

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
INSTITUTIONAL AND PROGRAMMATIC
ELIGIBILITY COMMITTEE
SESSION 1, DAY 1, MORNING
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P R O C E E D I N G S

MS. JEFFRIES: Good morning, everyone. My name is Commissioner Cindy Jeffries, and I am the federal mediator who will be part of a facilitation team from Federal Mediation and Conciliation Service. It is my distinct pleasure to welcome all of you to the United States Department of Education's negotiated rulemaking, through which the Institutional and Programmatic Eligibility Committee will prepare proposed regulations for the federal student aid programs authorized under Title VII of the Higher Education Act of 1965, as amended. In an effort to welcome everyone, the Department committee, negotiators, advisors and the public actively viewing and following our sessions. I'd like to turn it over to Mr. Gregory Martin, the Department's Federal Negotiator. Gregory?

MR. MARTIN: Thank you, Cindy, it's a pleasure to be here with all of you this morning, even if only virtually. And I want to thank all of you for being willing to be here. I'm honored to be to be a part of it and representing the Department. At this time, I'd like to introduce Undersecretary James Kvaal, who has a few opening remarks. Mr. Kvaal?

MR. KVAAL: Thanks so much Greg. Good morning, everybody, I am James Kvaal, the Undersecretary

of Education here at the Department. I coordinate our work on postsecondary education, adult and career education and federal student aid. On behalf of Secretary Miguel Cardona and the staff of the Department of Education, I wanted to welcome you to this round of negotiated rulemaking. President Biden and Secretary Cardona have laid out an ambitious vision for how we can rebuild our system of higher education around equity, and their work so far has led to an unprecedented investment in colleges during this time of national recovery, especially those committed to the mission of equity and student success. This administration is also committed to tackling issues of accountability and oversight. And I'm thrilled that we're beginning this work today. Many of you know that the Department recently completed negotiated rulemaking on a set of issues related to affordability and student loans in December, and we recognize that the student loan system has left many students worse off due to unaffordable debts and appreciate the help of stakeholders and restoring a student loan safety net so that borrowers have protections against unaffordable debts, opportunities for second chances and protections when everything in life goes wrong. We will continue that work by publishing proposed rules for further public

comment later this year. The work of this panel is equally important. During these meetings, you will provide insights, expertise and firsthand experiences into how the Department can ensure its rules are promoting accountability for institutions, and how we can ensure that institutions are offering high quality and high value programs to students. Thank you for your time. This work is a priority for the administration, and it's my hope that the regulations developed here will move us closer to clear policies that protect students and taxpayers. We have a full rulemaking agenda, and I know everyone's eager to get to work. Several of you know, this is not the first time we have regulated on some of these topics, and I appreciate the work that has occurred previously. And now we have an opportunity to learn from that experience and build on what's come before. Because this is a virtual rulemaking, there may be some technology challenges. We don't anticipate major issues, but please be patient if we do encounter technical difficulties from time to time. On the bright side, virtual hearings have expanded access to negotiators who might have challenges traveling to D.C. and a special welcome to those of you who are dialing in very early on west coast time. Through live streaming and posting all recordings from

the committee, we will also continue to ensure full transparency to the public. In closing, I want to say thank you once again to members of the committee and those in advisory roles for you willing to advise us and to be so generous with your time. This is an important process, and we couldn't do it without you. Secretary Cardona and I know that you take this work very seriously, and we're very appreciative of your efforts. I also want to thank members of the postsecondary community who are watching and who will weigh in on these important issues. And of course, I want to thank Acting Assistant Secretary Michelle Asha Cooper, our negotiator, Greg Martin and the staff and the Office of postsecondary Education and across the Department, whose hard work has made these proceedings possible. Postsecondary education remains one of the best investments in equity and upward mobility, and we need to make sure that promises are kept for all students. I appreciate your work to make sure we can achieve that goal. Thank you.

MS. JEFFRIES: Thank you, Greg, and under Secretary Kvaal. We appreciate your remarks and encouragement. So, we will begin today with introductions and then together review the process, protocols, and agenda. So, at this time, we will

introduce in this order. The Department of Education participants, the primary and alternate negotiators of the committee, the experts selected to serve as advisors, and finally, your third-party facilitators from FMCS, which includes myself and three of my esteemed colleagues. So as mentioned before, our federal negotiator is Mr. Greg Martin. Greg, is there anything you'd like to share with us by way of introduction to yourself?

MR. MARTIN: Oh, yeah, I have very lengthy remarks prepared. No, not at all. I want to say that I again, I want to say how glad I am to be here. Some of you I know and worked with in the past. So, for those of you whom I've encountered at conferences or in other various ways, it's good to see you all back. And for those who I'm meeting for the first time, I'm excited about the prospect of working with all of you. I just want to say that I know we come from, everybody comes from different backgrounds and that people represent different positions and these are negotiations. So, there will be differences of opinion. And I expect that. I just hope we can all when we do these things, I hope to maintain and make ability as best as, to the highest degree possible. And keep in mind that we're at the end of the day, we're all still

friends. We're all of us trying to do the best we can to help students. So just keep that in mind throughout the week, even when sometimes it's hard when you're very passionate about something, but just try to keep that in mind. And I think we'll have a great three sessions coming up this month, February, and in March. Thanks, Cindy.

MS. JEFFRIES: Thanks, Greg.

Appreciate it. We also have several non-voting participants from the Department's Office of General Counsel that will be assisting throughout this entire rulemaking. Those individuals are Mr. Steve Finley, Ms. Donna Mangold, Ms. Denise Morelli, Mr. Alejandro Reyes, and Mr. Ron Sann. So, we welcome all of them to the process. There are a couple additional department representatives who will wear a number of hats for us throughout these proceedings: correspondence, information sharing, screen sharing, language tracking and work with the committee. Those two individuals who will be primarily doing that are Ms. Vanessa Gomez, who will be doing the screen sharing for us today. And Mr. Aaron Washington, we welcome both of you. So, with that, we're going to move next to introduce the esteemed members of our institutional and programmatic eligibility committee. These negotiators have been

nominated by the public and selected by the Department to represent 13 respective constituencies. For each constituency, we will invite the primary negotiator and alternate negotiator to briefly introduce themselves on behalf of their constituency group. So, for the constituency, Accrediting Agencies, we have Ms. Jamiene S. Studley.

