

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
PRISON EDUCATION PROGRAMS SUBCOMMITTEE
SESSION 2, DAY 1, MORNING
November 8, 2021

On the 8th day of November, 2021, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. WASHINGTON: Good morning, and welcome to all of you joining us today and to the subcommittee members seated around our virtual table. My name is Aaron Washington and it is my pleasure to welcome you back to the Prison Education Program Subcommittee. First, I want to express our appreciation for the communities that have worked hard for this change and that are now at the table helping to write the rules. We want to hear their voices representing impacted students and we want to ensure that the committee hears their voices. Language developed and recommended by this subcommittee will inform the work of the affordability and student loans main table, and I'd like to welcome everyone from the subcommittee to the virtual table representing various constituencies. You've been nominated by your peers and selected by the Department to discuss important issues concerning Federal Student Aid programs authorized under Title IV of the Higher Education Act of 1965 as amended. So we kicked off our subcommittee process from October 18th through the 20th and we appreciate all of the subcommittee members who engaged with us through that process, shared your concerns and provided suggestions. Based on your feedback, we have provided the subcommittee with amended

text. My goal for this final session is to develop one strong recommendation to send to the main committee. And with that said, let's jump into introductions, so I'll start. My name is Aaron Washington, and I will be the team lead for the Department during the next three days, and I will turn it to my colleague, David Musser to introduce himself.

MR. MUSSER: Good morning, everyone. My name is David Musser. I'm with the Office of Federal Student Aid as the director of the Policy, Innovation and Dissemination Group. We are responsible for publishing the Federal Student Aid Handbook and for overseeing the Experimental Sites initiative, which includes the Second Chance Pell experiment.

MR. WASHINGTON: Thank you, David. We have Steve Finley with us.

MR. FINLEY: Hi, good morning, everyone. I'm Steve Finley. I work in the office of the general counsel at the Department of Education and concentrate on postsecondary education issues and institutional compliance.

MR. WASHINGTON: Thank you, Steve. We have Elizabeth Daggett with us.

MS. DAGGETT: Good morning, everybody, my name is Elizabeth Daggett, I'm an analyst with the

accreditation group. Our role is to review accrediting agencies to ensure that they meet the requirements for recognition by the Department. And so obviously there are always additional items that they are going to include, reviewing programs for Federal Student Aid purposes. So thank you.

MR. WASHINGTON: Vanessa Gomez.

Vanessa, screen sharing, right, well, she's preparing to screen share so she may be multitasking.

MS. GOMEZ: Do you see me? Okay, hi, everyone. Good morning. Sorry about that. I am going to be screen sharing as Aaron said, I work with the Policy Development Group with Aaron and happy to be here this morning.

MR. WASHINGTON: Thank you, Vanessa and Sophia McArdle.

MS. MCARDLE: Hi, everybody. Good morning, welcome back. I'm Sophia McArdle. I'm also with the Policy Development Group and I will once again be calling on subcommittee members when it is their turn to speak and also tracking the three minute time limit. Looking forward to a great session.

MR. WASHINGTON: Thank you, Sophia. So now I want to turn it to the subcommittee. So if you would state your name, the constituents, your

constituency. You can talk a little bit about your background and also let the subcommittee know how you would like to be addressed throughout the duration of the three days. And so I wanted to give folks about two minutes each to provide those items. So we'll start with Belinda Wheeler.

MS. WHEELER: And good morning, everyone. I'm Dr. Belinda Wheeler. Please feel free just to call me Belinda. I'm a senior program associate at the Vera Institute of Justice. We do many different things, but the one area of which I'm a part of unlocking potential provides technical assistance to the 130 Second Chance Pell experimental sites around the country. So that's some of the great work that we do in that space, and I am representing consumer advocacy groups. So thank you very much.

MR. WASHINGTON: Thank you, Belinda. We will go to Kim Cary next, please.

MS. CARY: Good morning, everyone. Kim is fine, to go by that. I am representing the financial aid administrators. I have been in the financial aid industry for approximately twenty one years, so thank you for allowing me to be on this committee.

MR. WASHINGTON: Thank you, Kim. Stanley Andrisse.

DR. ANDRISSE: Good morning. Good morning, everyone. Stan Andrisse. I am a formerly incarcerated person who was sentenced to 10 years in prison. I was told that I was going to be a career criminal, actually labeled as a career criminal in my sentencing. Fast forward some time I'm now Dr. Stan Andrisse Professor, an assistant professor at Howard University College of Medicine, a former faculty member at Johns Hopkins Medicine, a visiting faculty at Georgetown Medicine and Imperial College of London, as well as the executive director and co-founder of Prisons to Professionals, which is how I sit here with you today. Prison to Professionals is a nonprofit organization that works nationally. We connect with about 400 plus currently and formerly incarcerated people per year to help them pursue higher education and gainful employment. And I am representing here today with you formerly incarcerated students.

MR. WASHINGTON: Thank you, Stanley Terrell Blount.

MR. BLOUNT: Good morning, everyone. Terrell Blount, I serve as the director of the Formerly Incarcerated College Graduates Network and I am representing groups that represent incarcerated students.

MR. WASHINGTON: Thank you, Terrell.

Terrence McTier.

DR. MCTIER: Good morning, I am Dr. Terrence McTier, I am the director of the Prison Education Project at Washington University in St. Louis.

MR. WASHINGTON: Thank you, Dr. McTier. Marisa Britton-Bostwick.

MS. BRITTON-BOSTWICK: Good morning, everyone. My name is Marisa Britton-Bostwick, I am the director of education for the Montana Department of Corrections. I am so thankful to be on this committee and honored, and I am representing correctional education. I've been in public school education and correctional education for the last twenty four years and I'm thankful to be here today. Thank you.

MR. WASHINGTON: Thank you, Marisa. Angie Paccione.

DR. PACCIONE: Yes, hi, I'm Dr. Angie Paccione, you can call me Angie, and I am representing SHEEO, the State Higher Ed Executive Organization, and I reside in Colorado, where I am the executive director of the Colorado Department of Higher Education. It's a governor appointed position and I have enjoyed these last sessions and I look forward to these as well. I do have some pretty unstable internet connection in my house, so I'll be on and off video. Thank you.

MR. WASHINGTON: Thank you. On Monday, November 1st, Anne Precythe was nominated and approved by the main committee to become a member of the subcommittee. And so I would like to extend a welcome to Ms. Precythe. We are happy that she will be able to join us. However, she will not be able to join until the afternoon session, so we will allow Ms. Precythe to introduce herself in the afternoon. So I just wanted to run through a few protocols, the same protocols we had last time. So cameras should remain on during active negotiations at all sessions and cameras should be turned off during breaks and may also be turned off during brief absences. Subcommittee members will remain engaged in the work of the subcommittee and refrain from other activities, including posting on social media during the time that subcommittee meetings are in session. I will introduce each new topic and the subcommittee member who wishes to speak on that topic should virtually raise their hand, and Sophia will determine speaking order and call upon subcommittee members when it is their turn to speak. Subcommittee members must wait their turn and follow the Department staff instructions. The Department staff, including myself, David and Steve, intend to do the same unless asked a specific targeted question by the subcommittee or Elizabeth, I'm sorry, as well. Only one

subcommittee member may speak at a time. All other subcommittee members' microphones are to remain muted. For today, we will limit comments to three minutes to ensure that we're moving at a pace to get through our agenda on time and to ensure we're hearing from everyone that wants to speak, so Sophia will let you know when you've reached two minutes and 30 seconds, and also when you've reached your final three minutes. If you would like to speak again, please just raise your hand. Also, please note the subcommittee does not vote. The subcommittee is structured more like a working group. There's been a lot of discussion about this in the main committee. It was constituted and approved under the main committee protocols, as announced in the Federal Register and the Department has been purposeful in distinguishing between the main and the subcommittee. The subcommittee will provide timely recommendations to the main committee, then the primary negotiators from the main committee and the federal negotiator will vote on the package. The committee may also request additional information from the subcommittee as needed, and we do need to decide who will take notes just like we did last time and present the subcommittee's recommendation to the main committee. It could be more than one person. Last time it was Belinda and Stan. It doesn't have to be the

same people. The presentation will include proposed regulatory language that we will develop here over the next three days. And also it should have something accompanying it, like a PowerPoint or a high level report or more high level overview. So I want to pause here and establish with the subcommittee, who the subcommittee nominates or proposes or wants to volunteer to do the report, the final report to the main committee in December. So that was a question for the subcommittee.

MS. MCARDLE: Belinda. Go ahead, Belinda.

MS. WHEELER: Thank you very much. I was just going to say that I'm happy to continue in this role with Stan, as we did the last time if he and the subcommittee members would like. But I'm also happy to, you know, default to other people too. So I'm very happy to, just wanted to put myself out there. I want to double check with Stan, though too, and then also check in with the other subcommittee members. Thank you very much.

