

**DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
STUDENT DEBT RELIEF COMMITTEE
SESSION 1, DAY 2, MORNING
OCTOBER 11, 2023**

On the 11th 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+-

MR. FRANCAZAK:

Good morning and welcome to day two of the Department of Education public policy negotiated rulemaking. I'm Mike Franczak, FMCS facilitator for the morning session. Welcome you here for our second day and hopefully another good experience as we had yesterday. Cindy Jeffries has posted in the chat room the public live stream link. There was a capacity issue from earlier. We've had a large number of people show interest. So the Department has increased the capacity to allow more people to view this live stream. So thank you all for taking care of that. I'll begin with the roll call. And what I'll do is I will announce whether the person's primary alternate their constituency group and their name. In the response, would you please indicate HERE to indicate you are present? Okay. So I'm going to run down the list I have. Please identify yourself with Here. Alright first, primary civil rights organization, Wisdom Cole.

MR. COLE:

Here.

MR. FRANCAZAK:

Alternate, civil rights organization, India Heckstall.

MS. HECKSTALL:

Here.

MR. FRANCAK:

Primary, currently enrolled postsecondary education students, Jada Sanford.

MS. SANFORD:

Here.

MR. FRANCAK:

Alternate, currently enrolled postsecondary education students, Jordan Nellums.

MR. NELLUMS:

Here.

MR. FRANCAK:

Primary, Federal family education loan lenders servicers or guaranty agencies, Scott Buchanan.

MR. BUCHANAN:

Here.

MR. FRANCAK:

Alternate, Federal family education loan lenders servicers or guarantee agencies, Benjamin Lee.

MR. LEE:

Here.

MR. FRANCAZAK:

Primary, historically Black colleges and universities
tribal colleges and universities and minority-serving
institutions, Sandra Boham.

MS. BOHAM:

Here.

MR. FRANCAZAK:

Alternate, Historically Black Colleges and Universities
tribal colleges and universities and minority-serving
institutions, Carroll Peterson. Present, Carroll?

MS. PETERSON:

Yes, I'm here. Can you hear me?

MR. FRANCAZAK:

Yes. Thank you. Alright. Primary, legal assistance
organizations that represent students or borrowers, Kyra
Taylor.

MS. TAYLOR:

Here.

MR. FRANCAZAK:

Alternate, legal assistance organizations that represent
students or borrowers, Scott Waterman.

MR. WATERMAN:

Here.

MR. FRANZAK:

Primary, private nonprofit institutions of higher education, Angelika Williams.

MS. WILLIAMS:

Here.

MR. FRANZAK:

Alright. And it's my understanding that Susan Teerink from the private nonprofit institutions of higher ED alternate is out today. Alright. And then primary, proprietary institutions, Kathleen Dwyer.

MS. DWYER:

Here.

MR. FRANZAK:

Alternate, proprietary institutions, Belen Gonzalez.

MS. GONZALEZ:

Here.

MR. FRANZAK:

Primary, public institutions of higher education, including two-year and four-year institutions, Melissa Kunes.

MS. KUNES:

Here.

MR. FRANCAK:

Alternate, public institutions of higher education, including two-year and four-year institutions, J.D. LaRock. Oh, that person's joining late. My apologies. I had a note for that. Didn't catch it soon enough. Primary, state attorneys general, Yael Shavit.

MS. SHAVIT:

Here.

MR. FRANCAK:

Okay. Alternate, state attorney general, Josh Devine. Alright, not present. Primary state attorney. I'm sorry. State officials including state higher education executive officers state authorizing agencies and state regulators of institutions of higher education, Lane Thompson.

MS. THOMPSON:

Here.

MR. FRANCAK:

Alternate, state officials including state higher education executive officers state authorizing agencies and state regulators of institutions of higher education, Amber Gallup.

MS. GALLUP:

Here.

MR. FRANCAK:

Alright. Primary, student loan borrowers who attended programs of two-years or less, Ashley Pizzuti. Not present. Okay. Alternate, student loan borrowers who attended programs of two years or less, David Ramirez. Also not present. Primary, student loan borrowers who attended four-year programs, Sherrie Gammage.

MS. GAMMAGE:

Here.

MR. FRANCAK:

Sherrie. Sher. I apologize. Alright. Alternate, student loan borrowers who attended four-year programs, Sarah Butts.

MS. BUTTS:

Here.

MR. FRANCAK:

Okay. Primary, student loan borrowers who attended graduate programs, Richard Haase.

MR. HAASE:

Here.

MR. FRANCAZAK:

Okay. Alternate, student loan borrowers who attended graduate programs, Jalil Bishop.

DR. BISHOP:

Here.

MR. FRANCAZAK:

Thank you. Alright. I'm also told Michael Jones, who was primary for US military service members veterans and groups represented, is out today. Alternate for that group, US military service members veterans or groups representing them, Vincent Andrews.

MR. ANDREWS:

Here.

MR. FRANCAZAK:

Primary, consumer advocates, Jessica Ranucci.

MS. RANUCCI:

Here.

MR. FRANCAZAK:

Alternate, consumer advocates, Ed Boltz.

MR. BOLTZ:

Here.

MR. FRANCAZAK:

Primary, individuals with disabilities or groups that represent them, John Whitelaw.

MR. WHITELOW:

Here.

MR. FRANCAZAK:

Okay. And I believe we will be discussing the alternate for that constituency as a part of our administrative matters today. And then I'm going to just check in with some of our Department folks, including general counsel's office and then our chief negotiator for the Department. So let me begin with general counsel's first, Toby Morrell. Are you present? Toby?

MS. MERRILL:

Yes, I'm here.

MR. FRANCAZAK:

Thank you. General Counsel, Soren Lagaard.

MR. LAGAARD:

Here.

MR. FRANCAZAK:

And lastly for the general counsel, Brian Siegel.

MR. SIEGEL:

Here.

MR. FRANCAZAK:

Alright. And then chief negotiator for the Department, Tamy Abernathy.

MS. ABERNATHY:

Here.

MR. FRANCAZAK:

Alright. Did we miss anyone? Alright. If not, thank you. We'll- just as a quick review reminder for the naming conventions, if you came in a little later as a reminder from yesterday, if you are primary, please list yourself P. As alternate, list yourself as A. Include your name and your constituency group. Please raise your hand your virtual hand if you wish to speak. Though as per the protocols, it will be for 30, sorry 3 minutes with 30 second reminder. And we will continue with consensus with a show of thumbs. Up, meaning in agreement, side you can live with, down in dissent. Okay, so that takes us next. Yes.

MR. WEATHERS:

If I could, Ashley Pizzuti is now in the meeting if you want to.

MR. FRANCAZAK:

Alright. So let's note that Ashley Pizzuti a primary for student loan borrowers who attended programs of two-

years or less is now present. Can I (inaudible) here if she's here?

MS. PIZZUTI:

I'm here.

MR. FRAN CZAK:

Great. Thank you. Alright. So what I was going to do next is go to administrative matters. And the first, I believe, is a nomination for an alternate for the constituency group that was created yesterday, which was individuals with disabilities or groups that represent them. That group was added yesterday. John Whitelaw was nominated and accepted as primary. My understanding John Whitelaw has an alternate nominee for that constituency group. John.

MR. WHITE LAW:

I do, and first, I apologize for my awkward appearance today. I had an emergency client visit and I'm on route between spots, but have pulled over because, you know, I don't really want to wreck the car during this meeting. It is my pleasure to nominate as an alternate Waukecha Wilkerson. I believe everyone was sent a brief outline of her bio and so I don't need to- I'm not going to repeat any of that. I think based upon my conversations with her, she would make an excellent alternate. She was

lurking yesterday on the public watching. So she was aware of what happened yesterday. I suspect she is on today and assuming there's a favorable vote, would be delighted if she could join as an alternate.

MR. FRANCAZAK:

Alright. So John Whitelaw has nominated Waukecha Wilkerson. Everyone should have received her bio-person's bio for review. Is there any discussion? Any hands? John, I don't assume you're going to add anything so I assume your hand is down and you're being safe and driving so that's understood for that. So if there isn't any further discussion on the nomination, what if we do a quick consensus check. Are we in agreement to add Waukecha Wilkerson as the alternate for individuals with disabilities or groups that represent them? Can we have a thumbs? Alright. Don't see any dissent. So I believe we are in agreement and Waukecha Wilkerson is added as an alternate for that constituency group. I guess John or Cindy, would you please reach out to her?

MS. JEFFRIES:

Yep. We got it. We're on it. I'd like to also ask that the alternates or if the alternates sitting in for primary, if you're not sitting at the main table for the discussions you make, we invite you to go ahead and turn your cameras off at this point.

MR. WHITELAW:

And I'm just going to turn mine off for the next 15 minutes while I get back to my office.

MS. JEFFRIES:

Yes. Please concentrate on your driving. Thank you.

MR. WHITELAW:

I pulled over for this. It's all good, but I'm gonna- I'll be listening, but I'm just going to turn my camera off. You do not need to see me driving.

MS. JEFFRIES:

Okay. Alright. Thank you.

MR. FRANCAK:

Alright. It's also my understanding the public comment is full for today. There is a wait list, however, if you're interested, please feel free to add your name. There is more and expanded time in November, on November 6th and 7th for additional public commentary period. The period will be increased from 30 minutes to 60 minutes. So that is an understanding and notation I wanted to add. Alright with that, the next thing I believe is we're going to go through the overall issue overview and also a day one recap, I think by Tamy and Ben. So who am I turning it over first to?

MS. ABERNATHY:

That would be me Michael, thank you so much. Welcome back everyone. We hope you had a productive day. We took some time yesterday afternoon to reflect on your comments and your suggestions, and we decided that instead of just jumping into the questions this morning, that we would take a few minutes to reframe some conversation and provide a little bit more information that you requested. So I'm going to turn it over to Ben to have him share a few words and frame our conversation before we jump in today.

