

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
AFFORDABILITY AND STUDENT LOANS COMMITTEE
NEGOTIATED RULEMAKING SESSION 1, DAY 4, MORNING
OCTOBER 7, 2021

On the 7th day of October, 2021, the following meeting was held virtually from 10:00 a.m. to 12:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. ROBERTS: Good morning, everyone, and welcome to day four of week one of Negotiated Rulemaking on Affordability and Student Loans. Thank you as always to the Committee and members of our watching public for all their hard work and dedication on these matters.

I want to kick us off today with a brief roll call, go over the agenda, and then a few announcements. So, when I say your constituency group, please unmute, make sure your camera is on and say here. Accrediting agencies.

MS. PERFETTI: Good morning. Heather Perfetti.

MR. ROBERTS: Heather. Dependent students? I will reintroduce them when they get on. Federal Family Education Loan Lenders and/or Guarantee Agencies?

MS. O'CONNELL: Good morning. Jaye O'Connell.

MR. ROBERTS: Good morning. Financial Aid Administrators at Postsecondary Institutions.

MR. BARKOWITZ: Good morning. Daniel Barkowitz here.

MR. ROBERTS: Good morning, Daniel. Four-year Public Institutions of Higher Education.

MS. FELDMAN: Good morning, Rachelle Feldman.

MR. ROBERTS: Good morning, Rachelle.

Independent Students?

MS. MARTIN: Good morning. Michaela.

MR. ROBERTS: Good morning, Michaela.

Individuals with Disabilities or groups representing them?

MS. LILLY: Hi. I'm Bethany Lilly.

MR. ROBERTS: Good morning, Bethany.

Alright. Legal Assistance Organizations that Represents Students and/or Borrowers?

MS. YU: Good morning. Persis Yu.

MR. ROBERTS: Good morning, Persis. Minority

Serving Institutions?

MS. GONZALEZ: Good morning. Noelia

Gonzalez.

MR. ROBERTS: Good morning, Noelia. Private

Nonprofit Institutions of Higher Education?

MS. SABOUNEH: Good morning, everyone. This is Misty Sabouneh.

MR. ROBERTS: Good morning, Misty.

Proprietary Institutions?

MS. BARRY: Good morning. Jessica Barry.

MR. ROBERTS: Good morning, Jessica. State

Attorneys General?

MR. SANDERS: Good morning. Joe Sanders.

MR. ROBERTS: Good morning, Joe. State

Higher Education Executive Officers, State Authorizing --

Authorizing Agencies and/or State Regulators of Institutions of Higher Education and/or Loans Services?

MR. TANBERG: Good morning. David Tanberg.

MR. ROBERTS: Good morning, David. Student Loan Borrowers?

MS. O'BRYAN-LOSEE: Good morning. It's Jeri.

MR. ROBERTS: Good morning, Jeri. Two-year Public Institutions of Higher Education?

MR. AYALA: Good morning. Bobby Ayala.

MR. ROBERTS: Good morning, Bobby. U.S. Military Service Members and Veterans or groups representing them?

MR. HAUSCHILD: Good morning. Justin Hauschild.

MR. ROBERTS: Good morning, Justin. And last but not the least, our Department of Education negotiators.

MS. HONG: Good morning, Jennifer Hong. Welcome back, everyone.

MR. ROBERTS: Anyone from OGC? I'm not seeing anyone. Did I forget anyone? Alright. Great. So, before we get into picking up our conversation on PSLF sub Article 4 I believe Kayla has a few brief announcements.

MS. MACK: Good morning, everyone. I want to get your committee into the important issues and work before you as soon as possible. So, I promise to be brief. First, I do want

to reply to everyone's utilization of the group chat. The questions and suggestions that you all have been putting in there have been very insightful and (inaudible).

MR. TANBERG: You muted yourself.

MS. MACK: Yeah. There we go. How much of that did you hear?

MR. BARKOWITZ: Insightful, we heard insightful.

MS. MACK: You heard insightful and then I just mic dropped and was gonna leave it at that. No, the suggestions have been insightful so I want to encourage you to continue to utilize the chat box. That has exceeded our expectations in terms of a virtual tool for our purposes.

I also want to comment on those of you who have been creative and efficient enough to put Persis plus one Joe, plus one. That has helped to emphasize point, show support, but cut down on our usage of time and duplicitous commentaries. So, keep up the good work there.

We did note that there were several comments in the chat yesterday asking for transcripts of the public comments. I'm happy to report -- report, in fact, that there are going to be transcripts made of those public comments. They should be available two, maybe three weeks after this session and then will be shared out to you all as a resource.

And then last but not the least, I also

wanted to address the concerns raised around process and protocols yesterday by one of your fellow committee members after the committee received information from Mr. Foss

So, we've now had an opportunity to discuss this as a facilitation group. What we wanted to report back to you that in our agency's experience with various negotiated rulemakings. It is a common practice for the hosting department to present operational staffs for the purpose of sharing information. And this has been even a more routine practice, when that said staff has expertise or perspective to provide on matters that are occurring outside of the negotiations in real time.

And so, this is done in a number of instances and for a number of reasons, not the least of which to provide information to the committee, to ensure trust with the committee, and to show respect for the work of the committee. So, I'm hopeful that that addresses your concerns and we can continue to move forward in a productive manner.

Dixie, I see your hand.

MS. SAMANIEGO: Yeah. So, moving forward, I recommend that the facilitation group add that into the organizational protocols because as it stands, it wasn't. And so, that's why I raised that concern. And so, for me, when I read the organization protocols, it did violate it, that specific section.

And so, my recommendation going forward is that the facilitation team have that in the organizational protocols so that further confusion can be avoided. Thank you.

MS. MACK: Okay. Thank you, Dixie. Daniel?

MR. BARKOWITZ: I request a caucus for a second with -- it won't be long -- but with the student groups, legal aid, as well as four-year public and four-year private institutions and two yearpublic. I just want to run -- I want to have a conversation in regard to this for a moment.

MS. MACK: Okay. Tech, we need to create a breakout space. So, Daniel, I want you to be specific a little bit slower with who specifically we should move in there because I do want to make sure that we get all of the right folks in there. And are you asking that both the primary and the alternate for each of these groups be moved to that breakout space?

MR. BARKOWITZ: Please. So, actually, I'll specific. I'd like to caucus for a moment with dependent students.

MS. JEFFRIES: Okay. Hang on here. It will be helpful to have their name because that's what shows up first.

MS. MACK: I'll do that.

MS. CINDY: Okay.

MS. MACK: Dependent students are Dixie.

MS. JEFFRIES: Hang on a second. Okay, I got

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MS. MACK: (Inaudible).

MS. JEFFRIES: I have Dixie.

MS. MACK: Greg Norwood.

MR. BARKOWITZ: Independent students.

MS. JEFFRIES: I have Greg Norwood.

MS. MACK: Independent students are Michaela Martin and Stanley Andrisse.

MR. BARKOWITZ: Legal aid.

MS. JEFFRIES: Martin -- hang on.

MS. BARKOWITZ: Oh, sorry.

MS. JEFFRIES: You said Stan?

MS. MACK: Yes, Stanley Andrisse.

MS. JEFFRIES: Okay. I have Stanley.

MS. MACK: Next would be legal assistance. I believe that's Persis -- Persis Yu and Joshua Rovenger.

MS. JEFFRIES: I have Persis and I have the -- yeah, Josh, right?

MS. MACK: Yup. Then we -- then we need to include financial aid, which will be Daniel -- Daniel Barkowitz and Alyssa Dobson.

MS. JEFFRIES: Alyssa and Daniel.