MS. STUDLEY: Thank you very much, Cindy. Yes, I'm Jamiene Studley, I'm president of WASC, the Western Association of Schools and Colleges...the WASC Senior College and University Commission. You can call us by our nickname WASC if you refer to us. Yesterday marked my four-year anniversary in the role of CEO of this organization. Earlier, I have served as deputy and acting undersecretary of the U.S. Department of Education, acting deputy and acting general counsel and chair of NACIQI...all of which was a privilege. And I'm honored to be working with the Department again in this capacity. I've also served as president of Skidmore College, of a civil rights advocacy group called Public Advocates and associate dean of Yale Law School.

MS. JEFFRIES: Thank you, appreciate it. You are so welcome. And as alternate for the group is Dr. Laura Rasar King.

DR. KING: Good morning. My name is

Laura Rasar King, I am the executive director of the Council on Education for public health, which is a specialized accrediting agency for public health degrees from the baccalaureate to the doctoral level. This is my second rule making.

MS. JEFFRIES: Laura, your audio is coming in and out, so I'm not sure it seemed like when you moved closer to your microphone, it was stronger, so just please be aware of that. For the constituency, civil rights organizations and consumer advocacy organizations, the primary is Ms. Carolyn Fast.

MS. FAST : Hello, good morning. My name is Carolyn Fast, I'm a senior fellow with the Century Foundation. Prior to that, I was special counsel with the New York Attorney General's Office, Consumer Frauds Bureau, where I worked in enforcement specifically with a focus on higher education.

MS. JEFFRIES: Thank you, Carolyn. And the alternate is Mr. Jaylon Herbin.

MR. HERBIN: Good morning. Jaylon Herbin, I served as a policy and outreach associate for the Center for Responsible Lending. And prior to that, I served as a district liaison for Congresswoman Alma Adams.

MS. JEFFRIES: Thanks, Jaylon. For the

constituency federal aid administrators at postsecondary institutions, our primary is Ms. Samantha Veeder.

MS. VEEDER: Good morning. My name is Sam Veeder, and I'm the associate dean of enrollment and director of financial aid at the University of Rochester. I am currently serving on the [inaudible] board and I am past president of the Eastern Association of Student Financial Aid Administrators and have had several positions also in the New York State Financial Aid Administrators Association.

MS. JEFFRIES: Thank you, Sam. And the alternate is Mr. David Peterson.

MR. PETERSON: Morning, everyone, I'm Dave Peterson, I'm with the University of Cincinnati, where I serve as the assistant vice provost for enrollment management. I've been in financial aid or enrollment management for 28 years and really looking forward to working with all of you. Thank you.

MS. JEFFRIES: Thanks, David, appreciate it. For the constituency four-year public institutions of higher education, the primary is Mr. Marvin Smith.

MR. SMITH: Good morning, I'm Marvin Smith, I'm executive director of financial aid and scholarships at UCLA. I have 30 years of experience in

financial aid. I've worked for the University of California, Los Angeles Campus; Purdue University; and Indiana University. So, I'll be representing the four-year publics.

MS. JEFFRIES: Thank you, Marvin. And the alternate is Ms. Deborah Stanley.

MS. STANLEY: Good morning, my name is Deborah Stanley, currently the director of financial aid Bowie State University in Bowie, Maryland. I have 30 plus years in higher education, including at one point working with the Department of Education. I look forward to working with everyone.

MS. JEFFRIES: Thanks, Deborah. For the constituency legal aid organizations that represent students and/or borrowers, the primary is Mr. Johnson Tyler.

MR. TYLER: Hi, good morning, everyone. In the capacity of 30 years and more in one field, I've worked at a legal services office in Brooklyn and been specializing in student loans, I'd say, for the last eight years. Thank you.

MS. JEFFRIES: Thank you, Johnson, and the alternate is Ms. Jessica Ranucci.

MS. RANUCCI: Good morning, my name is Jessica Ranucci. I'm an attorney at the New York Legal

Assistance Group, where I have legal services organization in New York City.

MS. JEFFRIES: Thank you, Jessica. For the constituency minority serving institutions, the primary is Dr. Beverly Hogan.

DR. HOGAN: Good morning, I'm Beverly Hogan, and I served for 17 years as president of Tougaloo College and another five years as the vice president. And during that time, I had the pleasure of working with many organizations in higher education, including the National Association of Independent Colleges and Council of Independent Colleges (NAICU) and UNCF serving on that board. And I'm currently doing some work with UNCF as a president and resident. And I'm looking forward to the work before us.

MS. JEFFRIES: Thank you, Dr. Hogan. The alternate is Ms. Ashley Schofield.

MS. SCHOFIELD: Good morning, everyone. My name is Ashley Schofield. I am the associate vice president for fiscal affairs at Claflin University in Lynchburg, South Carolina. I am representing the MSIs an HBCUs constituent group. I have been here at Claflin for 9 years and I'm [inaudible] fellow along with serving on the NACUBO Higher Education Accounting Committee. And I'm looking forward to working

with you.

MS. JEFFRIES: Thank you, Ashley. Moving on for the constituency of private nonprofit, institutions of higher education, the primary is Ms. Kelli Perry.

MS. PERRY: Good morning, my name is Kelli Perry and I'm the assistant vice president for finance and controller at Rensselaer Polytechnic Institute. I also serve as the vice president of NACUBO's Accounting Principles Council, and this is my second negotiation and I'm happy to be here.

MS. JEFFRIES: Thanks, Kelli. And the alternate is Mr. Emmanuel A. Guillory.

MR. GUILLORY: Good morning, everyone. My name is Emmanuel Guillory. I work for the National Association of Independent Colleges and Universities, serving as their director of student and institutional aid policy. I'm about 13 years into my career. I spent 10 of those as a staffer in Congress, most recently working for the House Committee on Education and in the workforce, and then working for UNCF for two years. And now with NAICU. So happy to be here and good to see you.

MS. JEFFRIES: Thank you, Emmanuel. For the constituency proprietary institutions of higher education, the primary is Mr. Bradley Adams.

MR. ADAMS: Good morning. My name is Brad Adams, and I serve as the chief operating officer for South College. And prior to becoming the COO in 2018, I had the opportunity to serve as the chief financial officer for the institution since 2014. South College is regionally accredited by SACSCOC to award degrees ranging from certificate to doctorate. Prior to South College, I worked at Tennessee Valley Authority for 5 years, a federally owned electric utility corporation, and I started my career with PricewaterhouseCoopers, working in auditing for for-profit and nonprofit companies all over the world, including some institutions of higher learning. Look forward to speaking with everyone.