MR. MILLER:

Thank you Tamy, and good morning everybody. So as Tamy said, we want to provide some clarity in response to the discussion yesterday, which we hope will help the negotiators understand how we're thinking about waiver a little bit better. So in this rulemaking, we're using waiver to describe canceling some or all of a borrower's outstanding loan balance. You might hear this also referred to as cancellation or discharge or forgiveness as shorthand. But for these discussions we're using those words interchangeably. And in particular, what you see in the issue paper is we've identified five categories of borrowers for whom we're exploring, waiving meaning, discharging, or canceling some or all

of their loan balances under the Higher Education Act. What we're hoping to do as we move into each of these questions is to get a sense from the negotiators how both you and your constituencies feel about the idea, and to get your feedback on how to best structure it. So I just want to provide a couple examples. So the first question in the issue paper we raised was identifying a group of borrowers whose outstanding balance is larger than what they originally borrowed. In that case, we had asked for thoughts on a proposal to reduce those borrowers' current balances back to the amount we originally borrowed. We heard many detailed ideas or suggestions, such as removing the capitalization or accumulation of unpaid interest and then applying payments to that amount. That kind of feedback is helpful as we explore what is possible. Other considerations that would be helpful to get feedback on from the committee around whether borrowers should have entered repayment for a certain period of time, before having all or part of that amount above their outstanding balance wave, and if so, for how long and how should we think about structuring that provision overall? The second question in the issue paper is a bit different. We heard a lot about the need for automation, and we agree with you. From Borrower Defense to total

and permanent disability discharges, we have seen many examples where eligible borrowers are not applying for loan forgiveness. We've also tried to write provisions into our previously issued regulations that allow the Secretary to provide a borrower a discharge of their loans without an application, if he determines that the borrower is eligible. We see this waiver proposal as building on that. We'd want to pick up this idea for programs like Income Driven Repayment and others. In those cases, we aren't proposing amending the terms of the program in terms of what it takes to be eligible. Rather, we're looking to change how a borrower can get relief once eligible. On this question, we also heard some really helpful ideas, such as the one from the negotiator who suggested including borrowers who would be eligible for a discharge except for circumstances outside their control. Today, Tamy is going to walk us through three more questions. Plus, there will be time for negotiators to share ideas we didn't propose. With each of these, we're hoping the committee members approach them through the following lens. One, if the Department were to provide full or partial cancellation for a borrower who falls into this category, how would you structure that regulatory provision? So this can mean things like, what types of loans are eligible, what

types of borrowers are eligible, do they have to have been in repayment for a certain period of time? Things of that nature. And along those same lines, what the eligibility criteria would be. I also wanted to try and clarify a bit on the lines between what are things we are looking to do here in this rule and what we're not looking to do here in this rule. We heard a lot of ideas about what employer occupations are eligible for PSLF, how to treat in-school deferments, things of that nature. Those are part of specific requirements that are in the PSLF regulations, which you can find in 34 CFR section 685.219. We amended those regulations last year. So while we always welcome ideas for improving the student loan programs, we do not plan to amend those regulations through this process. In this process, we are talking about adding or changing regulations that would largely be in 34 CFR part 30, which is debt collection. I know that phrase is a little bit confusing, but this would apply to waiver as well. So I strongly suggest that you take a look at that section as we're thinking about how we might structure regulations here. So PSLF is relevant here because it's one of those areas where we consider under our second question, in the issue of paper. Borrowers were eligible for cancellation do not apply, but reforming the details of

the program overall don't fit within what we're trying to do here. I know that what we can do on interest can also get confusing here. So let me try to clarify that a little bit as well. We cannot change the interest rate on a student loan. That is set in statute by Congress, and regulations are subordinate to statute. So we cannot issue a regulation that says the interest rate on loans going forward will be set to 2%, or something of that sort. That requires congressional action. What we can do is talk about how long-term challenges with interest have affected borrower's ability to repay their loans, and whether our existing improvements to the program, which will help borrowers going forward, might need to be complemented by a one-time solution to put borrowers on more solid ground. Hence, you see the discussion in the first question about trying to find ways to deal with people who have balances that far exceed what they originally borrowed. Finally, I wanted to note that we got into a lot of details yesterday about things where the Department does not issue regulations. Because loan servicers are our contractors, we have a more direct way to make changes to what servicers do through the contracting process. We do not regulate our instructions to servicers. Similarly, we don't regulate things like outreach strategies or our website because we want the

ability to be flexible and improve as we learn more about what works. What I will say, though, is the whole idea behind the second question is to not make us dependent upon successful outreach, but rather to give us the flexibility to automate more widely when we can. I hope that provides a bit more clarity. So to sum up briefly, think of each question as a group of borrowers where we might discharge some or all of their loan or loans. And as you consider that idea, what we're looking for is general support or opposition for the idea. And then ways you would refine or clarify it so we can turn it into regulatory text and move toward seeking consensus. Thank you very much for your time.

MR. FRANZAK:

Thank you. Ben. There are a couple hands. Do we want to take those first before Tamy would share anything further? Okay, let's take those. The two hands I saw raised were Kyra Taylor and Jessica Ranucci. How about we start with Kyra?

MS. TAYLOR:

Thanks, Michael. Ben, thank you so much for that summary and that clarity. That was helpful. I did want to correct one thing. So you noted the general consensus amongst the committee that interest should be waived to reduce the amount outstanding to the original principal

borrowed. However, the second part of that proposal was that payments made be reallocated to that original principal. So for some borrowers, that may fully pay off their debt. So I just wanted to clarify that one point, because that seemed like a really important proposal that was discussed and supported by the committee.

MR. MILLER:

Yeah, we heard that. I was just trying to give an example of that's the type of constructive feedback that's helpful for us to think about it.

MR. FRANCAZAK:

Up next, Jessica Ranucci.

MS. RANUCCI:

Thanks again, Tamy and Ben. I really do think that framing was very helpful and I really appreciate it. Just one minor clarification and then one request. Ben, were you suggesting that the Department is interested in this rulemaking and talking about ways to automate already existing programs like IDR?

MR. MILLER:

Right. So that's what we were trying to get at with that second question is basically if you look at, for example, at the PSLF regulations, when we redid those, we put in text that essentially says if the Secretary

determines the borrower's eligible, he can discharge the loan without an application. And what we're looking to do is sort of add potentially an additional provision somewhere here in part 30 that I think you could think of as kind of a general catchall that would apply to IDR which is kind of the largest of these discharge programs where we don't have language like that. But we also know there's a lot of different circumstances for borrowers out there and things of that nature. And so we are trying to sort of belt and suspenders it a little bit. But that is the general thing we're trying to get through with question two is basically to say, if we wrote in something that was a more general provision to say, if we figure out someone's eligible for the discharge, what do people think about the idea of then allowing us to sort of say we can discharge them without an application, but, you know, it would almost certainly involve an opt out period on their part.

MS. RANUCCI:

Got it. So just to clarify, think you're saying other discharge programs are on the table at the negotiation to the extent we're talking about automatic automating already existing processes? Okay. And then my request is I think this conversation is really helpful, but I do think that the red lines, you know, ultimately are going

to be the most helpful in moving forward. And so I was hoping by the end of the day, the Department could give us a timeline for providing red lines before table two. I know that might take you guys a little bit of time to figure out, so I wanted to ask it early in the day.

MR. MILLER:

Yeah, I mean, we're committed to bringing any red lines we can and you'll get it a week before the session. You know, I think it depends a little bit on- I think some of these things you can see are relatively concrete and they're sort of dials we need to turn or feedback we're looking for others are a little bit broader. So you know we'll definitely have red line for some of these things. But whether or not we have red lines for all five questions at session two, I can't commit to at this point because we have to discuss some of them and see what we think.

MR. FRANZAK:

Jessica could you put that request in the chat so it's not lost?

MS. RANUCCI:

Yeah.

MR. FRANCAZAK:

The red lining request. Alright, next we have Melissa Kunes.

MS. KUNES:

Thanks, Mike and Ben, thank you so much for framing that issue for us. I've found your explanation quite helpful and added clarity to my thinking. The one issue I do want to ask about is in the regulatory text, in terms of the Secretary's authority to waive. It appears as though there seems to be a cap of \$100,000 he has the authority to waive. Is that something that we need to keep within our thinking as we go through our deliberations?

MR. MILLER: I would say, let us handle that side of things, because we can kind of think about that as we work through it. And, you know, what you'll see is we'll do a scrub of what we think we can legally do, what we think we can operationally do, and what we want to do policy wise. So would not get too worried about that part. And we can sort of try and clarify that as we work on the reg text about what you need to be concerned about as you go forward on that.

MS. KUNES:

Thank you.

MR. FRANZAK:

Angelika Williams.

MS. WILLIAMS:

Thank you. And thank you, Ben, for that explanation. Once again, to echo everyone else, that was extremely helpful. I'd like to revisit question number one, because I brought up the Pell research data as a huge advocate of doubling the Pell to prevent loan debt. But now, listening to your introduction and explanation, I wonder now if there's an option where if you're looking at the amount of payment, like an individual who has already paying on their loans and the outstanding balance is higher than originally borrowed. Looking at that, in the amount repaid, if the amount repaid is equivalent to the amount that's borrowed, could the remaining balance be waived? So I would like to put that suggestion out there or that comment out there.

MR. MILLER:

Yeah, if you could put that in the chat.

MS. ABERNATHY:

Oh I'm sorry, Ben.

MR. MILLER:

Sorry. Go ahead, Tamy.

MS. ABERNATHY:

Can I take this one? Angelika, thank you for that. If

you would put that in the chat. We are going to have all of the chats and all of the requests from our conversations memorialized, and then we will take those as action items. And those that we can fulfill we will definitely, you know, communicate with you guys and we'll engage in those conversations as we proceed through the rest of the negotiation. So thank you for that suggestion and for tweaking it slightly based on what you heard today. We look forward to getting back to all of you with all of those requests you asked of us yesterday and today. Future requests.

MS. WILLIAMS:

Thank you.

MR. FRANCAK:

Sher Gammage.

MS. GAMMAGE:

Yes. Could you please define red lining?

MS. ABERNATHY:

Yes, ma'am. What we do is we take the original existing text, regulatory text, and present exactly what is in regulations currently. We then do what is called redlining. So we actually go into that existing regulatory text and propose a mandatory text in what's called redlining. So word has a function in it that when we want to track our changes, so we want to delete a

word, it would cross it out. If we wanted to add a word, it would put it in, but it would keep it in a respective color to indicate that these are the proposed changes that we wish to discuss with you during the next set of negotiations. So it's simply a document with side by side where you know what it currently says and what we are proposing to change or add.

MS. GAMMAGE:

Thank you.

MS. ABERNATHY:

And also the other thing I want to make mention, one of my colleagues just reminded me of, we are working on new concepts here, so there may not be existing regulatory texts that we're going to red line, but you would see our additions in red line. So if there's a whole component that we feel we need to add because we know that this is new territory for us, we are, you know, exploring what we're going to create through our mandatory regulatory language. Does that help? Did that answer your question, Sher? Great. Wonderful.

MR. FRANCAK:

Is there any more overview or recap from yesterday before we begin diving into the other subtopic issues of the five that were listed? Is there any further overview or recap from Department officials? Alright. If not,

alright. So yesterday we tackled issues one and two in terms of initial framing with question and discussion. It's my understanding we're going to hold on three for the moment and go to issue number four first in the morning. And we'll come back to three and then five in the afternoon or after lunch. So is someone from the Department ready to tee up question number four or issue number four?

MS. ABERNATHY:

I believe Vanessa will share her screen. Thank you, Vanessa. Give me just a second. I'm having a little bit of a technical, technological difficulty. There we go. So we are deciding- we've decided to move to question number four for this morning as Michael discussed. This is about entering repayment many years ago. The Higher Education Act generally lays out repayment plans besides the ten, the standard ten-year option that end after no more than 20, 25 or 30 years of payments. Most repayment plans, such as the Income Based Repayment, adopt limits of 20 to 25 years. We have seen that borrowers can and do end up holding loans for extended periods of time. For these individuals, debt taken out is a young adult can easily follow them into middle age or beyond. The Department has taken steps to address situations where borrowers have ended up in repayment for longer than

they should have. We've corrected long standing errors in payment counts and misuse of forbearances that have helped borrowers receive forgiveness approval. Recent changes to our Public Service Loan Forgiveness and Income Driven Repayment Plans will also credit borrowers for some periods in deferment or forbearance because of concerns that whether to use these options or stay in repayment are overly confusing and may not have been offered to them. However, borrowers with older loans did not have the benefit of these provisions put in place. Data have shown that very old loans are unlikely to ever be repaid. Congress and the Department have provided borrowers with many additional benefits for their student loans over time. There are many borrowers, however, who borrowed or entered repayment before the creation of those various benefits. Since those benefits were not available when those borrowers took out their loans, those borrowers may have struggled to repay their loans in ways that those taking on debts today may not. The Department would like the committee's thoughts on this question. How should we treat loans that first entered repayment years ago, including, well prior to the creation of additional benefits? And how should the Department apply the FCCS compromise principle to loans that the borrower is unable to repay in a reasonable

amount of time?