MS. MACK: And then please, Daniel, any other constituency group?

MR. BARKOWITZ: I would also like to invite two-year public and four-year public.

MS. MACK: Okay. For four-year public, we have Marjorie Dorime-Williams and Rachelle -

MS. JEFFRIES : Hang on. Hang on. I'm sorry -

MS. FELDMAN: Marjorie is not on right now so won't see her in the list.

MS. JEFFRIES: She's not.

MS. MACK: That's true. So then we have Rachelle Feldman (inaudible).

MS. CINDY: Rachelle Feldman.

MS. O'BRYAN-LOSEE: Daniel, do you want all student borrowers?

MR. BARKOWITZ: Oh, yes. Thank you, Jeri. Yes. I did not -

MS. O'BRYAN-LOSEE: (Inaudible), please.

MR. BARKOWITZ: I did not mean to ignore you. So, yes, thank you.

MS. JEFFRIES: So, we need Jeri in there?

MR. BARKOWITZ: Jeri in there as well. Thank you.

MS. JEFFRIES: Okay.

MS. MACK: And also Jennifer -- Jennifer Cardenas.

MR. BARKOWITZ: And then the last group is two-year public.

MS. MACK: Two year, yes. So, we have Bobby.

MS. JEFFRIES: Okay.

MS. MACK: And Christina

MS. JEFFRIES: Okay.

MS. MACK: We will open up that breakout room. That breakout room will not be live streamed. We will pause the main table session, okay? And then, Daniel, how soon could FMCS check in with your group? Give me a rough estimate.

MR. BARKOWITZ: I think we need no more than 10 minutes.

MS. MACK: Okay. In 10 minutes, we will check in with you unless we hear from you soon.

MR. BARKOWITZ: And we may -- may exit sooner, correct.

MS. MARTIN: Do we include Noelia?

MR. BARKOWITZ: I am open to that, sure.

MS. MACK: Okay. Then we're including minority serving institutions by way of Noelia Gonzalez.

MS. JEFFRIES: Okay.

MR. ROBERTS: Okay.

MS. JEFFRIES: I am going to do -- since this is the first major breakout room that has taken place, I am going to run down the first names of the people that will be in

that room. I have Alyssa, Bobby, Christina , Daniel, Dixie, Greg, Jennifer from student loan borrowers as opposed to Department of Ed, Jeri, Josh, Michaela, Noelia, Persis, Rachelle and Stanley. Was that correct? Okay. I will go ahead and open your room.

MS. O'BRYAN-LOSEE: We need Jennifer from my group as well, my alternate.

MS. JEFFRIES: What is Jennifer's last name?

MS. MACK: Cardenas.

MS. JEFFRIES: Jennifer, I have Jennifer from Student Loan Borrowers, is that correct? She is already in the room.

MR. ROBERTS: So, open those up whenever you're ready, Cindy, and that -

MS. JEFFRIES: Okay. I'm going to open it now.

(In Caucus)

MR. ROBERTS: Alright. Welcome back everyone and thank you for your patience. Before we pick back up with Sub article 4 with PSLF, I wanted to give the floor over to Daniel for a brief comment.

MR. BARKOWITZ: Thank you so much, Brady, and thank you to the committee and to the public for your patience and allowing us some time to caucus with a very productive conversation.

I don't believe we show a solution yet but I just wanted to, again, express the appreciation for the time and we will continue with these productive conversations. So, thank you for your patience and thank you to the group that met and thank you to the group that did not meet. It was not an intentional slight, so thank you for the opportunity to take some time and just review where we were.

MR. ROBERTS: Great. Thank you. So with that, I'm going to turn it over to Jennifer and Vanessa to pick back right off with improving PSLF application process. We got partially through the discussion at the conclusion of yesterday. And so, I'd like to turn it over to Jennifer and then welcome any new comments or questions.

MS. HONG: Okay. Thank you, Brady. So, just as a reminder to everyone, we are still on issue paper number 4, improving PSLF application process. We're on the very last subtopic on that issue, if I'm not mistaken, and that is the PSLF reconsideration process.

Right, thank you Aaron for putting that up. If you can just go to page 6, that is where we have some proposed language on a PSLF reconsideration process. Basically, we want to codify a formal reconsideration process in regulation that will allow borrowers to request an appeal of their application when they believe they have been wrongfully denied

You know, a reconsideration process would

include all the elements you see here, a basis for which reconsideration can be requested, reasonable timeframes and provision for providing additional information as well. Please keep in mind, again, on the operational side, FSA, is making improvements.

So, there are plenty of opportunities for borrowers to request that their applications get looked at, if they feel like they had been denied, an error or if there were errors in how the payments were counted, et cetera in light of the new announcement yesterday. And I will leave that open for discussion.

MR. ROBERTS: Alright. I'm seeing Bethany's hand, then Persis. Bethany, please.

MS. LILLY: So, this maybe more of a question for Brian than for you Jen but "reasonably attainable" or "currently in the Secretary's possession", would that include things that being held by servicers that the department oversees? Because, that's, for instance, an individual I know had both Great Lakes and fed loan as a servicer.

Fed loan isn't counting the Great Lakes loans and that's the kind of thing that I would like this process to take a look at and I would just -- I'm a little bit worried if under the current language that it wouldn't incorporate things that the servicers have.

I strongly support the idea of the

reconsideration process and all that just like I want it to work as well for students as we can get it to work.

MR. SIEGEL: I'll respond, this is Brian. Those documents would be considered "reasonably obtainable" by the department.

MS. LILLY: Okay, thank you.

MR. ROBERTS: Thanks Bethany. Persis, please.

MS. YU: Thank you. Yes, I want to both reiterate, I appreciate Brian's -- and that was also my concern as well. The other -- the other concern I have is about the effective date for folks who have had denials in the past and -- in these 90 days, from the date that the -- that these regs take effect. That doesn't seem like a lot of time, sorry, Jen, you looked like you're going to comment to that.

So, I guess my concern is that 90 days, from the date when these regulations go into effect which maybe is, probably going to be what, July 2023, doesn't feel like a lot of time for folks to know this very far in advance date of when these regulations will change.

So, I would just either eliminate the time period and allow folks who had past denials before these regulations took effect to have any amount of time to do so or -- or at least a longer time period.

MS. HONG: Thank you, Persis and just --

just real quickly, you know, that's why I mentioned all the other things have the same story. This is really just to codify regulation but we -- we are looking into issues that the borrowers are having in terms of errors and payment counting and any other kind of reasons that their application may have been denied, so -- so yes.

MR. ROBERTS: Thank you and before I recognize our next speaker, I just want to announce that Marjorie has rejoined the table as primary negotiator for Four-Year Public Institutions of Higher Ed. So with that, Marjorie, please.

MS. DORIME-WILLIAMS: Thank you. I just had a clarifying question and it's a little bit for the dumb but it says that if the Secretary grants some or all of the borrower's request for reconsideration and so I just -- I don't understand how some of the reconsideration or some of the requests would be reconsidered. Could you just maybe clarify what exactly that means or the intent of that statement?

MR. ROBERTS: Jen or Brian, any immediate response?

MS. HONG: Yeah, I mean I don't have, you know, maybe a concrete example but, you know, that's pretty standard regulatory language. So that, you know, just to ensure the Secretary has the maximum flexibility to grant, you know, a decision based on information provided, whether it's for

everything that the borrower requested or if the borrower requested several items and you need some maybe not be relevant or may not apply. So, that's to maintain encompass, that language to maintain encompass in those scenarios.

MR. ROBERTS: Thanks. Justin?

