DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

INSTITUTIONAL AND PROGRAMMATIC

ELIGIBILITY COMMITTEE

SESSION 2, DAY 5, MORNING

February 18, 2022

PROCEEDINGS

MS. JEFFRIES: Hey, good morning, I'm Commissioner Cindy Jeffries, and I am just going to do the roll call this morning and do an opening statement to address the committee and then Brady Roberts, will take it from there to facilitate this morning session. So, with that, let's get going with our roll call. For accrediting agencies, we have Jamie Studley as primary.

MS. STUDLEY: Good morning and happy Friday.

MS. JEFFRIES: Good morning. And Dr. Laura Rasar King.

DR. KING: Good morning.

MS. JEFFRIES: Good morning. Civil rights organizations and consumer advocacy organizations, Carolyn Fast.

MS. FAST: Good morning.

MS. JEFFRIES: Good morning. And Jaylon Herbin.

MR. HERBIN: Good morning.

MS. JEFFRIES: Good morning. Financial aid administrators at postsecondary institutions, we have Samantha Veeder.

MS. VEEDER: Good morning.

MS. JEFFRIES: Morning. And David Peterson.

MR. PETERSON: Good morning.

MS. JEFFRIES: Good morning. Four-year public institutions of higher education, Marvin Smith.

MR. SMITH: Morning.

MS. JEFFRIES: Morning. And Deborah Stanley as the alternate.

MS. STANLEY: Morning.

MS. JEFFRIES: Morning. Legal assistant organizations that represent students and/or borrowers, we have Johnson Tyler as primary. Alright, we'll circle back to Johnson, he may not be here yet. And Jessica Ranucci as the alternate.

MS. RANUCCI: Good morning.

MS. JEFFRIES: Good morning. For minority-serving institutions, we have Beverly Hogan as the primary who will not be joining the committee today, so Ashley Schofield, the alternate, will be at the table all day. Ashley?

MS. SCHOFIELD: Good morning, everyone.

MS. JEFFRIES: Morning. Private nonprofit institutions of higher education, Kelli Perry as primary.

MS. PERRY: Morning, everyone.

MS. JEFFRIES: Morning. Emmanual Guillory as alternate.

MR. GUILLORY: Morning, everyone. Happy Friday.

MS. JEFFRIES: Morning. Proprietary institutions of higher education, Bradley Adams.

MR. ADAMS: Good morning.

MS. JEFFRIES: Good morning. As the primary and Michael Lanouette as the alternate.

DR. LANOUETTE: Good morning.

MS. JEFFRIES: Morning. State attorneys general, Adam Welle is the primary.

MR. WELLE: This is Adam Welle. Good morning.

MS. JEFFRIES: Good morning. And Yael Shavit is the alternate.

MS. SHAVIT: Good morning.

MS. JEFFRIES: Good morning. State education executive officers and state authorizing and/or state regulators of institutions of higher education and/or loan servicers, Debbie Cochrane is the primary.

MS. COCHRANE: Good morning.

MS. JEFFRIES: Good morning. And David Socolow is the alternate.

MR. SOCOLOW: Good morning.

MS. JEFFRIES: Morning. Students and student loan borrowers, we have Ernest Ezeugo as primary.

MR. EZEUGO: Good morning, everyone.

MS. JEFFRIES: Good morning. And Carney King as the alternate. Looks like Carney isn't with us yet, we'll circle back. Two-year public institutions of higher education, Dr. Anne Kress.

DR. KRESS: Morning.

MS. JEFFRIES: Good morning. She is the primary and Will Durden is the alternate.

MR. DURDEN: Happy Friday, good morning.

MS. JEFFRIES: Happy Friday, good morning. U.S. military service members, veterans or groups representing them, Travis Horr is the primary.

MR. HORR: Good morning, everybody.

MS. JEFFRIES: Morning. And Barmak Nassirian is the alternate.

MR. NASSIRIAN: Morning.

MS. JEFFRIES: Morning. For civil rights, the primary is Amanda Martinez.

MS. AMANDA MARTINEZ: Morning.

MS. JEFFRIES: Good morning. The general council representative sitting in this morning is Donna Mangold.

MS. MANGOLD: Morning.

MS. JEFFRIES: Good morning. And for the Department is Gregory Martin.

MR. MARTIN: Good morning,

MS. JEFFRIES: Good morning. In addition to that, we have two esteemed advisors. David McClintock is a compliance auditor with experience auditing institutions that participate in the Title IV HEA programs. David?

MR. MCCLINTOCK: Happy Friday, everyone.

MS. JEFFRIES: Good morning. And Dr. Adam Looney is the advisor for labor economic or an individual with experience in public research, accountability and/or analysis of higher education data. It doesn't look like Dr. Looney is with us. I'm just going to circle back to see if Johnson has now joined the table?

MR. TYLER: Sorry for being late, hello.

MS. JEFFRIES: No worries, no worries. And has Carney King joined us? It doesn't look like Carney has. So that completes the roll call, did I miss anyone? Oh, it's a good day. So, with that, I just want to take a few minutes of your time to address the committee on what our agenda is and the expectations for today as we go into the break time, which would be the final break before the third and final session. And we appreciate all of the hard work that this committee has done both this weekend and the last session and in between. There remains important work to be completed today. And that being the completion of changes of ownership and change and control issue paper, as well as the 90/10 issue paper. The Department desires to gather as much information from this committee as possible for consideration going into the period before the final session in March, as they work through their potential amendments to the currently proposed text based on your feedback and your new proposals. In an effort to facilitate the committee's ability to convey to the Department as many of your significant concerns and/or proposals on the changes in the amended text before you for these two documents, we are asking the following. Per the protocols that you all agreed to negotiators, three minutes should be used only to relay new concerns and offer any new proposals to change that would be that would help get you to consensus in week three. We ask that the time not be used to restate previously stated concerns, revisit already discussed text or sections, items not on the table for this negotiated rulemaking or to express support for something already stated. The intent here is to try to help you focus on the changes that the Department has made in the text of the two issue papers' text before you today. We also want to encourage you to continue to utilize the chat to express your support and for questions. We also encourage you to follow up with written proposals as soon as possible to the Department, which can be read-lined regulatory text, bullet point documents, etc. And preferably you will submit them in a Word format for their consideration. Questions may also be placed in the chat as the Department may not be able to provide an immediate answer to them. They will strive to address them at a later date and/or consider them for their final set of proposals. So, the questions that you have are still important to submit because even if they can't get an answer to you right away, it is something that they are going to be utilizing and considering amending any final text that will be sent your way. We will be assisting you with the above focus to keep you moving through the changes in the text before you. The intent is not to limit dialog, but it is instead intended to help you best utilize the remaining time in this session to enable a process following the protocols to concisely articulate concerns for the Department to hear and take into consideration in the time before that final session. So, it is our expectation that you will complete the changes of ownership issue paper, as well as begin the 90/10 review this morning and the 90/10 will be picked up and completed this afternoon. Before we close out the session this afternoon, whether we have time before public comment, we ask that you not immediately leave the meeting because we'll have additional guidance available to assist you on your submission of proposals to enable the Department to have them in as much time as possible to give them the consideration your proposals deserve and the Department has committed to giving them. Keep in mind that the Department wants to have the amended text to you one week prior to the start of the final session. So, I thank you for your time, I thank you for listening. I'm going to turn it over to Brady to get you going and jump right back into changes of ownership. Brady?

MR. ROBERTS: Alright. Thank you, Cindy. And I am actually very quickly going to turn it back over to Greg. Greg, do you just want to tee up exactly what we discussed at the conclusion of yesterday's meeting? I believe it was 600.4. Did we get to section (g) or did we just talk about that first change in subparagraph (a)?

MR. MARTIN: Well (g) goes into 600.20. But we were talking about 600.4 and we were referencing the change in (a) and this was where we had deleted the word private to match the statute in light of some confusion from a negotiator about what we meant there. And I think Donna had spoken to that a little bit before we had to break off for public comments. So, I don't think we got to explore that completely. So, there might be some more comments related to 600.4 (a) and so, I'd be willing to entertain those now and then we can take a temperature check on that.

MR. ROBERTS: Sure. Anything new for the Department to consider or to comment on for 600.4? Yes, Marvin.

MR. SMITH: Yeah, I had a colleague reach out trying to understand what the Department is trying to convey there by changing private to other. And if it's just trying to match the regulatory language, I can circle back with them. But can you give us some insight, Greg?

MR. MARTIN: Well, we changed it because there was some there was concern that what we had here did not match what was in statute. So that's why we changed the language. I think, I don't know, Donna did you have any comments about that? You may have made them yesterday before we cut off, you might want to reiterate.

MS. MANGOLD: This just tracks the statute. The word private was put in there inadvertently. We were trying to track the statute language and other tracks the statute language.

MR. MARTIN: Thank you.

MR. ROBERTS: Okay, thank you. Anything else on 600.4? Alright, not seeing anything. Vanessa, could you bring down the document? And we'll take a quick temperature check on just this section, then we will move on. With apologies, (g) does go into the next the next section, so we'll go to that next. But for 600.4, if I could just see the committee's thumbs. Jamie, would you mind I'm not, okay, there we go, sorry. Didn't mean to rush you. Not seeing any thumbs down, oh, and Ashley, I didn't see your thumb. I apologize. Okay, great. Not seeing any thumbs down. Thank you for that. Greg, I'll turn it back over to you and Vanessa for the next section.

MR. MARTIN: Thank you. And Vanessa is going to queue up 600.20. And I know how you feel Brady with these numbers, it starts to I'm starting to see this in my sleep at night.

