

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING PROGRAM INTEGRITY
AND INSTITUTIONAL QUALITY
SESSION 1, DAY 2, MORNING
JANUARY 9, 2024

On the 9th day of January, 2024, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MR. WEATHERS: Hello everyone. Welcome back for session one, day two. I hope you had a good evening and morning thus far. I'm going to- my name is John Weathers. I'm with the FMCS facilitation team. I'll be your primary facilitator, along with my co-facilitator, Cindy Jeffries. I want to start with a roll call, and then we'll get going with the business of the day. So primary business officers from institutions of higher education, Joe Weglarz. Joe, are you here? I thought I saw you.

MR. ROBERTS: He is here, but he looks like he's-

MR. WEGLARZ: Alright. I'm officially here.

MR. WEATHERS: Officially here. Thank you, Joe. And the alternate. Thank you, Joe. Alternate Dom Chase.

MR. CHASE: Present.

MR. WEATHERS: Excellent. Thank you. Primary Civil Rights Organizations and Consumer Advocates, Carolyn Fast.

MS. FAST: Good morning.

MR. WEATHERS: Good morning, Carolyn. And as alternate, Magin Misael Sanchez. Magin, are you

here?

MR. SANCHEZ: I'm here. Good morning.

MR. WEATHERS: Good morning, Magin.

And primary for financial aid administrators, JoEllen Price.

MS. PRICE: Good morning. I'm here.

MR. WEATHERS: Good morning, JoEllen.

And alternate, Zack Goodwin.

MR. GOODWIN: Present and good morning.

MR. WEATHERS: Good morning back.

Primary Historically Black Colleges and Universities, Tribal Colleges and Universities and Minority Serving Institutions, Dr. Charles Prince. Are you here, sir?

DR. PRINCE: Present.

MR. WEATHERS: Good morning, DC. And alternate D'Angelo Sands. I see your box.

MR. SANDS: Here. Thank you. Good morning.

MR. WEATHERS: Thank you. Good morning. Primary Institutional Accrediting Agencies Recognized by the Secretary, Jamie Studley.

MS. STUDLEY: Good morning.

MR. WEATHERS: Good morning, Jamie.
And alternate, Michale McComis.

MS. K. SMITH: He is here. He just got in though, but he is here.

MR. WEATHERS: Okay. Thank you, Krystil, I appreciate that. Primary Legal Assistant Organizations, Robyn Smith.

MS. R. SMITH: Hello, here.

MR. WEATHERS: Hello, Robyn. And alternate, Sophie Laing.

MS. LAING: Yeah. Good morning.

MR. WEATHERS: Good morning, Sophie. Primary Private Nonprofit Institutions of Higher Education, Erika Linden.

MS. LINDEN: I'm here. Thank you.

MR. WEATHERS: Thank you, Erika. And alternate, Scott Dolan.

MR. DOLAN: Wrong button. Good morning everybody.

MR. WEATHERS: Good morning, Scott. Gotta get your caffeine. Primary programmatic accrediting Agencies recognized by the Secretary to include State agencies recognized for the approval of nurse education, Laura Rasar King.

MS. RASAR-KING: Good morning.

MR. WEATHERS: Good morning. And alternate, Amy Ackerson.

MS. ACKERSON: I am here. Good morning.

MR. WEATHERS: Good morning. Primary Proprietary Institutions of Higher Education, Jillian Klein.

MS. KLEIN: Good morning, everybody.

MR. WEATHERS: Good morning. And alternate, David Cohen.

MR. COHEN: Good morning. I'm here.

MR. WEATHERS: Thank you. And primary Public Four-Year Institutions of Higher Education, Jason Lorgan.

MR. LORGAN: Good morning.

MR. WEATHERS: Good morning, Jason. And alternate, Alyssa Dobson.

MS. DOBSON: Good morning. I'm here.

MR. WEATHERS: Okay. Good morning, Alyssa. Hope you're feeling better. Primary Public Two-Year Institutions of Higher Education, Jo Alice Blondin. Jo, are you here?

MS. BLONDIN: Yes.

MR. WEATHERS: Good morning, Jo. And alternate, Michael Cioce, are you here, sir?

MR. CIOCE: Good morning. Good morning.

MR. WEATHERS: Excellent. Primary State Attorneys General, Diana Hooley.

MS. HOOLEY: Good morning.

MR. WEATHERS: Good morning, Diana. Primary, State Officials, including State higher education, executive officers, State authorizing agencies and State regulators of institutions of higher education. John Ware.

MR. WARE: Present. Good morning.

MR. WEATHERS: Good morning. And alternate Robert Anderson.

MR. ANDERSON: I'm here. Good morning everyone.

MR. WEATHERS: Good morning. Primary students or borrowers, including currently enrolled borrowers or groups representing them. Jessica Morales.

MR. ROBERTS: She said she had to step away briefly, John.

MR. WEATHERS: Okay, thank you, Brady I appreciate that. And alternate Emmett Blaney.

MR. BLANEY: I'm here.

MR. WEATHERS: I see you, Emmett. Thank you. And, primary US military service members, veterans, or groups representing them.

MR. WEGLARZ: Oh, okay. Yeah. Kent

tried to call me. And did he call you?

MR. WEATHERS: Joe? Okay. Thank you, Joe. Let me restart. Let me reset. Primary US military service members, veterans, or groups representing them. Barmak Nassirian. Barmak, are you here, sir?

MR. NASSIRIAN: Yes, sir.

MR. WEATHERS: Okay. Thank you. And, the alternate Ashlynn Haycock-Lohmann.

MS. HAYCOCK-LOHMANN: I'm here.

MR. WEATHERS: Oh. Thank you. Alright, now that we're done with roll call- or we're not done with roll call, I'd like to recognize the Federal negotiator, Greg Martin. Greg, would you like to recognize your- the remaining of your team, Office of General Counsel?

MR. MARTIN: Sure. So, good morning, everybody. It's good to be back with you today. The remaining portion of the Federal team today is our other negotiator, David Musser, who will be taking responsibility for the discussion on distance education later this afternoon. And we also have Counsel Denise Morelli with us today as well. And I- Donna Mangold may be on, I don't know, but, she's- she'll take- she will be taking responsibility as OGC attorney when we get to accreditation. Thank you.

MR. WEATHERS: Thank you, Greg.

Appreciate that. And before we get into the work of the day, I'd like to ask if there is any old business or housekeeping that we need to address before moving forward. Okay. Not seeing any. Greg, I will pass it off to you. I believe we're starting with State authorization this morning.

MR. MARTIN: We are, John, starting with State authorization. And I want to- I want to say- commend everybody on the discussion yesterday. I thought it was very well done. And we got- we finished on time or on schedule, which is not always something that happens during these events. So, I was really impressed by that. And, it was right at the edge, too. We didn't have a lot of time to spare, nor did we go over. So it was- you know, you just- you do these schedules and you have to do them, sort of just guessing, but it did work out well. And I want to thank everybody for their attention to, you know, the issues and the time and everything else. So we are moving into issue paper two, which is State authorization. And you can see here that, today's person running the display is my colleague Joe Massman, who also is within the Policy Development Group in the Office of Postsecondary Education. So he has brought up issue paper two, which is State authorization, complaint and

governance and State authorization. See the appropriate statutory site and the regulatory citations are 600.2 and 600.9. I do want to acknowledge that, we received via FMCS a proposal from, I think Barmak and Carolyn. And we have looked at that and obviously we haven't had a lot of time to digest what is in there. When we walk through those sections today, Barmak and Carolyn, you're welcome to bring up the points that you have in that paper and discuss those within the context of the discussion of those sections, if you wish to do that, because I did want to give you the opportunity to make your case for those points as we go through it today. So we will be doing that. First of all, we- we'll look at a summary of the issues. Here we just have a discussion of the role that states along with the creditors and the Department play in the higher education accreditation process. And the Department proposes some changes to the current regulations regarding state approval and licensure, and State authorization reciprocity agreements. You'll see here, our concerns for state approval and licensure under 600.2. The Department is concerned that existing State authorization regulations, which allow states to exempt certain institutions from state approval and licensure requirements if the institution is accredited by an accrediting agency, recognized by the Secretary, or if

the institution has been in operation for 20 years, do not ensure sufficient state oversight of those institutions. State exemptions of certain categories of institutions from approval could weaken the program integrity triad for institutions that want to participate in the Federal student aid programs, making students and taxpayers vulnerable. The Department would also- is also concerned that states may have limited complaint processes that rely upon other entities without monitoring by the applicable state itself. First- and next, we'll take a look at 600.2 and 600.9, which is State authorization reciprocity agreements. We note that states may participate in reciprocity agreements, and that is where two or more states enter into an agreement that authorizes the institution located and legally authorized in the state, covered by the agreement to provide postsecondary education through distance education or correspondence courses to students located in other states that are covered by the agreement. However, the Department is concerned that these agreements have shortcomings that fail to protect students and taxpayers and that reduce states oversight of institutions. Additionally, we are concerned that some states are deferring all or nearly all of their oversight responsibilities to other states and the governing bodies

that oversee these agreements for approval of educational institutions. The Department's concerns are primarily related to two areas, that is, complaints and governance. Current State authorization regulations require that states in which institutions are located have a process to review and appropriately act on complaints concerning the institution, including enforcing applicable laws. However, this means that states that have entered into a reciprocity agreement likely do not know about such complaints related to students in their state, and do not monitor if their students are protected by the agreement in which the state is participating. This makes it difficult for states to make informed decisions when entering into or renewing agreements. The Department is also concerned that the current reciprocity system is influenced by regulating entities that allow manipulation to avoid state rules and priorities, and prioritizes rather administrative convenience over student and taxpayer protection. For example, the National Council for State Authorization Reciprocity Agreements (NC-SARA), in partnership with regional compacts made up of states oversees the State authorization reciprocity agreements. However, the NC-SARA board is composed not just of state and regional compacts of states, but also representatives of accrediting agencies and other stakeholders. This

includes even institutions themselves. Furthermore, NC-SARA's board under current policy has veto power over the proposed changes to SARA policy, potentially further stifling States' ability to improve consumer protections for SARA institutions. This means that the State role in program integrity triad is being overseen by entities other than just states, including the regulated institutions the agreements are supposed to govern. So let's take a look at our proposal here. We propose to amend regulations related to State authorization reciprocity agreements in 600.2 and 600.9, in two ways. The first is that we propose requiring reciprocity agreements to require institutions to have a system to report student complaints to the state in which the student resides. Such a system could be operated by the administrators of the reciprocity agreement, but the institution would be ultimately responsible for ensuring that the complaints reached their students' states. The Department is also interested in feedback on how to improve compliance and complaint reporting, including reporting to NC-SARA or similar entities overseeing a reciprocity agreement, the Department and the state where the institution is located, and the institution's accreditor. Secondly, we propose, that the Department regulations governing State authorization reciprocity

agreements require that governing board- that the governing board of any entity that oversees a State authorization reciprocity agreement only include representation from State employees, including regulatory bodies, enforcement agencies, attorneys general, licensing bodies, and members of the public.