MS. JEFFRIES: Thank you, Brad. And the alternate is Mr. Michael Lanouette. I will note that when we get to the issue of Ability to Benefit the alternate, Mr. Michael Lanouette will be sitting at the table in place of Mr. Adams. So, Michael?

DR. LANOUILLE: Thank you. Yes. My name is Dr. Mike Lanouette. I have over 30 years of experience in the proprietary postsecondary section, as well as the nonprofit section. I currently hold a position of vice president of administration for a series of Colleges, Aviation Institute of Maintenance,

Tidewater Tech and Centura College.

MS. JEFFRIES: Thank you, Mike. For the constituency state attorneys general, the primary is Mr. Adam Welle.

MR. WELLE: Morning. My name is Adam Welle, I'm an attorney at the Minnesota Attorney General's Office. I've been at the AG's office for about 7 years. I work in our Consumer Wage and Antitrust Division, which handles a number of matters around advocating for consumers enforcing consumer protection laws. I work in the area, among others, of student loans and higher education. So good to meet you all. Thank you.

MS. JEFFRIES: Thank you, Adam. And the alternate is Ms. Yael Shavit, who will be sitting at the table the entire first week in place of Adam. Yael?

MS. SHAVIT: Hi, my name is Yael Shavit. I'm the managing attorney in the Consumer Protection Division of the Massachusetts Attorney General's Office. I've been in the office for about six years and am one of the lead attorneys on much of our work related to higher education financing, for-profit, consumer fraud, and student loan servicing. Looking forward to working with everyone in the committee.

MS. JEFFRIES: Thanks, Yael. For the

constituency state higher education executive officers state authorizing agencies and/or state regulators of institutions of higher education and/or loan servicers, the primary is Ms. Debbie Cochrane.

MS. COCHRANE: Hi, thank you. That's a mouthful of a category. And I am one of the state regulators of institutions of higher education. I am chief of California's Bureau of Private Postsecondary Education, which approves over a thousand institutions in to operate in the state of California. The bureau also houses the state's Office of Students Assistance and Relief, known as OSAR, which provides guidance and support to prospective, current, and future private postsecondary students. Thank you.

MS. JEFFRIES: Thanks, Debbie. And the alternate is Mr. David Socolow.

MR. SOCOLOW: Good morning. I'm David Socolow, I'm the executive director of New Jersey's Higher Education Student Assistance Authority, which is the state's financial aid agency, supporting students attending postsecondary education in our state. And thrilled to be part of this negotiation. I've been in this role for four years. Prior to that, I led the Center for Postsecondary and Economic Success at CLASP. And prior to that had a long career in both state and

federal government agencies. So, looking forward to working with all of you.

MS. JEFFRIES: Thank you, David. For the constituency students and student loan borrowers, the primary is Mr. Ernest Ezeugo.

MR. EZEUGO: Hi, everyone. My name is Ernest Ezeugo. I am the director of policy and advocacy for higher education and workforce at Young Invincibles, an organization dedicated to advocating voice and power of young people in the political process. I'm also a student at the University of Maryland Global Campus. And I'm really excited and looking forward to working with you all over the next three months.

MS. JEFFRIES: Thank you, Ernest. And the alternate is Mr. Carney King.

MR. KING: Good morning, my name is Carney King. I work in the California Senate, currently representing students and student loan borrowers.

MS. JEFFRIES: Thank you, Carney. For the constituency to your public institutions of higher education, the primary is Dr. Anne Kress.

DR. KRESS: Hi, I'm Anne Kress, I'm the president of Northern Virginia Community College. I have 30 years in the community college system and have worked in Florida and New York and now in Virginia. I'm

excited to be here and thank you so much.

MS. JEFFRIES: Thank you, Dr. Kress. The alternative is Mr. William S. Durden.

MR. DURDEN: Thanks, Cindy, good morning, everybody. Will Durden. I'm the director of basic education for adults with the Washington State Board for Community and Technical Colleges. That's Title II WYO funds for those of you who speak that language. It's a pleasure to be here this morning, and I'm really here representing adults who need both the secondary and postsecondary credential. Thanks.

MS. JEFFRIES: Thank you, Will. For the constituency U.S. military service members veterans or groups representing them, the primary is Mr. Travis Horr.

MR. HARR: Hi everybody, good morning. My name is Travis Horr, I'm the senior director of government affairs at Iraq and Afghanistan Veterans of America. I've been at this organization for about three and a half year, focused on education issues affecting service members and veterans. And prior to that, I was enlisted in the Marine Corps. I went to colleges on the post 9/11 GI Bill, and I'm honored to represent service members, veterans, and their families, as well as a variety of veteran service organizations. And thank you.

MS. JEFFRIES: Thank you, Travis. And the alternate is Mr. Barmak Nassirian.

MR. NASSIRIAN: Morning, everybody. My name is Barmak Nassirian, I am vice president for higher ED policy with Veterans Education Success, which is an organization committed to improving educational outcomes for veterans, service members and military connected families.

MS. JEFFRIES: Thank you, Barmak, appreciate it. That is all of the negotiators. Did I miss anyone? Okay, good start to a day. So, I'd like to thank you all for introducing yourself and for your time, efforts, expertise, and commitment to this process and the representation of your constituencies. We're glad to have this opportunity to work with each and every one of you through this process. To assist you with your work, we would like to take this opportunity to introduce two expert advisors who have been selected to serve as a resource to your committee. These individuals were similarly nominated by the public and chosen by the Department. They are not themselves members of the committee, and nor would they participate or impact consensus decision making process. Instead, they are available to provide experience and research-based information and data to the committee and perhaps

make recommendations on regulatory language. First, I'd like to welcome and invite an introduction from our advisor as a compliance auditor with expertise auditing institutions that participate in Title IV, HEA programs, Mr. David McClintock.

MR. MCCLINTOCK: Morning, I'm Dave McClintock, the managing director for McClintock and Associates. We're a public accounting firm dedicated to providing consulting services to help postsecondary schools understand and comply with Title IV regulations so that they can focus on changing their students' lives. Each year, we issue well over 100 audit reports for postsecondary schools, including single audits, financial statement audits, and Title IV compliance audits. I'm honored to have been selected as the first auditor to serve as an advisor in a negotiated rulemaking process, and I promise to utilize my experience developed over the last 18 years, auditing postsecondary schools, to support these crucial conversations in any way that I can. I look forward to working with all of you.

