

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
NEGOTIATED RULEMAKING PROGRAM INTEGRITY AND  
INSTITUTIONAL QUALITY  
SESSION 1, DAY 3, AFTERNOON  
JANUARY 10, 2024

On the 10th day of January, 2024, the following meeting was held virtually, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MS. JEFFRIES: Okay. Welcome back. I trust that everyone had a nice break and had a chance to get a little nourishment. I'm Cindy Jeffries, I'm going to be the facilitator this afternoon. So we're going to start this off with opening up for last minute discussions, thoughts, ideas that you had on R2T4 before moving into accreditation. With that, we can open up the floor. Okay, well you're all kind of quiet after lunch, so we will move to accreditation. We will be joined for that discussion with Mr. Herman Bounds as the lead negotiator for the Department, assisted by Donna Mangold from OGC. Anything either one of you want to say?

MR. BOUNDS: I'd like to say good afternoon and I look forward to working through all of the accreditation topics with everyone.

MS. JEFFRIES: Great. So, the plan for this afternoon, for right now, is to take the issue paper itself, go through it section by section, in some cases under some of the sections, there are questions that the Department has put out there to help garner additional conversation and ideas. So we will be taking those questions along with the section they associate with. Okay? And if there are more than one question, we will take them one at a time for you. Hopefully that makes it

a little easier for you as we move through this. We will go through this document. The plan is to spend tomorrow on the extensive regulatory text that has been proposed. And we will be breaking that down into sections to help facilitate more focused and direct conversation on those. So with that, I'm going to turn it over to Herman to start us out with the summary of the issues surrounding the accreditation document and then we'll move into the first proposal. Herman?

MR. BOUNDS: Alright. Thank you. I guess Vanessa or Valerie, you all are putting up the issue paper for folks to see. Thank you. Alright. So I'm going to read through the summary of issues. And then we'll take each area section by section. And then of course, there'll be some time for you all to have some comments. Again, we're going to try to get to most of the reg text tomorrow. But if there's something that you know that sticks out, you can make a note of that and then we can get to that, you know, get to that tomorrow. Of course, if you think everything is okay, I'm perfectly happy and hearing that too. So, so again, the, the statutory sites for this is, section 496 of the Higher Education Act of 1965, as amended and then in 20 USC, 1099 B. Some people find that a little easier to follow sometimes. The regulatory sites are, 34 CFR part 602. And

then later today we have some other proposals in a new regulation 604. So I'll basically read through the summary of issues. Under the HEA, the Department recognizes accrediting agencies that the Secretary has determined to be reliable authorities as to the quantity of education or training provided by the institution of higher education. For more than a half century, accreditation has set baseline standards for postsecondary institutions with the goal of continuous improvement in how well they serve students across a diverse array of institutions and educational programs. The Federal Government and the Department, in particular, rely on accreditation to determine whether an institution or educational program is a worthwhile investment of Federal financial aid and taxpayer dollars. A robust accreditation and oversight of postsecondary education institutions and programs is critical to advancing quality outcomes for students and protecting students and taxpayers. And then through this rulemaking- through this rulemaking, the Department seeks to ask some questions. One, implement a process that focuses on the areas of greatest risk among accrediting agencies and in accrediting agency reviews of institutions. Two, increase the rigor of accreditation. Three, support and strengthen accreditation as a critical pillar of the regulatory

Triad and four simplify, clarify, clarify, excuse me, streamline regulations to better align the goals of the Department. So under our first proposal is under 602.3, which is the definition of public member. Require public members serving on decision making bodies or independent of agencies, associations and institutions. Overall, what we're trying to do here is to ensure the independence of the public member and to also help reduce potential conflicts of interest. The language that we're proposing here is Department would exclude the following from participation as a public member. So, current or former employees, members of the Governing boards, owners, stakeholders of or consultants to accredited pre-accredited and applicant institutions or programs, current or former members of any trade association or membership organization related to, affiliated with, or associated with the agency, current or former employees of or consultants to the agency or members of program-members of the program integrity triad. And again, I said before, we're really trying to ensure the independence of the public member and then reduce conflicts of interest. With reading all that, one might ask, well, who could serve as a public member? And, you know, we would think, you know, maybe someone from the financial community, it could be folks from business and industry, you know,

current and former folks in the military, anyone who doesn't who is not excluded based on the, you know, the definition that we have put in this regulation. So at that point, I'll open it up for discussion.

MR. ROBERTS: You're muted Cindy.

MS. JEFFRIES: I had to take a turn at that. So thanks, Herman, for that. Jamie, you're up first.

MS. STUDLEY: Thank you. As we embark on the accreditation topics, accreditors welcome the opportunity to work through the rules and the actual practices of accreditation to assure effective accreditation that is worthy of the trust to which Undersecretary Kvaal referred. We value the perspectives and expertise of our public members diving into this particular issue and value the perspectives that they bring. That said, it's completely fair to look at the definition. It's always been an odd definition. But we need to give serious consideration to the effect of these proposals. And I appreciate that Herman started by saying who would be able to serve? It's been clear in the [inaudible] presentations recently that agencies have paid serious attention to using the public positions. To add perspectives, including that of public and student voices. WASC, using my own agency as an example, has ten

out of 33 commissioners who meet the Federal definition of public commissioners. Substantially exceeding the one seventh requirement. We seek independent perspectives, expertise and willingness to work hard. It's a tough job. Excuse me. And not easy to recruit people to do this volunteer work. We think it's important to think about, as we look at this definition, the scale and distance from higher education. The eternal preclusion ever having been involved with any of the entities described, is just overbroad and will stand in the way of accomplishing the purpose that we all have in mind here for these seats. Let me be very specific on one point. I'm going to return later in the cycle to issues related to conflicts, Triad and trade associations. I polled my public commissioners about how they would fare if this were the applicable definition today. One of the people whom we sought particularly for knowledge of business arrangements and complex transactions, such as we are seeing, would be precluded because she worked in the admissions office of a college 40 years ago, giving tours and stuffing envelopes. She worked in the campus library shelving books in the special collections section and in the 80s and 90s, before she met him, her husband taught classes at some WASC-accredited institutions. Those do not seem to me to be the kinds of limitations that we want to put

on a person who otherwise meets the actual conflict rules and has no current relationship.

MR. WEATHERS: Jamie, you have 30 seconds left.

MS. STUDLEY: We have other members who would be similarly constrained. We want to meet the spirit of public membership, but we need to do so in a way that is reasonable and not unduly. And not eternal, so that we're foreclosed from having some of the finest public representatives able to serve with us.

MS. JEFFRIES: Thank you, Jamie. Appreciate that. Before we move to Laura Rasar King, I want to announce that Sophie Laing will be sitting at the table for the legal aid organizations. Laura, you are up next.

DR. KING: Hi, thank you. And Hi, Herman. I just wanted to ask the question first about what is the Department see the need for this change? Have there been demonstrable conflicts of interest that have influenced accreditation decisions? Is there some specific need for this change? I do agree with Jamie that it's very overly broad and will make it very difficult for accrediting agencies to fill these important positions.

MR. BOUNDS: Yeah, I will say that,



you know, doing some accreditation reviews, we have seen some instances where, you know, we've had, you know, former employees of institutions that, you know, were accredited by the agency. That has happened a couple of times. I would go back to our proposed language here where we talk about current or former members. Yeah. Excuse me, where we talk about, stakeholders of or consultants to accredit or pre-credit or applicant institutions or programs. That right there doesn't seem to me to exclude, you know, someone who taught at an institution 40 years ago. And I think, as Jamie was referring to. I don't think that was meant to exclude someone like that. Again, what we're trying to do is to make sure that the public member is really a representative of the public. Someone who, and I hate to keep repeating myself, but someone who would not have any, you know, association or, you know, maybe influence or in that world, that might make that person not appear to be a representative from the public. I mean, I hope I'm explaining that, you know, to your satisfaction, Laura.

DR. KING: So there haven't been any specific problems that you can point to that would require the change that is being proposed?

MR. BOUNDS: Yeah, as I was saying

before, now in the- you know, in some of the final [inaudible], we have fixed some of those, but we have seen some instances where there have been public members appointed that didn't meet the old definition without these changes. These changes is our thinking as to further strengthen that definition of public members to help provide some additional guidance to accrediting agencies in their appointment of public members.

MS. JEFFRIES: Okay. Thank you.

Barmak, you are up next.

MR. NASSIRIAN: Just quickly responding to the question that was just posed. We are certainly aware of individuals who are, for all intents and purposes acting as shields in the role of the public member when they're very clearly associated with ownership interests. And, you know, in the interest of fairness, I don't want to name anybody by, you know, specifically, but I'd be happy to share that directly with my colleague who posed the question just so that we have that awareness. There is a problem here. Now, I have a question to the Department and a comment. My assumption is that this relates to the separate and independent language in the statute, specifically (B)(2). And what I'm pondering, I appreciate the enormous effort in articulating the qualification for the public member. But

I want to know how the Department implements before, which I'll read to you before in the same section that reads, the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization. How is that interpreted? And once I get that sort of legal answer probably, I want to make a comment about it.

MR. BOUNDS: Sure. And I'll let- I will start out and then I'll let my colleague, Donna Mangold come on if she wants to provide some additional information. You know, the statutory language you just read is really separate from what we're talking about here with public members. We're talking about how an agency is determined to meet our separate and independent requirements. And that's usually related to only institutional accrediting agencies. So we want to make sure that those institutional accrediting agencies are separate and independent from any outside organization or any trade association. So, again, as the statute read, what we're looking to see is, number one, does that agency, in order to meet those separate independent requirements, does it develop its own budget without any, you know, without any influence from any outside

organization that clicks off. If you look in current regulations, there are about five components for an agency to demonstrate that it is separate and independent. But those requirements are totally separate from what we're specifically looking at here, is the definition of the public member.

MR. NASSIRIAN: I understand we're talking about the definition of public member, but it's a component of that determination of separate and independent in the statute. And the statute unambiguously requires accrediting bodies not to be engaged in any coordination, consultation in the development of their budgets. And the specific question I want to now comment on is the following. I didn't get a legal reading, but here's my comment. When you have fiduciaries of regulated entities serving on the boards of accrediting bodies, you are by definition in violation of this provision. So the Department is sort of putting a steel door on a rotten wooden frame when it gets mesmerized with ensuring that the public member is free of conflict when it is in fact in violation. Elsewhere, where you had regulated entities- when the president of the university sits on a board of an accreditor, that president is conflicted in [inaudible]. Maybe that conflict is not articulated in the statute, but to the extent that that president is

approving the budget of the agency, they are violating before the provision that I just read. This is a big picture comment that I would encourage the Department to review. Thank you.

MS. JEFFRIES: Okay. Thank you. Next I have, Jo Blondin. Jo, you're on mute.

MS. BLONDIN: I'm sorry about that. I wanted to echo Laura's question, about where there have been some issues of this conflict. I'm just curious. The other thing I wanted to lift up and remind, we're talking about public members, first and foremost. And my experience being on the Higher Learning Commission Board is that we have a number of public members. On that board, one of whom served on our Institutional Actions Council, and had no work prior to that with an institution or accreditation and then is now a public member on our board. And I would argue that his experience serving in that role, with HLC, gave him some background and a much shorter runway to identify some of the challenges within our institutions as well as his strengths. So I would just add that when we're talking about public members, there is a great diversity of these individuals who are serving and come to us with a variety of experiences that I know, at least through my experience, have been strongly vetted. Thank you.

MR. ROBERTS: It looks like Cindy might be frozen, so I'll take over while she recovers. I see John's hand is up next.

MR. WARE: Yes, thanks. You know, I'd also like to express a concern that these prohibitions are overly broad. You know, in particular, subsection four there where it talks about state higher education and other representatives of the Triad. I mean, obviously, I can see where current employees or members of the Triad, you know, that may be a potential conflict, but I'm not sure where somebody who's no longer employed, no longer working as a member of a state agency or Department, or previously worked there, is going to have a lifetime conflict with serving on an accreditation board. And also, you know, the whole idea that the spouse, parent, child or sibling, again, I mean, I have a son, my youngest son is 16 years old. So you're going to say that he's forever banned from, not that his career ambition is to be on an accrediting agency, but it seems kind of strange that he would forever be banned just because, you know, I happen to work for the state licensing agency. So I'm concerned. I understand what the Department's trying to do, but I think, maybe tightening up this language with some kind of time based restrictions might be a little more appropriate. And

also, you know, as previous commentators have said, I think, having people involved in making this accreditation decisions that have some higher education experience is actually helpful. I mean, I think these negotiated rulemaking topics show that a lot of these issues are very complex regulatory issues. And when you put people and I work for a board myself and we've experienced this too with public members is, when you put people on boards who have no familiarity or background in a particular topic, they don't, frankly, make very good board members because they don't- it takes them so long to get up to speed on what the topics are. It just creates problems. Like I said, I've seen it in the past with my board. Thank you.

MR. ROBERTS: Thank you. John. Cindy, I see you're back. Do you want to take back over?

MS. JEFFRIES: Yes. Sorry about that. I got kicked out of my own meeting. Sorry. DC, you're up next.

DR. PRINCE: Thank you. I had a question. Herman, thanks for that. This is the, I believe the second time we have seen where the Department has tried to define public members, particularly in another situation as well. The question I'm pondering is, is that because of the Department's significant interest in

trying to define what a public member is, does the Department intend to develop a system or process or a bank of individuals, in which meet their own qualifications, in which they are trying to put on other people, in this instance, a public member, instead of allowing or leaving the agencies to do it themselves?