Institutional representatives would be prohibited from serving on the governing board. Public members would be required to be independent from the institution and could include students, higher education experts, and advocates. We are interested in the committee's feedback on this proposal, and we are considering a minimum number or percentage of representatives from each group. So, we do have some questions for discussion. But before we go through those general questions of discussion, let's look at the actual regulatory changes themselves. And we will begin with 600.2 and look at that and then open the floor for discussion on the proposed changes to 600.2. Here is the definition of a State authorization reciprocity agreement. An agreement between two or more states that authorizes an institution located and legally authorized in a state covered by the agreement, to provide postsecondary education through distance education or correspondence courses to students located in other states by the agreement, and cannot prohibit any member

state of the agreement from enforcing its own general purpose state laws and regulations outside of the State authorization of distance education. Here is the additional text that we proposed to add. If a State authorization reciprocity agreement is administered by an organization, the governing body of such organization must consist solely of representatives from states, including regulatory bodies, enforcement agencies, attorneys general and licensing bodies, and members of the general public. Public members must be separate from and independent of states, institutions, accrediting agencies, and must not be a current or former employee of, member of the governing board, owner, or shareholder of, or consultant to an institution or program that is subject to the State authorization reciprocity agreement. Secondly, a current or former member of any trade association or member organization related to, affiliated with, or associated with an institution or program that is subject to the State authorization reciprocity agreement. Third, a current or former employee of or consultant to an accrediting agency that accredits an institution or program that is subject to the State authorization reciprocity agreement. Or finally, for a current or former employee or of member- a current or former employee or member of the program integrity triad

other than states, including the Department and accrediting agencies. There should be an or there instead of an of. Okay, so those- that's what's proposed under 600.2. So if neither Denise nor Dave has anything to add to that, we will open the floor for discussion.

MR. WEATHERS: Okay, a couple quick things. It is my understanding that Emmett's going to be coming in for Jessica for student borrowers. Folks, a reminder that, comments or questions are, within three minute time limit. And also, please do not be redundant if something's already been spoken on. If you want to reiterate something or show affirmation of something, please do so in the chat. I am going to move to first, Carolyn Fast. Go ahead, Carolyn.

MS. FAST: Thank you. I want to start by saying thank you to the Department for looking at this important issue that affects a really large number of students across the nation who are enrolled in online programs that are located at schools located outside of their states. And I appreciate the attention to the issue of the governing board, which is really only an issue because, in NC-SARA, which is the National Council for the State Authorization Reciprocity Agreement, which, at this point, all of the states except for California participate in the governing board has veto power over

through the new policy modification process over any changes, including, changes that would strengthen consumer protections. So, I think it's very important that in light of the fact that they- that the governing board has been given this kind of authority, that the governing board, is in fact, composed of representatives of member states because it's that authority to set consumer protection standards and standards for participation in the agreement is a regulatory- is regulatory decision-making, which should be reserved to the states, which are, of course, accountable to state lawmakers, state officials and state voters. I proposed some language on this, which would make a minor change to the proposed language, which, just to say- to be clear about, we support the Department's language here. But we have proposed language that would- just the only change that we have to this is to provide that the that members of the public who may be able to provide helpful perspectives and information could act as- in an advisory capacity because it seems that delegating authority to make decisions about consumer protection standards for regulated institutions should be reserved to the states in a state agreement. That is the change that we have proposed in the language that we have sent around on this topic, and I'd be happy to answer

questions if people have them about how that might work.

MR. WEATHERS: Okay. Thank you. If, you would like to put a question into the chat, you may do so. I'm going to make a note here that Rob Anderson is coming in for John Ware for state regulators. Welcome, Rob, and I will move on to Jo. Jo?

MS. BLONDIN: Hi, there. I would just like to ask the Department to give other examples besides NC-SARA. It seems like that's the example. So I would like to understand what the other agencies are or institutions that you're trying to address. Thank you.

MR. MARTIN: Well, NC-SARA is the primary purpose of the primary reciprocity entity that's in operation. I don't- we don't have any- the purpose of the regulation- regulatory changes is not to regulate a specific entity. It's to regulate the reciprocity agreements in general. So it would be any- understanding that NC-SARA, you know, might not be the only one in existence, either now or in the future, that the regulation would pertain to any of them. NC-SARA was mentioned as an example, but not as a regulated body per se. I don't know- I don't- as far as any other reciprocity entities out there, it is not something I'm- the existence of [inaudible] is not something I'm overly familiar with, obviously NC-SARA being the primary one.

But again, it's- this is not a- I don't think we- should not be looked at as a- as directed at one entity. Even if that entity happens to be the entity that has the majority of institutions or states, you know, covered.

MR. WEATHERS: Okay. Thank you, Greg.
Moving on to Diana. Diana?

MS. HOOLEY: Good morning and thank you for the opportunity to speak on this issue. So I am- just one- so, our offices share the Department's concern. And that also that was just raised by Carolyn that the state authority is being delegated to non-state participants in these reciprocity agreements. We also remain concerned that preventing states from being able to enforce their own general and specific consumer protection statutes and regulations incentivizes a race to the bottom for bad actors who obtain authorization in states with least stringent authorization requirements and the fewest consumer protections. The original purpose of the state auth reciprocity agreements was to reduce the administrative burden of obtaining initial and reviewed authorizations on institutions operating online in numerous states, and we think that allowing states to enforce their own education-specific regulations does not frustrate this purpose, and furthermore, it allows states to retain their very important role in the triad. We're

therefore urging the Department to update these regulations to prohibit reciprocity agreements from preventing member States from enforcing their general and specific education and consumer protection statutes and regulations. With the respect to the changes that were proposed by the Department, we do support the Department's goal to have a system on reporting student complaints to state regulators such as higher education, as well as the state attorneys general and the state in which students reside. But note that there is a disconnect between requiring these complaints to be sent to the states and then also prohibiting their ability to enforce them with respect to the education specific statutes. So we think it's preferable also as a process point. I believe as it's written, it would be the complaints are to be forwarded by the institutions to the states and the states to the organization. I think it's preferable, or we think it's preferable for the administrator to retain- well, let me put it this way, for the institution to forward it to the administrator and the states. It ensures that the administrators or the administrators of the reciprocity agreements are put on notice. And it's also one less step. I think it just collapses the reporting requirement. And I- just in support of Carolyn's point about the governing boards, we

would also make the point that they should be comprised entirely of state actors, for the reasons that she already set forth. Thank you.

MR. WEATHERS: Thank you, Diana.

Alright, moving on to Jillian Klein. Go ahead, Jillian.

MS. KLEIN: Morning. Sorry, I wasn't clear if we're just speaking- if you just wanted feedback right now on the governing board piece, or if we should also be- so before I start my comments, I just want to make sure I'm staying within the bounds.

MR. MARTIN: I would prefer. I mean, obviously people can talk about whatever they want, but got to jump in and say stop. I would prefer we discuss that first, the 600.2 changes. We will have plenty of time to discuss the other changes, so if you could, that's a good point, Jillian. Try to direct your comments to what we're discussing currently.

MS. KLEIN: Perfect. So, I guess I would just say at a high level, both on the Department's proposal and I'm sorry, I haven't had a ton of time to look at Carolyn's, so I hope- I don't know if we can revisit it maybe after lunch also in more detail, if there's questions just so we as negotiators and also our constituents have an opportunity to look at it in more detail. But I- you know, I am- I don't have a ton of

heartburn about a proposal that would limit the makeup of a board- of a sort of decision-making board at a place like NC-SARA to just states, but I don't- that's not exactly what I'm reading. So I'm reading states, but also general public, which the general public piece, it appears to be written in a way that could be a bit political. And so. I think a counter proposal for me would be, yes, let's talk about if there's a way to move forward with it just being states. But I- in the narrative, there's language about higher education experts and advocates and students. And I would say those entities in general, I don't think are independent. You're not going to find a student that doesn't have a feeling about the institution they went to or the institution they live by, or the college football team that they like. And I think on the Higher Education Experts and Advocates piece, I think we can give lots of examples, honestly, across the political spectrum of people that feel strongly in that space that are not necessarily state authorizers. And so I just would strongly encourage the Department to reconsider the way this is written, that if you want to move forward with something that largely sort of limits the public from being part of the decision-making and oversight process for an organization like NC-SARA, it should really be in

a very small box that does sort of exclude the rest of the voices. The other thing that I'll say, just on Carolyn's proposal, I think I noticed this, I, would also suggest maybe thinking about a compromise if you want to have sort of an advisory board or a separate board that's providing insight into NC-SARA. I do think that there's a ton of expertise that comes from institutions and other higher education stakeholders. And so, would just like to think more critically about ways that those voices can be part of sort of advising into NC-SARA, in general, if there's sort of a separate non-governing voice that's helping provide context into NC-SARA. I hope that made sense.

MR. WEATHERS: I think Greg's going to reply to that. Go ahead, Greg.

MR. MARTIN: Yeah, I wanted to ask, either Barmak or Carolyn to clarify what their proposal is and how it differs from what we have here as far as the role of students in the public, just so- just to make it clear to everybody, I'm not going to talk for them. I'll let one of them clarify that.

MS. FAST: Sure, absolutely. And in fact, if it is at all possible to share the language on the screen, that might be helpful. But, essentially, I- we agreed entirely with what Jillian was saying, which is

that there could be a role that could be helpful for people other than state agencies to provide, but not in a decision-making capacity. In terms of the regulation, what we were- what we proposed was that the governing body would be comprised solely of representatives from state agencies as set out in the Department's language, but that if they wanted, if- obviously it would be at the discretion of the organization, if they wanted to, they could have members of the public or whoever they want be in some sort of advisory capacity to share their, you know, special knowledge of the issues. And that would certainly be a good idea. I don't know that we need a reg about it. But what we are concerned about is delegating a- essentially state regulatory authority to non-state actors because that both constrains states and inappropriately provides potentially unaccountable or conflicted people with decision-making power over regulated institutions.