MR. ROBERTS: Why don't we do (g). Because there's changes in (g) and then we'll just stop at (h).

MR. MARTIN: Yeah, we'll just, I'm going to begin with (g). We'll start with (g) here and a couple of things with respect to (g). When I say that we appreciated the suggestion from a negotiator during our first session that the Department consider charging fees to institutions for applications, for changes to ownership, so we did take that back. We are continuing to assess what might be feasible in this area. So we do want to say that we have heard you there. What we would ask here is if anybody has the ideas for, you know, what type of a schedule would be an appropriate fee schedule applicable for a change in ownership? So, I do want to see if anybody has any comments about that particular suggestion. I think Brad brought that up before. But if anybody wants to talk to that, I'll open the floor for that.

MR. ROBERTS: Any suggestions or comments to the Department? Brad, yes, please. And Vanessa, would you mind bringing down the document? Thank you.

MR. ADAMS: Yes, we definitely would support some sort of fee structure if it led to the ability to know a timeframe to be able to receive a response on a review. I think that's a good approach and one that we would definitely support. I have forgotten and I didn't come prepared with what that structure would look like. I think it was around .15 percent of Title IV aid? But I need to confirm that. But I think we also proposed it being capped around 50 to 60k. So let me let me just write that to you.

MR. MARTIN: That's great. You can just put that in writing and give us some if you have any ideas or anybody else on the committee has ideas about that.

MR. ADAMS: Great. That's something, though, that I appreciate you all looking into.

MR. MARTIN: Thank you.

MR. ROBERTS: Any additional considerations for the Department on this? Johnson.

MR. TYLER: Yeah, just on the fee. You know, having tried to understand high finance without an MBA, I have to think if the agencies are inundated with such applications, they're going to have to outsource some of this and that may cost quite a bit in terms of hiring consultants and so forth. So, you know, I just want to say maybe 60 grand is about a week's worth of work for some of the people, but I don't know.

MR. MARTIN: Thanks. I'm not going to talk, I collecting comments, I can't really respond to it because, I must be honest with you, I have no idea what would be a applicable fee structure. So, we're just soliciting any ideas that you have that we can take back and look at. But thank you very much.

MR. ROBERTS: I appreciate it. Brad, please.

MR. ADAMS: I'll just add to Johnson's comment, I support the Department hiring more people to help them, so that would be good, that would help in the time when they send the response and maybe these fees could go to pay for some of their salaries. I hope they're not making $60,000 for one review, though. But anyways, hire more people and the timeframe will improve, I hope. Thank you.

MR. MARTIN: Thanks.

MR. ROBERTS: Greg, I'm not seeing anything additional on (g).

MR. MARTIN: Okay.

MR. ROBERTS: So, I'm just looking back at the document, it doesn't look like there's anything huge in age. Do you want to take.

MR. MARTIN: No, we'll see, I have a couple more things in (g) before we get there. So, I just wanted that because that was a direct question. I wanted to get that I wanted to get out of the way. So, one of the things that to look at here we have updated, we look at (g)(1) romanette one. We have updated this suggestion to clarify that institutions must report any changes in their proposed new ownership structure at least 90 days prior to the change of ownership. This will help to ensure the Department has final materials that will allow us to assess whether institutions will be prepared to submit and materially complete the application shortly after the transaction. And here you can see that this is under (1), if a private, not for profit institution or private, private for-profit institution or public institution participating undergoes a change in ownership, the results in a change of control. The Secretary may continue the institution's participation in those programs if and there you have no later than 90 days prior to the change in ownership. The institution notifies the Secretary of the proposed change on a fully completed form designated by the Secretary and supported by state authorization and accrediting agency documents. So that's reflected there, and I want to draw people's attention to (g)(2). We made some technical revisions here. We bumped out this paragraph rather than to make it a romanette and to update the cross references to the prior paragraph and change the word approved to continued. Since this, section refers to a continuation of participation in the Title IV programs. And we have also renumbered the next paragraph so there you can see it was a romanette, but has been changed to (2). So, notwithstanding the submission of items required in Paragraphs (g)(1) romanette one and two of this section, the Secretary may determine that participation of the institution should not be continued following the change in ownership. And if we move over to three, I want to go to romanette four, no, nothing there. No, I wanted to go to romanette five. I'm sorry. So, we move down to romanette five, at a negotiator's suggestion, we have added language clarifying that the letter of credit may be based not just on the Title IV volume of the institution, but also other institutions under common ownership. If an entity in the new ownership structure has at least 50 percent interest in that institution. So, let's look at five, if deemed necessary by the Secretary financial protection and the amount of at least an additional 10 percent of the institution’s prior year volume of Title IV aid or a larger amount as determined by the Secretary. If any entity in the new ownership structure holds a 50 percent or greater direct or indirect voting or equity interest in another institution or institutions, the final protection may also include the prior year volume of Title IV aid or a larger amount, as determined by the Secretary for all institutions under such common ownership. So that concludes everything that is for 600.20 (g). I'll open the floor for comments.

MR. ROBERTS: As I turn it over to committee, I just want to welcome Carney King who's representing students and student loan borrowers. Welcome, Carney. Barmak, please.

MR. NASSIRIAN: So, in (3), romanette four and five. I sound like a broken record, but the proper indexation is not to prior year’s volume, but to the potential liabilities that the institution may have. And, with regard to five, I don't quite understand where the magic number of 50 percent came from. I think the concern ought to be with significant overlapping ownership. It really doesn't need to be 50 percent if you see there is a significant overlapping ownership then other entities have to be pulled in, in my opinion. Thank you.

MR. ROBERTS: Thank you, Barmak. Brad.

MR. ADAMS: Yes, good morning. I just had two questions here on (g)(1), I guess it was romanette one, but now it's been struck, which I believe are important for for-profits, but also due to the increasing number of change of controls with nonprofits. I really think it covers us both here. But does this 90-day notice requirement mean that if a school elected not to pursue preacquisition review, which is currently optional, is the Title IV, would the Title IV eligibility be terminated and the change of ownership or control not considered for approval? Is the first question?

MR. MARTIN: I'll refer that one to Donna, it's more operationally, I'll offer that to her.

MS. MANGOLD: 600. let me break it down, Brad, you're right, changes, preacquisition reviews of changes of ownership are not required. What we're trying to eliminate by this traditional provision here in section one is to avoid fire drills. Because under the HEA and under 600.31, the school that undergoes a change of ownership loses eligibility unless it submits a materially complete application. What we're trying to incur, what we're mandating now, is that we get a heads up that we know that when they change ownership within 10 days, they can actually meet those requirements. As opposed to what we're finding now as schools go through it and then they don't have financial statements or they do not usually it's easy enough to get the accreditation and the state licensing authorization documentation. It's the financial statements that are a problem. So, this gives us the heads up so we can send them a letter saying, this is what you must submit ten days after, 10 business days. Otherwise, you lose eligibility and you can't continue. The last romanette, let's see. Did you move on to two actually number two or were you just talking about (g)(1)?

MR. ADAMS: I was just talking about (g)(1) at this point. So, I guess the real question, though, that I was looking for is if the 90-day notice is more on the termination of the of the Title IV eligibility, is what I was really looking for.

MS. MANGOLD: You must, this would be a prerequisite to going through your change of ownership.

MR. ADAMS: Okay, so a prerequisite so that helps. So then if this is a prerequisite, this 90-day notice, does it have to occur before then or any other preacquisition review application that is filed? Because right now, I believe schools that are waiting well in excess of 90 days up and six to 12 months. The department is taking six to 12 months to process these preacquisition review applications now. So, are we going to have to wait another 90 days before that process begins?

MS. MANGOLD: No. Just as long as it's, no. It's not another 90-day period. So, as long as you don't change your deal, because that's another thing. We do a pre-acq and then they change their deal and maybe different financials are necessary. So, this doesn't add another 90-day cushion to do it.

MR. ADAMS: So, it's just in addition to if you still choose that pre- acquisition review is still optional.

MS. MANGOLD: Yes, this is protection more for the institutions that don't want to do a pre-acquisition review. That they at least give us a 90 days heads up.

MR. ADAMS: Okay, I understand now. Thank you, that's very helpful.

MR. ROBERTS: Thank you. I also want to welcome Dr. Adam Looney to our meeting, but Johnson, you are up next.

MR. TYLER: Okay, thank you. So going down to (g)(2), is it two or three, no (g)(3) romanette five, so this is what Barmak discussed about the 50 percent provision here of ownership and the General Accounting Office when they wrote this report, and it's either in 2020 or 2021 on scrutinizing changes in ownership of for-profit schools to nonprofit, they were using 35 percent ownership as a trigger for their analysis and their findings. So, you know, it might be worth looking at that report because they were using a lower number, I think, 50 percent seems pretty high. So, that's one thing, and then at the risk of really sounding like I've been asleep at the wheel during earlier parts of this, going back to a question Brad I had asked earlier on, in (g)(1), it says, private nonprofit institution and private for-profit institution, then it has the change of ownership or a public institution. Ownership is only applying to private for-profits, right? The nonprofits aren't owned by people nor the public. I know that's not language you guys created now. I just want to make sure I understand this.

MS. MANGOLD: If I can jump in, Greg. When you have a nonprofit, there's always some state entity that is set up. It's a nonprofit, it's typically a very rare event when this does not apply. And I can't even think of an event where it didn't apply. There is a state entity organized as a nonprofit under state law. What sometimes, they don't, there are human shareholders, but you can also have in a lot of these entities, a sole corporate member. For example, there'd be an entity set up under state law. And then there is another entity, a foundation, for example. That is the sole corporate member of that state law entity. If that foundation changes, we treat that as a change of ownership, resulting in the change of control because you could have completely different control at that point. So, yeah, there aren't shareholders, but there is an ownership change.