MS. JEFFRIES: Thank you, Dave. Appreciate it. Next, I'd like to welcome and invite an introduction from our advisor for labor economists or an individual with expertise in research, policy,

accountability and or analysts of higher education data, Dr. Adam Looney.

DR. LOONEY: Thank you very much. I'm Adam Rooney, I'm an economist and a professor of finance at the University of Utah. Previously, I'd worked in D.C. for most of my career at Brookings Institute, at the Federal Reserve Board, at the White House, and at the Department of Treasury. And much of that work was analyzing federal programs from the inside, for example, analyzing data on the outcomes of students for projects like the college scorecard. Glad to be here. Thank you.

MS. JEFFRIES: Thank you, Adam, appreciate it; thank you to both, advisors. Lastly, I would like to take a moment and introduce you to all your facilitation group. I and three of my colleagues, who will introduce themselves momentarily, are commissioners or federal mediators with the Federal Mediation and Conciliation Service. FMCS is a small, independent federal agency of the executive branch. We have several statutory bodies of work, one being negotiated rulemaking. Specifically, the Administrative Dispute Resolution Act of 1990 and the Negotiated Rulemaking Act of 1990, authorized FMCS to use its dispute resolution expertise to bring together the regulators and those impacted by the regulations in a

collaborative process prior to the issuance of the rule. In this regulatory process, your FMCS team, as a neutral third party, will host the technology and platforms for your virtual sessions. We will facilitate the discussions and consensus check for each issue. We will assist the negotiating committee in identifying and overcoming barriers that arise in multi-party negotiations. We will enforce the organizational protocols. We will work with the committee as appropriate and breakout and caucus spaces during sessions and with work groups between sessions. We will solicit and distribute documents and information for the Department of Education Committee and Advisors and capture our process and progress in the drafting of a session summary. We are here to assist you every step of the way. While you are the subject matter expert and focused on the topics before the committee, we will drive the process and move the committee through each session--navigating order, agenda, timeliness, strategies, and dynamics at the table, all in an effort to assist you to be solution oriented and to build consensus. We want each of you to feel encouraged and empowered to reach out to us directly with questions, comments, concerns throughout this entire process. So, for myself, I have been a mediator with FMCS for the

past 11 and a half years, currently working out of Orlando, Florida, and I previously worked out of Albany, New York. I enjoy multi-party high stakes negotiations and always appreciate getting to work with subject matter experts in a variety of sectors, industries, locations, and circumstances. I am joined by three fellow FMCS colleagues who I'd like to invite to introduce themselves and anything I might not have mentioned about FMCS in our role. So first, we have Commissioner Brady Roberts.

MR. ROBERTS: Good morning, everyone. Brady Roberts here with FMCS. Nothing to add other than looking forward to working with everyone; good morning.

MS. JEFFRIES: Thanks, Brady. Next, we have Commissioner Rozmyn Miller. She may have stepped away for a moment. Let's move to Commissioner Kevin Wagner.

MR. WAGNER: Hello, I'm Kevin Wagner out of the headquarters in Washington, D.C., look forward to working with everyone over the next few months.

MS. JEFFRIES: Okay and Roz just sent me a message, she's back, so Roz, you want to introduce yourself? I think you might still be double muted Roz.

MS. MILLER: Sorry about that, I was

double muted. My name is Rozmyn Miller. I've been with the agency for 15 years specializing in all things conflict management, and I'm excited to be here today.

MS. JEFFRIES: Thanks, Roz. So, I believe that we now have made all the introductions, and if I've missed someone, I apologize and I invite you to let me know at this time. Alright. So now that we've been through all the introductions, we'd like to remind you all to ensure that your naming convention is consistent with what has been requested. A quick scan looks like it is. But just for the public, it is the first name or the name that the party wants to be addressed by. A P stands for Primary, an A for alternate, and an abbreviated reference to your constituency group. In addition to the naming convention, I have a couple additional technology notes at this juncture. While you are not speaking, please keep your audio muted. This will help us all cut down on background noise distractions and be able to identify the speaker more readily at any given time. If you are at the main virtual table and have something to share, please raise your virtual hand by clicking the reactions icon at the bottom of your screen and selecting "raise your hand." We will generally call on folks throughout the process in the order in which their virtual hands

appear on our screen. Should you have technology related questions today during our session, we will identify each day of the session in the chat the name and email address of one of us that will be filling that role on that day. For today, we have Brady Roberts and I believe Brady you already put your information in the chat. So, if you have technology issues, please reach out to Brady today. A note on the chat feature...it will remain enabled during our sessions together. Please know that all messages sent out to the full group may be subject to an ongoing transcript. Direct messages outside of those sent to the Department will not be subject to that same transcript. Each day, the public will have an opportunity to log in and observe our session via the live streaming. The Department has posted a registration link for that on their website. Brady will also place that link in the chat right now. This is the same place where updates and shared documents will routinely be provided. Next, we'd like to move on to address the organizational protocols. I know that each of you previously received a copy of the protocols to review and briefly discuss with the facilitators who schedules your outreach sessions. Based on some of those discussions and the questions asked within, I would like to address a few of the concepts covered in that

document. Primary and alternate committee members: We recognize primary and alternate committee members as a team representing their constituency. To that end, we value the input, expertise, and representation that both bring to the table. To carry out our virtual process, we must note several important distinctions. First, as in previous in-person rulemaking, only the primary generally sits at the table. In an effort to replicate the main table and distinguish between our primary alternates, when we enter into the substantive portion of our sessions, reviewing and negotiating over the topics, we will ask that alternates and advisors turn off their cameras. If the alternate is substituting for the primary for a topic or short period of time, please send myself or the FMCS team a note to that end, especially if you are not going to be there for an entire day or in the case of this week, we will have one alternate sitting in the entire week. So, after much consultation and consideration, this was the best virtual practice to easily delineate between those participating for the purpose of determining consensus. Alternate committee members will be invited to turn on their cameras when they are at the main table, and this might occur in several types of instances. In an absence of the primary member, the alternate will participate at

the main table and for the purposes of consensus. And I again, I ask that you send us as much advance notice as possible. The primary and alternate negotiator may decide that the alternate will take the primary's place at the main table, either for a certain topic or to have an opportunity to briefly comment on a particular topic segment subsection of a topic. The alternate would thus be on camera and the primary would turn there came off for that portion. I hope that everyone understands the virtual and logistical intent behind this practice and would ask for advance notice again when there is going to be a swap. For the purposes of at the table and an alternate wants to step in and make a comment, if you just put that in the chat, we will note it once we announce it then you can make that change. The same will work for advisors. When the committee are facilitators, request their assistance input, we will ask that they come on camera to address the committee. The same is the case when the adviser requests to speak for the protocols. Otherwise, their cameras will remain off. We will engage in consensus decision making to develop proposed regulations. We will utilize good faith group problem solving to address the interests of the committee members and ultimately reach unanimous agreement otherwise described as building consensus. It