MR. HAUSCHILD: Yeah, thanks so much. I just have a question for the department. Jennifer, I think we just mentioned that this reconsideration process is in addition to or were somewhat in coordination with the proposed review process that FSA has are already set to conduct.

And this was a little bit to my question the other day for Ian but I'm trying to get a better sense of what exactly is being done through emergency authority and what needs additional attention here from a regulatory perspective. And so is there -- is there a limit to the timeline for FSA to conduct these retroactive reviews and presumably take action, I would imagine that the role, if there are errors?

And if we're taking action, it seems to me, you know, I just wondered how much of that action is being authorized under emergency authority and how much needs to be considered here? Does that make sense?

MS. HONG: That does make sense, Justin, and I think the idea is to have like a streamlined transition, if we're able to effectuate these regulations to make some of the initiatives that we're providing through executive action more

permanent but again that all is contingent on what we end up with here.

There are some of the waivers for example, just off the top of my head, for FFEL borrowers, you know, that's a hard stop that we wouldn't be able to waive beyond October 31st, 2022. And that's why we've included the notification for FFEL borrowers in the regulations for those borrowers that do not avail themselves of the temporary waiver before October 31st, 2022.

MR. ROBERTS: Great. Thank you. And before I recognize Persis, I just want to recognize Christina who's taken a seat at the table for Two-Year Public Institutions. So with that, Persis, please.

MS. YU: Thank you. And similarly to Justin's point about retroactivity and automation, I'm thinking as we are, especially in the next issue paper discussing the qualifying employers, that there might actually be folks when we change the regulations who do not currently qualify and would not qualify under the waiver process.

And so, will the department -- when these regulations go into place, do the same kind of retroactive review of everyone who has been denied, so that we can make sure that those folks are captured as well?

I think -- I think it's very important just for all our regulations to think about having how these apply

retroactively to a lot of folks who had been doing public service but haven't necessarily been captured under a process and figuring out a way to both automate these as much as humanly possibly and then ensure that these borrowers get relief.

MR. ROBERTS: Thanks Persis. I'm noticing in the chat there's a question. Would anyone care to read that out loud just for the -- the live stream?

MR. BARKOWITZ: I can, I can, it's my question.

MR. ROBERTS: Thank you.

MR. BARKOWITZ: So, my question is, what happens to borrowers between October 31, '22, when the temporary waivers expired and July 1, '23, when presumably these regs would be implemented? And there's a second piece which is, could this section be subject to early implementation or you know is there some way to allow for new -- no rescission of benefits during that period?

MS. HONG: Yea, the short answer is yes, Daniel. We could have the options to really implement these regulations.

MR. ROBERTS: Great. Thank you and I appreciate your comment. Oh, I'm sorry did I interrupt someone?

MR. TANDBERG: Is that intent, Jennifer?

MS. HONG: Yeah, I mean I think that intent is to, you know, head off any kind of disruption for -- with the

borrowers, for the department to the extent that we can do that within the confines of the law and statute and regulation.

MR. ROBERTS: Great and I appreciate Persis' comment because it might be a nice segue into our next subarticle. But before we get there, I'm not seeing any new hands. I was wondering, Aaron, if you could unshare the document briefly and members just going to take, you guess it folks, a temperature check for a tentative agreement. Oh no, Jennifer, please.

MS. HONG: Thanks Brady. I just wanted to go back. I don't -- I don't recall yesterday if we took a temperature check on the FFEL lender notification issue, if not, we probably can do that and then take a temperature check on this as well.

MR. ROBERTS: Oh great, okay.

MS. HONG: We did finish the discussion, so.

MR. ROBERTS: I see. Do you want to -- let's finish the temperature check for TA on this and then we'll just briefly return to that document. So, Aaron, if you don't mind queuing that up, if people want to review it one last time?

So for this, it is a red line edit. So, we are asking for a temperature check on tentative agreement for the department's text modifications. So, can I see thumbs? Folks are getting them up there.

Thank you, everyone. I'm not seeing any

thumbs down. If I missed someone, please call it out.

Great. Alright, Jennifer, I'm going to turn it back over to you just to reintroduce the FFEL piece, if you want to reshare that text.

MS. HONG: Sure. This is the notification piece and I think Jaye had made a point about the placement of it which we said that we would revisit but it's on the last page of the document. But in brief, it's just ensuring that FFEL -- the FFEL community notifies borrowers of the PSLF program and the potential eligibility for it.

And I said the last page, Aaron, I think it's -- it's the last page that has a mandatory -- wait right there maybe. Yes, there we go, a reminder.

MR. ROBERTS: Any new discussion on this or do you guys want to move right into a check on thumbs? Yes, Joe, please.

MR. SANDERS: I just want to be clear, before we do the temperature check. So, after the emergency period, which ends next October, the borrower in FEEL loan has no opportunity to qualify for PSLF, is that right?

MS. HONG: That's correct. In other words, we want them to give them a year or two to consolidate and make whatever decisions they need to make, so that they can avail themselves of this opportunity.

MR. SANDERS: Thanks and the year is great.

I think that what you guys have done here is awesome. I don't think anybody who is still in FFEL that year, I don't think this is enough. I think FFEL borrowers need to be given more information, more support on -- on this issue.

MR. ROBERTS: Thanks Joe. Jaye?

Or I can turn it, I'm sorry, I just saw Jennifer's hand. Do you mind if Jennifer, just a brief response?

MS O'CONNELL: That's fine.

MS. HONG: Just real quickly, we -- remember we're waiving certain provisions to make that possible for FFEL borrowers under the emergency authorization executive action. We -- we don't otherwise have that authority to waive it for FFEL borrowers after October 31st as you mentioned (phonetic).

MR. SANDERS: Yeah and I'm not suggesting...

MS. HONG: On the systems (phonetic) there.

MR. SANDERS: Sorry. Sorry to butt in.

MS. HONG: No, no, no.

MR. SANDERS: I'm not suggesting that you can waive it. I'm just saying that what we've seen in the State AG work on servicers what we've seen is the borrowers don't get good information that the -- that a small written disclosure is not going to be enough to actually inform somebody about what they need to do or to get their attention.

And so the servicers need to be providing borrowers with better information. I'm just saying that this

disclosure on the -- on an annual statement is not going to do it as a practical matter.

And so that borrowers need to be, you know, whether it's through servicers or through some other means, they need to be given more information about, hey, you're in the (phonetic) loan, if you want to do public service loan forgiveness. These are the requirements. When we have looked at this, the servicers aren't providing adequate information on a program like PSLF.

MR. ROBERTS: Thanks Joe and just as a reminder, if folks have specific ask or proposed language, just be sure to put them in the chat, just so we can preserve a record for the transcript.

MS. HONG: I was just -- I was just going to say the same thing, Brady. So, Joe, if you have anything to give this language more body related to any specific things that you've seen in your role, please do provide it.

MR. SANDERS: Yeah, thank you. I -- I will need to caucus with other State AGs who are not here but I will absolutely highlight this provision to them and we can discuss and see if there's proposals.

MR. ROBERTS: Thank you. I appreciate that. I think now we're ready to move Jaye. Sorry about the delay.

MS O'CONNELL: So, this maybe my misunderstanding, so FFEL can consolidate into DL to access PSLF

but -- and that continues beyond the emergency period. However, the payment and deferment provisions that we spoke about yesterday, the payment counting, the deferment provisions, those are the elements you're saying that would not apply to FFEL after the emergency period. They restart the clock as they do today. Is that accurate?

MS. HONG: If I'm -- if I'm hearing you correctly, Jaye, so there's like two -- so the issue on restarting the clock is separate and apart from the temporary provisions. So by restarting the clock or stopping the restart of the clock on consolidation and putting that into regulation permanently, those payments would count, prospectively (phonetic) with that.

