we have the 10-year standard repayment. We realize that the 20 to 25 years may be too long for borrowers

with lower loan amounts or who have lower incomes for longer periods of time. So just kind of keep keeping these in the back of your mind if you could frame your suggestions in those in this context. We appreciate it. I see a lot of hands up and I will.

MS. JEFFRIES: Okay, thank you.

Justin?

MR. HAUSCHILD: Had my mute button on. So there are a lot of other people on this committee that are much smarter on IDR than I, but I'm just trying to get some clarification on the Department's intent with regard to the other plans. Certainly understand that there are people on these plans that will even maybe may even want to continue on these plans when when this new plan goes into effect. But I'm trying to better understand what the Department is seeing that as a permanent obstacle to consolidating and simplifying the options available or whether there is still some consideration here to potentially consolidate and make this easier for folks to understand, I understand the Department wants to improve these as well, but I think there really is confusion out there, partly because of so many different plans. So again, there are many folks that are smarter. But if I could just get some clarification on the Department's intended strategy around

consolidation of plans, that would be helpful.

MS. JEFFRIES: Jennifer, you're on mute.

MS. HONG: I can just quickly say that we know, that nothing is reflected here. We're just adding because we realize that at this point in time, we haven't, not that we haven't explored that option, but certainly some of these plans can be sunsetted. But right now we're just we're trying to gauge what is what is needed, what is missing, so that we can reorganize this and streamline this with with what we have currently. We certainly can't get rid of any plans right now in the regulations. But we are we are exploring how we can better organize these plans and see what is needed right now, and we're trying to address what is needed.

MS. JEFFRIES: Thank you, Jennifer. Bethany.

MS. LILLY: So I actually have a follow up on Justin's question, which is not why I raised my hands initially, but are there legislative solutions that would allow you to consolidate all of these plans and simplify the process for? Is that what the Department is effectively saying, that you guys need authorization from Congress to consolidate the plans?

MS. HONG: I'm going to let our

general counsel respond to that.

MS. JEFFRIES: Brian.

MR. SIEGEL: Yes, there are some statutory issues, for example, in IBR there in the Income Based Repayment plan, Congress has established two really two separate plans, depending upon where the borrowers are when they took out their loan. We can't abolish IBR. We can't stop new borrowers from signing up for IBR. That's statutory. In regard to ICR, those plans are created largely by regulation. However, for past borrowers their promissory notes give them the option of signing up for PAYE, REPAYE, and and ICR. So that's a term of the contract right now. Whether those programs continue in their current form, that's I think that, as Jennifer said, that's something that or continue to be available going forward, that's something that we're continuing to look at.

MS. LILLY: And so the goal with the new plan. Sorry, I'm just trying to understand the big picture so we can move forward here would be everybody starts using the new plan then, but the older plans are just left over for the people who currently exist in them?

MR. SIEGEL: I think the Department is still looking at that and whether there's other options.

I think the Department is still open to to what the committee has to suggest.

MS. LILLY: I would just say that, I mean, I think what you're hearing from Justin and from other folks in the chat is just that people are very confused right now. I mean, having four options or five options is just really messy. And so the more that you all can simplify that, I think just speaking on behalf of myself, that is something I would like to see in this. But my actual comment was related to B (6) the definition of discretionary income because I think we heard some comments yesterday during the comment period about child care expenses, about other expenses that weren't taken into account when it comes to discretionary income. And I went back last night because I was curious and I read subsection (E) in subsection (L), which are referenced there. And certainly one way to get at this is the Department to just increase the applicable poverty guideline percentage to two hundred and fifty or three hundred. But I think another way to think about it, and I know that that's more complicated administratively way but the costs like childcare should not be counted towards discretionary income. That's not really discretionary. And so I, has the Department thought about adding more specific costs that folks experience to that

list? Such as rent, such as things like that. I mean, I think that's one way to do it if you don't want to increase the applicable poverty percentage guideline.

MS. JEFFRIES: Alright. Not seeing a response for that right at this moment, Bethany, so they'll have to get back to you on that. Persis, you're up next.

MS. YU: Thank you. I want to both address the simplification and also move into discretionary income. I mean, I think part of the issue, regardless of whether you think you have the authority to, is what we need to do is we need to make this plan better than all the other plans. And I think that's why the plans are so confusing is because one treats interest in one way, which is a little bit better than the other one, but the other one has a cap. And what you need to do is we need to make this plan so clearly better. You know, when we look at the FFEL program, for example, we have we did not actually get rid of income sensitive repayment, but Income Based Repayment is so clearly better that that basically very few people wind up in income sensitive repayment. And so I think we need to follow a similar approach. Looking at these new plans is that we need to make the plans so clearly better that it is always going, the servicers are not going to be confused and walking

through 12 pages of different Income Driven Repayment plans that there's clearly one that is better for every single borrower. I think you could. I think you could probably sunset all the other provisions if you also did that as well to make it regulatory easier. But I think in either event, so long as our focus is ensuring that we have a more generous repayment plan, then then simplification just happens and we can let the other plans wither on the vine, so to speak. I think getting to the discretionary income definition is one of the most important ways of doing that, and that's why we proposed in the proposal that we sent you, we made the argument that you need to increase that to 400% of federal poverty. One of the biggest problems as Bethany just mentioned is that there are a lot of variations in the different ways that people have expenses. This is and not just expenses, but also what what resources do they bring? And this is very true in particular for communities of color that, you know, because of the racial wealth gap, borrowers of color have fewer resources. They have fewer resources to weather emergencies that come up, whether it's fixing your car or other type of expenses. But, you know, folks are supporting elderly parents, they're supporting community members, they are providing childcare, folks who have

higher medical expenses. We just don't have a great way right now of capturing all of the different expenses that people have. I think 150% is probably not sufficient almost anywhere in the country. And I think if you look at the MIT Living Wage calculator, you can see that really in most places, you have to get to at least 250 to 300% of federal poverty to really capture what's discretionary income. But then but then regardless, that's going to be your average right and we need to take care of the people with the extraordinary-

MR. TOTONCHI: Thirty seconds.

MS. YU: and the way to get that is to have a very generous discretionary income threshold unless you are willing to go through a more administratively burdensome process like Bethany suggested where we are taking into consideration very individualized expenses. But I think we can either do the very complicated method of taking into consideration all these expenses, or we can have a very generous discretionary income threshold and we suggest that we do the latter and that it be 400%. Thank you.

MS. JEFFRIES: Thank you, Persis. Joe?

MR. SANDERS: Hi, thanks. So, very quickly agree with Persis on the need for this to be the best plan, and if we do that, then the concerns about

there's a bunch of plans and we can't necessarily get rid of them, I think are lessened. So 100% agree with that. One of the concerns for state AGs is the recertification process and people falling out of IDR through the recertification process. Was, you know, encouraged to see some commentary about the FUTURE Act implementation in the procedure section on page six and wanted to ask the Department about in the procedure section, romanette 2, not sure if I'm using romanette properly there, but subsection 2, where the borrower has to consent to the disclosure of tax information in the master promissory note. Does that Department know whether that consent would be ongoing for the, you know, however long the program goes before forgiveness? We think that, you know, we've seen servicers do a very bad job on outreach to consumers to let them know about research. We have that allegation in our complaints and we think that, you know, the less touches that are needed by the consumer or by the Department or servicers have to reach out to them, the more successful people will be staying in the programs. Secondly, on a broader question is for people who have who have signed a promissory note that doesn't have that provision in it, does the Department have implementation concepts that would lessen recertification burden for existing borrowers, whether

through the FUTURE Act implementation or some other.

MS. JEFFRIES: Thank you, Joe.

Marjorie?

DR. DORIME-WILLIAMS: So I, plus like everything that was said before me, I think these are really strong and concrete suggestions. I did want to go back to some of the points that Bethany had made in our first session about automation, and it seems for a lot of these issues, simplification would come through automation. So I want to encourage the Department to think about things like you mentioned recertification, how students get placed into A plan. We've read both testimony and research that shows that these serve as unnecessary burdens to the borrowers. So in thinking about this process, I would encourage us to keep that at the forefront. In addition, when we're looking at this issue of discretionary income again agreeing with what Persis shared and really thinking specifically about this idea of discretionary income and the difference is in right borrower's needs, borrower's expenses, so in support of four hundred, if that's the goal. And I think really the department needs to think about. So right now, it just asks about dependents and family size. You know, we're still in a pandemic and we know that things like childcare and housing are essential. Those are not.