MS. MCARDLE: Stan.

DR. ANDRISSE: I was just going to mention the same.

MR. WASHINGTON: So it also can be a collaboration among Stan and Belinda. So if any other subcommittee member is interested in reporting out with

Stan and Belinda on the final recommendation to the main committee, you are more than welcome to join Stan and Belinda. I do remember from previous negotiations that one of the subcommittees had three people reporting out, so it doesn't have to be limited to just two. So if you if you're unsure right now whether you would like to report out with Belinda and Stan, you can let us know throughout the day. It would be helpful to let us know as soon as possible so that you can all coordinate and also actively taking notes during the meeting. So you know, you can be prepared to report what transpired during the meetings. So I will periodically ask-

MS. MCARDLE: There is a comment from Kim. Sorry. Kim?

MS. CARY: Sorry for that late hand there, Aaron. Could you explain what December will look like for us and what goes on with that timeframe?

MR. WASHINGTON: So just like the last time, we didn't get a specific date until a little bit later that we would actually be presenting to the main committee, so the main committee in collaboration with the Department of Education, will decide the day on which they would like the subcommittee to make the final recommendation. So that is still to be determined. We hope to get that date to you as soon as possible—and

before you actually have to report out. But if for some reason we can't tell you if there's a short amount of time between that, we will help. We will help, the Department is here to lend a helping hand. For the last report out, we did take the first stab at drafting the PowerPoint that Belinda and Stan used to report out. Belinda and Stan, of course, had final say or authority over whether they use that PowerPoint. They can edit that PowerPoint. But if for some reason which we don't anticipate happening, we don't know the the day before, the Department would be here to assist you with drafting the report. And hopefully amendatory language is done by Wednesday and we can finalize. That's the goal-- to finalize the entire amendatory language package by Wednesday. So I don't have a specific date for you yet. But that can be one of the things I can take back and hopefully, maybe either after lunch or tomorrow morning, I can tell you the specific date that the subcommittee will report out to the main committee.

MS. CARY: Okay.

MR. WASHINGTON: Go ahead.

MS. CARY: I think I was just mainly concerned about making sure the regulatory. The conversation needs to be done by Wednesday of what we want to push forward.

MR. WASHINGTON: Yeah, so that's the goal I because these are public meetings. I think the goal is to finalize the recommendation. Of course, there may be some technical edits that we might need to make. Today we will see a few in our anticipation to get the amendatory language to all. Before we started here, there were some a few technical issues that we need to fix today in real time that I will walk you through. But the goal really is to finalize the substantive points by Wednesday at 3:00 p.m.. But if there's like a period missing or something like that, of course, those can all be fixed and updated, but at least the substantive issues we want to finish by Wednesday at 3:00.

MS. CARY: Thank you, Aaron. Thank you.

MR. WASHINGTON: Okay, and yeah, and Kim, if you're tentatively interested in presenting based on, you know, in with conditions on the actual date that the report out will be, you can also weigh in on that as well. So I will periodically ask for the subcommittee members to show a thumbs up, thumbs down or sideways thumbs to determine if the subcommittee is on track to provide one recommendation to the main committee. I think I'm going to try and do temperature checks more frequently than I did last time. This will

also provide an opportunity to see if there's division on a path forward and how we can work together to resolve that issue. So Vanessa, as she stated, will be sharing her screen and making real-time edits. And because this is the final three days, I really would like to focus the discussion on language suggestions. I know that there will be over overall comments on the direction of the regulatory package people, the subcommittee's opinions on the regulatory package, how this will impact communities. I think those will all be relevant comments. I think if those comments could be accompanied by a language change, that would be helpful because we would actually be able to see, you know, how the overall idea would be relayed through regulatory language. If you are suggesting a change, please be sure to speak slowly and clearly so that Vanessa can capture the change. If you do not have exact language, you would like to propose, but you have a concept that you would like the Department to include in the regulatory language, you can let us know and we will go back and try and draft language prior to the next day's meeting. So Vanessa will highlight new change, so in the amendatory language, which we'll see momentarily, we have the red line changes that well the red line edits that we made that we sent to the subcommittee prior to the first committee. All of the changes that we made

between the first session and the second session were highlighted in yellow. And today I'm going to ask that Vanessa highlight any language changes that the subcommittee proposes today in bright blue. And so that will help us distinguish between all of the changes that were made or all the proposals and changes that were made between the first session and now. So our schedule for today is just to get through a lot of the more technical areas and the areas where the where we had general agreement, but the Department has added a little bit more context upon further discussion. And then tomorrow we're going to be discussing the new subpart P, and that generally is the overall definition of a Prison Education Program. We had originally intended to put that definition into 668.8 in the Code of Federal Regulations that is under eligible programs. There are other things discussed in that section, so we felt as though it would be read, it would be a better regulatory read if the Prison Education Program language had its very own sub part, and it kind of highlights the importance of Prison Education Programing. And then the third day we'll be back to more subpart P, a lot of discussion, we hope, on the best interest of students and with a (inaudible) State Department of Corrections determination of the best interest of students. And then the final cleanup for that

for the afternoon we want to kind of go back to the regulation and just look at any final suggestions that the subcommittee has. So I want to pause there before we jump into the amendatory language. That's all I had for kind of like the lead in. And so now I did want to jump into the amendatory language. So if anybody has any questions before we do that, please let me know.

MS. MCARDLE: I'm not seeing any hands.

MR. WASHINGTON: No hands? Okay. Alright. So I wanted to start with, give Vanessa a chance to pull it up. Thank you, Vanessa. So I wanted to start with 600.2 in the definition section. We got general tentative agreements on the sorry we got I'm like looking at so many screens here. Alright. So we got tentative agreement. There were no thumbs down for the definition of an additional location. And we did propose. You'll see highlighted in here, we did propose to make some updates to the definition of a confined or incarcerated individual. And so we just added means there. You can see that highlighted and also from the previous discussions we had some suggestions and one of the suggestions was that Terrell advised that the Department should add that individual subjects who are serving an involuntary civil commitment would not be considered confined or

incarcerated. What would allow an individual serving an involuntary civil commitment to access Pell to enroll in any eligible program, not just the Prison Education Program. And also that individual would have access to other aid programs, including direct loans. So we've added that they're based on Terrell's recommendation. I wanted to just chat with you all a little bit about Dr. McTier's recommendation. So Dr. McTier, you recommended to add outpatient treatment facilities to the definition of for a confined or incarcerated student that is that you sorry, you add you recommended to an outpatient treatment facility to be included for a student who if a student is serving in an outpatient treatment facility, they would be considered confined or incarcerated. So a lot of sorry, I got tongue tied there. And so in effect that would require that the student serving a criminal sentence in an outpatient treatment facility to enroll in a Prison Education Program, and that student would only be eligible for Pell. They would not have access to direct loans. We were able to discuss this with the suggestion with the Department of Justice and learn that some individuals and outpatient treatment facilities can leave the facility and enroll in an eligible program in a postsecondary institution. And so for that reason, the Department believes that these individuals should be able

to enroll in any eligible program of their choosing and not just the Prison Education Program. And I think the benefit here is that it expands options for those that are in an outpatient treatment facility and for their postsecondary education endeavors. Also, Stan, you had a question last time about serving about the clause that says serving a criminal sentence. And so we've also followed up on that about the eligibility of someone who's not serving a criminal sentence, perhaps because they are in their, you know, just in a correctional facility awaiting trial. And we confirm that, that would not apply until the person begins serving a criminal sentence. Therefore, any time before the individual begins serving the criminal sentence, they could enroll in any program of their choosing, whether it is a Prison Education Program or not. But keep in mind, though, that the Department of Education, the Department of Education, does not have control of program offerings in correctional facilities and cannot compel a postsecondary institution to offer a program to a prospective individual. So, so I will pause there for any questions on that.

MS. MCARDLE: Not seeing any hands at this moment.

MR. WASHINGTON: So we do have to make

one technical update to this section, and I think Vanessa is sharing. I'm also, if you'll note, you'll notice that I'm also in the version that Vanessa is sharing. The one technical edit that we have to make which I'll drop in now is the definition of a juvenile justice facility. Unfortunately, that was not captured here. And so I just wanted to add I was wanted to let the subcommittee know that that definition would be added back to 600.2 because it was mistakenly added to subpart P when we were just moving things around. Also, the definition of a juvenile justice facility--that this was something that was added. So I just wanted to show you how the actual definition would actually look.. Remember, we had a juvenile justice facility before the first session, so what I wanted to do now, if there are no questions, is I wanted to take a temperature check. This will be unless anybody has an objection. This would be the temperature check to decide whether the subcommittee is okay with this as a recommendation to the main committee.

MS. MCARDLE: We have a couple of hands up. Stanley first.

