

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

On the 9th day of January 2024, the following meeting was held virtually, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MR. WEATHERS: Hello, folks. Welcome back from lunch. I hope you had a restful one. We had a productive morning, and I'm hoping to have another productive afternoon. Is- are there any housekeeping issues that we need to address before we move forward, Greg?

MR. MARTIN: Yeah, I just wanted to say- oh, so, yeah, to reiterate, yes, great discussion this morning. The plan for this afternoon, we can continue with our discussion of the proposed changes in 600.9. And then I want to make certain that we have time for the three- I believe we had three directed questions to you here that pertain to 600.9. So when we're done with our general discussion, I want to address each of those questions or raise each of those questions, I should say, for the committee to address and respond to. And then, we are scheduled to move into the discussion of distance education at, I believe, 2:15, so I'd like to be able to stick with that, because we do have- we have a lot to get through this week, so I think we can- I'm pretty sure we can meet that schedule and give everybody an opportunity just to say what they want to say.

MR. WEATHERS: Alright. Well, with that, I would actually hand it back over to you, Greg, to

get us started in the afternoon. I believe that we're going to endeavor to take a break shortly after two. So, just as a heads up for folks.

MR. MARTIN: Yeah, great, I don't know, do we have any more remaining discussion? When we left, we- I believe we had- we were discussing 600.9. I would entertain any further comments there. If not, then I would move on to the- to our question. So I'll throw that out there.

MR. WEATHERS: It looks like-

MR. MARTIN: Oh, we have some hands, okay.

MR. WEATHERS: Yep, my apologies. Yeah, got a couple hands. Start with Jo. Go ahead, Jo.

MS. BLONDIN: Yes. So I'm new to this process, and I just want to understand again and clarify. We're responding to DOE's language at this time, correct?

MR. MARTIN: Yes. You are responding to DOE's language. I mean, there's nothing- I will say nothing precludes you from addressing anything that was raised by other members of the committee, either verbally or in writing. So I- you know, so I don't think- Carolyn did happen to share her proposals in writing and gave that to you, but- which is nice to be able to see it. If you want to address that, you may. But this- but what you

see here in the issue paper is what's being proposed now. And that's what's on the table until- unless we come back with different text in the next round. Thank you.

MS. BLONDIN: Okay. And my second question is just to clarify this, because I didn't really get a handle on it from the Department, and there was a lot of conversation around, is it in- I mean, I've heard it's in the HEA, I've heard that the Department can't overrule states. So can we just have some kind of clarification around that, maybe in the chat or something, just so I can see the rule or I can really understand that because the conversation is really going back and forth, and I want to understand what that specifically states. Thank you.

MR. MARTIN: Sure.

MR. WEATHERS: Alright. Thank you, Jo. And next we have JoEllen. Go ahead, JoEllen.

MS. PRICE: Great. Thank you. My question is about the complaint piece. I understand the governance piece. But during the lunch, I did a little bit of research. My current institution is not a participating SARA institution, but my prior institution is. And, I'm trying to figure out the need for the complaint piece, and looking through some research, because my biggest concern is how students access

institutional complaint processes. I know it can be very confusing for students. And so I looked at two large online institutions. Their complaint process online is very well done. It's explained well. It walks students through the process. And in looking at that, I'm going to share something in the link. I found the NC-SARA Complaint Reports dashboard, which sort of clearly shows that complaints are being looked at. They're being addressed. They're being reported on. So I'm trying to figure out why this language is needed. What is it we're trying to address that they're not already doing, when it comes to student complaints?

MR. MARTIN: I can address that. I think that, first of all, I want to reiterate that the proposed regulations are not a- shouldn't be viewed as you would view a compliance report, which is to address areas of noncompliance that an entity- that have been taking place in an entity, you know, violations of various different regulations. We're not alleging any violations on the part of reciprocity organizations, including NC-SARA. And in fact, you know, what we're doing is proposing additional rules to strengthen the process. And it- I am not wholly familiar with all of the complaint procedures at NC-SARA, it being a proprietary organization. But I- but what this would do is place into

regulation and require a protocol whereby complaints when they come in are funneled to the state in which the student is located. And I think that's- I mean, even if one is to say that they believe that the current protocols under which an organization is operating, but maybe not required to operate do account for this. I don't think that it negates the necessity to place into regulation, procedures which ensure that it occurs.

MR. WEATHERS: Alright. Thank you, Greg. Moving on. Erika, go ahead.

MS. LINDEN: Yes, thank you. I put something in the chat before we broke for lunch. Just asking for clarification on the reference that's both in the current regulation in (2) and then in (3)(i) about the time of the student's initial enrollment, that that's one of the states that would need to be involved in this complaint process. I'm not- if a student moves to another state, I'm not sure that the state of initial enrollment is relevant. Shouldn't it be the state in which the student is currently enrolled? And so I just didn't want to lose track of that consideration. I had several comments come to me from other members of the constituency about that element. Thank you.

MR. MARTIN: Our purpose- the purpose in our in our regulation, which you know, which

determines, you know, where the student is and the state in which, located the time of enrollment was, specifically to avoid the situation whereby institutions would be required to monitor, you know, all the time where the student is. That would have been, you know, burdensome to do. So we key to that regulation here. As, you know, an indicator of which state the- a complaint must go to. I do concede that it would be- it's possible that the student has moved to some other location. But, I think generally, the rule would be- would work. And in the case of distance where a student would be, you know, where they- they obviously could move, but we- but the regulation that keys to- but the- this language, you know, mirrors the enrollment language we have, which has the requirements for identifying whether, you know, whether they meet licensure requirements. So, you know, then that's what we key to, but it is a point. I mean, we could- I mean, certainly if the school is aware, you know, if the school is aware that the student has moved, I, I think certainly it should go to that state, whether it would be a requirement under these rules, the way they're written, I'm not sure, but I see Denise has her hand up, so I'll let her address that.

MS. MORELLI: I just wanted to note for whoever asked, I did put the definition of an

institute of higher education in the chat, which talks about that the institution, in order to be eligible for title 48, has to be, authorized by the state. So whoever was asking for that, I did put the definition in the chat in terms of the question that just came up. I just know that in prior negotiations, in different concepts that we've dealt with in the regs, the institutions actually thought that where the student initially enrolled was easier to track. So we had a lot of comments, I think, over the last round and round before that in the various thing, concepts that we were trying to deal with, that they didn't want to have to track a student all the way through. So that's why some of the language that we decided on in the regulations deals with where the student was initially enrolled. It may not be the best, but that was one of the reasons why we came down and settled on that.

MR. MARTIN: I also want to correct myself in identifying NC-SARA. When I said the proprietary organization, I didn't- I misspoke. They're, of course, not for-profit. I was just speaking within the context of there not being a governmental- that they're an independent organization. So thank you for correcting me on that note. I just want to make that clarification. Thanks, Denise.

MR. WEATHERS: Thank you, Greg. And I see Dave has his hand up to respond as well. Go ahead, Dave.

MR. MUSSER: Yeah, just one more quick clarification on that point. Jamie asked in the chat about a discrepancy in the language that's used and the issue paper. In one case, we say resides, and in another case we refer to the student's location at the time of initial enrollment. We always mean the latter. Resides is just shorthand. And we should have probably used a different word there to avoid confusion. But as Greg and Denise just explained, that was a decision that we made in order to assist institutions in making these determinations once, and we would expect that they would use the information- that information to determine which state the complaints needed to go to in this current proposal.

MR. WEATHERS: Thank you, Dave.
Alright, moving on. Robyn, you're next.

MS. R. SMITH: Hi. Thanks. I just wanted to respond to a point that Jillian raised in the prior to the break. The Department did propose regs that would have required schools to certify in their program participation agreements, whether they were- that they were in compliance with applicable state laws concerning

closed school issues, recruiting and false advertising. I want to be clear that the Department ended up only finalizing the regulation as to closed school requirements, number one. And number two, those have nothing to state- to do with state authorization because they still allow states to decide or exempt whoever they want, including distance education schools under state authorization reciprocity agreements. So schools only have to certify they're complying with whatever laws they're required to comply with under state law. And it doesn't really change anything with respect to distance education schools. The other issue I wanted to raise about the NC-SARA complaint process is thank you for providing that link. The link is really concerning. And the data from NC-SARA is concerning because although they oversee over 2400 organizations, I'm sorry, institutions, they have less than 100 complaints for 2022 alone. And so it seems to me that the state agencies receive far higher numbers of complaints typically. And so it concerns me that the states even- aren't even getting to- I'm sorry, the complaints aren't getting to the states because their first- students first have to go to schools. And states are very- complaints are very important as well for agencies and states to be able to identify patterns and practices of illegal behavior going on. So that's another

reason it's important for sharing of data. Thank you.

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

MS. KLEIN: Yeah, thanks. I just- to Robyn's comment, and I think this is important because I want to make sure I'm understanding Carolyn's proposal in general. So I understood what was being talked about in terms of allowing states to move forward with education-related rules, that it would not require states to do that, but it would permit states to do that even if the state is participating in a reciprocity agreement. So I'm not sure how that's different, I guess, than what you're saying. And to my comment before the break, I think the Department's- yes, institutions are self-certifying that we are adhering to state requirements, but we have to adhere to state- I mean, that's- so, I understand what you're saying, that it's an institution saying that and not sort of on the back end of states doing it. But I- from an institutional perspective, it's the same. It doesn't matter to us if it's the state saying we have to do it, or the Department saying we have to do it. That's a requirement that we have to follow. And I would say, you know, in terms of the- where the Department landed on the final rule that goes into effect in July. Yes, they did strip out a couple of the things that had been sort

of laundry listed in there. But the Department's rationale was that they believed things like misrepresentation and the other elements in there were already covered by either UDAP provisions or other sort of generally applicable rules within the state. So I just want to be clear, though, because I think you raised, at least for me, an important question, which is my understanding of Carolyn's proposal was states can still do these things as opposed to states somehow would be required to come up with their own education-related rules that they would have to impart on institutions that are offering distance education programs.

MS. R. SMITH: Sure. Can I answer? Yeah. Carolyn's proposal. You're right what it is. It is that the states would be able to, in their discretion, decide what they want to do. Not that they're required to do any kind of- change their laws in any way. As to the certification piece, what I meant to say was it requires states to certify that they comply with applicable laws to the extent that they're even applicable. So it still allows states to assign on to a reciprocity agreement and waive state laws, state higher education consumer protection laws, including on closed school issues. So, it doesn't change that if a state has exempted- has a law that exempts SARA institutions from having to comply with

a closed school provision that doesn't require them now to comply with that, hopefully that makes sense. It's very confusing. And maybe Carolyn can explain it better than me.

MS. FAST: Yeah. If it's my turn, I don't know if it's my turn, but yes, I agree-

MR. WEATHERS: It is.

MS. FAST: Thank you. Sorry. I agree with what Robyn said, that the proposal is definitely not requiring states to have any particular protections or to enforce those just to ensure that they can do that if they choose to. And also, you know, have the benefit of the reciprocity agreement for the waiver of the requirements that are related to initial and renewed state authorization, that the only difference is that here we're preserving more discretion for the states essentially to have those rules. Whereas under the current system, the agreement as it now stands, requires states to waive consumer protections. And we're just saying the states should be able to, at their discretion- because, you know, there are states with stronger protections for their students. And because of this requirement, there are sort of- there's this weird two-tiered system where online students in some states have different rules depending on where their school is

located. And they don't know that. And also, you know, so this is not good for students. And it's also not good for states who may have- would like to be able to address consumer protection problems in their state and are constrained by this. This is trying to give them the ability to enforce the law if they choose to.

MR. WEATHERS: Thank you. Carolyn. Okay if there's nothing else as it pertains to 600.9, I'm going to hand it back over to Greg.

MR. MARTIN: Thanks, John. So, I want to thank everybody for that discussion. And, if we turn to page three, I believe, on the issue papers. And I'll have Joe bring that up there. So these are questions, general questions for discussion under 600.9 that the Department is interested in receiving your feedback on. And some of this may be redundant of what we've discussed already, but I'll open them up anyway. And the issue at hand here is that currently, states can exempt an institution from state authorization requirements if the institution is accredited by one or more accrediting agencies recognized by the Secretary, or if the institution has been in operation for at least 20 years. So, the questions we're going to ask, and I'll ask them holistically here, just go through all three of them, and then anybody can address any of them that they wish to.

How can the Department ensure that state authorization is serving its intended purpose in the regulatory triad? In what instances are exemptions from the state approval requirement appropriate or warranted? Is accreditation and/or length of time in operation sufficient for an exemption from the state approval requirement? And what factors should the Department consider as necessary for state authorization? So with that, I'll open the floor for discussion.

MR. WEATHERS: Thank you. Greg.

Alright. Barmak.

MR. NASSIRIAN: Well, just to get the conversation going, several observations, one of which it has been alluded to, but I'll just assert it dogmatically, Federal Law contemplates a three-legged stool for purposes of program integrity. And, the Department is correct in expressing concern, as we have, about arrangements where any one of these legs is collapsed onto another. And the example of states deciding that accreditation can perform double duty as whatever it is supposed to do, which, by the way, it may not be doing very well, as well as state authorization. So I do think maintaining separation between the two non-Federal legs of the triad makes a lot of sense. I also kind of ponder an interesting question, which is, is

state or is reciprocity intended to provide the same level of protection, more protection, given the fact that on the internet nobody knows you're a dog, or less protection? My understanding was that it was intended to provide convenience for institutions that may not have the resources to necessarily operate at a national level. Again, we live under a Federal system in which the feds can regulate and the states can regulate, and large corporations live with those facts, right? Emission standards. There's all kinds of labor laws. There's all kinds of requirements that vary from one state to another. And large corporations manage to navigate those rules and comply with the applicable laws of every state in which they operate. I always thought that reciprocity was intended to help smaller institutions that, through no fault of their own, happen to offer a distance ed program. And lo and behold, two students from another state happened to sign up, and that was going to force them to go through the entire arduous process of gaining state authorization for the sake of those two schools. It may be worth contemplating whether there is a footprint of enrollments above which you really ought to go through the front door, of obtaining direct authorization, so that we can limit the scope of reciprocity to those [30 seconds]. We'll stop with that. There's plenty more to

say, but I'll stop.