MR. MARTIN: Thank you, Carolyn.

MR. WEATHERS: Thank you, Carolyn.

Anything else to address on that? I'm going to move on to Rob. Rob, go ahead.

MR. ANDERSON: Well, thank you. This is a strange position to be in as the NC-SARA board chair and clearly in a position that I would not have that

would this be adopted. But nevertheless, I will speak. You know, it has been a process over the past decade with what is SARA, this reciprocity agreement and its creation and the bringing on of 49 states within what is a state-driven reciprocity process. And I completely agree, states have to be front and center, and there are voices of those that have to be heard through this. And so what's happened is we have four regional compacts that have come together and helped develop what we have as SARA now. So they're the four major entities who represent the states. They created a 501C3 and NC-SARA to run the process has a staff, a lot of expertise there to carry out a lot of the conditions of this agreement, as well as some of the complaint processes which we continue to work on, and I can speak to more later. But as with many boards, we have people that come on, they'll put their specific day hat aside to provide expertise through a variety of lenses. So when I look at our board right now, there are 20 representatives there, board of directors, and I see 11 of these positions as having the state interests at heart as kind of their primary lens, including me. I wouldn't be eligible to be on this board, even though I've worked at three SHEEO agencies for senior level positions for well over a decade. And I've, you know, been at, what's considered a trade shop now, I

guess, for six and a half years. But I also worked on a campus as an instructor and administrator for seven years. So I think by what's been put forward, it would limit a lot of expertise and lens that is very, very important moving forward. I think we've spoken pretty clearly as a board in the last year of balancing that SARA is the reciprocity agreement. NC-SARA serves these endeavors, but it's the states as represented through the different regional consortiums are the ones who put forth the policy. And you're right, in the new structure, you know, brand new, we just came up with, this policy to try to better codify and create a coherent process. What we've done is policies run up through the regionals, and once they agree on them, they come to the board for final approval, which is a board of directors of a 501C3. You would want that to take place. You know, there's never an absolute, but I can't see where we would veto something that has worked through the process of our policy process with the regional compacts. And we joke about that as a board. As you know, it would have to be something that's illegal, that we're going to kick it back so that they can reconsider. So that's the structure where we are. I think state interests are represented all along the way in recreating this. I don't know that we have a single board member who would be able to maintain a position on

that board and having served on it for four years, I know that they've put the best interests of students through states and institutions who serve them at the center of this. So I'll leave it there for now. But that's my observations.

MR. WEATHERS: Thank you, Rob, I appreciate that. Okay, we're moving on to Robyn. Go ahead, Robyn.

MS. R. SMITH: Morning, everyone. I want to thank the Department. I think this proposal is incredibly important. And one reason that I think that is that the Higher Education Act does require State authorization. The primary purpose, or one of the primary purposes of which is consumer protection. It doesn't allow states on its face to delegate authority to private entities or private organizations to make the decisions about whether a state may be authorized or to protect students. And so I think the current regulation itself is questionable in its legality, because it does something that I don't think the statute itself allows. And certainly was not intended by Congress. So I appreciate the proposal. I want to make a couple of observations about the language. The Department says that the State authorization reciprocity agreement must be administered, but it doesn't really say what administered is. I believe

Barmak and Carolyn's proposal is- addresses this issue by being clear that it is the states that must make final decisions on whether or not a state is either permitted into the compact or whether a- an institution itself is approved, or maybe reapproved, or their permission to participate is revoked. Right now, under NC-SARA, those kinds of decisions may be overturned by the state compacts, which I would note to the Department are also private nonprofit organizations. They are not state organizations. They are composed of private individuals. Some have state agencies on them, but the vast majority of people on those are employees, teachers, industry institutions, all kinds of folks. They are not government organizations. So those decisions may be overturned by the compacts themselves and NC-SARA's board. In addition, the terms of the agreements, whatever it may be, should also be finally decided by the states themselves, not the compacts, not any private individuals. This should be primarily a government oversight function. That was the intention of the Higher Education Act. And I like Jillian's idea of an advisory board. I think, you know, Rob makes a good point as well, that it's very important to have experts advising government bodies when possible. And I think that includes both the consumer protection and student side, which is not represented on the NC-SARA

board, as well as of course, industry schools, accreditors. Right now, the Bureau for Private Postsecondary Education in California has that kind of advisory board comprised of different individuals. And I think that that's an example the Department can look to that works extremely well for ensuring that they have—and a voice and input into the oversight and regulation of schools. Thank you.

MR. WEATHERS: Thank you, Robyn. Next we're going to move on to Barmak.

MR. NASSIRIAN: One procedural note before I make my comment, and that is that the proposal you see is the work of Carolyn. I don't want to take—the ancient Greek word for blame and credit is the same, so whether she gets blamed or gets credit, it belongs 99% to her. I certainly support and endorse her effort, but it's been referred to as a joint project and she did all the heavy lifting. So just my procedural note. A couple of couple of comments. Folks, you know, sometimes ubiquity of a bad practice makes it feel normal. It is not normal for banks to regulate themselves. We wouldn't tolerate auto companies setting safety standards in a governmental capacity. They should be consulted. Obviously, members of any industry should be consulted in any regulatory exercise, but they shouldn't call the shots. And the fact

that we have, at least at the moment, one reciprocity agreement, where that is the case where institutions that are supposed to be the objects of State authorization are engaged in cross-border authorization of each other, is really as questionable as putting banks in charge of banking regulations. It's bizarre. It is outright illegal in my perspective when you look at the statutory text and what the Department is doing is entirely correct. I would say you really want to make sure that this- that the function does not get adulterated just because of the gobbledygook about internet and distance education and somehow some metaphysical transformation takes place where we tolerate the idea of institutions essentially rubber stamping each other. That's one observation. One other point I want to make at the appropriate time. I'm just flagging it at the moment. It is not just a matter of looking at governance and complaint systems. There are significant policy questions that really deserve at least a little bit of discussion in this preliminary round before we come back maybe with some language for the second round. And I would appreciate an opportunity to at least put those on the agenda. Thank you.

MR. WEATHERS: Thank you, Barmak, and thank you for the knowledge on blame and credit. I'm going to give you credit for that next time I use it.

Regardless. Erika, you're next.

MS. LINDEN: Thank you for the opportunity to speak on this. As a representative of private nonprofit institutions, my- I think there's a general concern about, well, what's the alternative? And, feasibility of having- not having a reciprocity arrangement for being able to provide service to students in multiple states is, I think, a really legitimate issue that we need to consider. Obviously, we want to do it at a high quality. Obviously, we want to do it within the control of our states. But I have some concerns that we're trying to take away some powers of the state. And it's the relationship between the state and the institutions that we need to focus on as well. The states have all voluntarily agreed to be part of SARA and there- NC-SARA. And there must be a good reason for the states to have wanted to do that. So I just want to- us to be cautious about making significant changes to this process because I think it will be very, very disruptive. And if I may also just ask a question. Several people talked about having the governing board for a reciprocity arrangement limited to state actors. Can someone just define for me who a state actor is and who it is not? That would just be really helpful for me to have a better understanding, because I certainly do believe our state

should, be, providing the oversight in this area. Thank you.

MS. FAST: Can I respond to that?

MR. MARTIN: I'm okay. Go ahead.

MR. WEATHERS: Yes, go ahead, Carolyn.

MS. FAST: Would it be possible, and I apologize if this is a pain, but is it possible to get the language up from my proposal? Proposal that I sent around- proposal two, because then it'll show- I'll be able to show the language that the Department is using to define what is a representative of a state and also show the language that I proposed? Would that be possible? Okay. If you could scroll down. Super. Thank you so much. Scroll down to the second proposal. Yep. Perfect. And then right there. Okay so this- the red language is the Department's language. The blue language was my language, my proposed language. So under this, the- a state or representative of a state is defined as including so it doesn't say limited to regulatory bodies, enforcement agencies, attorneys general and licensing bodies. So those are different state agencies involved in oversight or enforcement. I added the word offices just because I thought it was- added clarity because it looked like it was just attorneys general. Could you also scroll down to the next proposal, if you don't mind? Okay. Thanks. And

then, the issue is governing boards. But in theory, a reciprocity agreement could delegate authority to another type of body or committee or board or whatever to make the same kind of decisions. So I think it would be important to have language that goes beyond governing boards and says that a reciprocity agreement cannot delegate authority to set standards or make determinations related to eligibility for state or institutional participation to any individual who's not a representative of a member state agency or to any entity not exclusively composed of representatives. Because, you know, we're talking about the governing board here, but there could theoretically be any entity. And in fact, the NC-SARA policy manual actually gives some kind of limited, decision-making power to the NC-SARA president who does not have to be a state representative in terms of vetoing states decisions related to probationary status, which is called provisional status. And the citation is included in this proposal.

MR. WEATHERS: Thank you, Carolyn.

MS. LINDEN: Could I follow up my question just on a clarification there in terms of that definition of state actors? In our state, our governor appoints individuals as commissioners to the state agency. Are they public or are they state actors? They

are legislators. They are representatives of consumer protection agencies. They are- they have another full time job, but they've been appointed by the governor as a commissioner. Is that a state actor or not? Thank you.

MR. WEATHERS: Thank you, Erika. Greg, go ahead. It looks like you've got a response.

MR. MARTIN: Yeah, I think we would have to consider the specifics of that. As written, going back to, you know, Carolyn's point about what the Department's language says here, we've said including, you know, regulatory bodies, enforcement agencies, attorneys general and licensing bodies, as part of the state. We also included the members of the general public, which under Carolyn's proposal, would not be part of the actual board itself, but I- as accepted- as proposed rather, this is limited to, you know, these groups that we've indicated here are entities employed by the state enforcement agencies, attorneys general, actually acting for the state. I don't know- and in appointing commissioners that, you know, could be, you know, say extra state entities, I would have some reservations about that, but it'd be something we'd have to think about. I see my colleague Denise Morelli has her hand raised, so, let's [inaudible] wouldn't mind calling.

MS. MORELLI: I think it would just be

helpful for the Department, Erika, if you would just give us specifics, if you- to what those commissioners do so that we would be able to answer that question by the next session.

MS. LINDEN: Well, and I guess I can certainly try and do that. It's not as critical to me as that particular example. I'm just trying to understand the limitation.