DR. ANDRISSE: Yes, I just wanted to. We had this conversation last time, I believe, but just to get clarification on folks who have a civil commitment. So does Federal Law still bar people under

civil confinement from access to regular Pell? So individuals that have that are not under a civil confinement, so they have to, you know, for instance, individuals with sex offenses that have to, you know, make that notification under, I believe we discussed that and it had been changed under the new law. But just to get verification and clarification on that.

MR. WASHINGTON: Oh, so that was a direct question to me, so I just jump in there now. So we've added in there, Stan. If you look in the highlight, we've added an individual is not considered incarcerated if the individual is subject to or serving in a voluntary civil commitment. So that would mean that-- Well, first of all, all the students under the confined or incarcerated student definition are, you know, are eligible for Pell. It just depends on whether they're eligible for Pell to enroll in a Prison Education Program or eligible for Pell to enroll in-

DR. ANDRISSE: If I could clarify, under the previous law, for instance, there was a question on the FAFSA that asked people if they had, you know, had to had a civil commitment due to a sex offense and that barred them from accessing federal funds. Similarly, there was a question that asked about drug crimes that bar people that had specific types of drug

crime during, you know, during school from obtaining federal funds and that had been removed. So I just wanted for the record again to clarify. And I think I mean, David, or one of the legal folks maybe can just add that clarification again for the record.

MR. WASHINGTON: I think it's clarified, Stan. I said that we were saying that an individual that is subject or serving an involuntary civil commitment is not considered incarcerated for the purposes of Title IV Aid, so that individual would be eligible to enroll in an eligible program and receive Pell and direct loans. So that individual-

DR. ANDRISSE: Well, I was just waiting for the record to say that previously they were not. But now they are.

MR. WASHINGTON: That is correct. That is correct. Yes.

DR. ANDRISSE: So now the new law has been changed. Perfect. Thank you.

MR. WASHINGTON: And we've added that. We've reflected that in the amendatory language.

DR. ANDRISSE: I mean that that text doesn't reflect that what I'm talking about.

MR. WASHINGTON: Okay. Stan, if you could provide us with some of the amendatory language you

think would get to that, we can take that back and discuss whether that language would be aligned with the statutory changes.

DR. ANDRISSE: I mean, that's a different conversation, I believe, because that's referring to a different question on the FAFSA that used to be on the FAFSA that is no longer on the FAFSA, if I'm correct. Is that-

MR. WASHINGTON: Perhaps ROTC would like to weigh in on this.

UNIDENTIFIED FEMALE SPEAKER: Yeah, I see (background talking)

MR. FINLEY: Yeah. So you're asking about the provision that used to make students ineligible if they had a drug conviction, right? David Musser may want to weigh in on it. But my understanding is that provision has now been eliminated and the question has been eliminated from the FAFSA as well.

DR. ANDRISSE: Right. It was drug conviction or a sex offense.

MR. WASHINGTON: Okay, I can. I can weigh on the drug, the drug conviction. So that was so the question still is present on the FAFSA but a drug conviction of possession or sale of drugs no longer impacts the student's eligibility for aid. We released a

Federal Register Notice some time ago, clarifying that and outlining the Department's plans for removing the question from the FAFSA. It still appears on the FAFSA, but it no longer has an impact on the student's eligibility, and the Department is currently working to provide updated help text on the FAFSA and also remove the question in the future in a future award year. So in regard to the sex offense question, Steve, it what it was, what the statute was referring to was my understanding was about serving an involuntary civil commitment. And I think what we've done here is we've added that to the definition of somebody who is not incarcerated. So that means that a student that is serving an involuntary civil commitment, a student that is in a halfway house or a student that is in a home detention center or a student that is serving only on weekends, is eligible for a federal Pell Grant.

MR. MUSSER: Aaron, do you mind if I jump in real quick?

MR. WASHINGTON: Yes, please David.

MR. MUSSER: So I definitely think that the amendatory text that the Department has introduced here makes it clear that an individual who is serving an involuntary civil commitment for whatever reason, including sexual offenses, is not considered

incarcerated. But it may not be completely clear that such an individual still qualifies for Pell because the previous law prevented both students who were incarcerated in federal and state penal institutions and those who were subject to involuntary civil commitments to a loss of Pell eligibility and those who are serving involuntary civil commitments weren't necessarily considered incarcerated under that legal language. So I think the question that I now want to defer to our general counsel is whether under the new law, individuals who are serving an involuntary civil commitment who are not considered incarcerated would nonetheless qualify for Pell Grants when the law is fully implemented.

MR. FINLEY: And the best I can say on that is what I'll have to take that back for some internal discussion, I don't know the answer off the top of my head. I'm sorry.

DR. ANDRISSE: And if I could refer, I believe it was, you know, a 2008 law that specifically pointed to, as David mentioned, you know, involuntary civil commitment. You know, people serving involuntary civil commitments were specifically not eligible for Pell. It had nothing to do with whether they were incarcerated or not. So if we can get clarification on that, that would be that would be good. I think last time

we had asked that as well. But, you know, just to just to reiterate. So it's not only a question on the FAFSA, but it was also a specific piece of law, as David mentioned. Thank you.

MS. MCARDLE: Okay, we have Belinda, Marisa, and Terrell. Belinda first.

MS. WHEELER: Great, thank you very much. I just wanted to make sure that we're crystal clear. I wanted to number one thank the Department over, I think it was on Friday I'd sent that email to the group with regards to, you know, the definitions of confined or individual. And I want to thank the Department, you know, for providing some context. You know, you had all kind of explained that there is a little bit of kind of ambiguity or complexity in this definition. And I think you did a really good job of explaining how the Department certainly isn't trying to, the Department or Congress isn't certainly trying to kind of jump in and, you know, change definitions or things of that nature with regards to confined or incarcerated individuals. I did just want to make sure that again, you know, usually corrections and usually education have, for the most part for postsecondary education have been quite separate. And for this, you know, as we move forward with Pell expansion, you know, we are going to be there's a lot of extra

weight that Corrections is bringing into this space, and I see that Marisa has her hand up too and I definitely want to defer to her as the, you know, the person from corrections on the subcommittee here. I just want to make sure that if we keep this language the way you know, for example, bringing both confined and incarcerated individual individuals together in this text and not separating them, that when, for example, a DOC at a particular state is looking to work with an education's institution that wants to provide that we won't inadvertently accidentally really just get, Corrections might read it a certain way and Education might read it a different way. And that's a concern for me. I just want to make sure, and I know in the email that you'd sent out to everyone else. You know, that you all had, you know, clearly put in your email about the situation as it was. And but you'd also said that the subcommittee may wish to provide statutory definition examples. And I just really just wanted to check. And again, I see Marisa is here, so this may be something that Marisa wants to bring up, but I just want to make sure that if we do indeed decide to go this way or this way with this, that by not separating those two, that down the road, we might indeed kind of create a headache for corrections and education educators as we're looking to expand with this. So I just want to

put that out there. I'll certainly I see Marisa is here, so maybe she might want to speak about this. And if I need to say anything else, I'll put myself in the queue again. But thank you.

MS. MCARDLE: Marisa.

MS. BRITTON-BOSTWICK: Thank you, Belinda. I think you're exactly right. These really need to be clarified. And the also the other issue that I think needs to be clarified and it probably already has, but is the definition of youth under a juvenile justice facility. We see a lot of different definitions of youth within education. And so is this defined somewhere else in the language? Because is it under 18 using dual enrollment? Is it 18 to 22? That would be something I would want clarification on if possible. So thank you.

MS. MCARDLE: Terrell.

MR. BLOUNT: I took my hand back down.

MS. MCARDLE: Okay. And we have Stan again then. Stan. Oh, okay.

DR. ANDRISSE: Sorry about that.

MS. MCARDLE: That's alright. And Marisa, I'm assuming you're done speaking, your hand is still up.

MS. BRITTON-BOSTWICK: I'm done.

Sorry.

MS. MCARDLE: Okay, no worries. Okay. That's it for the hands.

MR. WASHINGTON: Thank you for all those comments I can speak to Marisa's last question about the definition of youth. We haven't defined youth here in the regulation, but I will. I can point to the fact that this-- by adding I probably added to the confusion, but we're not proposing to add during this subcommittee, the definition of a juvenile justice facility. This was added in 2018, I believe. So this has been the definition that has been in our regulations for some time now. And thank you for bringing that point to us. But we had not heard that there was, I guess, confusion in the community based on this. Based on this definition, it was just to show that juvenile justice facilities, at least the previous way that the statute was written, is that those that were in a juvenile justice facility could receive Federal Pell Grants. And now we're just saying that those that are in a juvenile justice facility can receive a Pell Grant as long as they enroll in a Prison Education Program.

MS. MCARDLE: Marisa.

MS. BRITTON-BOSTWICK: So does that include people under 18 in a dual enrollment program with a college, or is it only 18 to 22 year olds?