is not a majority vote, but rather an expression of agreement or dissent, and we have built consensus once there is no dissent by any member of the negotiating committee. Thus, no member or minority group can be outvoted. A few important notes here. Per the protocols, members of the committee should not block or withhold consensus unless they have serious reservations about what is being proposed. Absence at the time of consensus check will be the equivalent to not dissenting and will therefore not prevent consensus from being reached. To take the consensus checks, we will utilize a visual three thumb approach. The thumbs up...this is an expression of agreement by who is in agreement with, and in support of, the proposal at hand. A sideways thumb... this is also an expression of agreement; it is, in fact, an indication that one does not feel as strongly favorable to the proposal but will support and agree with the proposal and not dissent if everyone is a thumbs up or sideways thumb, you've reached consensus. If there are thumbs down or even a single thumbs down, this is an expression of dissent by one who will not support the proposal at hand. If one or more individuals are a downward thumb, we are not in consensus and the dialog and work continues during our remaining scheduled time together, starting with the dissenters being asked

if there are additional concerns other than what was presented in the discussion prior to the consensus check and asked to provide a change to what was proposed that would get them to consensus either sideways or a total thumbs up. Finally, we will seek be seeking consensus separately on each issue. This is different than some of the negotiated rulemaking experiences previously but was utilized in the negotiated regulating rulemaking just that was just completed in December. We will not be seeking consensus on groups of issues or a complete package of all proposals. Rather, each issue will be subject to its own distinct consensus building, and as a result, those issues where consensus is not reached will not hold back those issues for which consensus has been built and achieved. Throughout the process, we may take the committee's temperature for purposes of tentative agreement. This will help us, and the Department monitor where the committee is as a group with regard to specific issues, proposals and solutions so that we can continue through the process towards building consensus. This will be done using the same three thumb approach. We will make it clear in any given instance whether we are taking your temperature for purposes of tentative agreement or whether we are taking an official consensus check. Data and information requests and sharing: In an

effort to streamline an effective and consistent process for sharing data and information, we request that materials be provided to FMCS, and we will distribute them to the full committee. So please email any of your data requests, proposals, anything like that directly to me and I will forward them to the parties that you indicate. We will send them to all the negotiators. We will send them to the Department, and the Department will be doing the same...sending it to us and we will disseminate it to all of you. Specifically for the advisers: This is a new role to have designated advisers for the committee; it was done in the last rulemaking. This is the second time that it's been done, and we want to utilize your expertise in a respectful and efficient manner. To that end, we would like to establish a consistent practice for soliciting that and information from them and the effort to timely address requests, address potentially duplicitous requests and ensure that everyone receives the information and data being shared by the advisors. We ask that you request and provide it again to the facilitators, who will then in turn provide them to the advisors. Any materials and documents that the advisors wish to share can be provided to FMCS and we will send them out to everyone and the Department. Our intent here is really to track requests and

responses and ensure that everyone receives all that information being shared. For data requests to the Department, please refer to the protocols for additional information. These will be invited at the time of addressing the particular topic for which the parties request pertained. Any information provided by the Department in response to a data request will be sent out to the entire committee. The Department will prioritize data requests, and please keep in mind that many, if not most, of the data requests may take a period of time for the Department to compile that information. Sometimes it has to come from multiple sources. In addition to that, we will be using breakout rooms and caucuses. Per the protocols, committee members may request to caucus for the purpose of consultation. To achieve this within our Zoom.gov platform, the facilitators will move individuals into breakout rooms within the platform. These breakout rooms are secure and private virtual spaces where there will be no live streaming or recording. For time management purposes, the facilitators will work with the committee to ensure that these rooms are used intentionally and strategically for specific periods of time. It is no secret that we have a number of important topics to address in our limited time together, and we want to

ensure that we are using each of your time during sessions most productively. In terms of participation, only those within the platform will be able to access the breakout rooms through Zoom. This means that we will not be able to admit any additional individuals to the meeting for the purpose of meeting with you in caucus. This is in no way an attempt to stifle dialog consultation or the input of others from your respective constituencies. It is simply a matter of logistics, keeping the facilitators focused on the task at hand with the committee, preserving our time together, minimizing technical issues, and protecting the security of virtual meeting space. While in the breakout rooms, we encourage you to contact and consult with others as you deem appropriate and necessary. Feel encouraged to call them, use conference lines, speaker phones, or other preferred technology. We also encourage you to consult with them on breaks, lunches, outside session hours, and between sessions. Moving to the social media piece of the protocols, a couple of questions have come up about social media as it is addressed in the protocol. First and foremost, we ask that everyone refrain from posting and commenting on social media during our sessions together because we want everyone fully engaged and participating when we are together.

Outside of our sessions, we appreciate that social media can be an effective tool for positive use, such as soliciting feedback from your respective constituency. Consistent with the protocols, however, all members shall act in good faith in all aspects of the negotiations and refrain from characterizing the views, motives, and interests of other members regarding negotiated rulemaking. You are all here because you have expertise, were nominated by the public, and selected by the Department to work together in good faith and strive to reach consensus on a number of very important issues. Each and every one of you are valuable to the process, and we ask that you treat each other accordingly. Finally, it has previously been conveyed that your agreement to serve as a negotiator indicates your willingness to follow these protocols. We are going to ask you at this time to approve the organizational protocols as provided. This will be our first opportunity to use our thumbs and achieve agreement. Does this committee agree with formally adopting the protocols? I could see your thumbs. Okay. It looks like we have all thumbs up, anyone see something different than that, please let me know. Alright. So, thank you very much, we will reflect that adoption in our record, you have now just reached your very first consensus.

What a great way to start off your day. Before moving into a brief review of our agenda. Does anyone have any questions or comments?

MS. MILLER: Cindy, we have one more alternate David Socolow representing the agencies for Ability to Benefit.

MS. JEFFRIES: Okay. So, when we move into Ability to Benefit, David Socolow will be sitting at the main table. Thank you, Roz. Any other questions or comments? Okay. So, a review of the agenda this was emailed out and shared online by the Department. Anne, do you have your hand up?