MR. FRANCAZAK:

There was something placed in the chat as a question from Angelika Williams. It says, is it possible for the Department to forgive the remaining outstanding balance if the borrower has fully repaid their current student loan debt, matching the total amount borrowed through their payments? So that is a question. I don't know if the Department wants to respond yet for that. Angelika is there anything further you want to add in the framing of that particular question?

MS. WILLIAMS:

No, not at this time. It was a revisiting yesterday's question number one so that I can rephrase my suggestion.

MR. FRANCAZAK:

Understood. Thank you.

MS. ABERNATHY:

And Michael we'll consider that. So thank you for putting that back in the chat, Angelika. We'll try to answer that next time.

MR. FRANCAZAK:

Alright. Thank you. Alright. So I'm going to go in the order that I see folks so got lined up Kyra Taylor, Jada Sanford, Jessica Ranucci, Lane Thompson, and Yael

Shavit. Alright. So let's begin with Kyra.

MS. TAYLOR:

Thank you Michael. So we are broadly supportive of the premise of this question that borrowers who have older loans should be entitled to cancellation here they have been in repayment for long enough. Broadly, the longer a borrower is in repayment, it raises questions about their ability to repay. These are borrowers who have had periods in forbearances, in deferments, because they were unable to make payments. These are also borrowers who are more likely to have periods of default. In fact, in the student loan information that the Department provided to Senator Warren in 2021, 4.4 million borrowers had been in repayment for 20 years or more, and roughly half over 2 million borrowers were in default. Of that 4.4 million, only about a quarter, less than a quarter have received relief under the Income Driven Repayment account adjustment, suggesting that many of these borrowers have periods of default that mean that they will be in repayment for even longer. These old loans bear the scars of servicing misconduct, a forbearance steering of misinformation that was provided by servicers. And they also bear the scars of policies that were fixed for newer loans. But where those policies did not provide retroactive relief. In

terms of default, we know that of the borrowers in default, there are many borrowers who have been subject to the collection powers, but because they are so low income, those collection powers have not touched those borrowers' principals at all. There is no statute of limitations on the collection of student loans, and so these borrowers can remain in default indefinitely. This keeps them in a cycle of poverty, which is cruel because those collection powers which include wage garnishment, tax refund offset, which includes the seizure of poverty protection programs like earned income tax credits and child tax credits, and the seizure of Federal benefits like Social Security are seized. Meaning that borrowers in poverty are even more in poverty and are stuck in poverty, and borrowers who are close to the poverty line are pushed below the poverty line. And as said before, this can occur until the borrower dies. Thus, their student loans, which were intended to be a mechanism out of poverty towards upward social mobility, end up trapping them in poverty in the long run. The Department has the authority now to cancel those debts where the borrower is making no progress towards paying down their principal under the Federal Claims Collection Standard, which allows compromise where the Government is unable to collect in full a debt in full within a reasonable

amount of time, or where there's doubt as to whether or not the Government can defend its case in court. These loans also have missing MPNs, they have missing payment histories, etcetera. But I will stop there. Thank you.

MR. FRANZAK:

Alright. Next we have Jada Sanford.

MS. SANFORD:

Yes, I just had a question. In the Federal Claim Collection Standards, reasonable is said a lot. Is there a certain definition for reasonable?

MS. ABERNATHY:

Jada, let us get back to you on that. Unless one of our attorneys wants to. Soren, can you take that?

MR. LAGAARD:

Thanks, Tamy. Yeah. No. We'll get back to you on that. Really appreciate it, though.

MR. FRANZAK:

Alright. Seeking clarification on the definition or examples of reasonable. Alright. Next we have Jessica.

MS. RANUCCI:

Thank you. I just want to echo everything that Kyra said. I think she really laid out why this is such an important question to be asking, and why any proposal made by the Department I think, in my view, really

should take this into consideration. What our office gets lots of calls from people who have student loans older than I am. I think it's, you know, these really follow people for their lives and it's a huge detriment to them. And the IDR adjustment is a great start, but it doesn't solve everything. I would like to ask the Department to consider thinking about July 1st, 2010, as potentially an important marker. If you are considering like a one-time program here, because borrowers who had loans before July 1st, 2010, I think really are situated at the intersection of a lot of the issues that this brings up. Number one, many of them have FFELs. Those FFELs were not eligible for many of the relief programs. As you note, those programs are available to people going forward. And many people who borrowed in the last decade that they were not and often are still not eligible for. People whose loans are from before 2010 have obviously been in most- have had those loans for about we're looking at about coming on 13.5 years. So even counting the three and a half year COVID payment pause, those loans have been outstanding for at least ten years, maybe next month or the following month. I think there's well documented servicing issues that occurred before 2010 and in that are particularly relevant for these loans. And also as we go out further

and further in time and in pre-2010, loans become a smaller part of the portfolio, I think it becomes more and more of a burden on the system. I think the point that Kyra made yesterday that one of the best ways to fix the student loan debt system going forward is to take essentially some loans off the books so we can do a better job of collecting the loans that are collectible versus trying to collect many of these decades old loans that are not collectible. I think that looking at loans before 2010 would be a really good way to ease the burden on the system, particularly because many of these are subject to different servicing, different rules, different actors than post 2010 loans.

MR. FRANZAK:

Next, Lane.

MS. THOMPSON:

Yeah. Thank you. I wanted to share a borrower story here. One of my complainants is an elderly gentleman. He's retired from his job. He attended college in 1982, most recently. And he went to a school that's now closed. So he took out that debt in 1982. He doesn't actually really remember taking out the debt. He thought it was all grants, but that's neither here nor there. He had that debt. He defaulted on it. He consolidated into a direct loan, in the 2010s and he now has about 4 or 5

times what he borrowed, showing as a balance. So the reason I wanted to bring up that lovely gentleman's story is because I don't think it's at all unique. Right. And that's loans that are 40 years old and that he's never actually made any payments on. He took him out in order to get a job, had his whole career and still has the loans at the end and to me, that seems like a big kind of divergence from what we're trying to do with student debt.

MR. FRANCAZAK:

Alright. Thank you for sharing. Yael. Next up.

MS. SHAVIT:

Thank you. I want to add support to the points made earlier by Kyra and also by Jessica, by noting that our offices have the unique ability to see how pervasive and systemic the servicing and programmatic failures were that resulted in borrowers relevant to this question still bearing the burden of debts for so long. You know, many of these borrowers should have been able to avail themselves in IDR but were forced into delinquency or misled by servicers into forbearances and consolidations that prolonged the repayment terms and were against their economic interests. A lot of these borrowers spent time in default because their servicers didn't help them access IDR so, you know, I think at a bare minimum, when

we're looking at borrowers whose loans have spanned a period of considerable servicing and programmatic misconduct that is systemic and pervasive in nature, again, at a bare minimum, these borrowers who have undergraduate loans with balances over \$21,000, they should not bear those burdens of those loans for more than 20 years. Right. They should be brought back to what would have been a reasonable timeframe under IDR plans. And I want to note again that that's a bare minimum because of the nature of the conduct that resulted in the positions that they found themselves in. And I think when you look at the principles that go along with the justifications for compromising debts, it aligns perfectly both with respect to the duration of debt, the reasonableness of making continued attempts to collect these long-standing debts for recoupment purposes. And additionally, when you look at the legal defensibility of debts that have been subjected to the type of misconduct that so many of these debts have.

MR. FRANCAZAK:

Alright. Thank you. Just want to note that Jalil Bishop, alternate, is taking over as primary for Richard Haase among student loan borrowers who attended graduate programs for purposes of this topic discussion. Alright next, Melissa Kunes.

MS. KUNES:

Thank you Mike. I look forward to the Department's determination and recommendation of what reasonable might encompass, and I think that this group as a whole can come quickly to a reasonable definition. I look forward to that conversation, but I also want to underscore and continue on some of the comments that Kyra was making regarding the Federal Claims Collection Standards, in that it is becoming more expensive to collect these debts for the Government, for society, than it is that these debts will actually put money back into the Government's coffers. So this has become a lose proposition for our society. We're spending too much money to collect money we're not going to collect. So I want to kind of put that out there as a frame point also to support canceling these older debts.

MR. FRANCAZAK:

Thank you for sharing, Melissa. Next up, John Whitelaw.

MR. WHITELOW:

Yes. Thank you. First, I want to endorse everything that has been said, especially by Kyra earlier. I want to and I think this some of the folks will understand this already and know it, but I think it's important to understand how little money is protected by people who receive Social Security benefits. And while that is not

directly caused by the Department, given that it is the Department of Education debts that are being collected from these, many of whom are indigent folks, it's important to understand the terrible economic consequences of this. Only \$750 is protected. That means that any income above \$750, including in Social Security income, is subject to attachment. That number is not indexed to inflation. That number has remained consistent for decades. And you see, so therefore what happens is and I have worked with these folks, you have people whose sole income is \$900 a month in Social Security, and \$150 is being attached for student loans. These are the most vulnerable people. And if we can't-, you know, regardless of sort of whether they're protected under the loan aspects or don't have access to the relief, collection against these vulnerable individuals needs to stop. And many of them have had debts, as has been noted for decades, and many of them have now become seniors eligible for Social Security retirement or disability and they are just being absolutely clobbered. And the amounts that are being recovered are tiny from the purposes of ED and their loans but are devastating in terms of their ability to survive monthly.

MR. FRANCAZAK:

Thank you for your comments, John Whitelaw. Jalil. Bishop.

DR. BISHOP:

Thank you. So I want to also underscore and just second a lot of the comments that have been shared here. I think it's just urgent and crucial for us to understand the impact of having borrowers sit with their student loan balances, particularly student loan balances that have grown to outrageous levels over decades. And I think it's particularly for borrowers who have not just sat with these burdens of student debt for 20 years. But really, again, that promise of a ten-year standard repayment was something that wasn't really true, wasn't really possible. And I think we have to keep bringing the conversation back to the fact that when people borrow student loans, it wasn't with the agreement that they would have it for 20 years or 25 years. And to have someone sit with a growing balance that is causing hardship financially, mentally, generational wealth, how they're planning their life, how they're managing basic needs and saying that is okay for them to carry that debt for 20 to 25 years, I think, is something that we need to rethink when we're thinking about reasonable. I would ask the Department to consider that if we have

evidence that a borrower has not been able to make payments within that ten years, that it may be reasonable to conclude that we're not going to be able to collect on that debt and also consider those groups, for some type of waiver cancellation. And my final note would be that in August 2023, the white House Council of Economic Advisers released a blog post just highlighting what happens to borrowers' balances, particularly when they make \$31,000 or less, and that in a 20 year time frame, they can see their balance increase by 78%. So I want us to have that in mind when we're thinking about what's reasonable, and that 20 years really is unreasonable, particularly for our most struggling borrowers.