MR. BOUNDS: No, we are definitely not, you know, we haven't had any discussions about trying to come up with, if I'm understanding your question correctly, about trying to come up with a list of folks who would qualify or be a public member. You know, again, we we've inserted some additional language in of what we have been, what we have had previously in our definition of what, you know, a public member cannot be. And again, we just think this- our proposed changes, again, we're just trying to make sure that the public member truly is, you know, a representative of the public. And so that's the point of view here that we're, again, that we're, you know, that we're coming from. I think we've, you know, as I think about, you know, all the renewal petitions that we have looked at, again, there have just been some instances where we have had people that are pointing for public members who may have been part of state legislature, who may have been, you know, current folks that, you know, at institutions and



then not to jump questions, but to go back to the previous question from the state representative. You know, we think that the, states already have a valued place in the Triad. And we think, you know, place or position for those state representatives, you know, should remain in the, you know, in the Triad. And the other question about that, too, is, you know, we're not looking at, you know, parent or child or someone in that instances, the regulatory language is pretty clear when we talk about when we use those terms about, you know, parent or child of a former member of a trade association or something like that. So I just wanted to clarify those two points.

DR. PRINCE: My follow up to that is in both of the texts that we've seen around defining public members, the Department has decided to use exclusionary texts instead of inclusionary texts. And so for me, the question then becomes, if we were to propose something, is the Department open to rethinking the way it uses legalese text to think more inclusionary versus exclusionary? Because I think the concern that I'm hearing from colleagues, but also that I'm getting from constituencies, is that the more you begin to exclude, the more, either you're trying to build a process that becomes so exclusionary, that you could have unintended

consequences, and then at the same time that you're trying to exclude so much out that no one fits the bill. Instead of just saying, here's what we want to decide as exclusionary, because then you could then shorten and be very specific about what is included, and everything else becomes excluded. Once you exclude, you got to have a very long list of [inaudible] the titles of what you don't want, and then everything else up to interpretation of inclusion. So will the Department be open to more of an exclusionary language, of what could be included as a public member?

MR. BOUNDS: Yes, sure we would. We would be happy to take that back and have some discussions on who would qualify as a public member. I understand some of the concerns about how we are phrasing it now, plus how we phrase it in the past is these are folks who cannot- of what a public member cannot be. Yes.

DR. PRINCE: My last question is around public member processes. Is the Department open to how public members are voted in a process of a stipulation rather than an agency determining by its own internal process, but determining and specifying what that particular process is in putting a public member on their board?

MR. BOUNDS: Sure. We're open to

looking at those suggestions.

DR. PRINCE: Alright. Thank you.

MS. JEFFRIES: Thanks, DC. Appreciate it. Jillian?

MS. KLEIN: Thanks. I just had a clarifying question on two, just to make sure I'm understanding this correctly. So I think the way that it's written, it seems to me that there would be an implication for a professional maybe. And this probably relates more to specialized accreditors. But I think in this example, for example, as an example, a lawyer who is admitted to the bar wouldn't be able to be a public member for the ABA, for example. Am I reading that correctly? And is that the intention? I just want to make sure I understand, sort of the spirit of what's happening here.

MR. BOUNDS: So you're looking at two, where it says a current or former member employee or representative of any trade association or membership organization?

MS. KLEIN: Correct?

MR. BOUNDS: Right. Yeah, yeah. Donna, would you like to come on and talk a little more specific about that? But yes.

MS. MANGOLD: I think that's something

we would take a look at because I understand your question. That would be very broad in terms of public members for something like the ABA or one of the medical accrediting agencies. Yeah. But again, we're talking about institutional accrediting agencies, which the ABA can be for freestanding law schools. But we'll have to take a look at that.

MS. KLEIN: But, so thanks for saying that because I heard Herman when he said that earlier and I'm sorry, I don't know this and it's super embarrassing since I did this in 2019. But is there something in here that specifies that this is just as it relates to institutional accreditors? I'm sorry, that's probably a super dumb question, you guys.

MR. BOUNDS: Well the- so let me back up. So institutional accreditors, they do have to have public members. The main difference between the institutional and the programmatic is programmatic have to have at least one on their decision making bodies, whether it's a commission board or an appeals panel. For institutional accreditors, they have to meet the regulatory requirement that's currently of one seventh of that body has to be a public member. There's a little disconnect between the statute and our current regulation the statute said one for six, and then our regulation

says one for seven. But that's the main difference. Institutional accrediting agencies have to have a certain percentage of public members on their decision making bodies versus programmatic only have to have one public, you know, one public member at minimum.

MS. KLEIN: Okay, thanks.

MS. JEFFRIES: Okay. Thank you. Laura?

DR. KING: Thank you. I appreciate DC's suggestions about some other ways perhaps to approach this. I think another way to approach the issue that Jamie raised, with regard to somebody having worked 40 years ago for an institution, it would prohibit them, former means former. I don't know that former has another meaning. So it may be worthwhile to impose some kind of time limit for former that might also help make the language a little more reasonable.

MR. BOUNDS: That does make sense, Laura. It does make sense. Yeah. Yeah.

MS. JEFFRIES: So I'm hearing a lot of really good suggestions that the Department is willing to take a look at. And I just want to remind you a couple choices you have are to put them into a word document in redlined text format with your rationale, or if you don't plan on doing actual proposal on it, please, capture those in the chat so that we can keep track and the

Department has them to refer back to. Jamie, you're up next. You're on mute.

MR. ROBERTS: You're still on mute.  
There you go.

MS. STUDLEY: Multiple topics. A time based approach would be helpful and add an element of rationality here. The otherwise perfectly public member of ours who last taught as an adjunct in 2019 really shouldn't be precluded. Or pick a number further back. We've heard five, seven, eight, ten as possible suggestions. Second, it appears to me that item five about the child parent spouse doesn't apply to all of the provisions above.

MR. BOUNDS: Yeah. I was going to make that correction. Yeah. Yes.

MS. STUDLEY: Thank you. The trade association or membership organization. Words like related to, affiliated with, associated with, if my organization is a member of, or a staff member were a member of the American Historical Association, would that be a preclusion? It's very broad, very unclear. And I never hoped- I hoped I would never be referring to a semi-colon in a negotiated rulemaking. But I think Barmak will back me up that sometimes it's in the semicolons. Number two has a semicolon. That's very confusing about

whether the trade association is one provision and the second half is a different one. Please take a look at that, because these really make a huge difference in whether some outstanding people who are prepared to spend years and hours of their lives doing this work could qualify to participate with us. When I asked my public members whether this would preclude them, they reacted with, oh my gosh, but I want to do this. Oh, this would be awful if I couldn't. Are you saying that the fact that my child did this might mean I couldn't participate? It really would be disruptive. Conflicts. We manage conflicts all the time. It is in the nature of the current system that this is a peer review model. For every member that we have, they may have worked for a different institution for the institutional representatives that we are required by statute and the Department to have, to manage our agency. All of them could have conflicts and we are responsible for managing those. What I'm hearing is that the Department has occasional questions where they need to deal with an agency about a specific individual. But I don't see a widespread problem with conflicts. For every actor [30 seconds] for someone else before. I think we really ought to look carefully. I think we ought to acknowledge that we are managing our conflicts. And if it's a matter of

improvement of application, we can certainly do that. But it's not a reason to leave out people who are highly qualified. And I have one more comment I'll return to shortly about the Triad.

MS. JEFFRIES: Okay. Thanks, Jamie. Appreciate it. I'm not seeing any additional hands. So, Jamie, why don't you. You did the right thing. You got off cue, you got back on cue. Let's hear the rest of what you have to say there.

MS. STUDLEY: Right. I really do want to hear what others think. The Triad exclusion seems to many of us to be completely the opposite direction from trying to understand all the different ways in which we can manage quality and assure accountability. The list of my agencies members is posted. So I will tell you that we have a former Governor and a former chair of NACIQI. We think that allows us to understand the full picture of the issues. And I think there are other agencies that have also identified people who can speak broadly to Governance issues or to the kinds of things that John was talking about in state relations. If you want to prohibit people who are currently in seats where they have other responsibilities, that is something we would be happy to discuss further. But to have a an eternal preclusion of anybody who has expressed the interest and willingness to



work hard on these systems, seems to me to deprive us of skill and knowledge and make it even harder to do the coordination that makes sense.

MR. BOUNDS: Yeah. Again, Jamie, I think we have said that we would be willing to go back and look at some of the timelines. And then going back to your question, I think it was your question or may have been the previous person about the association. You know, we would, you know, under current regulation, we look at that association, we want to see what the relationship of whatever that trade association is that that person is a member of. And if that's directly related to the accrediting organization that the person is currently serving as the public member on. So it is an evaluation. I mean, we wouldn't just, you know, all of these things require discussion and investigation on our part when we want to say that a public member is not, you know, is not qualified to serve in that role. So I just wanted to make that clear that when we're talking about affiliate with or associated with an agency or, you know, or one of these membership organizations, we would look at that to see the link between that particular organization and the agency, if there is one.

MS. JEFFRIES: Thank you. Barmak?

MR. NASSIRIAN: Well Jamie buttered me

up with that semicolon.

MS. JEFFRIES: Barmak, can I interrupt? Just one minute, I see Donna Mangold popped her hand up. She may have additional comment.

MS. MANGOLD: I just want to make it clear that we're only talking about the public members here. We're not trying to exclude these vast categories of potential members more broadly. They're not- it's just the public member definition we're talking about now. So I just wanted to level set that a little bit.

MS. JEFFRIES: Thanks, Donna. Okay. Barmak. Go ahead. Thank you.

MR. NASSIRIAN: Yeah, I just wanted to say that I am not unsympathetic to some of the criticism of the language that's been proposed as too broad. With regard to other legs of the Triad, I certainly hope that we won't let current participants in the Triad to simultaneously serve in other significant decision making roles with another leg of the Triad. So that certainly makes sense. But yes, I think that the exclusions may be overbroad and should probably be very carefully thought through. I also wanted, I think Donna made a point that I think I wanted to say differently, and the point I wanted to make differently is, that the purpose of having public members is not to bring expertise. Far from it. It's

actually to bring naivete, to bring a fresh perspective, to bring a perspective from people who are outsiders to what is a very insidery game to prevent potentially incestuous arrangements that evolve over time just because you only talk amongst yourselves. So the expertise that the accreditors need can always be fulfilled from other sources, other seats on the board. It is important to have some people there who are not insiders to the entire higher Ed sector who are coming in as just common sense observers of what goes on behind the scenes. It preserves the integrity of accreditation, and it gives it more credibility with the public and policymakers, which I dare say it desperately needs right about now. Thanks.

MS. JEFFRIES: Thanks, Barmak. John Ware are you up next?

MR. WARE: Yeah, I appreciate Barmak's comments and also Donna, what you said. And then, you know, it just occurred to me, and I assume it would be possible then for accrediting agencies to create seats for members, not call them public members. So they're, you know, they're only required to have one out of seven public members. And they could create a seat and just call it, you know, of course, they could have a one out of seven public members, but then have a non-

institutional member which could be a former Governor or somebody like that, that could serve in that role. I just want to make sure that I'm understanding that correctly, that they only need to have one out of seven public members, but they can have other members that, you know, that would be non-institutional representatives that that fill some of these other roles.

MR. BOUNDS: Yeah, that's a true statement. All other, I'm sorry, Donna I didn't know if you were jumping in or not, but yeah, all other members don't have to meet, you know, don't have to meet this definition. Currently there's another reg, we have other regulations that require the decision making bodies, you know, to include educators, practitioners, employees, those types of folks, depending on the type of agency. But. You know, if you have a 30 member board, once you meet that threshold for public member, all other members are up to whoever the agency wants to appoint.

MS. JEFFRIES: Alright. Thank you, John. Laura Rasar King.

DR. KING: I just wanted to provide the perspective. And, you know, with all due respect, Barmak, public members are not just observers to this process. I wanted to just provide the perspective of what public members actually do when they sit on accreditation

boards. They actually do the same work as all of the other accreditation board members. They do program reviews. They make decisions about programs, in my case, programs, in Jamie's case, institutions. But they do the same work. They are not just observers to the process. They're not there to just, you know, give a uninterested sort of opinion about what we're doing. They're actually doing the work. And so I think that it is important. And I think, John, if I'm not mistaken, raised this before, but it's important that we have- that we are able to recruit public members who actually have some more than a passing familiarity with higher education and with the kinds of things that we're doing. My agency, for example, you know, we accredit doctoral programs, we accredit master's programs. There has to be- and they make those decisions. They get in the weeds of curriculum just like the rest of us. They need to be able to have that kind of ability for bringing some expertise in that area. So I just wanted to provide that perspective about what public members actually do. And because I think that it really does impact the kind of public members that we need on those commissions and councils.

MS. JEFFRIES: Thank you, Laura. DC.

DR. PRINCE: Question to the  
Department. The tendency to have a discussion about

public members in particularly about this discussion, but taking a step backwards or step up on a higher level, is the Department concerned about accrediting agencies role in governance and whether or not there are issues stemming from the governance of the boards and how these agencies are governed at that level? Are there systemic issues that also need to be addressed that are outside the public member?

MR. BOUNDS: I don't think so. We currently don't have any, you know, any regulations or any requirements related to Governance for accrediting agencies at all. I think, if I'm understanding your question correctly. Yeah.

DR. PRINCE: Then is the Department open to expanding its current language and use outside of just discussing public members, but thinking about the entire Governance of accrediting agency?