MR. WASHINGTON: So that would include. So for Pell eligibility, you have to you'd have to be otherwise eligible students. So any eligibility requirements that that we're not proposing to change eligibility requirements for Pell eligible for students. So the student would still have to you know, be a, have a high school diploma or its equivalent. They would have to be a U.S. citizen eligible non-citizen. I don't know if David would like to speak to dual enrollment, but I'll pause there to see if David would like to add anything on enrollment.

MR. MUSSER: Sure. So the student eligibility requirements for Pell Grants and other types of Title IV Aid require a student to have either the recognized equivalent of a high school diploma or to qualify through one of the Ability To Benefit requirements, which could include the completion of a certain number of credits, the completion of an approved Ability To Benefit test, or participation in the state process that's been approved by the Department. But the law also prevents all students who are enrolled in secondary school from receiving Title IV Aid. So those individuals, if they're simultaneously enrolled in secondary school, will not qualify for Title IV Aid. It's only when they are not simultaneously enrolled, and that

could include students who have dropped out and not completed a secondary school as long as they meet the one of the other criteria that I just mentioned in lieu of a recognized high school diploma, but they cannot be enrolled simultaneously in high school and be receiving Title IV Aid for an eligible program.

MS. MCARDLE: Stan.

DR. ANDRISSE: So I just found this site on the student aid page that says that people on a civil commitment cannot get Pell. And that looks to still be the law. So that was not changed with the FAFSA Simplification Act, as there was a specific piece of legislation towards that. So I think with us, excluding them here, we know they are again getting excluded. I just sent the entire group an email with that link that shows that particular where that's mentioned.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Thank you for that, Stanley, that is current language that's on the FSA website, it hasn't been updated for the changes that we are going to make here during the subcommittee. The changes in statute are set to be made July. Well, if we publish a regulation by November 1st, those changes will go into effect by July 1, 2023, so the Office of Federal Student Aid. I don't want to speak for David, but they do

have a little bit of time between then and now to update the website to reflect what the regulations will be on July 1, 2023. So you know that what that is the current law, but we are here working to the law has been amended by the 2021 Appropriations Bill to and it made certain changes. And one of the changes is that, you know, confined or incarcerated students are not eligible for Pell if they enroll in a Prison Education Program. So that's what we're here to do now. I think Steve mentioned that he's from the OGT perspective, they're going to take the question back. Hopefully we can get an answer. Looks like Steve raised his hand. Hopefully we're going to get an answer for you, but I'll pause there, I'll allow Steve to add more.

MS. MCARDLE: Steve.

MR. FINLEY: Yeah, I didn't realize my hand was up, sorry, I was just going to reaffirm what Aaron was saying, we'll take it back and try to come back with a clearer answer.

DR. ANDRISSE: Yes, it is, it is my understanding that the bill that was passed did not address that, but we have the opportunity here, maybe to address that within the language. But if you could, I would appreciate if you could get back to us. Thank you.

MS. MCARDLE: No more hands at this

time.

MR. WASHINGTON: Alright, so I kind of hesitate to take a temperature check there because I think we're not going to have it, but just for just for just for just for the record, Sophia, can you see everybody's screen that's the part of the subcommittee or no? No? Okay. Sophia, you're on mute.

MS. MCARDLE: Oh, I'm sorry, I said I do not have Marisa. I cannot see Marisa at all.

MR. WASHINGTON: Okay, I can so let's try and do a temperature check, and then Sophia, I'll see, I can see Marisa, so if anybody, if you've got-

MS. MCARDLE: Well I should be able to see her, but I don't. Okay. We'll just see.

MR. WASHINGTON: Oh, go ahead, I'm sorry.

MS. MCARDLE: No, no, go ahead. Let's do the temperature check.

MR. WASHINGTON: Okay, so let's give a thumbs up, sideways thumbs, or thumbs down to this based on the language as written, not including the follow-up on involuntary civil commitment from Steve. And Marisa has a sideways thumb.

MS. MCARDLE: And Stan has down.

MR. WASHINGTON: Okay so the only

issue with this, well I'll let Stan speak for himself. Sorry.

DR. ANDRISSE: Yes, I can't give a sideways or up until I get that clarification. Because depending on that will change what I would propose for language.

MR. WASHINGTON: Okay. Thank you. So do we have any further discussion on this piece, or can we move to the next section, 600.7? Okay so if we recall, this section was all about the 25% cap on incarcerated students enrolled incarcerated students for Title IV institutional eligibility. What we've done here. We did have no thumbs down on our temperature check last time, however we are proposing to we are proposing a few a few technical changes in this, because you'll see in the highlight that we're adding subpart P, we're changing it from six, we're changing it from 668.80 to subpart P. And then let's see, I got to go back, I'm like looking at so many screens here. Vanessa, if you could scroll down a little bit. We've also added on a program by program basis to number three, and the rationale behind that was that for if the school offers a two or four year program, then they would apply for the waiver and the Department would review that waiver based on the conditions that we proposed to outline and regulation. If the offer if the

institution offers programs that are two or four year programs that that don't lead to a bachelor's, associate's or postsecondary diploma, then those programs would have to have a 50 percent completion rate as previously, it's already defined in regulation how that's calculated, and because each of the programs has to have a 50 percent completion rate or greater, the Department would have to review each of those programs on a program by program basis to ensure that each of them had that 50 percent completion rate. So that's why we're proposing there to add program by program basis. You'll also see that we're proposing to delete the Secretary withdraws the waiver or any language referring to withdrawing the waiver and replace that with limits and terminates. And I want to pause there to turn it over to my to Steve Finley at OGC to explain why we're changing it from withdraws to limits and terminates.

MR. FINLEY: Sure. When you think about it, when an institution obtains approval from the Department to do something like operate and offer programs that are not subject to the 25% waiver, in order to restrict that approval, the Department has to provide some form of due process to the institution to challenge having its approval restricted. And so by using the reference to limit or terminate that triggers into the

existing Department regulations, where we provide for opportunities for the institution to request an administrative review of the actions by the Department. So it's a pretty standard concept, and it ensures the institution would have due process before having its approvals restricted. Now that is that is only in effect for institutions that are in the midst of their program participation approvals, right? If an institution was being recertified, it can get, its application can be reviewed and could be limited during recertification just as a part of a restricted approval of an application. But if the institution's not in the process of being recertified, it would get some form of due process review for those for those limitations or terminations of the waiver.

MR. WASHINGTON: Thank you, Steve. And I also, I'll just quickly add, I do know that Belinda, I see Belinda as hand raised, but I do know Belinda when one of your points of clarification that you emailed around that you were going to maybe propose some language on caps on enrollment. So if you wanted to talk about that, the floor is now open.

MS. MCARDLE: Belinda, I think you're on mute.

MS. WHEELER: Thank you very much. I

didn't want to jump the gun on that. So, yes, definitely again want to thank the Department and colleagues. I sent that point of clarification. I definitely about the waivers and about, you know, this scaffolding approach, perhaps of, you know, institutions, you know, that are in this space. If they do indeed want to go above that waiver, that there would potentially be a mindful kind of scaffolding that we don't go for example, from a thousand students on a main campus to 100,000 students that include 299 well, 99000 students that are incarcerated all at once. So I think this scaffolding approach, so yes, colleagues who are on the subcommittee saw that email exchange. One of the things that I had thought of recommending is a cap for that waiver. You know, so that we're always mindful of, you know, if an educational institution typically serves X population that, then if they want to go into this population that they're not trying to reduce the opportunity for predatory kind of practices in this space. So I just wanted colleagues on the subcommittee to know that I will be working with you. I've got some possibly amendatory language right now that I'm kind of like working through, but I hope by tonight I will get that that amendatory language suggestion to the subcommittee for consideration. And then also, as the council had just mentioned too this whole idea of like an

advisory board, you know, in place here when it comes to appeals or things of that nature is something too that we've been kind of looking at as well. So I'll try to make sure that that additional amendatory language gets out to everyone via the email so that everyone on the subcommittee can see it. Thank you.

MS. MCARDLE: Stan?

DR. ANDRISSE: Yes. I just wanted to agree with what Belinda mentioned and also just emphasize the advisory committee use here as well as I will also be emphasizing its use in a later part of the language. And I think, you know, it's helpful if you can add as we're in the conversation, the bubble off to the side, because I noticed there were a few comments that I made that were not recorded in the text. And so I feel like we're going to lose certain comments if we're if we're not actively adding them so that that would be appreciated if it were able to be someone who's keeping note of that, even if it's not active, you know, the version that gets sent to us to have those.

MS. MCARDLE: Aaron.

MR. WASHINGTON: You're right. I you're right. And I think that's a good idea. So I was. So I think we can add comment bubbles because I don't think we've had any specific language suggestions yet,

but we can add comment bubbles to capture the subcommittee's ideas. Vanessa, if you wouldn't mind adding here the comment bubble somewhere in here just to say that Belinda will provide language on scaffolding or capping. That's what the capping the amount a school is able to increase in enrollment after receiving a 25% waiver. And Stan, can you please repeat your suggestion about working with community organizations or?