Does that make sense? So if we put that in regulation, then that resolves that issue or -- for any borrowers whether they have direct loans or outstanding FFEL loans that once they consolidate, that does not restart the clock for their payment counting. So, we're trying to resolve that going forward.

MS O'CONNELL: Okay. I think what I'm confused about is saying that FFEL borrowers after the emergency period don't have any access to PSLF but they do through consolidation.

MS. HONG: That's right, yes.

MS O'CONNELL: Okay.

MS. HONG: You are correct, yes.

MS O'CONNELL: Which is how it always worked and how we always counseled. Yeah and I -- I just wanted to make a remark just as a closed of yesterday that just to remember that there are still a number of state agencies. We're an instrumentality of the state of Vermont. There are many nonprofits that still hold the remainders of their FFEL portfolios.

We counseled people from, you know, about their state grants, about scholarships. We have outreach to students in high schools and middle schools. So, we -- we are talking to a lot of Vermont students and families and we do have counseling points around PSLF because we do -- we engage with a lot of different people in our state capacity.

So, we just wanted to -- to add that. So, I have no concern adding Ed. you know that we would -- we remind people about PSLF and direct them to the department which would be something that we would do already.

MR. ROBERTS: Great. I appreciate your comments and I think -- Jennifer, I'll give you a chance to respond and then unless I see new hands, I think we might ask for just a quick temperature check for TA after David. So, Jennifer, the floor is yours.

MS. HONG: Just a quick clarifying point for Jaye that this -- the proposal to stop the clock restarting

consolidation is a proposal. So, it's not codify -- it's not the current practice, and that's something going forward that we would like to remedy. So, we would need to proactively do that in order to allow those benefits for both DL and borrowers that have underlying FFEL loans.

MR. ROBERTS: Great. And then David, do you want to conclude -- if anything?

MR. TANDBERG: It's fine. I have just some - - some thoughts on the communication issue but perhaps that's something I can communicate with Joe on and then we can get language that is more substantive later.

MR. ROBERTS: Okay, I appreciate it, no problem. So with that, again we're just going to ask for a temperature check on TA. Thumbs right clearly in front, if you want to just show how they're feeling on this. And again, just to remind you, strong support, you can live with it. Thumbs down, if serious reservations.

So, Persis, David and Joe, unless I'm missing something, those are the three thumbs down. So Joe and David, I heard your concerns and Joe, you're going to get back to the committee with some suggestions. Persis, anything to add on top of those?

MS. YU: No, I just echo Joe and David's concerns.

MR. ROBERTS: Great. Alright, thanks so

much. I think -- Jennifer, are you ready to move to PSLF eligibility?

MS. HONG: Yes.

MR. ROBERTS: Great and then Aaron, whenever you're ready, if you want to share that document.

MS. HONG: Actually, Aaron, if you -- if you could just keep -- maybe we could just keep the proposed regulatory text. I think we have some language on the full-time part though, we don't have any proposed language on the employer eligibility. I just -- we wanted to open for discussion.

MR. ROBERTS: Alright, no red line text. This is just the committee's deliberation.

MS. HONG: Right, like so page -- okay so there's two subtopics on the next issue paper and I'll just start reviewing that right now. So, issue paper number 5 is the second public service loan forgiveness issue paper and it is on employer eligibility and full-time employment.

Again, under Section 455M of the HEA, the Secretary will cancel outstanding balances on eligible loans for borrowers who are employed in public service jobs. So, we know that all levels of government and 501(c)(3) organizations are qualifying employers for purposes of PSLF.

However, the statute also includes qualifying jobs and employers that are not government or 501(c)(3) organizations, if they provide certain services such

as public health and public interest law services.

We find that many of these services are undefined and those that have definitions may be unclear to borrowers seeking to determine employer qualification.

So as to the first subtopic for employer eligibility, we're seeking ideas on how to best define the primary service an organization provides, if it's not a 501(c)(3) or a government organization but seeks to otherwise qualify as a public service employer for PSLF purposes.

So, the department is proposing to establish a primary service definition to ensure employers perform one of the public services included in the statute as the primary function of the organization. We would like ideas on what to include in that definition. So, that's the first piece.

The second part of this is to get ideas from the committee on ways to define what services must be provided to qualify as a public service employer. For example, are there existing definitions for these services used by other federal agencies that the department could rely on? As always, we are -- we welcome proposals related to those issues that could be automated.

MR. ROBERTS: And just really briefly, so I don't think that the document being shared right now is -- because there's no accompanying regulatory text that we're deliberating but do you have a document that has the questions

to guide the discussion?

MS. HONG: Yes, we do have -- yeah, okay. So, maybe you're right, maybe we should go to the issue paper, sorry, Aaron.

MR. ROBERTS: That's okay, that's okay.

MS. HONG: I told him to pull that up because we do have the full-time employment text but that's -- we're not discussing that. So if you want to pull up issue paper number 5, Aaron.

Yep, there we go. Those -- you could just go up to the time of primary right here, perfect under define -- you know define the primary services of an organization. So...

MR. ROBERTS: Okay, so we'll open discussion on that, if everyone just wants to take a quick second to reread that and then I will begin recognizing folks. So, Christina, please.

MS. TANGALAKIS: Hi, good morning. Thank you for the opportunity. I asked to be-- partake in this conversation because this was something that I put some thought to yesterday about how to expand this definition or how to create this definition of the employer, the expanded deployment definition, to include students who are in situations where they can't access employment in their chosen field at a nonprofit organization and all.

And the few examples that I -- that I was

running through in my mind just kind of test cases would be a situation, let's say, where someone works that -- there's a large private company that is a food service, for profit, but they have a division that provides school lunches and they contract with local school districts to provide school lunches.

And now, we got staff who prepare nutritional meals for school districts which is, you know, I think almost by a wide margin would be considered a public service and how would -- how would someone who was in that position be treated in any proposed language.

Similar -- a similar case would be someone who chose to be -- chosen and trained to be a nurse and couldn't find full-time work at a nonprofit or a hospital that meets this -- the current definition of eligible employer. And so they worked for a company, a private company that is nurse placement, that is a temporary staffing.

So, this company may not meet the definition for eligible employer but the work being done by the borrower, should the borrower be disadvantaged or somehow excluded from relief of his or her debt by virtue of who produces their paycheck when the day to day work is the work of public service and providing care.

And that was the -- the intent of the -- of the borrower when they pursue the training. And through no fault of their own, jobs were not available...

MR. TONONCHI: Thirty seconds.

MS. TANGALAKIS: Jobs were not available and their chosen field with the -- with the right definition of employer. So, now we're putting students and former students and borrowers in this kind of Faustian deal between do I meet my current needs or -- for employment or do I wait for the right kind of jobs to get my long-term economic security is -- is -- is more secure with loan forgiveness. And that's kind of an untenable position and I just wanted to keep that definition in my mind as we move forward. Thank you.

MR. ROBERTS: Thank you Christina and I said it earlier but just to reiterate anything that is proposed because we're not doing the regulatory text, just feel free to pop them in the chat if you have unanswered questions or proposed modifications or suggestions to the department. It's really helpful for the transcript. So with that, Jennifer, I'll allow you a response.

MS. HONG: And thank you for your comments, Christina. I think what you described is exactly what we're trying to get at. We recognized those scenarios. I also wanted to acknowledge that you have Heather, the PSLF advisor on the Committee, eager to hear.