MR. BOUNDS: I think that's something we'd have to take back to discuss. I can say we haven't had any- I haven't been a part of any discussions where we wanted to, you know, regulate on that particular topic or add any regulations on that particular topic. But again, that's something we could take back and discuss.

DR. PRINCE: Alright. Thank you.

MS. JEFFRIES: Thank you, DC. Jamie?

MS. STUDLEY: On DC's last point, I would add that the Department does have extensive expectations about how we govern our agencies that they review in the recognition of the agency. How we manage, how we train, how we support, how we assure, avoid conflicts of interest and how we manage that process. In the spirit of Laura's comment, a little bit of what actually happens on the ground might be helpful. Here's an example. For my agency, we have institutional members. Our bylaws require that they be at least 50% of the members of the commission. We have public members. We have ten Federally- ten that meet the Federal definition. And we have our own standard for independent public members who are not people steeped in higher education. That speaks to Barmak balance between what expertise we are looking for and where we want a fresh look. We want a fresh look from people who are outside higher education. We seek expertise on things like finance, governance, complicated corporate arrangements, equity and workforce issues from people who are outside the academy who can help us do that and advocates for student issues, including some distinguished people who would fit in that category. And we have an at large category, which is correct. Anybody who doesn't fit in one or the other, we have room to have on our commission to provide that

additional expertise. I just want to underline that comment about conflicts. We are held by the Department to manage conflicts of interest very thoughtfully. And we have to do it all the time, because any of these people may have had a previous association. Anybody on the commission as an institutional member may have worked at some point for an organization that will come up before us for decision. And we have very strict and frequently reviewed conflicts, policies, to keep them from participating. I think that, to the extent that Barmak raised a specific early on about ownership interests. I don't know whether that is either an error made by an agency that should be corrected, things happen. Or whether there's a policy definitional matter. But I would support looking at ownership interests and make sure that we have thought that through for these categories. But I appreciate everybody's respect for looking at the trade associations, Triad and time based issues in order to allow us to have strong public members and conduct our work in the spirit of having those outside voices.

MR. BOUNDS: I just wanted to comment on the governance question that I was asked previously. And then, you know, it depends on your definition of governance. But for us to become involved in the operation and the administration of accreditation, as



everybody knows here, that's outside of the purview of the Department. The organization act specifically prevents us from becoming involved in the administration of an accrediting agency. So when I get those questions about governance, that's kind of what I'm looking at. You know, of course, our regulations, you know, require accrediting agencies under 602.15 to have, you know, certain policies on, you know, finances, fiscal administrative capacity. You know, we talk about who the makeup of the decision making body, who site teams, what site teams have to be composed of? Yeah, we our regulations do cover those types of things, but when I'm talking about governance, I'm not looking at those types of things. I'm thinking of more, you know, of those things that involve the administration of the agency. And that's why I made that comment. We don't have any purview into those matters. And if Donna, if my colleague Donna Mangold wants to add to that comment, I'm happy to have her jump in.

MS. JEFFRIES: She's shaking her head no. Thanks, Donna.

MR. BOUNDS: That means I must've answered okay then.

MS. JEFFRIES: There you go. DC?

DR. PRINCE: Just to clarify, when I

said governance, I was talking about board level or where you expect public members to serve. And the larger step back is not just about public members, right? It's about those serving in capacities where decision making which is not at the CEO level or VP's, but clearly on boards and certain site visits or the case may be. And so that's why I'm thinking of, is it just the- it has to- it must not be an issue of just the public member. I think what I'm hearing you say and what I'm reading into and then taking back from what I'm hearing others say, is that there's a larger issue across the entire board of where these public members are serving with other members there that they may or may not be representing, or in essence, might you might feel as though we're just talking about public members, but there's a larger problem, systematic problem that we should also be addressing that we're not addressing. And so that's where I was getting at. So I didn't assume that you were talking about a CEO or VP's or that kind of administration of governance.

MR. BOUNDS: Okay. Yeah, I just wanted to make that- yeah, because right now we're really talking about the public member issue. I mean, for an institutional accrediting agency, we say that you have to have academics and administrators on your decision making body, and we leave it at that. And we think that's pretty

much adequate. You know, if you're programmatic accreditations, you have to have educators and practitioners and maybe employers. So we do put those requirements on the decision making bodies and on the appeals panel. We don't think that we need any more definition to the composition of those bodies. We think that's pretty much adequate. Here we're strictly just trying to get down to what makes a good definition of a public member. And again, we're happy to take some of these comments back that we're getting from folk.

MS. JEFFRIES: Okay. Thank you. Emmett Blaney, you're next.

MR. BLANEY: Thanks so much. Yeah, I just wanted to jump in kind of off of Barmak's original comment and then some of the language around, like, expertise. I can imagine that being a public member on an accreditation board may feel somewhat like being a student in neg reg. In that, I feel like the Department isn't proposing, you know, imploring accreditors to recruit random uninterested public members. Merely those, like, without deep ties to specific things within the educational sector. All that to say, I feel very grateful to be involved in this process. And I've had, a lot of time set aside by my coworkers and, like, organizational partners to get me onboarded into the neg reg process.

And so I think I'm just saying in the same way, I think it is on accreditors to be properly training folks who are going to be joining them. Which would kind of mitigate the concerns that people need a certain amount of like extensive expertise before participating as public members. Thanks.

MS. JEFFRIES: Alright. I have one more hand up and that is Barmak, and we'll take his comment. Then we're going to take a short ten minute break just to regroup and move on to the next proposal, which would be 602.10. So Barmak.

MR. NASSIRIAN: Yeah. As usual, I want to go back to something DC said. I think it's worth contemplating. I appreciate the Department's response with regard to a somewhat hands-off position it has to have with regard to certain aspects of governance. But also in the spirit of like broad observation, folks, there is something rotten in the state of Denmark. I mean, we can't talk about current accreditors lest we offend somebody, but we have how many billions of dollars of Federal tax money have been written off because accreditors didn't do their jobs? Accreditors that are no longer with us, fortunately. Obviously there were governance issues there. The causality comes back to the fact that the operation was behaving in a in an outright

corrupt manner. And the fact that it could check all the procedural boxes that the Department has put in regulations does not mean that they're not engaged in malfeasance. So there comes a point where governance becomes the central theme. There comes a point that we need to step back and say, yeah, you know, there are procedurally okay, but guess what, they're rubber stamping thieves. And we can't have people getting ripped off while they're in perfect compliance with procedural rules. Governance of these accreditors matters. Self-dealing is a problem with accreditors. I'm not accusing any particular accreditor of doing that, but the idea that the regulated entities have conflated the historical voluntary nature of accreditation with the mandatory recognition criteria spelled out in the statute is a problem. And you end up playing a game of three card monte sometimes when you speak to accreditors and you don't know, you know, which side of their mouth they're speaking from. Are they speaking their voluntary historical traditional role or are they talking the gatekeeping role that they have voluntarily assumed by seeking and obtaining recognition from the Department? And the conflation of those two things leaves an enormous gray zone in which all kinds of corrupt practices fester at the expense of students that you heard from and at the

expense of the taxpayers of this country. So we need to be careful here saying that governance is not a concern of the Department. The governance ought to be a huge concern of the Department. Thank you.

MR. BOUNDS: Yeah.

MS. JEFFRIES: Go ahead.

MR. BOUNDS: Yeah. I'm sorry. I know we're going to take a break. I just wanted to comment on that. You know, when accreditations are reviewed, we're looking at them based on the totality of the current regulation. And when you look at the current regulation and maybe I'm a little off mark here, but I did Barmak, I did I just want to kind of respond to your comment. You know, when you look at the totality of the regulations, what they're supposed to do, how they're supposed to conduct their site visits, the information they're supposed to report. When you look at all those things and when we look at all those things and we make an assumption whether that agency is a reliable authority, that's how we were able to prevent or to remove recognition from accrediting agencies. And that's what allows us to issue some of these in-depth compliance reports that agencies have. So while, you know, someone might say, well, there's not a criterion that talks specifically or labels governance. When you look at all

of our regulations all together, when we apply those regulations to accrediting agencies, we are in fact performing that process. We want to make sure that those ratings are performing correctly and again, that they're applying their standards correctly. So I think in its totality, our regulations do that. There's always room for improvement. But I think we get to that point in our total reviews of accrediting agencies.

MR. NASSIRIAN: May I just comment? Because of the negative nature of my previous comments. I want to emphasize that I absolutely understand that the Department is attempting to operate within the confines of its current regulations. I'm not accusing the Department of not doing that. But I am suggesting that clearly something is wrong. That clearly to the extent that we have had the experiences we've seen and the number of victims and the dollar amount of losses to the taxpayers, that there is something wrong, which therefore suggests that we need to strengthen the regs. This is not a matter of criticizing the staff of the Department or for that matter, accreditors. Accreditors are playing by the rules that the Department has articulated, but it is incumbent on us to improve the regs so that we don't get the kinds of catastrophic outcomes that. You know, if banks were failing with the frequency that the

institutions fail, we'd have a scandal on the front page of The New York Times. But somehow schools keep failing. We keep bailing victims out to some extent and nothing seems to change. This is our opportunity to improve things. Thank you.

MS. JEFFRIES: Alright. I want to thank everyone for their comments. We are going to take a ten minute break and kind of regroup. Coming back in, I just want to give the negotiators a reminder that the three minutes should be used to bring new unstated material to the attention of the Department. Not to reiterate something that's already been stated or to in support. We ask that you use the chat for those two types of things that, yes, you're in support of what was said, or no, you're not. And so this is only done, not to stifle conversation, but to make the best use of the time so the negotiators can get the most ideas, most concerns expressed, for the Department to consider, during the time period that we have. So I show it is 1:58. Let's resume at 2:10 and we will move on to 602.10. Thanks. Okay. Welcome back. I just want to refocus our discussion a little bit this afternoon. Given the limited time that we have and still need to get through this issue paper. So we're prepared to delve into the actual reg text tomorrow. The purpose of this discussion on the issue



paper is we want to make sure and the Department wants to make sure that the negotiators understand the goal that the Department is trying to achieve here. So questions around understanding those goals are absolutely more than welcome. And can be addressed and should be addressed. So if we could focus the conversation around understanding the goal. Tomorrow when we go through the actual reg text, that is going to be ample opportunity, because I believe we have the whole day set aside for just this topic. As we walk through the reg text, that is the place where we can have in-depth, detailed discussion about what your concerns are about the language they have written, your suggestions for changes and or submission of proposals or entries into the chat. Trying to structure this so that you have the best opportunity in the appropriate places for the Department to be able to ascertain, per section in that reg text, what it is you, you have, serious concerns about or things that you like. Okay. So they can take that back in between sessions and consider it when they come back for the second session. And also, please use your time during rest of today to ask your questions, clarifying questions about their goals. And, I think we can get through it with the rest of the amount of time that we have today. Any questions on that? Laura?

DR. KING: Yeah. Thank you. I well, first, I'm having a hard time understanding why we're going through this differently than we went through every other issue. Why we're not going issue and then text issue and then text. Because it's very hard. It's hard to do what you're asking us to do. So that's my first question. And then the second question that I had just completely flew out of my head, but maybe the first question, why are we doing this differently? It's hard to discuss these issues without looking at what they relate to in the text.

MS. JEFFRIES: And I totally understand that and the Department understands that. Primarily the reason for this is that reg text is 60 pages long. There's a lot in it. If we were to do as we have been doing, we feel strongly that you're not going to get through the whole entirety of it, even using the entire day tomorrow.

DR. KING: Okay. So just to clarify then, are we going back tomorrow morning to what we just discussed? Are we starting through again or are we done talking about that in this session and then moving forward?

MS. JEFFRIES: We are- what we're trying to do is give you the opportunity here. The

Department is explaining their goal. This is what they- this is the goal they want to achieve. Now the reg text may or may not meet that goal from your perspectives or the goal may not be what you think it should be. Okay? So in today we're trying to make sure that all of you understand their goal and have the opportunity to ask the questions so you clearly understand what it is they're trying to achieve to help you decide is that conceptually where we want to go as a constituency group or not, and get prepared for tomorrow's discussion on the reg text on each of these items. And really, it's just because of the magnitude of the regulatory text that's been written and the complexity of this issue that we've divided it up into this type of process for this topic. DC?

DR. PRINCE: I totally understand this new approach. I wonder, are the facilitators then going to professionally and respectfully identify a question and tell the negotiator, hey, we're going to hold that for tomorrow. Because I think the concern is that our current structure says you get three minutes to have a discussion, you get to come out and come back in. I'm not knocking anybody. That's a process. Then what you're now saying is that we need to tailor the questions because we don't know what's for tomorrow. Totally understand that even though we were expected to read it before we started

this week. But then at the same time, the facilitators aren't stopping people where the question might not be appropriate. And I understand that our protocols do not allow you that opportunity, in essence, to do that. Now that we're making this change, do we need to change the protocols, or are the facilitators going to be respectfully enough to say thank you for that question, we're going to hold it for tomorrow? Because if not, I won't be able to understand what you're asking me to do. As far as a goal, I phrased the question a certain way that I think is a goal, and their interpretation is actually is not a goal, it's something else, let's hold it for tomorrow.

MS. JEFFRIES: Absolutely DC. That is what we will do in saying okay is this, you know, help me understand how that is related to the goal that the Department is trying to express here. And if it is not, can you please hold that question for tomorrow. Okay. Not seeing any other hands. I'm going to turn it over to Herman to walk through the Department's goals for 602.10. And then clarifying questions would be welcome so that if there's some piece of the goal that you don't understand. Okay? Herman? You're on mute.