MR. WEATHERS: Thank you. Alright, moving on. John, go ahead.

MR. WARE: Thanks. And just to respond to Barmak's question there briefly, I think from the institutional perspective, authorization was, yes, more of a convenience issue. They didn't have to go to every state, although at the time many of the larger for-profit institutions had already gone through that process. So they effectively had a competitive advantage. So it was really the state institutions and some of the larger nonprofits who at that time, you know, were the primary beneficiaries of reciprocity because they didn't have to go through that process of getting- going to every state and asking if they had to be approved. So, you know, one could argue who's the beneficiary now. But at that time, I think those were the institutions that benefited. But getting back to the questions raised by the Department and appreciate Greg and the Department bringing those- these questions up because I think they're good questions. And as you know, and I'm sure those who are familiar, states are all over the place in these exemptions, and most of them are things that have been in state law for long periods of time. You know, we have, exemptions by accreditation. If they're accredited,

they're exempted as the question states, if they've been in operation for 25 years are exempted. And, you know, I don't- we don't have any of these exemptions that I'm aware of in Ohio. But they do come up from time to time. We have institutions or professions lobby to have themselves exempted from regulation. We almost every time oppose it at the state level. And I'm sure many other regulatory agencies have opposed these types of exemptions in the past. But, you know, for whatever political reasons, many times they get into state laws and, you know, they- like I said, a lot of them have been there so long that I don't think people can even remember why they got put in there in the first place. So I think it's a good discussion piece. I'd like to, you know, talk to my colleagues in other states and see, you know, what are your exemptions? How do they apply? What are you really exempt from? That's another good question. You know, are you exempt from everything? Are you exempt only from certain regulations. So it's really all over the board I think, with states on this issue.

MR. WEATHERS: Thank you, John.

Jillian, you're next.

MS. KLEIN: Sure. I have a question for the Department. I'm wondering how many states provide- the sort of basis of this question, how many

states have exemption processes that you're- that are sort of the concerning basis of these questions? Just to start there.

MR. MARTIN: I don't know the number off the top of my head, but I will endeavor to see if we can get that.

MS. KLEIN: Okay. My understanding, at least from an exemption related to accreditation, is there's only four states. And I don't have a dog in this fight, really. But I just think it's an interesting conversation. I think there's only four states that offer licensing by means of accreditation LBMA, including California. And my understanding of that process is that it's not sort of a blank check in terms of institutions being authorized by the state. They still have to demonstrate financial responsibility. They're still requirements that the institutions adhere to state requirements. There's typically an annual review that's undertaken by the state. So I think for me, for the purposes of being helpful in this conversation, I would just- it'd be helpful to me to better understand, sort of the Department's concern and the depth of the concern, since I'm only aware of those four states that offer any sort of exemption process. And even within that, there are still sort of guardrails that, at least to some

extent, offer protections from a consumer protection perspective. And in many of those states, they do still require, a surety bond or paying into a [inaudible], etc., for the school to be able to operate in the state. So I think just to be a helpful contributor to this conversation, it'd be helpful to me to get more information from the Department about the spirit of the questions.

MR. MARTIN: I see Denise has raised her hand, John. Could you-

MS. MORELLI: So the Department is doing research on this right now, but we've determined so far that a large majority of the states have some form of exemption. You have the accredited exemption, California being a prime example. There's exemptions in other states for religious organizations- religious entities, religious programs. There's others that are done by charter. Some of the old northeastern schools. There's other ones that are done by the length of like a certain set time, 1943, 2000, certain whatever timeframe. We're compiling that and hope to get that to everybody. So thank you, Jillian. But I just want to let everybody know that we've- are doing some research on it and hope to get the data out to the negotiators.

MR. WEATHERS: Thank you, Denise. I

see that Scott Dolan's coming to the table. Welcome, Scott. And next, Robyn. Go ahead.

MS. R. SMITH: Hi. Sure. So my understanding of most state laws and- including California's is that if they're exempt, they are actually not subject to any type of authorization or requirements of the state law. At least that's the case in California. In California, states that are exempt can sign on to be part of the complaint process so they can have a complaint procedure, which is currently required under Federal Law. But other than that, if they are exempt, they are not required to comply with anything, to provide any reporting, to get authorized in any way. I suspect that's the same with other state laws, but I would have to see them. So, that's just to clarify on that point. The other point as to what John said is, I think a lot of these laws are fairly old, especially a lot of them were passed in the early 90s, and/or in the 90s. And so they're kind of holdovers from a prior sort of regime, especially with the long-term exemptions that schools that were in existence for a long time, you know, the market has really changed, especially for for-profit institutions at the time a long- you know, back in the 90s, there were, you know, for-profit institutions that were owned and maybe it was a valid basis at that time to

assume that they were stable organizations providing a good education. Since that time, of course, things have changed. And we see, for-profits and nonprofits changing hands quite often. And once they are changed- the ownership has changed, it can really present a lot of risks for students and taxpayers depending on who's taking ownership. So I think there is a question about the 20-year, the long term type of exemption, especially when it comes to certain types of institutions that have a lot of transfers of ownership.

MR. WEATHERS: Thank you, Robyn. And I see that Rob is in for John Ware and also has his hand up. Go ahead, Rob.

MR. ANDERSON: Thank you much. Just a quick question for the Department. I think this is a very engaging discussion, and I think we know all of these- some of these exemptions and the research we've done at SHEEO on all 50 states, it's scattered across the board of how different states approach this issue. And some, you could argue, have much more, bolstered processes than others. And we're working with a cohort of states and academic researchers to try to strengthen some of these principles, but kind of with that as a backdrop, you know, I'm just curious from the Department regarding your view on kind of how, when and whether you can kind of

dictate states on their authorization schemes and their approaches. I'm just kind of interested in that in general. What you think?

MR. MARTIN: I don't know. I would say, in response to that, that first of all, these are these questions here are just to get a feel for the committee of where, you know, where we stand on that. We haven't sort of proposed anything with respect to this. It's not the Department's intent to dictate. I think the state's- you know, what their procedures are. We are concerned about the exemptions that exist and, you know, and I think that that's- you can see from this- these- what's proposed here and then what's been asked here that that is a legitimate concern on our part whether or not these exemptions which are currently are in our regulation, whether they should be retained or not. So I think that's where we're going with this. But, I mean, Denise might want to- if she does, I think want to expound a little bit. I will turn it over to her.

MS. MORELLI: I think you're getting into an idea of like, what role does the Federal Government have in the state's rights here? But remembering this is a Federal program and it's a voluntary program. Institutions don't have to participate. And so we are- you know, have the authority

to monitor who comes into the program and what they do while they're in the program. So I think that's the concept here. And we want to make sure that the oversight and the triad that Congress set up is meaningful. And so that each, like Barmak keeps saying at each leg of the trio meets its responsibilities. So I think that's where our position is coming from here.

MR. ANDERSON: Thanks so much for that.

MR. WEATHERS: Thank you, Denise. On an administrative point, Michale's coming in for Jamie. And Michale, in fact, has his hand up. So, Michale, you're next. Go ahead.

MR. MCCOMIS: Thank you and good afternoon. As an institutional creditor, we accredit a number of institutions that do reside in states that applicable LBMA or licensure by means of accreditation rules on the books. I think Jillian's number four sounds pretty accurate, but there are, you know, 50 states and 50 different ways of doing things, for sure. I think largely, you know, for us as an accreditor, we try to work with the states in whatever format and design that they have put forward. Licensure by means of accreditation, I think historically, when it was really being developed in the late 90s and early 2000, was

trying to cut through, in some ways, some duplicative work that maybe- where accreditors were asking for certain things. The states were asking for exactly the same kinds of things. And maybe it has achieved that and maybe it hasn't. I'm not really sure, but it does create, in some instances, a chicken and an egg instance where you have to be- you know, for accreditors, you have to have state authorization, state approval to say, offer a new program. But the state will say, no, you just get it approved by the, you know, by the accreditor. And so it does create, in some instances where we have to work very closely with those states. And it doesn't pose a particular difficulty, but it's just something that we tend to be very mindful about and wanting to make sure that we've got, you know, all those bases covered to make sure that if we're, you know, providing that we have the kind of state approval that we need. I do think that the questions that are being posed here are important ones. To Barmak's point about the three-legged stool, it's difficult when any leg of that stool and any circumstance is shorter or less secure than the other two. And it puts more pressure on the remaining elements of the triad. So, whereas I'm not- you know, I've been doing these negotiations for a long time. I've heard the same questions and arguments around Federalism and overreach.

But I do understand the issue of the Federal Government having an expectation of what eligibility for Federal Financial Aid means with regard to state authorization. And so to the extent that they can strengthen that triad, I think that's in the best interest of students and finding ways to make sure if LBMA allowances do continue to exist, that maybe there are just some parameters or some frameworks around it. Thank you.

MR. WEATHERS: Thank you. Michale. Anything else on those questions that the Department is seeking clarity on? Alright.

DR. PRINCE: Are we still on question one, or are we on question one, two, and three?

MR. WEATHERS: We're addressing them all holistically.

DR. PRINCE: Oh, sorry, I didn't understand. Okay, so I raise my hand-

MR. WEATHERS: Go ahead, DC.

DR. PRINCE: Get in the queue. Yeah, to this question, I think we are- I think we're at a pivotal time in point in, I think, in our experience of this triad. And as I've talked to other people over the break about this, whether or not it is time for an overhaul of this triad and what we have set in stone for so many years. And I think what we- what it sounds like

in these discussions, and what I've heard from others, is that we are- we're nitpicking at particular pieces of things, but we're not looking at the entire holistic picture of what the triad is. Now, clearly some of that will require Act of Congress, which good luck on that. But I think from the standpoint of here, it sounds like there are- and I know I had made this comment earlier, Greg, you said the Department is not interested in shifting responsibilities between states and accreditors, and I think that might be a bit shortsighted as I've talked to other communities in the sense that we might need to. We might need to empower states to do more, just for example, moving some responsibilities from accreditors to states, and giving states more authority and right to do what we need them to do rather than giving it to an accreditor. Understanding our culture and political environment right now, I think we it would be in the best interest to give that to states. But at the same time, too, I also think that we should remove in many ways, the number of years and institutions should receive an exemption or realign what that exemption means. Institutions already have to reapply for several different things at the moment to stay afloat whether it's a state, whether it's accreditor, whatever the case may be. And so to do a blanket exemption, almost what it

sounds, though, from others is just this- you get this blanket exemption without reapplication or reapplying or in many instances, you're just free to go. Seems a bit as if it's almost the wild, wild West. And so I think this is why a number of people that I've spoken with have asked for an overhaul, because we've just allowed things to continue on, assuming that when it was first initiated, when it was first done still is applicable. And what's going on in our sector in higher education might push us rather than us have these discussions push us to rethink this regulatory trap, particularly for states to take on a greater responsibility of managing their institutions within their own states as well. But I think finally, what I'm also getting back from other constituencies is around risk based-analysis of institutions and the [30 seconds] risk-based analysis institutions as well as on public and private, and how we shared information to states in order to control and be able to effectively plan and improve those institutions, whether they're online, public, private, mortar, brick and mortar, online to be able to do that. So I think there's some reports out there that are speaking to an overhaul in how we need to better think about moving responsibility between the different triads.

MR. WEATHERS: Thank you, DC. Alright,

moving on. Carolyn?

MS. FAST: Just a quick note that we share the concerns about these problems potentially from states that permit exemptions for state authorizations and other consumer protection requirements based on how long a school has been in operation or based on accreditation. There have been examples of schools that have met the years of operation requirement, possibly after changing, you know, several changes of ownership as I think Robyn was mentioning earlier that have for example, closed, abruptly leaving their students with really a lot of problems. And those are the kinds of things that we are concerned about with these exemptions. And one of the discussion questions is, what should the Department be requiring from states in terms of authorization? And one thing, among others, might be to repeatedly look at the school's financial stability and make sure that if there is a problem, they have something in place, such as a teach out agreement to address this concern or protections for students affected by closures. These are things that could be part of state requirements for state authorization.

MR. WEATHERS: Thank you, Carolyn.

Barmak?

MR. NASSIRIAN: Two quick points. But

DC, I share your frustration, that sometimes it feels like we're rearranging the deckchairs on the Titanic instead of changing course in a strategic and effective way. Sadly, we are operating within the confines of a statute that is quite old and has not been updated and may, for all I know, never, ever again get updated. So we'll see how things go there. But I think the goal is to move to the extent that we can to move the entire ecosystem in a better direction to the extent that that is possible, through regulation. So we will, in fact, offer redlines to attempt to do that. And I would certainly welcome whatever anybody else wants to propose that that could maybe move us towards a better arrangement all around. So that's one issue. The second issue I wanted to point out is that state- and this has been- I forget who it was who raised this, but it's an important point. State authorization has two kinds of meanings. One of them is the creative act of the state declaring that an entity is a learning venue when it's an institution of some kind of postsecondary education. I could live with exemptions on that front in cases where the institution predates the Republic or is in a state constitution, so that there is no ambiguity that it is by an a priori act, recognized to be an institution of higher learning. But state authorization also means

continuing terms and conditions that will apply based on the conduct and behavior of the institution, and no institution should be exempt from that. Again, we will offer some red line language on that front, but I think we need to be cognizant of the fact that we can't really force the state of California to put the UC system through a process when the UC system is in the constitution of the state of California. So we want to be respectful of those creative acts that declare an entity to be an institution. But we also want to make sure that, you know, bad actors can't hide behind antiquity as the reason why they should continue to engage in questionable behavior. Thank you.