MR. FRANCAZAK:

Alright. Thank you for your comment, Jalil. Wisdom Cole.

MR. COLE:

Thank you so much. I definitely agree with my colleagues earlier in their points, particularly around cancellation of these older loans. But if they want to make sure that we point out the fact that Black borrowers are tended to be the folks to carry those older loans because of interest caps and because of circumstances that are oftentimes not recognized by the Department. You know, I think that the approach that the

Department has to acknowledge the challenges faced by these borrowers who may not have access to the same benefits and repayment options as the more recent borrowers. And so, definitely thinking about some of the options that are available to the Department, particularly assessing financial hardship by applying the compromise principle and assessing financial hardship and capacity to repay if borrowers are genuinely unable to repay the loans in a reasonable amount of time considering partial forgiveness, discharge, or other debt relief options. I also think that there is a severe communication and transparency issue, making sure that we maintain clear and open communication with borrowers with older loans, ensuring that they are aware of their options and rights, and any changes in the loan terms and benefits. I also think it's very important to really expand this conversation, to collaborate with Congress to enact legislation that addresses the unique challenges faced to borrowers with older loans and provide them with equitable access to benefit repayment options.

MR. FRANCAZAK:

Thank you, Wisdom. Next up, Ashley Pizzuti. You're muted, Ashley.

MS. PIZZUTI:

Sorry about that. So kind of two questions here. What kind of authority does the Department have to actually cancel these older loans? FFEL loans? Perkins? Would we need to take these older loans and put them into direct loans in order to cancel them first? I'm just interested in hearing kind of how that works. Also, it is, you know, we're talking about the definition of reasonable. It's unreasonable for somebody at 18 to take on a massive amount of debt and not be able to save for retirement and then become a burden to Social Security and essentially an elderly person without the means to support themselves because they spent an entire lifetime paying off, trying to get on the hamster wheel of these loans and pay them down and get their Social Security taken from them in these times. You know, I know personally that my retirement is not that great. It's nothing that I'll be able to live on in my older years, especially the way that inflation is going and it just feels like a constant hamster wheel of survival versus, anything where it's supposed to be a security net for our society.

MR. FRANCAZAK:

Thank you, Ashley. Tamy, you have your hand raised. Do you want to address anything in particular first, or

would you just want to go through the order of the negotiator hands? Your preference.

MS. ABERNATHY:

I would like to address this one because it's very timely to some of the things that we're actually seeking the committee's input on. Ashley made very good points. What is our authority? What we are trying to do through these negotiations is exactly that. Establish the authority by which we can look at all of these different things that we are presenting to you and come up with regulations and a path for actual looking at these older loans and establishing which of these older loans would qualify for some sort of cancellation. And along those same lines, we're very interested in hearing from our negotiators about the inclusion of FFEL. And, you know, if there's anything that you can add to that we really do want to hear your thoughts on that. So as we go back and we formulate regulations, we're encompassing all that we can encompass.

MR. FRANCAZAK:

Thank you. Tamy. Alright. We have, Kyra Taylor next.

MS. TAYLOR:

Thank you. I just want to reiterate, I think it is essential that we consider FFEL, Perkins, other types of

loans when we're thinking about this cancellation, especially because those loans have been outstanding the longest. And as my other committee members have already raised, they are more likely to have been subject to servicing misconduct. However, I'd like to transition a little bit just to discuss the two separate prongs. So under the FCCS there's inability to pay, but that is separate from whether or not the Government has determined that it is unable to collect in full within a reasonable amount of time. Reasonable amount of time is not defined within the Federal Claims Collection standards, and it is not currently defined by the Department. So the Department could determine what is a reasonable amount of time, and it could do so using the data it has about borrowers in default who are not able to make substantial progress on paying down their debt, as well as looking at how long a borrower has been in repayment broadly. If a borrower has been in repayment for 20 years and then goes into default, it may be unlikely that the Department would be able to collect substantial amounts to pay down their outstanding amount of debt. To put a little bit of color on the data that the Department does have. A 2016 GAO report on Social Security offset, looking specifically at older borrowers, found that three fourths of amounts collected

via Social Security offset applied to interest and fees, and did not apply to principal. One third of borrowers remained in default for five years, and this was depriving them of their Social Security money, which in many cases is the money that they need to survive. 43 of those borrowers had loans that were over 20 years old, and 10% had loans that were over 30 years old. These are extraordinarily old loans. The Department could decide today that using the Federal Claims Collection Standards, that it can discharge those debts. In addition, the Department could look at borrowers who have had IDR payments of zero to determine that they are not reasonably- they are not able to collect in full within a reasonable amount of time for those borrowers. Same of the Parent PLUS borrowers where the student had an estimated financial contribution amount of zero. Borrowers who were already low income before they borrowed those Parent PLUS Loans. Additionally, similarly, borrowers who are older the age of 65, and are surviving on retirement income are also less likely to be collectible, even if they default via the Government's collection powers. And in addition, I would like the Department to consider a borrower's non-completion of their degree as a basis to determine that they will not be able to collect in full within a

reasonable amount of time. Over 60% of borrowers in default in 2015 did not complete their program. I'll stop there. Thank you.

MR. FRANZAK:

Alright. Thank you. Next up, Jessica Ranucci.

MS. RANUCCI:

I second everything, Kyra said. I think those are really important. I would like to add just two brief points. One is, I think including FFELs are essential. You know, just to reiterate the point that I expressed yesterday, borrowers don't choose who their lender is and the fact that borrowers with different types of loans, they might not even be aware of different types of loans, have such different benefits and obstacles is really unfair. And that that is an appropriate use of the Department's authority. And I'd also just like to add that I think that Kyra gave an example of many, many ways that the Department can use its authority to effectuate automatic relief, which there's a broad belief here that that's really important. I would also encourage the Department to consider a non-automatic backstop. There are always going to be financial circumstances that are not taken into account by the automatic programs. There's always going to be people who fall through the cracks and I think that there are specific ways that the Department

could craft financial standards that would allow borrowers to affirmatively apply. Again, affirmative applications are much less preferred to automatic, but it is an important backstop for people who desperately need the relief. I think we'll probably talk about that further with question five. But the questions about borrowers who've had loans for a long time and the borrowers in financial hardship necessarily are intertwined because borrowers who've had loans for a long time are the ones experiencing financial hardship. Also think Ed is going to come in for me briefly. Thank you.

MR. FRANCAZAK:

Jessica, can you clarify when you said non-automated backstop? What does that mean or look like for you?

MS. RANUCCI:

Sure. I think that I'm imagining that if the Department by regulation, for example, authorizes automatic waiver of certain categories of loans or certain categories of borrowers among the types Kyra mentioned, that there also be an application-based option for borrowers who may be experiencing significant financial hardship, but who do happen to just not fall into one of those categories, and whose financial hardship could be evaluated through common standards. I think there are

other examples of where the Department evaluates hardship based on common standards, but that wouldn't have to be set out in advance or it might be more fact specific that would not be appropriate for broad scale automatic cancellation.

MR. FRANCAZAK:

Thank you for the clarification. Jalil Bishop.

DR. BISHOP:

Thank you. Definitely want to provide support for Jessica's point around the backstop, I think is a commonsense approach to have both an automatic strategy, but also opportunity for folks to highlight some of their individual or unique circumstances. I'm also wanted to raise a question to the Department around when considering the reasonable time, how they handle missing data for borrowers. So, you know, when loans were turned back on in October, I happened to be back home. I'm from outside Cleveland, Ohio and I worked with a lot of people in my family, particularly folks in my family who are over 60 years old, who have been in repayment for 15, 20, 20 plus years. And some of the issues that I've run into over the years and trying to support and provide guidance to folks moving through our complicated student loan system is it's not always clear for loan servicers from request to the Department that there is

clear payment history, that there's always clear data on just what alone originally was, what was the repayment history around that loan. And I'm wondering if when we're considering what to waive, if that could also be a category of borrowers where we don't have complete kind of payment history or data or just really information about what those loans originally were, that also could be considered a bucket or approach for waiving some of this debt when we can't give fully accurate information.

MR. FRANCAZAK:

Thank you. A couple of updates in terms of primary alternate switches. So Sarah Butts is becoming a primary instead of Sherri Gammage for student loan borrowers, four-year programs. And it looks like Ed Boltz is becoming primary for purposes of this discussion with respect to consumer advocates in place of Jessica Ranucci. Alright. So let's next go to Lane Thompson.

MS. THOMPSON:

Thank you. I wanted to talk about the FFEL, Perkins, HEAL, all the non-direct loan types. A couple things on those. One, I've worked with so many borrowers whose Perkins loans do not have a clear due diligence history, and that's just one of those things where I don't know why those loans exist at all if there's not that clear history there. So just that's one point on its own, but

also that a lot of these older loans now have been consolidated and re consolidated and have gone from one servicer to another and back again. And that whole process has made the resulting balance really hard to understand and don't even just mean for borrowers, I mean for servicers and for the Department to explain. So I think that that's really kind of a great point, that a lot of those loans have gotten more confusing than they are collectible. And the other thing just kind of want to throw in on that is the kind of the idea of a statute of limitations and the technology in the way that technology moves. A lot of the older borrowers that I work with are not able to access the internet, do not have the technological skills to apply for these programs and or don't have a computer at all. They didn't know they would need one for these loans from 40 years ago. So I think that I just really want to point out that there are several factors that lead to the older loans being more complex, harder to deal with, and just really detrimental to elders especially.

MR. FRANZAK:

Thank you, Lane. Yael Shavit.

MS. SHAVIT:

Thank you. I want to note that I share the interpretation of the Department's authority that Kyra

put forward. But I also want to emphasize that I think the Department not only can but should consider the length of a repayment term or how long loans have existed, rather, in determining what constitutes a reasonable amount of time. And it is critical for all the reasons stated and won't belabor them that FFEL and Perkins borrowers be included in the relief. But I also want to flag another consideration that the Department raised in its issue paper when it noted that other agencies, and considering the propriety of debt cancellation, that they consider whether continued collection would defeat the purpose of the benefit of the program, and want to flag and say as emphatically as I can that saddling borrowers with lifetimes of insurmountable debt runs counter to the purpose of the HEA, which was to provide borrowers with educational opportunities that are affordable and the resulting benefits that should come from a valuable and affordable education. I think this is a principle we should keep in mind in these discussions and want to note that this principle also lends support to the other categories of borrowers that should be eligible to relief that Kyra mentioned when she spoke earlier, which support as well. But I don't want that to get lost in the conversation. Thank you.

MR. FRANCAZAK:

Thank you. Yael. Next, Ed Boltz. You're muted, Ed.