MR. BOUNDS: Yes and I should realize that by now. Alright. We will start here with 602.10.

Welcome everyone back. And so this has to do with our federal link requirement, which is, the requirement basically to apply for recognition. And we have proposed some changes here, for creating agencies that seek recognition by the Secretary for the purpose of allowing their institutions and programs and or programs to meet requirements to participate in non-HEA programs at other federal agencies. The Department will require that the accreditor provide verified documentation of the number of accredited institutions or programs that participate in the established non HEA program, including the amount of federal funds the program or institution receives using the agency as its federal link by requiring accreditors to demonstrate and provide sufficient documentation of a non-HEA link. The Department seeks to understand and better account for the risks and accreditor presents to taxpayers relative to other accreditors. This would assist the Department in prioritizing, prioritizing excuse me, its reviews of accreditors through a risk based approach that considers the types of federal assistance for which accreditation by a particular accreditor allows its accredited institutions or programs to qualify. This would also ensure that Department time and resources use reviewing accreditors that do not have resources that are not used

to review accreditors that do not have a valid federal link, excuse me.

MS. JEFFRIES: Now I did it.

MR. BOUNDS: Yeah, I think you're on mute.

MS. JEFFRIES: Yeah. Clarifying questions on what it is that the Department is trying to achieve here with their goal? Barmak?

MR. NASSIRIAN: Yeah I generally support the notion, but I'm curious why you don't take the opportunity here to also do a forward looking assessment with some clear definitions. Because as everybody is aware, you currently become at least theoretically eligible for recognition on the basis of having been in business for two years and having one institution accredited having- demonstrating experience by having had one institution that you were accredited. Not a problem. You could be a superlative accreditor of that one institution. I think the federal link makes sense. But the question I have is, so it's like a Ferrari, you go from one institution to a thousand institutions upon recognition. Is there any way of having a forward looking construct with bright line definitions that limit the scope upon recognition, limit the scope of how much federal money you can put at risk on the basis

of how much federal money your federal linkage demonstrated you to have been involved with?

MS. JEFFRIES: Barmak. I think that's an excellent question. Are you asking if their goal is to include that or not include that?

MR. NASSIRIAN: Well, my goal is to suggest that we will submit language to do that. But we think they're on the right track in asking- in establishing that federal link. But it's also important to have some forward looking mechanisms that limit the scope of how much money may be at risk once somebody satisfies the historical Federal link.

MS. JEFFRIES: Okay, great. I think that that's a great question to note for tomorrow as well. And it's helpful to know that you're going to submit some sort of proposal on that. So, we do appreciate that. Herman, did you have anything to add?

MR. BOUNDS: Yes. I was just going to add that's the basic purpose of our risk based review is to evaluate those things. Yes.

MS. JEFFRIES: Okay, great. DC?

DR. PRINCE: Thank you. Is the goal, let me try to phrase this question right, is the goal of this particular section is to collect information that would be used to incentivize institutions, penalize

institutions or agencies, or what is the goal to identify the federal link with other agencies for the purpose of what exactly? Like what is the ultimate, what do you get out of it, goal? What do you hope to use the information to do kind of goal? If that is the appropriate question to ask.

MR. BOUNDS: Yeah. That's a- it's really more than a one hard question. The first thing, we want to make sure that the agency has- we want to ensure that the agency has some sort of federal purpose, excuse me, for recognition. So it has to be either they need to obtain some sort of grant funding or it's in some other statute or some place, but we want to make sure that they have a federal purpose for recognition. That's number one, so that we don't waste, you know, Government assets reviewing an agency who has no federal purpose. That's why we have other agencies that are not currently recognized. They don't have a federal link, not that they're not good agencies, they just don't have a link. And then the second part of that, too, is to inform our risk based review process. I don't know what you can call that incentivizing or not, but what we want to make sure is we can evaluate, you know, the number of their programs who currently use the agency as their federal link and how many dollars those programs collect. And



that way we can tailor our reviews of agencies based on those things.

MS. JEFFRIES: Okay. Thanks, Herman. Laura?

DR. KING: I'm trying to understand what seems like a redefinition of federal link from enabling a program to take advantage of, I'm speaking for non-HEA funding, enabling a program to take advantage of that and actually demonstrating that one does. It's possible that a program doesn't take advantage of the link now, but would want to in the future. And if an agency loses eligibility, that would seem to put the program at risk. So what is that- what is the intent of that redefinition?

MR. BOUNDS: Again, I think I stated kind of before Laura, the intent of that, we want to make sure that that agency has a- that number one, there's a purpose for recognition. And then we don't waste a bunch of Department manpower reviewing somebody reviewing an agency who doesn't have, you know, that link. We understand for somebody who's coming in for initial accreditation, I mean, excuse me, recognition, they may not have a link. They have to then demonstrate that there is some, you know, one of their accredited programs, you know, will use that agency upon recognition. But we

really, our goal is to really make sure that that agency, number one, has a valid link. So there's some sort of reason for that link, and then that they actually have a program that's participating and using that link. Again, because if they can't do that or they don't at some point, especially for renewal of recognition. Again, it just doesn't- they don't have a purpose for recognition.

DR. KING: Right, but they may.

Because if that still exists as an opportunity for the program, they may in the future have- so the link still exists. The statute uses the word enable.

MR. BOUNDS: Right, we understand that. Our perspective is we want to make sure that that entity is also participating. If an agency accredits 200 programs, one of those programs should be participating. That's all you got to have is one of those programs of those 200 that are participating. And that's just, you know, our interpretation, not our interpretation, but that's basically our goal here is to get information on and ensure that the federal link is actually being used. That's kind of a purpose for our proposed changes here.

MS. JEFFRIES: Okay. Thank you. So I'm seeing no other hands, so let's move on to 602.13.

MR. BOUNDS: Okay. And we will get the 602 13.

MS. STUDLEY: I'm sorry Cindy, there's a hand.

MS. JEFFRIES: Okay, I didn't, I think, okay, that's fine. I didn't see it when I made the announcement. So go ahead, Jamie.

MS. STUDLEY: It was mid-sentence, sorry. Briefly, if I'm hearing correctly, Herman, that it's a resource issue for the Department. Do you have a sense of how this would change the docket or the Department's workload if you're trying to change how many agencies you deal with? And is it one of the goals or possibilities to get support from the agencies who are relying on Department recognition for their programs in order to help address the resource matter? What effect does the Department think this would have in trying to achieve your goal of minimizing the agencies you're looking at? Unless I misunderstand.

MR. BOUNDS: Yeah. I mean, it's not like we're trying to get rid of or reduce the number of agencies. Again, we just want to make sure that the agency- our purpose again here is to ensure that the agencies- that the programs that the agency is saying that is their federal link that those programs are currently participating. Again, one of the byproducts of that, of course, is, are concerned with reducing, you

know, reducing, the use of Government assets when there's no federal purpose. But again, it all goes back to our risk based review too which is something that the statute talks about. We just want to make sure that these folks that are- that these programs are actually participating. And I don't know if that answered your question or not Jamie?

MS. JEFFRIES: Okay. Thank you. Okay. So, let's move on to 602.13, Herman, on reserve formally acceptance of the agency by others on reinstate requirements that agency be widely accepted.

MR. BOUNDS: Right. And this is a reinstatement of one of our regulatory requirements that was present prior to the changes that occurred in 2020. So we thought to bring back that regulation back. This one is short, so I don't think I need to read, you know, the requirements here. I would like to say, I think the one thing here that we did make improvements on is this time in the regulation we have provided a benchmark, meaning we have said or state you know, how much documentation or what you need to demonstrate that you are widely accepted. And I think that was one of the problems with the previous, you know, with the previous regulation. So, but anyway, we our goal here is basically to just make sure that we think is important that

accreditations demonstrate that their standards practice policies are widely accepted by the entities here that we have in the language. We just we just think that's important.

MS. JEFFRIES: Okay. Thank you.

Clarifying questions on what their goal is so that it prepares you better when you read through the reg text for preparation for tomorrow? Jamie?

MS. STUDLEY: This seemed surprising for existing recognized agencies. That I'm struggling to find the comments because you've done this in a different order than I expected. But the general question is, as far as the goals, what do you think the Department will get in addition by receiving letters for recognized agencies when the Department through the staff and NACIQI have already gone through an extensive review?

MR. BOUNDS: Well, again, we think it's important each time the agency comes up for recognition, I won't talk about initials because I think we can all understand where that's applicable, but we think it's important each time that an agency comes up for review that they provide information and documentation from, you know, from the public or, from some of these entities that, you know, their standards are widely accepted and kind of gives the agency some

more credibility or support. So also some additional information that we can get in addition to third party comments that we might receive during the recognition process, that might be negative. You know, when we get information here, we can use that as a comparison based on the information that we might get through third party comments. But we do think it's important that agencies provide this type of documentation, demonstrate validity of the agency and those types of things. So that was our reason for bringing this particular regulation back.

MS. JEFFRIES: Okay. Thank you. Any additional clarifying questions on our goals for this one? Okay. Herman, you want to move on to 602.18?

MR. BOUNDS: Yeah. So this is 602.18 and we have 602.18 and 602.20 because we have removed and combined some things here. So we require accreditors to take action more quickly when they identify areas of noncompliance, including limiting the amount of time an institution can be out of compliance, to the shorter of either the length of the longest program at the institution or two years. Reduction in time would not apply to instances where agencies take action because of student achievement related to compliance failures, given that it may take an institution or program more time to demonstrate improvement in those areas. The Department

proposes to strengthen its regulations related to the timeline for monitoring and enforcement actions that an agency must take, and to eliminate unwarranted exceptions to this timeline, while allowing flexibility for national emergencies. The proposed changes to the timelines would help ensure that institutions or programs that are out of compliance with agency standards do not remain accredited for extended periods of time.

MS. JEFFRIES: Okay. DC?

DR. PRINCE: Sorry to sound redundant when I draft these questions, but I just want to make sure I'm in my mind differentiating between expectation and goal. What is the goal of identifying this recommendation as more quickly? Is there a lack of response? Has the delayed taken more than a year a semester? What is the goal of trying to shorten a timeframe in dealing with noncompliance?

MR. BOUNDS: Well, I think you hit it, you know, I think your question kind of answered, you know, what we're trying to do here. Again, we want to make sure as we state that, you know, that institutions are not allowed to be non-compliant for, again, for an extended amount of time. In the old regulations we had, the requirements for, depending on the longest length of the program at the institution, if it's two years, you

had two years to demonstrate compliance. And we think that there are situations of noncompliance at institutions or programs other than student achievement, where we think that corrective action can be taken more clearly. So, I guess, to answer your question, yes, we think we need to reduce the non-compliant timelines in those areas. But then for student achievement, we understand that it may take longer to make those corrections. By the time an institution, excuse me, an accrediting agency or an institution, you know, you have to determine root cause, then you have to put in some sort of corrective action. And then you also then need to have some timeline to see if that corrective action was effective. So that's why we're separating those out, giving additional time for student achievement.

DR. PRINCE: What was the Department's thinking in deciding that student achievement? Is it more important than financial mismanagement or governance or other forms of accreditation that are used to evaluate institutions. Is that a today question or a tomorrow question, Cindy?

MS. JEFFRIES: I feel it's a tomorrow question. When we are actually going over the text? So, please don't lose track of that, DC because it's a good question.



DR. PRINCE: Okay. That's fine. Thank you.

MS. JEFFRIES: Thanks. Laura?

DR. KING: So we just negotiated, it seems like yesterday, but in 2019, different- you're going back to pre-2019 language for the most part except for the student achievement language. Has there been enough time, so the regulations went into effect in what July 2020, has there been enough time for a demonstrable impact of what the regulations were in this area that you've seen a problem? I would think that you would allow the other regulations to run their course and see if there's a problem. So I'm wondering if there's some kind of problem that you're trying to solve with this.

MR. BOUNDS: Yeah. I think as we're saying, Laura, I think the problem that we're seeing is the increased amount of time for that allow institutions to be non-compliant, maybe for minor issues or issues that we think could be corrected, corrected more quickly. And again, that's the sole reason for our changes here. We think that, again, we think that there are some issues that could be addressed more quickly and that institutions shouldn't be allowed to remain non-compliant for, you know, what the regulation currently allows now. You know, 150% of the program, or the lesser I think is

four years. I don't have the text in front of me. So we think we could definitely shorten that timeline for noncompliance.

MS. JEFFRIES: Thank you. Erica, you're next.

MS. LINDEN: Thank you. Just an observation. Perhaps asking the agents or the Department to consider that, the going back and forth every couple of years between this and the last issue seemed to be both- we don't like what happened a little bit ago, a couple of years ago, so we want to go back to what was there before. Just an observation that this kind of change can be highly disruptive and costly to institutions to every couple of years when an administration changes. I don't have a recommendation, but is there a way to consider how to establish these benchmarks that don't subject them to being changed so readily or so frequently? Just my observation and as a general element.

MS. JEFFRIES: Thank you, Erica. I think that is something that can be discussed tomorrow in more detail and depth as we get to into the actual reg text. It's a good question and a good point. We appreciate it. Jamie?