I know she put some stuff in the chat from her - from her, her thoughts on this as well. The reason why we privilege the employer is because we do -- we do have to

operationalize this process. And we have not found and my good colleague Brian can probably talk more about this as he was here when these rules were first negotiated.

We have not found a feasible way to tackle this problem. We cannot, you know, our operations with -- that would require us to be looking at individual job descriptions but we just -- we don't have the capacity to do that.

So, that's why the eligibility focus has been on the employer. That's why we shifted to this primary service permission of a private organization and that is why we're putting this out for you guys, just to hear your thoughts, is because we have to find a way to make this work (inaudible)

MR. ROBERTS: Okay. Persis?

MS. YU. Thank you and I appreciate the operational difficulties. I'm curious -- this is just to kind of follow-up, I'm curious in the -- in the issue paper, the organization, so long as it's not defined -- does it, I'm sorry, I'm losing the words. As long as not a for-profit organization and I'm curious if that is both required by the statute and how that is defined.

One of the things that I'm thinking of is in the legal profession, a lot of services are provided by solo practitioners or small firms who are then contracting with government entities and currently they are not eligible. And I think that this, you know, especially where a lot of legal

services, public defense work -- work for indigent children is done by contractors. I mean, it's done here in Boston, but especially in rural areas where we're cutting out a lot of folks who are technically organized for profit but are not making a lot of money in the work that they're doing. And they are certainly doing public service work.

And so, I would encourage the department to look at ways that we could include that. I also would love to hear from Heather, as I know, she has a lot of expertise on that, so I hope -- hopefully she will be invited to the table as well.

MR. ROBERTS: Great. Thank you. Brian, would you like to respond?

MR. SIEGEL: Yes. Regard to the for-profit that provision was adopted when we did the regulations. It's not specifically in the HEA, but we believed that it was consistent with congressional intent, which focuses on nonprofits and government agencies. We struggled at the same time with the issue that Persis mentioned, which is how do you deal with nonprofit -- with for-profits that are providing some of these services, but it's not a major part of their business. Again, you know, if there's-- trying to draw those lines is complicated, but you know, we're open to, to further discussion on that.

MR. ROBERTS: Great. And I see, I just want

to recognize Heather Jarvis who is serving this committee in a capacity as advisor on PSLF. So Marjorie, David, and Bethany with your permission, just because she's been addressed a couple times, is it okay if she speaks? Great. Thank you, Marjorie. The floor -- sorry, Heather, the floor is yours.

MS. JARVIS: Thanks very much, Brady. Hello everyone. Thank you for inviting me to join your conversation and thank you to the Department of Education for suggesting these ideas. I would like to begin by stating that I think defining the primary services of an organization is, is potentially not the best way to get where we're going.

As Jennifer and Brian have said the statute already clearly covers all full-time employment for government agencies, entities at all levels, as well as for organizations that have achieved 501(c)(3) status through the IRS. And so the present language limits the universe of employment that we need to define, to nonprofit jobs that also -- that are not (c)(3) or government, but that provide a public service. And I want to point out to this committee that that will be a very tiny negligible amount of organizations.

Organizations whose primary purpose and service is providing public services will nearly always be government or 501(c)(3) nonprofit employers. And because we have to give effect to everything in the statute, we must look to the list of public service that is provided quite clearly, emergency

management, et cetera, and look to see who is doing that work that is not doing it at a (c) (3) or a government.

And those people may be employed in nonprofits or they may be employed in for-profits. And although I appreciate and wholeheartedly agree that we should look first to an employer and an organization, and if it's a government or a 501(c) (3) then great, it doesn't matter what the borrower does within that organization.

But if we're trying to expand the list of eligible employment beyond (c) (3) and government, we need to reconsider whether that employment needs to be nonprofit at all. If it is going to be nonprofit, then we could spend -- and FSA could spend a lot of time trying to find those needles in that haystack and it would be operationally difficult and have little impact for a few borrowers.

So I think that it is -- there are some other ideas. I have some ideas for regulatory language I'd be happy to put together and distribute to this group as well as the department. I'd love to hear whatever else the committee has to say and I'm available to answer any questions or weigh in as we continue this conversation.

MR. ROBERTS: Great. Thanks so much, Heather. Bethany we'll pick right back up.

MS. LILLY: Heather actually set up my question, I think really, really well, which is, so we had a

young man on the public comment period on the first day who was talking about being a disability service provider and not being able to access public service loan forgiveness. And I'm not sure why because he didn't really get into the details there, but that is actually an ongoing problem, I think. Not so much in the folks like my network that are 501(c)(3) or in other networks where you have folks who are in that context.

But one specific example I want to name is when you use a staffing agency, which will be a for-profit company that is like placing frontline disability service providers at various other places. Like those are exactly the folks we want to be qualifying for public service loan forgiveness, but they are, because they're going through a staffing agency to be placed somewhere, not going to qualify in the traditional way.

So I really like, Heather's kind of outline of starting with the 501(c)(3) and the governmental agencies, and then having another set of kind of folks that we're taking a look at. And I also think given the broader trends in employment across this country where you have a lot more gig employment and you have a lot more other types of employment with untraditional employees, that's also something we should be thinking about. I don't really have a solution there, but I think that setting up the structure like Heather laid out in the chat would at least get us closer to that. So, I will turn it over to other folks.

MR. ROBERTS: Great. Thanks. David.

MR. TANDBERG: Yeah, I'm -- I'll be honest, I'm really struggling with this one. And I'm -- I'm compelled by the discussions, particularly around the aid workers, healthcare workers, and the like that are -- end up having to work through for-profit placement firms and, and such situations like that. But then I'm really nervous about extending this program into the for-profit world. It -- it -- it seems that wealthy for-profit companies could see this as, you know, get their lawyers working on it so they comply with the regulations.

It would be a great hiring incentive to say, hey, we -- we work this out, you can get loan forgiveness when they -- it may not actually be the type of services or -- or, you know, employment area that matches the spirit of the original legislation and the regulations that have followed. It -- my observation is that companies are very, very effective at crafting language and arguments that allows them to manipulate any loophole to their benefit, which, yeah, Heather, which the other organizations may not have the resources to compete.

And I would think the regulations would have to be written with that in mind of companies taken advantage of this to their own benefit while not offering true public service. And, you know, I think the intent originally was to incentivize people to go into public service, where they're not being paid the salaries that they would be in the private

sector. And so just some concerns. And I'm definitely interested in the language that Heather may craft because I think she kind of is thinking in similar lines.

MR. ROBERTS: Great. Thanks, David.

Marjorie?

MS. DORIME-WILLIAMS: So, I just wanna -- I think sort of extend on Bethany's point and thank you for sharing that because I was also thinking about the gentleman who did give public comment. And I'm wondering if, and I know we're probably getting into the weeds in this, in thinking about maybe these tiers of verification like educational or degree might be a piece of this puzzle.

And so, you know, I have an MSW, I might not work for a not so for-profit, but I'm still doing public service social work. Am I now penalize because an opportunity came up and I took it, but it's not an -- but I'm doing the same kind of work? And so I don't know necessarily how that language would be articulated, but maybe-- we do know what people graduate with.

We, you know, IPEDS and that kind of data. Could we maybe also think about tying the type of degree someone has to the work that they're doing as a -- as a verifiable way to think about public service work, as opposed to -- I think David's point, you know, private organizations and that can get really tricky.

And so, maybe tying it to something that can

be verified by the department through the work that an NGO is doing and, you know, particularly I'm thinking about like social work and teaching and education, healthcare. There are lots of fields where you may not be, again, at a government agency or not-for-profit, but still doing the same type of work. I guess my concern is, are we penalizing people for choosing a particular organization to work at, but it's not a not-for-profit? Like, do I have to think, oh, I can't take this job because then I won't be able to pay off my loans?