MR. TYLER: That's very helpful. Thank you.

MR. ROBERTS: Thank you. Brad.

MR. ADAMS: I just had one other clarification type question in (g)(3) romanette two, about the accrediting association. So, it says we added in a recently updated copy. And so, I'm just really curious on the reason for adding the words recently updated. And I know it was in the first session. I just missed it. Does that mean that a school must ask its accrediting agency or state agency to update a new document that's outside of its normal processes? Because states and others typically issue licenses annually and do not issue interim updates. So, I just want to make sure the latest issued document from the state would be what this is referencing.

MS. MANGOLD: We really want something more updated because anything can happen. If you lose your license for some reason, if you lose your accreditation. And so, and we've had not a real big problem of getting these things, it could be a screenshot with a date. It could just be an email from the state authorizing agency. They're still in good standing. We have not had problems with having this be satisfied.

MR. ADAMS: So, an email from the accreditor satisfies the Department?

MS. MANGOLD: Yes. Yep.

MR. ADAMS: To go along with, I guess, the official license that was done?

MS. MANGOLD: Yes, because, you know, some of these are three years longer, so we need to make sure that there hasn't been a change. And the regulation says as of the day before, that has been the consistent language in this regulation. So, we are getting stale documents and this way it makes it clear we're not taking stale documents. This is not the approval. That doesn't come until later in (h). This is just you are accredited. You have state authorization.

MR. ADAMS: That made sense. I agree with that, Donna. I just not sure if the Word documents are correct, but I'm fine with it so we can move on. But.

MS. MANGOLD: We've been flexible.

MR. ADAMS: Okay, perfect. Thank you.

MR. ROBERTS: Alright. Thank you all. Greg, I'm not seeing any more hands. So, do you want to take a check on the entirety of 600.20? The one other change. Okay, we can just do, I only see one other modification in (h), and it looks just to be numerical.

MR. MARTIN: There's nothing new in (h), so we can just do it on well, so what we discussed was (g) but that's the entirety of 600.20.

MR. ROBERTS: Right, right. Okay. If I could see the committee's thumbs on 600.20 changes in (g). Thank you, everyone. I am not seeing any thumbs down. Feel free to correct me if I misspoke. Good. Thank you for that discussion. Greg, I'll turn it back over to you for 600.21.

MR. MARTIN: Thanks. So, Vanessa's queuing up 600.21. This is updating application information. And we'll start with (a)(6) romanette one. Here we have restructured reporting requirements to further clarify how they connect specifically, we've deleted paragraph 15 and moved it here into paragraph (6) romanette one. This says that institutions must report any change in the ownership of at least five percent, ensuring far greater transparency. We have bumped the existing elements in (6) to a new romanette two, which explains which changes in ownership constitute a change in control. So, the changes there in that we see in (6) romanette one, changes in ownership, an eligible institution must report any change in the ownership of an institution that does not result in a change of control, as described in 600.31 and subject to the requirements of 600.20 (g) and (h), whereby a natural person or entity acquires at least five percent ownership interest, direct or indirect in the institution. And our next change, if we go down to romanette 2D, here at the negotiators' suggestion, we have specified that this includes a director or other officer along with existing categories. So, this includes the natural person becomes a general partner, managing member, chief executive officer or chief financial officer, director or other officer of the institution of an entity which has at least a 25 percent ownership or controlling interest in the institution. Direct or indirect. And that, those are all the changes for 600.21 (a) and in fact, that's everything we have in 600.21. So, I'll open the floor for discussion.

MR. ROBERTS: Thank you. Any new consideration or questions for the Department on 600.21? Jamie?

MS. STUDLEY: Very simply, renew the comment that I'm wondering why five percent was chosen and whether it might go too far in flooding the Department with notifications that don't mean very much. Just wondering why that number was chosen or whether it is really helpful to understand changes of control. I don't know what the source of the five percent level was, whether it keys to something where you just wanted something lower than what you had, which I can understand, but it seems a big, that it will generate a lot of notifications. And I wonder how you'll identify the important ones for that.

MR. MARTIN: I think it's an awareness thing on our part to lower to that so that we were made aware of when these occur, and I can ask Donna if there was a why we settled on five percent, exactly. I'm not 100 percent certain about that number, but I know that we wanted to make it more all encompassing.

MS. MANGOLD: Seems to be actually sort of an efficient number for us in terms of the kinds of changes that we're seeing. And what happens is we have these smaller changes, you know, in the delta between 25 and 15 that we can look at a situation a few years later is completely different than what's in the records. Because what happens, particularly when they go through a change of ownership, we ask for pretty complete ownership information. And sometimes we're looking at structures that there are no relationship to what's in the records because there have been different changes at lower level. So, it's just it's really a recordkeeping mechanism and I don't think from in terms of how I've seen these transactions, that that would be exceedingly burdensome for the Department.

MR. MARTIN: Thanks, Donna.

MR. ROBERTS: Thank you. Not seeing any more hands at this time. Greg, do we want to take a temperature check on 600.21?

MR. MARTIN: Sure.

MR. ROBERTS: Alright. Thank you. Committee if I could see your thumbs. I don't believe I'm seeing any thumbs down, but again, as always, if I'm misstating, please feel free to come off of mute and tell me, but no thumbs down on my screen. Thank you. And Greg, I believe, I'll turn it back over to you, but I think there's one other section with changes.

MR. MARTIN: Yes, we're going into 600.31, changes in ownership resulting in a change in control for private, nonprofit, private or for-profit and public institutions. So, you see in section here, we're going down to (b), it's rather it's a rather lengthy section on definition. So, moving to, I'm sorry, we want to go to (c). I'm sorry, we're going to go to (c), standards for, there's nothing in (b) that has changed, standards for identifying changes in ownership. And you'll see that we have (c)(1), (c)(2), and then (c)(3), which is other entities. So, start with, this numbering is kind of convoluted so just to walk everybody through this. So, we're in (c)(3) other entities and you can see here that they are identified by romanettes. So, then you have romanette one and then in romanette two, you have a series of letters starting with A, B, C, D, E, and then the first one we're going to reference here is F. There we go. And I was only able to do that because there were no I's, J's or L'S involved. So here we are at F, I'm sorry. I actually meant G, not F. So, in G, we have in response to questions from negotiators, we have further clarified this language to explain that we are interested in the changing of a sole member of an institution, member owner of an institution, but are not looking to capture the circumstance of a sole member moving from 100 to 99 percent. So, you can see there in G, notwithstanding its voting interests, a person becomes the sole member of a shareholder or limited liability company or other entity, in which it has 100 percent or equivalent direct or indirect interest in the institution. The next change, we go down to romanette three, slightly below that, where it says the Secretary deems the following interest to satisfy the 50 percent threshold, as described above. And here in romanette 3A, we have revised the language to capture informal agreements as proposed by a negotiator during session one. So, we'll take a look at that and we're now in that again, that's romanette 3A. The combination of persons, although each with less than 50 percent voting or controlling interest in an entity, hold a combined voting interest of at least 50 percent as a result of proxy agreements, voting agreements or other agreements. Whether or not the agreement is set forth in a written document or by operation of state law. And that, I believe, is everything that we have. So, we can go back and I'll open up the floor for discussion.

MR. ROBERTS: Okay. Thank you, Greg. Committee, anything new for Department to consider on section 600.31? Barmak?

MR. NASSIRIAN: Sorry. This is with regard to (c)(3), it's not new language for this round, but it is new language compared to current regs. I just want to make sure that that we are we are comfortable with the 50 percent threshold will not apply to publicly traded entities. That just strikes me as a very high bar to clear. You know, you can control a publicly traded entity with far less, even in combination than 50 percent ownership.

MR. MARTIN: Well, I'll let Donna address that issue. She had some thoughts on that last time, about the 50 percent

MS. MANGOLD: We've got, on a publicly traded, if you look at romanette two, it's at 25 percent. Okay.

MR. ROBERTS: Thank you for clarifying. And, Greg, not seeing any additional hands, do we want to close out issue paper five with the temperature check on 600.31?

MR. MARTIN: Yes.

MR. ROBERTS: Alright. Thank you all. If I could see your thumbs for one final time on changes of ownership. Not on the whole document, just this section. Alright, not seeing any thumbs down. Thank you all for the discussion. Greg, do you want to jump right into issue number seven, the 90/10 rule?

MR. MARTIN: Uh, you know what, let's take about five minutes.

MR. ROBERTS: A five-minute break? Okay. Committee, I have 10:44 on my phone. If we could come back at 10:49, that would be great.

MR. MARTIN: Thank you.

MR. ROBERTS: Thank you all. Alright, welcome back, everyone. I hope you enjoyed this short break. Greg, I'm going to immediately turn it over to you to introduce 90/10 and walk us through the Department's changes for this round of discussion.

