

Negotiated Rulemaking - 10/10/23

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
STUDENT DEBT RELIEF COMMITTEE
SESSION 1, DAY 1, MORNING
OCTOBER 10, 2023

On the 10th day of October, 2023, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MS. JEFFRIES:

Good morning and welcome, everyone. My name is Cindy, Commissioner Cindy Jeffries, and I'm the Federal mediator facilitator with Federal Mediation and Conciliation Service. It's my distinct pleasure to welcome you all to the United States Department of Education's negotiated rulemaking, through which the Student Loan Debt Relief Committee will prepare proposed regulations authorized under Title IV of the Higher Education Act of 1965, as amended. At this time, I would like to turn it over to Tamy Abernathy for some introductions and some opening comments. Tamy. Tamy, you're muted.

MS. ABERNATHY:

That is certainly not a good way to start, is it? Let's do that again. Good morning, negotiators, and thank you, Cindy. On behalf of the Department, I welcome you to the Student Debt Relief Negotiated Rulemaking of 2023. We'll have an opportunity later for more formal introductions. What a privilege it is to be spending the next two days with you doing the important work for our student loan borrowers. We have a good deal of logistics to cover this morning, so I will not delay further. I have the honor of introducing Undersecretary James Kvaal for his

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opening remarks. Undersecretary James Kvaal was confirmed by the US Senate as the Undersecretary of Education on September 14th, 2021. He leads the Department's work on higher education, student financial aid, and career and adult education. He works to build an inclusive higher education system that helps all students graduate and go on to better lives. His work has led to millions of borrowers receiving student loan forgiveness, more affordable repayment plans for future students, and stronger safeguards against future unaffordable loans. He has also led efforts to hold career college programs accountable for excessive debts and make community colleges tuition free. Please join me in welcoming the Undersecretary.

MR. KVAAL:

Thank you, Tamy, and thanks so much for everything that you're doing to make this rulemaking a success. And to the negotiators here and the members of the general public, I want to say on behalf of the Biden-Harris Administration, Secretary Cardona and the entire Department welcome to the first day of negotiated rulemaking on student debt relief. Postsecondary education remains one of our country's most important pathways to a better life. Graduates of colleges, universities and trade schools generally enjoy higher

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earnings, lower rates of unemployment and poverty, and even other benefits like improved health and wellness. It's important to remember that affordable access to higher education benefits all Americans in the form of a stronger, more productive economy. However, student debt in this country has grown so large that it siphons off the benefits of college for many students. Some loans made to young adults stretch into retirement with no hope of being repaid. Debt burdens are shared by families and communities and discouraged careers in public service, entrepreneurship, they delay home ownership, cut into retirement savings, and make it harder for borrowers to save for their own children's college education. Some borrowers are left worse off than if they had never attended college at all. 1 in 3 borrowers never graduate and are left with debt, but no degree. And we know the burden of student debt is particularly acute for low-income borrowers and borrowers of color. These are the students we need to succeed in college and beyond if we want to grow the middle class and build broad-based prosperity. From its very first day in office, the Biden-Harris Administration has worked relentlessly to fix the broken student loan system. Through regulations and executive actions. We have reformed broken debt relief programs

like public service loan forgiveness. To ensure borrowers get the relief they have earned. We've remedied past administrative failures that locked eligible borrowers out of relief and leveled the playing field for students who've been defrauded or taken advantage of. Combined, these efforts have led to a historic \$127 billion in relief for nearly 3.6 million borrowers. And we're going to keep at it. We've also created the SAVE Plan. Saving on A Valuable Education, which is the most affordable, Income Driven Repayment Plan in history. It creates the first real student loan safety net by eliminating low-income borrowers' monthly payments. Because student debt shouldn't come before the necessities. The SAVE Plan also protects borrowers from runaway student loan interest. That leaves people owing more than they borrowed in the first place. We're thrilled that in only a few weeks, more than 4 million borrowers enrolled. The Biden-Harris Administration is also working to prevent students from winding up with unaffordable debt in the first place. We've made the largest increase in the Pell Grant in decades, secured new investments in college completion, and championed free community college programs, an idea that is moving forward from Massachusetts to New Mexico. We've announced the most effective gainful employment rule in

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history, which will protect students from career and for-profit programs that leave graduates with low earnings, huge debts, and poor career prospects. And we're creating new transparency across higher education so that students know which programs pay off and which ones lead only to unaffordable debts. Earlier this summer, the Supreme Court struck down the Biden-Harris plan to provide up to \$20,000 in student debt relief to borrowers recovering from the pandemic. We disagree with that decision, but we're moving forward. We immediately began this new regulatory process to bring student loan relief to as many borrowers as possible, as quickly as possible. Already, we've considered more than 26,000 public comments and now with your help, our efforts to fix the broken student loan system will take another step forward. We're here today to discuss regulatory solutions that can help deliver additional relief to borrowers under the terms of the Higher Education Act or HEA. The HEA gives the Secretary of Education the authority to enforce pay, compromise, waive or release, any right, title, claim, lien or demand, including Federal Student Loans. Our current regulations lack specificity on how that authority is applied. We are particularly focused on the waiver authority. Creating clearer regulations will ensure the authority to waive

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student debt is used in a fair and lawful manner. We believe that doing so will strengthen the entire student loan system, help us tackle pervasive problems in the system and help ensure that postsecondary education is a path to opportunity for more students. I'm talking about the fact that borrowers experience hardships in the current loan system. And I'm talking about the fact that even prior to the pandemic era payment pause, the system saw more than a million borrowers defaulting each year, generating higher costs and triggering enforced collections. That's unacceptable. We also have borrowers who have made payments for years, but still owe far more than they initially borrowed. We have loans that follow young borrowers into middle age or even retirement. We still have borrowers unable to access the relief they're entitled to because of challenges with application requirements. And we're interested in identifying other borrowers experiencing forms of hardship that are not addressed by existing repayment or forgiveness options. The discussion starting today, give us a chance to explore these issues and debate potential solutions in greater detail. They will help us craft strong regulations that deliver critical relief to student loan borrowers. For those of you who aren't familiar with this particular Federal administrative procedure, the

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negotiated rulemaking process helps the Department get early feedback on our regulatory ideas. Before we draft regulations, we convene representatives of affected constituencies to discuss and debate ideas in a public forum. Our regulations are better when we're able to hear from a diverse range of viewpoints, engage in dialog, and consider different ideas. The negotiated rulemaking process will include the negotiators and also an opportunity for other members of the public to come. In fact, while we've stated that we will reserve 30 minutes for public comment each day, we want to suggest for the committee's consideration that we expand that time to an hour to accommodate the tremendous public interest. In our first session today, Cindy will go over the protocols for conducting these conversations, and then we'll have a short presentation from Department staff about how we're thinking about student debt relief, which should help inform the discussion. We'll then move into the discussion questions posed in the issue paper. Our hope with this session is to share our ideas and receive feedback and new ideas from members of the negotiating committee. One more thing to keep in mind. These are complex issues, and when questions like operational feasibility or legal authority will arise, we may not always be able to answer them in real time,

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but we will do our best to carefully consider all of the ideas we hear, to do our best to respond in a timely manner, and to negotiate in good faith. Before I go, I want to say a heartfelt thank you. Our nonfederal negotiators volunteer their time. Federal rulemaking is not for the faint of heart, and your participation is critical every step of the way. Likewise, I want to thank the members of the public who will be participating and all the Department employees who have worked very hard behind the scenes to help us write the best regulations we can. I'll end on a note of optimism. Few, if any, institutions have as much potential to meet our country's most pressing challenges as our colleges and universities do. They open doors, break cycles of poverty, energize local economies, solve major challenges, build understanding, and create equitable opportunity. The work we do here to alleviate the student debt crisis will help us keep the promise of higher education alive. Not just for today's borrowers, but for all those to come. And with that, I'll turn it back over to Tamy. Thanks everybody.

MS. ABERNATHY:

I'm going to turn it over to Cindy to do a few little housekeeping things, and then we'll continue with our agenda.

MS. JEFFRIES:

Okay. Thank you. And thank you, Undersecretary Kvaal. It's nice to see you again and be working with this group. This is my third negotiated rulemaking with the Department. So, what I'd like to do now is introduce you officially to the Federal Negotiator, Tamy Abernathy. And we welcome her and look forward to working with you, Tamy. So I'll turn it over to you, Tamy. We'll do some additional introductions, including a formal introduction of yourself. Tamy.