MR. BOLTZ:

Thank you. In addition to another cohort that I hope that the Department will take into consideration for looking at both the time of repayment and the ability to collect from would be those borrowers who filed a chapter 13 bankruptcy. Because those, you know, were in a repayment plan that was overseen by a Federal court maximizing the amount that they could pay to all creditors for a period as long as five years but until recently, and I do want to congratulate and thank the Department for its good work on easing the undue hardship standards with bankruptcy and also the pending regulation that would allow those payments during chapter 13 to count towards forgiveness period. But until this point, those people were largely precluded from participating in any Income Driven Repayment Plans in direct contravention of the bankruptcy code and Federal law. So they were in effect punished because their finances were so terrible and that is- but their bankruptcies are evidence of both the time of repayment, the age of those loans and also their lack of likely collection from them going forward. So I hope that that would be another cohort that could be considered for

forgiveness not a bankruptcy discharge, but the forgiveness under these standards. Thank you.

MR. FRANZAK:

Next, Jessica Ranucci.

MS. RANUCCI:

Sorry about that. Hi. I just would like to raise up a comment that Jalil put in the chat, which is that if the payment and loan history are unclear or missing due to consolidation or otherwise, then we should cancel those loans. I strongly agree and I think that this is a basic principle of consumer law that is also articulated in the FCCS, which is that there is significant doubt concerning the Government's ability to prove its case in court. The sort of basic loan documents are the only way that a creditor can prove its case in court. And so I think the Department should really look at areas where the record keeping is not perfect. This is a- it's a real issue. My office has helped dozens, if not hundreds of individuals who have obtained student loan discharges that come with refunds, attempts to get those refunds. And there's often serious issues with the collections records. We're talking about loans again, loans that are older than am. You know, people don't have paperwork from the 80s, from the 90s, from servicers that no longer exist, and guaranty agencies that are no longer

guaranty agencies. So I think that it's really important, not just from an ethical perspective, but from a legal perspective to look at that. And then the other thing I would ask is, I don't want to put you on the spot, but I think that this issue of FFELs is obviously one on which I feel strongly and I think some other people feel strongly, but I'm not sure, I think it would be helpful to hear, to give a chance for the servicers to weigh in here, since they obviously see a side of FFELs that maybe the borrowers and advocates don't necessarily see.

MR. FRANCAZAK:

Thank you, Jessica. Ashley Pizzuti.

MS. PIZZUTI:

I just want to share a quick personal story about the record keeping and the information coming from the Federal Student Aid website. My husband and I are both class members of Sweet versus Cardona. We've recently had in June had a very big chunk of our loans forgiven. He had a loan prior to attending our proprietary school, which dates back 20 years. And he was- he did receive the letter that he would get the one-time adjustment. We have logged in to the Federal Student Aid and downloaded our data and in that data he has his loans originated in 1901. That is the date that is listed in his data from

the Federal Student Loan Aid website. It also isn't clear that the remaining balance that is sitting on there, even though he's had the one-time adjustment and the Sweet versus Cardona forgiveness both, he still has a balance of \$12,000 on Federal Student Aid. It is not with Nelnet. It is only on Federal Student Aid. It is in the data and they are not sure where that is originating from. It is not clear in the data. It's not clear anywhere. And he also apparently took out these loans in 1901, which makes him very old. Probably the oldest loans that we are talking about right now.

MR. FRANCAZAK:

Ashley. Thank you for pointing that out. Alright. Next, Kyra Taylor.

MS. TAYLOR:

I wanted to add something else about the purpose of the Higher Education Act. Undoubtedly, student loans and just financial aid broadly has opened up access to higher education in this country. However, I think there's the unintended impact that we often hear from legal aid clients, where they may be the first in their family to have attended- have gotten any postsecondary education. However, their student loans for some to look at their kids and say, I don't know if I want this for you. I don't know if I want this life for you. I don't

know if I want you to have to endure the hardships that I have had to endure under my student loan debt. I think that that is all the more true for folks that have much older loans. And so if we don't have a solution to this problem, I think it will contradict the intent of the Higher Education Act as well.

MR. FRANCAZAK:

Thank you, Kyra. Next up, Wisdom Cole.

MR. COLE:

You know, I want to just really hone in on the fact that, you know, the Department should aim to balance the need for fiscal responsibility with a commitment to helping borrowers manage their student loan debt effectively. Applying the FCCS compromise principle should involve assessing each borrower's individual circumstance, ensuring that solutions provide a fair and appropriate given special challenges faced by borrowers with older loans. Definitely want to bring attention to the fact that for borrowers who took out loans before the introduction of certain benefits and repayment options, the Department could consider grandfathering their loans, meaning that the borrowers to retain their original loan term and benefit that may not be as favorable as current options, but were the terms under which they borrowed. I know that we've talked about the

interest rate reduction and freeze being an issue necessarily in Congress and I think that the changing of interest definitely understand that being a congressional matter but the waiving of interest should be something that we should definitely dive into, considering the fact that interest rates are significantly higher than the current market rates.

MR. FRANCIK:

Thank you, Wisdom. Next, Angelika Williams.

MS. WILLIAMS:

Yes, I want to point out one of my statements that applied in the chat to echo the groups that Kyra previously mentioned. I'd like to include bars to obtain loans before July 1st, 2010, and now have children currently enrolled in college for whom they had to apply for Parent PLUS Loans. Repaying their loans may have hindered their ability to save for their child's educational expenses. Consequently, I urge the Department to take into account that borrowers who have both student loans and Parent PLUS Loans may face challenges in repaying their obligations.

MR. FRANCIK:

Thanks, Angelika. Jalil Bishop.

DR. BISHOP:

Thank you. A comment along the same lines around Parent PLUS borrowers. Yesterday, Department shared with us that some of the language and stances around why Parent PLUS borrowers were excluded from the SAVE Plan. I think it's important for us to still, in this rulemaking, think about creative and flexible ways to make sure that parents who are carrying plus loans or consolidated loans to repay plus loans have access to some of these benefits. So when considering parents who have been in repayment of Parent PLUS Loans, I think we do need to think of creative ways to make sure that they have access and relief. Because what we know, particularly for Black borrowers who carry a disproportionate amount of Parent PLUS Loans, is that they were given these loans often when they already had a \$0 expected family contribution. The Department often takes the stance that parent borrowers had- they were older, so they had a better understanding of the loans they were borrowing, or that they had a better understanding of their ability to repay, therefore, they should be treated differently. But I think that when you're dealing with a parent borrower who has already been told that they have a zero expected family contribution, and they're being told the only way to fund their child access and higher ED is through taking this loan. That is not really a choice

that most parents are going to take on that loan and do what they have to do to hopefully increase their child's odd of mobility. So I would just like the Department to just open up I think the flexibility and creativity around what we can do for Parent PLUS borrowers, particularly because they were excluded by choice by the Department and the last rulemaking under the state plan, what can we do here to make sure that Parent PLUS borrowers also receive relief?

MR. FRANCAZAK:

Thank you, Jalil. Kathleen Dwyer.

MS. DWYER:

Thank you. You know, I want to amplify many of the things that have been said here today regarding all plans being included and all forgiveness options. And in particular, you know, sometimes regulation, it seems like it's written in such a way that it's only thinking about the young borrower, the traditional straight out of high school into college borrower, but many people here have highlighted the fact that borrowers come in all ages. They come at all stages of life. And by excluding some of the relief metrics and some of the programs that they're in, it's kind of excluding an entire class of people as many of the other commenters have said, particularly with respect to how this is

impacting borrowers who are, you know, having Social Security, who are older, who are carrying plus loans and their own current loans. So I think when we get to the point of looking at regulations, we just need to take care that we're looking at it as a perspective of a borrower can be really of any age in the adult lifespan. And a lot of times we're kind of discounting that fact when we set those regulations.

MR. FRANZAK:

Alright. Thank you, Kathleen. Tamy.

MS. ABERNATHY:

Thank you, Michael. I guess our reframing of our conversation for today really did help us when we started to discuss these questions, because you guys have given us a plethora of information, all wonderful things to consider. We really appreciate the conversation. We would like to move forward. On to the next question, if that is okay with the committee? Because we have so much- we feel like the next two questions and giving you guys time at the end of the day to circle back with us on anything else we'd like to consider while we propose regulatory text for the next session, we think that that would be extremely important. Kyra, I know your hand is up. If you would still like to speak, give me a thumbs up so I know that

there's something. Yes. Okay. But after Kyra, we'd like to move forward, if that's alright?

MR. FRANZAK:

Understood. Thank you. Kyra.

MS. TAYLOR:

This is very briefly. Thank you so much, Tamy, for letting me have just one more word. I would just like to reiterate that the Department has the authority to cancel the debt as to some of these borrowers now, under the Federal Claims Collection Standards, there's- it could do things now if it's finding- I think we've all discussed ways in which we would want the Federal Claims Collection Standards to be broader. And that is certainly a great place to amend the regulations. However, these borrowers have been waiting with these debts for 20 years, many, many years and are suffering under the hardship of the weight of trying to pay for this debt, especially as repayment restarts. So I would just ask that the Department consider using its current authority to discharge the debts for which it knows the borrower does not- it will not collect in full within a reasonable period of time, or where there's doubt concerning the legal enforceability of the debt.

MR. FRANCAZAK:

Alright. Thank you. Thank you all for your comments on issue number four. I believe now we're going to circle back to issue number three. Was my understanding? Are we okay to proceed in that way?

MS. ABERNATHY:

Yes we are. Would one of my team members please put up the question? Thank you. Vanessa. The Department recently published its final rules as very recently, as of yesterday, published its final rules on gainful employment. These rules protect students from unaffordable debts and poor earnings outcomes at career programs. We estimate this will help protect 700,000 borrowers a year who would otherwise enroll in low performing career programs. Separately, the financial value of transparency component of the rules would provide acknowledgments of unaffordable debt to about 120,000 students not otherwise covered by the GE program accountability framework. The gainful employment rule measures programs on two criteria. The first is that a typical graduate's debt to earnings ratio should not be more than 8%, or less than, or equal to 20% of discretionary income. The second requirement is that at least half the graduates of a program have higher earnings than a typical high school graduate in that

state who does not have a postsecondary education. The rule protects students from attending programs that have led to unaffordable debts and poor earnings outcomes. But borrowers who enrolled in a low financial value program are still left with debts. In addition to the GE rule, the Department has other accountability metrics based on borrower outcomes, such as measuring an institution's cohort default rate. The Department is holding accountability programs that leave students with unaffordable debts and preventing future students from being able to take out loans to attend underperforming programs. However, current, and previous students attending low financial value programs are left with unaffordable debt. We see participation in a low financial value program as an appropriate circumstance to waive repayment of Federal student loan debts. Because these debts would be waived, they would not be assessed as a liability against the institution that offered the program that provided insufficient financial value. That means we would not be seeking any sort of institutional recruitment here. The Department would like the committee's input on how should we consider debts taken out by students to attend programs, when we later find that such programs did not provide a minimum level of financial value sufficient to make loans

affordable for many or most borrowers.

MR. FRANZAK:

Thank you. Let's see, as for clarification, do we know- I know Jalil Bishop was alternate serving as primary. Is Jalil still serving as primary or is Richard Haase reconvening as primary? Alright. I'll just ask Jalil and Richard to work that out, please. Alright, so we have issue three teed up around, as Tamy laid out, we have a hand raised, beginning with Jessica Ranucci.