MR. WEATHERS: Thank you sir. Michale, you're next.

MR. MCCOMIS: Yeah, I was just going to add, I think, maybe aligning a bit with what Carolyn had said. It may be useful that, you know, while there may be some allowance that, you know, such, agreements or exemptions may exist that there are certain things that states can't hand off. And complaints obviously is one of them. But we can discuss, you know, what other ones really matter, particularly when it comes to student protections and the role that the states play in that particular regard. So maybe still trying to achieve some

of the, reduction in duplicity, or duplicative work, but at the same time retaining expectations from the Federal Government and the Department about, you know, what are the things that, as participants in Federal Financial Aid and consumer protection are most important to, you know, make sure that those continue to have a trifocal kind of oversight. Thank you. And Jamie's going to jump back in now.

MR. WEATHERS: Thank you. Michale. Jesse, I show you next. And, just as a point of clarification, it seems like the system is sometimes showing different people in different orders, so I apologize if I'm getting the order wrong. Jesse, you're next.

MS. MORALES: Just wanted to throw out kind of building off of what others have said. And also, just in response to the question three of what factors the Department should consider as necessary for a state authorization. We had sent around some draft language a little earlier, and I think everybody received that. And so as part of that, go ahead- going ahead and considering, essentially risk-based review in terms of when we're considering state authorization, I think would be really helpful. And I- if- I don't know if you could pull up the language because I know if I try, that will

go horribly wrong. And if you can, scroll down. So this was just some of the language that we had proposed essentially. This would act as a trigger. Once institution has been flagged, state authorization will then know to specifically focus and review that, that institution or that program. And this is just kind of simplifying the language and simplifying the process for states. And so just wanted to note that in response.

MR. WEATHERS: Thank you, Jesse. Scott, I've got you next.

MR. DOLAN: Yes, hi. Just want to follow up a little bit on the triad conversation that we've been having, in particular around the state's role as it- especially for authorization of institutions. And it feels like a lot of what we're discussing is, how much oversight they should have of specific institutions. And there's a bit of a concern, I think, in terms of who gets to decide those sorts of things. Is it the state who gets to decide the oversight within its boundaries, or is it the Federal Government that does so? And it feels like maybe we're conflating oversight and authorization, which are potentially two different things. And maybe I'm confused there, but would like a bit more discussion on that, or at least some time to really research that in more depth as we move forward as part of these

conversations so we can really have a good conversation about the role that the Federal Government plays, the role that accreditors play. I heard earlier a concern about institutional closure. We know for sure that those things are already under different regulations relative to the DOE as well as accreditors. So, it seems like a much larger conversation that we're having here around the role of the Federal Government, the role of states, and the role of accreditors as part of this triad. And I just want to make sure we're not confusing oversight within state boundaries with authorization to operate within a state.

MR. WEATHERS: Thanks, Scott. Next I have Jo. Go ahead, Jo.

MS. BLONDIN: Yeah. Just a short comment about what Scott said. That's exactly what I was thinking as well, especially in terms of centralized states where I've been like Arkansas and very decentralized states, like where I am now in Ohio. So I appreciate your comment. Thank you.

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

MS. R. SMITH: Hi. Sure. I just want to go back to Jesse's proposal. Her proposal is to review and appropriately- to require states as part of their

state authorization process, to review and appropriately act on actions concerning the institution by another regulator. This is something that's already acquired-required by accreditors, and it seems like it would be something that would be good to require of states as well. Of course, states would have the discretion to decide how they could do that. They could do it as part of their reauthorization process, re-approval process, whatever they provide for in-state law. The other point I want to make, and I assume this is what Barmak is going to say, too, but, the Higher Education Act provides for the taxpayer money for billions and billions of dollars in Federal Financial Aid every year. And the whole purpose of the state authorization reg and the discussion we're having is not to infringe on states' rights. It's to ensure that states in their Federally appointed role, are appropriately protecting students and ensuring that they get a good education. Again, states don't have to do this. Schools don't have to create Federal funding. But I think Federal Law is clear that if there is Federal money that is going out, the Federal Government has the right to enact what it sees as important parameters to gatekeep and protect the Federal money and make sure that it's being appropriately used.

MR. WEATHERS: Thank you, Robyn.

Barmak.

MR. NASSIRIAN: Just attempting to respond in a convincing way to Scott's concerns. The states are at liberty to authorize anybody they want to authorize for their own purposes, and they are at liberty to recognize through some sort of state comity, state agreement, just by whatever means each other's endorsement of their respective institutions. That's a state matter. When such institutions seek to access Federal funding, however, the Federal Government gets to weigh in and define the kinds of state authorization that it views as conforming with the enabling statute in Title IV. Now, private institutions, public institutions, vocational institutions are all subject to this within the geographic limits of the state in which they're located. There's nothing new here. They all have to comply with not only the creative act of being authorized, but by the continuing oversight that that may or may not be accompanied with in their own state. The question we're pondering here is whether, having been authorized by one state, state A, you can then reach out and touch hundreds, thousands of students in other states, via distance. And the general consensus of I think the community has been that you are delivering education into the state in which the student was

initially located when they enrolled. So that is the same. The fact that you're offering it via distance is almost- is identical, for our purposes, to having leased a building in state B and having thus subjected yourself to the jurisdiction of state B. The Department is attempting to accommodate institutional concerns about compliance burdens by allowing reciprocity, certain types of state reciprocity to satisfy that requirement. So there really shouldn't be any technical confusion here. This is just as you would be subject to the jurisdiction of a state if you went there to set up shop. You are setting up shop on the internet, and the Department is actually leniently attempting to accommodate your, you know, institutional compliance burden concerns by contemplating the kinds of reciprocity arrangements that satisfy the needs of the AG. I hope that's helpful. I don't know if it is, but my best [inaudible].

MR. WEATHERS: Thank you. Jamie, I have you next. Go ahead.

MS. STUDLEY: Thank you. I'm going to come back to- and I really appreciate the Department opening these questions. We're all united and wanting to have a higher education universe of institutions that meet reasonable, responsive, responsible standards. And it's in nobody's interest to duplicate effort. We-

certainly our states do not have unlimited resources. And if they make the decision that the process that an institution has gone through provides them with information that they need toward their satisfaction of their part of the triad responsibilities, I think we should allow them to do that, recognizing that there is also the Federal recognition of the accrediting agency. And those three pieces might come together to provide some efficiency so that we can each do the specialized jobs that we have to do. I think Michale made a good point about realizing that if we were doing something that the state wanted to know about in a form that they could- that they could understand from an accreditor that they should be entitled to use that information. And perhaps the word exemption is something that deserves a look, because I think exemption makes people- it creates an opportunity to say, what is the scope of the act that the state is taking when it accepts a determination by another entity? And, as an example, you know, Carolyn referred to some states may want to look at financial results, accreditors that I know are looking at financial performance by institutions, many of us every year. So the state should be looking at whether what it wants to know is actually carried out by somebody else, and whether they can get what they need in an efficient way,

so that they can then use their resources to do things that only the state has the authority or the expertise to do. Let me speak really briefly to Jesse's comment. I just got it so I don't have a thought overall about the merits, but as you look at it, I would like to suggest, Jesse, that you think about whether the word review belongs there, because accreditors carry out lots and lots of reviews that are in the ordinary course. And it would be excessive for- to expect states to track every one of the special visits or additional requests for information that an accreditor does, even if a determination were made that they should take more explicit cognizance of sanctions, withdrawals, [30 seconds] significant decisions that signal failure to meet standards.

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

MR. WARE: Yeah. Thanks. Getting back to the question about what types of things should institutions probably not be exempt from? And one issue that came up during reciprocity discussions and is always a concern is closure, school closures. When schools are exempt from regulations, a lot of times they may be exempt from eligibility for tuition recovery funds, bonds, you know, other processes, records, storage and

management that may apply to other non-exempted institutions. So, you know, from a state regulatory perspective, I think, you know, one of our concerns is if a student's attending an online school out of state and that school closes, you know, we want to be assured that that student is not going to be, you know, not eligible for, what? You know, the- like I said, bonds and tuition recovery funds that other similarly situated students would be eligible for. So I don't think this is an issue, again, for, state institutions. But in many states, private, particularly private, not for-profit institutions are covered by these type of closure regulations. So I would hope that, if, you know, when we're talking about what things shouldn't people be exempt from, I think those type of closure regulations would definitely be something that institutions should not be exempt from.

MR. WEATHERS: Thank you, John.

Alright. Robyn.

MS. R. SMITH: Thank you. I think I just want to clarify the discussion a little. I think we're throwing around two concepts that we need to be very clear about. One concept is exemption. That is where the state determines that it is not going to oversee a school at all based on accreditation or time in

operation. That means those schools under an exemption are not subject to any of the consumer protections. They don't have to pay into student tuition recovery fund, that they don't have to comply with a refund law or a cancellation law. They don't have to provide certain disclosures. They're exempt. That's where a state has basically forfeited its state oversight protection role in favor of the accreditor. The second kind of situation, which I think Jamie's referring to, is where a state determines that it's going to approve a school based on its accreditation, and it's not going to require the school to go through a whole separate authorization process to demonstrate it meets the minimum state standards. That, of course, is debatable whether that's wise to do. But in that circumstance, the school is still subject to the consumer protections, meaning they still have to pay into the state tuition recovery fund. They still have to comply with the false advertising provisions of the state higher Education Consumer Code. So I think we need to be very clear about what the difference is that we're discussing here. Thanks.

MR. WEATHERS: Thank you, Robyn. And if we have nothing else, we are close to when we'd be naturally taking a break. I'll defer to you, Greg.

MR. MARTIN: Yeah, I think that's-

this is a good time to take a break, and then we can come back with a discussion on distance education.

MR. WEATHERS: Jamie had one quick thing she wants to add, and then we're going to go to a break. Go ahead, Jamie.

MS. STUDLEY: You may want to discuss it another time, but buried in the text and not under the questions for discussion was the Department is interested in feedback on improving compliance and complaint reporting. It was unclear whether that was the Department's reporting on complaints that it knows about, because it referred to reporting to NC-SARA or a similar entity, the Department, the state or the accreditor. And I'm fine- I'm not trying to say you need to do it now, but you may want to think about whether there are a set of questions there that you'd like comment on at some point in the next three months.

MR. MARTIN: Thank you.

MR. WEATHERS: [Inaudible] Jamie. What time did we want to come back, Greg?

MR. MARTIN: I believe ten minutes would be appropriate.

MR. WEATHERS: Ten minutes. So let's call it ten after two Eastern Standard Time. We'll see you then. And, we can sign off. Thank you.

MR. MARTIN: Thank you.

MR. ROBERTS: Alright. Good afternoon everyone. Welcome back from that short break. My name is Brady Roberts. I'll be facilitating this afternoon issue paper number three, Distance Education, as well as our public comment period, which is set to begin promptly at 3:30. And I'll remind folks who have a speaking slot, to log on about 15 minutes ahead of their assigned time. And, Greg, I'll turn it right over to you. I know you wanted to tee up the issue paper as well as begin walking the committee through the content of the document. Muted.

MR. MUSSER: You're muted, Greg.

MR. MARTIN: I muted myself yet again, which is- I'm competing with Denise to see who can mute themselves more frequently during this- these proceedings. So thank you. And welcome back everybody. And as Brady indicated, we'll be taking up issue paper three. And, when we started on Monday, I discussed with all of you that, I was sharing responsibility for reviewing these papers and negotiating with my colleague David Musser. He is here now. And David will be taking up the discussion on issue paper three. So I'll ask David to reintroduce himself, and then he will begin with that discussion. Thank you, David.

MR. MUSSER: No problem, Greg, and

thanks, all of you. My name is David Musser. As Greg just said, I work for the Office of Federal Student Aid at the Department. I've been there for about 13 years. And I'm the deputy director for policy implementation and oversight, where we do a lot of work, doing our best to implement all of the fun and interesting rules that come from OPE and Congress, and others. So I've been working on distance education and return of Title IV issues for many years, and I, quite frankly, am looking forward to talking with you guys about it. So if we could bring up the issue paper on the screen for everybody to see. Awesome. Thank you. So today we want to talk about two separate issues related to distance education. It's appropriate that we're moving into this topic after working on state authorization for distance education for the last hours. And the two different topics are virtual locations and asynchronous learning and distance education. So if it's okay with you guys, I would like to take each of those topics separately, and we'll talk about the first one and then move into the- to the other one after we finished that discussion. So let's start with virtual locations. So as you all know, distance education is a modality that, has become quite popular for postsecondary education in the United States and elsewhere. The Department has very limited data on- the

issue paper says students enrolled in distance education. And that's not exactly right. We do collect information about distance education broadly in our iPad survey annually. But that survey looks at number one, all distance education at the institution. It looks at it at a program and institutional level. And it doesn't look at it from the perspective of which individuals receive Title IV Aid. So currently the Department does not have any of that information. And the reason for that is we, way back when distance education was passed into law as a method of offering postsecondary education that was not going to be subject to the very strict limitations on correspondence courses, that was back in 2006, the Department always had schools report enrollment data using the eight-digit Office of Postsecondary Education ID number. And that number, the six-digit number is essentially reflects a whole institution. And then there's a two-digit suffix at the end of it that tells the Department about specific locations that the school offers. So for many years, schools have reported who is enrolled in- at their institution and receiving Title IV Aid at the eight-digit level. So we know the specific locations where students are enrolled across the country. So if an institution has physical locations in all 50 states, then it's expected to report in NSLDS, the