MS. STUDLEY: Clarification. When I

first read the Department's opening policy piece and it said, require accreditors to take action more quickly. I'd like to clarify which action. I believe I understand that what they mean is the action once having determined that there is a failure of compliance, the allowable time to a withdrawal or a determination that the institution has come into compliance. I think it might be natural to read it that accreditors are not taking the action, that making the decision about noncompliance quickly enough. And if that is not the point, I think it's important for us to understand that because we, certainly make every effort to move as quickly within the processes that you require and that we have committed to. And the due process requires to make decisions on the status of an institution. My confirmation is that's not the quickly that you're talking about. You're talking about, once that's [inaudible] what then happened. And in that case, I too would appreciate understanding what's extended or too extended? Is it that you don't want people to avail themselves of the newer extended changes in the regulations, which I can say my agency until very recently did not even allow ourselves that option and some other agencies never have. Or is it that within even the shorter timeframe, you think it's not happening fast enough? Having a sense of what the behavior is that

you're looking for would help us work toward the same goals.

MR. BOUNDS: Yeah. So to answer your question, the first part of your question is correct. We're talking about once the commission makes its- you know, once you determine that an institution is non-compliant, and then we're talking about the timeline that institution is allowed to be out of compliance prior to you taking that adverse action. And that's the time that we're looking at. You know, based on, you know, all of our reviews of, you know, of the, you know, 53 recognized accrediting agencies. You know, how that timeline can be reduced and how some institutions are allowed to be non-compliant for extended periods of time. And that's what our goal here is to try to reduce that time. Again, other for student achievement, because we understand how long it may take to see improvement in that area.

MS. JEFFRIES: Okay. And, I see one more hand. Jo?

MS. BLONDIN: Yes. Thank you. I would also add to kind of to what Herman just said, I mean, in his response, it might be helpful to have some data, too, around that timeframe challenge. I would really possibly like to see kind of what we're talking about there, that might be helpful. And then I would also say, too, that I

appreciate the student achievement side of this, knowing very well that institutions do need that slightly attenuated timeframe to get to make that happen. But I would like to kind of see some data, maybe, or some examples around what we're talking about with this. What institution should have been subjected to a shorter timeframe. I'm just curious. Thank you.

MS. JEFFRIES: I think. Thank you for that, Jo. As far as your data requests, if you'd like to put that in writing and send it to the FMCS team, we'll be happy to forward it to the Department and they'll take a look to see if and what they have available. Okay. Seeing no more hands. You ready to move on, Herman?

MR. BOUNDS: Yes. Sure am.

MS. JEFFRIES: Okay.

MR. BOUNDS: Now under- did we want to go over, under 602.18 and 602.20, we also did have some questions for the committee.

MS. JEFFRIES: Yes. I think that if you want to take the questions one at a time. Go over 602.22 and then 18 and then take the questions one at a time for the committee.

MR. BOUNDS: Okay. And I can frame- I can I can add some additional information if you all aren't familiar with, you know, with these changes that

we made. But the Department- we removed language from 602.18 (D) and we moved it to the proposed 602.20 (H) of the regulation. And allows agency permit institutions or programs to be out of compliance for a period not exceeding three years for situations of natural disasters or recession. So we would like, you know, any input when those exceptions may be appropriate, if these are the right ones, and is the timeline appropriate?

MS. JEFFRIES: So the question before the committee that you would like information on, are there areas- is it question number one? Areas that create significant risk that are not included in an agency's required definition of substantive change under 602.22?

MR. BOUNDS: I think these questions are under, excuse me, under 602.18 the section that we just went over and these are questions, yeah, these are questions.

MS. JEFFRIES: I'm sorry.

DR. PRINCE: I'm sorry, Cindy, I don't mean to interrupt, but under 602.18 and 602.20, there's the actual standard that we had just discussed. The first set of questions that we have received in the packet that I'm looking at, only has 602.22 on substantive changes. So if there was another document that was sent, revisions on 602.18 and 602.20 with questions, that was

not sent to- or I think I see other heads nodding was.

MR. BOUNDS: Okay, maybe it wasn't.  
Okay. Let me go down to.

MS. JEFFRIES: Yeah, we don't have  
those questions.

MR. BOUNDS: Okay. Alright. Okay.  
Alright. So then we'll move on to 602.22 under sub  
change. Okay. And I'll just go ahead and read the  
proposal.

DR. PRINCE: Just to ask, since that  
seems to be a point of clarity for the Department, are we  
going to get those questions and revisit that tomorrow  
before we go through the rest?

MR. BOUNDS: Yes. Alright. So under,  
602.22 sub change, we are proposing here revised sub  
change requirements to focus on changes of greatest risk.  
And sub change requirements govern the required review  
and approval by accrediting agencies when an institution  
seeks to fundamentally change its policies or practices.  
These regulations are meant to ensure consistency and  
quality across institutions and are an important  
guardrail to protect students from significant changes  
that may impact an institution's resources and capacity.  
The Department proposes revising and clarifying its sub  
change regulations to require agencies to visit and

approve all additional locations of an institution to approve distance education on an institution's first offering and at the 50% threshold, and to improve the addition of programs at a level by an institution, at any level, by an institution that it has not previously offered programs at such level. The Department also proposes to eliminate exceptions and existing regulations that allow agencies to delegate certain substantive change approvals to agency staff, rather than the agency's decision-making body, or to permit institutions not to notify agencies of a change under certain circumstances. Further, the Department proposes to require that, for substantive changes by institutions that are on sanctions, negative actions or provisional certificate status, the agency must evaluate as part of its decision whether the sub change could create significant risk to students. Through these changes, the Department seeks to streamline, strengthen and clarify substantive change requirements with a focus on the areas of greatest potential risk to students and taxpayers. And we have the two area questions for discussions. Are there any areas creating significant risks that are not included in any agency's required definition of sub change under 602.22 (a) (1) (ii), but should be? And we can start there.



MS. JEFFRIES: Okay, let's say comments on the question at hand. If there's areas that create significant risks that aren't included. Carolyn? Where'd you go?

MS. FAST: Sorry about that.

MS. JEFFRIES: There you are.

MS. FAST: I'll take myself off mute there. One thing we wondered if the Department would consider in terms of what constitutes a substance change would be to look at changes in terms of the amount of program that's being outsourced to a third party servicer as something that might be worth looking at when there are changes related to that. That can raise risks. As we know that sometimes, primarily public or nonprofit schools partner with private for-profit companies that offer online programs and sometimes can introduce risks to students in those kinds of written arrangements. And it might be worth including that as something- as a flag for accreditors to be looking for in connection with those arrangements.

MS. JEFFRIES: Okay. Herman, I don't know if you have a response or if you want that in the chat so you can take a look at it. In the chat?

MR. BOUNDS: Yeah, they could put that in the chat that would be great.

MS. JEFFRIES: Okay. So, please do so Carolyn. We'd appreciate it. DC?

DR. PRINCE: Thank you, Cindy. I have a question. I guess it's a goal question, but a process question. By revising the substitute change requirements to focus on changes of greatest risk, are you, in essence, limiting competition amongst institutions and private providers in order for them to deliver educational product within the ecosystem? Because there is a concern here around- at least particular round about the fundamentally changing its policies and practices of an institution to put in a substantial change or substantial change, but mostly on greatest risk. And that seems to be stifling competition for institutions to be able to move when the market moves, or economics when things change. And so therefore it just seems as though the unintended consequence or intended consequence, is to more regulate when we need less regulation in this space. If that makes sense.

MR. BOUNDS: Again, I'm trying to understand your question, but I definitely don't think we're- you know, our subs have changed- you know- we have some pretty extensive sub change requirements now we are trying to strengthen, we are trying to strengthen this area. Again, we've eliminated some of those sub changes

that we currently have in place now that an institution can put in place without approval or consultation with their accrediting agency. We definitely don't think that's a good, idea. Then we are definitely not trying to stifle, you know, any sort of innovation that an institution might, you know, any innovative programs that they might want to start. We just think that those things should go through the accrediting agencies approval process and there should be an evaluation on the risk that that change may place on students. I mean, that's kind of where we're coming from here. But we're definitely not trying to stifle innovation. We just want to make sure that the agency has a say in approving those types of changes.

DR. PRINCE: But what we're not, and correct me if I'm wrong, what you're not experiencing is a significant abuse of this where institutions are- there are more institutions at risk of being fined or non-compliant than trying to make a change to such a process that, in essence, you know, it really isn't impacting the sector in a way that needs this kind of regulation.

MR. BOUNDS: Yeah, I think so. So number one, for sub change, I mean, that's really a something that the accrediting agency tracks more so than we do. I mean, the accrediting agency is the one that

gets those substantive changes. And they are well aware of the number and the types and the depth of those changes. What we're saying, you know, what we're saying here is that one of our concerns there were in current regulation instances where institutions could implement changes without having review of their accrediting agency, and we think that is problematic. I won't name the agency. But I've had some comments where I have been told, well, we would never have approved those types of changes that the institution initiated. I know that's anecdotal information, but those are some of the concerns that we have here. And again, we just want to make sure that for those institutions that may be in some sort of trouble and the agency does decide to approve a sub change, we want them to make sure that they evaluate if there's any risk involved with their approval of that change. I know that's a long winded answer but that's kind of what we're looking at here.

DR. PRINCE: No, I get it. So just for my clarification, the goal is to encourage and in some ways force accrediting agencies to do more reviews of all substance changes, whether it is small in their viewpoint or large in their viewpoint. And then when they because they're going to be doing it moving forward, there's a requirement of when they're going to be reviewing those

substantive changes as well. That's the goal of this, right?

MR. BOUNDS: Right. That is.

DR. PRINCE: Yeah. So as an institution, I can't do anything really in essence from credit to non-credit to any kind of other movement in a space without notifying and going through a process with my accrediting body.

MR. BOUNDS: What we want to make sure that's the process that what we cite in regulations is what we cite as a sub change. Now, there are a lot of agencies who have additional requirements regarding sub change that are, you know, that are in addition to what we have in, you know, in current regulation. So I want to make sure that's clear. We're not telling a credit agency they can't have additional sub changes. Sub change requirements.

MS. JEFFRIES: Thank you. Jamie, comments around question one?

MS. STUDLEY: Yeah. One goal that's not explicitly articulated here is the allowance, I'd like to know if the Department acknowledges and respects, is that basic curriculum improvement and additional of appropriate subject matter or updates in what's being taught is in students interest. And that there is some

degree of revision that institutions and their faculty should be able to make to, you know, update how you teach a dental hygienist, given new science, what the computer science program ought to be. Without getting into the details now, the 25% review of content of a course would seem to be, run into exactly the kinds of things that you would want institution faculty Departments to do. To refresh the subject matter of their classes so that they are appropriate. So I wonder whether the Department has thought about its goals in regard to preserving the ability of accredited, approved, currently compliant institutions. I recognize separate issues if there's a problem. To be able to adapt the curriculum, to bring in new public, you know, new current events, new techniques, new science into what they're teaching.

MR. BOUNDS: I think we will listen to that in a discussion, you know, tomorrow about the specific reg text. I mean, we would take all that back. I mean, our position is that we really want the accredit agencies to review those types of things, but we're willing to listen to that. And you can definitely point that out in tomorrow's reg text discussion. Yeah.

MS. JEFFRIES: Thank you. Barmak?

MR. NASSIRIAN: Directly answering the question that's posed. I think the elephant in the room

is changes in the institution's business model or revenue model. If you go in to evaluate an institution while it's engaged in one mode of generating revenues. I think it is a very significant and consequential shift if the revenue model changes entirely without the accreditors awareness. And, you know, as you know, there have been instances where in fairly small institutions that used to have one mode of generating revenue have altered their practices without changing ownership, without necessarily changing anything else to garner resources. Oftentimes, as we all know, institutions are bundles of cross-subsidies, you know, Department's cross-subsidize each other, graduate, undergraduate, programmatic. You can have, enormous abuses in how institutions go about generating revenues that could be prevented if the accreditor took a look to see if there quotient. Thank you.

MS. JEFFRIES: Thanks, Barmak.

Appreciate it. Jillian?

MS. KLEIN: Yeah, thanks. I'm going to speak fast, because Cindy's probably going to yell at me as soon as I start my sentence. But I just so I know we're doing the questions, but I think also there's this whole section, the narrative about what's being proposed in 602.22 and Herman, can you just talk a little bit about the proposal to eliminate sort of staff reviews in

general? I just- it would be helpful. And I'm sorry if you said this and I just blanked out for a minute, but if you can just provide a bit more context about the Department's concern here generally? Just because I think, again, like seven of us or whatever, including the Department, when we wrote this in 2019, I think folks felt there was value in staff reviews. And so, instead of the Department coming back and proposing, like maybe there are some tweaks needed in terms of what gets reviewed by staff, it would just be helpful to me. And, I don't know, maybe my fellow negotiators, just to hear a bit about the Department's perspective on that proposed change as it's outlined in the narrative not jumping to the regulatory text, just for my own purposes would be useful.

MR. BOUNDS: Yeah, sure. And I think our concern is that, some of the, you know, previous allowances, for changes that institutions could take without informing their accreditor, we think some of those, you know, were problematic. Again, in my experience, and again, I won't use the agency's name, but we have talked with some agencies who had informed us that they maybe would not have approved those types of changes if they were allowed to review those. So, again, we just think it's important that the agency, you know,



review all of the types of substantive change that we have in our definition over agency staff looking at those. I do understand the point where, you know, maybe there may be some room to tweak some of those and maybe allow some of that back in. I don't think we would not be willing to, you know, to take a look at some of that. But our main concern here was, was making sure that the accrediting agency actually reviewed all substantive change, which had been standard practice for probably 20 years under the sub change regulations. Of that, the accrediting agency decision making body had to review and approve all substantive changes that were defined by the Department under the 2020 reg changes. That's when all those changes, you know, kind of took place. And it is concerning sometimes that just the institutional staff can review those because now we don't know if there are financial needs that need to be looked at as part of doing something new. Is there training? Is there- there could be several other considerations for approval of sub change and that's our concern that maybe if they're instituted by the institution, there's not a higher look at those requirements.