MS. ABERNATHY:

Thank you again, Cindy. I also look forward to working with you in the committee. As mentioned, my name is Tamy Abernathy. I am the director of the Policy Coordination Group in the Office of Postsecondary Education. My team is responsible for working on the Federal Student Loan programs. I have worked in the Federal Student Loan industry. Excuse me. I've worked in the Federal Student Aid industry for over 35 years. I began as a college work study worker in the financial aid office. And if those of you remember college work study, you know that goes way back. I was one of those students who worked three jobs, received Pell Grants, other need-based aid and Federal Stafford Loans to help pay for my education. Upon graduation, I was hired full-time in a financial

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aid office. Over the years, I've continued working in this industry in various roles. Most of my career has focused on Federal Student Loan Programs. This month, I celebrate both my 10th year at the Department and my third in OPE. I'm honored to be part of the negotiated rulemaking process and to serve alongside each of you in this important initiative that the Department is undertaking. I'm also grateful to have a number of colleagues at the Department who will be assisting in this effort, both behind the scenes and in front of the camera. At times, I will be joined by Ben Miller, a Deputy Undersecretary in our Office of the Undersecretary, who will be listening to the discussion of the alternatives and approaches, providing some framing of the questions and the issue paper. There may be a few other from the Department staff who join us to listen in or to present information. We look forward to working with you to further the mission of the Department by establishing new rules related to student loan debt relief. Thank you. At this time, I'll ask Ben Miller to share a few words with us. Ben.

MR. MILLER:

Thank you, Tamy, and good morning, everybody. Thank you for having me here today. As Tamy said, I'm largely here to listen and observe, but I will be sharing thoughts

occasionally, including at the beginning, to help with some of our framing about how the Department is thinking about this issue. And, you know, just appreciate you all and all your work here. And I'm excited to listen and to participate with you all. Thank you.

MS. ABERNATHY:

Cindy, I believe we turn it back to you at this time for you to go ahead and continue with the introductions.

MS. JEFFRIES:

Okay. So I would- thank you both for that for your opening comments and your introductions to yourself. I'd like to give special recognition and thank you to all of the people behind the scenes that, frankly, there's just too many to mention. I wouldn't want to miss anyone. So I just want you to know that it really does take a village to make this virtual process possible. And all of those behind-the-scenes people are instrumental in helping us ensure our sessions are as seamless as possible. So we thank you for your dedication and assistance in everything that you do with this process. We have several non-voting participants from the Department's Office of General Counsel. Mr. Brian Siegel, who is not able to join us today. So, you will see him in future sessions. But we do have present today Soren Lagaard. Soren, would you like to say a few words?

MR. LAGAARD:

Yes. Thank you so much, Cindy. Good morning, members of the committee and members of the public joining us. My name is Soren Lagaard and I am acting as the Department's legal counsel during our sessions together. As Cindy indicated, I may be joined by my colleague Brian Siegel tomorrow and in future sessions. I have worked at the Department's office of the General Counsel for eight years, and before this I worked for a state Board of Education, and before that I was a middle school English teacher. I participated as the Department's legal counsel last year in our negotiated rulemaking for the new prison education program as part of the restoration of Federal Pell Grant access for individuals who are confined or incarcerated. As legal counsel for the Department, my role is to provide advice as to the Department's legal authority regarding the topics we are considering here. My experience is that committee members may have a lot of questions related to policy data and, of course, legal issues. These are important questions for the committee to evaluate, but it is generally not possible for us to respond effectively to those questions until we have had a chance to consider them thoroughly. In most cases, we will hear your question, but we will need additional time to consider it. And my previous experience, I saw

that consensus is possible, and I hope the committee members will keep that in mind as a goal of our time together. I will now turn it over to my colleague Toby Merrill, the Deputy General Counsel for Postsecondary Education. Toby.

MS. MERRILL:

Good morning. Thank you, Soren. I am happy to be joining this committee. And, like, Ben will be here to listen and to participate where I can. And I'm looking forward to working together on this important issue. Thanks.

MS. JEFFRIES:

Thanks Soren and Toby. Looking forward to working with all of you as well. So moving on. I'd like to now introduce the esteemed members of our student loan debt relief committee. These negotiators have been nominated by the public and selected by the Department to represent 14 respective constituencies. For each constituency, we will invite the primary negotiator and alternate negotiator to briefly introduce themselves on behalf of their constituency group. This will also serve as our official roll call for this morning. So, moving right into it for the constituency of civil rights organization as the primary negotiator, we have Wisdom Cole. Wisdom.

MR. COLE:

Good morning everybody. My name is Wisdom Cole. Proudly serve as national director for the NAACP Youth and College Division. Excited to be here today to represent our, over a million members, in our association. And thank you all for having me.

MS. JEFFRIES:

Thank you, Wisdom. And alternate for the civil rights organizations is India Heckstall. India?

MS. HECKSTALL:

Hi. Good morning everyone. Also happy to serve as a negotiator on this committee and excited for the role [inaudible] with Wisdom as a civil rights organization. I'm India Heckstall, Senior Policy Analyst at the Center for Law and Social Policy, CLASP, where a lot of my research has centered racial equity in higher education and workforce development policy issues.

MS. JEFFRIES:

Thank you, India. Welcome to both of you. Next constituency is legal assistance organizations that represent students and/or borrowers. The primary is Kyra Taylor. Kyra.

MS. TAYLOR:

Good morning everyone. My name is Kyra Taylor. I am an

attorney at the National Consumer Law Center. As part of my role, I work with legal aid attorneys and private attorneys on student loan issues across the country. I also represent low-income borrowers here in the Boston area. I'm also a coauthor to NCLT's treatise on Student Loan Law, and in addition, we also do national policy advocacy on behalf of low-income student loan borrowers. I'm very excited to be here and work on this committee on this incredibly important issue with all of you today.

MS. JEFFRIES:

Thank you, Kyra. I apologize for mispronouncing your name. That is going to happen our first go around here. So please correct me so that I can make notes on making sure I pronounce them going forward. The alternate for the legal assistant organizations that represent students and/or borrowers is Scott Waterman. Scott.

MR. WATERMAN:

Good morning everyone. My name is Scott Waterman. I am a chapter 13 trustee for the Eastern District of Pennsylvania. We assist debtors in completing chapter 13 plans. These are cure plans. Our offices throughout the country distribute over \$1 billion a year to accreditors, and student lenders are a big portion of that. So we're very interested in this issue and in

trying to fix the problem. Thank you.

MS. JEFFRIES

Thank you, Scott, I appreciate it. Next, we have state officials, including state higher education, executive officers, state authorizing agencies, and state regulators of institutions of higher education. The primary for this group is Lane Thompson. Lane.

MS. THOMPSON:

Good morning everyone. My name is Lane Thompson. I use she/her and they/them pronouns. I'm the student loan ombuds for the state of Oregon. I work in the Division of Financial Regulation. Really looking forward to serving with you all.

MS. JEFFRIES:

Thank you, Lane. And the alternate is vacant at this point and we will be- there is an agenda item later on about the that vacancy. Next we move on to state attorneys general. Our primary is Yael Shavit. Yael.

MS. SHAVIT:

Hi, my name is Yael Shavit. I am the chief of the Consumer Protection Division at the Massachusetts Attorney General's Office. Our offices work with students across the country trying to help them with their student loans. We initiate investigations of

educational institutions and student loan servicers. And we are looking forward to helping achieve good outcomes for borrowers through this negotiated rulemaking. Thank you.

MS. JEFFRIES:

Thanks, Yael. The alternate is Josh Devine. Missouri attorney General's office. Josh. Doesn't appear as though Josh has.

MR. FRANCAZAK:

Cindy. I believe he had a conflict this morning. He's going to appear in court, so he may be not present in this stage.

MS. JEFFRIES:

Okay. Thank you. We will- so for today's session, Yael. you're on your own. Okay. And no fears, she's seasoned at this. So looking forward to it. Public institutions of higher education, including two-year and four-year institutions with primary is Melissa Kunes. Melissa.

MS. KUNES:

Good morning to everyone and thank you, Cindy for your introduction. My name is Melissa Kunes. I am the assistant vice president for enrollment management and executive director for financial aid at Penn State University. I have been in higher education almost 39

years. I am here at the recommendation of the Higher Education Loan Coalition. And as Cindy said, I am representing the voices of all our public two and four-year institutions and very much looking forward to this process. And thank you again for having me.

MS. JEFFRIES:

Thank you, Melissa. The alternate is J.D. LaRock. J.D.?

MR. LAROCK:

Good morning, everybody. It's a pleasure to be with you all. My name is J.D. LaRock. I chair the board of trustees at North Shore Community College in Massachusetts. We're a mid-sized community college about 30 miles north of Boston. Pleasure to be with you. Look forward to working with you.

MS. JEFFRIES:

Thank you. Okay, so next up are nonprofit institutions of higher education. And the primary is Angelika Williams.

MS. WILLIAMS:

Good morning everyone. I'm Angelika Williams. I am the assistant vice provost for student financial services here at the University of San Francisco. I have been a practicing financial aid administrator for over 17 years and have the pleasure of working at different types of

institutions such as Hispanic Serving Institutions, HBCUs, and currently a Jesuit University. I have also been elected to serve on the National Financial Aid Association Board of Directors as a second-year rep at large, and I am also on the Executive Council for the State Financial Aid Association here in California as the Vice President of Federal Issues. I am extremely excited about being here today to contribute to the ongoing dialog surrounding student loan debt.