That's not my discretionary income. My my kids have to be somewhere so I can work besides in the back of my Zoom meetings, right? And so I really want to think about how we can create policies that maybe don't enumerate individual cases, but think more broadly about what we mean when we say discretionary income and so that we're defining it beyond just this idea of what's the poverty line, because at that line is very low and hasn't been changed in an entirely too long, and so I don't think that's a good metric to even base this discussion on if thinking about regional differences might be helpful to Department. I can go on several different websites and compare my cost of living. And so I don't know if you think tax information, in addition to where individuals might be filing their taxes from, could be considered in this larger calculation. But I think that without making changes to that really anything else, we might suggest it doesn't help to alleviate the burden, which is that these are either loan payments that borrowers can't make or that they're so burdensome they're detrimental to literally the quality of life and defeat the purpose of why most borrowers go get an education in the first place, right? It's social advancement, it's economic mobility-

MR. TONCHI: Thirty seconds.

MS. DORIME-WILLIAMS: and we shouldn't be penalizing borrowers for doing what everyone tells them we should do. Thank you.

MS. JEFFRIES: Thank you, Marjorie. Brian, I see you have your hands up.

MR. SIEGEL: Yes. Just a quick response to Joe's comments and Marjorie's initial comment. The Department is also interested in reducing the burden of on borrowers providing income information as much as possible. We hope to do that through implementation of the FUTURE Act. We're continuing discussions with the IRS on what they'll accept as consent because really it's up to them. They have to be comfortable. They're disclosing tax information, which they correctly like to limit. But you know, we're we're working with them to to satisfy their concerns as to where we get consent, ideally it would apply to both borrowers in the past whose promissory note and IDR form don't include the consent as well as future borrowers, but it has to be something that satisfies their concerns about disclosing tax information. And their need to ensure that borrowers have consented to it.

MS. JEFFRIES: Thank you, Brian, for that. David, you're up next.

MR. TANDBERG: Seems like a lot of us

spent have spent a lot of time thinking about the measure of income and discretionary income alike and how we might come up with a better measure. I'm happy, Brian, to hear that you all are looking at perhaps automating or drawing in at least better information, more information. My thoughts between yesterday and today were really towards the research that overwhelmingly says that measures of wealth are far better than measures of income, which I think gets also at the idea of discretionary income versus income. And the challenge with measures of wealth is you have to draw from a lot of data sources to be able to come up with a valid measurement. And I just don't know a way of creating an automated or simple way of doing that that doesn't end up putting on a lot of additional administrative burden on people that don't need or deserve that. And and so I think I'm persuaded by Persis's argument that perhaps the most streamlined and efficient way of going about this would be to increase the percentage of poverty. I'll be honest, I don't know what the right amount is. Maybe, I mean, perhaps 400% is the right level to give us what we need. I don't know if there is, and Persis, maybe you have this, any research or data that would kind of validate that 400%? I'm not saying it's not right, I'll happily go along with it, but it would be nice if we could provide some empirical

justification for the threshold that would make some sense. You know, it's one of these challenging areas where better data, I think we could really nail it in and something around, wealth, discretionary income, excuse me, would be where I'd want to go. But I think in policy, sometimes precision ends up hurting the folks because of the burden placed on them to reach that precision. So anyways, thinking out loud, I'll just end it there.

MS. JEFFRIES: Thank you, David. Jeri?

MS. O'BRYAN-LOSEE: Yeah, thanks and plus one to everything everybody's also said, and I just want to, for the record, just put in there whatever we do, which will be the best plan for everybody moving forward, I highly plus one that one. To do things like eliminate the distinction between grad and undergrad, and also to put a cap that no matter what it is, you never pay more than the ten year, ten year standard repayment plan and that we allow as many people as humanly possible to switch to this better program that will create without penalty so that they can anywhere possible that they can do that.

MS. JEFFRIES: Thank you, Jeri.

Daniel?

MR. BARKOWITZ: Thanks, I have a lot to say, so I'll try to keep it within three minutes. So

first of all, I support and respect and appreciate the comment about the FUTURE Act. I will say, Brian, the timing is (inaudible) here because we know the '24, '25 FAFSA is also going to have to rely on the FUTURE Act as envisioned under the new FAFSA, and that's supposed to go live October 1, '23. So this, you know, anything we do here wouldn't be able to be implemented until July 1, '23. anyway. So the timing would argue for expansive thinking in terms of the ability to to bring this to bear. In that, I would like to again reiterate what I suggested yesterday that rather than create a new plan that we, we change the default, we change the standard plan to an income-based plan so that there is not a need for a student to choose, and that by certifying or by providing certification, their their payment amount would be reduced. One of the notes that Raj made in the chat and I appreciate this note is a reference to the portfolio and a note of what percentages are under each and doing some quick research, I did see that over half of the borrowers in the DL program are on the standard plan either 10 years or less or slightly larger than 10 years. So, you know, a concern I have is that students don't have to or borrowers wouldn't have to make an active choice if this were the default, they would be protected without a need to go through delinquency,

default, et cetera. If we could automate the linkage of the income information and and by default or by nudge, just simply leave students in a plan that in that way could support them, they could always pay more. There's no limitation ever on paying more than your minimum due. They could always pay more. And I would want to see a cap at what the standard monthly plan amount would be to the 10-year repayment information. So, if it comes through, the income based borrower would do more to support Jeri's comment, it would be capped at the standard 10 year amount. That said, I also and again, I'll appreciate if someone wants to check me on timing. The 400% to Persis, I support it I also would want to see some information about what is the right number. Empirically-

MR. TONCHI: Thirty seconds.

MR. BARKOWITZ: I knew I'd be running out of time, and what I want to make sure is that we also in whatever plan we offer, deal with the balance growing problem because I don't want students to be disincentivized by paying whatever they're paying and then seeing their balance grow over time. And finally, I'll get back to this, Jennifer. I think all loans should be eligible. So to your point, earlier about which loans are eligible, any DL loan should be eligible for this program.

MR. TOTONCHI: Time's up.

MR. BARKOWITZ: Okay, thank you.

MS. HONG: I just want to get in there. Thank you for touching on eligible loans. We're going to get to every issue, including your certification and automation by the FUTURE Act. All these issues are important. I'm not trying to restrict how we talk about them, but just to kind of organize the we're clear on what we're left with when we leave. Right now, we're if you guys could speak to what loans should be eligible and just to kind of help guide you with that. Currently, under the PAYE and REPAYE programs, the eligible loans are Direct Loans other than Parent Plus and consolidation loans that repay Parent Plus and then currently under ICR eligible loans or all Direct Loan types, except for Parent Plus and Direct Plus consolidation loans made before July 1st, 2006. Except that direct consolidation loans made on or after July 1st, 2006 that repaid Parent Plus may be repaid under ICR, so that's kind of the scope that we're dealing with. What's available under ICR is more expansive than PAYE and REPAYE currently. So, and again, we're limited on what when we say all loans FFEL loans would not be eligible under the current plan.

MS. JEFFRIES: Thank you, Jennifer.

Persis?

MS. YU: Thank you. So a couple quick things in terms of the support for the 400%, I did put that in the memo that was circulated. It's based upon both the MIT Living Wage calculator and also borrowing from other federal statutes that have kept things at four hundred is kind of like where I landed at that number. But but that has been circulated and I I know I haven't read everything thoroughly that's been circulated, but you can find it in there. I also do want to quickly support Jeri's point about the not making the distinction between grad and undergrad. There was a really excellent article in MarketWatch by Gillian Berman earlier this week, which I'm putting in, which talks about the disparities on on wages for black women in particular, and found that black women with graduate degrees make on average \$7 less than white men with undergraduate degrees. So you can find that data, and I think that very much supports if we're, you know, if we are using a racial justice lens to think about these proposals on making sure we don't have a distinction between grad and undergrad. But to Jennifer's question about eligible loans, which is actually what I raised my hand to talk about, I think it's very important that we that we make sure to be as inclusive of Parent Plus loans as we can possibly be. Parent Plus borrowers are left out in so

many different ways. Again, there are large racial disparities on Parent Plus borrowers. Students of color rely on their parents disproportionately. Low-income students of color rely on their parents disproportionately to take on these loans. We've had a number of clients who make, you know, make the minimum wage and wind up with \$50,000 \$100,000 in Parent Plus loans and have absolutely no way to pay them back. I realize that there's a statutory barrier to just allowing all Parent Plus borrowers to access the plans that they have to jump through this hoop of consolidation, which I hope that they're that, you know, Congress, and if there's a creative way administratively to do so that we can eliminate that hoop, but I think we need to make these plans available to Parent Plus borrowers as much as humanly possible and be as expansive as possible because especially low income parent borrowers of color are struggling right now to be able to afford those payments. So I will make that plug. The other piece that I think we heard a couple of folks during the public comment talk about spousal consolidation loans.

MR. TOTONCHI: Thirty seconds.