MS. KLEIN: Yeah. So I think what I'm hearing you say is that the Department is at least willing to engage in a conversation about if there's a

way that agency staff decisions can be brought back and maybe a limited fashion where they make sense as we go through these negotiations.

MR. BOUNDS: Yeah, I think we're always willing to take a look at stuff. And again, I don't want to exclude my colleague here, Donna Mangold from OGC, if she has any comments. And if I missed your hand, Donna, I didn't mean to do that.

MS. KLEIN: Thanks for the information. Thanks.

MS. JEFFRIES: She's good. She did. Thumbs up. Thanks, Donna. Alright, we have one more hand on question number one, and then we're going to move on. Erica?

MS. LINDEN: Thank you. This is just a question. Herman, could you maybe provide a little bit of explanation of the motivation around or the concerns regarding additional locations and the need for an agency to visit all additional- do you mean all additional locations? Just what your intent is around that language there. Thank you.

MR. BOUNDS: Yeah. Donna, do you want to jump in here and discuss or I can take the first part of that question.

MS. JEFFRIES: She's indicating you

can.

MS. MANGOLD: You can take it.

MR. BOUNDS: Okay. Alright. Thanks.

Yeah. We just think that when, you know, when a accreditation is awarded to an institution, it's awarded to the entire institution. And we really want to make sure that if University A is gaining accreditation and then you have additional locations under that institution that they also get reviewed when that grant of accreditation is offered. Because then it's, you know, it filters down through those other locations. So that's our main concern. We just want to make sure that each one of the additional locations under the institution also gets those accreditation reviews in a timely manner. Just like the main institution is receiving.

MS. LINDEN: And so is that just a review or an actual site, physical site visit?

MR. BOUNDS: Yeah, that's the same accreditation process that the institution is going through, that same thing should occur as part of that entire accreditation review. You know, our regulations say you have to conduct a site visit. You know, they have to submit a self-study. All those things should be encompassed in all of the, you know, institution in its entirety. Yeah.

MS. JEFFRIES: Okay. So let's move on to question two there. I do want to take a moment to reach out to those who registered for public comment. If you're listening in, we are about 20 minutes away from the start of public comment. So, we encourage you to log into the meeting, into the waiting room about 15 minutes prior to your scheduled time so that we can move through and get as many of the commenters in as possible. So and negotiators, we have 20 minutes left to try to move through some more of this, and then the rest we'll take up tomorrow morning and get into the reg text. So question number two. Should the Department define significant departure as [inaudible] in 602.22 (a)(1) romanette 2 (c) and if so, how should it define the term? Thoughts? Jillian?

MS. KLEIN: Sure. I took a run at a definition. I'll put it in the chat, I'll read it, then I'll put it in the chat. Just to get the conversation started. So, significant departure is the addition of any credit bearing or Title IV eligible educational program that significantly differs from, and is not a logical extension of programs currently offered by the institution. Accrediting agencies should consider the new program's relevancy to the institution's mission, and whether the institution has sufficient resources to

successfully offer the program and provide appropriate student support in accordance with the accrediting agency standards. So I'll drop it in the chat to. Thanks.

MS. JEFFRIES: Appreciate your time and effort, Jillian, to write that up. That's very helpful. Barmak?

MR. NASSIRIAN: Thank you Jillian for drafting the language. The concern I always have is that of just drilling too deep into details and then learning after the fact that we've left out things that should have been included. Why do we need this? I think significant departure is fairly understandable. Why do we need to enumerate what specifically it consists of? I don't mind putting as such as, before Jillian's language just to illustrate the point. Maybe, but there can be other modalities of significant departure that we can't think of at the moment that could be consequential for students and the taxpayers.

MS. JEFFRIES: I think you make some good points there, Barmak. And if you want to supplement some additional language. You can put it in the chat or send it in a proposal. I know you're great at writing those and you're quick at it too. And you send them to me early in the morning. So, I appreciate that.

MR. NASSIRIAN: Scheduled send in

Gmail, Cindy.

MS. JEFFRIES: Oh, okay. DC?

DR. PRINCE: I do have a question. Is by if the, sorry, I'm getting tongue tied today. If the Department decides to define significant departure, has the Department determined or thought about how much authority they would be taking away from the local agencies and or local systems to determine for themselves what is a significant departure? Is there too much oversight by asking the question alone?

MR. BOUNDS: Yeah, I think we thought about all of that. That's why we're putting the question forth here to the committee. You know, we're saying should we define significant departure and if, you know, the group here were to think so, then how should we define. I think that's why we're seeking input from you all on that specific point. Because right now it's up to the agency to determine what it considers significant departure when it reviews and evaluates the sub change request.

DR. PRINCE: Would the- is the Department then thinking about not defining and or completely forgoing this option of significant departure?

MR. BOUNDS: Yeah. I mean, I think what we would do, again, we're going to take back the

information that we received from the committee, and then we would make that evaluation, based on the feedback that we get. Again, that's basically why we're asking the question. Status quo would be to leave as is, and leave that decision up to the accrediting body. But again, that's why we're bringing that question to the group.

DR. PRINCE: Is there a risk in not having a definition at all?

MR. BOUNDS: I don't think there's any- I would say maybe yes and no. I mean, you know, for the last years we have not had a definition of significant departure, but that doesn't mean that's the right call either. Again, that's why we're seeking input from the folks here to kind of help us to make that decision. You know, as educators, we don't do a lot of anything without getting input from other folks and doing some research. So this is part of that process.

DR. PRINCE: Alright. Thank you.

MS. JEFFRIES: Okay. Thank you. One thing I want to say that for the public commenters that are signing in, if we please sign in with the same name that you registered under. If you're signing in with the phone number- if we can't identify who you are, we can't let you in the meeting. So, we'll try to reach out to you as best we can to identify who you are. But if you could

help us out, we'd appreciate it. Barmak?

MR. NASSIRIAN: Yeah, I just want to make it, in attempting to see where we land on this, I just want to make a broad observation. The model we have with institutional accreditation is an overarching trust model. So the accreditor does whatever abracadabra it does do well as well as it does it, and then puts a stamp of approval on the institution. And at that point, the institution may decide to begin to morph, to begin to evolve. Now there are certain institutions that are subject to very robust oversight from their respective boards, from state authorities, etc., etc. and there are others that are actually trying to game the system. We see this particularly to illustrate, with law schools that evolve at institutions that are institutionally accredited. But the law school is not ABA accredited. So you see examples of an institution that is otherwise deemed to be a good actor, overtly offering programs that are dead ends at least in 49 of the 50 states, insofar as actual practice of the thing that is supposed to be taught at the law school. And yet they operate with no punitive consequences. We've attempted- we're attempting to plug that hole, but this notion of significant departure should capture those kinds of things to at least implicate the accreditor in the malfeasance. Now,



as I mentioned, there are accreditors, institutional accreditors, even today that tolerate the practice. But at the very least, we want to make sure they don't profess ignorance that it happened behind their back, etc.. I think Jillian's language kind of does that, but I think that would be my poster child of a significant departure where you trust the institution as a trustworthy provider of education. And then once it obtains your rubber stamp, it proceeds to do things that at the very least, you ought to be looking at.

MS. JEFFRIES: Okay. Thank you Barmak for that. Jo?

MS. BLONDIN: Hi again. And again, I'm new to this process, so forgive me. And I need, I just need examples. It would be so helpful to have some examples of this significant departure. And I see the definition there. And maybe tomorrow is the time to have more conversation around this, but I just really want to understand it from a boots on the ground perspective. I mean, I really, really do, especially representing the community colleges, I really want to understand what this looks like. So maybe tomorrow will be more illuminating around this. Thank you.

MS. JEFFRIES: Thank you, Jo.  
Appreciate it. Alright. Seeing no other hands on that. We

have about 11 minutes, Herman. I think we could probably get through 602.23. You're on mute.

MR. BOUNDS: Great goodness. Yeah. I think we could get through 602.23.

MS. JEFFRIES: Okay.

MR. BOUNDS: Okay. So under 602.23 I will go through our proposal here and basically it's to help evaluate what is- what we consider fair, equitable and timely. So we want to clarify the requirements that agencies must review complaints in a timely, fair and equitable manner, including by specific factors the Department will consider in reviewing complaint policies, such as the availability of multiple submission methods, confidentiality of the complainant, and whether timelines for reviewing complaints or clear. Complaints can be an important factor of whether an institution or program is providing students a quality education, and the Department seeks to ensure that agencies' complaint policies are fair and equitable to anyone wishing to file a complaint. And of course, we want to put these changes to codify those in the current practice. And a lot of the changes that we've proposed here, we've taken to- we put out some complaint guidance a few months ago to accrediting agencies, and we just wanted to incorporate that into regulation.

MS. JEFFRIES: Okay. Any questions on what the Department is trying to accomplish? Laura?

DR. KING: Is the intent to- and I think this is a little bit different than the dear Colleague letter that was put out, but is the intent for accrediting agencies to accept anonymous complaints? Anonymous is different than confidential.

MR. BOUNDS: Yeah. So I think tomorrow, Laura, we'll definitely dive into the reg text, but that's going to be a- and I haven't pulled the reg text in front of me, but that's going to be a consideration in our evaluation of whether the agency accepts these anonymous, you know, anonymous complaints. Because right now the complaint criteria for agencies is all over the place. I mean, some agencies allow certain things to be submitted, certain submission methods, and then others don't. This is trying to kind of give everyone an idea of the things that we're going to look at and evaluating this fair and equitable.

DR. KING: Right. And I'm not sure you answered my question, it could be because it wasn't clear. The question was, is the intent of the change related to anonymity and submitting anonymous complaints, or is it keeping the complainant confidential? Those are two different things, and the language is not clear about

what the intent is on that.

MR. BOUNDS: So we're looking at keeping the identity of the complainant, you know, confidential.

DR. KING: Okay. That's great. Thank you.

MS. JEFFRIES: Okay. I've got, Barmak.

MR. NASSIRIAN: It's very difficult to understand how you can keep the identity of the complainants confidential when the party's being complained about maybe on the board of the entity to whom you're complaining. I mean, I just see and we have examples of that where a student has an issue, complains to the accreditor, and lo and behold, the owner of the school is on the board of the accreditor. How do you keep that confidential? It seems to me that accreditors- now I understand the concern about frivolous stuff pouring in from all quarters of the internet. I get that. But I have to tell you, some of the most serious allegations that are well worth investigating, would presumably come in anonymously because people are afraid of retaliation. And given the fact that this is a fairly self-governing process, it would be understandable why people would not want to be identified when they complain.

MS. JEFFRIES: Okay. Thank you. And

perhaps that's something that can be delved into in more specifics tomorrow to, Barmak. Other comments? No clarifying questions? We've got about six minutes. Herman, do you want to try to cover 602.30? Well that's 30 to 39. So that's a long one.

MR. BOUNDS: Yeah. That's going to be pretty extensive. Yeah.

MS. JEFFRIES: Alright, well if you want to get up and stretch your legs for three minutes, we can. But we do need to start the. Oh, Emmett, you got your hand up. Thanks.

MR. BLANEY: Hi. Sorry.

MS. JEFFRIES: No, no. That's fine.

MR. BLANEY: Sorry to try to steal your leg stretching break.

MS. JEFFRIES: No. No problem.

MR. BLANEY: I just, since we have, like, a couple minutes, I don't want to butt up into the public comment period. But just wanted to briefly explain a memo, that myself and a couple of other negotiators have submitted. It has some information around automatic textbook billing and response to the Department's cash management proposal. So I just wanted to get you a little outline just in the hopes that folks will have the opportunity to look at it tonight, before tomorrow. So it

details specific financial hardships that automatic textbook billing places on students, also provide some history to the regulations surrounding automatic billing that I think are super helpful to review. And it goes into a little more detail on example of research done by PIRG that shows the reality behind these Inclusive Access contracts. And then the memo closes with some of our recommendations for the Department to revise this section of the Federal rules to make them specifically more student friendly and ensure that students get the full financial aid that we are entitled to. I know that's my SparkNotes version. I hope you have a chance to look at it. If you have any questions, reach out to me or any of the other negotiators that are on that document.

MS. JEFFRIES: Okay. Thank you, Emmett. We appreciate that. Alright. We are at 3:26. We will start promptly at. Well, who we have here. We have one that we can identify because it's via a phone number. I know we're working on trying to figure out who that is, but until we do, we cannot let them into the room. So Krystil, let's go ahead and admit the first person that we have.

MS. K. SMITH: Okay. Great. My first person is Josiah Shaw. They will be representing themselves.

MS. JEFFRIES: Okay. Welcome, Josiah. Can you hear me? Perfect. Can you take yourself off-? There you go. Thanks for registering to address the committee today, they value your input greatly. So, you will have three minutes to address the committee. You will be given a 30 second heads up just before your three minutes expires. Okay. So ready to start your time whenever you're ready to start speaking.

MR. SHAW: Alright. I'm ready to go.

MS. JEFFRIES: Okay, great.