MS. JEFFRIES:

Thank you, Angelika. The alternate for this group is Susan Teerink, but she is absent today, so we will move on to proprietary institutions. And the primary is Kathleen Dwyer. Kathleen.

MS. DWYER:

Thank you. Good morning. My name is Kathleen Dwyer and I currently serve as Vice President of Operations and Regulatory Affairs for Galen College of Nursing. Galen is one of the largest educators of nurses in the country, and I began my career, like many of you, in the financial aid Department over 18 years ago, and I have, you know, served Galen for that length of time. In addition, I've served as a site visitor for multiple accreditation visiting teams to other institutions. And I'm just looking forward to representing the voice of

proprietary schools today. Thank you.

MS. JEFFRIES:

Thank you, Kathleen. And the alternate for that is Belen Gonzalez. You're on mute, dear.

MS. GONZALEZ:

Okay. Good morning everybody. My name is Belen Gonzalez and work as a compliance of the Mexican Institute. Have a 36 years experience in this industry. And it's my honor to be a part of this committee to have the opportunity to serve the students, the college, and the community. Thanks for the opportunity.

MS. JEFFRIES:

Thank you. And that takes us to the next constituency group, which is Historically Black Colleges and Universities, tribal colleges and universities and minority serving institutions, institutions of higher education eligible to receive Federal assistance under Title III, parts A and F, and Title V of the HEA. Primary for that is Sandra Boham. Sandra. Sandra may be with us and may be on mute.

MR. FRANCAZAK:

Sandra may have an appointment this morning as well, Cindy, and not present at this time.

MS. JEFFRIES:

Okay, so we will move on. There is currently no representative in the vacancy- in the alternate slot, which will also be addressed later on in this agenda. Federal Family Education Loan, lenders servicers and or I'm sorry, guaranty agencies. Primarily for that is Scott Buchanan.

MR. BUCHANAN:

Good morning and thanks for thanks for hosting this committee. I've been in the higher Department policy space for about 20 years now, and I'm currently an executive director of the Student Loan Servicing Alliance. And we're looking forward to the discussion to talk about the legal bar taxpayer and practical operational considerations, which we deal with every day that this discussion and proposed regulations might impact. So thanks for having us.

MS. JEFFRIES:

Thanks, Scott. And the alternate is Benjamin Lee.

MR. LEE:

Good morning all. Honored to serve with all these talented folks. I'm associate counsel at Ascendium Education Solutions. We're a guarantee agency. Been in the student loan space for about nine years and still

have student loans in my own. So seeing it all the way around. I'm looking forward to it.

MS. JEFFRIES:

Thanks, Benjamin. The next constituency group is student loan borrowers who attended programs of two-years or less. The primary is Ashley Pizzuti.

MS. PIZZUTI:

Hello everyone. I am super grateful for this opportunity to be here. I attended a community college way back about 24 years ago, followed by attending a for-profit. I am an unnamed class member of Sweet versus Cardona, and also run several very large social media groups that represent all kinds of borrowers, primarily Borrower Defense borrowers. But that extends to all borrowers of all walks of life. And thank you again.

MS. JEFFRIES:

Thanks, Ashley. And the alternate is David Ramirez.

MR. RAMIREZ:

Good morning everyone. My name is David Ramirez. I'm a student at UCLA and graduated from Pasadena City College last year, where I served as student trustee on the Board of trustees for the college. I currently serve on the UC Student Association Board as Government Relations Chair, which is the representative body for all 230,000

undergraduate students at the University of California.
I'm very excited to be here with you all.

MS. JEFFRIES:

Thanks, David. Next up we have student loan borrowers who attended four-year programs. The primary is Sherri Gammage. Sher.

MS. GAMMAGE:

Good morning and I am so honored to be here and serve with a talented group of people like yourselves. My name is Sherri Gammage, but I go by Sher Gammage. I'm a long-term adjunct faculty at Lesley University in the Graduate School of Education. I also am an adjunct faculty steward and sit on the higher education chapter of the Joint Executive Board of local SEIU 509. I started my journey into the student loan and community Colma Community College graduate, a four-year graduate. I attended private and professional schools. And I'm happy to work with this committee and look forward to the work we'll do together.

MS. JEFFRIES:

Thank you, Sher. I will mention at this point that Sher has to leave today. She'll be with the committee till about 11 a.m. and she'll return after lunch. During that time, the alternate will be sitting at the table in her

place. And that alternate is Sherry Christa Butts.

MS. BUTTS:

It's actually Sarah.

MS. JEFFRIES:

Sarah. I'm sorry. Thank you.

MS. BUTTS:

That's okay. I'm honored to be here, you all. Sarah Butts. I am representing the interests and voice of four-year borrowers. I am myself a borrower. I attended both community college, undergraduate, graduate and entered a PhD program was a Pell Grant recipient, a participant in the Public Service Loan Forgiveness Program, and also am now a Parent PLUS borrower. I'm in my professional role, I am the Director of Public Policy nationally for the National Association of Social Workers where we represent the interests of around 700,000 social workers in the country, along with our clients and communities. I'm honored to be here with you all.

MS. JEFFRIES:

Thanks, Sarah. Ever had one of those moments where you read something but something else comes out of your mouth? I apologize about that. Next is student loan borrowers who attended graduate programs. Not sure on

this last name. So, Richard, bear with me. The primary is Richard Haase.

MR. HAASE:

You got it. You got it. Okay. Good morning, everyone. I'm happy to be here. Thank you for allowing me to be a part of this. Like Soren, I'm a middle school English teacher as he once was. Like Tamy and Sarah just shared, I've also been a part of work study, Pell, Stafford, and I attended SUNY schools in the state of New York and for 23 years, was paying off that debt until the waiver period that extended eligibility under PSLF. After that waiver period was implemented as I'm also the president of our teachers association, representing 800 teachers and 500 power paraprofessionals on Long Island, we work to engage and mobilize our members around the application process and trying to help as many people as we could achieve their own loan forgiveness. And again, thank you for having me here. I look forward to being a part of our conversations.

MS. JEFFRIES:

Thank you, Richard. And the alternate for the group is Dr. Jalil Bishop.

DR. BISHIP:

Good morning everyone. Happy to be here. Again, my name

is Jalil Mustafa Bishop. I'm here today representing graduate borrowers. As a borrower myself, connected to family members, community members, many folks in my social space who have had to borrow student loans, both for undergrad and graduate students here to just represent the voices and experiences. Also, for really about a decade now have worked on student debt from both the activist perspective, making sure we're lifting up the voices of borrowers themselves, but also as a researcher who has released a lot of the research around the experiences of Black borrowers in particular. So happy to join you all today.

MS. JEFFRIES:

Thank you. Next constituency is currently enrolled postsecondary education students and our primary is Jada Sanford. Jada.

MS. SANFORD:

Good morning everybody. My name is Jada Sanford. I currently work at Young Invincibles, which is a national, nonprofit, nonpartisan organization that's dedicated to elevating the voices of young adults in the political process. I currently attend Stephen F Austin State University here in Texas, and I'm excited to represent currently enrolled postsecondary education students.

MS. JEFFRIES:

Thank you, Jada. The alternate for the group is Jordan Nellums. Jordan?

MR. NELLUMS:

Morning, everyone. My name is Jordan Nellums. I'm a current student, graduate student at the LBJ School of Public Affairs at the University of Texas. I, myself am a student loan borrower and a child of Parent PLUS loan borrowers. So I'm looking forward to representing currently enrolled postsecondary students and looking forward to working with you all.

MS. JEFFRIES:

Thank you, Jordan. The last constituency group that we will introduce is the US military service members, veterans or groups representing them. The primary is Michael Jones. Michael.

MR. JONES:

Hi everyone. Again, my name is Michael Jones. I am currently a student at Portland State University. I hold two-years of service in the United States Army. At PSU, I serve in the student Government where I'm holding a role as Senator, and I'm really looking forward to being here and having an open dialog around this very intense topic. So, thank you all so much.

MS. JEFFRIES:

Thank you, Michael. And the alternate is Vincent Andrews. Vincent.

MR. ANDREWS:

Hello everyone. I'm actually an Air Force veteran. I'm currently based in Texas in Fort Worth, Texas. I'm an instructor, creativity coach, but I'm also a doctoral student at Lesley University. And like everyone else, I've kind of had a lot of experience with the ins and outs of many of these programs, and I've obviously had my own student loan debt that I've tried to navigate, but I've been generally interested in these issues since my time in the military, which is why I became a life coach and was coaching veterans, for a big part of the time to help them navigate some of their benefits. But I'm really excited to be here and look forward to the conversations.