MS. YU: Thank you. And this is this is a very small population of folks. You know, all of these loans were taken out before 2006, I did a FOIA for

this data. There's fewer than, I think, 20,000 borrowers remaining in them. Arguably, we could just cancel all of these loans and be done with them. But but if not, but short of that, we need to come up with some procedure to ensure that they are able to meaningfully access it, especially for about for for co-borrowers who have divorced and no longer have access to their spouse's income. We need to come up with some ways to get them affordable payments. Thank you.

MS. JEFFRIES: Thank you, Persis, appreciate it. Michaela?

MS. MARTIN: I believe that the question that the Department is asking right now is on specifically on loan tax eligible, right? Just want to check because I got a lot of other things to say, but I'm trying to like be mindful so on that to include all of the loans that we can include. You're saying we what I heard is we can't include parent. What? One of them, one of the apparent ones, right? Sorry, I didn't quite write it down right. Jennifer, and we can't include FFEL?

MS. HONG: Yeah, there's there are some restrictions that we can't include FFEL. We can include Parent Plus to the extent that they were paid off by direct consolidation loans.

MS. MARTIN: So then like, do any of

us objected to including all of those? Except for the ones that we can't. Can we just say that and just like, decide, is that what you're asking for right now? Cool. Well then that-

MS. HONG: Thank you.

MS. JEFFRIES: Okay, thank you.

Persis.

MS. YU: Thank you. And so the other piece that I wanted to talk about in terms as we talk about eligible loans and this may not actually be the place to talk about them, but since you raised FFEL borrowers, I think it's at least worth putting in a flag here that while I understand that the ICR statute does not apply to FFEL borrowers. What I do think can be captured is time that borrowers with FFEL loans that were then consolidated into the Direct Loan program, the time that they paid in Income Based Repayment while a FFEL loan, I believe can be is allowed to be captured as qualifying payments for towards cancelation at the end. So even if we can't extend this plan, although arguably we if we're talking about the IBR statute, we could extend this to fellow borrowers. But regardless, FFEL borrowers who that consolidated into the direct loan program should be able to count the time and the payments that they made towards cancelation under this plan that

we create.

MS. JEFFRIES: Thank you, Persis.

Daniel?

MR. BARKOWITZ: Sorry, and again, maybe I need some orientation on this. Brian is, can you point to the statute around exception of Plus Loan under IBR? Is there a particular carve out that that is referenced?

MR. SIEGEL: It's in, 20 U.S.C., 1087 E D 1 D, which says in describing repayment plans, Income Contingent Repayment plan, except that the plan described in the subparagraph shall not be available to the borrower or the Federal Direct Plus loan made on behalf of the dependent student.

MR. BARKOWITZ: Okay, so there is a particular carve out and where is the exception granted on consolidation? Again, is that is that particularly available through that same statute?

MR. SIEGEL: Because federal consolidation loans are not excluded from coverage, a borrower who consolidates a direct plus loan or a FFEL plus loan into a consolidation loan is eligible as owing a consolidation loan, not a Plus Loan. Interestingly, in and under IBR, Congress specifically precluded that option for IBR, they said, except that the plan, the IBR

plan, shall not be available to the borrower with Federal Direct Plus loan made on behalf of the dependent student or a Federal Direct consolidation loan, if the proceeds of such loan were used to discharge the liability on such Federal Direct Plus loan, so or FFEL plus loan. So they specifically precluded it in IBR because we had already allowed it in ICR.

MR. BARKOWITZ: So again, just to push a little bit if we were to change the definition of a standard repayment plan under Plus, would that get to this or are we prohibited from that regulatory to allow consideration of income in the definition of a standard repayment plan for us Plus borrowers? So I understand that that there's been a definition congressionally of an IBR and an ICR, is there a definition of a standard plan or could we make the standard plan also something that considers income?

MR. SIEGEL: I would just like to I mean, first, I have to note that the standard plan has really since the programs were established, been the 10 year plan. If you look at so I'm not sure we can change the definition, but that's something that the Department can consider and take back. And also, there is a provision in the ICR statute that says if a borrower of a loan made under this part does not select a plan, the

Secretary may provide the borrower with a repayment plan described in subparagraph A, B, or C or paragraph one, which is the standard 10-year repayment plan, a graduated repayment plan or an extended repayment plan. It does not include an income driven repayment plan as one of the ones that we can choose on behalf of the borrower.

MR. BARKOWITZ: Thank you for that clarification, I appreciate it, so again, I would support with that Michaela's comment that any loan we can make eligible for this, we should and we should be creative about trying to make other loans eligible if possible.

MS. MACK: Thank you, Daniel, and thank you, Brian. Bethany.

MS. LILLY: So I want to go back to Persis's point and emphasize this, because I I think this is actually important and I appreciate understanding if the Department feels they're limited in any way in this space. But so if folks transition to a direct consolidation loan, their loans are then eligible for this. But the payments that they made previously could count is that something we can regulatorily change? Because it seems to me that that's where most people get hung up on this is that their previous payments won't count if they consolidate. Can we change that? That was my understanding of Persis's proposal. I could be

misunderstanding it. But like, if we can do that, like that seems to me to solve most of the problems here.

MS. JEFFRIES: Okay. Thank you, Bethany. It appears as though that's something that Department is going to have to get back to you on once they have some more information on it, appreciate it, Jennifer, I'm going to ask you this, I don't see any more hands for discussion and I know we had said A through D and you had walked through A and B, do you want to continue on with C and D before the temperature check?

MS. HONG: Oh, I think, yeah, I think we hit D.

MS. JEFFRIES: Oh, did we? Okay, alright, alright. So we've gone through all all four of those subsections. So let's go ahead and do a temperature check on subsection A through B in the Income Driven Repayment plans document, so I can see your thumbs. Okay, thank you. There are a number of thumbs down. I'm going to ask at this point if there is additional information that anyone who had a thumbs down, that you either haven't shared or need to share these, please raise your hands. Jeri?

MS. O'BRYAN-LOSEE: Just the fact that this is more confusing to me than the what the way things are written now, I'm trying to figure out how to talk

people through this. Yeah.

MS. JEFFRIES: Ok, thank you. David.

MR. TANDBERG: Yeah, I mean, I definitely think the 150% is just not backed by the data or research. And so we we need to move higher. I reviewed the justification that the legal aid folks included in their memo. I find it persuasive. And so I'd love to get up to one hundred, 400%. I also think there have been some other ideas that have been tossed around that I think have some potential. I I'm not at this point able to accurately understand their feasibility, though, and that the conversation has moved kind of quick on that. And so I think some additional exploration about the legal, our legal ability to make some of the innovations that have been suggested needs to be investigated. But the 150% is just I don't think that's justifiable and I think it's doing harm. And so if we do nothing else, moving that up would be a major victory for students and I can't support 150%.

MS. JEFFRIES: Okay. Thank you, David, for that, Jennifer, is there anything additional.

MS. HONG: Just I see a lot of nodding, so I'm understanding that a lot of the thumbs down or is pertinent to the 150% of the income. Discretionary income also to Jeri's point, and I

understand the concern with regarding trying to organize and communicate the rules of these plans. This is our attempt at, if you look at the current regulations, and do side by side, I do I do feel like we significantly kind of cleaned a lot of this, these issues up by definition, you know, in terms of what we need to define, what we need to consider. I realize it is it is complicated and we have to put that in words and we have to put that in regulations. So this is our this is our cut at it.

MS. JEFFRIES: Thank you, Jennifer.  
Justin?

MR. HAUSCHILD: Yeah, and I just want to make sure one of the things I agree with everything David just said, including the 150%, but I just want to make sure that it doesn't get lost in the shuffle that I think there are a number of things that Department needs to come back to us with in terms of clarification with regard to their authority to do some of the things that were asked. I don't have the full list of those. I know Bethany, I think, raised a point about payment counting and there were a number of other things I think the Department needs. I would certainly appreciate if the Department would clarify they have the authority to accomplish in what we just discussed. I just want to make

sure that didn't get lost in the very valid points about 150. Thanks.

MS. JEFFRIES: Ok, thank you, Justin. So at this point, let's go ahead, Jennifer, and walk through the next breakdown E and F.