MS. RANUCCI:

Hi, thank you so much for raising this. I think that this is a critical piece of any plan that the Department comes out with. I think there are many students who obtained essentially no value from the programs that they attended. And they attended those programs, often because of outright misrepresentations or false promises that were made to them about what those programs would give them. There are some real equity consequences of that where these programs often targeted borrowers of color, single moms, veterans, other groups who ended up disproportionately being affected by programs that provided not a minimum value. My office is contacted by borrowers, often from various schools, who are worse off than as if they had never attended the school. Not only did they often lose multiple years of earnings, they're

often people who are adults who are working, who left their jobs to try and get a better job. So they lost the years of earnings. They lost the childcare money that they had to pay to go to their classes, sometimes at night. They lost, you know, potential races they could have gotten from those multiple years out of the workforce. Then what are they left with at the end? If they were able to complete a degree that was essentially worthless? So I think that this is crucial. I really appreciate that the Department has put this on their list and have some specific ideas, but I'll get back in line. I just wanted to state my support strongly.

MR. FRANCAZAK:

Thank you. Jessica. Next up, Sarah Butts.

MS. BUTTS:

I just wanted to lift the idea. I agree that this is an important group of borrowers, but that sometimes what's perceived as a low financial value program is actually of significant value to society. There are many professionals that are working for the greater good for the health of their communities, at the individual and macro levels that may need relief. We could look at individuals who have been working for a long period of time post attainment of undergrad or graduate, or two-year programs who have very low salaries, who may even

qualify for public benefits themselves. There are unfortunately, in our society, essential workers who make enough money- don't make enough money to be able to sustain and support their family. So just wanted to lift that and appreciate the addition of the consideration of this group of borrowers.

MR. FRANCAZAK:

Thank you, Sarah. Kyra Taylor.

MS. TAYLOR:

Thanks, Sarah. I'm sensitive to that point, and so would actually like to reframe this instead of talking about low value programs, talking about programs that do not return the income premium that would be appropriate for that amount of debt. In addition, I want to say two points. One, as a fundamental matter, it is extremely difficult for a borrower to project whether a program is worth thousands of dollars of investment or what that type of debt burden is going to look like for them in their lives. It is extraordinarily difficult to predict if you're going to have a medical emergency, if your family member is going to become dependent on you, if you're going to lose your housing, if you're going to struggle to find a job. No one has a crystal ball where they can predict what their future is going to look like. This is even more true for first generation

college students and nontraditional college students. Furthermore, many of the clients' legal aides work with trust that the Government is going to ensure that the bad actors that Jessica was referring to before will not be able to receive taxpayer benefits. However, that trust has been mis founded often in the decades that the Higher Education Act has allowed predatory schools to receive Federal Student Aid. Legal aides have long been in support of using things like the gainful employment rule to provide students with relief. I think that is extraordinarily important. However, I think we should also consider that borrowers who have debt and earn less than a high school graduate in their state should also be entitled to relief. So I am happy that the Department is considering those proposals here. But again, I think there's a need to right size the debt to what borrowers can reasonably repay here. And so I would ask that the Department also consider things like non-completion as a basis to discharge debt, in addition to schools where the income premium is not proportional to the amount of debt that the borrower has borrowed.

MR. FRANCAZAK:

Thank you, Kyra. Richard Haase.

MR. HAASE:

Thank you. Yeah, I agree with Kyra and with everything

that's been shared in this question so far. I think that the framework that was set- established under gainful employment is something that I wonder if there's a way to apply it towards other programs as well, graduate and undergraduate ones. I agree with what's been shared here. I think that there is really meaningful work being done in our communities. People who donate their lives to working within the arts, within nonprofits, preschool educators, people who, you know, pursue degrees and go into programs that we really need desperately in our communities and wonder if there could potentially be any kind of index similar to what's used in gainful employment that could be applied to these types of programs as well.

MR. FRANCAZAK:

Thank you Richard. My understanding Benjamin Lee alternate is becoming primary for purposes of the discussion representing Federal family, education loan lender servicers or guaranty agencies. Alright. Next up, Ashley Pizzuti.

MS. SHAVIT:

I also just accidentally lowered my hand, but I'm happy to jump back at the end of the line too.

MS. PIZZUTI:

Do you want to go first since you were in line? You can, that's fine.

MS. SHAVIT:

Sure. I mean, I'll just say briefly that I agree with what was just stated, particularly the notion that this concept can be applied outside of the context of GE schools for the purposes of determining the appropriate- the propriety of debt relief and would encourage the Department to think that way. And also, you know, the problem of non-completion is a real one and I support Kyra's proposal that non-completion should be a factor in determining the value of education in this way. You know, one thing to consider as well, you know, metrics that include and I say this as in addition, not instead of the metrics that we've already been talking about, but, you know, where borrowers attended schools for which student loan repayment rates demonstrate that some notable percentage of borrowers have been unable to pay down their principal during a certain period of time. Again, across programs is another way to assess value. And, you know, I also want to flag here that this is an area where I think the Department would benefit from incorporating a way to consider findings made by state AG offices about schools, the value of education offered

by schools, and determining cohorts of borrowers who should be entitled to relief, and doing it in a way that is streamlined and recognizes that we're often the ones in the position to be doing these types of investigations that result in meaningful information, being able to incorporate that quickly, to provide debt relief to borrowers affected by school conduct is helpful and appropriate, and would save departmental resources.

MR. FRANCAZAK:

Thank you. Next up, Ashley.

MS. PIZZUTI:

So I have some very valuable perspective on this and the fact that I did go to a what is considered a bad apple for-profit school. I've also spent the last decade organizing other borrowers from these schools. The Department has a vast amount of information at hand. They have folks who are listed on the schedule C of Sweet vs Cardona, which is a list of schools that are considered- that make up the class that have a significant amount of Borrower Defense applications to them. I personally applied for Borrower Defense in 2016 and only received relief in June due to this lawsuit. I know that we had the DeVos era who then, you know, deregulated it all, but the fact that we are still to

this day, putting the burden of proof on to the borrowers to prove that their school has misled them. Even though there- a lot of these schools have had countless attorney generals lawsuits against them and settled FTC-, the cards are stacked against them. Many of these schools have shut down because they couldn't follow the regulations put in place to this day, and the students are still on the hook for these loans. If they didn't fall under the Sweet versus Cardona class, which is made up for anybody who filed for Borrower Defense as of June 22nd of last year, they are still responsible for proving that their school has misled them, even though the Department has endless amount of information from these schools. Not only that, I know that these regulations only cover Federal loans, but for a lot of these proprietary schools and for my personal situation, the bulk of our loans are private. So having these Federal loans taken off of our credit scores, not being required to pay them back, and the setback that they have caused is only a very small assistant in what a lot of these borrowers have to experience with these loans.

MR. FRANCAZAK:

Thank you. Ashley. Next up, Jessica Ranucci.

MS. RANUCCI:

Thank you. I would like to encourage the Department to

consider, as Ashley suggested, that there are some serious issues here that apply specifically to closed schools and to consider in addition I understand the cohort default in gainful employment, I get that you have to consider adding closed schools here. There's specific statutory authority for discharging loans for students whose program- who couldn't finish their programs due to the school's closure. But really, school closures are an indication often, not always, but often, of serious problems at the school and the Department can identify automatically many of the students who attended closed schools and use that as a basis for waiver. Those students do not have access to many of the benefits that are typically associated with postsecondary education, like an alumni office or a job placement office, those schools are gone. To the extent the Department doesn't feel that all closed schools would be a basis for loan cancellation, although I think frankly it should be, I think that there are real ways to distinguish among types of closures that would allow cancellation to students for whom the school's closure really was an indication that the school was not provided value. For example, schools that closed without an approved teach out with their accreditor. That's a sign of a precipitous closure, schools that closed while on

heightened cash monitoring status. They're really- I think it's- essentially the theme is that the theme triggered that would trigger a teach out that, you know, we already have in regulations certain criteria that are designed to indicate a potential precipitous closure and I think those same criteria, you could look back and say, okay, if these criteria existed before a school closed, that was probably a precipitous closure. That was probably an indication of school quality and I think that the Department could make that assumption and really get needed relief to a lot of people.

MR. FRANCAZAK:

Thank you, Jessica. Kathleen Dwyer.

MS. DWYER:

Thank you. You know, I agree with the thoughts that have been advanced on applying gainful employment to all programs, regardless of institution type, on how borrowers cannot possibly predict what life circumstances can happen to them, and that relief programs need to take that into consideration. And also the part about how there are some professions that do valuably contribute to society. Yet society does not reward them financially in such a way that can lead to stability. You know, I work at a nursing college, a college that's solely focused on nursing. So, you know,

we do so much work in understanding we're providing an option for people to get into a specific career pathway, that is what they want to come to our school and do they their goal is seeking employment. And that's- we offer programs that support that. But I know that there are some programs that people are going to be interested in, regardless of whether that will pay off financially. And I think, too, again, as we're considering potential regulations that could result here, there's so many technological advancements that are happening at a very rapid clip now, it would be difficult to regulate knowing which programs are going to pay off financially for that student taking on that debt. Because the societal complex landscape can really change on a dime, as we've kind of seen here lately. So it may be difficult for us to assure students which programs are going to pay off with any certainty and just advised that that thinking, as regulations are crafted and developed to understand, could we know? Do we even know? And then what would happen if we didn't know? And also with schools, because they don't want to show up on a list of offering programs that are of a minimal financial value. Would schools begin closing certain types of programs simply because of that score, and how would that impact our society? So those are some of the

concerns that I'm thinking about today.

MR. FRANZAK:

Alright. Thank you, Kathleen. Richard Haase.

MR. HAASE:

So this might be a little bit out in left field and it's connected to the conversations we've been having about trying to identify the value of what people do for financial value or income potential of what people do after they graduate. It's easy for us to identify certain professions, ones that really jump into our minds right out of the gate. Like I said, preschool teacher, people who work in community services and, you know, social welfare and things like that, and nonprofits. I'd be remiss just because I feel like sometimes they're left out of the mix, and it could be difficult to draw a clear correlation between what they do and what they've studied. But small business owners, I feel like make up an important part of our communities and are often left out of these conversations. So again, not to make a complex situation like financial value transparency even more complex by trying to quantify something like that, but just want to put them out there as a group of people who sometimes, you know, they've got their college degrees, they take on debt, they move into their communities and set up shop and hire local

employees and things like that and often are struggling under a lot of debt as well. So not sure how they play into it, but I just feel like, you know, if there's any prospect of exploring something like FCT outside of the certificate programs in for-profits that there might be some way to make sure we don't leave SBOs out when we're looking at certain types of occupations.

MR. FRANCAZAK:

Alright, thank you. Lane Thompson.

MS. THOMPSON:

Yeah. I wanted to speak to the Borrower Defense to repayment and closed school thing a little bit. I've worked as a student loan coach and then now in this role as ombuds with a lot of folks who attended schools that either got group discharges under Borrower Defense to repayment or are showing up on that exhibit C list on the Sweet settlement. And I spend a lot of time with these folks trying to navigate this process. And in most cases, their debt ultimately will be forgiven. So I just really want to point out that the amount of hoops that people have to jump through to access Borrower Defense to repayment and closed school discharges are often really onerous. I know that Ashley is absolutely not alone and waiting since 2016 to get that discharge, and I know there are tons and tons of folks right now who

are feeling really anxious about what the administrative forbearance means for them while they're waiting to have their Borrower Defense to repayment application process. So not to say that we're going to open the Borrower Defense to repayment regs, understand we're not doing that, but rather to say that perhaps folks who have had an application pending a certain amount of time, or whose schools are on that list, could have all of their debt canceled regardless of whether or not they have applied. Just a thought.