MS. JEFFRIES:

Thank you, Vincent, I'd like to thank you both for your service to our country, as well as all anyone that is participating in this or not, across the country that have proudly served in the military services across the country. So next, just thank you all for introducing yourself and for your time, efforts, expertise and commitment to this process and the representation of

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your constituencies. We are glad to have the opportunity to work with each one of you through this process. I'd like to take a moment now and introduce you all to your FMCS facilitation group. I, and through my colleagues who will introduce themselves momentarily, are commissioners/Federal mediators with the Federal Mediation and Conciliation Service. As I have been with FMCS for 13 years, I currently work out of the Orlando area. Previously was stationed in Albany, New York, grew up in the state of Michigan. Needed to get away from cold and snow so here I am in Orlando, Florida. I especially enjoy multi-party high stake negotiations and always appreciate the opportunity to work with subject matter experts in a variety of sectors, industries, and circumstances. I have been doing negotiated rulemaking for several years now, and this is my third one with the Department surrounding the Higher Education Act. I am joined by three fellow FMCS colleagues who I would like to invite to introduce themselves. And anything I may not have mentioned. I will say that one of our members is absent today, Commissioner Brady Roberts. He's not with us for this session as he's enjoying his honeymoon in Hawaii. He will be joining for the remainder of the sessions. Some of you who have worked with us before in these projects will certainly remember Brady. So with

that, I'm going to turn it over to Commissioner John Weathers. John, please introduce yourself.

MR. WEATHERS:

Hello, everyone. My name is John Weathers, it's a pleasure to be here with you today. I am a field mediator with the Federal Mediation Conciliation Service and have been so for seven years. I currently reside in Colorado, sunny Colorado, and have been here for approximately one year. Previously I was working out of the Central Illinois field office for FMCS. This is my first specific negotiated rulemaking project, but I have been and am currently on a public policy review project. I'm very excited about this because I understand the impact that this is going to have and that there's a real sincere importance that is imbued in the work that we're going to be doing here today and over the next coming months. So, I'm very excited to be here and working with you all. Thank you.

MS. JEFFRIES:

Thanks, John. And next we have Commissioner Mike Franczak. Mike, please introduce yourself.

MR. FRANCAK:

Thank you, Cindy. Good morning. I'm Mike Franczak, FMCS facilitator team located in Cleveland. Mediator and

manager with FMCS for 22 years. I'm looking forward to our time with one another and working together. Thank you.

MS. JEFFRIES:

Thanks, Mike. I believe that's all the introductions that I have. Did I miss anyone? Okay. For those of you who may not be familiar with FMCS, we are a small independent Federal agency of the executive branch of the United States Government. We have several statutory bodies of work; one being negotiated rulemaking. Specifically, the Administrative Dispute Resolution Act of 1990 and the Negotiated Rulemaking Act of 1990 authorizes FMCS to use its dispute resolution expertise to bring together the regulators and those impacted by their regulations in a collaborative process prior to the issuance of a new rule. What you can expect from us. We do function as a neutral third party, and we will be performing services and functions such as facilitate your discussions and consent taking for each of the policy proposals. We will assist the negotiating committee in identifying and overcoming barriers that arise in multi-party negotiations. We will work with the Committee as appropriate and breakout caucuses space during sessions and work with groups between sessions. We also solicit and distribute the documents and

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information for the Department and yourselves. We capture that process and progress in the drafting of session summaries. We are here to assist you in every step of the way. While you are the subject matter experts and focused on the topics before the committee, we will drive the process and move the committee through each session navigating order and adherence to organization, protocols, agenda timeliness, strategies, and dynamics at and away from the table, all to assist you to be solution oriented and to build consensus on the proposals that will be before you. We want each of you to feel encouraged and empowered to reach out to us directly with questions, comments, and concerns throughout the entire process. You can do that either by email or giving us a phone call. Okay, you all received a letter that contained all that information early on when you accepted your nomination. So, moving on to logistics and protocols, we ask the following. Please adhere to the naming convention indicating P for primary, A for alternate, followed by your name, and lastly the constituency you are representing. While you are not speaking, please keep your audio muted. This will help us all cut down on background noise, distractions, and be able to identify the speaker more readily at any given time. If you are at the main

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virtual table and have something to share, please raise your virtual hand by clicking the reaction icon at the bottom of your screen and select raise hand. We will generally call on people throughout the process in order in which their virtual hands appear on our screen. Should you have any technology related questions today during our session, we will identify each day of session in the chat name and email address of one of the FMCS facilitators that will be filling that role on that given day. Today that role will be filled by Mike Franczak. Mike, will you please put your name and email address in the chat so that the negotiators have easy access to that? A note on the chat feature. It will remain enabled during our sessions together. Please note that all messages sent out to the full group, those that are sent to everyone, are subject to an ongoing transcript. Each day, the public will have an opportunity to log in and observe our session via live streaming. The Department has posted a registration link on their website. I'm also going to ask Mike to place that link in the chat right now, because this is the same place where updates and shared documents will routinely be provided. Alright. Next, we're going to address the organizational protocols. I know that each of you previously received a copy of the protocols to

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review. And we briefly discussed those protocols in your outreach sessions that we had with you. Based on some of those discussions and the questions asked within, I would like to address a few of the concepts covered in that document. Primary and alternate committee members. We recognize primary and alternate committee members work as a team representing their constituency. To that end, we value the input, expertise and representation that both bring to the table. To carry out our virtual process, we must note several important distinctions. Only the primary sitting at the- sits at the main table. Only the participants sitting at the main table will have their cameras on while discussion is taking place on policy proposals. All others, including alternates, will be asked to turn their cameras off. This is in an effort to preserve the limited virtual landscape and to easily delineate between those participating for the purpose of determining consensus, which are the primary negotiators. Alternate committee members will be invited to turn on their cameras when they come to the main table, and this can occur on several types of instances. In the absence of a primary negotiator, the alternate will participate at the main table for the purposes of consensus. The primary and alternate negotiator may decide that the alternate would take the primary place

at the main table, either for an entire certain topic, or to have an opportunity to briefly comment on a particular topic, segment subsection of a topic. The alternate would thus be on camera, and the primary would turn their cameras off for that portion. We ask for advanced notice of that in the chat. We would like to be able to announce that to the public so that our viewing in so that they can, you know, keep up with who's who, what's going on at the table, right? I hope everyone understands the virtual and logistical intent behind this practice. We will engage in consensus decision making to develop regulations. We will utilize good faith group problem solving to address the interests of the committee members with the intent of reaching unanimous agreement, otherwise described as consensus. It is not a majority vote, but rather an expression of agreement or dissent. And we will build consensus once there is no dissent by anyone on the negotiating committee. Thus, no member of or a minority group can be outvoted. Okay? That's why we use the full consensus situation. So, a few notes here. Per the protocols, members of the committee should not block or withhold consensus unless they have serious reservations about what is being proposed. Absent at the time of a consensus check will be the equivalent to not dissenting

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and will therefore not prevent consensus from being reached. To take consensus checks, we utilize a visual three thumb approach. Our thumbs up is an expression of agreement by one who agrees with and in support of the proposal at hand. A sideways thumb, this is also an expression of agreement. It is in fact an indication that one does not feel as strongly favorable to the proposal but will support and agree with the proposal and not dissent. If everyone is up and or sideways, you have achieved consensus. If there are downward thumbs, this is an expression of dissent by one who will not support the proposal at hand. If one or more individuals are a thumbs down, those individuals are not in consensus and the dialog/work continues during our remaining scheduled time together, starting with the dissenter or dissenters being asked if there are additional concerns other than what was presented in the discussion prior to the consensus check, and asked to provide a change or changes to what was proposed that would get them to consensus. Okay, it will not suffice just to say I disagree. Okay? Finally, we will be seeking consensus separately on each policy proposal. Each policy proposal will be subject to its own distinct consensus building. And as a result, those where policy proposal consensus is not reached, will not hold back

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those policy proposals for which consensus was achieved. Throughout the process, we take the committee's temperature for the purposes of seeing where we're at as a group and are we progressing. This will help us monitor several things. This will be done using the same three thumb approach. We will make it clear in any given instance whether we are taking the temperature or an official consensus check. Next, we're going to move to data information requests and sharing and questions. To streamline an effective and consistent process, we request that all materials be provided to FMCS, and we will distribute them to the full committee and Department. For data requests to the Department, please refer to the protocols for additional information. These will be invited at the time of addressing the topic for which the request pertains. Any information provided by the Department in response to a data request will be sent out to the entire committee. The Department desires to share information when they can. However, please understand there should be no expectation of a response being given during the live session. In those circumstances, we will ask you to place your question or request in the chat for the Department to follow up on. This is not an attempt to delay responses, but instead to provide the Department time to provide the most