MS. HONG: Okay, moving on to E. E is the treatment of married borrowers with regard to income. So, unless a married borrower certifies that the borrower's separated from the borrower spouse or unable to reasonably access the spouse's income the spouse's income is included in the calculation of the borrower's monthly payment amount for the tax year on the income the Secretary uses to calculate the borrower's monthly payment under the following conditions. And we flagged B and C to, for negotiators in terms of whether the new proposed, I should say the proposed ICR plan which we're calling EICR. Again, we're open to recommendations on the name there, should go under B or C, and for B, the way we treat this for IBR PAYE is if the borrowing spouse file a joint federal income tax return and for REPAYE, regardless of whether the borrower's spouse file a joint federal income tax return. And the question there is whether the proposed plan should go and or B or C? F, setting payment amounts, I'll just keep going and then we can talk about all this. Just a quick note. Again, this

has to do with also streamlining the current plans just to flag that this section F on setting payment amounts would eliminate existing rules where we round payments that are five dollars or less to zero and those that are five to ten to ten dollars. So that's an improvement that we made in this section. Also, this would replace IDR payment application rules, which currently prioritizes fees and collection costs, which we don't charge to borrowers in IDR instead of interest. So those are improvements that we made in that section. Further down on page four at the top of page four, again, okay, setting payment amounts under under four, we have a note for the REPAYE plan. Again so today, if the borrower leaves the REPAYE plan voluntarily or otherwise, try to get back into REPAYE, we calculate what the borrowers payment would have been in REPAYE for the time they weren't in repayment and then adjust the new REPAYE payment upwards. Where we found the borrower got a lower payment and can repay the total amount of the difference is amortized over the remainder of the REPAYE forgiveness clock. So we've put forward some just payments, our 10% discretionary income divided by 12. Under five for the proposed EICR plan, payments are to cut blank percentage of discretionary income divided by 12. This is where we need some discussion here. So again, we're interested in

alternate ways to address payments. For example, should we consider a marginal approach, which amounts just over the 50 zero percent zero dollar payment threshold to have a lower payment rate? We're also open to suggestions on other ways to consider targeting, which could include concrete thresholds based on actual dollar earnings not calculated, not calculating it on a marginal basis. Or any other ideas. And again, if you could frame your comments in terms of a sense of prioritization between lower payment rates, higher income exemptions, interest benefits, and forgiveness timelines. Furthermore, just feedback on whether this plan, the proposed plan, should be set as one percentage for all borrowers, regardless of income, or again, whether we should take a marginal approach that could result in a lower percentage for the lower incomes. The latter approach would look like the below, so what so whatever percentage of the portion of discretionary income that are greater than 150% of the applicable federal poverty guideline and less than or equal to blank percentage of applicable federal federal poverty guidelines divided by 12 plus whatever percentage of the portion of discretionary income that are greater than whatever percentage of the applicable federal poverty guidelines divided by 12. We could really use Raj's assistance and kind of working some of the stuff

out here on page four. Let's see, why don't we, I see a lot of hands up, that's a lot to digest, so why don't we take a pause here?

MS. JEFFRIES: Thank you, Jennifer. Bobby? And Aaron, could you stop sharing please?

MR. AYALA: I think Daniel might have had his hand up before me, I don't know if he meant to get out of line or?

MS. JEFFRIES: His hand is down, but.

MR. BARKOWITZ: Yeah thanks, Bobby, I'll go back in line.

MR. AYALA: Okay. Jennifer alluded to this at the very end, there's a whole lot to digest. I'll probably have to come back around, but I wanted to comment on the on the marriage piece. Again, there's a disincentive to get married because of their consideration of the spousal income. I can almost guarantee you there are individuals out there that are not getting married because they consider if they're in one of these plans, that their payment is going to double. And then for the rest of them, they're too much in love to even think about how getting married is going to affect their student loans. It's not like they got down on one knee and said, hey, hold on honey, before I propose, I got to check how this is going to affect my

student loan payment. So I'd like for us to consider a way to kind of rectify that and perhaps a consideration in the EICR payment could do something. Maybe we may want to consider a 5% and give those marriage folks a route to kind of address that. On another just kind of thought, and I'm not quite sure if this is allowable, but there is so much to digest in this particular section. I wonder if it may be incumbent upon this larger committee to create a subcommittee to review this in the time that we have between the this session ending in the third session beginning just kind of wanted to put that out there as well. And then I'll go ahead and stop for now because there's a whole bunch of other things I need to digest. So thank you.

MS. JEFFRIES: Thank you, Bobby.

Persis?

MS. YU: Thank you. I also wanted to start with the married borrower piece, and I circulated yesterday a memo that a bunch of us had drafted back when we were negotiating the REPAYE repayment plan. And this was initially considered to say that it is extremely important to have some avenue for married spouses to be able to separate their income. And currently under IBR, it is through, you know, folks who file their taxes separately. I I agree that the marital status does not

make a ton of sense in this day and age about what someone's actual financial expenses are. Some people who are not married are cohabitating and share, you know, household income, and some people who are married do not share their household income. And that's very real. And I think one of the particular things for the folks that I represent is that victims of of domestic violence are particularly vulnerable and need to make sure that they have an avenue through the REPAYE negotiations, we did create this check, you know, this box that you can check, but that the administration of of this, the requirement to have all spousal income has been has created a huge administrative burden for folks. For married borrowers who file separately in the other plans, they are now being required to provide their spouse's income, despite the fact that I think that there's probably no legal basis for requiring their spouse's income and it is causing a lot of recertification headaches. And as we're thinking about implementing the FUTURE Act, this is again going to cause, nearly impossible to do. So I think we need to have some, some method of allowing spouses to separate their income. I think the tax code, you know, the federal tax code, why are we the Department of Education and the IRS would treat married borrowers differently doesn't make any sense to me. It has an

avenue for folks to separate their income. There is a consequence to it. There's a financial consequence. They lose access to credits, they lose access to other benefits. So maintaining that separation through that means, I think, makes the most sense. And I think it is the most protective for the folks who need it to be able to separate their income from their spouse's. And so I encourage folks to take a look at that memo. Some of the some of the numbers are now out of date. But I think importantly, it's very important to have that option available for spouses and to not create this weird, wonky system that we created that's causing borrowers a lot of problems.

MS. JEFFRIES: Thank you, Persis. I just want to make note before the next speaker that John Whitelaw has come to the table in place of Bethany Lilly for individuals with disabilities or groups representing them. Marjorie, you are next.

DR. DORIME-WILLIAMS: Thank you, Cindy. So definitely plus one to Bobby and Persis. Thank you. And the other point, and maybe this is a question. So it's not clear to me why we would count spouse's income, but not their student loan debt. And so we're basically double charging married couples because they're married. So that doesn't make any sense. So my proposal

would be if we're dealing with spouses who both have student loans, then any calculation should take into account both of their loans and not penalize them because of their income. And we do it in so section 2 (B), that does happen in some cases, so the proposal that I have is that we simply for all spouse borrower's that we're considering the fact that they both might have student loans, that they're paying off for the household.

MS. JEFFRIES: Thank you, Marjorie. Carol? I should note that Carol is in for proprietary schools in place of Jessica.

DR. COLVIN: Thank you. Back to both Persis's and Marjorie's points with concern on counting spousal income. It isn't consistent amongst the different types of repayment options, and where I'm concerned is the communication to student borrowers when they are choosing different repayment plans, making sure that they understand the consequences of the different repayment plans and whether or not their spouse's income is taken into account before they choose those plans so that they can better understand the negative consequences. If that's the case in that situation, and also concerns over requesting student feedback to dispute conflicting marital status based on tax filing status. It's not always reasonable for low-income borrowers to expect them

to update that in a timely manner within a certain time frame, especially when their housing situation has changed or there may be extreme housing instability at that time. Which wouldn't allow for them to address that discrepancy before they fall into extreme financial duress. And also the ability to contact students during that time frame tends to really be an issue for low income borrowers. So I would ask that that be considered when taking into consideration, including spousal income.

MS. JEFFRIES: Thank you, Carol.

Jennifer I see you're off mute.

MS. HONG: Yeah, just real quick quickly to Marjorie's question, you know, under 2, I'm sorry 2 (A) to the extent that the spousal, spouse's income is included. It's always a loan debt to answer your question. And what I'm hearing, and please correct me if I'm wrong, is the general discussion is leaning toward (B) in terms of, you know, filing a joint spousal in terms for the inclusion of the proposed plan. Let me know if I'm not hearing that.

MS. JEFFRIES: Thank you, Jennifer.

Persis?

MS. YU: Thank you. I'd like to also talk about the setting the payment amount section as well. And so I I appreciate the various different options

I think for from our sense, the biggest priority for the legal aid community is protecting the largest portion of income. I think that has the biggest impact for the lowest income borrowers. And so however we can do that, I think, is it would be important and I definitely look to Raj's modeling to see how we can do that and if we can look to see more really about real world data. And you know what borrowers' real financial circumstances are, I think that would help inform this conversation. The other piece I want to say is, I think that this is also an opportunity for us to be a little bit more creative on how we define what the payment amount is. And I think back to our conversation about interest capitalization and how deferments, for example, are statutorily required to capitalize interest, but Income Contingent Repayment is not statutorily required to capitalize interest. And so one of the things that I would like to propose is that we actually create new, different ways of determining payments so that if anyone qualifies, for example, for one of the deferments, we actually just presumed that they have an income content or EICR or whatever we're calling this payment plan payment amount of zero. And I think we could do that for more than just the existing deferments. I think we could create new deferments. For example, we have the cancer deferment, which I think is

very important, but why not other medical categories as well? So I think that this is a way that we could be more creative in determining the repayment amount. And I actually do have some regulatory proposed regulatory text that I can drop in the chat on a really simple way to at least capture the existing deferment plans and giving them an automatic zero-dollar payment amount, which has the benefit that then they count towards cancelation. They don't have to have their interest capitalized. So that is my proposal for your consideration.