DR. KRESS: Sure, I just wanted to note that I had also sent in a request for the community colleges, Will Durden will be our primary negotiator for the Ability to Benefit.

MS. JEFFRIES: Yes, thank you. I did receive that. I will be announcing all changes when I introduce the issue, but thank you for that, Anne. The email the agenda was emailed out and shared online by the Department. This is the order in which we plan to introduce topics during this first week-long session. I must let you know that it is subject to change based on a number of potential factors. Quick note on public comment, at the end of each day that the committee

meets, we will reserve time for public comment, which will begin each day from 4:00 to 4:30 when we start our schedule of ending at 4:00, public comment will be 3:30 to 4:00. At that time, individual public commenters will be admitted into our Zoom meeting from the waiting room and permitted three minutes to speak. They will be removed from the session when the remarks are complete. Along those lines, the Department does slot people into every three-minute time slot during the period of open comment from 4:00 to 4:30 once those slots are filled, people will be placed on a waiting list and should time slots open up during that half hour and we have gone through everyone who was scheduled, there sometimes are those who cannot make it, we will then move to the waiting list in an effort to make sure that we get as many people as possible in that half hour. Okay, that is all I have in terms of opening statements. Is there anything that the committee wants to bring up before we move into our first issue of Ability to Benefit?

MR. TYLER: Yes, Cindy, hi it's Johnson. I had a motion to add a person to the negotiating rule making committee, should I make that now?

MS. JEFFRIES: Yes, please go ahead.

MR. TYLER: So good morning, everyone.

It's nice to meet you all. I'm Johnson Tyler from the legal aid constituency. Oh, we want to add a civil rights seat to the negotiating making committee table. The person we'd like to nominate is Amanda Martinez, who works at Unidos in a Latin advocacy organization in a Washington, D.C. The civil rights seat was originally a its own entity, and it got collapsed into consumer and civil rights. I think these two issues are fairly different, and that's why we want to make this nomination. In addition, I'm aware that we're making this on the Tuesday after Martin Luther King weekend, where we're celebrating his achievements, and I think all of us would agree, the last two years, we've become acutely aware of the inequalities in the United States that have persisted despite his efforts. Economists have been looking at it, The Federal Reserve issued a report showing that the wealth gap between African Americans and whites is greater than it was in 1968. And there's lots of data about student loan inequality and outcomes. We all are here because we care about education and care about its ability to hopefully transform our society. But I think we all have specialties that do not include civil rights, and consumer law is largely based on consumer statutes. And that's what I and a lot of other people here use. So having someone who's deeply immersed

in civil rights issues and looking at things through the lens of race would really be helpful. And that's why I'm nominating Amanda. And I'm happy to put in her resume and a recommendation from various organizations that have been provided. Cindy also has it if she thinks it's more appropriate for her to put it in the chat.

MS. JEFFRIES: Thank you, Johnson. I did email that to the negotiators, so they have it at hand. I, at this point, the Department needs to know I need to have verification from Ms. Martinez that she is in fact available and ready to join the committee if the committee reaches consensus to add her. I am awaiting that confirmation from her. Johnson, do you have any?

MR. TYLER: I've been communicating her by email, I can call her and have her contact you. She says she's watching right now and is committed to participate.

MS. JEFFRIES: If she could send me an email real quickly confirming that yes, she is available and willing to join us today throughout for the whole entire rulemaking. If once I get that confirmation, I will move your proposal to the Committee for Consensus.

MR. TYLER: Okay, I'm going to go to my email and try to send her this.

MS. JEFFRIES: Alright. As we await

that, is there anyone else, Jaylon.

MR. HERBIN: I would just like to say that some from the coalition of our consumer advocates and civil rights coalition that we have built in the constituency that we are represented do support the nomination that Johnson is moving forward with.

MS. JEFFRIES: Okay, thank You. Any other business to take care of why I see if Ms. Martinez can quickly respond to us?

MS. MILLER: Ernest has his hand up, Cindy.

MS. JEFFRIES: I'm sorry.

MS. MILLER: We just ignored it.

MS. JEFFRIES: Okay.

MS. MILLER: No, it's back up again, I'm sorry, Ernest?

MS. JEFFRIES: Ernest, Okay.

MR. EZEUGO: No, that's okay. I would also just super quickly like to offer my support of the seat, both to the addition of a specific civil rights seat and my support for Amanda Martinez in particular at this seat, of course, pending her willingness and ability to do it. I would flag that Amanda has been a negotiator before and critically, she was a negotiator representing students in 2019, the distance education

decided on negotiated rulemaking. Her voice on this committee, in particular, would be extremely valuable. And if I may say, extremely beneficial considering kind of the slant on this currency and the lack of representation of student facing seats, we know she's well equipped to do it. So, I simply wanted to add my support in that regard as well.

MS. JEFFRIES: Okay, thank you. Brad.

MR. ADAMS: Yes, good morning. While we consider the vote on the nomination put forth by our colleagues, I'd like to nominate someone to the committee. Many of the issues will be negotiated on during this upcoming rulemaking session directly impact proprietary schools. And according to 2020 IPEDS data, there are approximately 2,270 taxpaying proprietary institutions with only 330 of those schools having programs four years or longer like South College. Prior gainful employment will make concessions proprietary schools had two voting seats, one for private proprietary institutions with an enrollment of 400 students or less, or 50 students or less, and the other with proprietary institutions enrollment of 451 students or more. And thus, with South College having 7,000 students, we do not have a representative covering for smaller proprietary schools. As many of you know, the

2014 Gainful Employment Rule established debt to earning measures to determine whether a program prepares students for gainful employment and a recognized occupation. Under the 2014 gainful employment rule the Department obtained was currently available mean and median annual earnings of students who completed the gainful employment program from the Social Security Administration. And we know in the Department gainful employment issue papers recognize that educational programs that produce graduates in fields where underreported income occurs is a challenge for any measure that includes income reported to a federal agency. Given that fact that many of the issues we are negotiating today, in fact proprietary institutions and looking around the virtual table with all due respect to my committee colleagues, we would benefit from adding someone to the committee that a smaller school with programs less than 2 years in length has significant knowledge and experience with occupations that rely heavily on tips such as barbering, cosmetology and massage therapy. So, I would like to formally nominate Michael Halmon to the committee. Michael proudly served our country in the U.S. Marine Corps from 1978 to 1986. Currently, he's the president of the American Institute of Beauty, which operates two campuses in the state of

Florida, offering programs in beauty and wellness with enrollment of 300 students. Additionally, as current chair and president of the American Association of Cosmetology Schools, which represents 500 plus schools across the country. He is the founding member and current board of director of the Florida Association of Cosmetology and Technical Schools. Michael is actively involved in state and federal advocacy on behalf of students attending schools that offer cosmetology, barbering and massage programs. Michael is listening this morning and is prepared to participate immediately if the committee accepts him. I can put his LinkedIn bio in the chat for reference.