MR. ROBERTS: Great. Thanks. And before we get to the next folks in the line, Brian, I saw you come off mute. Do you have an immediate reaction to any of the past few speakers or you just rather than put it in the chat?

MR. SIEGEL: I'll just note that information is in IPEDS. We don't have degree information on an individual borrower basis. That's not something we collect, you know. We just collect it in general for schools for purposes of public disclosure and the IPEDS reports, but we don't collect it on an individual basis.

MR. ROBERTS: Thanks. And so next up we have Alyssa and Emily and just before they speak, I wanted to introduce them. Alyssa is an alternate for financial aid administrators and Emily is an alternate for military service members, veterans and groups representing them. So please, the floor is yours Alyssa for three minutes.

MS. DOBSON: Sure. Brian, just quickly, you do have zip code though associated with those borrowers, which could be related to their field of study. That was just kind of an aside. What I really wanted to talk about was I agree with not, I guess, harming the borrower based on their employer. I think that natural market forces will do more to determine where a student works rather than an employer's incentive for loan forgiveness.

But also I wonder if SOC codes, Standard Occupation Codes, might be a really good way to link somebody to the work that they're doing. I think that's easily certifiable. I think that's easily codifiable and I wouldn't suggest replacing employer eligibility, but adding in, you know, if you're not eligible based on your employer, perhaps you're eligible based on your occupation and you know, both the employer as well as their taxes could verify their occupation.

And I also think if we do that, then there's space to you include self-employed individuals again, SOC code and their Schedule C could validate the work that they're doing.

MR. ROBERTS: I believe you're muted, Emily, but you're recognized for -- there you go. Perfect. Oh, we can't hear you right now, Emily. If you just wanna fiddle with it -- oh wait, there you go. Yeah, I just saw it. You're good.

DEVITO: I apologize. Thank you for your patience. So good morning. There are two types of work that we

really wanted to just flag that might not be covered in this current language. So, one for the majority of veteran service organizations do fall under 501(c)(3). Some of the largest VSOs for example, Veterans of Foreign Wars and American Legion fall under 501(c)(19) and Disabled Veterans of America or Disabled American Veterans are 501(c)(4). And I'm -- this is not an exhaustive list.

I'm just using these three examples because these three also, not only are they huge VSOs, they also employ in large part VA accredited representatives who actually work at VA locations and have VA e-mails and are not eligible currently under PSLF. So, here we might recommend language that could include VA recognized VSOs that would allow those VSOs that are not currently 501(c)(3) to be included.

And then a second category that would not also be captured in this current language because it's not traditional, it would be military and the veteran caregivers. So they're not traditionally employed by the VA. However, they received stipends from the VA, actually commensurate with federal employee as a GS-4 healthcare. They even get time off. So in all true senses, they are employees, but they would not be eligible for PSLF in this current language. So we would recommend that people who are participating in that program through the VA, again, also easily automated would be able to be included.

MR. ROBERTS: Great. Thanks Emily. And as always any -- any of those suggestions, please capture those in chat. Jeri, before I recognize you, ED, after this, I'm just conscious of time. After Jeri and Heather, whose hand I just saw, do you wanna move onto the next issue or do you wanna keep this issue through lunchtime?

MS. HONG: Oh, okay. This, I think there's a lot of good information in the chat as well. I think if we could keep moving on and so we could wrap up this issue paper before lunch, that would be really great.

MR. ROBERTS: Great. So we'll do Jeri, Heather, and then do a temperature check for a TA.

MS. O'BRYAN-LOSEE: Hi, thanks. I just want to -- I did already put it -- put my suggestion in the chat box, but I just wanted to talk to go back to students a little -- a little bit and people who have -- are, you know, are continuing on such as residents. You know, we have a -- I work with three educational hospitals in New York that provide residents throughout the area so their primary -- their primary placement is with one of our SUNY schools, our public universities.

But when they do rotation, they may have a small rotation in the community at a for-profit place even though they're associated with Downstate Medical, they maybe -- have a couple of weeks, a few rotation at another place. And so they pop on and off and on and off and on and off. And again,

their primary place is a public service position, but as they work through their specialties. And I think looking at that is important, especially, you know, when we look at drawing people to you know, healthcare that we want to with this program. Thank you.

MR. ROBERTS: Thanks. Heather, to wrap us up.

MS. JARVIS: Thanks, Brady. I -- I do also want to say in response to ED's proposal, Raj and I have begun looking at some data sources we've identified that do purport to classifying nonprofit organizations by their primary purpose. And this is data that comes from IRS reviewers. So, Raj is looking into that more specifically now. I enlisted his assistance because the data is voluminous. But I do think it's possible to do a better job of finding which nonprofits do public services. But I, you know, continue to emphasize that I think that that's really a rather narrow point and that it -- we don't want ED spending a tremendous amount of time on -- on that particular substance of borrowers.

MS. HONG: I just -- I appreciate that point, Heather, and we -- we definitely would be interested in seeing what you and Raj come up with. Thank you.

MR. ROBERTS: Great. Thanks everyone for this discussion. As always the -- all the comment and input in chat. So, if you can briefly unshare the document, then I'll

have you scroll down and reshare it for the -- the full time employment definition conversation. Just do a quick temperature check to TA to close discussion at this point on defining primary services of a private organization. So, if you wouldn't mind showing thumbs.

MS. LILY: Sorry. Sorry, but I -- we did this before like, we have had such an all over the place discussion here that I don't understand what we're taking the temperature check on and I would -- I don't know that we need to, given that it was more of an informative discussion for the department. I would understand if Jen wants us to take one, but just like it was so all over the place, I'm really not sure what I'm indicating support for or against.

MR. ROBERTS: No, sure. It's a -- it's a fair question. For us, for our purposes, it's really just to get an understanding if conversation is closed at this point and we can move on to the next issue, but if folks want to keep talking about this, obviously thumbs down, we can bring it back up, but I'll turn it over to you, Jennifer.

MS. HONG: Thank you. Yes. I mean, I think we're -- I think it is an open ended discussion that we're having. We -- if -- if we could take a temperature check on the concept of going toward a primary service or a private organization of that piece, Bethany, and others, I just like to kind of gauge how people are feeling on that. I know -- I know

we've heard -- your thoughts on it already, but just overall, if we could do a temperature check on this idea, this concept.

MR. ROBERTS: Show of thumbs. Sideways.

MS. O'BRYAN-LOSEE: Are you gonna unshare the screen?

MR. TANDBERG: Should we -- should we unshared?

MR. ROBERTS: Yeah. Would you mind unsharing the screen? Aaron very briefly. Thank you. So, I'm seeing Christina any succinct summation of your major disagreements on the concept right now?

MS. TANGALAKIS: Well, again, I share Bethany's concern that I'm not quite sure what we're voting on. I mean, you're taking the temperature on whether there is some type of tentative consensus or whether I feel that the conversation that I've said all I need to say on the issue.

MR. ROBERTS: Jen, if you wanna speak to that feel free.

MS. HONG: Yeah, Christina, I just -- I wanna be clear everyone is clear what we're taking tentative agreement on. The concept of leading with an organization and defining the primary services of an organization, I've -- I've -- we heard your reservations about that and Heather's. I just wanted to get a temperature check on that concept defining the primary service of an organization.

MS. TANGALAKIS:: Okay.

MS. HONG: Yeah. Thank you.

MR. ROBERTS: Great. Thanks Jennifer. So with that, Aaron (phonetic), if you wanna re-share that same issue, paper number five. And then briefly scroll down. Alright. And Jennifer, I'll turn it over to you just to -- to reintroduce the topic.