students- where the student is studying in all- in each of those states. This is important for a variety of reasons. But one of those reasons is for closed school discharge purposes. Closed school discharges, as you guys all know, are obviously something that the Department and all the entities that oversee higher education want to avoid. But when they happen, we want to know the scope of who was affected, how many students, the amount of aid involved, and as much as we can possibly know about the situation. So we already know who- if a student is enrolled in a physical location where they are and essentially everything that we need about that individual. However, for distance education, when that became popular, the Department, didn't have a good way of identifying which individuals were enrolled in distance ed. And we didn't create any changes to our systems. So institutions have been asked to report students who are enrolled in distance education, as if they are enrolled at the main campus of the institution. And that means that we can't distinguish between students who are enrolled in distance education programs and those who are enrolled in other programs at the same institution, at least in terms of the individuals who are receiving Title IV Aid. So the other issue that this brings up is that we're also not able to distinguish between the two types

of students with respect to the- all the other information that we have about our Title IV recipients, including in the College Scorecard, which includes, program-level data about student debt, earnings completion, etc. That provides a lot of good information not just to the Department, but to policymakers and students and their families, if they know enough to go to that site and learn more about those programs. So for all those reasons- we can scroll down now- the Department is proposing today to create what- a concept of a virtual additional location for institutions that includes all students who are being instructed primarily through distance education. So this will allow the Department to distinguish between the two types of students. Students who are enrolled primarily in physical locations and students who are enrolled online. Scroll down a little bit more. It'll also- it also has the crucial effect of allowing the Department to treat the institution's offering of distance education the same way that we would as a physical additional location for closed school purposes. So currently, if all of the- if the- if an institution ends all of its instruction at a physical additional location, that's a closed school and students have certain rights for closed school discharges under certain circumstances. There are also a lot of other

things that go into closed school processes that the Department is aware of. It also ends up triggering a number of other responses throughout our oversight process. This would essentially treat an institution's ending of its offering of distance education like a closed school. And we believe that's appropriate since the two things have many things in common. If a student is enrolled in distance education, they obviously have the ability to enroll in other distance education programs at the same institution if their program ends. But if the institution ends all of its distance education, then they have no other opportunities to continue their study at that institution. Thus, we believe it's appropriate to treat that student as if that location, quote unquote, has closed. So if we could then scroll down to the regulatory text itself, what we're actually proposing here. So this is in 34 CFR 600.2 out of the definitions section. And it's under the definition of additional location. You can see here that currently there's a definition referring to a physical facility that is geographically separate from the main campus. And what we're proposing at the bottom in a new three, is a virtual location through which the institution offers 100% of an educational program through distance education or correspondence courses, notwithstanding requirements

for students to complete on-campus or residential periods of 90 days or less. And that last piece is intended to address the fact that there are a number of programs that are or they- that are offered in the vast majority through distance education, but that require relatively short periods of on-campus engagement, either at the beginning or at the end of program. We wanted to ensure that schools didn't attempt to game these requirements by creating very short like maybe 2 or 3-day periods where students would be on campus. And we also wanted to acknowledge that those programs that have those short residential periods are being offered primarily online and are more akin to 100% distance education programs. So I'll stop there and we can take questions and comments from the group.

MR. ROBERTS: Alright. I see Barmak's hand first. Go ahead, Barmak.

MR. WEATHERS: Well, Dave, I think the proposal is quite reasonable, but I have a question with the phraseology of 100- the institution offers 100% of the program. I suspect what you have in mind is an entirely online program. But we have the vexing problem of bifurcation of programs, online programs, that may be offered by the institution or may be essentially marketed by the institution, but in fact offered and hosted by a

commercial third- ineligible third party. The rationale that you offered for seeking to separate these students, specifically the closed school rationale, applies a fortiori to that group. It is much more likely, given the finances of some of the- some of said third party OPMs that we may see a collapse of an OPM leaving a subset of online students at an institution holding the bag. So it seems to me like some thoughts should be given to distinguish and requiring institutions to distinguish their reporting of online enrollments. I support the notion of creating a separate location, but it would be good to know which- what component of enrollments at said location are being educated by the institution, using its own faculty and its own curriculum and its own processes. And what component of those enrollments may be handed off to a third party who's at much greater risk of closing the program going under, etc., etc. So that's that. I don't know whether the best way is to create two separate locations or to somehow bifurcate that location into two distinct categories, but that would be a suggestion that I would make. Thank you.

MR. ROBERTS: Thanks, Barmak. Robyn, I have your hand next.

MS. R. SMITH: Sure. Hi. I strongly support this proposal because of the students that we

see. We see students whose schools have closed and two circumstances where they are not eligible for closed school discharge because of the way that the physical location is associated with on- an online program. We see one- in some cases, the physical campus closes and stops, discontinues programs before students can complete while there's an online program continuing, they are not eligible for a closed school discharge. Similarly, we have had cases where the online programs have been discontinued before a student can complete, but they can- they're affiliated with a physical campus, and the student cannot then get a discharge. So I think this proposal will go a long way to rectify that situation and ensure that students whose programs are- whose schools actually do close are able to get a closed school discharge.

MR. ROBERTS: Thank you, Robyn.

Jillian, please.

MS. KLEIN: Yeah, thanks. Dave, can you talk about how an institution would handle a program, for example, where a student is making a different choice, sort of from term to term, about if they're going to take a class on ground or if they're going to enroll in an online version of the same class?

MR. MUSSER: Sure. So in a situation

where a program is expected to be offered in multiple kinds of modalities, it would be assigned to the physical location, not to the online location. In cases where there is an option to take a large portion of the program online. Again, it would be assigned to the physical location. The intent here is to only apply this in cases where the only option is to take the program fully online. The- we are trying to distinguish between students who are enrolled on- at the physical campus and who happen to be taking online courses here or there. And they may transfer into the fully online version of the program. And in that case, you would put them in the virtual location. But the idea is that this is only going to reflect fully online programs that can be completed entirely online.

MS. KLEIN: So, just a couple things. One, I- and I mean, I know I'm not going to say anything you don't already know, but I don't think what you're describing is reflexive of how a lot of online programs operate now sort of post-Covid, which I think, you know, during the pandemic, I think a lot of institutions had already hadn't been offering online programs, made the choice to offer maybe the entirety of their program in an online format and allow students to sort of decide, this term I want to take one class online, but I'm going to

take the rest on ground, or students might enroll thinking they're going to take all their classes on ground, but then decide, actually, I really like taking them online. And so they're going to make a decision after they've already enrolled to actually take all the online version, all the online courses in that program, even though that maybe wasn't their intention when they applied. And I would say this is especially- this happens especially with adult students who I think once- they need to get into their program before they make a determination about how they're going be able to fit the flexibility component into their life. And so I'm just not sure. I just am having really a hard time thinking about my institution specifically, but just in general about adult students understanding how this is going to feasibly work. I mean, I think if the idea is like reporting after the fact backwards, that a student took all their classes in an online format, once you look back after they graduate, I guess we could do that, but I'm not sure how on an ongoing basis from an enrollment perspective, institutions are going to be able to do that in a way that's helpful. And I should have started my comments by saying I am 1,000% in favor of the Department getting more granular data on the outcomes related to online students. So I think if we can like, tag something

in NSLDS or do something else sort of on an ongoing basis that says this student took an online class or this student took an on ground class, I'm 100% in favor of that, and I would love to figure out a way to do that, even outside of it having to go through negotiated rulemaking. But I'm worried about this, both from the perspective of, like, I just don't know how it's going to be feasible for institutions given the realities of especially adult students. And also, I would love to see this at more of a student level than a program level. And I feel like this proposal does not get at that. Like, I feel like there's going to be a large population of students that are choosing to take online classes at some point where it's going to be really interesting for you and for policymakers in general, to see how students are performing in online versions of classes. And I don't think this proposal will get at that. And I'm sure I'm out of time, so I'll hop back in after everybody else. But just an overarching comment. Thanks.

MR. ROBERTS: Thank you. I see Dave and Denise both have your hands up. I don't know who wants to respond first, but feel free.

MR. MUSSER: Denise can go first.

MS. MORELLI: Well, you probably were going to answer this, but I think the focus of this

provision for us, Jillian, was programs that are entirely- we have a lot of- a lot of programs, a lot of schools that operate entirely online. And the focus was not on students who might be at the University of Maryland for- you know, on ground and then decide to go to global campus for a class or two. I don't know if that's even a possibility, but I- but this wasn't supposed to be about a class per class thing. It's supposed to be entire programs that are offered online. So the focus was more programmatic and not on an individual student taking some classes online and some- [interposing]

MS. KLEIN: With all due respect, like, why not? I mean, wouldn't we want to have that data?

MS. MORELLI: But I'm not sure that- how- I guess getting to back to what you were saying before, I'm not sure how we would do that and it's not as big of an issue, I think, for the closed school discharge issue, which was one of our fundamental reasons for moving to this. Plus, you know, the reporting that Dave said. But one of the big issues that we've run into is the same as I think what Robyn was talking about is the students that were taking classes on ground that closed that- you know, the on ground campus closes, and then

they're forced to be told that they have to go on distance ed or vice versa. So I think for the discharge purposes, it would be much harder for us to focus on that if we were talking student-specific classes. That's just the parameters from what the- where the proposal- [interposing]

MS. KLEIN: Yeah, I just think there's such an opportunity to get good data here. And I feel like you guys are missing a great opportunity.

MR. ROBERTS: Dave, did you want to add anything?

MR. MUSSER: Yeah, just a couple of other things. Well, you know, Jillian, we could just ask you to do both. So, but let's step back for a second about this current proposal. Yeah, I think one of the biggest things really is the closed school discharge component, which is not possible, in any other, at least from- in our opinion, legally. It has to be a location in order for us to tie it to the closed school discharge requirements. And I guess the one other thing I want to point out is that, in the Department's view, the distinction between students who are taking- which I definitely acknowledge, Jillian, is the most common situation, students who are taking a class here and there while also enrolled at the physical location and the

students who are enrolled entirely online, there's a bigger distinction between the two, in part due to the reliance on- the greater reliance on technology that's necessary at the institution for the fully distance education programs, and in terms of the way that the institution markets the program in different locations. There's a lot of things that are different for those individuals than for- we have- we would have a very difficult time parsing through all of the data if we tried to collect it, for example, in NSLDS at a student level. Are we looking for- are you taking one course through distance ed? Are you taking two courses? Are you half-time distance ed, half-time, physical location? We talked about that option over time. And we think that frankly might also be a reporting nightmare for schools. So this proposal is intended to strike a balance between getting the data that we all, I think, want about, distance education enrollment, with Title IV students, and some of the burden that we might impose on institutions for the amount of reporting that they have to do along with getting those closed school benefits.

MS. KLEIN: But just to be clear, in that closed school discharge scenario, it's only going to apply- so my institution could offer 200 programs online, but those students are only going to qualify for closed

school discharge if I stop offering all of those programs online, correct? Because it's not at a program level.

MR. MUSSER: That is correct.

MS. KLEIN: I just want to make sure we're speaking the same language.

MR. ROBERTS: Thank you all. Carolyn, I see your hand is up next.

MS. FAST: Thanks. No, I, definitely support the Department making the move to address the closed school discharge problem, which this seems to do to at least some degree. And I'm also interested in some of the same issues that Jillian was raising about whether this really fixes the data problem. And so I apologize if you have covered this, but would this allow, students or others to be able to see the difference in outcomes between, for example, a program that's offered at a school both online, all online, and brick and mortar? So, for example, I'm trying to decide whether I'm going to go to take this program and I'm going to move to, you know, Maryland so I can take it in person, or I'm going to stay where I am in New York and take it online. And I want to know, are the outcomes better for the in-person? Is this going to help with that, or would the Department have to do something else?

MR. MUSSER: I believe it would.

There. I think you guys are raising an important point about the procedures that we'd have to use for how the schools report these students, but once we have established a virtual location, the school would then report that student in NSLDS for enrollment reporting purposes as enrolled at the virtual location. So we would know through that mechanism that they are distance ed. So that student is now being reported separately from the physical location student who's being reported at the physical location, OPEID where they're studying. So over time, we will start collecting information about students who are enrolled at both those physical locations and the distance education programs. And we would be able to distinguish between the two for all of purposes you described, learning about their debt, learning about their earnings later on in College Scorecard, etc.

MR. ROBERTS: Thank you both. JoEllen, please.

MS. PRICE: Well, first of all, I agree with Jillian. I support collecting more data on these students. I think it's really important. But I'm trying to think of the logistics of how this would work. Right now, in order for us to get a location approved, we have to get approval from our accreditation agency, we have to get approval from our state agency to submit

those on our participation agreement for approval by the Department. Will we still be going through that process for this virtual location? And then my other question is, I work at a multi-location institution. I have for the last 17 years and we're a- one institution. We don't look at our separate locations as this person goes to this location, this person goes to this location. Our students are our students. And so they don't really register with a specific location. They could take one class at our south campus, one class at our north campus. So how would we distinguish in that example between a student going to our virtual location versus, you know, hopping from different locations in our brick and mortar? So, those are my two questions that I have, and I look forward to hearing from you.

MR. MUSSER: Good questions. So your first question, I think by and large, institutions have already undergone, if they're offering distance education, they've already undergone the process through their accrediting agency. And if there is one through their state that meets all the requirements to offer distance education, the Department wouldn't require an additional approval. And we would, I think, be very, careful to inform accrediting agencies that that's not an expectation. That's not what we're trying to do here.

What we're trying to do is really just distinguish between these categories of students. So we- the intent would be for you guys to rely on the same approvals that you've always had to offer distance education. And those would apply once when you're adding this location in the Department systems as well. So on the other question, I think in many cases, if you have a student who doesn't know which one- which, whether brick and mortar or online that they would want to take, in the majority of cases, we would probably advise you to report the student as a brick and mortar student. And only if the student switched over fully and said, I don't want to- I've moved back to Iowa, you know, and now I no longer want to live near the campus. You could then move him into the fully online version of the program knowing that they're now in a very different situation. But this question actually comes up with respect to physical locations all the time. Because especially at community colleges, many students hop around between physical locations. And currently the Department is a little bit flexible about how it lets schools make those determinations. I do think we might have to create some more specific procedures that we would give to institutions about what to do in different circumstances where a student is making a decision to transition between the two. But I do think that can be

accomplished in NSLDS enrollment reporting.