MS. JEFFRIES: Thank you, Brad. I need to hear directly from your nominee as to whether or not they will accept it, so I still have not. Pardon me?

MR. ADAMS: Would an email suffice?

MS. JEFFRIES: Yes. Yes. Still have not heard from Ms. Martinez, either. So, in an effort to move things along and not hold the committee up from the work that they have at hand, I'm going to move us to the first issue of Ability to Benefit, as that is a discretionary piece at this point. At such time that I receive confirmation from either party, I will bring the committee back around to addressing the addition of

these two. Brad, I'm not sure what constituency are you suggesting that Michael represent?

MR. ADAMS: Proprietary schools with enrollments of 450 students and a college being regionally accredited with 7,000 students as different issues than what a cosmetology school offering programs with 2 years or less. This is a seat that was there in I believe the 2017 negotiation of gainful employment. And I'm just asking that seat to come back.

MS. JEFFRIES: Okay. So, the name of the constituency would be proprietary schools with 400 students or less enrolled?

MR. ADAMS: 450 students or less.

MS. JEFFRIES: 450. Okay, thank you. I have received confirmation from Ms. Martinez that she's formally confirming her ability to participate as a civil rights negotiator for the Institutional and Programmatic Eligibility Committee. So, with that one, I think we are able to move that one to consensus. At this point, I would like to ask all non-main table participants to turn your camera off so that we can readily identify just the people who will be participating in the consensus. So, we have one, two, I'm showing 15.

MR. ADAMS: Cindy, would it be

appropriate to get some additional information? I haven't seen a resume.

MS. JEFFRIES: I sent it to everyone this morning. I emailed it. You didn't get it?

MR. ADAMS: I did not get an email, I'm sorry.

MS. JEFFRIES: It's probably hanging out there in cyberspace. Johnson, do you want to pop those into the chat? Okay, I also got confirmation for Mr. Hellman that should the committee reach consensus to add that constituency, he would be able to participate immediately. Are we ready to move on Ms. Martinez and the civil rights? Okay, so if I could see your hands.

MR. ADAMS: May I have a conversation with Michael Johnson, please?

MS. JEFFRIES: Do you want a private conversation with him or what are you asking for?

MR. ADAMS: Yes, that would be excellent if I could. I'm not sure how to do that via this Zoom format.

MS. JEFFRIES: That's okay. We will set it up. So, you were interested in a caucus with whom?

MR. ADAMS: I believe it is Mr. Michael Johnson.

MS. JEFFRIES: Who is Michael Johnson?

MS. STUDLEY: I think he means Tyler.

MR. ADAMS: Sorry, Tyler Johnson.

MS. JEFFRIES: Johnson Tyler. His first name is Johnson.

MR. ADAMS: I apologize.

MS. JEFFRIES: No worries. No worries. I made the same mistake, so we're good. Brady, can you set up that quick breakout room? Brad, can you give me some sort of indication as to how long this caucus will take?

MR. ADAMS: Within five minutes or less.

MS. JEFFRIES: Okay. So, for the purposes of the public, we are setting up a breakout room for Johnson Tyler from legal aid organizations and Bradley Adams from proprietary institutions, we will go off live stream for the period of time that it takes for them to do an anticipated to be five minutes. So, with that, could we end the live stream?

<BREAK>

MS. JEFFRIES: Okay. Welcome back, everyone. The caucus has completed, so we're ready to move forward. Let's move with the first nomination of adding the civil rights seat with Ms. Martinez as the

nominee for that. If I could please see a show of thumbs. Okay, so the committee has reached consensus on that. So, Brady, if you would please send all the documents and materials and the link to Ms. Martinez so she can join the committee today, that would be great. Moving on to the proposal to add proprietary schools with 450 students or less with Mr. Michael Hamlin as the nominee. If you could please show me your thumbs. Okay. I am showing one. Please keep your thumbs up. Two, three, four, five, six, seven. I am showing eight dissenters, so that proposal did not pass. So, moving on, we will move to the first topic that we have, and that is the Ability to Benefit. And Brad, you raised your hand.

MR. ADAMS: Yes, ma'am, I just want to state for the record, I'm disappointed that a critical voice will be missing from this conversation, but I understand the committee that voted against it has that option. Thank you.

MS. JEFFRIES: Thank you. Okay. If you could please lower your hand, Brad. We will move forward with the Ability to Benefit discussion. We have several substitutions. David Socolow will be in substituting for Debbie Cochrane. Will Durden will be in for Anne Kress. Did I miss anyone? And of course, Yael is in all week

for state attorneys general. Johnson?

MR. TYLER: Could Brady or someone help Amanda to join the group, too, since she's been?

MR. ROBERTS: She's been sent the Zoom link along with all the issue papers and protocols, I'm just waiting to admit her.

MR. TYLER: Okay, great. Thank you.

MS. JEFFRIES: Okay. So, with that, I'm going to turn it over to Greg from the Department to walk you through the Ability to Benefit.

MR. MARTIN: Thanks, Cindy, I appreciate that, and as was indicated, our first topic for the day will be Ability to Benefit. And what I'll do is just go through a brief intro, give a little bit of a background about Ability to Benefit for I understand that not everybody on the committee is steeped in Ability to Benefit. It depends on what you've been working or what your background is as to how much you know, regarding how much exposure you've had to it. So, and then once we go through the introductory part and a couple of the main points, we'll start addressing the regulations themselves. So just as an introduction here what we're talking about is an Ability to Benefit and is in statute in Section 484D of the HEA that requires that in order to gain eligibility for Title IV federal

student aid, a student without a high school diploma or its recognized equivalent must fulfill one of the Ability to Benefit alternatives. And they are as follows: A student can pass an independently administered, Department-approved ATB test. A student can complete six credit hours, or the equivalent coursework offered by the postsecondary institution. A student who meets one of these or the third option, which is they participated in a state process that is approved by the Department.

MS. JEFFRIES: Greg?

MR. MARTIN: Yes.

MS. JEFFRIES: Can I interrupt for just a second? Do you want this document screen shared?