MR. SHAW: Alright. Hi. My name is Josiah Shaw. I served in the Air Force from 2002 until 2006, and again from 2012 to 2019. When I most recently returned to civilian life, I decided it was time to use my GI Bill benefits and get an education. I decided to pursue a career as a videographer. After googling programs, I found the Art Institute. I thought it would be good- would help me to move forward in my career. Then I was wrong, unfortunately. Enrolling was suspiciously easy. I spoke to someone for more information, within the same day I was signed up for school. Immediately I could tell there was problems, especially in my program. The gear they provided wasn't up to date, and I actually had to give the school a list of the kinds of equipment that I would need. Only two other students were studying film

with me and I had just one class with them. Because of this, it was hard to collaborate with anyone on my projects. On top of this, about half of my classes the teachers were doing very little teaching. The classes were just canned. They would just show up, show us YouTube videos, or reuse lesson plans. I couldn't believe that the VA was paying for this. I felt like this school was happy to take my money but did not want to give me an education in return. The kicker came at the very end, just three days before the end of my turn while I was working on my final assignment. I received an email from the school saying it would be permanently shutting down in just over a week. I couldn't believe it. I was completely blindsided. I was so frustrated that they had not told us earlier, as they must have known, or at least suspected that this was coming. Had I been aware of the closure earlier, I would have put together a portfolio and looked for another school. It was wrong that the accreditor approved program with such low- the accreditor approved a program with such low quality that would eventually pull the rug out from underneath me. Had I not had my GI Bill benefits restored, the whole experience would have been a complete disaster. Still, it was a huge waste of time. Please consider new rules that will force accreditors to look more closely on programing and



prevent schools from surprising their students with abrupt closures. Thank you for your time.

MS. JEFFRIES: Thank you, Josiah.

MR. SHAW: You're welcome.

MS. JEFFRIES: Krystil, who do we have next?

MS. K. SMITH: Our next speaker is Edgar Sort de Sanz, representing himself.

MS. JEFFRIES: Okay. Edgar, can you hear me?

MR. SORT DE SANZ: Yes. Can you hear me?

MS. JEFFRIES: Absolutely. Welcome.

MR. SORT DE SANZ: Thank you.

MS. JEFFRIES: Thank you for taking the time to make your comments to the committee today. You will have three minutes and you will receive a 30 second heads up before your time expires. Okay? And your time begins whenever you're ready to start talking.

MR. SORT DE SANZ: Oh, not a problem. I appreciate that. I actually have something printed out here that I'll just read directly. Okay. So my name is Edgar Sort de Sanz. So I appreciate the opportunity to share my experience as a student at the University of Phoenix. After serving in the Navy, I enrolled in a

bachelor's degree in psychology in 2009, using my GI Bill. The decision was based mainly on their sales pitch, with promises of employment and opportunities offered by top employers. I was led to believe that the university had affiliations and partnerships with esteemed employers, which I later found out to be exaggerated or non-existent. As a student, I found the quality of the instruction to be severely lacking, and I didn't learn anything. It was frustrating because I purposely enrolled in face to face classes, which I expected would be much better option for me than online. I withdrew in 2013 due to a death in the family that needed me to regroup with them, but I did reapply to Phoenix in 2018, holding out hope that finishing my degree would land me a decent job. Shockingly, I was told that the degree I was enrolled in was no longer offered. I would have to start over as a sophomore. Now I have more than \$50,000 in student loans, but I do not know how this happened because I never took out any loans. I never signed any paperwork. Everything with Phoenix was done over the phone. I have no recollection of ever applying for any of these loans, and this debt does continue to affect my financial stability. Now, as a disabled veteran, I have been approved for VA Vocational Rehabilitation and will soon start working toward a career in cyber security. While I am excited

about these possibilities, I have a huge financial burden from loans that I did not want and I feel like my GI Bill and time went to waste. Thank you for your time.

MS. JEFFRIES: Thank you, Edgar. We appreciate it.

MR. SORT DE SANZ: Not a problem.

MS. JEFFRIES: Okay. Krystil, who do we have up next?

MS. K. SMITH: So next we have Jeri Glenn. They are representing themselves. They were the phone number, so they might be on audio.

MS. JEFFRIES: Wonderful. Glad you were able to identify them. Jeri, can you hear us? Jeri?

MS. K. SMITH: They are on mute.

MS. GLENN: I'm here.

MS. JEFFRIES: Okay. There we go. Great. Wonderful.

MS. GLENN: I had to unmute myself.

MS. JEFFRIES: We've been struggling with that ourselves all day long, so don't- no worries on that. So, Jeri, welcome and thanks for taking your time to address the committee. You will have three minutes and you will receive a 30 second heads up just before your time expires. And so with that, you are free to begin.

MS. GLENN: My name is Jerry Glenn. I

served in the United States Navy.

MS. JEFFRIES: We lost you.

MS. K. SMITH: Jeri, you have muted yourself again, maybe inadvertently.

MS. GLENN: Okay, let me hide the keypad there, maybe that'll help.

MS. JEFFRIES: Okay. Go ahead.

MS. GLENN: Let me start over. My name is Jeri Glenn. I served in the United States Navy from 1987 to 2002. When I looked for jobs after getting out, I found that the lack of a degree put me at a disadvantage despite my real world experiences. I was lured to enrolling online at the University of Phoenix based on promises of jobs with notable companies. The advisers painted a picture of exciting opportunities after graduation. They claimed I could get an accounting job with a minimum salary of \$60,000. And then pressured me to enroll in their master's program after my bachelor's, because I did not feel prepared to get a job. Before enrolling, I was told the tuition was relatively inexpensive and I was offered a veterans discount. However, I don't believe I ever got that discount. I was originally told my GI Bill would cover full cost of tuition, but later I needed to take out Federal student loans to complete my degree. While I was at school, I had

to work two jobs to make ends meet. I started receiving refunds and was told these came from my GI Bills. No one at Phoenix explained that I would have to pay these student loan refunds back. And by the time I finished, I had used up all my GI benefits and owed over \$80,000 in loans. Since leaving Phoenix in 2010, I've applied for many jobs, and the highest paying job I have ever had is \$16 an hour. I was promised that a career services would help me find a job, but after graduating, they told me they only helped graduates who live near the Phoenix campus. I was also told that I would be able to take the Certified Public Accountant exam after I graduated, but I later learned that in Florida, I would have to work in the field before taking the test. Unfortunately, I was not able to get a job with my degree that would provide the work experience needed to take the exam. I feel like the University of Phoenix was way too expensive, especially considering the quality of the education. I was teaching myself from the textbook. Some of the instructors could not answer basic accounting questions and were very hard to get in touch with. The course was provided through questions and emails online. When the instructors graded work, there was no feedback to help us with our understanding. And recalled the recruiters telling me that the accreditation was the same as any

other school and their credits would transfer anywhere. I tried transferring to a Texas community college, but they would not accept any credits from Phoenix. Working adults and first generation students such as myself would benefit from increased oversight to protect us from enrolling in institutions that do not live up to their promises. Thank you for your time.

MS. JEFFRIES: Thank you, Jeri. We appreciate it. Okay. Krystil, who's next, please?

MS. K. SMITH: Our next speaker is Aissa Canchola Banez, who is a Senior Advisor, Policy and Strategy at the Student Borrower Protection Center.

MS. JEFFRIES: Okay, great. Aissa, can you hear me?

MS. BANEZ: I can, thank you.

MS. JEFFRIES: Great. So you will have three minutes to address the committee today with the 30 second heads up just before it's about to expire. So with that, you're free to begin.

MS. BANEZ: Great. Thank you so much. Again, my name is Aissa Canchola Banez. I am a senior advisor for the Student Borrower Protection Center. We appreciate the administration's work to strengthen program integrity and institutional quality. This rulemaking presents an important opportunity for the

Department to protect students and reform policies and practices that have driven millions into mountains of debt. We specifically commend the Department's work to update, improve and simplify regulations Governing the return to Title IV funds process. For too long, this complex process has disproportionately harmed students of color and low income students who find themselves having to withdraw from their courses due to health challenges, financial emergencies, or other circumstances beyond their control. This process often requires schools to return taxpayer funds, but still allows them to bill students for the cost, and as a result, many are left with these so-called institutional debts, debts owed by current or former students and directly to their schools. While data is limited, we know the debts are extensive and disproportionately burden low income students and black and brown students in particular. Research estimates that 6.6 million individuals owed \$15 billion in institutional debts. And to collect on these debts, schools have used aggressive and costly collection tactics, such as preventing re enrollment, withholding student transcripts and degrees, offsetting public benefits, and even referring students to for-profit debt collectors. And this debt, which often stems from Federal financial aid, can act as a barrier to retention and

completion and can trap students in cycles of poverty. A growing number of states have stepped up to protect students and ban the practice of transcript withholding, specifically. The CFPB even found that the practice was abusive, based on the disproportionate harm to students. And, last year, the Department rightfully took action to ban transcript withholding in certain instances. But now the Department can and must do more. The institutional debt crisis must be addressed immediately, and the Department's changes to the R2T4 process is an opportunity to do so. Since most of this debt derives from returned Title IV aid, including Pell Grants, the Department should restrict schools ability to charge students for returned Federal financial aid. If the Department deems a student has not earned the returned financial aid, a school should not be able to charge a student for services that they will not receive, such as tuition for classes after they withdraw. Further, the Department should require schools to report on the reasons for these withdrawals, collection methods used and the demographic information that are impacted. And in California, policymakers are actively considering a proposal to address these harms. They will make a huge difference, but only in one state. So the Department is in a uniquely position to act nationwide and should begin



by providing comprehensive data on this relationship. And lastly, it deserves mentioning that the Department has also failed to deliver for students in the cash management roles. Banks load students with junk fees under back room deals cut with colleges. And this is a missed opportunity to ban these practices. So we strongly encourage them to- the Department to consider doing so. And with that, the SBPC is thankful for the opportunity to be here to comment today, and look forward to remaining engaged throughout the process. Thank you.

MS. JEFFRIES: Thank you, Aissa. I appreciate that. Krystil, who's next?

MS. K. SMITH: Next we have Keishaun Wade, who is representing themselves. They are in the room.

MS. JEFFRIES: Okay. Keishaun, can you hear me? Keishaun, are you on mute?

MS. WADE: Yes, I was on mute.

MS. JEFFRIES: Okay. Wonderful. Great. Well, welcome. You will have three minutes to address the committee with your comments. With the 30 second heads up just before your time is about to expire. So with that, please feel free to begin.

MS. WADE: Alright. Hello. My name is Keishaun Wade, and I am from Flint, Michigan. In 2019, I

graduated from the last public high school in the city of Flint. I was admitted to Cornell University to study urban and regional planning, and I matriculated in the summer of 2019. Despite me getting a full ride from Cornell, which consisted of Federal Pell grants and large institutional grants, as well as a few merit-based scholarships, in the four and a half years since I matriculated to Cornell, I still have not graduated. This is because I am currently facing an administrative leave of absence from Cornell University, due to a financial hold that continues to grow. This hold has become an inaccessible barrier which is continually prevented my enrollment back into the university. I have tried to work with the university and come to a resolution regarding the balance. However, they are firm with their stance that I must have this balance paid before I'm allowed to enroll as a full-time student. I have been unable to utilize any of the university's resources as a requirement for any resources that I may be eligible for is that I am registered full-time student. Due to the financial hold, I cannot become a registered full-time student either. I have been unable to get any of the student loans I've applied for, due to my age and inability to secure a credit worthy cosigner. The main reason I accrued this balance in the first place was due

to the fact I was billed for housing costs that should have long been accounted for. Cornell's cash management practices are responsible for prematurely generating a refund and then billing me for my housing more than five weeks or 37 days later, completely disrupting the procedural normal I was used to in the past two semesters. While I had received a refund before, I had never received one before all charges have been applied to my account. This, ultimately, is what contributed to the financial hole that has grown with interest and been sent to collections where they expect me to pay additional fees for services rendered. This is a barrier that continues to grow larger and has kept me from making progress to complete my undergraduate degree for over two years. Where I once looked to Cornell with a sense of faith that they had designed their infrastructure to protect me, I have since come to realize the opposite was largely true. I wish I could say this story was unique or rare, but the truth is it is not. The truth is, thousands of students who are first generation and low income do not get the chance to finish their undergraduate academic careers due to cash management practices like Cornell's, which has become a major financial burden for me. I've been left with the frustrating knowledge that efforts to help students with issues like mine are not deeply

ingrained in the university policy as they could be. Cornell has chosen to paint this reality as a result of my own lack of knowledge manufacturing failure on my part, where otherwise growth and success may have existed with their support. Thank you for your time.

MS. JEFFRIES: Thank you, Keishaun. Okay. Before we move to the next one, I want to encourage anyone who has a registered time slot for speaking that has not logged in to please do so at this time. So Krystil, who do we have next?

MS. K. SMITH: Next we have Jody Feder from the National Association of Independent Colleges and Universities. And Jody is in the room.

MS. JEFFRIES: Okay. Thank you. Jody, can you hear me?

MS. FEDER: I can hear you.

MS. JEFFRIES: Okay. There you are. Welcome and appreciate you taking the time to make your comments to the committee. You will have three minutes for those comments with the 30 second heads up just before your time is to expire. So with that, you're free to begin.