MR. MARTIN: Thanks, Brady. So, we'll be queuing up issue paper seven. And this is Title IV revenue and non-Federal education assistance funds on 90/10. And the statutory sites are there for you again, the regulatory site 34, CFR

668.28 and we change from Title IV to Federal revenue reference there. What I want to do in this discussion is because of the way that 668.28 is structured, we'll, I'm not going to discuss an entire, we're not going to go over an entire section before, or paragraph rather, before we discuss. I think I'll take it in smaller blocks as we go through. So, I will probably change from what we've been doing over the past couple of days. So, bear with me there. I just want to give people the opportunity to comment. Some of this is, it's pretty complex and I don't want to go too far before we give people the opportunity to discuss it. So, we're going to start with 668.28(a)(1) calculating the revenue percentage. And just an introduction here, the proprietary institution meets the requirement in 668.14 (b)(16). That's the reference in the program participation agreement that at least 10 percent of its revenue is derived from sources other than Federal funds by using the formula and appendix C of this subpart to calculate its revenue percentage for the latest complete fiscal year. And for purposes of this section, we move into romanette one and we've made some changes here. Our edits in this section clarify that funds that go to the student directly should be counted, except for funds expressly designated for purposes that do not include tuition and fees. For programs administered by the VA that include housing benefits, those programs already provide tuition directly to the institution, which would be counted. We've also added the clause at the end of the paragraph to clarify expectations on the publication of the list of programs. So, let's look at that then in romanette one, for any annual audit submission for a proprietary institution institutional fiscal year beginning on or after January 1 of 2023. Federal funds used to calculate the revenue percentage include Title IV HEA program funds and any other educational assistance funds provided by a Federal agency directly to an institution or a student, including the Federal portion of any grant funds provided by or administered by a non-Ffederal agency, except for non-Title IV Federal funds provided directly to the student to cover expenses other than tuition, fees, books and supplies. The Secretary identifies the Federal agency and other educational assistance funds provided by that agency and a notice published in the Federal Register, with updates to that list published as needed. And I do want to point out before we open the floor for discussion on this, that we are still working on preparing an updated Appendix C to reflect our changes here, but we will have that ready for you prior to the third session. So, with that, I'll open it up for discussion, Brady.

MR. ROBERTS: Okay. Just a few changes at the table to announce. Jaylon is here on behalf of consumer and civil rights organizations. Travis is here on behalf of U.S. military service veterans, and Carney, I believe, is in for students and student loan borrowers. So welcome to the three of you. Why don't we just keep it to point number one. Brad, please, you are up.

MR. MARTIN: Before we start, can I add one thing, Brady? Steve Finley is back as our counselor.

MR. ROBERTS: Oh okay, welcome Steve. Oh and Emmanual is here for private nonprofits. Sorry. All coming together. Brad, go ahead.

MR. ADAMS: All good, sir. Alright, so just real quick, because this is just going to help my point throughout this issue paper, but when I was at TVA, a federally owned nine billion dollar utility company, the TVA executives would always get excited about their utility rates they charged customers being in the top quartile for lowest rates. My response would always be why are we celebrating? We should be number one with the lowest rates because all the competitors are paying taxes. Now I've flipped into the world where about 10 percent of the students in 10 institutions that pay taxes and 90 percent attend institutions that do not pay taxes. It should be an immediate advantage right out of the gate if you do not have to pay 40 percent of your bottom line in state and federal taxes. But instead of the nonprofits lowering their tuition rates and investing in high demand programs, they support creating a rule that just puts their competitors out of business. The 90/10 rule has no indication of the quality of a school and if you want to have an actual impact, then it must be set up in a way we can administratively follow. I'll be pointing out various pieces of this rule that will prohibit schools from being able to actually perform this metric as it is intended. Also, the points we're discussing today may at best make up a tenth of a percent of the funding categories at most proprietary institutions. So, waiting on a book allowance stipend from the VA is not going to be the reason why a school fails 90/10. But it will be the reason why a school cannot ever, ever accurately calculate their 90/10. I'll start with that and then I can get back in line, but it doesn't look like there's anybody else in line.

MR. ROBERTS: Yes, please continue.

MR. ADAMS: Alright. So, switch here. So, on the actual very, let's see here, I'll start with why the very end of what we, so I'm in one romanette one and we say in the yellow edition, expenses other than tuition, fees, books and supplies. I'll let you catch up, Greg, and give me a thumbs up when you're there.

MR. MARTIN: I'm there, I'm looking at it.

MR. ADAMS: Why did we put it in the words books and supplies when right below in three romanette one, we say tuition, fees and other institutional charges? As you know, most schools do not include books as part of their tuition and mandatory charges. Most students today are not buying their books at campus bookstores. I mean, Amazon is [30 seconds] got their reason for their start was buying books. So how in the world can we, as an institution, know what students are paying for books? If anyone's ever been to a bookstore, there are six ways you can get a book today. You can rent a digital book, you can buy a digital book, you can rent a used book, you can buy a used book, you can rent a new book, you can buy a new book. Those are all different prices, for a chemistry book for a student. How in the world do we know what they pay for and why do we care if it's not on their ledger card?

MR. MARTIN: In looking at what we're saying here, Brad, so what we're clarifying here is that we're actually allowing for those funds not to be included. So, to go back to this again, for purposes of this, so back to the STEM. At least 10 percent of the revenue derived from sources other than Federal funds. And it's for purposes of this section, you know, for any annual audit submission, proprietary institutional, for a proprietary institutional fiscal year beginning on or after January 1, 2023, the Federal funds used to calculate the revenue percentage will include. So, at first, we're saying include Title IV HEA funds and any other educational assistance funds provided by a Federal agency directly to an institution or student, and including the Federal portion of funds provided or administered by a Federal agency. These would be funds to the student, except for the non Title IV rather Federal funds provided directly to the student to cover expenses and tuition other than books and supplies. So here we're, I think this is a beneficial thing in that we're saying that those funds that are provided to students that are specifically to cover those expenses other than other than tuition, fees, books and supplies are not counted..

MR. ROBERTS: Steve, did you want to weigh in?

MR. FINLEY: I just want to ask Brad a question for clarification, if that's okay. Brad, are you concerned that there might be an allowance paid to a student that would cover books and supplies? And we're talking about an institution that was not actually selling books and supplies to the student.

MR. ADAMS: That is the concern that the student's getting a book allowance through the GI Bill and then spending that allowance wherever they choose outside of the institution. I mean, we don't charge students for books. Students have the options freely to get books wherever they want to in the country. And frankly, we do a pretty good job of not requiring students to have to buy a newly published books that every year, like the publics do. We actually make sure they're buying books that they can afford. So, I'm not following this piece.

MR. FINLEY: Yeah. We would entertain a suggestion to take a look at that to try to clarify the issue you're raising.

MR. ADAMS: Okay. I'll submit. I think you just need to change it to institutional charges to only books and supplies.

MR. MARTIN: So, is what you're saying, just to clarify, Brad, so you're saying this has be instances where the books and supplies are not institutional charges, correct?

MR. ADAMS: Yes. Yes, that's probably the case for most institutions. I don't know of many that charge them for it. So, and through their ledger card, I mean it's all off balance sheet.

MR. MARTIN: So, your suggestion would be to change that institutional reference to institutional charges?

MR. ADAMS: Yeah, as it's worded in (3) romanette one.

MR. MARTIN: Okay, I think I understand what you're saying now,

MR. ROBERTS: I want to give Dave just an opportunity to weigh in.

MR. MCCLINTOCK: Yeah, I was just going to share that. I think institutional charges is the standard term for 90/10 right now, and this is a nuance. So, if students pretty much need to buy their books or a kit or something like that through the school, it is included as an institutional charge. And that definition applies both in calculating 90/10 and when calculating the refund calculation through the R2T4. If schools have the option that they can go buy those books and supplies other places, they're not included as institutional expenses in 90/10 or on the R2T4 calculation. So, I do think just using that, that's a standard defined term right now. I think.

MR. ROBERTS: Thank you. Steve, I also see your hand is up if you wanted to respond. Oh, you're muted right now.

MR. FINLEY: I was just saying, I apologize, this isn't directly on point, but can you confirm that we're live on the public stream again? I've gotten a comment from someone that says they're seeing that we're still on break.

MR. ROBERTS: Oh, shoot! Patrick or Christian, could you confirm if we are live or not?

MALE SPEAKER: We are live.

MR. FINLEY: Okay, they may need to reboot. Thank you.

MR. ROBERTS: Not a problem. Carney, please.

MR. KING: Yeah, I just wanted to respond to the books. I use the chapter 31 GI Bill, the book rehab benefits and that goes directly to the school. I had to buy my books and supplies through the bookstore. And that even included my parking pass, all that stuff was all paid through a memorandum from the VA directly through the bookstore and university. So, I think it's more common than you would expect it to be, that it goes directly through. Also, most people, sorry, my dog is right under me, most people that were on the GI Bill that I, you know, went to school with and before I even used chapter 31, we all went through the bookstore just because it was the easiest, quickest option. So, I know a lot of the GI Bill funding is still buying books from the bookstore, so I recommend keeping that in.

MR. MARTIN: I think I want to just point out that, you know, with reference to both these things that it, there are differences across, you know, different schools. There are reasons I don't want to go into it now, but with required proration of charges by payment period, why a lot of institutions have, I think, going back to Brad's point have I think you would find that recently that there's more of a transition to having those as non-institutional charges than maybe you saw in the past. But I think it does vary in some cases, yes, you're right, students are charged for all those tuition, fees, books and supplies when they sign an enrollment agreement and it is all those are all institutional charges, and sometimes they're not. But I think it does vary and we could look into accounting for both circumstances.

MR. ROBERTS: Thank you. Dave, you want to respond.

MR. MCCLINTOCK: I just wanted to confirm for Carney that in that situation, if the school is charging you and you're buying all of the books through the school, it is captured in 90/10. So, it becomes institutional charges that are included in 90/10 and then also need to be incorporated when the R2T4 calculation is done.

MR. KING: So, if I was just using chapter 33 benefits where they just give me cash and tell me to buy books wherever; ould that end up on there or only if I’m paying directly through the VA?