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accurate and meaningful response. We thank you in advance for your cooperation and understanding with that. When those items are placed in the chat, when that chat is pulled for transcript, there are Department people who go through those chats to pull out those questions that are requests. Any concept language that you may put in there to pull those out separately so that they can start working on those in between sessions. Next, we're going to move to breakout rooms and caucuses. Per the protocols, committee members may request a caucus for the purpose of consultation. To achieve this with our zoom gov platform the facilitators will move individuals into breakout rooms within the platform. While you were in those breakout rooms, they are secure and private virtual spaces where there will be no live streaming or recording. The main table discussions will be paused during a caucus, as will the live stream. For time management purposes, the facilitators will work with the committee members to ensure that they are used intentionally and strategically for specific periods of time. It is no secret that we have several important topics to address in our limited time together, and we want to ensure that we are using each of your time most productively. In terms of participation in the caucuses, only those

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within the zoom gov platform will be able to access the breakout rooms through zoom. This means we will not be able to admit any additional individuals to the meeting for the purpose of meeting with you and your caucus. However, while you're in your breakout rooms, we encourage you to contact and consult with others as you deem appropriate and necessary. Feel encouraged to call them, use conference lines, speaker phones, other technology available, but we simply cannot and will not invite anyone into this zoom gov meeting outside of the named negotiators and the authorized participants. The only exception to that will be during the public comment time. Social media. It is addressed in the protocols, and we ask everyone to refrain from posting and commenting on social media during our sessions, because we want everyone fully engaged and participating when we are in session. Outside of our sessions, we appreciate that social media can be an effective tool for positive use, such as soliciting feedback from your respective constituencies. Therefore, consistent with the protocols, all members shall act in good faith in all aspects and negotiations and refrain from characterizing the views, motives, and interests of other members regarding negotiated rulemaking. Finally, it has been communicated to each of you that your agreement to serve

as a negotiator indicated your willingness to follow the protocols which you received a copy of. We are going to ask you at this time to approve the organizational protocols as provided. This will be our first opportunity to use our thumbs and achieve agreement. I'm going to call for the consensus. Well let me pause right here and ask a procedural question from the Department. Undersecretary Kvaal proposed that public comment be changed to 60 minutes versus 30. Your protocols don't actually list a duration. They just say that there will be public comment at the end of every session. Okay? Is it the Department's intent to have the 60-minute duration added to the proposals as an amendment?

MS. ABERNATHY:

Cindy, may I interject for one second?

MS. JEFFRIES:

Sure can.

MS. ABERNATHY:

We want to make sure that that 60-minute duration starts with the second session in November. Because we already have everything set for this session. There's no way for us to expand that time.

MS. JEFFRIES:

Okay. So, might I suggest that the committee that we

take consensus on the protocols as written, and then we will take a consensus from the committee on starting the 60-minute public comment period at the second session in November as an amendment. Is that okay, any objections to that? Okay, so let's move forward first with our consensus on the protocols as written currently. Could you please raise your thumb and leave them up for a few minutes so that we can or a few seconds, I'm not talking ten minutes here, but we need to be able to be sure that we capture everyone's thumb position on this. Okay? So go ahead and show us your thumbs on the protocols as written, adopting them. Okay. I'm not seeing any dissent. Mike or John? Okay, so the protocols are formally adopted as written. Let's move on to a consensus from the committee on whether or not they want to approve expanding the public comment period at the end of each session, beginning with the November sessions to 60 minutes. Can I see your thumbs, please? Okay, I do see, Belen, I can't see your thumb. Can you raise it higher? Is that up? I still can't see it.

MS. GONZALEZ:

Yes.

MS. JEFFRIES:

Okay. Alright. We do have dissent here. Which means you have not reached consensus. We can open that for

discussion. Kathleen, would you like to share your concerns with that expansion?

MS. DWYER:

Sure. I just- I assume the Department has already called to the table all of the people that they would like to hear from, and it sounds like you have a procedure for having a 30-minute commentary period. I just didn't understand why we would need to expand that. So that's the reason for the dissent.

MS. JEFFRIES:

Does the Department want to respond to that, or would you like me to reply?

MS. ABERNATHY:

Let me take a stab at that.

MS. JEFFRIES:

Okay.

MS. ABERNATHY:

Kathleen, I'd like to point out two separate things. We will be looking at adding alternate members to the table, which is separate from our public comment at the end of the day. So that public comment at the end of the day is to allow our public time to sign up for time to give us their opinion based on the discussions of today,

or to make general comments related to student debt relief committee action. It's kind of separate. And I don't know if maybe we didn't explain that well enough. So hopefully if you have any additional questions, please ask them. We can try to clarify that a little bit more for you.

MS. JEFFRIES:

And that process. Thank you, Tamy. That process that is utilized for the public comment, those who want to speak during public comment time have to register to do so and obtain one of the available time slots. Those are three-minute time slots. And so, in 30 minutes, we generally can get ten people in if all goes well. Okay. We have in previous rulemakings had many more people wanting to comment than what the 30 minutes could accommodate. I just wanted to explain the process as a separate process in how it's done. Ashley, you have your hand up.

MS. PIZZUTI:

Yes. So with the- I'm very familiar with the negotiated rules committee and actually was one of the public speakers in the 2021. We have a very excellent panel of experts sitting here making these rules. And the public comment gives people, borrowers mostly, the chance to have their voice be heard and take that into consideration when we're making decisions for them.

MS. JEFFRIES:

Thank you, Ashley. Anyone else want to comment? Kyra?

MS. TAYLOR:

Thanks, Cindy. I would just add to what Ashley just said. There is a wide array of borrowers within the student loan system, and I think it is especially important to hear the variety of perspectives on student loan relief as we're moving through these programs, especially so that different borrowers can share their personal experiences with their student loan debt as we move forward. So we strongly support extending the public comment period so that more borrowers are given the opportunity to share their perspectives and to share how their student loan debt has impacted their lives.

MS. JEFFRIES:

Okay. Thank you. Next, I have Yael.

MS. SHAVIT:

Thanks. So in addition to just agreeing with what Kyra and Ashley said, want to note that as someone who participated in a prior rulemaking session. I think it's common for borrowers who have the opportunity to speak in the public comment phase to raise issues that are then meaningful in the discussions that follow. So to that end, I think it's not only important to them to

give them an opportunity to be heard but it's also a perspective that's very valuable to the committee. And I've seen that in action, participating in past rulemaking.

MS. JEFFRIES:

Thank you. Anyone else. Scott Buchanan.

MR. BUCHANAN:

Yes. And didn't the Department already hold a hearing or town hall on this matter? I think, you know, prior to this session, and certainly I think would be useful to provide any information or transcript or link to those hearing comments as well, since those have already been collected from the public in that form as well.

MS. ABERNATHY:

Cindy, would you like me to answer that?

MS. JEFFRIES:

Yes, please.

MS. KUNES:

Scott, thank you. We did hold a public hearing and we did have over 26,000 comments. That information is public it is available on our website for those that would like to see that I also believe that it was on YouTube and that is available as well. I think for the

purposes of this discussion it is important for all of us to know that our borrowers and our constituents out there want to tell us things that will form and help form these rules as we go forward. This is in no way trying to pressure Kathleen to change her mind, but we just want to give you the information and allow you a chance to come back and ask us any additional questions that might help clarify this for you, so that we can go ahead and continue on with our agenda.

MS. JEFFRIES:

Thank you, Tamy. So Wisdom is up next, and then I think we'll call a halt to the discussion and double check where we're at in consensus. Wisdom?

MR. COLE: Yeah, I think it is important to [inaudible] a time for borrowers to comment, particularly in November as we've entered into repayment. And so the reality for borrowers has actually changed over this period of time from now to November. And so it's important for them to be able to comment on their experiences in real time as we further this discussion.

MS. JEFFRIES:

Thank you. I will make note that, as I did previously, that Sarah Butts is now in at the table as chair. Gammage has left the meeting for a short period of time. So, Sarah, welcome. I will say this if unless you're

serving in your primary place if you could turn your camera off so it's easier to see the consensus. Okay. Alright. So with that being said, let's go ahead and see where we are consensus wise at this point and either way we will move forward. So if I could see a show of thumbs, I would appreciate it. Okay. Alright. It looks like we have consensus. Kathleen, thank you for listening to what the committee had to say and indicating that, you know, you can live with it, you know, the expansion. We do appreciate that. So you have reached consensus on two items now. Congratulations. So we will reflect on these adoptions in the records, okay, as your first consensus action items. So, that brings us to Tamy. That's all I have on logistics. Unless there's something my team feels I missed or Tamy, you feel I missed?

MS. ABERNATHY:

Not at this point. I don't think we've missed anything.

MS. JEFFRIES:

Alright.