MR. ROBERTS: Okay, thank you both.

John.

MR. WARE: Yes, thanks. And also reiterate, I think the collection of this data would be useful. We do collect some of it at the state level. And just as a side note, most of what we've seen as far as growth is in hybrid distance ed programs. But again, we're still getting a lot of fully online too. But just going back to the previous question, I would have a question too about where would they be, what state would they be authorized in as far as the virtual location goes? Because if a student had a complaint, where would that- you know, at the state level at least, where would that complaint go? So I think some thought needs to be given about how that virtual location would be domiciled for state authorization purposes. And, you know, whether states would have to separately approve that. Because there could be, you know, cases that, schools that operate in multiple states may have some distance ed programs approved in Ohio. They may have different distance ed programs approved in Texas. If they had to domicile them all under one virtual location, where would they- you know, what location would they emanate from, I guess from a state perspective?

MR. MUSSER: So I think it would probably depend on state requirements in certain cases. But at least the way that we had envisioned this working, the virtual location would be domiciled in the state where the school's main campus is housed. And if the school- essentially, if the school meets that state's requirements to offer distance education, that's the- that would be the foundational approval that's needed in order to get this- the virtual location created. But then once it's created, you're then subject to- well, the- yeah, the institution is then subject to all of the state requirements across the country, which is where our reciprocity comes in. And we're, you know, we're not looking at that essentially until the school starts operating in the other states. So I think if- you know, from the Department's perspective, when a school creates the virtual location, that's all we're really looking for at first is are you approved by your state, if that's required to offer distance education.

MR. ROBERTS: Thank you, both. Scott.

MR. DOLAN: Yeah, thanks. Like others, I'm- we're fully supportive of the Department looking for better ways to get more and better data on students enrolled in distance education. And certainly the desire to answer questions about their outcomes. I have some

concerns maybe in terms of the proposed language that we're introducing, another definition of distance education when there already are a number of them that exist out there. You know, so I think trying to reconcile through this process, it seems like, to Jillian's point, there's an opportunity here maybe to better define distance education as part of the work that we're doing. And there's a real difference between offering and enrolling students in distance education programs. And if the interest is really being able to look at this at the student level, in addition to the institutional closure piece, I think we're missing that opportunity to kind of really look at the granular components of this by focusing only on the definition of offering distance ed. And I think the procedures that follow from this establishment of a virtual location, I think is really, really important, because of the logistics that would be involved for institutions in trying to track how to allocate students to these different components. So I think those are things, that, you know, are worth discussing as we move forward.

MR. ROBERTS: Thank you, Scott. I do just want to note there have been a few questions in the chat and folks that do pose those if they necessitate any elaboration, feel free to raise your hand and you'll have

the floor. But Diana, we'll go to you next.

MS. HOOLEY: Thank you. We are also supportive of the Department's efforts here to collect more information. I think that that is absolutely the step- the right step forward. One question on this, I would have a recommendation, if that's possible, is, you know, we are seeing a rise in online education. We're seeing a rise in it being offered by third-party-

MR. ROBERTS: Diana, I hate to interrupt. Your audio is coming in a little bit garbled, at least on my end. Looking at the room, it might be the case for some other folks as well.

MS. HOOLEY: Okay.

MR. ROBERTS: It's a little bit better now. It might just be the proximity that you are to your mic.

MS. HOOLEY: Yeah, that could be it. I'll move it a bit. Thanks. Okay. I'll start over for the sake of clarity. The- we're supportive of this- you know, attempt here by the Department to track- to create the virtual location for the purposes of the closed school discharge, as you say, and as well as for tracking outcomes. And I think to that point, I had a question and, and depending on the feasibility, we would recommend that the Department consider, whether it's possible to

also track, with these codes, which OPMS are providing the programs. Just with the proliferation of online learning and the number of it- of rise in the third parties that are offering these programs, it might be- we think it would be helpful to be able to track, again for the purposes of outcomes, to know which programs- you know, which third party providers are providing the programs. So I don't know if you're able to speak to whether that's data that you have, or that- or if that- if that's something that might be able to be tagged to these virtual locations.

MR. MUSSER: So I'll respond to the data question. We do not currently have comprehensive data about institutions and their use of online program management companies. We're looking into that right now. But it's not something that we have available. And regarding the idea of actually incorporating that concept, I think we can consider- we can take that back and consider it and think through whether there's anything that could be done as part of this proposal.

MR. ROBERTS: I want to welcome Magin to the table on behalf of civil rights and consumer organizations. But first we'll go to Robyn.

MS. R. SMITH: Yes. Hi. I like Jillian's idea too. I agree it would be very useful to

have more data on online students when they're not necessarily enrolled in a completely online college. I'm wondering, is there a reason the Department can ask- cannot ask schools to report whether a student is hybrid, all in-person, or all online?

MR. MUSSER: I would say there's no particular impediment to us asking that, in the law. And I would turn to Denise, to see if you can- if you have any idea of something that would prevent us from doing that.

MS. MORELLI: I did it again. I don't see any impediment legally for us doing that. It's just a matter of the procedure and how we would operationally accomplish it.

MR. MUSSER: So, I mean, I think we're open to that, and I think we're open to the suggestions that Jillian and others have brought up about different ways of getting this information. Obviously, we want to ensure that all of our- all of the Department's objectives are met here and that we don't impose too much burden on institutions at the same time. But this obviously is an important thing for the Department to obtain this information. So we're, you know, we're interested in those ideas.

MR. ROBERTS: Alright. Magin, please.

MR. SANCHEZ: Thank you and I concur with a lot of thoughts so far of how important this data is in terms of tracking outcomes. I did have a question-clarification for the Department. I posted it in the chat. But in regards to- so for prison education programs, because they're already required to be reported as a separate location as a new location, for schools that offer PEP programs when [inaudible] the facility, some of them which are online only some of them are not where they have to report two different- would it be two different locations created, one for the brick and mortar?

MR. MUSSER: That's a good question. So the- you bring up the concept of reporting for students who are enrolled in prison education programs. And I didn't go through it, but that was the number two under the definition of it, of additional education, as you know. We require those individuals to be reported at the prison facility at which they're enrolled. And I think we would continue that practice for students who are enrolled in prison education programs. They would still be reported at the location, at the facility at which they're being incarcerated. But if you also had online programs that are being offered to individuals who are not incarcerated, you would then also have to have a

virtual location to accommodate those programs and students.

MR. ROBERTS: Thank you, both. I just want to note that Zack is coming to the table on behalf of financial aid administrators, and Michale's coming to the table on behalf of accreditors. So Zack, we'll turn to you next.

MR. GOODWIN: Thank you, Brady. Since I'm kind of sensing from the group, and I agree with you, that there's a great value in having more granular data about who is studying online and to what extent, or whether they're in an online program that's fully online or just taking sort of a hybrid coursework plan, those sorts of things, it would seem to me, Dave, that the most logical place to do that would be via NSLDS enrollment reporting, simply because if we're capturing information on students based on not being in a 100% online program, because that would be a separate location, so you would know for sure what that student was doing, but just, hey, the student is full-time and one of their courses happens to be via distance education. If we're wanting to capture that kind of data, that could change honestly multiple times over the course of a payment period, just like any enrollment changes could happen and that would seem like the most logical place to put that. But I understand the

logistical challenge of making that happen.

MR. MUSSER: Yeah, I think as the- as you guys as negotiators think through options for collecting this in a different way, I would encourage you to think through, you know, how frequently schools would have to update that information, are you asking, and how granular would you want that information to be? Would you want schools to say the student's enrolled full-time, also enrolled half-time through distance ed. And then change that through the middle of the period? Do you want them to do that at the end of an academic year? Do you want them to do- and so again, we have talked about that NSLDS concept at length at the Department. And, you know, in most cases where it's an interesting concept, but it is going to get somewhat messy at institution- at the institution level, as they try to suss out, you know, which students are where, enrolled in which courses, etc. So, like I said, we are open to all of those ideas. But please think through all those kinds of things as we think through, you know, what options might be available to us.

MR. GOODWIN: Thank you, Dave.

MR. ROBERTS: Thank you. And Michale,
over to you next.

MR. MCCOMIS: Thank you. Dave, this is

kind of in the weeds and a crossover question, but do you anticipate that for the virtual location classification that accreditors would be required to adopt that designation as well under 602.24(f)?

MR. MUSSER: I'd have to take that back. We did not discuss that component of it. So I think I'd have to take that back and talk with the group about it. That's a good question.

MR. MCCOMIS: Yeah. Thank you. That would that would help me understand a little bit more about the scope of this. The last thing that I'll add just for the group. I shared it with a few folks, but the agency that I'm with, ACCSC, we do have a distance education facility classification. I don't know that all accreditors have one, but it was our attempt to try to get our arms around the 100% distance education program that may or may not be offered or administered through what we would otherwise classify as a main or a branch campus. So it gives us an opportunity to go in and still have something and some place to look at something. But it is a very, very difficult range of circumstance. Dave, as you just said, getting institutions to really try and track the multiple ways in which students are enrolled in these courses and programs is not an easy task, but, certainly starting with 100% distance education programs,

as Denise had mentioned, is a- is much more manageable.

MR. ROBERTS: Alright. JoEllen.

MS. PRICE: So my question is about the school gets a virtual location approved. Are there administrative capability implications in terms of staffing, in terms of ensuring that the school has met all the requirements of having another location? That's my first question. Then my second question, do you also foresee implications in terms of how we report the programs in which students obtain their degree? So I'll give you an example. My MBA was done 100% online. And at the same college my master's in IT was done 100% virtually. Looking at my transcript, I cannot distinguish the difference between the two. Would there be implications of schools having to make it clearer for students like on an academic transcript, on what program or how they received their degree program? Those are my questions.

MR. MUSSER: Good questions. And no, I guess the answer is no, I don't think so. The- even like I said today, you can have a program offered at multiple locations at the same institution. And in most of those cases, unless the institution views those locations as unique colleges, which sometimes they do and sometimes that affects, you know, what your degree says when you

graduate, we- you know, the Department certainly doesn't require anything of institutions regarding the- how they provide that information about the student's credential. So it could be that the state changes its mind once we change these rules and require schools to do something like this, but it would not be a Department requirement.

MR. ROBERTS: Denise?

MS. MORELLI: I think to answer your question about, like, administrative capability and other things, I think that a program review would look at or an auditor would look at. I don't think this adds anything to that. It's still- the regulations are the same, and that's the same thing. If we could go into one location of a multi-chain- you know, location- multi-location chain and one location has problems and other ones don't. So like we would be looking at the same requirements, all the same issues and regulations have to be met no matter whether it's a virtual or an on-ground location, especially except for the distance ed-specific requirements. So it wouldn't change anything. It wouldn't add any more burden to the schools than already exists in complying with the regulations.

MR. ROBERTS: Thank you. Jillian, I think I saw your hand raise and then lower. You're good? Okay.

MS. KLEIN: I'm good. I'll put it in the chat. Thanks, Brady.

MR. ROBERTS: Okay. Appreciate it. Well, I'm glancing at the clock right now. I know that we're waiting another 30 minutes or so until folks have their scheduled public comment period. Is there anything else, Greg, that you wanted to pose to the committee, or solicit in terms of feedback or additional questions for consideration?

MR. MUSSER: Well, we still have another topic on distance ed.

MR. ROBERTS: Oh, I apologize.

MR. MARTIN: There's still an additional topic [interposing]

MR. ROBERTS: Yes. So then I'll turn it back over to you, Dave. I apologize for that.