MR. MCCLINTOCK: It would, well, there’s a lot of nuance to this, so you have to determine what all the institutional charges are for the entire year, and then there’s something called the presumptive rule and you start assigning payments. So, it's you don't match up, okay, here was a charge and a payment came in and you count that as either 90 or 10 money. And so, I'm not trying to dodge your question, but it's not, you can't decide, okay, exactly this charge happened and then this payment occurred and it gets assigned to.

MR. KING: Yeah, I get it because there's nothing connecting the student to, you know, just cash transactions at the bookstore or whatever. But.

MR. MCCLINTOCK: Right.

MR. KING: Yeah.

MR. MCCLINTOCK: Well, it's also, it's not a timing so that I think rightfully so, you can't post tuition charges and have money come in that post money that meets the 10 first and say that's resolving charges and then draw down the Title

IV later on to say that [inaudible]. So, there's a priority of all the charges and all the payments for the entire year. And so, what gets counted could actually change as you go through the the12-month period again because you have to look in the aggregate when it started. That's what makes it tough for any one transaction, et cetera.

MR. ADAMS: May I add one point to Carney's question, is that okay? I also just want to mention that bookstore revenue does not count in 90/10. So, if buying whatever you buy, the bookstore shirts, cups, whatever, that's not in 90/10 either, just clarifying that.

MR. ROBERTS: I do see you as also having your hand up next in the queue, if you wanted to continue offering material for the subcommittee.

MR. ADAMS: Yeah, no worries. Amanda was in front of me, but she may be good now. So, I had another question, same added language, where it says provided by or administered by a nonFederal agency. Just pausing to make sure you catch up. That this is troubling to me, and I'm assuming this is directed towards states. And WIA funds. I'm assuming that's why it's written this way. But if money is coming from the state, it shouldn't be Federal money, and I understand they may contribute a portion of it, but let's think about this big picture. The states get a significant amount of funding every year for everything from the government. So, at the end of the day, if it's a state payment and we'll get into another debate and for on how you how you apply it, maybe apply some portion to state and some portion of Federal, that's coming up here in four, which is going to be impossible for us to do. I just have a problem with the language right here that's saying a non-Federal agency, the definition that Congress passed was it's a Federal fund. And now we're saying money received from a non-Federal agency counts against you. I'm struggling.

MR. MARTIN: What we're saying is including the Federal portion of any grant funds provided by or administered by a non-Federal agency. So those would be Federal funds if that grant includes Federal funds, then it's our position that they would be included in what the statute requires to be counted.

MR. ADAMS: And you could argue every state grant has some portion of it, this Federal and I don't understand how in the world we can do this. But in the point in four and we're going to get into this debate at four and I'll save it for that. There is no way we can go, grant by grant, every single one of these that comes in and say, 90 percent state, 10 percent Federal. This one's 88 percent state, 12 percent Federal. The next one 75 percent state, 25 percent Federal. That is going to be impossible. Anyone that's ever been in financial aid and maybe Sam can speak to this, there is no way they're going to be able to do that, and it doesn't make sense to me to do that. And I'm sorry, that's if it's coming from the state, it should stay on the state side. Thank you.

MR. ROBERTS: Thank you, Jaylon. You are up next.

MR. HERBIN: Yeah, I think so, the comment that Brad is making just for clarity, Greg, when it comes from the state that sort of speaking on like the foster care or say, for instance, like I know the DMV, they give a tag [ph] to their students to assist with some of these institutional fees. Is that what we're clarifying that that's what you are meaning in the sense of that is coming from the state as part of the 90/10?

MR. MARTIN: What we're essentially getting out here is there are state grants that include a portion of Federal money. And if that grant contains, it does have Federal money in it, then remember we're talking, this is, we're looking at Federal, you know, it's the Federal, it's Federal revenues. So that does become as opposed to it used to be just Title IV revenue, now it's Federal revenue and that is revenue derived from a Federal source.

MR. HERBIN: I agree, I think that the language is fine. I support the language right there. Thank you.

MR. ADAMS: And Greg, can I add one other point to that exact comment? So, you know, stepping back on this whole thing, you know, our financial aid compliance audit, a big component of that audit is the 90/10 calculation. And if you're off by a penny, it's an actual finding on that audit. This is going to set up Dave McClintock and the firms of the world an opportunity to just hammer us on, how did you come up with that pro rata breakdown? And every single state grant now we're going to have to determine if any portion of that was Federal? That's what we're trying to do here, this nickel and diming these schools that already have so much to deal with from a financial aid compliance perspective. I just, I'm sorry that is that is a burdensome task that nobody here should be expected to have to perform. Thank you.

MR. ROBERTS: Okay. Johnson, your hand is up next.

MR. TYLER: Yeah, I can't say I understand how the states report what portion of the support they're giving is Federal, but I do see that, I'm familiar with public benefits for the SSI recipients are told what percentage is being given by the state and what's coming from the feds. So, I mean, if people are reporting it and it's calculable that way, I mean, those things just come on a statement. All of my clients can see what's coming from the feds, what's coming from New York state? I think that's not burdensome. If it requires a lot of other analysis, maybe it is. I just I don't understand enough about it. If it's on a piece of paper, you should be able to calculate it.

MR. ROBERTS: Thank you, Johnson. Jamie.

MS. STUDLEY: I fully support the underlying objectives of 90/10. I am moved on this one to ask what the purpose of 90/10 to see whether this particular calculation issue maybe could be illuminated by thinking about the underlying purpose of 90/10, which in the simplest old fashion sense I have, is to make sure that there are other decision makers choosing to support students in these programs, in addition to the Federal programs that students can carry with them. And if the state is making the decision that it has a separate program where it controls the funding, even if the feds have contributed toward that stream of funding, I wonder if it might be appropriate for that for the 10 to include the money that the state is directing and not require the accounting that Brad is describing. So, you know, this is one case in which if we, you know, where burden is necessary, we should require burdensome things if they're needed to get to the purpose. This may be one where the purpose that we're looking at really goes to whether the state is making a choice about the allocation of funds that it controls, whether it comes out of this year's budget or reserves or the Sunshine Fund or from a Federal pass through that the state gets to decide. This may be one place in which those comments are well taken.

MR. MARTIN: Thank you.

MR. ROBERTS: Thank you, Jamie. Johnson, I have your hand is up next.

MR. TYLER: You know, I'm not quite sure I get my head around what Jamie is proposing, but to the extent that states are voting where good money is going and whether they think with 90/10 design to, you know, that the marketplace is supposed to be driving decisions on what institutions have/are of value. I only know one state that will not give state money to proprietary schools, and that's California. So, the states are basically, you know, the states that give grants, they're giving it to every type of institution and it's a grant no different than a Title IV grant. And so, if Jamie's proposing just count all the money, I think that's a fair thing to do because there is no discerning pattern of whether you're going to get state aid. Your state aid is as long as the school is accredited and eligible for Title IV money, it doesn't matter what the institution is. So, it is public money that's funding you.

MR. MARTIN: I want to clarify here that, you know, our interest in this is Federal money so that obviously we don't count any state, any state money toward that. And I would welcome any comments if any of you are more familiar with state grants than perhaps I am, if you know how routinely those are broken down with states informing publishing which percentage of their of their grants comes from, what percentage of their grants comes from a Federal source.

MR. ROBERTS: Steve, did you want to, I'll go Steve and then Dave. But did you want to speak on that or is that it was at a different point?

MR. FINLEY: I was just going to echo what Greg said, which is our understanding is the Federal portion of a lot of these state grants is readily ascertainable and does not vary from student to student.

MR. ROBERTS: Then, Dave.

MR. MCCLINTOCK: Yeah. I don't know the size of the Federal portion, I was just going to add, this might have been 15 years ago, I forget, there's a period of time where schools can utilize state grants as part of the SEOG match required. And there was a table that outlined how much of the state grant was a Federal portion, and you could not include that in it. My recollection is I see Greg and David nodding their heads that they were pretty small percentages that were included, I mean, under five percent was my recollection. So, there is a piece that's Federal, it was not a significant portion, at least then I don't know if it's changed since that time.

MR. ROBERTS: Okay. Brad, I see your hand. I just want to say that David is coming to the table to ask the question on behalf of the state agencies. But Brad, take it away.

MR. ADAMS: Yeah, I'll stay on this point because I know David will have a point on this. But there are many states that exclude for-profits from grants. And it is not, Steve, you're making it sound like to me that just because one grant may be easy to determine that the Federal portion that should be the case for everything and it's not. You know, at the end of the day, we're getting all kinds of grants from all kinds of different places, and we operate in all 50 states. And for the Department to say it should not be hard to do and should be able to easily be calculated it's just wrong. Until you live in a financial aid administrative place, you can't say that. You know, and I'm sorry this is going to be why we're not able to finish Title IV. This and, you know, if any money having to come from VA is why we're not going to be able to finish Title IV or our 90/10 calculation on time, and I'm just completely against it.

MR. ROBERTS: Thank you. Jaylon, I have your hand up next.

MR. HERBIN: Yeah, I think I really just want to bring back the point that what we're trying to do here is prevent the gaming of the institutions from this matter. So, I think we're trying to say from our standpoint with this is that we brought this up to prevent any loopholes from occurring. So, one, yeah, we closed the loophole. But now there's other loopholes that can possibly reopen. So, with the

Department of Education doing this, I actually agree with this.

MR. ROBERTS: I think that there are some funds that do come from the Federal government that are sent down to this state and that they can administer it as far as funds from grants. But when they are doing this, we have to take into account what percentage of that is being sent over to the school that the schools are using as dimmable Federal funds. I think that should be kept in mind here throughout the conversation. So again, like I said, I want to reiterate that we do support this because we think that the foster care program students leaving out of the foster care system are able to go to institutions where they actually have programs set up for them to attend when they age out. But we need to make sure that funds are included in the 10 and not the 90.