MS. JEFFRIES: Thank you, Persis, you read my mind. I was going to ask you if you were going to put forth some red text, so I appreciate that. John?

MR. WHITELAW: Just a couple of brief points, I think for most of the people on today, this will will be they will understand this, but I do think it's important to note that the so-called poverty guidelines have got actually very little to do with real poverty. And so because I think there's a perception among certain populations, perhaps outside of this call that if you are above the poverty line, you're not poor. And I think it's important to understand that just because you are poor and I know most people on this call understand this, but I do think it's worth mentioning all the time. And I think continued use of the word poverty

guidelines does imply that if you're at 200% or 300%, oh my, you can't be poor because you're at three times the poverty level. And I just think it's always important for us to remember. But that is absolutely false, that the poverty, the poverty level is destitution for any family size. And I think just because you're above it, we should understand that that is not a real world number. The poverty guideline is not about poverty, it's a number that is set in an arcane way that does not reflect actual poverty. So I think that's just an important consideration for us to keep in mind as we work through this. And then just one other quick point, Persis noted that marriage is a very poor proxy for fact per households in terms of what's going on. But I think in the mirror, that was something that Jennifer has said on numerous times, I don't think there's any interest in actually delving into the household to look beyond that. So it seems to me the better rule is to, where possible, disregard marriage as opposed because it's such a poor proxy as opposed to because because of the consequences of it, as opposed to trying to dig into the actual household components, because that would just be a way too burdensome and intrusive. So having said those things, I will now be done.

MS. JEFFRIES: Thank you, John.

Daniel, your hand is up.

MR. BARKOWITZ: Yeah, thank you. I've raised and lowered it like five times already. The issue that I just wanted to center in regard to what John said specifically around the marriage issue is what always struck me as unusual in this regard is that if and when a student passes away, which hopefully, or borrower passes away, which hopefully does not happen during their loan repayment. But as we're extending repayment periods, it's possible the debt is not an obligation of the spouse. So the debt is canceled as a result of the student passing away or the borrower passing away. So it doesn't make sense to me is why then we would base the repayment amount on the spouse's income. Where the obligation is not jointly to take it on there is no liability for the estate or, as I understand it, for the for the the surviving spouse. The fact that we would then assume that the spouse would have liability from an income basis doesn't really make sense to me. So in as much as that's helpful, I'll add that I did put that in the chat as well.

MS. JEFFRIES: Thank you for that, Daniel. Michaela.

MS. MARTIN: So for these sections, we're talking about one the payment, but also one of the

questions that was posed by the Department of Education was a sense of prioritization. And so I have kind of two questions on those kind of lines. One, I am very, very seriously proposing 10 years to forgiveness on this plan. Like, I'm not that's not like just and I don't think that that's totally absurd, right? You mentioned like it was mentioned about the 10-year standard plan, right? But, that 10 years to debt relief for pursuing an education shouldn't be just limited to wealthy people, right? Like we're we're literally conditioned as children to believe that if you don't go to college, then you can't do anything like I dropped out of high school and I worked really, really hard to get to where I am now in law school. And sometimes I wonder if I was just sold, you know, more than a hundred thousand dollars' worth of debt for what so that I can be paying it back for the next twenty five years so I can be paying it for the rest of my life when my son goes to college and I take out more debt. I think that it's really, really important to lower these forgiveness standards. I also think that 10 years is reasonable. I know that PSLF is also 10 years. I was actually listening last night, four hours to the floor hearings from 2007 when they passed this bill. I needed to know what they were talking about was that that this the PSLF, I know that's not what we're talking about

right now, but I think it's important to mention since I am very seriously about proposing 10 years, that PSLF was supposed to be a Republican Senator from Wisconsin, said a thank you from a grateful nation for your service, right? It wasn't supposed to be about bailing people out of unreasonable student debt. It was about helping folks, especially middle-class folks, be able to go into public service when they could go to the private sector. Right? It was about acknowledging that they could make more money elsewhere and that this is, you know, within kind of that middle class that might not otherwise qualify for other relief. So my my overall question is, what is the intention with this plan? Are we trying to help the lowest of income folks? Or are we trying to look at something that can create broad relief? And I think that's important when we're talking about what the payment is-

MR. TOTONCHI: Thirty seconds.

MS. MARTIN: the pressure points so that we can actually find out what is reasonable and possible under this plan, or if we should target this as low-income folks. And then maybe also look at the timelines on the other plans and lessen those.

MS. JEFFRIES: Thank you, Michaela. Okay. I don't see any additional hands. So, Jennifer, if

you have what you need to go ahead and take the temperature, check on the sections E and F only.

MS. HONG: Sure. And, well, I see Persis, was going to frame this a little bit better. But go ahead, Persis.

MS. YU: Yeah, maybe you're about to get to this. I'm just confused. It seems like most of the things in this section are TK how we can do a temperature check on it.

MS. HONG: So a lot said here in this section on income, spousal income, and setting payment amounts. What I'm hearing about the spousal income, short of, not considering it at all, given what is written here, I'm understanding the preference to be less restrictive and B is a less restrictive option under income. If I'm hearing that correctly? Also for setting payment amounts, what I'm hearing is more of a marginal approach versus concrete threshold than protecting the largest amount of income for borrowers, generally. So, but yes, most of the stuff here is TK, but if I'm correct, if we could take a temperature or a temperature check, at least on the leaning towards in the options that are provided, the leaning towards B rather than C for income, for spousal income. And then we still have a TK on five for the ICR plan. So let's just if I'm just

please correct me if I'm wrong in terms of what I'm hearing in terms of more of a marginal approach rather than a concrete threshold. And maybe I'm over stating right now and then we can take if that is the case and we can take a temperature on just those general concepts. Also, to Michaela's point, yeah, I mean, I think I think the idea here is, you know, we are trying to get to those lower income, lower balance borrowers that seem to end up in default and delinquency despite the existence of these plans. So I'll stop there and I see your hand up.

MS. MARTIN: Yeah, I want to also just touch on default, not in the problem solving the way that Persis is, but just, you know, we want to address how folks are ending up in default. And I think really a broader issues that we lack market participation. You have like a couple of generations of folks now that don't see this debt is ever going away. And so there's no reason to continue either to like make sure that you're recertifying every year because either way, it's just going to get garnished or taken like we currently have a student loan debt crisis. Like, it's bad enough that we have like comedies on late night shows, right? Like it's literally a joke like how bad this is. And so I think that we have to look at how we're structuring a system and not tweaking a program. Right, and I think that the

only way to do that is to acknowledge what we're targeting with this program and how we can make the other programs work better.

MS. JEFFRIES: Thank you, Michaela. Persis, did Jennifer's explanation of what the temperature checks B help you?

MS. YU: Yes that was helpful, thank you.

MS. JEFFRIES: Okay, so with that, let's go ahead and take that temperature check as Jennifer had outlined it. Can we see your thumbs? Okay, thank you. I see a couple of thumbs down. Is there anything that you need to share with the Department as to why your thumb was down and what what ideas you have that haven't already been shared to make a difference for you? Anybody? Dixie?

MS. SAMANIEGO: I just had a question, I was, it's a question that popped into my head, I'm sorry, I can wait.

MS. JEFFRIES: Oh, okay. Alright, Jennifer, you good on this one?

MS. HONG: So I I have trouble seeing I saw Marjorie's thumb down. Is there any anything that we can?

DR. DORIME-WILLIAMS: I didn't have

anything new to add beyond what was already discussed and shared.

MS. JEFFRIES: Okay. Alright. Dixie, we're about to move into the next sections of G through J. Did you want to speak before that or?