MS. FEDER: Thanks. Good afternoon everyone. I am Jody Feder, director of Accountability and Regulatory Affairs with the National Association of

Independent Colleges and Universities. Which is the lead National Public Policy Association for private nonprofit institutions of higher education. In light of the conversation yesterday, I'd like to focus my comments today on state authorization of brick and mortar institutions in order to offer some more insight and history regarding this complex and multi-layered issue. In brief, NAICU is concerned about the discussion regarding potential changes to existing regulations, which currently allow states to exempt institutions from state authorization requirements if the institution is accredited by one or more accrediting agencies recognized by the Secretary, or if the institution has been in operation for at least 20 years. Because public institutions are by definition established by the states and for-profits are more typically more heavily regulated. This exception primarily affects the private nonprofit sector. State authorization, which is required under the Higher Education Act, is a requirement that an institution be legally authorized to operate in the state as a postsecondary institution. Usually via state law, constitution, or charter, although other forms of authorization are also acceptable. It should not be confused with state oversight. This fundamental confusion between the authorization and oversight roles of states

led to massive disruption during the implementation of the 2010 regulations, despite the fact that the language was mainly in and of itself appropriate to what it means to be authorized. The confusion during the implementation of the 2010 regulations led to a series of state actions from legislators needing to pass special legislation to officials having to dig for ancient documents, including, in at least one case, an original charter from the King of England to state agencies needing to undertake massive certification efforts for long established brand name institutions. We have lengthy records on the various actions at the state and local levels. But one of the biggest takeaways from this years'-long effort, was the enormous waste of resources that could have been reserved for states to target consumer oversight at situations that most needed their attention. The current exception became an important way out of the chaos created for many states and should not be undone. It is also ensured the states are able to focus oversight resources on programs, institutions and situations that warrant the most vigorous consumer protection efforts. Altering this exception could potentially cause an enormous amount of upheaval for both state and private nonprofit institutions by subjecting institutions to a whole series of state laws that were never intended to apply to them,

and by forcing states to devote time that were better targeted at bad actors. In short, NAICU urges the negotiated rulemaking committee, to exercise caution when considering the state authorization proposal on the table. We've been down this road a decade ago, and it was a painful process that did not necessarily enhance protections for students. Today, we simply would like negotiators in the Department to understand just how profound a change would be wrought if the current exception is altered. Each state has a long, complicated history on this issue, and negotiators must be extremely careful about imposing new Federal mandates, undoing appropriate state relationships, or upsetting the balance established by the Triad. Thank you.

MS. JEFFRIES: Thank you, Jody. We appreciate it. Krystil, who's next, please?

MS. K. SMITH: Next we have Camellia Cartland, who is representing herself. Camellia?

MS. JEFFRIES: Okay. Good afternoon, Camellia. Can you hear me?

MS. CARTLAND: Yes, I can hear you. Hello.

MS. JEFFRIES: Wonderful. We can see and hear you as well. Welcome. And we appreciate the time you're taking to address the committee. You will have

three minutes, to make your comments with the 30 second heads up that your time is about to expire. So with that, you can begin anytime you're ready.

MS. CARTLAND: Alright. Thank you so much. Hello, everybody. Good afternoon. Thank you for taking the time to listen to my comment today. My name is Camellia Cartland. I'm a third year at UC Irvine studying environmental science and policy, and I am commenting in support of the proposal to eliminate the provision allowing institutions to include the cost of books and supplies as part of tuition and fees. I wasn't able to speak on Monday when the issue was discussed, so thank you for the opportunity to say something now. But yeah, I do not support Inclusive Access programs. Many professors at UC Irvine are beginning to use open education resources, so Inclusive Access programs would be unfair to students in these courses who should not have to subsidize other students costs. Additionally, students in schools that use Inclusive Access programs do not always have the ability to opt out because some courses won't let you. If, for example, materials are bundled with online homework platforms. With more and more professors opting to use open education resources or not use course required textbooks at all, it doesn't make sense to implement a program that automatically charges students



for their textbooks. I've spoken to some of my peers about Inclusive Access programs, and we all agree that we prefer the freedom of being able to buy, rent, or forgo using textbooks and choose which textbooks we would like to purchase over an opt-out Inclusive Access program. And honestly, most of my classes, I've had course, quote, unquote, required textbooks that professors decided to never use or only reference a couple of times as supplemental information. So I would be pretty frustrated if I had to pay for those textbook costs and end up not using the textbook. I am more supportive of an opt-in Inclusive Access program through the cash management proposal so that students would need to give authorization before being charged. That just makes more sense to me, because if the DLC's programs offer are as good as they claim, you shouldn't need to force students to use them. Making these programs opt-in will let students decide for themselves. So I hope you take my comment into consideration. Thank you so much and have a good day.

MS. JEFFRIES: Thank you very much, Camellia. You also have a good day. Krystil, who's next?

MS. K. SMITH: Alright. Our next and last speaker for the day is Grace Hoback, who is representing herself. Grace is in the room.

MS. JEFFRIES: Hi, Grace. Can you hear me?

MS. HOBACK: Yes.

MS. JEFFRIES: Wonderful. So, thanks for taking the time this afternoon to address the committee. You will have three minutes with them and you'll get a 30 second heads up just before your time expires. Okay? So with that, go right ahead and begin.

MS. HOBACK: Awesome. Well, thank you, everyone, for this opportunity. I'm Graceanne Hoback. I'm an undergraduate student studying political science and sociology at Florida State University. I'm commenting on the topic from the cash management issue paper, which to my understanding, was discussed on Monday. I want to specifically express my support for eliminating the ability to charge for books and supplies through students tuition and fees, which allows students to unknowingly and involuntarily be charged for their course materials. The line by line breakdown of university tuition costs is often overlooked by students as they pay for their courses, but the \$300 and \$500 semester increases my classmates have experienced as a result of automatic billing and Inclusive Access courses, however, is not as easily overlooked and has caused many students to be forced to pay off their textbook charges, taking away

their autonomy to decide to find cheaper course options, and also being able to accommodate for their basic needs, which they would have been able to. But these funds are being put towards textbooks instead. And for every charge that gets added to tuition and fees, it means a smaller refund check for many students, which means less money to cover essentials like rent, food and gas. For example, my coworker was automatically billed for her French course textbook, and she would be seemingly happy to keep up in the class. But knowing her financial situation, I know that she would have rather put those \$300 worth of her refund check towards groceries for the entire month and come to find by December, she didn't even need to open the book for the course. It's to my understanding, the Department's proposal would require schools to get authorization before automatically charging textbooks to financial aid. This would mean that so-called Inclusive Access programs would then need to be opt-in, rather than the more common model of opt-out. Textbook companies are likely to tell you that switching to opt-in billing is not possible. They say that Inclusive Access programs only work if students get charged by default, but this is only true to my understanding, if the metric of success is to see how much profit these textbook companies can make, and adopting an opt-in model, value students'

performance and basic needs more so than company profit. And performing research on textbook affordability across the nation, it's been clear to me that the opt-in Inclusive Access programs are possible, as evidenced by University of Central Florida, which has served as my poster child when speaking on how universities should form their relationships with textbook companies and the advocacy work that I've been able to do. Opt-in is a much better model in my belief, and this model would allow us to decide whether the school offers the best deal, and if it doesn't, we wouldn't have to worry about getting automatically charged. If Inclusive Access programs do offer students such a great deal as they argue that they do, they wouldn't be afraid to offer students a choice to not use them. And with that all being said, I do want to thank the Department for proposing this student friendly change, and I want to urge the committee to support it. Thank you.

MS. JEFFRIES: Thank you Grace and have a great day.

MS. HOBACK: You as well.

MS. JEFFRIES: Okay. That concludes the public comment as it is the last person who signed in and we are at 3:55. Herman, or anyone from the Department have any closing last minute comments you'd like to make?

MR. BOUNDS: No, I don't have any. I would just like to- I enjoyed the questions today and I thought the discussion was very informative.

MS. JEFFRIES: Okay, thanks. So tomorrow morning, we will pick up where we left off on the issue paper and then move directly into the reg text. Hopefully this is giving you some clearer insight as to the goals of the Department in helping us get through the detailed discussions on the reg text itself. So with that, you all have a great evening and we'll see you tomorrow.

MR. DOLAN: Thank you.

**Zoom Chat Transcript  
Program Integrity and Institutional Quality- Session 1, Day 3, Afternoon,  
January 10, 2024**

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

From P-Robyn Smith-Legal Aid Orgs. to Everyone:  
Sophie will be taking over for Legal Aid orgs.

From P Erika Linden - Private Nonprofit HIEs to Everyone:  
Agree with concern raised by Jillian re: members of profession;  
this may affect our medical specialized accreditors.

From P, DC, HBCUs, TCUs, MSIs to Everyone:  
Does anyone on the group want to caucus on this issue and work on  
a proposal? Happy to spearhead if interested.

From P, Jillian Klein, Proprietary Instit to Everyone:  
Agree with Laura on process

From P Jamie Studley Institutional Accreditors to Everyone:  
Agree with Laura, hard to separate goal from language. For the  
broad discussion questions where there is no proposed reg language,  
will you take those today?

From P, Jillian Klein, Proprietary Instit to Everyone:  
2021

From P, Jillian Klein, Proprietary Instit to Everyone:  
+100 on Erika's comments about regulatory whiplash

From P, Laura Rasar King, Specialized Accreditors to Everyone:  
Agree with Erika 100%.

From P Jamie Studley Institutional Accreditors to Everyone:  
Also agree with Erika about the institutional price of regulatory  
change--improve when it's worth the candle

From Barmak Nassirian (P) Vets to Everyone:  
Not unsympathetic to Erika's point, but one administration cannot  
prohibit a future administration from attempting to implement its  
policy priorities. The Administrative Procedures Act, the reg neg  
process, and the master calendar provision are safeguards that slow  
the process down already. I see no way, short of adding new statutory  
limitations on rulemaking (which would have their own adverse  
consequences), of restricting ED's prerogative to update or revamp its  
regulations at its sole discretion.

From P Jamie Studley Institutional Accreditors to Everyone:  
Barmak's example would seem to be squarely within sub change  
rules requiring review of change of mission, structure, ownership,  
financial model, etc.

From Barmak Nassirian (P) Vets to Everyone:  
I don't see financial model listed in current regs, where is it?

From P. Jo Blondin, Community Colleges to Everyone:  
Reacted to "Barmak's example w..." with 👍

From P Jamie Studley Institutional Accreditors to Everyone:  
i'll check my agency language and why i say that would be  
included for us

From Barmak Nassirian (P) Vets to Everyone:

Negotiated Rulemaking Program Integrity and  
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Strongly support the Department's position on non-delegation to staff

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:  
Replying to "Strongly support the..."

+1 supporting Department's position on non-delegation to staff  
From Barmak Nassirian (P) Vets to Everyone:  
Re Jamie's comment, I'm looking at the list enumerated in 602.22  
(a)(1)(ii)

From P Jamie Studley Institutional Accreditors to Everyone:  
Erika asks a good question. The different references in the draft  
regs to visits to additional locations are somewhat hard to follow.  
perhaps the Dept could be prepared to summarize the visit reqts  
tomorrow or after this week.

From P, Jillian Klein, Proprietary Instit to Everyone:  
Significant departure is the addition of any credit-bearing or  
title IV eligible educational program that significantly differs from,  
and is not a logical extension of, programs currently offered by the  
institution. Accrediting agencies should consider the new program's  
relevancy to the institution's mission and whether the institution has  
sufficient resources to successfully offer the program and provide  
appropriate student support, in accordance with the accrediting  
agencies standards.

From P Jamie Studley Institutional Accreditors to Everyone:  
we take the Department's goal that it intends to build on its  
recent guidance, which agencies have already reviewed and in many  
cases responded to in their practices. We do have specific questions  
for tomorrow: "technically follow," point of specifying staff roles.  
Agree that anonymous and confidential are issues to discuss.

From P, Laura Rasar King, Specialized Accreditors to Everyone:  
Conflict of interest policies, Barmak.

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:  
I think Emmett wanted to raise an issue before

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:  
we go to Public Comment?

From P Jamie Studley Institutional Accreditors to Everyone:  
Re Barmak comment: Our complaints do not reach the Commission  
unless/until there is a proceeding to determine the institution's  
compliance with Standards.

From A-Michale McComis, Inst. Accreditors to Everyone:

Reacted to "Re Barmak comment: O..." with 👍

From P, Laura Rasar King, Specialized Accreditors to Everyone:

Reacted to "Re Barmak comment: O..." with 👍

From P. Jo Blondin, Community Colleges to Everyone:

Reacted to "Re Barmak comment:..." with 👍

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

I agree with Emmet's point, as the discussion earlier today on  
R2TF illustrated how automatic billing/opt-out depletes a student's  
lifetime Pell grant eligibility even if they never attend; a  
commitment to reduce book costs is achieved through opt-in, which  
curtails harmful practices and still meet all the goals we all ensure  
students succeed.

Negotiated Rulemaking Program Integrity and  
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From Barmak Nassirian (P) Vets to Everyone:  
My colleague, Ashlynn, will sit in on our behalf

From A, Emmett Blaney, Student/Borrower to Everyone:  
Reacted to "I agree with Emmet's..." with ❤️

From Barmak Nassirian (P) Vets to Everyone:  
I'd like to remind Committee members that the DOD and VA rely on  
Secretariially-recognized accreditation for purposes of institutional  
eligibility for their educational programs.

From P. Jo Blondin, Community Colleges to Everyone:  
I will have to leave at 3:50--Michael Cioce will take over.  
Thank you. Thank you and see you tomorrow.

From Cindy Jeffries-FMCS Facilitator to Everyone:  
Thank you Jo and see you tomorrow

From P. Jo Blondin, Community Colleges to Everyone:  
Reacted to "Thank you Jo and s..." with 👍

From A, Michael Cioce, 2 Year Colleges to Everyone:  
I'm here