MR. ROBERTS: Okay, thank you. David, welcome. Please, go ahead.

MR. SOCOLOW: Yeah, I was just going to say that the document that Dave mentioned in terms of showing that percentage of state money that's blended in with Federal funds for grants that states give out, you know, that's created because the states are required very strictly to do cost accounting under OMB circular A-87. And so, the state can easily tell everyone the public exactly what percentage of a WIOA grant or some, you know, community development block grant or other funds that the state has. They blend that with some of their own state money, they can say what percentage because they have to in order to report to back to the Federal agency, Labor Department or Health and Human Services or whoever gave them that money. And so, I think that there might be a way to write this to say to the extent that the state does the cost accounting. So, you put this on the state, not the school. I mean, I hear what's being said about financial aid offices being burdened with having to go forensically find this out. But the state could very easily tell for the vast majority of cost accounting under OMB circular A-87 grants, what percentage was their money and what percentage came from a Federal agency.

MR. ROBERTS: Thank you, David. Brad, your hand is up next.

MR. ADAMS: Thank you, David. I don't have any other comments on that particular piece. But I do see Debbie just raised your hands, so maybe I'll get behind her if she wants to speak to the state issue and then I've got one other comment in romanette I.

MR. ROBERTS: Sure. Debbie, welcome back on behalf of state agencies. Take it away.

MS. COCHRANE: Thank you. I just actually really appreciate David's comment about whether there's a place where there's a role there for the state to take on some of this burden, because I do you think that the workability of the rule is important. And I wondered if the Department has a sense of what would be on this list now? I mean, are we talking about a dozen programs or are we talking about one hundred? I'm just trying to get a sense of what that would look like.

MR. MARTIN: As to how many of these there are. I don't know that we've identified that number. The regulations meant to be inclusive of them, I think primarily it would be state grant that we would be concerned with here. But the reg was written to include any type of assistance funds that would include a Federal portion. So, I don't know, I can answer exactly that we have a number for that.

MR. ROBERTS: Okay. Brad, take it away.

MR. ADAMS: Thank you. My last comment, maybe my skeptical nature, but you can argue that any state grant, if they're getting any money from the Federal government could end up being some percentage Federal. And I'm not talking we I'm talking like, you know, Tennessee student assistant grants that come directly from the state budget. But some of the state budgets funded from the Federal. So again, my skeptical hat. So, the Federal Register, my next comment here is the very last sentence of basically Federal Register with updates to that list as needed. I appreciate the added language, I did request that. I still struggle, though, if you're in the middle of your fiscal year and a new Federal fund source gets added like we'll just call it HEERF funding. It all happened to us in COVID, we all got HEERF funding. If that came in in the middle of our fiscal year, then all of a sudden that's determined to have met this rule. All of those funds that were dispersed prior to knowing that would then hit your 90/10 and so you could be on the last day of your fiscal year, you find out that some fund source all year you didn't think was Federal, now has been deemed Federal. So, I do think we need to have a list that's regularly updated. And again, I appreciate the language, but I do think it needs to be whatever the list is at the start of your fiscal year, that's the list. And or if you're going to add something in the middle of fiscal year, it's added before the funds from that fund source type like a HEERF it's known that those funds are Federal. So, I mean, we just need to know, I guess is the point, and I appreciate the language that's added.

MR. MARTIN: I'll take that point, Brad, and I think we do need to look, we can go back and look at what the, you know, how I think that's a very legitimate question, how it would implement when this was when the Federal Register was published, what sources are on there and when the school is responsible for knowing those, especially if the publication of that registry falls in the middle of a fiscal year. So, we'll take that by for discussion.

MR. ROBERTS: Okay. Thank you, Marvin, I have your hand is up next.

MR. SMITH: I've never worked at a proprietary school, and I don't know if there's already a carve out, but I just point out that a campus-based aid is a Federal aid program, but 25 percent of the funds come from the institution. So, is that already being accounted for and excluded in the 90/10 calculation?

MR. ADAMS: That's in. Federal work study money is in it. It's in the 90.

MR. SMITH: This sets up an exclusion, doesn't it, the way it's worded that 25 percent of the funds come from non-Federal funds?

MR. ADAMS: Institutional funds don't count, but Dave you take it.

MR. ROBERTS: Dave, do you want to weigh in?

MR. MCCLINTOCK: Right now, the only the Federal portion of SEOG is included in 90/10. 75 counts 25 does not. And it doesn't get included either way because it's not if it's through the institution, it's not outside money.

MR. ROBERTS: Okay, thank you. Travis, please.

MR. HORR: Yeah, thank you. On the Federal Register point, I just want to advocate for adding specific agencies that the Department of Education knows are already big spenders like Department of Defense and VA. I don't think we should rely on the Federal Register being updated continuously or if it's missed or something in the future. I know, I think you guys said that you're working on that, but I just want to point that out that we would like specifically added, you know, those mentioned in there. Thanks.

MR. MARTIN: Thank you, I think the intention would be to publish a Federal Register that would include, say so, at least initially anyway. Of course, you know, the largest sources with the VA and DOD, and those would be on there and there would be published updates as needed. But that, for instance, the VA and DOD, they would roll forward. So, you would know that from the very get go. And that would be that we would publish that early, and it would be hopefully, we would have one of these out before the regulation took effect so that would be there. And you know, and if we needed to update, we'd be adding to that list as we updated.

MR. HORR: Okay, so it wouldn't, so things won't be able to be removed in the future or it would just be continuously added?

MR. MARTIN: I can imagine, you know, it may be that there are sources that would get removed if those sources were no longer providing this type of assistance. I can't imagine that the major ones VA, DOD that would ever occur.

MR. HORR: Right. Okay, thank you.

MR. ROBERTS: Brad, please.

MR. ADAMS: Sorry. I'm trying to type in the chat what my proposed language is, but I just want to say I do support Travis's comment there that, you know, VA should be included. I think that's good.

MR. ROBERTS: Thank you. Not seeing any new hands. Greg, I'll turn it back over to you.

MR. MARTIN: Ok, yeah, I do want to say that, you know, we're aware of the point that Brad made earlier about institutional charges versus books and supplies, so we'll definitely take that back. And so yes, that's the only thing I wanted to say. If there are no more comments or discussion we can move on. We could take a temperature check just for (a)1, why don't we do that.

MR. ROBERTS: Before we do that, Amanda, I do see your hand is up. Did you want to speak on that?

MS. AMANDA MARTINEZ: Sorry, I just have one question to the Education Department. So, are you saying that never in the calculation of 90/10 books were never included in that calculation? Because any books, there's no contracts with institutions with professors and their books are there. Now we have, there's like an access code online books. Are you saying that the Education Department is saying that books are never were never included and they are, are they unaware that potentially institutions make contracts with professors and the bookstores so that they do receive a portion of those funds or access codes provided to students? Is that what you're saying that you do not see that as institutional, students providing institutions funds?

MR. MARTIN: What we're talking about here is that is the Federal funds, as the Federal funds to go to pay for institutional charges. And as was explained from some of the other negotiators, I think David, and also Brad, that that books and supplies can be an institutional charge or not. So, if it's an institutional charge like that it means that would be a situation where the institution would require these students to buy to purchase the books from the institution. So generally, when that happens, there's some type of an enrollment agreement whereby the institution, the student signs that and is liable for, owes that certain amount of money and then that would be revenue to the school. In situations where it just would be usually always is the case with your more traditional college university where you just go purchase the books on your own. You know, you have a bookstore, but you can purchase them. It doesn't have to do with whether you're required to purchase the book that's written by a certain professor. We've all been down that path, but it has to do with how the books and supplies are charged.

Are they part of the of the charges that you pay at your institution? And in most, what you're familiar with probably is that you could purchase the books at the bookstore and you were allowed to charge them to your account at the school. But that's not the same thing as a school requiring you to do that. So, this is the difference we're talking about here. And when Brad raised that point, he was talking about the situation that is increasingly the case at proprietary schools as well, where books and supplies are not part of institutional charges, so they're not lumped in with tuition fees. I hope that that answers your question.

MS. AMANDA MARTINEZ: Sorry, can I respond to that. And maybe this is an emerging issue and maybe people aren't really understanding what's happening. But like, and I understand in contract probably also hard to administer, try to catch what books are actually. Yes, maybe in contract to an institution we did not say as a student. I'm like, we're forced to buy these books, but technically by proxy, like nowadays, especially with like online education, you cannot complete your homework assignments without an electronic access code, and especially with now it's online. Most students who have now been going to online school, I assume. I don't have the data to back this up. I don't really like to speak about things without data to back it up, but I know from anecdotes and also from my own personal experience. Yes, I did not sign a contract with the institution that I would have to buy that access code. But if I did not buy that access code, I could not finish my coursework and that was mandated and required by the course that I signed up with. So yes, maybe this is this can't be solved today in this specific regulation, but I do want to bring it bring up to demystify and counter arguments that institutions are not requiring you to buy books or other things through the bookstores. But there is this emerging issue, and I would say it's prevalent now that students are required to finish their courses through online access codes that they can't get through Amazon or these other ways. So online, there are online barriers and there are, I would say, books are now becoming a more, I would say, like online courses or online books, is a problem, and students aren't paying it towards other outsourced resources, it's directly with institution, contracted with. But again, I get this is a new issue, I just want the Education Department and people to be aware of this issue, and it's going to be prevalent and maybe we can't solve it today, but it's going to be, it's a necessary thing for college affordability, especially with this as well that needs to be solved, potentially in the future.