MR. MUSSER: No problem at all. I think we can bring the issue paper back up, though. Alright. So- and Joe has it right where I wanted. We're going to turn to the second topic of distance education of the- related to asynchronous distance education at clock-hour programs. So before I get into the meat of this, I want to give a little bit of history about this issue. Again, back in 2006, distance education was first legally defined. And the law provides that it can be

offered both synchronously, meaning in a format where the students are learning in real-time with their instructor and asynchronously, meaning, the student is essentially learning on an online platform, and not at the same time as an instructor. So both are now quite common, and potentially, and you guys might be able to tell me more, more about this than I would know, asynchronous instruction has gained in popularity since that time as technology has improved. So between the period of 2006 and the negotiated rulemaking process in 2019, there was a lot of confusion in the field about whether clock-hour programs could be offered using asynchronous distance education, i.e. students logging on to a system and engaging in coursework that way. In the 2019 negotiated rulemaking process, we finally did put some clarity to the issue. And at that time, the Department determined that the- clock-hour programs could be offered asynchronous- through asynchronous distance education with certain limitations. The schools had to ensure that they were able to monitor the student's active engagement in each of those clock hours for all the- for 50 out of 60 minutes, which is how a clock-hour is defined for all other purposes. And they had to have enough technology to do that with some degree of certainty that the student was actually engaged in those activities, rather than,

for example, clicking a button and then walking away. Now, as you can imagine, this level of technical expertise and technology as well, is not easy to come by and it- I think a lot of institutions found it quite difficult to implement the Department's requirements. We looked at a number of institutions that had- that applied to offer programs generally partially through asynchronous distance education. Some of them had very sophisticated systems which logged keystrokes, logged every single activity that the student performed. The institutions indicated that that was very expensive, and there were very few that had that. And we saw a lot of institutions that had minimal, if any, technology and were in some cases having students scroll through PowerPoint presentations to gain those asynchronous clock hours. Then with the advent of Covid, many institutions with clock-hour programs shifted into an online format. And although the Department did offer a number of waivers of distance education requirements, it did not waive this one. And we found numerous, numerous instances of cases where institutions did not have technology that was up to the task in those regulatory requirements of actually monitoring student activity. So for that- that's part of the reason for our proposal, which I'll get to in a second. The other component of our thinking here is that

the original concept of a clock-hour as it goes back into the 60s, is an hour of instruction spent between students and instructors in a classroom. That's how clock-hour programs were carried out, until distance education even became available. And it's still how it's carried out in synchronous distance education programs. But one thing that the Department was very clear about for all those years is that homework, which is common in these programs where students are not actually working with their instructor, is not something that you can count for Title IV purposes. Now, the reason all of this is important for Title IV purposes is that completion of clock hours and many of you are not- probably not all that familiar with clock hours, completion of clock hours is required before a student can get subsequent disbursements of Title IV Aid. So you have to complete a certain number of clock hours before you can get your next Direct Loan, Pell Grant, etc. disbursements. So there is a built-in incentive for schools that want to ensure that students are getting as much aid as possible, to also make sure to get them as many hours as possible that are completed and ensure that they get to that next disbursement point. So because the concept of asynchronous distance education was so new, the Department was really grappling with what the distinction was between homework, you know, work that

you might do in terms of reading, in terms of, you know, watching videos online and actually being instructed by a human being in a classroom. And we have decided in this case that this in many ways blurs that distinction substantially, creating some real concerns for us, especially given the lack of technical expertise that we've seen throughout the community, that this is an area that potentially is [inaudible] for fraud, waste, and abuse. And therefore we are proposing to eliminate the concept of asynchronous clock hours, at least as it pertains to earning Title IV or earning hours toward Title IV eligibility. Nothing in this proposal would prevent a clock-hour program from having a distance education component, or offering, you know, support, learning modules, etc. for students. However, this proposal would prevent the institution from counting any time that the student spends on that coursework asynchronously without an instructor present at- toward the hours the student has actually completed for Title IV purposes. And so to do that, we- it did two things in the regulations. And you can scroll down and show. First, in the definition of a clock hour, which is also in 34 CFR 600.2, we removed all references to asynchronous coursework, or classes and retained the concept of synchronous classes, lectures, or recitation. And then we

also made changes in the definition of an academic year, which is under 668.3 to refer to only credit hour programs offered using asynchronous coursework and credit hour programs in both romanette 2 A and B here. So this is just an acknowledgment that students are also not earning weeks toward Title IV disbursement in clock-hour programs by completing distance education through asynchronous means. So I will stop there. And Denise looks like she has something to add before I go on.

MS. MORELLI: I just wanted to note that we did see quite a bit of abuse in their compliance work, which I do a lot of in this area with the clock-hour schools, which are generally hands-on and students that we've interviewed had, you know, significant problems in the area not being trained the way they thought they were going to be trained. And so I think this was our ability to try to close that little- that loophole that's created some abuse in the arena.

MR. ROBERTS: Okay. Thank you. With that, I'll turn it over to the committee and we'll start with Barmak. Go ahead.

MR. NASSIRIAN: So we have also had complaints from student veterans. And the one that sort of rings in my ears is about one student vet who was complaining about the program he was enrolled in, being

worse than parking yourself in front of YouTube. That is fine. You can learn a lot from YouTube. There may be all kinds of instructional, passively delivered, asynchronous instructional content, but it's not a replacement for interactions with a qualified faculty. And my only other comment, in addition to pointing out that we strongly support the change, is to make sure that we don't end up with just a proxy for a qualified faculty member. It shouldn't just be anybody off the street sitting in. It should be a qualified faculty member engaged in substantive interactions with the students. That's what counts as a meaningful clock-hour, in my view.

MR. ROBERTS: Thank you, Barmak.
Carolyn, go ahead.

MS. FAST: I also just wanted to indicate that I strongly support this proposal, both for protecting students and protecting taxpayers from the kinds of things that Barmak was describing and the Department has described as problems.

MR. ROBERTS: Alright, thank you.
Jillian, I see your hand next.

MS. KLEIN: Thanks. I just have a couple questions. Can you- Dave, I appreciate you saying that you got a bunch of proposals or something from institutions offering asynchronous clock-hour programs.

Can you- you know, obviously, don't tell me, like, the school, but I'm having a hard time envisioning what an asynchronous clock-hour program is just because I think of, like, cosmetology programs and welding and things. Can you just give a broad example just so we can all envision the same thing?

MR. MUSSER: Yeah, no problem. That's a great question. So let's actually use cosmetology as an example. A profession that most people think of as extremely hands-on and focused on something that you're- that- on a variety of things that you're learning that require sort of physical interaction with other humans. In fact, one of the ones that we reviewed was a cosmetology program. And they were- the idea was they wanted to either allow or require, unfortunately, I don't remember which, students to take their- the coursework portion of the program online and give the students the flexibility to do that while then having them come in and do all of the actual clinical work- what we sometimes call clinical work, the hands-on work and training in person. So the- in the case that we looked at, the institution had- I'll give the example of the very sophisticated one, the system would first do start a video and then identify the individual. And then the student would work their way through the learning

modules, and they were structured in the same way that they would have been structured, had the student been sitting in a classroom listening to their instructor, and the system monitored this- essentially every place the student went, it monitored whether the student was answering questions in a timely way, that when they were quizzed, and then the student had to take a quiz at the end of each module in order to get credit for that particular skill that- or that piece of knowledge that they were expected to obtain through the program. So at the end of it, the system had a report that showed, you know, X logged in on this at this time, engaged in this module at this time. Here's their keystrokes. Here's their quiz. They finished the quiz with this score, etc. And the system would then take the amount of time that the student was actually engaged in that particular module, as opposed to just hunting around the site, and it would add those minutes toward the students as clock hours- completed clock hours for Title IV purposes, and if the student failed the quiz, then this- then the program would omit that hour. It would not count it toward completion. And if the student was not engaged, if they were in a module that didn't require, you know, regular quizzes, then the program would notify the student, try to get them back engaged, try to get them to

actually do more of the interacting with the system, etc. So that was the most sophisticated version of this that I saw. The other one that I was referring to a moment ago, essentially this- the system did track log-ins, and it tracked broadly what the student- that the student was in a particular part of the system, but then it essentially did nothing else, and the school simply took- whenever the student would complete a module, the school took a period of time that it thought that would normally take a student to complete that module, and then it added those completed clock hours into the student's clock hours that they were said to have completed toward Title IV eligibility. And we- you know, essentially we in that [inaudible] we had to tell the school that that was insufficient to meet the requirements. So, you know, and those two examples, obviously run a gamut. There are lots of other versions of this that we saw during the period.

MS. KLEIN: Okay. Thanks. That's helpful.

MR. ROBERTS: Alright. Scott, you are up next. Go for it.

MR. DOLAN: Yeah. Just, follow up in terms of, do you have a sense of the number of programs, that will be impacted by the change, that you're recommending here? And you've outlined some of the

problems but do you have a sense of the clock-hour programs that exist out there? You know, what percentage of the institutions were seen to have- been missing some of these components? And I guess what would be the alternative for those institutions that were doing things appropriately in an asynchronous environment and had the technology to monitor and regulate, well- you know, and they were doing that in a distance way asynchronously, what would be the alternatives for them? Would they be forced to switch?

MR. MUSSER: So first on the data, we don't have comprehensive data about which of these programs were online for the- some of the reasons I just mentioned in the earlier topic. We do know in certain cases that schools that are offering, for example, cosmetology schools that have identified themselves as distance ed, we do know who they are, if they if they have told us that they are offering distance ed coursework. But that's an incomplete picture, we think, of the number of institutions and programs that are using it. So we're not sure, unfortunately. The- with respect to the- your other question, under this proposal, that institution that previously had allowed students to earn clock hours through the asynchronous learning would need to if they wanted to continue offering distance

education, they would have to transition to a synchronous form of distance education where the instructor and the students were present for the lesson, as they worked through the material, and that time was recorded, and those hours logged by the actual attendance of the student. And- or they could simply revert to, you know, physical campus instruction as they had previously.

MR. DOLAN: Is the- is it possible to follow up? Is it an issue of your- of the inability to enforce the regulation? Or is it that the regulation is in and of itself incorrect, right? The idea that asynchronous learning isn't something that is eligible? Because it seems like the existing regulation enables, you know, to an accreditor or the Department to identify an institution or an organization that's not meeting its intent in terms of tracking the asynchronous learning that's occurring. So I guess the wholesale change, is that because of the difficulty of enforcing it or some larger question about asynchronous learning, as defined?

MR. MUSSER: I'll let Denise start.

MS. MORELLI: Well, I think- and Dave gave the one example where I guess we did approve it, but I'm not aware of any others. The problem we had seen a lot, like I said, of abuse. So I'm not sure there was any other institutions besides the one that David said who

actually could meet the definition of clock-hour with the interaction that is necessary for the hands-on work. And so I think the Department weighed all that and determined that it really isn't something that can be done asynchronously and meet the definition of a clock-hour and meet what the clock-hour programs are supposed to do for students. If that answers your question.

MR. DOLAN: It does. It just- I guess it calls into question whether that's true of all programs that are clock-hour programs. And if we're taking an isolated instance and applying it to the remainder of programs. And I would imagine there are clock-hour programs that exist out there that aren't solely focused on hands-on or in the cosmetology section. So just trying to be clear about a kind of change in regulation and the impact that that might have on other institutions that are outside of that realm and who are- who have been and are following the regulations as stipulated.

MR. ROBERTS: Okay. Thank you. Joe, I see your hand. I do just want to note that Amy is coming to the table on behalf of specialized accreditors. We'll get to her next. But before that, Joe, go ahead. You're muted Joe. There'll be a yearbook superlatives for the most muted at the end of this.

MR. WEGLARZ: Sorry about that. Just at least I think they should be very general questions regarding clock-hour schools. How many schools are clock-hour schools in the industry? Percentage? An estimate? And then my second part to that question is out of those schools, and this is a pretty global question, so I apologize upfront, how many of those students actually receive Title IV funding, I guess in comparison to non-clock-hour schools? So I understand if, you know, you don't have the answer to that, but I was just curious if you did.

MR. MUSSER: That's a good question. I don't have the answer in front of me. That is obviously something we can pull for you guys. You know, the clock-how many clock-hour schools that we're talking about. The question about Title IV eligibility, I can speak to. The clock-hour programs typically are organized around occupational learning. And we do see a larger proportion of low income students enrolled in many of these programs. And many of the programs, in fact, are driven primarily by receipt of Title IV Aid, including Pell Grants. So it is quite common for students in these programs to be Title IV eligible. And to the point where I would say that it would be unusual for a student not to qualify for Title IV Aid and frequently they also are

eligible for Pell.

MR. WEGLARZ: Thank you.

MR. ROBERTS: Alright. We'll go next to Amy. Go ahead.

MS. ACKERSON: Thank you. Just a question about the- removing the allowance for distance ed for asynchronous learning altogether. In dealing with nursing and allied health programs specifically, and I'm just going to speak to those because that's the world I've lived in for so long, we talked to a lot of career and technical centers with LPN programs and surgical tech programs and things like that, that all run in clock hours for their core curriculum. Just the question I have is if those schools, which many of them do, they team up or partner with a community college for the majority of those support course credits or science courses, so I'm just going to use a for-instance, so, for instance, I'm an LPN student at the local career center. I'm getting the majority of my clock-hour instruction at the career center. But then the career center has a partnership for the articulation of my anatomy, physiology, psychology per se. And let's say some of those are offered in an online format asynchronously. So the- I believe what they're doing traditionally for the clock-hour conversion is whatever that college has determined the clock-hour to

be on those credit hours, if that makes sense. So if we eliminate the asynchronous piece, does that also eliminate their ability to form those partnerships with the community college or I guess sometimes it's a four-year university, in order to award all that credit for the clock-hour program? And I can rephrase that if it didn't make sense.

MR. MUSSER: I think it did, but I might need a bit more information to fully understand the situation. It sounds like- you mentioned conversion. And when we when you use the word conversion, the clock to credit hour conversion is actually only used when a program is offered for Title IV purposes in credit hours. But in many cases it has either a clock-hour component or it's because of the regulations, the school has to determine how many clock hours comprise each of its credit hours that it's assigning to students. In most cases where students are enrolled in both types of coursework if the school is allowed to, generally, the school will offer its programs in credit hours and perform the conversion if it's required to under the Department's regulations and in order to determine Title IV eligibility. I don't know if that's the case in the situation you're describing, but for by and large, if it's a clock-hour program, they can't take coursework

offered in credit hours or from another institution without tracking completed clock hours for that student in the same way that they do for the clock-hour portion. So that- the reason I say that is that's very- that does not happen very often. In fact, I don't think I've ever seen that happen. Those programs are nearly always offered if there's these partnerships, as credit hour programs, in which case this would not apply.

MS. ACKERSON: Okay. So, if that's the case, if an institution has been awarding what, let's say, career degrees, I don't know what else to say. Completion certificates, career certificates in clock hours, then the credit-hour to clock-hour conversion, it was probably set up the other way around is what you're saying.

MR. MUSSER: Probably. Again, I don't know the exact situation at this particular institution, but I- like I said, I can't think of a case where an institution structured a partnership, where the other school that offers traditional credit-hour coursework was willing to track clock hours for students. They typically just won't- they won't do that. It's too much work for them to do it, but it could be the case. And in the case that you described, if this really is a clock-hour program, then the- everything that we just described

would apply, where they can't earn hours, clock hours toward Title IV eligibility through the coursework that's asynchronous. But of course, they could earn those hours through the- any synchronous online coursework and of course, through any in-person coursework that they're taking- at either campus, if it's measured and tracked.

MS. ACKERSON: Okay. Thank you.

MR. ROBERTS: Alright. Thank you both.