DR. ANDRISSE: Yes, I just this is the creation of an advisory committee could help oversee this process and we can provide just as Belinda said, we could provide more specific language to that.

MR. WASHINGTON: It looks like I'll let Steve weigh in on that first, but-

MS. MCARDLE: Okay Steve, and Belinda, did you also have a second comment or was just a hand up for the okay, Steve?

MR. FINLEY: Yeah, just with respect to Belinda's comment, I was going to note that, you know, to the extent the Department's responding to an application for a new program, the way the scaffolding could be put in place if we were doing that would be to make it a condition of the approval right. You can provide a less than full approval to somebody when you're when you're giving new permission. And if somebody needed

to have that kind of restriction put in place because it looked like things were out of line that would come into the limitations that we were using and referencing in this other language. With respect to the advisory committee, I think we need to discuss it. It seems like if it's something that wraps into the formal appeal process at the institution, the only parties that that are recognized in the regulation are the institution and the Department. So an advisory committee role might be something you would structure that would be part of what the institution would present in that situation. I don't know. But given the given that this is a pretty focused issue, I don't think it's going to result in a rewrite of the administrative appeals process at the Department. It seems like we can do square pegs in round holes to some degree, and then we can talk about how the advisory committee would play into that and see where it goes.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yeah, so my thinking around it is it's still keeps the same language that it is those two entities that are responsible for the decision, but we add language that they are advised and particularly the DOC, you know, can be the advisory committee. And you know, I hope to actually propose some language to give that, you know, a body such as that,

some strength behind it. But as is written, it can still be that the two deciding entities, you know, could be what is written and they're being advised by some group of experts.

MS. MCARDLE: Does not look like I have any other hands right now. I think Belinda put her hand back down. Kim, Kim just put her hand up. Yes.

MS. CARY: Yes. Thank you, Steve, this is for you. You mentioned the program participation agreement and maybe adding it to that language. Are you looking at maybe another column that would indicate this is a correctional facility that that program a study might be assigned to, as well as traditional students? And what kind of reporting out for Department of ED would we need to do to reflect that percentage? So they would how would they know that we're staying within those parameters?

MS. MCARDLE: Steve.

MR. FINLEY: Yeah, thanks, I was just raising my hand. I think those are great questions. I think one of the reasons the Department has built into the proposal here that a Prison Education Program is going to be treated as a separate location is that it will greatly enhance the way that the Department can track the information that's unique to those locations

and those programs. And I think we'll need to the extent that that location is offering more than one program, and it's a program by program waiver that our program by program outcomes that are being tracked, I think we'll have to put some thought into that, it's a very good question. Thank you.

MS. CARY: Thank you.

MS. MCARDLE: And it looks like no hands at this time. Aaron.

MR. WASHINGTON: Thank you, Sophia. So I think, oh, Vanessa, if you can scroll up just a little bit back to the 600.2 section, I just wanted to add that I put a comment bubble in there, right there. Stan, does that cover what your question was? Okay thank you. Alright, we can scroll back down, Vanessa, to 600.7. So I think here unless I am mistaken, I think wait, Kim, you may have had another did you want to add a comment to the comment bubble, Kim? So far, we have Belinda is going to be providing us with some language. And we also have Stan's recommendation to add an advisory group to this determination.

MS. CARY: No, I do not have anything on that. Okay.

MR. WASHINGTON: So I think I'd like to take a temperature check on that and see how many

thumbs down we have. Or a thumbs up or sideways thumb to see how we can move forward.

MS. MCARDLE: Aaron, I still don't have Marisa's video, on video.

MR. WASHINGTON: I have Marisa.

MS. MCARDLE: Okay.

MR. WASHINGTON: Thank you, Sophia.

MS. MCARDLE: Sure.

MR. WASHINGTON: If you can put your thumbs up close to your face so Sophia can see them all. Okay.

MS. MCARDLE: Belinda, I can't see yours.

MS. WHEELER: Sorry, I had a point of clarification, sorry, I had my hand raised. So just a quick question. Ordinarily, I would do a thumbs down because my obviously the bubble hasn't been, you know, taken care of yet. So am I just doing like sorry, I just need to check like because if it's, you know, with the bubble still needing to be done, then I would do this. But if it's like with the bubble recorded and then we're going to get back to you, then I might do this. So I just wanted a little point of clarification. I apologize. It's a Monday. I just want to double check.

MR. WASHINGTON: So the clarification

is just for the information on the slide, just for the information on the slide, not with what you'll be proposing or not with what not what Stan's recommendation. I just wanted to see before we get too far ahead. Last time we did the temperature checks all the way at the end. And so at this point, because this is our final session, we will have to circle back to, you know, to fix or to amend or to provide rationale on why the Department doesn't recommend amending the language changes. So I just wanted to make sure we had a tally of folks as we go along to see to see if we had general agreement on the section or not. So far, we have to circle back to 600.2. So yeah, so your thumbs down. Yeah, okay, there you go. So, Vanessa, in that comment bubble that we have, sorry Vanessa, started we're going to make this jump between so many screens today. Vanessa, in that comment bubble, can you put we have two thumbs down as well from Belinda and Stan? And give Vanessa just a moment, I know we're having her jump back and forth, I've actually been in that seat before, like doing the real time red line edits, and it's a lot when you have a lot of people saying, put this here, put that there, please. Thank you, Vanessa. Alright. So we're going to move into 600.10 now, so we can scroll down a little bit. Yeah. Thank you, Vanessa. So we had no thumbs down for this

section. However, to improve the structure and clarity, we have removed the reference to romanette, oh, so we included Prison Education Programs in that romanette 2 in the first for the first session. But we wanted to give it its own romanette so we've added that separate romanette. And we've also added clarifying language about additional location that we're referring to. And so we've said that it's the first Prison Education Program under Subpart P. I think Vanessa, if you wouldn't mind deleting the, so where it says of Subpart P? Subpart P of 34 CFR part 600, can you delete the O and the .8?

MS. GOMEZ: Is that what you mean?

MR. WASHINGTON: Let's see. It's not updating on my screen just yet, but I'm sure you got it. See, yeah, it's a little late, but that's okay. So, so basically, we've added clarifying language to say that it's still the first the first Prison Education Program at the first two additional locations as defined under 600.2. But we've added clarity to say that those locations would be a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility or other similar correctional institution. So I'll pause there for again, we had no thumbs down on this section last time. This is a technical edit that to provide more clarity for the

reader.

MS. MCARDLE: I don't see any hands.

MR. WASHINGTON: Okay so can we do a temperature check on that? So that's 600.10. I will give I think. Let's see, Sophia, you're on mute.

MS. MCARDLE: I was going to say I can't see the entire screen, I cannot see Terrell, and I still do not see Marisa.

MR. WASHINGTON: Okay. I think Vanessa is taking it down now. Alright, I see Marisa, she is a thumbs up.

MS. MCARDLE: Okay, we're good then.

MR. WASHINGTON: So. Alright.

MS. MCARDLE: No thumbs down. Thank you.

MR. WASHINGTON: Alright, Vanessa, if we can go back to the rejecting the amendatory text, please. Let's give it a second, I think, and then. Are you all able to? Are you all able to see that? Not yet. Okay. Alright, let's just give it a second. We might need to. After lunch, we might need to come up with a different way to do the temperature checks. Maybe we can do like a roll call as opposed to having asking Vanessa to go back and forth between the language and the temperature check. So while we wait, the only thing that

we need to add to that is that, you know, the Department that the subcommittee there were no there were no thumbs down. So I don't know. So that would mean that the Department likely would not need to go back and revisit the section other than to make perhaps the technical edit if it's, you know, if a romanette is off or if a period is off or a comma is off. Okay so let's move to the next session, section while we wait for Vanessa to. I think it should be coming up. Still nothing. Okay. Yes, so we'll come we'll come back to we'll figure out if Vanessa's screen can't is it can't be shared, then we'll figure out a path forward momentarily. If it's not resolved, maybe by 11:30, we'll take a or in the next few minutes maybe we'll take a short break just to figure out what the technology issues are. So moving into 600.1 here, we've also made the technical edit to add those correctional facilities that would have to be reported as additional locations. And those are the Federal, State and local penitentiaries, prisons, jails, reformatory, work farms, juvenile justice facilities and other similar correctional facility. And we've also stated here Belinda had the suggestion. So to back up, this is about so this 600.21 is about notifying the Department after your first Prison Education Program, that the first two additional locations has been approved, so after you submit your

applications to the Department to have those programs approved, you still institution still will be required to report their additional locations to the Department or any correctional facility where they are offering Prison Education Programing, essentially. And so there was a suggestion made by Belinda to add its establishment and also cross-reference to 600.2 or the definition under 600.2. So we added that. So we say it's establishment or addition as defined under 600.2. So essentially we we've taken the suggestion here. Okay. What I want to do is I want to pause for a moment. Amy, is there a way to if we can take a maybe a three minute break just to figure out what is what the issue is with the projection?