MS. MORELLI: Right. And I- yeah, I just think for us to have an idea of what other roles might be out there besides the ones that we've listed or that Carolyn listed, so that just we know. So if there's anybody that's in the state that has other entities that might fit into the same categories, we would just- I would like us to be aware of that.

MS. LINDEN: I'll do my best.

MS. MORELLI: Thank you.

MR. WEATHERS: Thank you, Denise. And, yeah, Erika, you could, send that question to your FMCS facilitators or put that into the chat. Thank you. Moving on. DC, thank you for your patience, sir. You're next.

DR. PRINCE: Yeah, no problem. As long as we get the answers that we're looking for. The question I have, the first question I have is, why wouldn't the Department of- I mean, let me ask the first

question. What is the Department's authority here based on its statutes and regulations to actually go after, in essence, because that's what it looks like, like if you're going after NC-SARA, what regulatory- I mean, what statutory authority do you have to do that?

MR. MARTIN: First of all, I want to make it very clear that we're not going after anybody. I mean, I think that's a- that's an important point to make. The Department is not singling out any one entity. The regulations we did in our- we don't in our regulations mention NC-SARA. We did in the introductory remarks because NC-SARA happens to be the biggest player in the field. So, but in doing that, we were not suggesting that, that this is a, you know, a problem indicative of NC-SARA and understanding that, you know, regulations are meant to go forward. And there could in the future be other- you know, there may well be other entities out there which would be covered by this as well. We- our authority- and I think I could yield to Denise about statutory authority, but, we- state authorization is part of the triad that- you know, through which we oversee participation in the program so that the Department does have a strong interest and a strong statutory link to this and ensuring that states are fulfilling their responsibilities in providing that

oversight and that those responsibilities are not being shifted off to other entities, including through these agreements. So I think that, you know, we do have a strong statutory authority to do that here. And I want to reiterate that the proposal here to strengthen these regulations is to ensure that that works properly, not to target any group. We certainly are not trying to do away with the reciprocity agreements or anything of the like. And nothing we have proposed here would do that. I would ask, my colleague, Denise, do you have any to add to that from a perspective of statutory authority?

MS. MORELLI: No. And just again, like you said this- the regulations geared towards the general concept and it just happens to be that NC-SARA is the body at the- at this point in time, but it will cover anybody in the future. But our authority is basically our authority that there has to be State authorization for institutions to be participants in Title IV program. And the rest of this stems from that to make sure that, as Greg said, that the states are meeting their obligation in the triad and not abdicating the responsibilities. So that's the focus of this [inaudible].

DR. PRINCE: My follow up question is to the Department. If- since NC-SARA is the only one, that's- I think that's my interpretation that you're

going after NC-SARA, that's your example, it sounds like from the group. They're the only ones. However, the question then becomes, have you received any other request or know of any other activity happening across the country that would replicate or subvert or begin to develop another sort of NC-SARA, but be called something else that would do similar things in this particular way?

MS. MORELLI: I'm not aware of any. If any of the members of the committee are, they can certainly speak up, but I'm not aware of any.

MR. MUSSER: I'm also not aware of any.

DR. PRINCE: The other question I have is why not give this authoritative or regulatory power to your accreditation agencies? And require your accreditation agencies across the different regions where this might be a problem or needs to be reviewed, or something of that nature. Why not give it to them versus, in essence, trying to build something like this for an organization to do?

MR. MARTIN: I'll- because, and let me lower my hand here. As I said before, that the oversight of the programs is broken down into three entities. That's the Department, the accreditors and accreditation agencies, and state. So there's three distinct entities.

They each have their own role to play. That's in the statute. That's also in regulation. Nothing the Department would do whatever. We would not- we don't seek to take away the role of any of these three entities. Our position is that each is- each has its place in the integrity triad and we want to make certain that each is functioning. We- so it would be- we do not believe it would be appropriate to take the function of the state, which is State authorization to take any of that into- move it over to accrediting agencies, which is not to disparage accrediting agencies. They have their own- they have their own parts of this to oversee, as does the Department. So we- likewise we would not take what states are responsible for and move it to the Department either. So there are these three entities. Each has its own place. And we would- it would not be appropriate to say that those functions which are to be carried out by the State would be moved to an accreditation agency, either through our regulations or through some type of reciprocity agreement.

DR. PRINCE: And my last question-

MR. MARTIN: Denise, did you want to say something there?

DR. PRINCE: She's on mute.

MS. MORELLI: I did it again. I keep

hitting that button twice. The states and the accreditors have different roles, and I can't speak to everything that they do, but they're different. They look at different things. So you would want to make sure that everything is covered. Your creditors look at the quality of education and various things. States deal a lot with consumer protection laws and other elements of their authorization and their oversight. So I think that's why the statute was- Congress wrote the statute the way it was. So there's different specialties that each of the parts of the triad perform. And that's why it needs to be done independently. And all three have to be done in order for it to work the way it needs to be.

DR. PRINCE: And is the intent- and my last question is the intent of this- these proposal changes while you are built, you are using NC-SARA, which only deals with distance education. How does this then apply to brick and mortar institutions who might do this, as well as independent private institutions? Because I'm getting a lot of emails from private institutions saying that you're now, by this particular regulation, you are now adding more state oversight on private independent institutions. And we're supposed to be independent for a reason. But then the stipulation, particularly as it's interpreted, is not- is moving away from just distance

education, but also might be doing this for brick and mortars, and that might have an additional nightmare of more oversight authorization and processes that, particularly privates, in my space, and I know the private- and Erika that- who's also representing privates, might have to go through in addition to with more fees and finances having to pay for this. So is there some sort of confidence you can give that this is only specific to distance education? Or is there an intent, either now or in the future, year or two, to say that actually we are expanding this to any sort of type of educational offering, regardless of the institution status?

MR. MARTIN: John, I see my colleague Dave Musser has his hand up. Could you refer that to him?

MR. WEATHERS: Yeah, go ahead, Dave.

MR. MUSSER: Yeah. Thanks, Greg. So, DC, those are good questions. I want to be careful here that we keep within the bounds of the discussion on, first, State authorization reciprocity agreements, which, to answer your question, are specifically about distance education. The concept of a board is intended to ensure that the oversight of distance education programs is carried out by states and representatives of states. And that's really our focus here is on distance education

with this particular issue. Now there's a different question on the issue paper about certain kinds of exemptions for institutions which may apply to physical locations and institutions that are not offering distance education. But I want to make sure we deal with that topic when we get to it. So if you have questions or issues on that topic, let's just save them for a little bit until we get to that.

DR. PRINCE: I'm happy to save that. And I know that part of your statement was your concerns around the board vetoing sets of policies that come out from- that the board could veto policies. And I know Rob from SHEEO made a comment to say that as chair, he has not seen that happen. While I trust his word, do you have any evidence from minutes or of the like? Because there seems to be an assumption that there's too much power and not enough collaboration or things to come through to change this, for such a system to even demonstrate that that is not what this organization is doing. Because I'd hate for this to be approved with the assumption that NC-SARA itself is being a bad actor of its own kind, and that's kind of the interpretation we're getting from the reading. So I know you can speak to it, but can you provide evidence to it? And you're not on trial. So I'm not trying to be the prosecuting attorney either.

MR. MARTIN: I don't have any. Maybe some of my colleagues can help with that. I don't have any- you know, I don't have minutes of board meetings. And to know, you know, the extent to which anybody on the NC-SARA board did something like that. But I want to be- I think I want to be very careful here to reiterate again that our intention in proposing these rules is not to identify any NC-SARA or any like organization as a bad actor or an entity that certainly with the Department- where the Department identifies bad actors, our goal is to, you know, to generally, if there's a bad actor out there, our intention is to eliminate a bad actor from participation in the programs. That- that's a- that's an oversight compliance function that we do. We do not consider reciprocity agreements to be facilitating bad actors. We're not saying that NC-SARA has done anything improper, according to the current regulations. We- these proposed rules simply identify areas of weakness in the oversight structure. And this is in our intention to close those. And in doing so, we are not disparaging any- the actions of any organization, including NC-SARA. I just want to make that very clear.

DR. PRINCE: I think it was more so not- just to say that if we're going to go after governance and define- and use a proposal defined by

someone else's governance is there- you know, is there evidence to say that that is a bad practice, right? That we're seeing it holistically done in a number of different ways that we should be addressing it in by some of these proposals? That's all I'm asking. So I hate to get into the hypotheticals that, well, that doesn't look right. Well, how do you know it doesn't look right? Have they actually done it? Has it been a problem? Has it stopped something from happening that the Department feels it should have changed itself, as any institution or organization would be evaluated by. But I think my three minutes are up. So thanks, Greg, and the team, I appreciate it.

MR. WEATHERS: DC, you have an incredible sense of time, so I appreciate that self-awareness. Let me move on to Robyn. Robyn?

MS. R. SMITH: Okay, great. Thank you. I just want to address a couple things. First of all, I think Erika, Erika's right. I think there was a SHEEO study that shows that there are all different kinds of state agencies and state agency structures and people making decisions in states. But the issue, the reality is, is that all state agencies have state employees that administer their programs. So the Department could draft something. I think it was Barmak noted this, that could-

they- that requiring that it be a state employee that's designated on any kind of organization that administers the reciprocity agreements? The second issue I want to raise is just because NC-SARA is the only sort of option now doesn't mean we can't- that there isn't a possibility for some other kind of option, for oversight, for example. And I know this is very complex, but for example, states could enter MOUs with each other where they agree to accept the approval of other states, but continue to administer their own consumer protection laws or some subset of those. So I think we just need to think outside the box and realize that there are other options out there. And we shouldn't continue to keep an authorization regulation in place that allows for students to be at high-risk of being subjected to fraud and low quality programs just because we only have one option currently. I think the important point here is that there is a Higher Education Act with a State authorization requirement. The focus of all of our discussion should always be students and ensuring high quality education and consumer protection for students. And that, I think, which is the purpose of the State authorization requirement. Thanks.

MR. WEATHERS: Thank you, Robyn. And I wanted to make a couple quick, administrative notes.

First, John is, back in for state regulators, and also, Jesse is back in for student borrowers. Hello, Jesse. Welcome. John, you're next.