I just want to briefly note that Erika has rejoined the table as a primary negotiator for a private nonprofit IHEs. But we'll turn next to JoEllen.

MS. PRICE: So if these changes were to go through, when would they become effective? And what happens to students that are in the middle of these programs? How do we help the students finish a program that they could very well be successful in, or will it cut students off midway?

MR. MUSSER: I don't think we've gotten that far in our thinking yet. I think we're open to a variety of approaches if the committee has certain suggestions on how this would work when implemented. And I'll just give examples for how we've done this in other situations. One of the regulations that will go into effect changing program length for some programs on July 1st, we are allowing schools to teach out all of their

students at the longer program length who had- who enrolled prior to July 1st and then requiring the school to only enroll students into the shorter program starting on July 1st and moving forward. So that's one approach that we could take. I don't want to say that we'll take any particular approach right now. I think we'd have to think that through and decide which- what was- what- which way was best.

MR. ROBERTS: Okay. Anyone else? And I do want to note where we're a little over five minutes from public comments. So folks who are watching, if you have received an email confirmation about a speaking slot today, if you want to log in about 15 minutes early, that would really help us, get you in on time. Diana, go ahead.

MS. HOOLEY: Thank you. I'll be brief on this. I share the Department's concerns about online programs offering asynchronous learning and I'm glad that- and are glad that the Department's, you know, taking a look at that. The states have previously- some of the states have previously expressed concerns that without proper oversight and protections that online programs can run the risk of just becoming expensive textbooks online. So I think that, you know, particularly that's troubling when you're talking about when folks are

supposed to be getting hands-on learning. So, for that reason, you know, we're glad that the Department is taking a look at this, and is trying to trying to address the issue.

MR. WEATHERS: Alright, thank you Diana. John, we'll go to you next.

MR. WARE: Yeah, real quickly, just to answer Joe's question from earlier, at the state level, we approve a lot of clock-hour programs, mostly short term, non- the vast majority are non-Title IV programs. They tend to be like bartending, dog grooming, dental assisting. But there's a lot of them that are clock hours that get approved at the state level. Some of those and we've had issues too, like the Department, like Dave mentioned, trying to figure out a proper clock-hour calculation for asynchronous distance ed programs. And it's- it is challenging. Although, again, most of the programs we're dealing with are much fewer hours, clock hours, typically, let's say less than 100 clock hours. So it's not as quite as complex as trying to look at a 900-hour asynchronous program and determine the clock hours. But there are still, as I mentioned, a lot of clock-hour programs, short-term ones approved at the state level.

MR. ROBERTS: Thank you, John. Any concluding comments from the Department or the Committee

on issue paper number three? Greg, Dave, Denise, is there anything else that you wanted to pose to the committee to consider before we transition over to public comment?

MR. MARTIN: Nothing for me.

MR. MUSSER: Nothing for me either.

MR. ROBERTS: Okay. Well, I'll thank you all for the discussion today. Thank you for moving through the agenda. It was a robust agenda, but we moved through it in a nicely-timed fashion. We'll move now to public comment. Everyone's welcome to come on camera. The alternate negotiators and primaries who might have stepped away are welcome to come on screen if they'd like to. Just as a brief reminder to everyone about how public comment is going to work. We have 30 minutes of public comment, reserved at the end of each day. Members of the public are invited to join and address the committee for three minutes. They'll be given a 30-second heads up when there are 2 minutes and 30 seconds. And we endeavor to accommodate as many of these requests as we possibly can. We always get more requests for public comment than we can actually fill typically in the 30-minute slots. So that's why we try to use every moment we possibly can. So I guess we're okay to admit our first speaker for the day. Krystil, who are we welcoming first?

MS. K. SMITH: So our first speaker is

Adam Young. He's representing himself and he should be in the meeting.

MR. ROBERTS: Good afternoon, Adam.

Can you hear me?

MR. YOUNG: Yes, I can hear you.

MR. ROBERTS: Excellent. We can hear you and see you. Welcome to public comment. You'll be given three minutes to make your comment. You'll be given a 30-second heads up, and your time will begin whenever you're ready.

MR. YOUNG: Thank you for having me. I'm ready. Hi, my name is Adam T. Young. I served in the Navy from 2003 until 2007. I was enrolled in Full Sail University from 2020 to 2023, a for-profit school. Because my time is limited, I'll skip over some of the school's offensive- offenses, like their job guarantees and the fact that other schools would not accept any of the credits I earned there. Instead, I'll be focusing on the low-quality education I received. I enrolled in Full Sail's game design program for a bachelor's degree. I received an associate's degree, but left before completing my bachelor's due to the quality of the education. Going into the program, I expected the degree would lead to job opportunities, but I was wrong. Much of the curriculum was so outdated it might as well had been

from the Stone age. We were initially taught using Unity and Visual Studio systems. Later, when the courses switched to modern programs like Unreal Engine using blueprint, they did nothing to teach us how to use them. Eventually, I learned that the gaming industry does not even recognize game design as a legitimate degree because it is too broad. Full Sail felt like such a scam school. I often was better off learning through tutoring, google searches, and YouTube videos than I was following the actual instructions from its online courses. To make matters worse, the terminology and policies changed drastically from one class to another, creating confusion and hampering the learning experience. It was difficult to learn basic concepts and build upon them effectively. On top of these more general issues, the teaching and specific classes ranged from bad to offensive, with many of the professors serving as little more than glorified lab assistants. Some of the teachers prioritized their own interests over the students, while others gave inadequate instruction. One teacher consistently lied, gaslit students, and unfairly accused us of cheating. Worst of all, one teacher made disparaging comments about people with cognitive disabilities. Full Sail also seemed to diminish mental health concerns. School administrators either ignored out- the outreach or responded with

boilerplate emails. It felt like a kick to the face. I think Full Sail is what happens when schools prioritize profit over educational quality. Today, I'm asking you to consider rules that would push accreditors to tighten the reins on scam schools, like Full Sail, and ensure that [30 seconds]- Okay. Today, I am asking you to consider rules that would push accreditors to tighten the reins on scam schools like Full Sail, and ensure that other students do not waste their time at schools that do not care for their students. Thank you for your time.

MR. ROBERTS: Thank you, Adam, for your comment. We appreciate it.

MR. YOUNG: You're welcome.

MR. ROBERTS: Krystil, I think we can welcome our next speaker. Who are we hearing from next?

MS. K. SMITH: Yes, next. We have Luke Downs. He's representing himself, and he is on.

MR. ROBERTS: Great. Luke, welcome. Can you hear me?

MR. DOWNS: Can you hear me?

MR. ROBERTS: Yes, we can hear you. And we can see you. You might want to tilt your camera down just a little bit. But welcome to public comment. Perfect. You'll have three minutes to address the committee. You'll be given a 30-second heads up and your

time will begin whenever you're ready.

MR. DOWNS: Sure. Yeah. I'm ready.

MR. ROBERTS: Okay. Go ahead.

MR. DOWNS: Cool. So thanks for giving me the opportunity to share my experience. My name is Luke Downs. I was a medic in the army from Fort Carson, deployed to Afghanistan 2015 to 2019. So basically what happened was I did two years of undergrad at- undergrad at Ohio State, and then I wanted to transfer to a nursing program. So I transferred to the school called Hondros College of Nursing, and I had probably about half of my GI Bill benefits remaining. And, I completed the whole program, and all I needed to do was pass this final class called Nurse 240. And a part of this Nurse 240 class was a- just a school-set score that you needed to get a 900 on this exit exam. That's like a practice exam. It's not a licensing exam or anything. It's just a test score that they had made up and set their own, you know, standard of what they needed to pass that was pretty high. So I ended up getting an 894 on it and a 890. So they told me I wasn't allowed to graduate with that. And then I came- they made me do it again, and I got an 894. So they ended up disenrolling me from the program and not allowing me to graduate or use any of my transcripts from nursing school to transfer to another school. And none of these

transcripts and credits transferred. So I was like, completely, just in a bad situation. I had nothing to show for any of my benefits used for passing all of nursing school. So basically I had to get reinstated into the program. They dropped the score down to 850. I ended up getting an 888 and was allowed to graduate, but this set me back six more months from when I was supposed to graduate, and I had to use my entire benefits, and just barely graduated. Like, it was a really, really close call. So I'm just kind of bringing that up to everyone that maybe something could be done about that to limit, like, high stakes testing and stuff to graduate for nursing programs or similar programs because it leaves veterans and other students in situations where they could potentially come out with nothing for all the time that they put in for their using their benefits [30 seconds] so but yeah, as of right now, though, I did graduate and I just have to pass the NCLEX to get my RN. But it was a pretty close call. And I know that there's other students that were not as fortunate as me that ended up, you know, not even being able to graduate and they had to completely switch up careers or, you know, start going to school for something else. So I just wanted to share my story on that one, because I was really close to using up all my benefits for nothing.

MR. WEATHERS: Time, sir.

MR. DOWNS: Thank you.

MR. ROBERTS: Thank you for your comment. We appreciate it.

MS. K. SMITH: Okay, Brady. Next we have Shawn Bonita who is representing himself. He's in the room.

MR. ROBERTS: Great. Shawn, good afternoon.

MR. BONITA: Hi. Good afternoon. Can you guys hear me?

MR. ROBERTS: We can. We can see you as well. Welcome to Public comment. You'll have three minutes to address the committee. You'll be given a 30-second heads up and your time is going to begin whenever you're ready.

MR. BONITA: Okay. Good afternoon. My name is Shawn Bonita. I served in the Navy from 2003 until 2009. After leaving the Navy, I decided to use my GI Bill benefits to attend college. I started off at a local community college, but then enrolled in Westwood College to study computer management with a concentration in networking. I did my research before enrolling in the school to make sure that the GI Bill was approved, and I thought that meant that the VA had vetted the school and

it would be good to go. During my first year, I mostly took my gen ed classes, which were fine. After that, I began to take more classes in my major, and that's when things started to get sketchy. Westwood College claimed they were revamping the program, but in reality they meant- that meant that they fired the best teachers and hired people who did not know what they were doing. Instead of teaching, the instructors would often just throw text up on screen, and we had to read it and figure out for ourselves. At this point, I was about halfway through the program and decided I would be better off completing the program than quitting. Though I was able to push myself to study hard and teach myself the material, many of my peers were not. Once I graduated, it was as the school said, bye, thank you for your money. Westwood provided no guidance at all as I began looking for my employment, though they had promised well-paying jobs at big tech companies such as Google and Oracle. Their career office was totally unreachable. And by this point I had used up all of my GI Bill benefits and had taken out almost \$5,000 in loans, Federal loans. Eventually, I moved back home and was able to get a local tech job at my local school district. But that was not due to my education at Westwood. To move on in my career, I will have to start all over because no one recognizes a

degree from Westwood College and none of my credits will transfer. I know that the VA will- I now know that the VA does approve GI Bill benefits at virtually any accredited college. Because of that, it is crucial that accrediting agencies are diligent when reviewing schools so that veterans do not end up wasting their GI Bill benefits on a worthless degree. Thank you for your time.

MR. ROBERTS: Thank you, Shawn, for your time. We appreciate it. Okay, Krystil, I think we can welcome our next speaker.

MS. K. SMITH: Okay. Our next speaker is Sally Olsen. Sally is representing herself, and she should be in the room.

MR. ROBERTS: Great. Good afternoon, Sally, can you hear me?

MS. K. SMITH: Sally, if she- if you can come on camera, Sally, and unmute your microphone. Okay, I don't-

MS. OLSEN: Can you hear me?

MS. K. SMITH: Yes.

MR. ROBERTS: Yeah, we can hear you. Do you want to turn on your camera as well?

MS. OLSEN: Well, I don't have video. I mean, I don't look- [inaudible] I'm sorry about that. I don't know- I've been sick.

MR. ROBERTS: No, don't apologize. We can hear you, though. You're coming in quite clearly. But welcome to public comment. You'll have three minutes to address the committee. You'll be given a 30-second heads up, and your time will begin whenever you start speaking.

MS. OLSEN: Okay. Thank you. Hello, my name is Sally Olsen. I am speaking today to tell you about how I made the biggest mistake ever going back to school. I'm a Marine Corps veteran, and in 2004, I- at age 45, I was laid off from my job and I decided to go back to college and get a bachelor's degree. I signed up to attend an online school named American Intercontinental University. I studied business management. The recruiters promised that my degree would get me- the recruiters promise that my degree would get me- get me a great job and earn a high salary. And I was told more than once that I could make my own hours and attend class anytime I wanted. To say the least, the courses were not what I expected. They were extremely rushed. I was given my associate's degree in a year and my bachelor's degree the next year. The information was crammed in and it was really difficult keeping up with online chats from the professors. I did not learn anything. I was put on the Dean's list, and I don't even know how that was possible based on what I was learning.

I thought about leaving, but felt that I had made a commitment and I was trying my best. The recruiters' promises about how my degree would help me get a job and make more money were not true. That never happened. When I first enrolled at AIU, I also took a temp job at a company. I worked that job all while going to school. I still have that same job today. It does not require a degree and after I got my bachelor's degree, I was not able to get a promotion or a different job. I have never gotten any benefit from my AIU degree. I took out Federal Student Loans to attend AIU and I did not understand what I was doing. I think I ended up with \$70,000 or more in debt. I have never had the high salary that AIU promised. Going to school at AIU was such a huge, huge mistake. Looking back though, I don't know how I would have known to make a different decision. The school was approved. I trusted it when the recruiters told me what the school could do for me, and about the kind of education I would receive. I hope you will do something to make sure accreditors do a better job approving schools. Thank you for your time.

MR. ROBERTS: Thank you Sally. We appreciate your comment.

MS. OLSEN: Thank you.

MR. ROBERTS: Krystil. Who can we

welcome next?

MS. K. SMITH: Yes. Our next speaker is Stephanie Pollay, who is representing herself. She's in the room.