MS. WILSON: Yeah. I also emailed Vanessa to take a break. We would just take a break. We don't have a breakout room or anything, if that's what you're asking.

MR. WASHINGTON: Okay. So let's take a five minute break and we will return at 11:15. We're making really good progress. And so I think that a five minute break right now just to figure out what the technology issues is and maybe we'll have somebody else screen share. So thank you so much and we will be right back. You can turn your cameras off, please. Okay I think we've resolved our technological issues, and if the

subcommittee could reconvene, I apologize for that short break. I think as a way, do we see do we have everyone? I see Angie, Kim, Stan, Belinda. Do we have Marisa?

MS. BRITTON-BOSTWICK: I'm here.

MR. WASHINGTON: Okay. Do we have I think, let's see Terrell. Has Terrell rejoined us? Dr. McTier. If you could come off mute, Dr. McTier or Terrell, if you've rejoined us. So as a way forward, instead of asking Vanessa to take down to go back and forth between sharing and not sharing. I think it would be the best that Vanessa just continue sharing her screen, at least for the remainder of the morning time and then for the temperature checks, we can if somebody is in, if somebody when I say a temperature check, you don't. We don't have to do the thumbs anymore. We can just say if someone is, what would be a thumbs down, just let us know. And then you can just state that reason why. So if you're a thumbs down, raise your hands. Sophia will call on you and you can state while you aren't fully on board with that section just yet. As a recommendation to the main committee, did we get to do we have Terrell or Dr. McTier back yet?

DR. MCTIER: Dr. McTier is here.

MR. WASHINGTON: Thank you, Dr. McTier. Terrell?

MR. BLOUNT: I'm here as well.

MR. WASHINGTON: Okay, thank you, Terrell. Okay so for the last section that we went through, the last section that we had no thumbs down for, it looks like Vanessa has written in there. Alright. So we had no thumbs down for the 600.10, and that was just making a technical change to provide Prison Education Programs its own romanette. Also updates to ensure that we're referring, we're making the right cross reference and also adding the types of additional locations that we're looking for, that need to be approved by the Secretary Alright. If we can move down to 602 21, Vanessa, please. Let's see. That's what we just talked about. So yes, I was thinking about 600.10. So 600.21 was reporting locations after we've approved the first at the first two additional locations and we've added the establishments or establishments at Belinda's recommendation. And we've also added that same clarifying language that we added to 600.10 and a cross reference to 600.2. And so I can't I don't think we took a temperature check on this yet. If anyone isn't, thank you, Belinda. I see your head shaking. You're like the only person I can see on my screen, actually outside of the Department folks. So if we can take a temperature check on that, that would mean raising your hands and also stating why

you are thumbs down for this section that would be helpful or if you were in agreement and you want to raise your hand and speak as well. That's fine. It was, you know, but certainly if you're if you're thumbs down.

MS. MCARDLE: I don't see any thumbs down. I don't know that I have everybody.

MR. WASHINGTON: And I don't see any hands raised or anyone wanting to comment. So yeah, so I think we can. We can say no thumbs down for 600.21. Thank you, Vanessa. Okay Vanessa, if you can if you can go down to 668.8. Alright. If you all remember, this is about this section is about eligible programs and the Department proposed to put the definition of a Prison Education Program here in the first round. But due to the level of detail in the definition, we consulted with our general counsel and we recommend that the Prison Education Programs have its own subpart. When I sent you the email about this, I sent you like kind of a walkthrough on how to see how the subparts are set up in the Code of Federal Regulations. So hopefully you've had a chance to see that. So there is one remaining clause in 668.8 that does need to be amended here. This is a technical change. We did not receive any thumbs down for this in the first round. And so 668.8 we're essentially just saying that the Department well for Title IV

purposes, a Prison Education Program is a program that's eligible to participate in Title IV programs. And we, of course, changed the cross reference from paragraph O to Subpart P where the new definition of Prison Education Programs will reside. So I will pause there for comments, and if we have none, then we can take a temperature check.

MS. MCARDLE: I don't see any hands.

MR. WASHINGTON: Thank you, Sophia.

MS. MCARDLE: Oh, wait. Somebody's just went up, Terrell.

MR. BLOUNT: Yeah, I'm sorry, Aaron. I just wanted clarification on what this piece actually states.

MR. WASHINGTON: Okay so we're saying here, so 668.8 is where we have the definitions of like just eligible programs in general, right? Like we talk about one of the big pieces is like for Pell specifically, and we talk about like minimum program length, right? Like it has to be like 600 clock hours or at least 15 weeks. We talk about a lot of different program eligibility regulations in that 668.8 initially, what we had done here, Terrell, is when the first section in the first session we had the entire definition of a Prison Education Program underneath this, but we decided

to just take that out and give it its own subpart, which we're going to. We'll probably get to it. We're moving pretty fast, so we'll probably get to it by the end of the day. But here we're just saying in 668.8. So there's like, you know, there's A through M before this. So there's like a lot of different paragraphs before this paragraph. But once we get to this paragraph in 668.8, we're just adding that for the purposes of Title IV for Pell, eligible programs include not only direct assessment programs, which are already defined at 668.8 and also not only comprehensive transition and postsecondary programs postsecondary. But we're also saying that a Prison Education Program would also be eligible for Title IV HEA purposes. So it's just a technical change to update the to amend the regulations to state that the Prison Education Programs are eligible programs. And this was the same language that we had from session one. It's just updating the cross reference now because it's no longer correct. We have a new subpart P as opposed to paragraph O that would have fallen under this paragraph N.

MR. BLOUNT: Understood. Thank you.

MR. WASHINGTON: Well, thank you for the question.

MS. MCARDLE: I don't see any other

hands.

MR. WASHINGTON: Okay so I will move us into a temperature check for 668.8 and the temperature check is just about. Well, we've already actually we already we had no thumbs down, but I guess kind of just to put the final stamp of approval on it. I just like to see if we have any thumbs down for this. So if you do have a thumbs down, please raise your hands and please provide rationale on how the Department can get you to a sideways thumbs or thumbs up.

MS. MCARDLE: No hands.

MR. WASHINGTON: Thank you, Sophia. Vanessa, could you add a comment bubble? Thank you. Oh, thank you. And can you go down to 668.32? So here, what let's see, let me, so here I'm going to, I have to make just one update. So you should see hopefully in real time. And then I got to make one more update. Alright, so the last time, so for this section, we had a lot of discussion about it and we did have some thumbs down from Dr. McTier and Stan. The Department here hasn't recommended any changes because we view this as a technical change. But we did have a recommendation to because originally it said, is not incarcerated. But we did, but I made the recommendation to update it to is not a confined or incarcerated individual. And so that that

that was the change that was made between the session and between the first session and the second session is that I've added confined or incarcerated individual because and the reason I added confined or incarcerated individual is because that's how our definition is structured in 600.2. We've also updated a cross reference because instead of it being instead of the instead of so we actually might need to update that as well, so we need to make one more update. I apologize. So instead of 600., 668.35, we need to change that to 600.2. Alright. And we say or enrolled in a Prison Education Program as defined in our new subpart P. So I will pause there for discussion.

MS. MCARDLE: Stan.

DR. ANDRISSE: I'm trying to follow along and having some difficulty. This document that you're sharing says it's 12 pages long. Is this the same one that you sent us that you sent to us? Because the one that you sent to us is not 12 pages, right? Or is it? I guess it's it just getting longer as you add more stuff?

DR. MCTIER: I believe it is, it is 12 pages, Stanley.

DR. ANDRISSE: Oh, okay. So this is the same what you sent to us.

MR. WASHINGTON: Correct.

DR. ANDRISSE: Okay.

MS. MCARDLE: I don't see any hands.

DR. ANDRISSE: And so we're on page four, so we've gotten through one third of it already?

MR. WASHINGTON: You know, we do have to circle back with you about a few issues, so we're not we're not clear of those sections yet. But we so we're going to circle back to 600.2, Stan, about your clarifications and we're going to we still have to wait on Belinda's language for 600.7, so it does, it does seem as though we're moving pretty quickly, but we have to wait on council and also language updates in order to do anything further with 600.2 or 600.7. A lot of the other changes that we've taken temperature checks on, or pretty much all of them were essentially technical changes to the regulations that have to be made. And so that's why. And also, keep in mind that the definition of a Prison Education Program was originally in 668.8, but remember, we decided to move it to subpart P. So we would have spent a lot more time on 668.8 if the Department had chosen to or recommended to keep the definition there. But I think once you see subpart P, once we get down to subpart P, that's when we're probably going to have a lot of conversation and spend a lot of time there. I wanted to get through the technical changes today, and I think I

do think that we'll get to subpart P today based on the way, the way that we're moving. But I wanted to get through a lot of the more technical issues today so that we could spend a lot of time on the definition of Prison Education Program with our three days.