MS. SAMANIEGO: Yeah, just mainly a question for Jennifer and the Department. How do you define low income? Because the first question I I talked about, including a regional acknowledgment that like thirty thousand in one area is not the same as and another, right? So like to be poor in Orange County is very different than in another area of the country and to the Department has failed to just even acknowledge that in the sense of in the text, even from the first session. And I think I made a point then and a lot of other negotiators did, too. And so I'm still confused as to what the Department defines as low income, because if we use a federal like the federal poverty guidelines, right, that threshold, right, that's protected and stuff like that, if we use that definition, like John just said, you were still poor, you are still poor, no matter like, right, you are still incredibly poor. But also there needs to be at least acknowledgment, but also an understanding of the way folks live across the nation. And so the Department I just I need the Department to

answer that because I've been trying to and I've been thinking about it for a while, like in this entire conversation, trying to think about how the Department defines it. And so it would be incredibly helpful to define that because for me I am poor. I am very low income, very low income, and I know other folks with the same household income as me, like would definitely not be considered poor in other areas, right? And so there needs to be acknowledgment of that. And also we have to then be like, okay, so if we consider if we define this as low income, as poor, et cetera, then how are we accurately and just accurately providing relief for these folks, for folks who are poor, folks who are low income? So if if the Department can answer that or if there's a working definition that the department has, please drop it in the chat.

MS. HONG: Thank you, Dixie. I think this is this is why this is so challenging. We are relying on poverty guidelines and we have proposed 150%. I understand from the discussion of income protection, I understand from the discussion that there's an interest in seeing that number increased. We're also open to how much of the share share of the income percentage of the income we should borrowers should pay on this plan. So those are all open questions. But your point is

absolutely, I think, getting to the crux of this matter. We're really interested in those borrowers that are that were that are losing out, that are falling into delinquency and trying to find a way to capture them in these plans and prevent that from happening. I don't know if that answers your question, but this is relying on existing poverty guidelines.

MS. SAMANIEGO: No. Yeah, it really doesn't answer my question. But the 150% covered in the federal poverty lines, as I think we've made very clear, doesn't even cover childcare, doesn't even cover rent, right? And especially in cities like or in areas like Orange County, Los Angeles, San Francisco, the Bay, overall, the Bay Area, New York City, right, D.C., the DMV that that's not covering rent, that's not covering child care, that's not covering transportation, that's not covering so many other things and also the added costs that the pandemic has brought on to people. Right. And so what they answer, just your answer, just, I think, disappointed me more, mainly because I don't think that Department has been able to in the three weeks before in the three weeks in between the first session and the second session. I don't think thought about it. So yeah, it's disappointing, but. And yeah, so I am out here supporting Persis's point 400% should be protected

because the 150 doesn't wouldn't even cover the childcare costs for the average parent, so, yeah.

MS. JEFFRIES: Thank you, Dixie. John, and then we're going to move on.

MR. WHITELOW: Just want to pose a question to Jennifer, she has said we use the poverty rates, but is that required? I know in lots of other areas the government doesn't necessarily use national rates, but I think what Dixie is saying is look different parts of the country, urban, rural poverty, what puts you at, what puts you at risk, changes depending on what part of the country and what shelter costs might be. Does it have to be a national standard? And I realize I'm just saying this out loud. I haven't thought through the entirety of this, but there's lots of data about regional living expenses. There's lots of data about poverty. What's what's a living income depending on where you live? And the federal government does in fact use, for example, just on per diem rates that they reimburse their own employees when they travel is not a national standard. It's based upon where you travel to. So I'm curious, and I realize it wouldn't necessarily be the simplest way to deal with it. But it seems to me, if there are two choices, right, I would suggest is you either pick a rate that's high enough to cover the cost

of the person in the highest, and I'm going to use Dixie for this just because we're Dixie lives, in which case that's fine. And then everybody else is going to be covered. Or you've got to figure out a way that because if you pick a number that's too low, there's going to be a whole lot, a bunch of folks who live in high-cost areas who are going to essentially not be protected. So, I just wanted to raise that as a sort of in response to what Dixie said in response to your answer to Dixie. So being done, I'm done. Thank you.

MS. JEFFRIES: Thank you, John. Okay, Bobby?

MR. AYALA: Just really quickly, I kind of want to mesh what John just mentioned, and maybe we can try and keep it as simple as possible and also what Persis brought up earlier. And so, in the question I have for Jennifer is this EICR plan, can we just completely knock it out of the park in terms of benefiting the borrower in terms of the threshold or percentage of discretionary income and as well as the percentage of, you know, that was proposed earlier by Persis? Can we just have one knockout plan that may be extended, you know, if it needs to be out over 10 years, but also it provides an avenue for those, those people that are that need to be in PSLF, right? So they can kind

of go in that way and they'll have their loans forgiven in 10 years. So I just kind of wanted to bring that up. And maybe that's the way that we kind of address all of this is by having one knock it out of the park plan. Can we knock it out of the park?

MS. JEFFRIES: Thank you.

MS. HONG: I'll second that goal, Bobby. I think as we get into these discussions, we're, you know, it's it's complicated, but we're we're having the conversation. And I think about these very complex issues concerning repayment with borrowers need, what the pain points are. And so I mean, we're behind you in concept and trying to get there.

MR. AYALA: So, so in section three, we are just going to be completely knocked out by this EICR plan, is what you're saying, right? And none of us will have a comment like this is the one right here, this is the one, right?

MS. HONG: It's what I'm hoping.

MS. JEFFRIES: Okay with that.

Jennifer, are you ready to walk through (g) through (j) before we break for lunch?

MS. HONG: Yes. So I just, I guess, you know, a big, big piece of this before we move on under (g) is just how we're thinking about payments and

setting payment amounts, so. You know, we talked about this kind of marginal approach. I just I think that's that's a huge point that we need to think about more. So if you could just, you know, just keep chewing on that piece. And we are currently doing the same. There isn't a... (g), (h), (i), and (j) is basically, again, just streamlining those sections. There is a note under (i) about changing repayment plans. They've simplified this section. Again, and I think to Jeri's point, it may have been useful to kind of hold up the current regulations. You guys can hold those up just to see you can do a comparison right away. This is far shorter and I didn't, in the temperature check I didn't go back and flag those areas that we've improved upon in terms of the existing plans and technical language associated with those plans. So, this is another piece right here. And that's, you know, eliminating the complexity around IBR today related to leaving IBR for standard and then only being able to leave for another plan if you make the payment or enter reduce payment forbearance of five dollars and paying that amount. So that section (i) simplifies that piece. The interest cap again, is, you know, incorporates the proposed interest cap eliminating interest cap where we can for for those that are non-statutory, that's incorporated there. So. So there isn't a whole lot there.

But if you could look at the language and we could take after people have comments and questions, I see Persis's hand's up on that issue, so I'll go on mute.

MS. JEFFRIES: Okay, Persis?

MS. YU: Thank you. I very much appreciate both the elimination of interest capitalization, as I've said many times before. I also appreciate the intent of providing an interest subsidy for borrowers where the payment is scheduled to be zero. I think we can go further than that and any time that there is unpaid, unpaid interest can be subsidized, right? So I mean, I think absolutely \$0 for for the clients that I represent most, almost all of whom have \$0 payments, the interest growth is just a big barrier and they see their balances grow and they kind of wonder what they're doing here. But I think but it's still true for folks who have you know smaller, you know, 10 15 dollar payments where they're not touching principal at all, they still have this interest growth. So I think a better approach would be to say that we need to subsidize any unpaid interest, right? So if we have borrowers who do have incomes that are high enough that their payments are covering the entire interest amount and touching principal then than we, we should can continue to charge those borrowers interest. But for the lowest income

borrowers, I think that this would be a a it would eliminate the cliff of this zero, you have no interest, but like the ten dollar payment you do right, just any unpaid interest should be subsidized, in my opinion. I also think just for the purposes of creating the plan to beat all plans, you need to carry over the three-year interest subsidy just for the purposes so that we can phase out the other plans as I understand the idea of making them more generous. I'm not necessarily philosophically tied to that, but I think it's important as we are approaching simplification. But yes, I'm happy to also draft some language of what it would look like to subsidize any unpaid interest if that's of interest to you?

MS. JEFFRIES: Okay, thank you, Persis. Joe?

MR. SANDERS: Yeah, I would just second what Persis said about carrying over the, at a minimum carrying over the three year subsidy and you know, maybe I'm missing something basic here, but is there a reason that it has to be capped at three years? Can we do more?

MS. JEFFRIES: It looks like they'll, you know, if you want to put that question in a chat Joe? They'll get back to you. Thank you. Michaela?

MS. MARTIN: I just want to go with what Joe is asking for the percentage and point out that this is another time where we don't have an understanding of what our cost-benefit analysis is on all of these choices, and so it makes it very difficult to make us to allow us to have informed conversation about where we're willing and what we're prioritizing because we're just throwing out mystery suggestions.

MS. JEFFRIES: Okay. Seeing no further hands. Jennifer, are you good on this for right now and we'll pick it up after lunch?

MS. HONG: Yeah we could do that.

MS. JEFFRIES: Okay. It's my understanding that Josh is substituting in for Persis and wants to make a comment.