MR. ROBERTS: Oh, great. Stephanie. Good afternoon.

MS. POLLAY: Good afternoon.

MR. ROBERTS: Excellent. We can hear you and see you. So you'll have three minutes to address the committee. You'll be given a quick, 30-second heads up at 2 minutes and 30 seconds, and your time will begin whenever you're ready.

MS. POLLAY: Okay, great. Good afternoon. My name is Stephanie Pollay. I served in the United States Air Force from 2001 to 2003. After the service I decided to go back to school. I was from a blue collar family that was convinced college was for rich people, and trade schools were for poor people like me. I recalled ITT tech as a reputable trade school in the 1980s, and I thought I would get a good education there. That was a mistake. I attended ITT in person and online from 2006 to 2012. During my first year going to school in person at ITT, I also worked there and saw how the school operated. I slowly realized the school targeted low-income students like me, who were completely naive to

the innerworkings of the higher education system. For example, when I signed up for the student loans, it was literally at night in a back room and it was very cloak and dagger. We did not have the guardrails that most students have at normal colleges. The education we received was laughable. Many of the professors were unqualified to be teaching, though the school advertised placing 90% of its students in jobs of their chosen field. I was one of the only people in my program who got a job related to my degree. However, this had nothing to do with the school's efforts. A temp agency I found connected me with that job. Because I had not learned anything in my classes, I had to learn everything on the job. Later in class, my teachers would direct my classmates to speak with me because I knew more about the subject matter than the teachers did. By the end of my time there, it became evident that the school was just a diploma mill. For example, one of my classmates stopped attending school for the last several months of the program, and he was still able to graduate with our class. Once I graduated, I wanted to continue my education at a better school. However, my credits were next to impossible to transfer. Attending ITT was a complete waste of time and money. After speaking with friends who attended normal colleges, I found out that

not only was I wrong about only rich people being able to attend normal colleges, but that I had been scammed because I was paying three times what they were. I knew then that there were many people who thought like I did, and ITT knew that too and they exploited it for all it was worth. My credit was ruined. I can't get my GI Bill back, and I lost an entire decade of my life struggling with the damage this caused. I still don't understand why there was a special accreditation process for ITT, and how such accreditors were able to receive Federal funding in the first place. Therefore, today I'm asking you to push for rules that require accreditors to exercise greater scrutiny and evaluating schools. I also request you more closely and regularly monitor such rules are maintained. If you don't care, why should they? Thank you for your time.

MR. ROBERTS: Thank you, Stephanie, for your comment. We appreciate it. Okay, Krystil, who can we welcome next?

MS. K. SMITH: Our next speaker is Dr. Edward Conroy, from New America. Edward is in the room. There he is.

MR. ROBERTS: Great. Can you hear me, Dr. Conroy?

DR. CONROY: Yep. Can you hear me

okay?

MR. ROBERTS: Yes, we can hear you and see you. You'll have three minutes to address the committee. You'll be given a quick, 30-second heads up and your time will begin whenever you're ready.

DR. CONROY: Thank you so much. My name is Dr. Edward Conroy, and I'm the senior policy advisor with New America's higher education team. New America focuses our work on creating a higher education system that is accessible, affordable, equitable, and accountable for helping students lead fulfilling and economically secure lives. We are glad to see the Department working to improve Federal regulations and to repeat Under Secretary Kvaal's opening remarks, make sure that we're worthy of the trust students place in higher education when they enroll. We would like to raise, as we do at every neg reg, the issue of balanced representation at the table. This is a structural and persistent issue with this process. While student and interests- student and institutional interests often do align, they don't always. That is why we need balanced representation at the table and we don't have it currently. Institutions have five distinct seats to represent different types of school, along with many other voices that have an institutional lens, including accreditors and financial

aid administrators. Given that, we would like to support the idea of separating the collapsed consumer protection and civil rights seats, as has been done in many recent rulemakings to try to bring, if not fully, some more balance to the discussion. We applaud the efforts to make accreditation regulations more robust. Extensive work by New America and others has shown that accreditation too often fails to protect students from poor outcomes and predatory institutions. We are particularly glad to see reductions in the amount of time institutions can be out of compliance with their accreditor before they lose accreditation. We also welcome the Department's proposals codifying robust requirements for accreditor complaint processes. New America's research has shown that many accrediting agencies complaint policies seem designed to limit the number of complaints they receive. Given this, we believe codifying these requirements will help ensure that complaints about institutions are handled in a timely and responsive manner. We are, however, concerned that several accreditation proposals have significant room for improvement. Accreditors must be required to use reliable and comparable data in order for the assessment of outcomes to be effective. The revised regulations should implement standard shared definitions for student achievement, so that assessment of metrics like

graduation retention are consistent across all accreditors and institutions. The student achievement rules, as proposed, continue to allow institutions to self-determine the thresholds for success when it comes to things like graduation and retention. We suggest that accreditors should be required to set bright line standards that they determine in consultation with schools. These metrics should be set and measured using defensible, accurate and reliable data. Achievement standards should then be married to robust DEI standards, so that when colleges have disparities in outcomes for different groups of students, especially historically marginalized students, they are able to focus interventions and resources to ensure that all students have an equal chance of success. Finally, on issues related to teach out plans and agreements, we encourage the Department to err on the side of caution and craft regulations that require [30 seconds] to enter- to enter into teach out agreements if there is any concern about the school's viability. Teach out plans are much harder to implement when an institution begins to fail. Thank you so much to the committee for your time.

MR. ROBERTS: Thank you for your comment. Alright, Krystil, who are we hearing from next?

MS. K. SMITH: Next we have Michael

Nelson, who's representing himself. He's in the room.

MR. ROBERTS: Michael, can you hear me? You are on mute right now if you're trying to.

MR. NELSON: Okay. Alright. There we go. Now I can hear you. Yes, I'm having my class to quiet down right now. I'm sorry.

MR. ROBERTS: That's alright. That's alright. Welcome. You'll have three minutes to address the committee. You'll be given a 30-second heads up when your time is about to expire. And your time will begin whenever you're ready to start speaking and your classroom is, in fact, quiet.

MR. NELSON: Oh, they quiet. They quiet. We good to go. Are you ready? Alright, alright. Thank you. First of all, first, my name is Michael Nelson. I want to thank you all for the opportunity to be able to share my personal experience. I attended accreditation school that abruptly got closed a few months ago during my final set of classes. I was in my last two classes to graduate and they closed down. I served in the United States Army for 12 active duty years. Years later, opportunity presented itself that allowed me to leverage my skills from the military to they required me to return back to college. I've been teaching culinary arts here at a public school at the

Billard Johnson School here in Crowley, Texas, and teaching- and I also teach dual credit for Lamar State University. When I was hired, I was under the impression that I would need a bachelor's degree by end of school year, or at least have at least near graduation to maintain my employment. After months of research, I decided to go to the Art Institute of Dallas. My experience was there was less than ideal, to be honest. The classwork there and the environment was more of a do-it-yourself kind of approach of learning. The majority of the assignments is kind of like, hey, do it pretty much by use of YouTube and little faculty engagement, because most people was kind of looking to start employment elsewhere and there was very minimum hands-on learning. So I was very close to completing my degree and bachelor degree. And as I went on ahead and did my last two classes, right when I got ready to get started, I received the email that the school was about to go ahead and close down immediately. Due to that, that caused me what a lot of issues, and they was not able to offer me no options because is there another school I could transfer to complete my program? They didn't have any. This effect has put my immediate educational progress on hold now, due to the fact I had to report back to my job and let them know I wasn't able to finish the bachelor's

degree, they're still giving me time to try to seek it elsewhere, but the only thing is, bachelor's in culinary is not a very common thing. You usually will find associate degree programs, and even though we have a lot of community colleges, they don't give bachelor's degree program. So due to the lack of proper communication and guidance from the closure of the school, me as well as the other students were left stranded without information about tuition reimbursements, transcripts, any kind of operations, any type of option to finish our education, at the absent of a concrete plan and a support from AI, created new stress for us and also potentially financial gain if I don't find something here soon. In light of these challenges, I would strongly advocate for the increased oversight to prevent similar abrupt closures in the future. And just want to say thank you for hearing-taking the time out to hear me.

MR. ROBERTS: Of course. Thank you very much for your comment. We appreciate it.

MR. NELSON: Thank you, sir.

MR. ROBERTS: Have a great rest of your day.

MR. NELSON: You too. Thank you.

MR. ROBERTS: That's your classroom. You got that- you got really under your thumb. Who- I

believe this is our final speaker for today. Krystil, who are we welcoming?

MS. K. SMITH: That is correct. Our final speaker is Jeremy Winn from Gays Harbor College. Jeremy is in the room.

MR. MARTIN: Great. Jeremy, can you hear us?

MR. WINN: I can, thank you. Yeah, I'm Jeremy Winn from Gays Harbor College. I am the e-learning administrator at my institution and also the outgoing chair of the Washington e-learning Council. I actually attended today to listen in to your discussion on policy for- finding the title here, Institutional- Program Integrity and Institutional Quality. And I just want to briefly voice my support for the policy that you've discussed today. A lot of great discussion. I appreciate the clarity that you brought to that proposed policy. My public comment is actually going to be directed towards the SARA portion of today's discussion. I did have some concerns about some of the language in that policy, particularly the first portion, related to governance. And I think the sentiment that I kind of wanted to address, find the words here. I think the concern that part of the policy was trying to address was decision-making by non-state actors. And I guess my thoughts in

summation there are that I feel like some of the proposals are maybe inappropriately trying to take what is already sort of a state agreed system, right, where the states already have the agency to decide whether to permit their institutions to operate under this, what was already collectively sort of an MOU. And they have the ability to opt in or opt out of that. And so I feel like the states have generally abdicated the input to enforce consumer protections as a whole. And so speaking at my institution and my peer institutions, I noticed that a lot of us have stronger protections now and we've done more. We have thick binders to be in compliance with the SARA requirements. And so I want to recognize that collectively, I think SARA has really upped the game where a lot of states have abdicated their responsibility to do that work. And I do fear that having more state involvement in governance might actually cause us to recede in progress that we've made. And so I guess I would just urge, you know, to not conflate the difference between state oversight and governance versus decision-making. I think the system we have now, we're involved professionals, are highly engaged in the decision-making. [30 seconds]. Thank you. I think it's also completely appropriate to have more government oversight and involvement. Those are different things, though, right?

It's totally possible for us to have government oversight and involvement and have, you know, the superseding, governing authority but to be able to delegate that to the professionals who know the field well, and I'm concerned that that policy will, as others have noted, preclude people with experience and expertise from owning that decision-making. Thank you.

MR. ROBERTS: Thank you very much for your comment. Okay, I believe that wraps our public comment section for the day. And indeed, the remainder of our agenda for day two. We'll kick things off tomorrow at 10 a.m. eastern with issue paper number four, which is R2T4, I believe the Return of Title IV Funds. Thank you all again for your diligent work today, and we will see you tomorrow.

**Zoom Chat Transcript
Program Integrity and Institutional Quality- Session 1, Day 2,
Afternoon, 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:
<https://nc-sara.org/complaint-reports-dashboard>

From Denise.Morelli ED OGC to Everyone:
<https://www.law.cornell.edu/uscode/text/20/1001>

From A, Rob Anderson, State Officials to Everyone:
Just a clarifying point, Greg stated that NC-SARA is proprietary.
It is a non-profit.

From P - Erika Linden - Private Nonprofit IHEs to Everyone:
Scott Dolan is going to step in for Private Nonprofits as I have
to leave the meeting for a time.

From P-John Ware, State Regulator to Everyone:
My alternate Rob Anderson has some comments on this issue as well
so I will defer to him.

From P, Jillian Klein, Proprietary Instit to Everyone:
Florida and Tennessee both have annual reviews and reporting
requirements, where LBMA can be lost if institutions don't comply with
state requirements. Thanks for the comments on CA, Robyn - seems it
varies by states.

From P Jamie Studley, Institutional Accreditors to Everyone:
I'd like to hand off to alternate McComis to comment on this
topic

From P, DC, HBCUs, TCUs, MSIs to Everyone:
In Response to this discussion and on #3: The Department of
Education should continue to do what has done to garner influence, to
use grant funds and appropriations to structure and support state
authorization to handle issues that would be moved among the triad.

From A-Alyssa Dobson 4YR Public to Everyone:
I have to drop off at this time. I'll see you all tomorrow! The
primary negotiator is remaining here for participation.

From Brady Roberts- FMCS Facilitator to Everyone:

Reacted to "I have to drop off a..." with 👍

From (A) Zack Goodwin (he/him), Financial Aid Administrators to
Everyone:

I acknowledge it's not granular, student-level data, but we do
report via IPEDS what portion of students are enrolled in distance
education courses and to what extent (e.g., 100% online, partially
online).

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

Question of clarification for ED, PEP (Prison Education) programs are already required to be reported as a new location. For schools that offer PEP programs within a facility, some of which are online-only and some of which are not, would there need to be two PEP locations created -- one virtual and one brick-and-mortar?

From Carolyn Fast to Everyone:

My alternate Magin is going to join the table to comment.

From Carolyn Fast to Everyone:

Agree with Diana that that info on use of OPMs would be useful.

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

A. Zack Goodwin has a question and comment.

From P Jamie Studley, Institutional Accreditors to Everyone:

Michale will come to the table for instit accreditors.

From P Jamie Studley, Institutional Accreditors to Everyone:

If ED had that information what could it do with it? Is it able to analyze data at the individual student level? How would that relate to other ways of reporting outcomes?

From (P) Joe Weglarz NACUBO to Everyone:

Do we know if schools obtained this information?

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

Amy Ackerson has a question and will be coming in for specialized accreditors.

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

yielding back to primary representative.

From P, Barmak Nassirian, Vets to Everyone:

Schools use high-stakes tests as a way of manipulating their licensure pass rates.