DR. ANDRISSE: Yeah, and I'm trying to follow and not miss. You know, I have points that I specifically want to talk on, but then, you know, since it's been reframed and formatted a little bit since last, I think that's why I just want to make sure that I didn't miss something. So that's. Nothing on you guys, I guess just me trying to follow along in class here today.

MS. MCARDLE: Kim.

MS. CARY: Thank you very much, Aaron or Steve or David, one of you, could you, I read this kind of stuff all the time in my profession as a financial aid administrator, and I am really having trouble with this language. For some reason, I can't follow it. It feels like a double negative at times. So I was wondering if you could go through and for my purpose and for everyone else who doesn't deal with this kind of language every day to explain each line and what it's saying or not saying. Does that make sense?

MR. WASHINGTON: Yeah, I mean, I so I guess we could start at C2. So we're talking for the so

for this section, for the for paragraph C2, were just talking about purposes of Federal Pell Grant eligibility. And one of the this is one of the one of the statutory components of Pell is that it's only, you know, it's only for your first undergraduate course of study. That's what I think. That's what the law says. So here we're just saying that the student does not have a baccalaureate or their first professional degree, right? So Kim, you know this stuff and this is just for everybody, everybody, people that are listening and their awareness. Did you want to jump in there, Kim? So you have your hand up. Okay alright. And so and then there it is like there is, you know, everything Title IV there's always a, you know, like an exception to the rule. And that's for the student is enrolled in a post-baccalaureate teacher certification program. And those are those are that's long standing policy, that's longstanding guidance and that's actually statutory. And then so we said here in romanette 2 is that the student can't be a confined or incarcerated student. Going back to that definition that we're going to circle back to, the student cannot be a confined or incarcerated individual right. And if they are a confined or incarcerated individual, then they would have to enroll, the student would have to enroll in a Prison Education Program, as we have as we've recommended to

define it in our new subpart P. And the specific reference would be 668.236. So I think that once we I think because we did make structural changes to the way that to the way that we've set it up first, obviously we had it in 668.8 and now we have an entire subpart. I think that's where maybe some of the especially a lot of the confusion might lie, you know, just the overall, just the formatting we haven't made in that formatting, we didn't make any substantive changes that weren't either recommended by the Department, the subcommittee or the Department, but so most of it remain the same. It was just a technical change to put it in a subpart by itself. It's just that we felt because the language was becoming more detailed, we thought that it would be better housed in its own subpart where it's only about Prison Education Programs and nothing else. So this was language. I think we only had two thumbs. Well, actually, Kim, you might have been a thumbs down last time too, because you had recommended to add the is not a confined or incarcerated individual because again, before it stated, is not incarcerated. So we've added that, but otherwise we did have two other thumbs down for other reasons, and I can let those subcommittee members speak to those. So, Kim does that help or?

MS. CARY: It does, it just seems, on

A there I mean, I know what you're trying to say, but if I'm a new financial aid administrator looking at this, I may get confused because A says it's not available to, you can't be confined or incarcerated or is enrolled in an eligible Prison Education Program. It seems like those would be combined. And instead of saying who can't, you would say, who could.

MR. WASHINGTON: So if so, if you look up to the paragraph romanette 1A, we do have the negative as well, like does not have a baccalaureate or first professional degree or, you know, is enrolled in a post-baccalaureate teacher certification or licensing program. So we do have the, the is not language in there, you know? But your recommendation would be to just say that.

MS. CARY: State if you are a confined or incarcerated individual, you must be enrolled in an eligible Prison Education Program.

MR. WASHINGTON: Okay.

MS. CARY: It seems to simplify it.

MR. WASHINGTON: Yes, to simplify it. Okay. We can definitely. Unless our OGC wants to weigh in now, we can take that back for further discussion. Vanessa, can you put a comment bubble into combine A and B, Kim Cary recommended to combine A and B?

MS. CARY: Thank you, Aaron.

MR. WASHINGTON: Thank you.

MS. MCARDLE: No further hands at this time.

MR. WASHINGTON: Okay so I think we can take a, oh-

MS. MCARDLE: Well, there's Dr McTier.

DR. MCTIER: Sorry, I had to process what exactly was going on in terms of what was written and why. I could have put my thumbs down last time. I mean, it seems like it's again banning anyone who's not in the higher ed in-prison program. And so other students who might not necessarily be in the program would not be eligible for any type of Pell whatsoever, so if there's a 101 course offering from another faculty member or something else unless they're in this PEP program or HEP program excuse me, then they would otherwise be excluded, and I think that's why I put my hand down last time. So again, it seems like this is very restrictive, and I'm not exactly sure what was taken back to the Department of ED because it looks like there's not really any proposals to include others outside of a Prison Education Program.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you for that, Dr. McTier. So this is the Department views this as a technical change, the statute. I think we had extensive

discussion about this last time and the Department. The statute lays out eligibility for confined or incarcerated individuals, and the statute says that if you are a confined or incarcerated individual, you can receive Federal Pell Grants, if you're otherwise eligible for that Federal Pell Grant, but to receive that Pell Grant, you must enroll in a Prison Education Program. And so we are confined by the statute and Dr. McTier, I did note that you said like if a student wanted to enroll in a one-off course for eligibility for Title IV purposes, a student is required to enroll in a program so students wouldn't be eligible for Title IV Aid to audit, like a one-off course. I just want to take one course. I don't want to enroll in a program that no student, regardless without regard to whether they were in the Prison Education Program or not, will be eligible to receive Pell to enroll in well they would have to enroll in an actual eligible program. That is not to say that they may not be enrolled. They could be enrolled in one course in a payment period. Because for Pell purposes, a student can enroll less than half time in a program, but they still would have to be enrolled in an eligible program in order to receive Pell. And that is for incarcerated students. That is for any other eligible confined incarcerated students, that it's for all other students.

All of the regular students have to enroll in an eligible program to receive Title IV Federal Student Aid. And so I don't see a place where the Department, if you if you wanted to recommend some language changes, we could take those back. But here, because this is a technical change outside of improving the clarity as suggested by Kim, I don't see a substantive change to the to the to the Department's regulation here. And I will pause.

MS. MCARDLE: Steve, were you taking your hand down?

MR. FINLEY: I took my hand down because Aaron addressed exactly the issue I was going to, which is there's just it's the overall eligibility for Pell Grants requires the student to be enrolled in an eligible program and not just one class.

MS. MCARDLE: And Dave, same?

MR. MUSSER: I had one follow-on point. I agree with everything that Aaron and Steve said. And the only point that I wanted to make, which I don't think would fully address Dr. McTier's concern about students who want to take a class outside of a program which, as Aaron correctly noted, would never be Pell eligible in any other context, the definition of an eligible Prison Education Program, depending on the program, could be fairly expansive. In the same way that

the definition of an eligible program at a traditional institution that allows for a lot of different course opportunities could also be expansive. So, for example, if a school had a variety of courses that the student could take to fulfill a general education requirement, all of those courses could qualify for Pell eligibility under the same Prison Education Program. Similarly, certain majors or other majors that would fulfill other requirements in the program could also qualify. So there is some room for an institution to define what its program can consist of somewhat broadly. But otherwise, the restrictions that Aaron and Steve noted are definitely something that we don't have much opportunity to change in the regulations.

MS. MCARDLE: Dr. McTier, do you still have your hand up or?

DR. MCTIER: Yes, I do. So I mean, I would just go on the record. It seems like we're tied here again. I think we're missing a really great opportunity to provide educational opportunities to so many individuals incarcerated. While this is a good step in the right direction. It's a very small step and my goal is hopefully to expand access to even those who can't even, you know, get into the PEP program or a PEP program because it's limited in space or it's just not

feasible for it to be at every facility within a state. And I'm talking about a prison facility or whatnot. So it seems like we are, our hands are tied a little bit here. Still not very happy about it, but I guess what can we do at this point?

MS. MCARDLE: Terrell.

MR. BLOUNT: Thank you. If I'm hearing correctly, it sounds like the word program is being used in two different ways. I think when Dr. McTier is hearing program, he's hearing a Prison Education Program and I think the other way it's being used as a program, as in a Title IV program, meaning any student who wants to attend college or take classes using Pell Grants, they need to it sounds like be enrolled in an eligible program, meaning at a college, and I think the communication is crossed where again, the word program is being used in in two different ways. I don't think this language is saying that an incarcerated student cannot participate in a Prison Education Program if they are not enrolled in the one that's in their facility. If I'm, please correct me, if I'm wrong, it sounds like a person can enroll in the Prison Education Program that is not in their facility, meaning teaching in-person classes. But whatever program it is, outside of that, if they're doing distance learning with another college that is qualified, it just

has to apply, they have to apply those same rules that students in the community have, meaning it has to be a part of an eligible program. They have to take or enroll in X amount of courses in order to utilize the Pell Grant. Is that correct?