MR. FRANCAZAK:

Alright. Thank you, Lane. Kyra Taylor.

MS. TAYLOR:

Thanks, and I appreciate Lane's comments about how difficult it is to go through the Borrower Defense and closed school discharge regulations. We appreciate the Department's improvements to both sets of regulations, and it's the last, and I believe that 2021 rulemaking. However, there's still a lot of hoops to go through. And I think with closed school discharges in particular, it's limited in terms of who it applies to, as Jessica mentioned before. And for closed schools that closed a while ago, there may- the school may have kept incorrect records, there may be subsequent battles and also we see that there are borrowers who are getting wrongful

denials of their closed school discharge applications as well. So we are- the legal aid community is strongly in support of providing relief to borrowers who attended closed schools, regardless of whether or not they graduated. In terms of connecting this to what this means for borrowers who attended closed schools, oftentimes, as Jessica mentioned, when schools close, they close for a reason. So the brand name of the school is also impacted by the school closure. Borrowers may have a harder time getting a job because they attended a closed school. If they attended a closed school many years ago, no one will recognize the name of the school that they attended also meaning that they may not get the employment benefits of that degree. The school will no longer offer career services because it has closed, so we see borrowers who would love to take advantage of career services and cannot do so. In addition, a number of schools closed before 1994 and those borrowers are ineligible for closed school discharges, and they still have extraordinarily old debts and are still struggling under the weight of that financial burden. And so we would strongly encourage that the Department cancel those debts as well. Additionally, in terms of impacts, many closed schools again, don't have records, which creates problems for closed school discharges. But it

also may create problems if the borrower- if the student needs records from the school for their employment as well. So these borrowers face a number of barriers, and the Department should provide them with some relief in terms of their loans.

MR. FRANCAZAK:

Alright, thank you. Ashley Pizzuti.

MS. PIZZUTI:

Another quantifier that I thought- that I would like to put out there is the accreditation. So a lot of these for-profit schools that were listing were accredited by ACICS, which is now proven to not really be everything that they were- they said they were going to be. They failed on, you know, looking out for these schools and looking out for the borrowers. They were shut down during the Obama Administration, they were brought back from DeVos, Biden again has now decided that they should not be allowed to practice anymore for several reasons. I think that any of the schools that were listed under those should be considered a group. I know that the new rules that went into effect in July that would allow groups of these schools to apply for Borrower Defense together with a collective amount of evidence, is now being held up with litigation. But I believe that the Department or actually, I'm not sure, but I believe that

the Department has the authority to create their own groups and not put the burden on to the organizing of these schools and the students that attend them.

MR. FRANCAZAK:

Thank you, Ashley. Wisdom Cole.

MR. COLE:

Yeah. I think it's important for us to really understand the definition of programs and institutions and economic value to students. I think it's important for us to expand the definition in terms of recognizing that for Black college and university graduates tend to earn an average of 15% less than their white classmates and are more likely to be unemployed or underemployed. And so we can really expand that definition to all public and private institutions that Black college graduates or students go to. And so really thinking about the minimal level of financial value due to racial discrimination that happens within higher education, as well as the rates of unemployment that happen due to discrimination in hiring practices. I think it's important for us when we're thinking about student debt for this group or population, that we again meet the minimum floor that was already proposed by President Biden, and canceling a minimum of \$20,000 in student debt for those who are recipients of the Pell Grant, because all of these

programs are not providing the value necessary due to these factors that are not being considered in admissions and graduation and in the job workforce.

MR. FRAN CZAK:

Thank you, Wisdom. I'm going to ask us to wrap up final comments on this issue three by 11:50 and then we'll do a quick debrief from the morning and then set up for our afternoon. So final remarks conclude no later than 11:50. Alright? So let's next- and my understanding is Jalil Bishop is now primary for his group. So we'll take John Whitelaw next.

MR. WHITE LAW:

Just briefly and to reiterate what Wisdom said for students with disabilities. So just as racial people of racial minorities, Black and brown folks have lower incomes, people with disabilities also have significantly lower incomes across the board than people without disabilities. And many of those individuals with disabilities will not qualify for total and permanent disability discharges because they are, in fact participating in the labor force, except at a reduced level of earnings. And so it's especially important that in these areas that we're talking about in this last few minutes that folks with disabilities have and lower incomes have access to relief. And then echo the remarks

that were made earlier by the other folks.

MR. FRANZAK:

Thank you, John. Jessica Ranucci.

MS. RANUCCI:

Thanks. I just want to be explicit in echo what I understood Kathleen and- points I understood Kathleen and Sarah to be saying earlier. Which is that look, not everyone goes to college to make a lot of money, but there are plenty of people who do go to schools to for the earnings premium. They have a job, they, you know, stop earning wages to go to school as an investment in their salaries. And I think that the one advantage of the Department considering the already existing gainful employment framework as a basis for waiver, is that I think that the gainful employment framework does do a, you know, relatively good job of identifying those programs that really people do go to for the earnings premium and so appreciate the Department is really looking at those programs in particular, because that seems to be one of the places where it's most appropriate to consider this.

MR. FRANZAK:

Thank you, Jessica. Jalil.

DR. BISHOP:

Thank you. I think it will be important for the Department to define for us just- and I think, Vincent, you may have asked this question earlier. Really, what authority or powers or just mechanisms they may have in mind already to approach this question of what does it mean if a program does not provide a minimum level of financial value? So for me, I see this question as expanding beyond a lot of the discussion, which focuses rightfully so, on for-profit institutions and trying to think about programs and borrowers more broadly. So it would be useful to also hear from the Department what criteria, tools or mechanisms they are thinking about or have authority to use in trying to gauge this minimum level of financial value. Because I think that this matters when we are thinking about the points that Wisdom raised about people of color who are navigating unequal labor market, which we have a lot of data around going back 30 years, when we're thinking about different careers that aren't as well paid in the labor market. I think understanding how the Department is approaching this and then what tools or mechanisms they have will be useful for us in some future sessions.

MR. FRANCAZAK:

Thank you, Jilil. Kyra Taylor.

MS. TAYLOR:

I was just thinking about the cohort default rate and gainful employment data and one thing that has not come up in our conversation thus far is that there were some predatory schools that were attempting to gain this data using things like forbearance, steering, etcetera. And so Yael mentioned earlier the need for an alternative calculation, like looking at the volume of borrowers who have been able to make payments that would touch their principal over periods of time. And so I would just strongly encourage the Department to consider calculations like that as well, to avoid some of those data issues that may come up. There's also a question- I am curious about how much data the Department has, because I would want to make sure that it reaches back to folks in the 80s and 90s. Again, legal aides see borrowers who attended much older schools as well, for whom there may not be cohort default rate data or gainful employment data.

MR. FRANCAZAK:

Kyra, can you place that information in the chat? And then we have Yael Shavit.

MS. SHAVIT:

Thank you. I appreciate Kyra making that point. And in fact, the reason that I made the proposal that I did was

specifically because of the [inaudible] of cohort default rate data that we've seen, and it's not exclusive to cohort default rates. So I do want to make one suggestion, which is, in the context of the gainful employment negotiated rulemaking, which I participated in, there was a lot of discussion of different metrics that were potentially available to the Department and could be useful, some of which I think probably weren't ultimately- didn't may not have made it into the rule because of the specific framework of gainful employment and the consequences to institutions, which may not be as relevant for the purposes of identifying the issue of loan value relevant to waivers and compromise here. And so one thing that the Department may consider is going back and looking at some of the discussion about different metrics that happened in the context of that negotiated rulemaking, with an eye towards the question being answered here. When you take it apart from the, you know, other complicated factors that are at play in considering the framework of gainful employment, specifically with respect to institutions.

MR. FRANCAZAK:

Okay, thank you. I believe that is all the comments for issue three. Is there anything from the Department feedback wise based on what they've heard in terms of

negotiated responses for issue three at this time?

MS. ABERNATHY:

I think the biggest thing that I could say here is that this is exactly the kind of conversations we had hoped to have around this issue. We thank everyone for their comments. There's a lot of work that we need to do, and we look forward to working with you to accomplish that. Please make sure your specific questions and or data requests are in the chat, because that's where we'll focus our attention after negotiated rulemaking to try to get answers and responses to the ones that we're able to do so on. This has been formidable conversation, and we thank you for opening up to us about the feelings and some of the ways that you think we can do and craft this new potential regulatory language. I don't know if any of my colleagues, Soren or Ben or Toby, have anything that they'd like to interject at this point, but if they want to come on screen and say a couple of words, that would be great. Or not.

MR. FRANCAZAK:

I'm not seeing anyone yet jump into the pool. So. Alright, so we have the afternoon lined up. What- I'll just throw out times. Would we like to begin the live stream again at 1:00?

MS. ABERNATHY:

Yes, please. And my colleagues told me that their screens froze on them. So that's why they weren't able to just jump in and say something. So I think 1:00 is fine?

MR. FRANCAZAK:

Alright. Does anyone want to add something before we break at this time? If not, that could be our beginning place at 1:00 as well. Alright, so what if we have our live stream begin at 1 p.m. Eastern Standard Time? I'll ask the negotiators to log in by 12:45 so we can hit that 1:00 live stream start. So we thank you again for your- this morning, the productive conversation and the great dialog. Alright. We'll plan on seeing you then after lunch. Thank you.

Zoom Chat Transcript

**Student Loan Debt Relief Committee - Session 1, Day 2, Morning,
October 11, 2023**

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

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

Can you please re-send John Whitelaw the link for today's negotiations?

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

Richard Haase is waiting on the link for this meeting

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

Ashley is trying to get into the zoom!

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

Thank you!

From P- Jessica Ranucci (Consumer Advocates) to Everyone:

My request is: (a) please provide redlines of regulatory text before Session 2, and (b) please let us know the timing for providing these regulations. I understood the Department to answer question (b) by saying that any available redlines will be provided one week before the session.

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

To add to Jessica's point, it would be especially helpful to have proposed regulatory text for session two particularly on issues for which there is broad committee support (like addressing interest)

From P- Jessica Ranucci (Consumer Advocates) to Everyone:

+1 to Kyra

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

+1 to Kyra

From P-Angelika Williams-Private, Nonprofit Institutions to Everyone:

Is it possible for the Department to forgive the remaining outstanding balance if the borrower has fully repaid their current student loan debt, matching the total amount borrowed through their payments?