MR. WARE: Appreciate it. Yeah, so I am a state employee, so I think I would be eligible to serve on the SARA board under the current proposal. And just a matter of historical context on the reciprocity agreements, I've been in state regulation for 25 years, over 25 years, and I was actually involved with the Council of State Governments, the Presidents Forum, on the original drafting of the reciprocity agreement back in 2010, 2011. So I have a lot of thoughts on reciprocity in general, but I think it's important for people to remember the historical context that back before the reciprocity agreement, there were approximately 35 states or so that didn't regulate any distance out- you know, distance ed coming in from out of state at all. So there was actually a minority of states that were actively involved in regulation and oversight of out of state distance ed, entities. So, you know, my concern is if reciprocity goes away, I think there's a suggestion here that reciprocity is actually bad and hurting thing, that if reciprocity goes to away, we're going to revert back to where we were, you know, 15 years ago, which is going to result in less regulation and oversight for students

because, fewer- you know, not- as I said, a minority of states, actually, prior to reciprocity, actually regulated, out of state distance ed providers. So one of the impetus for regulators to support reciprocity was we felt at the time- and there were a lot of mostly state regulators involved in the drafting of the original reciprocity agreements that, you know, it would be- it would improve the situation and give better oversight, than had existed prior to reciprocity. So I just want to point that out. And as I said, I have other comments on it, but- and couple comments on the on the makeup of the, you know, the, the SARA board. One, just in response to Barmak's comment, actually, at the state level, the oversight of individuals and professions, it's very common to have the actual people in the profession involved in that oversight. And I'll just give you an example. We have a lot of attorneys I know on this committee, attorneys are regulated by attorneys at the state level, the bar association, the bar disciplinary committee. Those are all attorneys. Nurses are regulated by nurses. Doctors are regulated by doctors. So, again, the regulation and oversight of entities has historically, at least at the state level, involved the actual people that are subject to that oversight. So I don't think the- I get to that to say, I don't think that

the makeup of the SARA board is necessarily something unusual as compared to what is currently going on in terms of, certainly for professional regulation, but I think also in terms of regulation of even other entities outside of the professions, certainly again, at the state level. And then the final comment I'll make, just as to the public members and the proposed language, I think is so restrictive that it's going to really eliminate, you know, 95% of the people that have any working knowledge of higher education or regulation. And just as an example, you know, if you worked in the cafeteria at the university you attended 25 years ago, you would be ineligible to serve. So that's what I'll say. Thanks.

MR. WEATHERS: Thank you, John. And, I'd like just- before Greg, I'd just like to remind people to be aware of the three-minute time limit. And, we're trying to give you a 30-second heads up on that, Greg, I think you had your hand up to respond. Go ahead, Greg.

MR. MARTIN: Yeah. I just want to make- I think the debate is fantastic, and I fully understand that there is a difference of opinion here about what's being proposed by the Department. And also, some of the additional proposals we had from Carolyn. However, I want to make it very clear that nothing the

Department has proposed here would eliminate reciprocity agreements. It's not the Department's intention to do that. I also want to make it very clear that the Department does not view reciprocity agreements pejoratively, or any entities that administer them. This is an attempt to strengthen State authorization rules. So, I mean, you could compare it- we might compare it to distance education, which we'll get into later on this afternoon. The Department is not seeking to do away with distance education, nor does the Department feel that distance education is bad. We feel it's very beneficial in many ways, but that does not mean we don't seek to regulate it appropriately. And that's- and I would say that the same thing applies here. So I just- again, I've got no problem with the discussion on this or disagreement with what the Department proposes, but I think we all need to be mindful of exactly what the Department is proposing. Where are we proposing elimination of reciprocity agreements? I think that that would be a legitimate subject for debate. But we are- we clearly are not, nor do we have any intention of doing so.

MR. WEATHERS: Thank you, Greg.

Jillian, your next. Thank you for your patience.

MS. KLEIN: Yeah. Sorry. I should have

asked this before. Just one question. I think this is to the Department, because I think it originally came from your red line. The term licensing bodies, can you explain to me what exactly that is and how that's different from regulatory bodies or the rest of the group? I'm assuming that's not like a professional licensing body, but if you could just maybe provide more color, that'd be helpful.

MR. MARTIN: I could give the example of states that have- like a lot of states, for instance, have licensing bodies for- an example might be for cosmetology-type programs or- there are licensing bodies for that for various different types of programs. States do have, in addition to, maybe state regulators, they do have established licensing bodies to review maybe certain sorts of institutions. But I would- Dave- David works in compliance, so, I would defer to him if he has any other examples he wants to point out there.

MR. MUSSER: I think that's a good example. You know, licensing bodies, in- at least in the Department's language here are intended to refer to either a state agency that has the authority to regulate the licensure of certain professions, or, the components of this- of the state that are empowered to do something similar. It may not be an agency per se. But we're not, for example, we're not talking about a professional

organization alone. That sets its own rules for the profession. What we're talking about is an organization that actually has state authority to oversee a particular profession in that state.

MS. KLEIN: So that was the answer I wasn't hoping for. I guess I'm curious- I'm struggling a bit with how, for example, a cosmetology board in a state would be germane to this topic that we're talking about in terms of sort of state oversight in general. So I think I was fine with like regulatory bodies, enforcement agencies, and attorneys general. But I just- respectfully, like, I don't think it makes sense to include what you're speaking of in terms of professional licensing boards to be- or bodies to be included on this list. So this is just my general feedback on that.

MR. MARTIN: I would just add that I think that when you look at this list, first of all, the list is, if we look at the actual red line text, I think, Carolyn may have alluded this earlier, we say- when we say must- the main language must consist solely of representatives from the states so that is the restrictive line or the prescriptive language. Then, we go on to say including regulatory bodies, enforcement agencies, attorneys general, and licensing bodies. So I think when we move on to that, those are, may include but

not- that's not an exhaustive list. That's basically trying to clarify that what we're referring to here are if you look at the route there that it's- that it is representatives from states, so that- that's what we should be primarily focusing on. Because the language is written does not provide a prescriptive list.

MS. KLEIN: But that, as you defined it, is actually industry. So I guess I don't feel like- so now I'm more confused probably than I was before, which I guess you're going to hear me say that like 20 times this week, but that feels, sort of at odds a bit to me with what I thought you were trying to do, which was really limit this to sort of state authorizing authority. But if you're including sort of industry folks in this, then I feel like that's not in alignment with what I think we've been talking about for the last hour. So, again, my- I would just suggest to the Department that they would- that you would strike that licensing body.

MR. MARTIN: Okay, cool. We'll take it under advisement.

MR. WEATHERS: I think Dave has something additional to add to that. Go ahead, Dave.

MR. MUSSER: It got covered in that discussion.

MR. WEATHERS: Okay. Alright. Great.

Thank you, Jillian. Next we have Jamie.

MS. STUDLEY: I simply want to pick up the baton from John Ware and underscore the point that he was making when he ran out of time in this relay race of discussion. If the language that goes forward builds on the Department's version, proposed version, I think his concern is very fair that public member- that the definition of public members is unduly restrictive and could stand in the way of securing willing service from people who have the knowledge and motivation that would be needed to carry out these important responsibilities. I've been thinking of examples, but his was perfect. If you worked for the college cafeteria 25 years ago, you might not be able to serve as a public member, even if all of your other professional activities since were consistent with the needs of a public seat. So I think this notion here and it arises elsewhere of eternal barriers, is something that we should think about very carefully. Are they needed for the purpose? My concern is that they're overbroad, not necessary, and could make a difficult task of finding appropriate representatives even more difficult unnecessarily. Thank you.

MR. WEATHERS: Thank you, Jamie.

Alright, moving on. Carolyn, you're next.

MS. FAST: Yeah, I think that it is a

valid point that people who are not state representatives might have useful information and perspectives to share. And that is why it would make sense to include such experienced people as in an advisory capacity. The only concern is when decision-making power is provided to non-state actors, that is the concern. And I think it can be addressed by having people serve, you know, in an advisory capacity and perhaps that language about public members could be, you know, opened up a little bit if we're talking about it in an advisory capacity as opposed to in a decision-making, you know, capacity.

MR. WEATHERS: Thank you, Carolyn.

Barmak.

MR. NASSIRIAN: I share Carolyn's views on this, but, I kept thinking about DC's very thoughtful, contextual questions, which I think is important for us to answer. I know the members of this committee know the answers to these questions, but I want to make sure that- because DC mentioned that he was being inundated by inquiries from colleagues and from the outside. It's important to understand the Higher Education Act has a program integrity triad with a temporal sequence that says an entity must first- becomes a university when it's authorized by its state, then it becomes accredited by an accreditor recognized by the

Secretary of Education as a reliable authority. And then the final step to become eligible for Title IV involves the Department of Education certification program participation requirement. These are three distinct mandatory requirements under Federal Law for participation as a college or university, or a recognized educational institution in Title IV. They need to be separate and when it comes to State authorization and this issue of whether you're private, public, your in-state, out of state, I want to make it very clear. Private institutions have to be authorized by their state, just like anybody else. To become a university, you have to be authorized. If a private institution were to set up shop across the state line from where its main campus is, as we have in Washington, D.C., multiple institutions that set up physical locations out of their primary state in Washington, D.C., guess what? You're subjecting yourself to the jurisdiction of Washington, D.C., and you need to be authorized by Washington, D.C. The question we're answering here today, folks, is what happens in the age of the internet when you don't have to leave the state of Michigan, the state of Minnesota, or the state of California to reach out and enroll somebody in Washington, D.C. That's the question. Now, the Department would be within its absolute right, and it

did, in fact, at one point contemplate this to say, hey, delivering education across state lines is no different than leasing a building and setting up shop in that out of state location and you need to go hat in hand to the 50 states in order to be separately authorized by each of them. That would be within the meaning of current law. The Department is extending some additional consideration by allowing reciprocity arrangements to create some administrative convenience for institutions. So nobody is attempting to impose anything new on anybody. If anything, we're accommodating institutional concerns. This is for the benefit of the public that may not fully grasp what we're doing here with the triad. Thank you.

MR. WEATHERS: Thank you, Barmak.

Alright, well, it doesn't look like there's any additional commentary or questions as it relates to 600.2. Greg, I'll pass it back over to you.