MR. ROVENGER: Yeah, thank you. I didn't want to eat up into the substantive for this just how important the IDR conversation is, but I did want to flag that I share the concern that David raised the other day that we are really limited on time not only for the remainder of the conversations that we need to have today, including on false certification, which is really a critical issue for our client base. But the more general concern that there are a lot of open questions that it just feels really cramped to try and get answered

and resolve everything with only one additional session left. So, I understand the Department's position that it doesn't want to add or cannot add additional session days. But I also, from the protocols, understand that any negotiator can call for a caucus at any time that the protocols don't limit the caucus as occurring within the session time that a negotiator can set who is to join the caucus and that the negotiator can set the agenda for the caucus. And so I just wanted to flag my intent now so that people can look at their calendars to call for a caucus to occur after the public comment session ends today. At some point between today and session three to include the Department negotiator and any other negotiators who would like to join to both discuss any issue where we aren't, that we don't resolve on the agenda for today and to circle back to some of the issues where I think a lot of us feel like more discussion is needed.

MS. JEFFRIES: Okay, thanks, Josh.

David?

MR. TANDBERG: I support that completely. I would say people are if it's too much of a struggle to work our calendars to add days between two and three. I would also support adding days after three in an official negotiation table capacity rather than a

caucus, either is is is good with me. I don't know that the, that we discussed, adding, I had proposed adding days, I don't think the Department responded, adding days, I think they responded to my other proposal of adding hours. But either way, I support either the caucus proposal by Josh between two and three or adding days after three and officially extending our negotiations.

MS. JEFFRIES: Alright, thank you. Jennifer, see you're off mute.

MS. HONG: Real quickly, so we wouldn't be able to extend officially, that would seriously jeopardize our ability to publish anything timely. Remember, we have a pending table and negotiations starting in the new year. To the extent allowable under the protocols, it would be amenable to Josh's suggestion on caucusing.

MS. JEFFRIES: Thank you, Jennifer. With that, we are at your lunchtime hour, so we will see everyone back here at 1:00 Eastern time and pick back up on the Income Driven Repayment plan. Have a great lunch.

**Appendix**  
**Department of Education**  
**Office of Postsecondary Education**  
**Zoom Chat Transcript**  
**Affordability and Student Loans Committee**  
**Session 2, Day 5, Morning, November 5, 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 Brady Roberts to Everyone:

Issue 9 - Pre-Dispute Arbitration

A-D

E-F

G-J

K

L

From Joe; P, State AGs to Everyone:

Congrats on the move, Persis!

From Joe; P, State AGs to Everyone:

What a week to do it.

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

Thanks Joe!

From Jessica (P), Proprietary Schools to Everyone:

Carol is subbing in today for me.

From Dixie (P) Dependent Students (ella/she) to Everyone:

FriYAY indeed :D

From Brady Roberts to Everyone:

Morning all! I'll be on tech today so feel free to message me or email broberts@fmcs.gov with any questions or issues.

From Jaye (P) - FFEL agencies to Everyone:

26 degrees this AM!

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

And I thought 43 in DC was bad!

From Rachelle (A) Four Yr Publics to Everyone:

39 in Chapel Hill. Brrrr

From Dixie (P) Dependent Students (ella/she) to Everyone:

And I thought 55 degrees this morning was bad...

From Rachelle (A) Four Yr Publics to Everyone:

Cold for So Cal Dixie!

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

I was going to say, 55 in SoCal is cold!

From Michaela Martin to Everyone:

Except it's 7am here rn Christina

From Christina, she/her (A) 2-year Public to Everyone:

= )

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

37 here in Missou-rah

From Bobby (P) Two Year Public Colleges to Everyone:

An awesome 65 in Uvalde, TX

From Michaela Martin to Everyone:

Daniel - neither from what I am understanding it operationalizing that = 'administrative burden'

From Alyssa (A) Fin Aid Admins to Everyone:

Broken record over here, sorry, but I must mention SOCs again. We accept employer verification of time 'served' why can't we accept employer verification of

SOC?

From Marjorie (P), Four Yr Publics (she/her) to  
Everyone:

Can we use these codes in combination with existing  
practices?

From Marjorie (P), Four Yr Publics (she/her) to  
Everyone:

Put otherwise, can we create a system with a  
combination of methods including based on employment  
or the role of employee?

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

There are some suggestions of way to administer this  
idea in this document which Suzanne introduced earlier  
this week: [https://protectborrowers.org/wp-  
content/uploads/2021/10/2021.10.29-Neg-Reg-Memo-re-  
Fixing-PSLF.pdf](https://protectborrowers.org/wp-content/uploads/2021/10/2021.10.29-Neg-Reg-Memo-re-Fixing-PSLF.pdf)

From Alyssa (A) Fin Aid Admins to Everyone:

There are gaps to every solution. It would provide an  
avenue for many who should qualify.

From Michaela Martin to Everyone:

Without a "disinterested" moderator there is an  
imbalanced power dynamic

From Michaela Martin to Everyone:

Stan is in for Ind Students

From Dixie (P) Dependent Students (ella/she) to  
Everyone:

Would like to just drop into the chat that I think  
FMCS facilitation would be most helpful for the Prison  
Ed Subcommittee. I think it'll be productive for the  
subcommittee to have a neutral/"disinterested" party.

So strongly supporting Stan and his request for facilitation.

From Stan (A) Ind. Students to Everyone:

ok. I think it's all good at this point.

From Rachelle (A) Four Yr Publics to Everyone:

Can you not allow any new students into other plans

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

Right, and phase out these in the meantime.

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

We do "teach out" of existing programs all the time. Could we expire the old plans to new applicants?

From Suzanne Martindale (A) state regulators to Everyone:

I reiterate my data request for # of borrowers enrolled in each of the current plans, and repayment/delinquency rates

From Michaela Martin to Everyone:

For the record Dr. Stan's comment about being all good was meant to be a private chat and not a response to the need for a moderator

From Michaela Martin to Everyone:

I am returning to the table

From Stan (A) Ind. Students to Everyone:

yes. thank you Michaela.

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

Suzanne -- if I understand your request, some of that information is included here:

<https://studentaid.gov/data-center/student/portfolio>

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

Agree with Justin. This is what I wanted to say...

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

+1 Justin on consolidation of plans

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

+1 Justin

From Suzanne Martindale (A) state regulators to Everyone:

Thanks Raj. It would also be helpful to get more granular detail on repayment status - i.e., in repayment and paying down principal, in repayment and negatively amortizing, in repayment and in forbearance, etc...

From Justin (P) Service Members/Veterans to Everyone:

+1 Bethany; It was my understanding that there were only statutory barriers to consolidating some of the plans, not all.

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

Thanks Suzanne, yes understood. That information would need to come directly from ED.

From Jen (she/ella): (A) Student Borrower to Everyone:

+ 1 Bethany

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

+1 Bethany

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

Not directly applicable to Bethany's comment about specific costs like child care, but the poverty line does increase with household size

From Bobby (P) Two Year Public Colleges to Everyone:

+1 to Bethany, Daniel, and Justin. If There is an opportunity for us to streamline and lean into the experiences of those that need the most help, as well as an avenue to benefit PSLF borrows, support +!

From Heather - PSLF Advisor to Everyone:

+1 persis on make this plan the best

From Joe; P, State AGs to Everyone:

+1 Persis. This plan should be the clear best IDR option

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

YES! +1 Persis

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

+1 Persis

From Bobby (P) Two Year Public Colleges to Everyone:

+1! Persis. Make it the BEST plan

From Jeri (P) Student Borrower (she/her) to Everyone:

+1 Persis

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

Looking at the data Raj referred to, 42% are on the standard level plan.

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1 Persis

From Justin (P) Service Members/Veterans to Everyone:  
+1 Persis

From Daniel (P) - Fin Aid Admin (he/him) to Everyone:  
7% are on the longer than 10 year standard plan.

From Daniel (P) - Fin Aid Admin (he/him) to Everyone:  
(these are for DL borrowers)

From Daniel (P) - Fin Aid Admin (he/him) to Everyone:  
If we change the standard plan as I suggested earlier (yesterday) to an income-contingent plan, that will be the default plan and more people will be in the standard plan.

From Jen (she/ella): (A) Student Borrower to Everyone:  
+ 1 Persis!

From Bethany (P) Disability (she/hers) to Everyone:  
+1 to Persis' 400% proposal

From Bethany (P) Disability (she/hers) to Everyone:  
It's so much easier for the Department, but gets at my concerns re: child care and housing costs

From John S. Whitelaw (he/his) (A-Disability) to Everyone:  
And to provide concrete numbers for the poverty guidelines. 100% of poverty is less than \$1,100 per month for a one person family. My point is that 300% of poverty may sound like a lot. It isn't. It is less than \$40,000 per year.