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

Coming on as primary Graduate Borrower

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 to discharging debts that were issued prior to 2010

From (P) Richard Haase - Graduate Borrowers to Everyone:

Also support canceling debts of that age

From (P) Richard Haase - Graduate Borrowers to Everyone:

The system was plagued by widespread system failure and those balances are less about the cost of education than they are about miscommunication and mismanagement of the system

From P - Ashley Pizzuti - 2yr Borrower to Everyone:

+1 for 2010

From A-Sarah Butts, 4 Year Borrowers to Everyone:

+1 for 2010 proposal

From A - India Heckstall, Civil Rights Organization to Everyone:

+1 for 2010 proposal

From P- Lane Thompson - state officials to Everyone:

+1 for discharging loans from 2010 and before

From A-Amber Gallup-State Officials to Everyone:

+1 for 2010 proposal

From P-Sher Gammage-4 Year Borrowers to Everyone:

+1 for discharging loans pre-2010 that the dept. has no reasonable chance of collecting as full under the current regs

From A-Sarah Butts, 4 Year Borrowers to Everyone:

Agree with Melissa

From P-Angelika Williams-Private, Nonprofit Institutions to Everyone:

Agree with Melissa

From P-Sher Gammage-4 Year Borrowers to Everyone:

+1 It would be good to helpful to define "reasonable" in that it costs more for the gov to collect versus what they collect in payment

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 John

From A-Sarah Butts, 4 Year Borrowers to Everyone:

Agree with John. Collection through social security is problematic.

From P- Lane Thompson - state officials to Everyone:

Agree with John - federal benefit offsets defeat the purpose

From (P) Richard Haase - Graduate Borrowers to Everyone:

I think the power to waive debts that the department can't reasonably expect to collect should be applied to anyone who's sole income is Social Security

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

+1 John

From Sandra Boham TCU, HBCU, MSI to Everyone:

I agree with Kyra, and everyone else so far. Borrowers do not take out loans with the intent of non payment, but it is not reasonable to discuss repayment separate form the economy as a whole. Loan payments that might have been manageable have become burdensome witht he current inflation and the fluxes in the economy over the years.

From P-Sher Gammage-4 Year Borrowers to Everyone:

Agree with John and + 1 Richard

10:46:56 From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

Blog post from White House that shows 20 yrs often leads to a 78% increase in one's balance:

<https://www.whitehouse.gov/cea/written-materials/2023/08/22/new-student-loan-repayment-plan-benefits-borrowers-beyond-lower-monthly-payments/>

10:47:06 From A-Sarah Butts, 4 Year Borrowers to Everyone:

Agree with Wisdom.

From Sandra Boham TCU, HBCU, MSI to Everyone:

I think an automated system to forgive debt is critical as well. I am aware of a person who died and the family has spent the last year trying to settle the loans.

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

+1 Wisdom

From A - India Heckstall, Civil Rights Organization to Everyone:

+1 Wisdom

From A - Jordan Nellums - Currently Enrolled Postsecondary Education to Everyone:

+ Wisdom

From (A) Edward Boltz (Consumer Advocate: NACBA/NASLL) to Everyone:

Student loans should be forgiven for anyone who completed a Chapter 13 bankruptcy plan and received a general discharge. Those borrowers paid their creditors, including student loans, as much as federal bankruptcy law requires (often more than any IDR), for a period of a 3-5 years and were, in violation of 11 USC 525, explicitly and illegally excluded from participating in any IDR because that would be a burden for the servicers.

From A-Carol Peterson HBCU Langston University to Everyone:

Agree with Sandra Boham, an automated forgiven would be needed

From P- Lane Thompson - state officials to Everyone:

+1 Wisdom - transparency in collection efforts is key.

From P-Sher Gammage-4 Year Borrowers to Everyone:

+ Wisdom

Negotiated Rulemaking - 10/11/23

From A-Sarah Butts, 4 Year Borrowers to Everyone:

If the Department decides to forgive older loans (say, before 2010) consolidation should not be required. Consolidation is a barrier and can be confusing to borrowers.

From P-Sher Gammage-4 Year Borrowers to Everyone:

Consolidation also raises the loan amount from fees

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

+1 Kyra

From A - Jordan Nellums - Currently Enrolled Postsecondary Education to Everyone:

+1 Kyra

From P - Wisdom Cole, Civil Rights Organizations to Everyone:

+1 Kyra about borrowers who did not complete their degree

From P-Sher Gammage-4 Year Borrowers to Everyone:

+1 Kyra

From P- Lane Thompson - state officials to Everyone:

+1 to the groups of loans who Kyra identified as unlikely to be collectible

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 Jessica

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 to those groups

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

Defining "reasonable" using the available data is a great start.

From P - Melissa Kunes - Public 2 & 4 Yr Institutions to Everyone:

All loan programs, FFEL, Perkins, Direct, should be included in these waiver accommodations.

From Sandra Boham TCU, HBCU, MSI to Everyone:

I think FFEL and Parent Plus should be considered as well. Many of

these loans were taken by older borrowers to support their children through college. Some are 1st gen and did not fully understand the implications of these loans as the interest rate tends to be higher.

From Sandra Boham TCU, HBCU, MSI to Everyone:

Agree with Melissa

From P-Sher Gammage-4 Year Borrowers to Everyone:

Sarah Butts will become primary

From Sandra Boham TCU, HBCU, MSI to Everyone:

Many students who choose public service professions, education, social work, fire departments, police, community organizations, rural communities, do not make the salaries that others make. Likely never will. Needs to be a better understanding of this dynamic

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

^^^

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

If the payment and loan history is unclear or missing due to consolidation or otherwise then we should cancel the loans

From (P) Richard Haase - Graduate Borrowers to Everyone:

agreed

From P- Lane Thompson - state officials to Everyone:

yea agree Jalil

From P-Sarah Butts, 4 Year Borrowers to Everyone:

+1 Yael

From P-Angelika Williams-Private, Nonprofit Institutions to Everyone:

In addition to the groups Kyra mentioned, I'd like to include borrowers who obtained loans before July 1, 2010, and now have children currently enrolled in college, for whom they've had to apply for Parent PLUS loans. Repaying their loans may have hindered their ability to save for their child's educational expenses. Consequently, I urge the Department to take into account that

borrowers who have both student loans and Parent PLUS loans may face challenges in repaying their obligations.

From A-Carol Peterson HBCU Langston University to Everyone:

Also students in Prison that cannot pay is an important group for forgiveness.

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

The text that should help to define reasonable: "For instance, when exercising waiver authority under other statutes, some agencies consider whether collection would be against equity and good conscience, and agencies have articulated numerous factors that may weigh in favor of an individual waiver, including when collection would defeat the purpose of the benefit program or impose financial hardship, among other considerations."

From P-Yael Shavit-State AGs to Everyone:

+ 1 to the need to provide relief to Parent Plus borrowers

From P- Lane Thompson - state officials to Everyone:

Agree with Carol about incarcerated borrowers

From P-Yael Shavit-State AGs to Everyone:

+1 to Jalil and Jessica

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 Jessica

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 Jalil and Jessica

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 Jalil

From P-Sarah Butts, 4 Year Borrowers to Everyone:

Agree with Angelika, re: Parent Plus borrowers.

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 to Angelika's point re: the need to provide relief to borrowers who have debt from both their own education and their child's education

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 on parents carrying loans for themselves and their children

From P-Yael Shavit-State AGs to Everyone:

+1

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 to Jalil's point

From P-Sarah Butts, 4 Year Borrowers to Everyone:

Many young people have lost parents during the COVID-19 pandemic. This creates added hardship for single parents, who need to borrow, Parent Plus loans.

From P-Angelika Williams-Private, Nonprofit Institutions to Everyone:

+1 to Jalil's point

From A - Jordan Nellums - Currently Enrolled Postsecondary Education to Everyone:

+ to Jalil's point

From P- Jessica Ranucci (Consumer Advocates) to Everyone:

+1 to Kathleen's point that borrowers represent people in all stages of life and we should take all those experiences into consideration

From P-Sarah Butts, 4 Year Borrowers to Everyone:

Agree, Kathleen. We need to consider these issues of student loan debt relief, across the lifespan.

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

+1 Kathleen and I wonder if excluding Parent Plus borrowers is fully legal when considering the nature of how these are lent and the continued exclusion from beneficial programs? I feel like this must violate some type of consumer law

From (P) Richard Haase - Graduate Borrowers to Everyone:

Serving as primary for Grad Borrowers

From P - Kathleen Dwyer - Proprietary Institutions to Everyone:

+1 to Sarah's comments

From John Weathers to Everyone:

just a reminder, please change designation in name when switching from alternate to primary. thank you

From P-Sarah Butts, 4 Year Borrowers to Everyone:

Agree Kyra.

From A - India Heckstall, Civil Rights Organization to Everyone:

+1 Kyra on depicting debt burden

From A - India Heckstall, Civil Rights Organization to Everyone:

*predicting

From P-Vincent Andrews-Military & Veteran Groups to Everyone:

I'm interested in how the Department already approaches these issues in regards to what authority they currently believe they have to resolve these issues?

From Sandra Boham TCU, HBCU, MSI to Everyone:

Agree 100%

From P - Scott Buchanan - FFEL, Servicers, GAs to Everyone:

Ben Lee will step to table as Primary

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 to providing relief to borrowers where data shows that graduates are unable to pay down their principal

From P-Angelika Williams-Private, Nonprofit Institutions to Everyone:

In the context of this conversation, I propose that the Department provide a clear definition of "financial value." Higher education institutions often face external factors beyond their control, such as individuals who have earned degrees in Criminal Justice potentially encountering employment difficulties if agencies consider their financial aid history when making hiring decisions. Several agencies now request graduates to furnish this information for employment verification. If a person's financial aid history significantly affects their employment prospects, it can inevitably become a concern with implications for loan repayment.

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 on providing cancellation to all borrowers that attended closed schools (even if they completed their program)

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

+1 Ashley - If the Dept has already marked a institution or program as low return or fraudulent then it said cancel the debt associated with the institution/program. Do not make the borrower rehearse (prove) the fraud you already know about

From P-Yael Shavit-State AGs to Everyone:

+1 on providing cancellation to all borrowers that attended closed schools (even if they completed their program)

From A - India Heckstall, Civil Rights Organization to Everyone:

+1 on providing cancellation to all borrowers that attended closed schools (even if they completed their program)

From P- Jessica Ranucci (Consumer Advocates) to Everyone:

To add on closed schools: The schools' closure also means that crucial records relating to attendance and the loan programs no longer exist which causes into question the enforceability of the debt under the FCCS standards

From P-Sarah Butts, 4 Year Borrowers to Everyone:

Agree, Kathleen. Many workers provide significant value to society, but their jobs are not financially lucrative.

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

^Great points. There is a way to cancel debt for low return credentials without creating negative incentives for institutions. We can focus on providing relief for the borrower. From P- Jessica Ranucci (Consumer Advocates) to Everyone:

+1 to Ashley's point on accreditation. Loss of accreditation, or the revocation of the accreditor's authority, is a strong indication of a low-value program.

From P- Lane Thompson - state officials to Everyone:

+1 one to Ashley's thoughts on accreditation

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

Now primary as Graduate Student Borrower

From P-Sarah Butts, 4 Year Borrowers to Everyone:

Agree, Jessica.

From John Weathers to Everyone:

Jalil, please place that request in the chat. thanks

From A-Jalil Mustaffa Bishop-Student Borrower-Graduate to Everyone:

How does the department define "did not provide a minimum level of financial value" for a program? How does this definition account for students outside the the for-profit sector? How do we this automatically without placing more burden on the Dept or borrowers?

From (P) Kyra Taylor, Legal Assistance Orgs to Everyone:

What programs and timeframes does the Department have CDR data and GE data for?