MS. HONG: Sure. This is our full-time employment. We do have regulatory texts on this. So after if you want -- after my presentation, Aaron if you wouldn't mind then going back to page one of the proposed regulatory text that way folks can see both documents, and thank you for that. So this is just -- this is actually pretty straightforward.

Second sub topic is just to clarify the definition of full-time employ employment. We proposed defining full-time as 30 hours for all borrowers, therefore striking the language which set the full-time employment at the greater of 30 hours or how the employer defines it. We also proposed to use a credits taught to hours' work conversion factor to help adjunct instructors starting with a threshold at two and a half hours per credit hour with a 30-hour work requirement. I do realize there was a public comment on this particular issue the other day and use of the term "adjunct" generally. So, we did have a question about that and we appreciate discussion on that.

And another piece is we are incorporating

existing practice into regulations by asking employers to certify average hours worked for the time covered in an employment certification rather than the entire year. We believe this will help borrowers to work in seasonal eligible employment to be considered full time for the months that they were engaged in that work. And that is all I have on that.

If we could open that up for discussion and then Aaron if you could pull up the language proposed regulatory language page. It should be on page one with definition of full time employment. And I believe, I think, Beth, you know, Bethany had a question about FMLA- Family Medical Leave Act and that -- that inform -- that is captured there as well in the section. And I'll put myself on mute.

MR. ROBERTS: Alright, thanks. And just as a quick time check, we're a little over five minutes until our noon break so I'm gonna take the queue right now and we'll -- we'll pick it right back up at the conclusion of lunch but just know we might -- have to pause people mid -- mid -- mid comment, period. So, Heather, please.

MS. JARVIS: Thanks, Brady. I appreciate the department looking to clarify this definition. I fully support eliminating the disjunction between the employer's definition of full time and 30 hours per week. It strikes me that if -- if we go with 30 hours per week that -- and we use the department's suggestion of certifying that in the month or over the period,

which is being certified on documentation, we may not need all these -- all this extra language. We may be able to just say, you know, 30 hours a week and leave it at that.

And I would also say that, you know, what is wrong with allowing faculty and others assert that they work 30 hours and that they exert effort over at least 30 hours per week and certify that by their signature of their organizational official. And in my view, that ought to be sufficient. It doesn't necessarily -- I think it's not necessarily important that faculty be able to demonstrate how many credit hours they are teaching.

And I think it would be useful to clarify for employers that the definition of full-time as presented in the regulations is what the Department of Education considers to be full-time for public service loan forgiveness. That is in fact not conflated with the employer's definition of what a full time equivalent is or what someone has to work in order to receive benefits. Employers have a lot of motivation to have employees that are not full time because then they don't have to provide benefits that are expensive, yet people often work more hours.

And so, I think that the, you know, recognition that public service loan forgiveness works hand in hand with income-driven repayment. The more people earn, the more they'll pay. That if people who are working at least 30

hours per week, and assert so, that they -- they ought to be considered full time.

MR. ROBERTS: Thanks, Heather. So, just to keeping with the time, Jeri, you're gonna be recognized for three minutes, but then Bethany, Suzanne, on behalf of state regulators, Marjorie, and Heather, I copied them the order of your hand raising and then we'll pick it right back up over lunch, if that's okay. Alright. Jeri, the floor is yours.

O'BRYAN-LOSEE: Alright. So, hi. Okay. So I represent about, you know, 20,000 adjunct contingent people. And it would be great if you could just say, I know I work 30 hours, but in my experience with the people I've worked with, H.R. departments don't do that. They say, you know, you're a part-time because if we say you're full-time that opens you up to other benefits because we've used the word full-time.

My proposal, and I'll put it in the chat box, is that we look at, at least 2.5 or I'm sorry -- that we look -- if we changed the 2.5 to at least a 3.35, which is actually state law in, well, I think its California and Oregon, actually have a higher rate for adjunct people. This is a huge problem because going back and forth between multiple institutions even is more than 30 hours. It's -- it's more than, but getting an employer to recognize that is a huge problem because I can say, well, according to this meeting, I was just on, this is what you should be doing, and they laugh in my face

and say, well, what it says is, I get to choose if you've taught that much.

And so I'm -- I think that -- I don't think the 2.5 hours works for me because that's like what I always tell my students. That's what I say when I'm like, well, you should think about two and a half hours outside of class, but you know, to put in into class. But faculty do more, and especially you're talking about marginalized people who, you know, subs, you know, subsidize with food stamps, you know.

It needs to be really clear that they can hit that in a way that they haven't been able to for -- they haven't been able to before. It takes away the like, worry about like, well, do -- does this H.R. person wanna say yes? Does that H.R. person wanna say yes? It makes it much more clear about -- about what -- what the adjunct faculty go through.

MR. ROBERTS: Alright. Thank you so much. And again, I copied down the -- the order of folks that we'll pick right back up over lunch, but you have an hour time off camera starting now. Thanks everyone.

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Appendix

Department of Education, Office of Postsecondary Education
Zoom Chat Transcript
Affordability and Student Loans Committee - Session 1, Day 4,
Morning, October 7, 2021

DISCLAIMER:

Note: The following is the output of transcribing from a recording. Although the transcription is largely accurate; in some cases, it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

They add to the experience

From Rachelle - 4 Yr Public (A) to Everyone:

Any pets?

From Cindy - FMCS Facilitator to Everyone:

I will be your tech contact today. cjeffries@fmcs.gov

From Jennifer she/ella, (A) Student Loan Barrowers to Everyone:

Are we missing dependents?

From Kayla - FMCS to Everyone:

Those in the caucus space have requested an additional ten minutes. I will continue to keep you all updated.

From John Whitelaw (A-Disability) (he/his) to Everyone:

Is there any update on when we might reconvene?

From Jessica (P) Proprietary Institutions to Everyone:

No slight taken.

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

:)

From David (P) - State hi ed agencies to Everyone:

+1

From Bethany (P) Disability (she/hers) to Everyone:

I also feel like ED administratively might need some more time than 90 days given the number of denials so far

From Bobby (P) Two Year Public Colleges to Everyone:

Christina, alternate for two year colleges will be sitting at the table.

From Marjorie (P), 4 Yr Institutions (she/her) to Everyone:

+1 Bethany

From Brady - FMCS to Everyone:

Thanks Bobby

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

What happens to borrowers between 10/31/22 when the temporary waivers expire and 7/1/2023 when these regs would begin?

From David (P) - State hi ed agencies to Everyone:

I have the same question as Daniel.

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

Could this section be early implemented?

From Bethany (P) Disability (she/hers) to Everyone:

+1 to Persis on retroactivity

From Rachelle - 4 Yr Public (A) to Everyone:

+1 Early implementation

From Joe (P); State AGs to Everyone:

+1 to Persis on retroactivity. There are a lot of borrowers who have been denied who should be allowed reconsideration.

From David (P) - State hi ed agencies to Everyone:

+1 on retroactivity and early implementation.

From Misty (P) Priv & Non-Profit to Everyone:

+1 to retroactivity and early implementation!

From Joe (P); State AGs to Everyone:

+1 on early implementation

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

+1 Joe

From Bethany (P) Disability (she/hers) to Everyone:

+1 Joe

From Christina, (A) 2-Year Public she/her to Everyone:

on the eligible payment issue: In a non-covid environment, borrowers in default must make 9 consecutive on time payments to cure their defaulted student loans. I'm proposing allowing payments made toward curing a default to count toward PSLF relief. And change the on-time language to payments made within 30 days of due date.