MR. MARTIN: Thanks, John. Thank you all for that discussion. We will move on to 600.9 State Authorization and the proposed changes there. And if we look at the language the Department proposes to add, we would go to page six. This- where the red line text is. And under three, read from that. The State Authorization Reciprocity Agreement must include a process for communicating information received on complaints

regarding institutions or programs subject to the State reciprocity agreement to the state in which the student is located at the time of the student's initial enrollment, as determined in accordance with paragraph (c) (2) of this section. If a State authorization reciprocity agreement is administered by an organization, the agreement must require that complaints received by states from institutions subject to the state reciprocity agreement are communicated to the organization. The organization must make information received on complaints public at least annually, including but not limited to, the number and type of complaints by the institution that is subject to the state reciprocity agreement. And if there are no comments from Denise Or David, I'll open the floor for discussion on that.

MR. WEATHERS: Seeing no additional comments from Denise or Dave, I will move on to Carolyn. Go ahead, Carolyn.

MS. FAST: Thank you. I am in support of the Department's proposal here. But I think that there are some additional concerns about complaints that should be addressed, and this is a perfect opportunity to do so since the issue of complaints is already being raised. I wonder if I could bother the facilitators to provide us on the screen my proposal related to complaints so that

people could look at it while I'm talking. Would that be okay?

MR. MARTIN: That'd be fine.

MS. FAST: Thank you so much. Could you scroll down to the one that relates to complaints, which I think is the last one, 4, I think? Super. Okay. So I just- we felt that it would be important to add language that a State authorization reciprocity agreement must permit member states to, at the state's discretion, accept, investigate, or resolve complaints about an institution of higher education that have not yet been submitted to a resolve by the institution of higher education. And the reason for that is that the current situation is that SARA member states who received complaints related to SARA programs, are, it appears from the SARA policy manual, not supposed to accept them or investigate them or resolve them unless the student has first exhausted the- whatever they can through their own school. That is, you know, sort of fine as long as states can, if they want to, accept, investigate, or resolve the complaint so that, you know, they can get information about what's happening at a regulated school. Because otherwise, you know, consumer complaints I know from being at the New York Attorney General's office are a very helpful way for state oversight agencies to

understand what's going on at the school and to identify patterns. And sometimes one complaint is enough to understand that there's a problem and creating hurdles for students to go through, or situations where state oversight agencies may not get timely or any notification about a complaint doesn't seem to be useful. And of course, states have discretion to do- to handle complaints however they want. But, you know, currently, the SARA policy manual is written in such a way that it appears to limit states' discretion on this matter, which we think is a big problem. So that is why we have suggested this language be added.

MR. WEATHERS: Thank you, Carolyn. I'm going to move on to John. Go ahead, John.

MR. WARE: Thank you. Again, I'm a state regulator who, you know, directly handles complaints, student complaints, so, for many institutions in my state, and I'm a little concerned about the proposed language. You know, as- I mean, to get information about complaints when there's not really much, you know, you can do about them, I'm not sure that's going to be particularly helpful, I guess, I mean, it might be helpful if, you know, there was, a big problem somewhere, but typically, I think, you know, regulators talk to one another. I think this the proposal

kind of presupposes that there's not conversations going on. So I know when we've had issues with other states, we reach out to the regulators. And that process actually happens quite frequently. I think it would be better if we're going to share information that we share information about adverse actions, or, you know, specific things that are done in response to complaints. I think the vast majority of complaints don't really result in any type of specific disciplinary action. And typically they're very student specific. So you're just working with this particular student to resolve those issues. So, but again, like my recommendation would be to share, if we're going to share information, it would be more specific to adverse actions or things that state responses- that state official responses states- take in response to the actual complaints.

MR. WEATHERS: Thank you, John. Next we have Barmak.

MR. NASSIRIAN: Yeah, I want to obviously support Carolyn's point. I do take the comment John just made very seriously. I don't know that final adverse action is the only actionable, but certainly there has to be a threshold of concern below final adverse action that would be sufficiently alarming or sufficient consequence to be worth sharing just for

purpose, if nothing else, of situational awareness. I want to also take the- this particular topic as an illustration of one of the really critical missing elements that maybe the Department and the negotiators can contemplate between now and the next meeting. And that is that there is a sort of a bizarre Hegelian synthesis going on here. If the state of Ohio has a scope of responsibility for things that happen in the state of Ohio, shouldn't the fact that suddenly we go nationwide require more resources at the state of Ohio? And, you know, one of the things that is happening with this- with any kind of a reciprocity agreement, is that we need to be mindful of how we allocate responsibility for oversight. My concern is that we will write a lot of nice words compliant with the framework that the feds may set up, and then fail to realize that this is actually a lot more work, unless we can come up with some mechanism by which the states can allocate primary responsibility to particular state actors within that reciprocity framework to ensure that things don't fall through the cracks. I mean, I'm just trying to figure out where does all the extra- alleged extra work go if everybody is in charge of every institution? I'm afraid nobody's in charge of any institution outside of their own state. So that's a missing element that I would encourage us to conceptually

think about as we move on to the second round of these conversations. And we may offer some language on that. Thank you.

MR. WEATHERS: Thank you, Barmak. And as usual, if you do have any language that you'd like to propose, do so to your FMCS facilitators. Next I have Robyn. Go ahead, Robyn.

MS. R. SMITH: Sure. Thanks. I think I support, you know, Carolyn and Barack's- I'm sorry, Barmak's proposal. From the legal aid perspective, we see the state complaint process is extremely important, and we- and students really need to be able to file directly with the states rather than being required to go through some kind of State authorization organization or other state before they can have their complaints looked at and investigated and followed up on by a state agency. In the past, we've had clients who have been retaliated against by schools for going to the state agency. We have a case right now where there is a school that is sending cease and desist letters to students who file complaints with the state agency, threatening to sue them if they continue to do so. Other kinds of retaliation include turning off people's access to the login programs, through which they get their materials and interact with the school. Harassment and making it difficult for

students to get into clinical programs. So there are often also very serious, both taxpayer sort of oversight issues, financial issues and serious problems going on at schools that won't be resolved through a- that need to be resolved fairly quickly and looked at quickly. So again, students need to be able to go straight to the state agency with complaints if they have issues and that is why a state reciprocity agreement should not be allowed that requires state- that complaints to go through a school first.

MR. WEATHERS: Thank you, Robyn. I'd like to make an administrative note that Rob Anderson is coming in for John Ware for state regulators. Welcome, Rob. And moving on. Next is Jillian. Go ahead, Jillian.

MS. KLEIN: Yeah. Is it- can I ask Rob a question? I'm sorry. Just from an NC-SARA perspective. Is that allowed?

MR. WEATHERS: I think for the sake of conversation. Sure, go ahead.

MS. KLEIN: Okay. Thank you. Rob, can you explain how this proposal that the Department is laying out from a complaint perspective differs from the current state process at NC-SARA on complaints?

MR. ANDERSON: Yeah, I'll do my best Jillian. You know, I think overall it meets the spirit of

what we're trying to do that's already in place. And you can go to our website and you kind of see the process and the way it rolls out. But there do need to be tighter mechanisms around student complaints and how they're communicated. And we have to continue to really develop, you know, what's an ecosystem of reciprocity? Many states individually are currently working on these processes, and that there is an acknowledgment that it has to be tightened. You know, currently we do collect these and I believe that they're shared to member states quarterly. But it's also important to note that, you know, there are 2400 degree-granting SARA-participating institutions, but 1800 that do not participate or aren't eligible. So there's this whole other group as well, and beyond talking about SARA institutions. But SARA institutions, we do have a process. It does need to be bolstered within states. And we have to continue to build this ecosystem. But when you have a reciprocity agreement with 49 states, I think we're heading in the right direction on that front and we do have a process.

MS. KLEIN: Yeah, thanks. I mean, I think that's helpful because I think when I read the Department's proposal on this specific- to the Department-specific proposal, it read a lot like my understanding of what I thought NC-SARA sort of had

already created from a complaint perspective. So, I- I've just- some- the question is sort of like, and I think we've talked about this already, like, are we solving for NC-SARA? Are we solving for sort of reciprocity agreements broadly? But I just want to make sure that there is an actual existing issue that we're solving for if we're going to be sort of writing language that dictates what sort of a private reciprocity agreement can be doing. That said, from a specific perspective, I just have a question about what the Department's- who does the Department intend to be providing this reporting? I mean, is that an institutional requirement? Is it a state requirement? I feel like the language is not clear on with whom the to-do lies in terms of any sort of complaint reporting that they'd be looking for.

MR. MARTIN: Well, I mean, you know, as written, we're saying that the reciprocity agreement has to have a process for communicating the information received on complaints received- rather, information received on complaints regarding institutions and programs to the state reciprocity agreements. So it's, you know, it would be complaints basically forwarded to any entity involved in the reciprocity agreement that is making certain that it gets to the state that the state is located in, at the initial enrollment. So however that

would function. So whatever process the student, whatever, you know, whether it's a complaint to the reciprocity organization or a given state, that it gets back to the state in which the student is considered to be located in at the time of enrollment. I hope that- David, you want to you want to elaborate on that or? I think it's intentionally broad to try to cover any conduit through which the complaint comes through.

MR. MUSSER: Yeah, I think that's what I was going to say, Greg. The idea is that, you know, we want to ensure that the complaints reach the student's home state. How that happens is not really expressed in the rules. It could be through the reciprocity agreement organization. It could be directly from the institution to the other state. We didn't specify.

MS. KLEIN: So your intention is to say that the reciprocity agreement has to have a mechanism by which that takes place, not to be prescriptive about the way that that happens.

MR. MUSSER: Right.

MR. MARTIN: Currently, yes.

MS. KLEIN: Thanks.

MR. WEATHERS: Thank you, Jillian. I'd like to make an administrative note that D'Angelo Sands is coming in for DC. Welcome, D'Angelo. And next I have

Diana. Go ahead, Diana.

MS. HOOLEY: Thank you. I have a similar, I think, question to Jillian as far the intent of when we're saying the complaints have to be presented to the State, is there an idea that it would be like one particular agency or I don't know if there was any intent behind that or if the idea is the agreement would have to specify that it's going to go to the regulators versus the AGs. That's my first question. And then I have more after that.

MR. MARTIN: I can't speak for Jillian's proposal, but I can speak from the Department's perspective, we're not prescriptive in that regard. We just simply say that the agreement has to have that. I mean, we're- you know, if people feel that if- that there is a need to discuss further language in that regard, we'd be willing to do that. But our proposal is- does not have that. But if Jillian's is something- I've looked at Jillian's, but not in great detail, so I would yield to her if hers has any.

MS. KLEIN: It's Carolyn's, just FYI, but I [inaudible].