MR. MARTIN: Yeah, I think the point is well taken. I think there are a lot of, you know, certainly with increased use of these types of codes or whatever. But I want to point out that and it's important to remember here that this 90/10 rule applies only to proprietary institutions. So, we're not talking about the general what you might be familiar with where the college university used to go to the bookstore, now they have these access codes. I will, which is not say it's not a problem. I do think that it could be a problem. We do say that our guidance has been that any institution where the student does not have a real and reasonable opportunity to purchase books and supplies from another source that the charges do become institutional. So do want to point that out.

But I think the issue you're pointing out here is a very important one, but sort of is much, much larger because it goes beyond what we're addressing here with 90/10. I don't want to belittle it at all because it certainly is increasingly an issue for students that, you know, used to be you could buy the books when you use the used books or whatever from the use book exchange and maybe save a lot of money. But where you have to purchase those codes, that doesn't become possible. So, I take your point. Thank you.

MR. ROBERTS: Thank you. Jaylon, is this I just, feel free to speak, but is on what we're about to take a temperature check on?

MR. HERBIN: Yeah, and it's just sort of what Amanda had just alluded to and even Johnson's comment here. If you look at it now and I know Brad will say that this isn't like Greg just said it's proprietary schools, they have required courses that you have to take, you have to purchase certain books and stuff from that actual bookstore, but at traditional universities, they're also not requiring that and I think what we need to also take an eye at looking from the Department of Education can hopefully look into its the requirements when the account hits the ledger the student accounts after they refund the money to let's say the student doesn't purchase it from the bookstore. Is that still going to be considered part of the 10 or is that considered part of the 90 as well?

MR. MARTIN: Well, those are usually funds which are above and beyond the institutional charges that are given to students for living expenses and those don't count in the calculation. Those are not held against institutions. It's only the revenue, it's only tuition if it's only the up to, I'm sorry, up to institutional charges. Does that, I'm trying to answer your question there, but yeah. And in the case where you can see we don't have it here in front of us. But when you look at the way that it's actually calculated, which appears in Appendix C, if we had this, it would probably make more sense. But when you do the actual calculation itself, you look at Title IV revenue, which is adjusted and you look at adjusted student in the in the numerator and then you look at adjusted student Title IV revenue. And so, there are adjustments to those amounts and the amount of aid above institutional charges is an adjustment. Also, I know that Mr. McClintock does have a lot of experience in this, and maybe he has a more direct way of describing what I just described. So, I'll ask David if he wants to take a shot at that.

MR. MCCLINTOCK: I don't know if it's more direct, but I could try. So again, part of what we talked about before was where you don't use the definition books, in this the qualifier institutional charges get included in 90/10. And at a school, if you are required to buy the books or kits from the school, you don't have access to go buy them somewhere else, then they are defined as an institutional charge and they are included in the 90/10 calculation. If you're attending a school where you do have the opportunity, you can buy it through the school, or you can find other places that might be cheaper to buy the books, then they're not included as an institutional charge. The books are not always or never. It depends.

MR. HERBIN: And that was my question right there, Dave, because we all have the professor that, you know, they get cut a nice check because they wrote the book and they'd say, hey, I need you to go and it's required that you read this book as part of the course. So that was my question right there. But thank you. And then, Greg, do you know when we'll be able to get the Appendix C out so that we can review it before then?

MR. MARTIN: Yeah. We'll, we will have Appendix C for you before the next meeting we have in March. And yeah, Appendix C does help. Appendix C showed you as David McClintock pointed out earlier that the calculation is done on a student-by-student basis in the aggregate. So, with the appendix, you can and I can, you know, if anybody wants to look at it, it isn't the current regulations now, I believe someone correct me if I'm wrong, Appendix C to subpart B. You can pull that up or you can just get that, just Google it to subpart B of 668, it would show you how, the appendix works. But yeah, with respect to the books and supplies, the other thing I want to point out to is that 90/10, the rules are written, of course with changes that have occurred over the past number of years, there are a lot of for-profit institutions that that offer four-year programs or whatever, so it's not quite as maybe homogeneous as it was at one time. But the whole tuition, fees, institutional charges, thing with respect to proprietary education generally went back to the way it always used to be, was that if the books and supplies were included and in the past they were more often. I think that Brad's right to point out that increasingly that's not the case, but it used to be that they were all included in an enrollment agreement the students signed. So, when the students signed for a certain amount of money it included tuition, fees, books and supplies. So from the standpoint of auditing it or calculating it, it was probably a lot simpler than perhaps it is now. I know that's probably confusing.

MR. ROBERTS: Thank you for the exchange. Are we still okay to take a temperature check just on number one right now?

MR. MARTIN: Yes.

MR. ROBERTS: Okay. Could I see the committee's thumbs? I see one thumb down. If I missed anyone, let me know. And then Brad anything new that you'd like the Department to consider on section one.

MR. ADAMS: Yeah, I submitted my language in the chat and just to Jaylon and Amanda's earlier points, I fully understand your concerns and I also fully support not requiring students to have to buy books from their own professors. Thank you.

MR. ROBERTS: Thank you. Alright. Greg, are we ready for section or number two, rather?

MR. MARTIN: Yes, we are ready for number two. And I think we all remember the buying the books from the professors, I do want us to commiserate on that because I had a couple that thought their books were the [inaudible] but certainly were not. Okay, so we're looking here at in number two, which is disbursement rule, formerly it was cash accounting. So, an institution must use the cash basis of accounting in calculating its revenue percentage, and the edits here in this section clarify the language and specify that we are including Federal funds used to pay tuition and other institutional charges. So here again, we do reference institutional charges. And let's look at romanette one. For each eligible student counting the amount of Federal funds, go up to the top rather, institutions must use the cash basis of accounting in calculating its revenue percentage by, for each eligible student, counting the amount of Federal funds that were used to pay tuition fees and other institutional charges the institution received during its fiscal year. And if we go down to romanette two, the edits in this section clarified the language and specify that we are including Title IV funds used to pay tuition, fees, institutional charges again. So down here we have, for each eligible student, to calculate the amount of Title IV HEA program funds the institution received to pay tuition, fees, and other institutional charges during the fiscal year. However, before the end of its fiscal year, the institution must request funds under the advance payment method in 668.162 (b)(2) or the heightened cash monitoring method in 668.162 (d)(1), that the students are eligible to receive and make any disbursements to their students by the end of the fiscal year. And here we have and then below that in (b), for institutions under reimbursement or heightened cash monitoring methods in 668.162(c) or (d) must make disbursements to those students by the end of the fiscal year and report as Federal funds in the revenue calculations the funds those students are eligible to receive before requesting funds. So, we've reordered the sentence to clarify our intent as we just saw now begins with the reference to reimbursement or rates/payments. And I will stop there for comments, since that's a pretty significant regulation.

MR. ROBERTS: Thank you. Brad, take us away.

MR. ADAMS: To start, I'm okay with the changed language. But I do want to repeat a concern, and I just really am struggling with romanette (ii)(A) and so we have to request funds that the student are eligible to receive and make any disbursements to those students by the end of the fiscal year. Operationally, let me just describe something that's true at my institution. We've got about 6,000 students that will start a semester right before the end of a fiscal year, right? So fiscal year is 9/30, we may have a start on September 25th. The students may be eligible to receive those funds on September 25th, but for me to get 6,500 hundred or 6,000 students paid in five days, just as administratively not feasible, and it's just not worded in a way that I'm comfortable with. I mean, for us, our institution, we don't even truly, we require students to get to a census date, which is two weeks after the start before there ever gets charged. I guess before they ever owe any money, I guess would be the best way to say it. And so, you know, the census [inaudible] report. So again, I'm just struggling with how in the world and maybe Sam could better describe it, how in the world we can comply with A as written? I read it as any student that's eligible regardless if your quarter starts or your semester starts in the very last day of your fiscal year has to be received those funds by the end of the fiscal year. I just don't see that as possible.

MR. MARTIN: I mean, going back to what the reason why we did this again, I think it's relatively apparent why we did it, because just to remind or to reiterate that that 90/10 is done on the cash basis of accounting, so it is possible for institutions to and by no means suggesting every institution does this, but we have seen it where they essentially circumvent or game the calculation by, since it is cash based, by delaying a drawdown of funds in one fiscal year and moving it to another, which can have serious consequences if the institution failed in the previous year and was looking like they'll fail again. Then, they could avoid that by simply not having that money counted as Federal revenue in the fiscal year, for which it would cause the institution to fail by bucking it forward into the next year. So, it's a serious concern we have that we feel a loophole that we feel needs to be addressed. I do understand your point, Brad, that there could be situations where your disbursements are occurring or your start of a new payment period falls directly right at the right at the time of the end of the fiscal year and where it might be difficult for the institution to make those disbursements prior to actually make or draw the cash, right, actually prior to that point. But I if you want to provide language that you think would put some parameters around that or account for those situations, we'd be happy to take a look at it, but we're pretty resolved with the rule because we feel it's necessary to prevent a situation where institutions are avoiding the consequences of 90/10.

MR. ADAMS: Greg, I fully respect that comment and loophole. I proposed initially to strike it all. Maybe I can work on some language there that helps. My concern is, though, is everyone, and when you start a new term, everyone becomes eligible on day one and you can't get everyone paid on day one. It just feasibly it's not possible. Anybody that's ever worked in G5 tell you it's not an easy process. And so I hear you. I just think it's set up right now that and I don't know how an auditor could even audit this, but I read it as on day one, you have to give everybody that's eligible, which is everybody an institution funds on day one, and you just can't do that the way that G5 Federal system works today.