MS. MCARDLE: Aaron.

MR. WASHINGTON: I just wanted to add, though, that if a student wishes to enroll in a distance or correspondence program, that program, at their correct, at their correctional facility, that program would have to be if it was the first program at the first two additional locations. That program would have to be approved by the Department and the accreditor. If it's not the first program at the first two additional locations, that program if the student wanted to enroll in that program, it would they would still have to submit that. I remember Terrell, we talked about that pseudo like that smaller application where they would have to submit information to the Department that there was that institution that wanted to offer the program to the student was not subject to any negative actions by the accreditor or the state in the last five years. This institution also could not be under any initiated adverse actions. And if, let's say, for example, we're going to get to it later. This was on the Belinda's

recommendations, but let's say that the program was on the first program of the first two additional locations was in-person program. If that third program is like if that third program at the additional location is, it's offered as now there's a change in method of delivery to offer it through distance or correspondence, the accreditor would also have to do a complete evaluation of that program as well. So like if I was a student at a correctional facility and my, that facility was not an additional location, I could not just simply apply to enroll in that correspondence or distance program, that it would have to be essentially a, you know, a reported to the Department approved and they would have to go through all of the requirements that we are defining here today to implement the Prison Education Program. So the institution would have to do everything that was in the regulation before that student could enroll in the distance or correspondence program.

MS. MCARDLE: Dave.

MR. MUSSER: Yeah, just seconding everything that Aaron said, but, to your earlier point, it still does mean that as long as the at the other institution goes through all of those requirements and has an eligible Prison Education Program that's offered through distance education, the student would have

potentially a choice of program at that facility. They could take the on-campus program, they could take the distance education program and the courses associated with it, etcetera. But what and what we'll get into later are the specific requirements for approval or reporting and approval of those programs. But yeah, once those conditions are met and those are eligible Prison Education Programs, then any confined or incarcerated student at that particular facility could be Title IV eligible if they are enrolled in that program and taking courses in that program.

MS. MCARDLE: Stan.

DR. ANDRISSE: So this is where I made the point last time to mention that, you know, this is not Pell for all, and I encouraged us to try and think of a way to think about how we can be more inclusive. I mean, it is in this current language or, you know, what is considered statutory. You know, is there a way for us to be more inclusive, you know? You know, I gave the example last time of an individual who is trying to get into school, get into higher education and has no idea about who are eligible programs and is just trying to apply to college. That person, how does that person access Pell?

MS. MCARDLE: Aaron.

MR. WASHINGTON: So if a confined or incarcerated individual seeks to access Pell, the correctional facility where the confined or incarcerated individual is, has to be an additional location of a postsecondary institution. So I think David mentioned earlier that that location would have to be an additional location and approved as an additional location in order for the student that was incarcerated at that facility to access Pell. So I think we see this as a technical change-- this is a required change. And I think that this language is really simply getting to implementing statutory language that states that a student who is confined or incarcerated must enroll in an eligible Prison Education Program. So I think I hear your point, Stan. I think that we're trying to ask for ways to clarify the language as Kim recommended. I'm not saying that we're going to recommend to go in that direction. But Kim recommended combining the two sentences to clarify what we're actually talking about here. But the recommendation wasn't to actually change or to not enforce the statutory provision. We are required to enforce a statutory provision and I think, you know, we can definitely continue having conversation about this. But I think if after we return from the lunch hour, we have to move on. If your recommendation is going to be

that we amend the regulatory language to, I don't know, allow students to take one course or a non-(inaudible) program or if your recommendation is to, not require that a confined or incarcerated person enroll in a Prison Education Program, that is something the Department cannot do. And so if that is a recommendation that you'd like to make to the subcommittee, that is something that either Jennifer Hong or I would likely make to the main committee. Jennifer Hong or I would likely have to advise the main committee that this is a statutory provision, a student that is confined or incarcerated must, let me just finish really quickly. A student must enroll in a Prison Education Program to access Pell if they are confined or incarcerated. And while that is the recommendation that Stan chooses to make, that is not how the Department can implement the statute.

DR. ANDRISSE: Thank you. If I could just also again, this was one of those places that my comment from last time was not included as a bubble. Despite it, you know, this is the language that makes this not Pell for all, this is the this is where in the language that is defining that this is not giving Pell to all incarcerated individuals. So, you know, one, I want that to be stated. Two, I want it to be stated that, you know, how can we be more inclusive, for us to think that

way? One potential way is us defining Prison Education Programs to be more inclusive. And you know that now then challenges some of the concerns and things that we're thinking about as we move into the Prison Education Program conversation later. You know. How do we make that more inclusive to try and capture an individual? Right now it is so we're defining the Prison Education Program so tightly because we're concerned with quality and in other guardrails that we're actually making it not very inclusive at all. You know, we're making it very difficult for programs to get in. We're making them very difficult to even operate in terms of all of the stipulations that they have to meet. So, it's just very concerning to me. And, you know, I expressed that concern last time and again it wasn't it wasn't noted here, and I would like for it to be noted.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Before we note that, I want to circle back, and I understand-- I hear what you're saying, Stan, thank you for your comments. We are going to base--- on the pace in which we're moving now. We will likely get to the subpart P, we will likely get there today, and we will begin discussing the definition of a Prison Education Program. And I think at that point, it will be more than helpful for, you know, you know,

places and language suggestions where we can potentially make it more inclusive. But for right now, we are talking about 668.38. And that is technical, I think. I think we're required to enforce this by statute-- And I think it might be.

DR. ANDRISSE: I just want my comment to be added. I got you, Aaron. I would like my comment to be added. That's simple and clear what I said. I'm not, I'm not, I understand what you say about statutory. I'm asking you to, you said that you wanted to include bubbles where our comments and ideas were acknowledged. I'm asking you to acknowledge my comment and my idea. That's my simple request.

MS. GOMEZ: Is there anything else you want or is that fine? The idea? Stan?

DR. ANDRISSE: This section specifically points to it not being Pell for all incarcerated individuals. I would like that added, please. This section specifically points to this not being Pell for all incarcerated students, or all incarcerated individuals.

MS. GOMEZ: Could you repeat the last part?

DR. ANDRISSE: This section points to this specifically not being Pell for all incarcerated

individuals.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Yeah, so I think what we can do now is take a temperature check, we have five minutes until lunch, so if we could have the committee, the subcommittee let us know if there is any other thumbs down. You can just raise your hand and let us know why. Someone is not on mute.

DR. ANDRISSE: Yes, so my thumb would be down just for what was added.

MR. WASHINGTON: Okay.

MS. MCARDLE: That's all I see.

MR. WASHINGTON: Kim, if I could ask a question, Kim, if we consult in in in and the recommendation is to keep it as two separate paragraphs, would you be a thumbs down or if we got that, if we got the verification like that, that that it should remain two separate paragraphs?

MS. CARY: Sure, I mean (inaudible) on that one because I thought, well, it's fine either way, but it's just, you know. These are hard to read for just normal people, so the simpler we can get, the better.

MR. WASHINGTON: Alright. So essentially you'd be like more of a sideways thumb if we didn't. Okay thank you for that. Alright.

MS. MCARDLE: Not seeing any other hands. Aaron.

MR. WASHINGTON: Alright, let's go down to we have three minutes left and we did take that five minute break, so I wanted to introduce 668.34, I'm sorry, 43, before we went to lunch and this was the this was the disclosure section. So you can hold there, Vanessa. Thank you. So the temperature check for this section, there were five thumbs down last time. And so to respond to Belinda and Dr. Paccione's concerns, we have removed upon request. And so therefore the student would no longer have to request these disclosures. They would just the institution would just be required to provide these students with the disclosures. And Dr. McTier, you-

MS. MCARDLE: I was going to ask, is there a comment?

MR. WASHINGTON: Oh, oh sorry, I was actually looking at my notes. Dr McTier had made a comment that, I'm almost done. I'm almost done, Dr. McTier.

DR. MCTIER: But really quick. I was going to say we only have two minutes and this I don't want to rush. We only have two minutes before lunch. So I would like to put a pin in it and come back after lunch so that we can take the time and the due diligence to go

through this stuff. I really don't want to rush anything.

MR. WASHINGTON: Yeah. So I wasn't suggesting or recommending to take a temperature check on this. I was just going to just introduce it. So like that was in folks minds that we were going to be coming back to it. It was just going to be a very high level overview of what we did, and I didn't expect people to have to comment in one minute and vote or do a temperature check. It was really just to say like, here are the changes and think about them over lunch and we'll come back to it. But because we do have one minute left, perhaps I will just table it for now and then and then come back to it after lunch with the further updates that we've made to the section. And so with that said, let's reconvene at 1:00 p.m. and thank you all for completing the first morning session of the first day of our final session. Thank you so much.