MS. ABERNATHY:

Anybody else before we move to the next part of our agenda? Okay. Well thank you, Cindy. Thank you, negotiators for introducing yourselves and letting us

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learn a little bit more about you and where you're coming from. I think it's really important, as we enter into these negotiations, that we really learn from each other and enjoy the conversation. And we, you know, we really want to hear from you. So apparently none of you are shy, which is a good thing. And the Department, of course is not shy as well. So we do look forward to working with you along this. We are going to move now to discuss the nomination vacancies that are on the committee. On September 29th, we posted on our website that we were still seeking additional nominations for two alternates, for alternates for two constituencies. We provided that deadline of October 5th, 2023. We were seeking state officials, including state higher education executive officers, state authorizing agencies and state regulators of institutions of higher education. The second group, we were looking for was Historically Black Colleges and Universities, tribal colleges and universities, and minority serving institutions, institutions that are eligible to receive Federal assistance under our Title III parts a and f in Title V of the Higher Education Act. For the additional nominations received by the deadline, the Department is nominating two additional negotiators to fill these vacant positions. The Department will put forth each

nominee and will ask for consensus from the committee. These nominees have been contacted and are willing and able to participate on the committee should they be approved, and I might add that they are willing and able to join us immediately upon receiving the information they need to access the links. The protocols to add a member to the committee requires consensus from you. The Department would like to nominate Amber Gallup to fill the vacant position of alternate for the state officials, including state higher education executive officers, state authorizing agencies and state regulators of institutions of higher education. She is currently employed at the New Mexico Higher Education Department and a PhD student at the University of New Mexico. Apparently, she has been at this position since 2021. She's previously employed at the Unified Solutions Tribal Community Development Group from 2017 to 2019 and serves on the National Association of State Directors of Adult Education since 2022. She was nominated by the New Mexico Higher Education Department. Cindy, I'd like to open the floor for discussion, then move with a consensus check for this nominee, please.

MS. JEFFRIES:

Okay. Thank you, Tamy. So the floor is now open for discussion. Anyone liking- would like to ask questions

or comments? Please raise your hand. Lane.

MS. THOMPSON:

Yeah. Just want to say that I really appreciate Amber's willingness and availability to serve. I think her background makes her a great option for the state officials alternate.

MS. JEFFRIES:

Thank you, Lane. Any other comments? Questions? Scott Buchanan.

MR. BUCHANAN:

Yeah, just wanted to clarify for the next couple of nominees, these are folks that the Department is recommending affirmatively that they would like to serve in these seats, and if the nominations had been received prior to the cutoff period, would have put them forward as nominees. Is that correct?

MS. ABERNATHY:

Yes, sir. That is correct.

MR. BUCHANAN:

Great, thank you.

MS. JEFFRIES:

Okay. Seeing no other hands, we will move to consensus on Amber Gallup filling the alternate position for state

officials, including higher education executive officers, state authorizing agencies, state regulators of institutions of higher education. May I please see your thumbs? Okay. Consensus has been reached. Thank you very much. We will make note of that in the minutes and once we deal with the next nominee for the group, I'm going to ask one of my team members to contact the two individuals, have a brief discussion with them, and then they will be able to join into the meeting, provide them the link and join into the meeting. Tamy back to you.

MS. ABERNATHY:

Thank you, Cindy, and thank you, committee members. The Department would like to nominate Carol Peterson to fill the vacant position of alternate for Historically Black Colleges and Universities, tribal colleges and universities, and minority serving institutions and institutions of higher education eligible to receive Federal assistance under title III, parts a and f, and title V of the Higher Education Act. She is currently a manager of Enrollment and Financial Aid Process for Langston University's Prison Education program, through the Department's Second Chance Pell Experimental Sites Initiative. She has done so since 2016. She was nominated by the Vera Institute. Cindy, I'd like to open the floor for discussion and then move forward with the

consensus check for nominee.

MS. JEFFRIES:

Okay. Thank you. Floor is open for discussion, questions, comments. Seeing no hands, we will move on directly to consensus on the nomination of Carol Peterson to fill the vacant position of alternate for Historically Black Colleges and Universities, tribal colleges and universities, and minority serving institutions and institutions of higher education eligible to receive Federal assistance under Title III, parts a and f and Title V of the HEA. May I please see the committee's thumbs? Okay, seeing no dissent. The motion has- the nomination has been approved. So, Mike or John, one of you, please. Mike, you're going to do that. Please reach out to the two ladies. Do that brief outreach with them. Give them the link to join the meeting, and we will move forward. Kyra, you have your hand up.

MS. TAYLOR:

Yes, I would like to move to create additional seats. And so I'd like to- is this the appropriate time to do so?

MS. JEFFRIES:

The Department this would be, you know, it looks like

there's concurrence. This would be the time to do that. If there are motions to add additional constituency groups.

MS. ABERNATHY:

Yes, Cindy, if the negotiators would want to add an additional constituency group, we ask that they explain why they believe that group is needed and why it is not, and why it is, you know, not currently represented already at the table. And then Cindy, after they, you know, after each one, if we get an explanation, if you would just kind of, you know, take the pulse and we can go from there.

MS. JEFFRIES:

You want a temperature check?

MS. ABERNATHY:

I'm sorry. I should not have said take the pulse, because that's what that means in our world. So let me reiterate. We'll go back to asking for additional discussion.

MS. JEFFRIES:

Okay. Great. Okay. Thank you. Alright. So the floor is open for nominations for additional constituency groups added to the committee.

MS. TAYLOR:

And can I start us off, Cindy?

MS. JEFFRIES:

Sure can.

MS. TAYLOR:

Wonderful. So there are two critical constituencies that are currently missing from the table, as currently assembled consumer advocates and disabled borrowers. Both seats have been at past negotiated rulemakings, and they are also essential here. First, I'd like to move for a consumer advocate seat. Consumer advocates represent an array of types of borrowers throughout their student loan journey. So they see the whole process, and they have a macro view of how the student loan system works as a whole within the higher education system. Consumer advocates also connect different constituency groups in the student loan space and often work with grassroots organizations, Government agencies, borrowers themselves, researchers, and more. In addition, they're able to see the whole person, not just their student loan situation. Fundamentally, student loans are a consumer product, and consumer advocates are invaluable to craft a solution that remedies the critical problems that have arisen in that product. For this seat, I'd like to nominate Jessica Ranucci from New

York Legal Assistance Group. She is ready and able today to join as soon as she is provided consensus. NYLAG provides both legal and financial counseling services to over 1200 individuals per year. The borrowers they work with are as diverse as the population of New York City itself. Jessica would be an asset to this committee, as she has a wealth of student loan law, legal expertise, and has worked with numerous student loan borrowers to apply for statutory discharges and Income Driven Repayment Plans. She has also done substantial work helping borrowers scammed by student loan relief companies. Prospective that's not currently reflected here. In addition, she's in regular communication with organizations across New York State who provide free student loan counseling through the EDCAP network, a first of its kind statewide network to provide free assistance to student loan borrowers. In addition, I would like to move to create a seat for disabled student loan borrowers. Approximately 7 million.

MS. ABERNATHY:

Kyra, may I interrupt you for one second? We'd like to take these one at a time, please, if that's okay.

MS. TAYLOR:

Sure.

MS. ABERNATHY:

And would you please repeat the name of the person that you're putting forward as a primary? And do you have an alternate?

MS. TAYLOR:

Her name is Jessica Ranucci, and she works for New York Legal Assistance Group. I do not have an alternate at this time.

MS. ABERNATHY:

Okay. Cindy, I'll turn it over to you for discussion. And we would like to confirm with the rest of the committee. We need to make sure if there are any other constituency groups that want to be added, that we are aware of that before we start- before we take a consensus check. So we know that Kyra has put forth two. Are there any other committee members that are wanting to request us to add additional constituency groups to the table? I'm going to take that as a no.

MS. JEFFRIES:

I'm not seeing any hands, Tamy.

MS. ABERNATHY:

Okay. We can move for discussion, Cindy.

MS. JEFFRIES:

Okay. So let's open the floor for discussion on adding the constituency group of Consumer Advocates seat and the nomination of Jessica Ranucci as the primary and there is no alternate recommendation at this point. Yael.

MS. SHAVIT:

Thank you. I just want to note this is a constituency that is very important to represent that's been represented in past rulemakings. I think, by virtue of the breadth of issues that student loan borrowers face and that people who are working with them, consumer advocates get to see this is a very useful perspective. Having read the first issue paper, I think that the experiences of this constituency and NYLAGs perspective as well will be helpful in talking about a number of the issues the Department has flagged as meaningful for the discussion in this first session that's going to be informing the remainder of this negotiation. So I strongly support the addition of this constituency, which, again, would like to emphasize would be consistent with the Department's approach taken in past rulemakings and support this particular nominee.

MS. JEFFRIES:

Thank you, Yael. Next up is Richard.

MR. HAASE:

Yeah, I agree. I think aside from the fact that consistency in who is present on these panels has some value, I do think that a consumer advocate does have a unique ability to represent the breadth and depth of the experience. You know, from what we borrow, why we borrow it, the value of what we borrow and how it intersects with what people make down the road. So I also support the addition of constituency.

MS. JEFFRIES:

Okay. Thank you for those comments. Scott Buchanan.