MR. MARTIN: I don’t think we’re saying on day one, I mean, we’re saying, you know, this has to do with going over a fiscal year. So right when they’re eligible, however, before the end for each eligible student the amount of Title IV HEA funds the institution received to pay tuition fees or other institutional charges during the fiscal year. However, before the end of the fiscal year, institution must request those funds, so it has to do with getting those funds requested before the end of the fiscal year, not issuing a specific day. Of course, if the fiscal year does fall at a certain point, it may effectively put you into that situation. I agree there, but which is why I would say that you have if you have language you think could assist with that, we'd be happy to take a look at it. Steve, do you have any comments you want to make Steve? I didn't know if your hand was up.

MR. FINLEY: No, I understand what Brad's describing, and I would like to see suggestions he had that we could discuss within the Department.

MR. ADAMS: Yeah. Greg, and I'll just throw this out there, I mean, to me, I mean, the 30 day is already a metric that's used for HCM1 for new students. I don't know, I'll work on something there, Greg. But just to me, I read when you say eligible, that to me says first day of the term, and that's where I'm struggling. So, thank you though for listening.

MR. ROBERTS: Dave, did you did you want to weigh in on this exchange?

MR. MCCLINTOCK: Just to share what Brad mentioned about the audit and he mentioned before that as an auditor, you're required to report anything as a finding if the 90/10 is incorrect. And so, the way this is set up, it would be pretty difficult to determine what should have been drawn down with drop adds and verification. I understand the difficulty in defining this and I know you're trying to stop, but also there's just G5 and there's verifications and lots of moving parts. And so, without a definition, it would be tough to state whether they were following this and complying with the any different needs to be disclosed aspect of it.

MR. MARTIN: Dave, I'd invite you as well if you have any have any suggestions for language to submit that to us.

MR. ROBERTS: Okay, thank you. Johnson, I have your hand up next.

MR. TYLER: Yeah, just briefly, I mean, I support the Department to the extent they're trying to stop gaming, there's a recent report that ITT Tech changing their CIP codes to avoid gainful employment and that sort of stuff. On the other hand, I am sympathetic with Brad's position and also don't want students to incur institutional debt because there's been disbursements before they could drop a class without any consequence. So, I do think there needs to be some getting together on this to make sure it's doable. So.

MR. ROBERTS: Thank you. Debbie, you're up next with your comment noted in chat. Thank you for that.

MS. COCHRANE: So, with regards to this point, I think in the last session there was an idea thrown out that funds could be included in the calculation for a fiscal year if they were eligible to be disbursed to students, whether or not they were in fact disbursed. So, it seems like that would get to the Department's schools, but also solve for the administrative issues that Brad was mentioning. So. I'm wondering if that's something the Department considered.

MR. MARTIN: Um, yeah, we did. I mean, there's an issue here of disbursed and I think and actually the funds requested and part of where we are is because of 90/10 is this odd duck with the requirement for cash accounting and most everybody who's unless, you know, if you've had the standard accounting classes that most people take, you know, one or two, you really all you've ever dealt with is accrual accounting. And that's what's hammered into your head, right? And so, we do require, you know, disbursement, we do have disbursement rules and that has to do with when an institution credits a student's account with Title IV funds or their own funds, when a student has received a disbursement. But with 90/10, it becomes important when the school and this is really unique to 90/10, it becomes very important when the school actually drew the money down. Normally, we don't say we don't care, we want schools to draw money. But there are plenty of institutions, especially large publics, sometimes will wait for quite some time to draw their funds down for to cover disbursements. That's it's very common. But it doesn't really make much difference in that world. Here, here it does, because it has to do with when they actually do, not just the disbursement, but when they actually draw the cash, go into G5. I think Brad referenced G5, the mechanism through which you actually go and request the funds. So, when they get the funds, that's when they're counted under cash basis. So, yes, we did explore that language with if the disbursement was made, counting it, as or sort of saying that it would be the same as if it were received. But there are issues there with respect to cash basis of accounting. So, that's why we did it the way we did, but we can certainly take that comment back.

MS. COCHRANE: Thank you for that. That's very helpful.

MR. ROBERTS: Thank you. Brad, I think you are a final comment before lunch so take it away.

MR. ADAMS: Yeah. Just to add to Debbie's comment, it is when it's not when we request the funds from G5, it's actually when we receive the funds into our bank account. But once we receive the funds, we have three days to issue the stipend. And in instances, we encourage students to sign up for ACHs because that's the easiest way to send students their money. But we're not unfortunately, I don't know if it's fortunately or not, but students can still get checks. And so that does take a little time to process. And so that's why there's a three-day rule there. But for 90/10, if we requested money on September 28th and received it on September 30th, it would count for 90/10 purposes for the 90/10 score. But, then we would have still three days from the 30th to actually get the check or ACH in the student's hand. And that's how it kind of works. But when we send the money to the student does not impact 90/10.

MR. ROBERTS: Okay, thank you. Greg, but I'm not seeing any new hands. Do we want to take a temperature check on two and then start with fresh with the new section after lunch?

MR. MARTIN: Yeah, we can do that, certainly.

MR. ROBERTS: Great. Okay. So, thank you all for that. If I could just see your hands on section two of this. Ashley, if you wouldn't mind. Thank you so much. I'm seeing one thumbs down. Brad, anything new for the Department to consider on section two?

MR. ADAMS: We'll work on language with the Department. I think we both mutually agree on this.

MR. ROBERTS: Thank you so much. Alright.

MR. MARTIN: Thank you.

MR. ROBERTS: Thank you all for your hard work this section I know this morning session, I know there's a lot. You have an hour for lunch. We will see you at the top of the hour. 1:00 p.m. Eastern. Enjoy. Thank you.

Department of Education, Office of Postsecondary Education

Zoom Chat Transcript

Institutional and Programmatic Eligibility Committee Session 2, Day 5, Morning, February 18, 2022

From Kevin Wagner to Everyone:

Just as a reminder as we open up discussion...if you are not speaking please put yourself on mute. Thank you

From Brad Adams (P - Proprietary Institutions) to Everyone:

+1 to Greg’s comment about allowing fees for an expediated review timeframe

From Brad Adams (P - Proprietary Institutions) to Everyone:

+1 to Jamie's question

From Barmak Nassirian (A) Servicemembers & Vets to Everyone:

Travis Horr will sit in for us on 90/10

From Carolyn Fast to Everyone:

Jaylon Herbin is coming to the table for 90/10

From Kelli Perry - (P) Private Non-Profit Institutions to Everyone:

Emmanual will be coming to the table for 90/10

From Ernest Ezeugo (P) Students & Student Loan Borrowers to Everyone:

Carney King will be coming to the table for Students and Student Loan Borrowers through the duration of 90/10.

From Brad Adams (P - Proprietary Institutions) to Everyone:

I have three to four points on 1 i, so if you want to stop before 2:00 that might make sense

From Brad Adams (P - Proprietary Institutions) to Everyone:

Carney's referencing things that would count for 90/10 if they run through the student's ledger card

From Barmak Nassirian (A) Servicemembers & Vets to Everyone:

+1 on Jamie's comment

From Brad Adams (P - Proprietary Institutions) to Everyone:

+1 Jamie

From Debbie Cochrane (P), State agencies to Everyone:

David Socolow is joining the table to ask a question.

From Ernest Ezeugo (P) Students & Student Loan Borrowers to Everyone:

+1 Jaylon

From Johnson (P) Legal Aid to Everyone:

+1 on Jaylon's comment

From Jaylon Herbin (A) Consumer and Civil Rights to Everyone:

+1 David's comment

From Johnson (P) Legal Aid to Everyone:

+1 to David's comment on state's obligation to report what % of its grant $ is fed

From Debbie Cochrane (P), State agencies to Everyone:

I agree with Brad that institutions need clarity for this to be workable.

From Brad Adams (P - Proprietary Institutions) to Everyone:

Here is my updated proposed language to (a) (1) (i): For any annual audit submission for a proprietary institutional fiscal year beginning on or after January 1, 2023, Federal funds used to calculate the revenue percentage include title IV, HEA program funds and any other educational assistance funds provided by a Federal agency directly to an institution or a student including the Federal portion of any grant funds, except for non-Title IV Federal funds provided directly to a student to cover expenses other than tuition, fees, and other institutional charges.

From Carney King (A) Students and Student Loan Borrowers to Everyone:

Agree with Amanda. Professors often contract with campus bookstores to sell their books — They aren't available on Amazon

From Laura Rasar King (A) Accrediting Agencies to Everyone:

Amanda is right - this is an emerging issue. DE needs to keep up.

From Brad Adams (P - Proprietary Institutions) to Everyone:

What Amanda is describing would be part of 90/10 if they were required through the institution. I understand her concern, but that is an issue outside of 90/10.

From Johnson (P) Legal Aid to Everyone:

+1 to Amanda. We need to listen to the reality of students says a person who hasn't been to school in over 30 years

From Amanda Martinez (P-Civil Rights) to Everyone:

I was also just trying to understand the rule here.

From Brad Adams (P - Proprietary Institutions) to Everyone:

I fully support Amanda's concern and it is a problem for all students. Typically for-profit schools do use their own professors books either.

From Amanda Martinez (P-Civil Rights) to Everyone:

+ Thanks Brad for hearing us!

From Debbie Cochrane (P), State agencies to Everyone:

There appears to be a typo in (ii)(A): heightened, not heighted

From Sam Veeder (she/her/hers) to Everyone:

After the break, David Peterson will be at the table representing Financial Aid Administrators.