MR. MARTIN: Oh, I'm sorry, not Jillian's, it's Carolyn's. It's 99% Carolyn's and 1% Barmak. I'll definitely remember that. Yeah, it's

Carolyn's, yes.

MS. HOOLEY: Thank you. And then, yeah, I wanted to just also support Carolyn's proposal here regarding the complaint process. And also Barmak's concerns that he raised as well. I get also that perhaps there should be some sort of de minimis concern, on the types of complaints. So, you know, that's something that we'd have to give some thought to. But I think it's a fair point. Because as everyone knows, there's- there are some like resource constraints that we all face. But at the same time, I think that, you know, we do want this information. We being the state AGs offices, you know, again, in order to best fulfill our role as the triad, and in order to ensure that the- you know, these programs are operating in the best interests of the students. So, thank you.

MR. WEATHERS: I think Dave would like to respond to that. Go ahead, Dave.

MR. MUSSER: Thanks. Yeah, I just wanted to clarify. I think that, first, everything that Greg said is correct. You know, states have a variety of ways of receiving and acting upon complaints from students about institutions. And we don't want to be prescriptive about how states decide to do that, as long as it's a state entity that is ultimately taking and

acting on those complaints. I think the idea here was to ensure that whichever that office is in the state, and by the way, it might not be the same for distance ed complaints versus complaints about institutions physically located in the state, that that is the office that receives complaints from the students in other states and therefore is able to act on them.

MR. WEATHERS: Thank you, Dave.

Alright. Moving on. Rob Anderson. Go ahead, Rob.

MR. ANDERSON: Yeah. Thanks, John. And I'll keep this brief because I think we just covered several of these items, but we do have concerns on what further specificity of the types of complaints, because we think that's a big issue. And particularly when you look at SARA versus non-SARA institutions in these agreements, we think we have a pretty good process that is continuing to develop. But there are concerns about what is left out in States' ability to kind of deal with that and to have the staffing to deal with it. And I want to echo what Barmak said earlier regarding states being in charge of states and making sure that there's specificity around some of these processes of who owns what to make sure that the work is getting done and that states have resources to get it done. You know, one reason reciprocity agreements are popular in certain

instances, and this one is growing so largely, is because of staffing constraints and creating these processes that allow students and institutions and states to be better served in the lens that we view it through. Obviously, continuous improvement is needed on that front. But we think the basis is strong. 49 states have signed on most of this through legislation. They've operated largely through these compacts. And there's been a counterpoint made about are they really state actors or not? And while I can understand some of that, these compacts were very close to with their states and in many cases are within the legislation of those states to be a part of these compacts. They are closely intertwined. There's tight accountability there. So I just wanted to make that point. Thank you.

MR. WEATHERS: Thank you, Rob. Moving on, we have Robyn. Go ahead, Robyn.

MS. R. SMITH: Sure, thank you. While I think it's important for obviously to make sure that complaints are shared amongst states, I think that the requirement is meaningless if the home state or the state where the student is located doesn't have the power to actually do something on behalf of the student or investigate or take action against a serious problem. And so for that reason, I support Barmak and Carolyn's

proposal. And I would note that NC-SARA, while it does share information, the distant state or the state where the student is located doesn't have any authority or ability to do anything on behalf of that student. It's important to know that the vast majority of issues, especially with for-profit schools, are not addressed through Attorney General actions. They're not addressed through the Department actions or private lawsuits. They are addressed by complaints made to state agencies and being addressed through that process. This is the primary means by which students can voice issues, raise them, and get relief for what's going on with them at their schools. For example, state agencies, some of them can order the school to pay a refund to a student and can also then take action to make sure that whatever's going on in the school is rectified. So it's very important to back up an information sharing sort of proposal with one that ensures that the state agency in the student's state has the ability to do something on behalf of the student.

MR. WEATHERS: Thank you, Robyn.

Moving on, next we have Carolyn. Go ahead, Carolyn.

MS. FAST: Thank you. Thank you, Robyn. I think that raises some- a couple of important points. One is that we want the state to have discretion to act when they want to resolve a complaint. And

secondly, that we want the state to be able to take action beyond merely resolving an individual complaint. But actually, if they need to, take action to address a consumer protection issue that is affecting a student in their state. Currently, the SARA agreement requires member states as a condition of joining to waive their ability to enforce education-specific or sector-specific laws that they have chosen to put in place to protect students in their state. And so that is a concern of ours that, states should, at their discretion, be able to develop and implement and then go ahead and enforce consumer protection. So that is also one of the proposals that I have circulated that would essentially be a return to language that was agreed to under the Obama Administration version of rulemaking that would permit- that would essentially say that states can continue to join reciprocity agreements, but that the agreements should, other than the- should not require states to waive all of these education specific consumer protection rules. And this would allow the reciprocity agreements to continue to exist for the purpose of waiving the barriers to entry for the schools that are related to, you know, paying fees, filling out applications for authorization and all the different states, and meeting the requirements that relate to State authorization, all the

different states that they would like to operate in while still preserving states ability to, at their own discretion, enforce things that otherwise they would not be permitted to under the current system. And there's a little bit more detail about that in my proposal.

MR. WEATHERS: Thank you, Carolyn.
Diana.

MS. HOOLEY: Thank you. Yes. And I noted this at the outset of the session this morning, but that is also- you know, we would- we support that change as well. The states need to be able to enforce their education-specific statutes and regulations, especially in order to make, as I said, sharing of the information, meaningful participation, you know, in the governing board, meaningful, like it has to be- it's not enough that we just know about this information. We have to be able to act on it in the best interests of the consumer. So I just wanted to lend support to that change as well. It's something that we have as states pushed for a number of times, and still believe that that is the best way to protect consumers in these arrangements. Thank you.

MR. WEATHERS: Thank you, Diana. And I see that Scott Dolan will be coming in for Erika. Welcome, Scott. And next I have Robyn. Go ahead, Robyn.

MS. R. SMITH: Yeah, sorry, I forgot

to mention one other thing. I think we need to be very careful about going down the path of sort of saying only certain types of complaints should be shared or referred. Students have- they don't know the laws. They have a very difficult time, I think, formulating complaints and often the state agency, and I served as a former attorney with the Attorney General's office, so have dealt with a lot of complaints. Often, they don't know how to put the problems that they're having in their complaints. And so often you don't really know what the complaint is about until you talk to the consumer and start investigating. So I would be very cautious about sort of being prescriptive, at least at the Department level, about what types of complaints get referred around.

MR. WEATHERS: Thank you, Robyn. Next I have Jillian. Go ahead, Jillian.

MS. KLEIN: Thanks. I just wanted to respond to Carolyn's comment on her proposal that would insert the education- I'm sorry, I don't have the language in front of me. Education-specific phrase into the segment. And I just want to remind everybody that, and I know the Department remembers this, you probably have PTSD. You guys negotiated part of this recently as you talked about administrative capability and certification procedures. And if you read through the

preamble in terms of where the Department landed on the requirements related to consumer protection laws for distance programs, and I'll read it back to you, when you limited the changes that haven't even gone into effect- by the way, they go into effect in July, around what distance programs need to adhere to, you limited it to closure, recruitment, and misrepresentation. And you end up stripping out misrepresentation later. But, you talk about how the Department believes that these are the- quote, the biggest sources of taxpayer liabilities generated by institutional activities, related to distance programs that are operating across state lines. So I guess my recommendation, because you just did this work, you wrote these final rules, pushed them out the door. They haven't even gone into effect yet. We don't know how or to what extent these changes already are going to curb some of the concerns that I think Carolyn and other folks have with respect to reciprocity, how reciprocity agreements are operating for programs that are offered across state lines. But I would just strongly urge the Department to implement these rules that you already wrote, see if it- if these are in fact, sort of the largest areas that have consumer issues, and then consider revising them again in a future rulemaking if that's the case, because I think at this point, we're

talking about- you know, Carolyn's proposal would be like making changes to in-flight rules that haven't even gone into effect yet. So I just ask that we consider that process as we think about this proposal.

MR. WEATHERS: Caught me on mute.

Thank you, Jillian. And next, I see that we have John. Go ahead, John.

MR. WARE: Yeah. Just follow up on a few of the comments. I would just note that participation in these reciprocity agreements is voluntary. So, in most states, in order to enter the- I know in Ohio, we, passed a specific law, Ohio Revised Code, section 33-32.171 that authorized participation in reciprocity agreements and many other states did the same thing and certainly states, if they wanted to enforce their own rules and regulations, kind of go back to the pre-reciprocity period, they could opt out of the reciprocity agreement at any time. So it isn't a mandatory thing that states enter into reciprocity. And you know, again, the suggestion that this is all new, you know, because distance ed and everything is really- I don't think it's accurate from our perspective. I mean, we've been dealing with distance ed schools, one of the first three schools my board approved back in 1971 when it was created, was a correspondence school. And we've had many large- that

school and back in the 70s enrolled over 30,000 students. And in many cases, states are the same where they've been regulating correspondence schools, distance education for a long time. So, yes, some of this is new, the online, the internet, you know, the participation of many public institutions and some of the nonprofits, which wasn't going on 20, 25 years ago was new. But, you know, at least from the regulatory level, we've been dealing with distance ed and correspondence schools for a long time. And I think, you know, state regulators have a lot of experience dealing with those issues. And there's a lot of rules and regulations on the books. And my other final thought, this is just kind of rambling is that, we also have a lot of unaccredited, non-Title IV correspondence schools that- actually the largest school we have in Ohio that does distance ed is an unaccredited non-Title IV school. So again we have to regulate that school. And again, other states are in the same position. Thanks.

MR. WEATHERS: Thank you, John. Next we have Scott. Go ahead, Scott.

MR. DOLAN: Yeah. Thanks so much, John. I just want to follow up, in addition to John's comments, just there around the importance of recognizing that states joined these reciprocity agreements through legislative action or when it was signed by the governor

or through administrative action in these states. So they're volunteering to participate in these reciprocity agreements. I'm getting a little bit confused as a somewhat new negotiator around which language we're responding to here. Is it the Department's language or is it the recently introduced language from Carolyn and Barmak, or just Carolyn? In particular, I think there are some concerns that we have as private nonprofit institutions about the complexity that, might come from the changes in the fast proposal. In particular, limiting it only to, the waiving of initial renewed authorization. Later in the paragraph in the notes from Carolyn, there's a change that makes it so that all state laws are applicable to any institution, which I think was supported by the State Attorney General constituency as well. We see this as fundamentally negating the vast majority of the state and institutional benefits of State authorization reciprocity. And it's a real challenge if we move in this direction. The increased cost and complexity that that was caused for institutions as well as states really kind of undermining the voluntary State authorization agreement that states have entered into. So, we say oversight would vary, pretty fundamentally. And this would make it difficult for students to understand which oversight is applying to them. Whereas

SARA provides uniform oversight and protects all students regardless of the state where they are located. We're in agreement that there are opportunities for us to tighten up complaint processes, including, maybe, focusing on what reporting on types of complaints, but have some concerns about the recently proposed legislation. And I don't know if the Department has had an opportunity to review it or could comment, but would also be helpful to hear where the Department stands on the recently added language from Carolyn Fast.