MR. BUCHANAN:

Yeah. I was just wondering if for the committee, if we could be provided biographies or CVs of the nominees for each of these. Just so we're aware of these folks. All the other prior sort of nominees have been vetted by the Department and were recommendations. So it would just be useful, I think, to see some background in case we're not familiar with the individuals.

MS. JEFFRIES:

A point of clarification on this, Scott. Are you asking for that prior to taking consensus or for general purposes?

MR. BUCHANAN:

I think it would be useful to have, you know, if we're going to take a vote on someone to know who they are.

MS. JEFFRIES:

Are those, - Kyra, do you know if those bios are available if her bio is available somewhere?

MS. TAYLOR:

I believe so. I would need to talk with them, so I might need a break to be able to get those materials to the committee. That would be breaking with past protocol, though. However, in the past, when additional seats have been proposed to the table, the committee has voted even without those materials.

MS. ABERNATHY:

We are happy to allow for time for that bio to be circulated. I'm not sure how logistically that would work, but Kyra, if you would reach out to Jessica and ask her to provide you with that, and then we could get that to the committee for their review. In the meantime, we have several other hands up, so we'll let those other hands further the discussion for this constituency group. Then what we could do is we could go into the discussion of the next constituency group, but we will vote on them separately.

MS. JEFFRIES:

Thank you. Lane?

MS. THOMPSON:

Yeah. Two quick thoughts on this. One is that I also strongly support the addition of this constituency and part of the reason I do is because I think we could benefit from additional attorneys. This is a legal question that we're looking at, and as many legal minds as we can have on it would be awesome. My second point is just that we did confirm those alternates without reviewing their resumes. So just kind of want to throw in that I think we could probably confirm these folks without reviewing the resumes as well. Thank you.

MS. JEFFRIES:

Thank you. Kathleen?

MS. DWYER:

Thank you. I just- it was mentioned that typically both of the two groups that we've been discussing have been included at the table previously. So I didn't know if anyone could answer why they weren't considered as part of the current nominations to the committee?

MS. ABERNATHY:

When we put forth the constituency groups in good faith effort, we tried to capture all of those civil rights

group legal organizations and we thought we got it right. But hearing from you, we are willing to entertain adding two new constituency groups.

MS. DWYER:

Thank you.

MS. JEFFRIES:

Okay. Tamy, do you want to move to this, well Kyra's tied up. Maybe we should take a short break here.

MS. ABERNATHY:

Why don't we go ahead and discuss the other constituency group. And find out if or what anything is needed there and then we can take a few minutes break and then we'll come back and we'll vote because we do have other things that we really want to start making sure that we get through for the rest of the day. Will that work?

MS. JEFFRIES:

Kyra, can you give us an explanation of the second constituency group addition people with disabilities and who you would be nominating to fill the primary and alternate if you have someone for that one.

MS. TAYLOR:

Sure. So I'd also like to move to create a seat for a disabled student loan borrowers. As said before, there

are approximately 7 million people age 25 and older that hold a bachelor's degree or higher and report having a disability. Unfortunately, that number is under-inclusive because less than half of disabled undergraduate students will be able to complete their program, and so as a result, they may have debt but no degree. Disabled people disproportionately earn less than their non-disabled peers but pay a significant portion of their income to obtain medical care and obtain accommodations that make life and work possible. Given these realities, disabled borrowers are significantly more likely to default on their student loans than their non-disabled peers. While some disabled borrowers may obtain a total and permanent disability discharge, many are ineligible for that discharge because they continue to work. The Department created a seat for disabled borrowers when amending its statutory discharge programs and should do the same here. Their absence from this table will negatively affect the solutions that we're able to provide. Because disabled borrowers have unique concerns, limitations and perspectives that should be reflected here. For this seat, I'd like to nominate John Whitelaw, the Advocacy Director at Community Legal Aid in Wilmington, Delaware. John has advocated on behalf of disabled people for

decades, and often helps them navigate the Social Security and Medicaid benefits systems. John has also helped disabled student loan borrowers develop loan repayment strategies. He works with an array of clients with physical, cognitive, and emotional disabilities and can share valuable perspectives on making student loan relief more accessible to borrowers with different capabilities. He also can speak to the unique hardship disabled borrowers experience when trying to navigate the student loan repayment system.

MS. JEFFRIES:

We'll open the floor for discussion. Jada.

MS. SANFORD:

I want to say that I strongly support the addition of this constituency. I think disabled individuals have been historically left out of the conversation and not at the table, and think, this shouldn't be a time where that's the case again.

MS. JEFFRIES:

Anyone else? Kyra, could you do us a favor and drop in the chat the two constituency groups and the names of the people?

MS. ABERNATHY:

Cindy would also like to mention that both of the

individuals that Kyra has put forward have served as negotiators in past rulemakings. And if there is no additional discussion, what we would like to do is have the committee vote on adding these two new constituency groups, taking a break, getting information for, Kyra if you could get information on both of the ones that you've put forward, get it circulated to the group. But we'll go ahead after our short break and take a vote or take consensus. Excuse me.

MS. TAYLOR:

And I'm so sorry to do this, Tamy, but I was also wondering my alternate would also like to propose a constituency group to add, and so if there's time, I'd like to provide him the opportunity to do so as well.

MS. ABERNATHY:

Sure. Are there any other constituency groups that people are wanting to add?

MS. JEFFRIES:

So this will be the final call for addition of groups. Alright? Scott Buchanan, you have your hand up.

MR. BUCHANAN:

Oh, yeah. I'm sorry. I thought we- the Department had already asked for the complete list of new constituency groups?

MS. JEFFRIES

They did and unfortunately, I don't know if Scott Waterman raised his hand and we didn't see him.

MR. WATERMAN:

I did.

MS. JEFFRIES:

As an alternate. So, and Kara didn't- was busy with this. So, if it's alright with the committee, we'll allow the one last.

MS. ABERNATHY:

Cindy, the Department is fine with him proposing another constituency group.

MS. JEFFRIES:

Okay. Alright. So, Kyra, would you please? Scott, where'd you go?

MR. WATERMAN:

I'm back on. Okay, one group that appears to be missing is council that represent middle income borrowers, people who are working but struggling to pay their student loans. And there are two individuals who I think would be really helpful because they work in the trenches on how to deal with these student loans. The first is Ed Boltz. Ed Boltz is from North Carolina. He is the former president of the National Association of

Consumer Bankruptcy Attorneys, and he deals on a daily basis the problems of having borrowers negotiate and also deal with the process on how to discharge or to reduce their student loan obligations. The second, his alternate, is another attorney who represents borrowers who is intimately familiar with the regs, and his name is Josh Cohen. He's an attorney from Vermont who specializes in student loans and borrowing issues. I think both would be really helpful for their perspective if we're going to be creating new rules, new regs, and how they will impact the reality on the ground. So those are my two recommendations.

MS. JEFFRIES:

Okay. I will open the floor for discussion.

MS. ABERNATHY:

Cindy, we would also need bios on those two individuals, please.

MR. WATERMAN:

I'm happy to provide bios.

MS. ABERNATHY:

Scott, if you could add that to the chat now, that would be great so that people could take a look at it.

MR. WATERMAN:

Having trouble inputting the bios but give me time.

MS. ABERNATHY:

I think you're on mute.

MR. WATERMAN:

I appear to be unable to cut and paste a bio onto the chat.

MS. SHAVIT:

Cindy, if he emails it to you guys, could you do it?

MS. ABERNATHY:

Cindy, we are unable to hear you.

MR. FRANZAK:

Scott, it's Mike Franczak. Feel free to send it to my email, which was included earlier. M Franczak mfranczak@fmcs.gov. It was at the very beginning of today's session. It's also there in the chat. Send it to me and I'll upload that as quickly as I can.

MR. WATERMAN:

Alright, I'll try.

MS. ABERNATHY:

Michael while Cindy is working on her issues, would we be able to go to Kathleen? She has her hand up. We can open up discussion.

MR. FRANCAZAK:

Sure. Kathleen, please feel free.

MS. DWYER:

I had a question to the other negotiators about the distinction between these two different classes of borrowers that we say are not represented. I understood disabled borrowers consumer advocates and then now this third category, people who represent middle income borrowers. Is there overlap between the consumer advocates and those who represent middle income borrowers? Are these really two distinct categories or is this really one and we're talking about four potential people representing one particular negotiating group?

MS. JEFFRIES:

Can you hear me now?

MR. WATERMAN:

So, Cindy, here's where we left off. Kathleen Dwyer had asked if there was any overlap between the consumer advocate constituency group that we were discussing,

adding as well as what now someone else has proposed around a middle-income borrower. So I guess the question is for the two folks who had offered those as constituency groups, if perhaps they could share a little bit more in terms of what those specifically represent, so that we could begin to answer if there's any overlap around the two groups.

MS. JEFFRIES:

Okay. Kyra, you have your hand up.