From Joe (P); State AGs to Everyone:

As an example of problems with with the information servicers have provided to borrowers in the past, see MA AG's settlement with PHEAA: <https://www.mass.gov/doc/pheaa-settlement-agreement/download>

From Heather - PSLF Advisor to Everyone:

I'm not sure defining primary services is the best question.

From Heather - PSLF Advisor to Everyone:

+1 Christina

From Suzanne (state regulators) (A) to Everyone:

+1 - focus on job-related activity of borrower and beneficiaries of that activity

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

other examples: residents doing rotations, their primary placement at a public, but rotate to private hospitals

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

CURRENT PROPOSAL (p 2-3): (3) An organization that - (i) Provides a public service; and (ii) is not a business organized for profit, a labor union, or a partisan political organization
REVISED PROPOSAL: (3) An organization that - (i) Provides a public service; and (ii) is not a business organized for profit, a labor union, or a partisan political organization; or (iii) not withstanding (ii), is an organization providing medical services at a nonprofit or public hospital or other non-profit or public health care facility

From Marjorie (P), 4 Yr Institutions (she/her) to Everyone:

Could we create two tiers of eligibility, first through the employer and second through the borrower's job description?

From Heather - PSLF Advisor to Everyone:

Not required by the statute for jobs to be nonprofit

From Alyssa (A) Fin Aid Administrators to Everyone:

Any thoughts on adding a provision to qualify by SOC code in addition to employer?

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

Another example of an employee who would not qualify under current rules are a financial aid administrator at a for-profit institution, but the similar job at a not-for-profit or state school would qualify,

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

This should be resolved.

From Christina, (A) 2-Year Public she/her to Everyone:

+1 Daniel

From Marjorie (P), 4 Yr Institutions (she/her) to Everyone:

+1 Alyssa

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

+2 to Alyssa

From Heather - PSLF Advisor to Everyone:

Focus on organization first, job description only for folks not employed by c3 or gov

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

Switching with Allysa, alternate, who wants to add a comment.

From Brady - FMCS to Everyone:

Thanks Daniel!

From Christina, (A) 2-Year Public she/her to Everyone:

+1 Heather

From Christina, (A) 2-Year Public she/her to Everyone:

a two tier employment verification

From Suzanne (state regulators) (A) to Everyone:

+1, need to be future focused re: gig work

From Heather - PSLF Advisor to Everyone:

+1 David (private prisons come to mind)

From Bethany (P) Disability (she/hers) to Everyone:

I think we need to prioritize the borrower--I understand the concerns about employer bad actors, but I think our responsibility here is to focus on the borrower. It's often not a choice where they end up working

From David (P) - State hi ed agencies to Everyone:

<https://www.newamerica.org/education-policy/edcentral/publicservice/>

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

+1 Bethany

From Misty (P) Priv & Non-Profit to Everyone:

I agree with Bethany

From Alyssa (A) Fin Aid Administrators to Everyone:

Just want to add that ED should be familiar with SOC codes given the construct of GE programs. Shouldn't be a huge hurdle to incorporate it here. And easily added to the current form.

From Heather - PSLF Advisor to Everyone:

Re: David's link New America has written many antiPSLF pieces over the years.

From Bethany (P) Disability (she/hers) to Everyone:

+1 on caregivers

From Bethany (P) Disability (she/hers) to Everyone:

Medicaid reimburses some caregivers as well

From David (P) - State hi ed agencies to Everyone:

True but I think the argument around the difficulty in defining public service are worth considering

From Heather - PSLF Advisor to Everyone:

+1 David

From Noelia, Minority Serving Inst. (A) to Everyone:

+ David

From Christina, (A) 2-Year Public she/her to Everyone:

the "primary function" language is unnecessarily restrictive

From Misty (P) Priv & Non-Profit to Everyone:

+ 1 to Jeri's comment about including residency

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

To Jeri's point: 1200 of 6000 community hospitals are for-profit.

<https://www.aha.org/statistics/fast-facts-us-hospitals>

From Joe (P); State AGs to Everyone:

Agree with Bethany - what are we taking temperature on?

From David (P) - State hi ed agencies to Everyone:

I have yet to see an example of when the opportunity for large corporations to take advantage of a law or regulation and they haven't done so.

From Heather - PSLF Advisor to Everyone:

+1 David

From Michaela (P) Ind. Students to Everyone:

I support the idea of DoE drafting language and continuing development of the concept: defining the primary services

From Dixie (P) Dependent Students (ella/she) to Everyone:

To David's point earlier with the link he dropped, how are we defining public service? Agriculture laborers should be included.

From Michaela (P) Ind. Students to Everyone:

To explain my thumbs up

From Daniel (P) - Fin Aid Admin (he/him/his) to Everyone:

I am back in for FIn Aid Admin

From Heather - PSLF Advisor to Everyone:

Can ED please also plan to provide clarification regarding which organizational data are included in the PSLF Help Tool

From David (P) - State hi ed agencies to Everyone:

Suzanne, my alternate, has a comment/question.

From Will (A) FFEL Agencies Lenders to Everyone:

+1 for Heather's comments Would support the concept of less language versus more, and providing clear instructions to employer

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

+1 on Heather's idea of self-certification

From Bethany (P) Disability (she/hers) to Everyone:

You can take me off the list

From Brady - FMCS to Everyone:

Understood!

From Bethany (P) Disability (she/hers) to Everyone:

Because Heather raised the issue I have

From Bethany (P) Disability (she/hers) to Everyone:

I want to reflect that the public commenter had serious concerns about this and I'd like those concerns to be taken into account

From Suzanne (state regulators) (A) to Everyone:

+1 jeri is raising my points re lecturers

From Heather - PSLF Advisor to Everyone:

+1 Jeri

From Dixie (P) Dependent Students (ella/she) to Everyone:

+1 On adjunct professors/guest lecturers point that Jeri made

From Marjorie (P), 4 Yr Institutions (she/her) to Everyone:

Jeri addressed my point.

From David (P) - State hi ed agencies to Everyone:

+1 to Jeri - it seems that adjuncting a multiple institutions is increasingly common

From David (P) - State hi ed agencies to Everyone:

*at

From Bethany (P) Disability (she/hers) to Everyone:

+ Jeri too

From Marjorie (P), 4 Yr Institutions (she/her) to Everyone:

We have more contingent faculty than full-time faculty at most institutions.

From Dixie (P) Dependent Students (ella/she) to Everyone:

Most adjunct profs in CA are BIPOC/low income with huge loans to pay off and thus need to teach at multiple campuses

From Jeri (P) (she/her), Student Loan Borrowers,
Primary to Everyone:

1. (C) The equivalent of 30 hours per week by converting each credit hour taught into at least 2.5 hours worked each week, for adjunct faculty employment. PROPOSAL: 1. (C) The equivalent of 30 hours per week by converting each credit hour taught into at least 3.35 hours worked each week, for adjunct/contingent/nontenure-track faculty employment.

From Jeri (P) (she/her), Student Loan Borrowers,
Primary to Everyone:

Rationale: • The Carnegie Unit, widely in-use at institutions of higher education in all sectors, sets an academic standard of 3 hours of student work per credit hour, and the definition of full-time for the academic employee should not be below this. • At least one state has already set a statutory multiplier higher than this-- California at 3.35 hours worked per week. In our experience this more accurately reflects the hours faculty actually work. The added 0.35 hours have no cost implications for the employer, as this multiplier bears no relationship to other multipliers already established for purposes like ACA. • Language "adjunct/contingent/nontenure-track" encompasses all terms used to describe these employees, for avoidance of doubt.