MR. WEATHERS: I see Greg has his hand up, so I'll let Greg respond to that. And just as a reminder, we are under ten minutes to our scheduled lunch break. Just a reminder. Go ahead, Greg. Thank you.

MR. MARTIN: Thanks, John. And to Scott's question, I think that, yeah, when these discussions come up, it can get a little complicated, but I want to be clear that, the- what the Department's proposed is what you see in front of you in the issue paper that we provided. And this is not in any way to preclude or cut off discussion about any aspect of this. What we are proposing here that you see in front of you currently, obviously, Carolyn's proposal does have some differences and a big one being the language provide- surrounding education-specific- enforcement of education-

specific laws. Currently, the Department is not proposing that. I just want to be clear that currently we're not proposing that. That's Carolyn's alternative. But I think that as we engage in these discussions, if people have, much as if people have, you know, verbally you want to share dissenting opinions, or share something that they want to add or feel should be there, I didn't want to preclude that just because someone had placed it into writing. But I want to be careful to point out that currently this is the Department's proposal. As far as the Department's position on Ms. Fast's proposal, currently, we are not taking a position on those additional changes. We will take them under consideration and we will seek comment from the committee on those. But right now, the Department is not taking a position on whether or not we would amend what we are proposing to include. That, or anything else will just come from the table at this point. So I hope that clarifies things. Thank you.

MR. WEATHERS: Thank you, Greg.

Administrative note, Magin is coming in for Carolyn. Welcome, Magin. And I will pass it off to Barmak.

MR. NASSIRIAN: A couple of quick points, one, with regard to Jillian's observation that a prior rule- negotiated rulemaking did, in fact, produce

certain limitations on what reciprocity agreements may be able to prohibit the states from enforcing. That one, I think, Carolyn and I are jointly to blame for or responsible can be credited for. I don't think that should prejudice the conversation here. That was within the context of Federal certification requirements. That's- you know, we were limited in terms of scope of what we could get done there. Here we're directly addressing State authorization. And I do not think that the fact that we took partial action in a prior rulemaking should in any way prejudice the merits of the conversation around what ought to be done now directly on the topic, just for what it's worth. The second observation with regard to the fact that the states have voluntarily joined the reciprocity agreement, the states are free to do what they want to do. That's no- you know, we live- you know, that is the meaning of Federalism, is that you have divided sovereignty, and the states can operate within the scope of their lawful authority and the feds within theirs. The issue is not whether the states did or didn't pass legislation to do X, Y, or Z. The question is whether the Federal government can accept what the states did, and the Federal government has clear authority to do that. And I want to make sure that this notion that the states voluntarily joined should also be

understood the other way around. Nobody's forcing any institution to go through a reciprocity agreement, folks. If you don't like the terms of a reciprocity agreement and you think there's a better deal to be had directly by going to another state, go for it. Nobody is prohibiting anybody from doing that. So the voluntary thing cuts both ways. The feds have the authority to define what is acceptable to them in this regard. And we're attempting to see what the proper terms are for doing that. Thank you.

MR. WEATHERS: And Magin, you will be our last commenter before our lunch break. Go ahead.

MR. SANCHEZ: There's great power here, being the only person in between y'all and lunch, so I'll try to be brief. I think- I'll try. But I think very important though I did want to second and, from a civil rights perspective, support Carolyn and Barmak's proposal in large part because when I'm thinking of this from the perspective of, you know, first-generation, students of color, in terms of- I want to be- a lot of them who I work with, I want to be able to tell them, if you have a bad actor in an institution, right, there's someone you can go to. If there's a playwright in that someone being the state has the ability to enforce your state laws for it [inaudible] that there's a protection

in place for these students. I think it's very important to take that consideration because a lot of these students, right, particularly when we're thinking of first-generation students, they don't have the resources to be able to go about and dealing with this issue. I think also, you know, incarcerated students, for example, that may be very limited to the people that they can go to with complaints. And so I think super important to be able to have this process and set forth further protection.

MR. WEATHERS: Thank you very much. Appreciate that. Is there anything, Greg, before we break for lunch? Okay. We're scheduled for a one-hour lunch. It is currently noon Eastern Standard Time. We'll be back at 1 p.m. Eastern Standard Time. I look forward to seeing you then. Thank you.

**Zoom Chat Transcript
Program Integrity and Institutional Quality- Session 1, Day 2,
Morning, January 9, 2024**

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

From P. JoEllen Price, Financial Aid Administrators to Everyone:

Good morning.

From P, DC, HBCUs, TCUs, MSIs to Everyone:

Fred

From Krystil Smith | FMCS Facilitator to Everyone:

Naming convention reminder - P or A for Primary or alternate, your name, the group you are representing.

From P, DC, HBCUs, TCUs, MSIs to Everyone:

Reacted to "Naming convention re..." with 👍

From P- John Ware, State Regulator to Everyone:

I'm going to defer to my alternate Rob Anderson who has some comments on this specific governing board issue.

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:

Would it be possible to share the language I proposed on governing board on the screen?

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:

There are no other reciprocity agreements other than NC-SARA.

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:

49 states are members

From P. Jo Blondin, Community Colleges to Everyone:

Or the student complaint process.....agreed, Jillian.

From P - Erika Linden - Private Nonprofits to Everyone:

Agree with Jillian

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:

I agree with Jillian that Board should be composed of state agencies only.

From P. Jo Blondin, Community Colleges to Everyone:

Agreed

From A, Rob Anderson, State Officials to Everyone:

Most states went through legislation to become members.

From A, Rob Anderson, State Officials to Everyone:

It might be worth noting that public institution employees are considered state employees in most states.

From P. Jo Blondin, Community Colleges to Everyone:

Reacted to "It might be worth ..." with 👍

From P- Barmak Nassirian, Vets to Everyone:

To avoid over-politicizing the process, only state employees should be eligible

From P - Erika Linden - Private Nonprofits to Everyone:

Well said, John. The pre-reciprocity history is important to keep

in mind.

From P, Laura Rasar King, Specialized Accreditors to Everyone:
Agree with Jamie and John

From A, Rob Anderson, State Officials to Everyone:

Reacted to "Agree with Jamie and..." with 👍

From P Jamie Studley- Institutional Accreditors to Everyone:

I understand Carolyn's suggestion to change the role of public representatives. I was speaking only to the overbreadth of the ED proposal defining public members if the ED framing goes forward.

From A, Rob Anderson, State Officials to Everyone:

SARA institutions are authorized.

From P, DC, HBCUs, TCUs, MSIs to Everyone:

@A, Rob Anderson, State Officials I wanted to follow-up on the minutes you have that shows NC-SARA doesn't veto policy when its in the best interest of consumers, students, their parents, etc.

From A, Rob Anderson, State Officials to Everyone:

I'll work with staff to get that. We have had one no vote. It was unanimous and based on a technical issue regarding redlining of language.

From P- John Ware, State Regulator to Everyone:

I am going to defer to my alternate Rob Anderson who has some thoughts on this issue as well.

From P, DC, HBCUs, TCUs, MSIs to Everyone:

@P - Carolyn Fast, Consumer/Civil Rights Is there a possibility to add language on this one, to also report out on those complaints (anonymously)? Or provide a list of general complaints with answers for public consumption?

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:

Reacted to "@P - Carolyn Fast, C..." with 👍

From P, DC, HBCUs, TCUs, MSIs to Everyone:

@John Weathers, FMCS Facilitator I have to step away and @A - D'Angelo Sands - HBCUs, TCUs, MSIs my alternate will be on camera.

From P - Erika Linden - Private Nonprofits to Everyone:

What if students moves? Is state of initial enrollment relevant?

From P Jamie Studley- Institutional Accreditors to Everyone:

Definitional question for ED to consider: (3) says complaints reported to state in which the student is located at the time of initial enrollment, while the proposal on p2 refers to the state where the student resides. Greg just used the located language. Consistency/clarification.

From P. Jo Blondin, Community Colleges to Everyone:

Shouldn't the complaint reported to state in which the student resides at the time of enrollment? Makes more sense to me.

From P. Jo Blondin, Community Colleges to Everyone:

current enrollment

From P - Erika Linden - Private Nonprofits to Everyone:

Carolyn's language re: education-specific consumer protection laws would effectively negate the benefits of reciprocity agreement.

From P - Erika Linden - Private Nonprofits to Everyone:

Scott Dolan will step in for private nonprofits.

From P, Jessi Morales, Student/Borrower to Everyone:

On Robyn's comment: There have been instances where a number of

veteran students were complaining about access to certain items that seemed to be surface level complaints and ended up being a pattern at a specific school and program. So yes, agreed!

From A, Rob Anderson, State Officials to Everyone:

Regarding Jilian's earlier question:

From A, Rob Anderson, State Officials to Everyone:

4.5c

If a person bringing a complaint is not satisfied with the outcome of the institutional process for handling complaints, the complaint (except for complaints about grades or student conduct violations) may be appealed, within two years of the incident about which the complaint is made, to the SARA Portal Entity in the home state of the institution against which the complaint has been lodged. That SARA State Portal Entity shall notify the SARA State Portal Entity for the state in which the student is located of receipt of that appealed complaint. The resolution of the complaint by the institution's home state SARA State Portal Entity, through its SARA complaint resolution process, will be final, except for complaints that fall under the provision "g" below.

From A, Rob Anderson, State Officials to Everyone:

And 4.5a

a. Complaints against an institution operating under SARA policies go first through the institution's own procedures for resolution of grievances. Allegations of criminal offenses or alleged violations of a state's general-purpose laws may be made directly to the relevant state agencies.

From P - Carolyn Fast, Consumer/Civil Rights to Everyone:

My alternate, Magin Sanchez, is coming to the table to comment.