MS. TAYLOR:

Thanks, Cindy. So I think there are important distinctions between these groups of borrowers. So consumer advocates are able to see the whole system writ large and are dealing with a variety of different types of borrowers in different types of situations. They're able to take a macro view. They are also more diverse than the types of work that they do in terms of student loans as well. I would amend perhaps Scott's definition of the seat that he's proposed. These are bankruptcy attorneys that represent borrowers in bankruptcy specifically. However, they are private attorneys. And so they are often representing folks who can pay for their services, which is also inherently a distinct population from the populations that are currently represented on this committee. I think it is important

that we have the full variety of student loan borrowers reflected on this committee in terms of crafting solutions that are as accessible and are fair to as many people as possible.

MS. JEFFRIES:

Scott Buchanan.

MR. BUCHANAN:

So just to clarify then so is the third constituency bankruptcy attorneys?

MR. WATERMAN:

Well they do bankruptcy, but both Josh and Ed work beyond bankruptcy too. Too often when you're a private practicing attorney dealing with student loans, you have to be involved in the bankruptcy system if you're going to try and address student loans.

MS. JEFFRIES:

Tamy.

MS. ABERNATHY:

What if we went ahead and looked at the consumer advocacy group and the disabled group and then we proposed perhaps adding an alternate of one of the members that Scott proposed, perhaps Ed? What do you guys think about that?

MS. JEFFRIES:

Discussion?

MS. TAYLOR:

I think both. Oh sorry, I didn't raise my hand. But in lieu of other hands, I think the representation of both consumer advocates and disabled borrowers at this table are especially essential that both of those constituencies are essential to crafting an effective solution to the student loan crisis that we're facing. However, if that is the proposal that the Department is most comfortable with, we would be willing to go with it.

MS. ABERNATHY:

Let me reframe that. We will take a consensus on all three of them. But we would like to put out there for discussion that we understand consumer advocacy and the disabled borrowers. We're a bit concerned about additional overlap with adding yet a third constituency group, but if others have thoughts that they would like to share, we would really like to hear from them.

MS. JEFFRIES:

Richard.

MR. HAASE:

Yeah, point of clarification. It sounds like you're

recommending and if I understand the policies that were laid out correctly, that we have through our negotiations, the opportunity to bring forward additional outside testimony, and it sounds like you're suggesting Tamy correct me if I'm wrong, that the addition of a bankruptcy lawyer not be added as another constituency group, but that 1 or 2 of these people be considered for outside testimony during the course of our conversations. Is that what you're suggesting?

MS. ABERNATHY:

We are not suggesting that at the moment. What we are trying to do is engage in conversation about what are your thoughts on adding two new constituency groups, which are the consumer advocacy group and the disabled group. It still has to go to the committee for a vote. So it's not necessarily our recommendation, it's discussion right now. Does that help answer? He went off screen, so I can't see if it helped answer his question.

MR. HAASE:

Yeah, I was asking specifically if that was what you were putting out for discussion regarding the third category that the bankruptcy attorney. It does sound like we are looking to go to a vote on the first two recommendations before we get to that question, is that correct?

MS. ABERNATHY:

Yes, sir.

MR. HAASE:

Okay, thanks.

MS. JEFFRIES:

Thank you. I thought I saw another hand up. There, Yael.

MS. SHAVIT:

It was me. Don't want to be duplicative and think that Tamy just added clarification that may render this unnecessary. The one point I do want to make is think that there is really no overlap in the context of the consumer advocacy representative. I think, if anything, adding that constituency and ensuring that the person who's in that seat is actually consumer advocate would provide a much broader perspective than is presently on the committee. And as far as representing the on the ground what students are experiencing, especially the hardships that the Department called for information about that can span a wide variety of issues so that's just, you know, one thought there as to the questions about overlap.

MS. ABERNATHY:

Thank you for clarifying. Cindy, as soon as we can wrap up discussion, we're ready to take consensus on the

consumer advocacy group and the disabled borrower group. And then we would like to take a break. We are going to need additional time to discuss the third group.

MS. JEFFRIES:

Okay. Alright. We'll take one last comment as Scott Buchanan hand is up.

MR. BUCHANAN:

Oh, yes. I just want to clarify one thing. I thought you meant what you might be suggesting is with the first two constituency groups that potentially this gentleman Ed Boltz be added as the alternate in the consumer advocate group to be inclusive of that perspective. Is that, I thought?

MS. ABERNATHY:

Yes, sir, that is the discussion that we're having. Yes, sir.

MR. BUCHANAN:

Okay, great. Thank you.

MS. TAYLOR:

And then I'm so sorry. I just want to clarify with that added clarification. Thank you so much, Scott, that we would be in support of that proposal.

MS. JEFFRIES:

Alright. So at this point, I think we'll move to the consensus to regarding adding the consumer advocacy group, if I understand this correctly, that would be inclusive of Jennifer or I'm sorry, Jessica Ranucci as primary and Ed Boltz as alternate or do you just want to do the group right now?

MS. ABERNATHY:

I think it would be best if we just did the group right now, because we did tell the committee we'd give them a chance to look at the bios. Thank you, Cindy. Thanks for clarifying.

MS. JEFFRIES:

Yep. So I will take a showing a thumbs on whether or not the committee is going to approve adding an additional constituency group on consumer advocacy. May I see your thumbs, please? I'm seeing no dissents. It has been approved by the committee to add the consumer advocacy group. Moving on from there, we'll take consensus now on the adding another constituency group for borrowers with disabilities. Is that correct? Is that how you wanted to title it? Okay, so may I see your thumbs on that? Not seeing any dissent, that the committee has approved the addition of that constituency group as well. So at this point it is 11:45. We are scheduled for lunch. Tamy, do

you want to just go ahead and take the break in lunch?

MS. ABERNATHY:

Yes, I do. Thank you.

MS. JEFFRIES:

So why don't we go ahead and we'll break now this will be inclusive of your time for your lunch period and to get these bios out and review them. So promptly at 1:00 when we start back in, we will immediately take consensus on the nominees to fill those groups, and then we will move on from there. Okay?

MS. ABERNATHY:

Thank you, Cindy.

MS. JEFFRIES:

Yep. So, you are free to go. Have a wonderful lunch. Did we get those bios out? Yes, he did. Mike's got them in the chat for you to be able to [inaudible] and-

MR. FRANCAK:

Ed Boltz is on the way.

MS. JEFFRIES:

I know him, I believe. I think, Yael, he's been on one of these before, right? I don't know. The name sounds familiar for some reason anyway. Alright, so we'll get

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Ed Boltz as you can check back in the chat and enjoy your lunch. Please be back by a quarter to one so that we can get situated and set and be ready to start sharply at one.

Negotiated Rulemaking - 10/10/23

Zoom Chat Transcript

**Student Loan Debt Relief Committee - Session 1, Day 1,
Morning, October 10, 2023**

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

From (P) Michael Jones (he/him/his) Veterans to
Everyone:

yes

From Michael Franczak-FMCS to Everyone:

Mike Franczak: mfranczak@fmcs.gov

From Michael Franczak-FMCS to Everyone:

Day 1 - Tuesday, October 10:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTQzZTliYTtMDBiYS00ZjRlLTg4OGEtZGRjODMwYTQxY2Fl%40thread.v2/0?context=%7B%22Tid%22%3A%22bd5d4514-84de-4928-a9fd-6ae10bbad677%22%2C%22Oid%22%3A%22f3839170-4899-41f5-b324-b6bf60c67342%22%2C%22IsBroadcastMeeting%22%3Atrue%2C%22role%22%3A%22a%22%7D&btype=a&role=a

From P-Ashley Pizzuti-Student Loan Borrowers-2YrsorLess
to Everyone:

Will this be recorded and put on YouTube like in years
past?

From Valerie Lefor, Department of Education to Everyone:

Yes, we will plan to post the recordings on YouTube

From P-Sher Gammage-4 Year to Everyone:

Sarah Butts will now take over as primary negotiator
representing 4 year borrowers. I will return for the
afternoon session

From A-Jalil Mustaffa Bishop-Student Loan Borrowers-
Graduate Prog to Everyone:

Negotiated Rulemaking - 10/10/23

Can we share these nominees' names in the chat?

From (P) Jada Sanford - Currently Enrolled to Everyone:

^^^

From Tamy Abernathy - Policy Coordination Group Director,
ED to Everyone:

Amber Gallup and Carol Peterson

From A-Jalil Mustaffa Bishop-Student Loan Borrowers-
Graduate Prog to Everyone:

Thank you

From P-Yael Shavit-State AGs to Everyone:

I strongly support the addition of this constituency
and this particular nominee.

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:

Consumer Advocates- Jessica Ranucci, Disabled
Borrowers- John Whitelaw

From A-Jalil Mustaffa Bishop-Student Loan Borrowers-
Graduate Prog to Everyone:

I do not see any bios in the chat

(ED Note: Bios are available on the Department of
Education's [2023-2024 Neg Reg website](#))