From Bobby (P) Two Year Public Colleges to Everyone:  
400% and 5% calculation for payment!

From Jeri (P) Student Borrower (she/her) to Everyone:

+1 Joe, auto recert.

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

Lol! Wrong use of romanette... :)

From Justin (P) Service Members/Veterans to Everyone:

+1 Joe

From Suzanne Martindale (A) state regulators to Everyone:

+1 joe. During REPAYE negotiations in 2015, ED reported that 57% of borrowers on IDR plans did not recert on time. Has that improved since?

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

+1 Joe

From Carol (A) Proprietary Inst. to Everyone:

+1 Joe

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

+1 Joe

From Joe; P, State AGs to Everyone:

Thank you for the information on the IRS consent, Brian.

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

Suzanne's request re: more granular detail on repayment status would help here

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

To support David's comment: measures of wealth are undoubtedly important, but are very difficult to observe and collect systematically

From Marjorie (P), Four Yr Publics (she/her) to

Everyone:

+10000 Jeri

From Suzanne Martindale (A) state regulators to  
Everyone:

+1 jeri, no interest capitalization when switching to  
the new plan

From Jeri (P) Student Borrower (she/her) to Everyone:

^ thanks Suzanne - that too!

From Carol (A) Proprietary Inst. to Everyone:

+1 Daniel with a cap on the monthly payment at the  
standard repayment rate now as it exists

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

Raj and other - Any research that could help us pick  
an appropriate % of poverty threshold? I'm struggling  
to go from wealth and/or discretionary income to % of  
poverty thresholds.

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

RE: comments on the outstanding loan portfolio. Keep  
in mind that is on outstanding debt, not new  
borrowers. So there are different considerations for  
existing borrowers switching plans versus default  
plans for new borrowers

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

+1 Daniel

From Bobby (P) Two Year Public Colleges to Everyone:

+1 Daniel

From Marjorie (P), Four Yr Publics (she/her) to  
Everyone:

+1 Daniel all loans should be eligible

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

ALL loans should be eligible.

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

PLUS or not.

From Bobby (P) Two Year Public Colleges to Everyone:

Back to Persis Point, Make this new plan the BEST plan

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

<https://www.marketwatch.com/story/i-cant-imagine-the-day-when-im-not-paying-black-women-are-being-crushed-by-the-student-debt-crisis-and-demanding-action-11635948623>

From Suzanne Martindale (A) state regulators to Everyone:

+1 persis

From Jeri (P) Student Borrower (she/her) to Everyone:

+1 Persis!!!!

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1 Persis

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

+1 Persis

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

+1 Persis

From Alyssa (A) Fin Aid Admins to Everyone:

+1 Persis. Let's all remember that income is not a factor for consideration of eligibility. Allowing for IDR must be inherent to this program.

From Joe; P, State AGs to Everyone:

+1 on lack of options for Parent PLUS loans. We get a lot of consumer complaints on this issue.

From Heather - PSLF Advisor to Everyone:

PLUS

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

RE: Persis' comment: I encourage you to read the document "Race, racism, and student loans" that Dominique Baker prepared for the committee and that I circulated yesterday with the IDR presentation. It includes additional information and research on this point  
11:05:01 From Marjorie (P), Four Yr Publics (she/her) to Everyone:

Yes, Dr. Baker's work on this issue is widely recognized in postsecondary ed

From Rachelle (A) Four Yr Publics to Everyone:

+1 Marjorie

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

150% is too low for discretionary income

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

+1 Persis

From Bobby (P) Two Year Public Colleges to Everyone:

No additional information, would like to see how the EICR plan shapes up and consideration for a more streamlined, less options, etc..

From Suzanne Martindale (A) state regulators to

Everyone:

+1 persis

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

+1 Persis | Discretionary income

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

+150% to Persis

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

150% FPL is extremely low:

<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references/2021-poverty-guidelines>

From Justin (P) Service Members/Veterans to Everyone:

+1 David

From Joe; P, State AGs to Everyone:

+1 on need to raise 150%

From Jen (she/ella): (A) Student Borrower to Everyone:

Only because they are slightly less confusing in comparison they can be improved because we need students to understand the language too.

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

Yes, kudos to the Department for how much they have already improved the program in their proposed language. Now let's keep improving it.

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

+1 justin

From Dixie (P) Dependent Students (ella/she) to

Everyone:

Language clarification + better information for providers about this as well

From John S. Whitelaw (he/his) (A-Disability) to Everyone:

I will be coming in for Bethany at 11.30. She should be back for the afternoon session.

From Michaela Martin to Everyone:

Just checking: The first temp check was just for what loans to include right? Now we are talking percentages?

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

+1 Bobby

From Christina, she/her (A) 2-year Public to Everyone:

+1 Bobby on marriage penalty

From Joe; P, State AGs to Everyone:

+1 Bobby

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

+ Bobby

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

+1 Bobby

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

And I'm going to swap with John now. Thanks!

From Joe; P, State AGs to Everyone:

Marriage is a major disincentive to enrollment in IDR. We get that question from borrowers all the time

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

Also loan debt at death of the borrower does not accrue to the spouse. The loan is not "owned" by the spouse, so the income should not be included.

From Kayla - FMCS to Everyone:

Thank you Bethany. John, please come on camera to join the main table.

From Heather - PSLF Advisor to Everyone:

We do count student loan debt for married borrowers filing jointly

From Kayla - FMCS to Everyone:

Michaela, the first temperature check covered 685.209, (a), (b), (c) and (d). We are now discussing (e) and (f).

From Heather - PSLF Advisor to Everyone:

Married borrowers in REPAYE or in other IDR plans who file joint tax returns have a monthly payment amount based on joint income. That "joint" monthly payment is distributed across the spouse's loans on a pro rated basis according to each spouse's relative loan balance.

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

Thanks Heather.

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

(1) A Direct Subsidized Loan or Direct Subsidized Consolidation Loan borrower who meets the requirements described in paragraphs (b), (d), (e), (f), (g), (h), (i), or (j) of § 685.204 shall have a \$0 payment under this section.

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

+100000 John

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

Thanks for setting this understanding, John!

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1 John

From Greg, A Dependent to Everyone:

+11111

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

+1 John

From Carol (A) Proprietary Inst. to Everyone:

+1 John

From Jen (she/ella): (A) Student Borrower to Everyone:

+1 Michaela

From Heather - PSLF Advisor to Everyone:

+1 Michaela

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1 Michaela

From Marjorie (P), Four Yr Publics (she/her) to Everyone:

+1 Michaela

From Greg, A Dependent to Everyone:

+1111

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

GREAT point Michaela!

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

+1

From Greg, A Dependent to Everyone:

preach

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1100000000000000

From Dixie (P) Dependent Students (ella/she) to Everyone:

The 150% forces folks to choose between food and rent, insurance or student loan payments, food or childcare etc. Including an understanding a regional guideline for poverty and including that in the definition of low income will include more protection for the folks the ED wants to target.

From Michaela Martin to Everyone:

I like that John. There's the generous way or the complicated way

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

HUD standards are regional.

From Dixie (P) Dependent Students (ella/she) to Everyone:

I apologize for taking us off track it took me a while to gather my thoughts LOL

From Brady FMCS to Everyone:

Does someone maybe have the livestream up? That might

explain the echo!

From Suzanne Martindale (A) state regulators to  
Everyone:

+1 persis, interest capitalization creates long-term  
risk

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

AMEN!

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

+1000000 to Persis.

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

And I will lower my hand.

From Heather - PSLF Advisor to Everyone:

+persis

From John S. Whitelaw (he/his) (A-Disability) to  
Everyone:

+1 to Persis

From Justin (P) Service Members/Veterans to Everyone:

+1 to Persis naming convention: plan to beat all plans

From Joe; P, State AGs to Everyone:

IS there a reason that interest subsidies can only be  
three years?

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

+1 Persis

From Joe; P, State AGs to Everyone:

Subsidizing interest for longer would be a step toward  
making EICR the clear best in field IDR plan

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

josh would like to come to the table

From Joe; P, State AGs to Everyone:

Let's hit it out of the park, as Bobby suggest

From Joe; P, State AGs to Everyone:

+1 one on time limits constraining what we can do here

From Justin (P) Service Members/Veterans to Everyone:

+1 Josh

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1 Josh

From Jen (she/ella): (A) Student Borrower to Everyone:

+ Josh

From Heather - PSLF Advisor to Everyone:

+1 Josh

From Suzanne Martindale (A) state regulators to Everyone:

+1 josh, we also have a lot of outstanding data requests

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

+1 Josh

From Bobby (P) Two Year Public Colleges to Everyone:

+1 Josh

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

+1

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

+1 Josh

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

+1 Josh