MR. MARTIN: You don't have to put it up. I'll tell you when you can put it up.

MS. JEFFRIES: Okay, great. Thanks.

MR. MARTIN: This is just after these introductory remarks. And so, we want to point out here is that a student that meets one of the ATB alternatives may use that alternative to establish Title IV eligibility at any eligible institution where the student enrolls in an Eligible Career Pathways Program. ECPP, so that's Eligible Career Pathways Program. I hate to be the individual that introduces yet one more

acronym to you all, but I'm afraid I'll have to do that. So, it's not the worst acronym we've ever had, so I will refer to it as ECPP in the future. Again, that's Eligible Career Pathway Program, and that's defined in the HEA for purposes of the Ability to Benefit process. So, the important point is here, no matter which the student uses to establish the Ability to Benefit, the only way that that can take place is through an Eligible Career Pathways Program. And on that point, just a little bit of a background about ATB, so again what is Ability to Benefit? We just talked about that being defined in the HEA, allowing students to participate, be eligible rather without a high school diploma or its equivalent. And we talk about what is an Eligible Career Pathways Program that's defined in the HEA as well and ECPP as a program that combines rigorous and high-quality education training and other services that align with the skill needs and seven specific components that make up the ECPP. What is the state process? The state process describes the education services and supports that all programs operating within a given state process will follow. It must be approved by the Department. Only institutions identified by the state will be able to participate in that process. A little bit of history of ATB before we move into it, just to look to the past

about where we have been with ATB and where we are now. So, in 1991 and in 92, Congress created ATB via exam and the state process. For a long time, there were no states participating in the state process. So, for the longest time, it really was only through the exam that those of you who are familiar with ATB know that students were able to become eligible through this process. In 2008, Congress had a third option that was credit hours. So, in not just the testing or state process, we had the completion of credit hours that through which the student could establish ATB. And in 2008, rather, in 2011, Congress repealed ATB. You might recall that at that time, ATB went away completely. In 2014, Congress restored ATB with all three options and a new requirement that students must be enrolled in the ECPP. So, it's important to remember that the Congress put back all three options for establishing the Ability to Benefit. However, important caveat there is that the Eligible Career Pathways Program is the only mechanism through which ATB can be accessed, whether it's through the exam, whether it's through completion of the clock hours or credit hours, or whether it's through the state process. So, looking at what ATB looks like today, in 2019/20 award year, approximately 240,000 students received Title IV aid through ATB of those students, 86

percent accessed ATB by completing six credits. The remaining 14 percent accessed it by completing a test. I do want to point out that until recently no state has utilized the state process provision. In 2020, the U.S. Department of Education approved the first two states--that's Wisconsin and Washington. As of 2021, four state processes have been approved. Washington's application was the only one actively approved by the Department. The other three were approved automatically due to lack of response within six months. That's statutory. If the Department does not respond within six months, then the state process is automatically approved. In 2021, we have a fifth state submitted and no determination has been made there as of yet. So that's a little bit of a background to ATB. So, with that, I think Cynthia, we can put the paper up.

MS. JEFFRIES: Okay, that sounds great. While we wait for that, I want to make note, for the record, that Ms. Martinez has now joined the meeting on behalf of the constituency group of civil rights. In addition to that, I need to make note that Michael Lanouette is at the table for Brad Adams for proprietary institutions and that Ashley Schofield will be joining the table in place of Beverly Hogan from minority institutions. So back to you. Greg.

MR. MARTIN: Thank you. I think I pretty much covered the summary of issues there. Let's go down to the proposal section here to see exactly what the Department is proposing. And we're dealing with two areas really with our proposals for ATB. The first one will be with respect to the eligible career pathways process or program, and the second will be with the with the state process. So those are the two main areas we're looking at, and they do intertwine. And you'll see as we go through the material how that works. So firstly, the Department is going to clarify how institutions demonstrate they offer ECPP. Currently, it has been in statute, but we've not regulated on this before, so this will be the first time that we that we regulate in this area. And although, as I said before, it is out in statute currently. The Department is aware of compliance and program integrity issues, concerns with programs that claim to offer an ECPP rather but do not offer all the required components and state process applications that have not provided robust data on student success. So, with respect to ECPP, the statute does require certain criteria be met and we are seeking to put that into regulation. So first, we're going to provide clarity as to what is required to demonstrate to the Department that that a program qualifies as an ECPP for

the purpose of Ability to Benefit. So again, codifying this definition in regulation and providing detail on the types of documentation required to demonstrate that the program does meet the definition of an ECPP. The second point you see there is eliminate the requirement that first time applicants for the state process must demonstrate past performance metrics for the initial period. There is in current regulation, a requirement that to be approved, the state provide certain performance metrics to us. And the problem with that is that if the state is coming in initially and proposing this process, it's understandable that they will not have data at that point to give us to show us the success of the program. So, for that reason, we're regulating this in a way that I think will make a lot more sense to allow the state to come in initially and then provide us with data after a certain amount of time and you'll see how that works. So, what we're going to have here, we seek to recommend a maximum of 2 years of length of time that the United States Department of Education should receive the application for approval on the length of time, rather that we receive it. Second, to Department's process, requiring states to verify their applications that all new students served in state process will be enrolled in ECPP. And the Secretary

shall verify that a sample of the proposed ECPP are eligible. So, when states are applying, remember they can have a state process, but we're still requiring that that be through an Eligible Career Pathways Program. So, we want to make sure that the participants are offering this program in accordance with what statute and statute and now regulations we'll require. The Department also seeks to propose setting a maximum number of students to be allowed in the initial approval period or limiting the institution to one ECPP for students eligible for the state process. So, we'll be seeking feedback from all of you on the best approach for all that. And fourth, we are removing the requirements that states demonstrate past success rates for the initial period. And I already discussed that it's virtually impossible to do if you haven't had the process before to demonstrate success rate without a trial period, which we're going to be introducing here. That's given that the state will not have prior data. However, we are proposing to replace that requirement with initial quality metrics that will allow us to assess the effectiveness of the program participating under the state process, and we seek feedback from negotiators on what those quality metrics ought to be. And finally, we are proposing requiring states to describe in their

application the enrollment or admissions criteria that students accessing Title IV through the state process would be required to meet. And moving on, we're requiring that there be clarity on the requirements, or we're going to provide clarity on the requirements for states that are reapplying for subsequent approval of the state process. So, when a state applies for subsequent approval from the Department, the Department proposes to require additional data and proof of success to meet the statutory requirement to demonstrate effectiveness. So, you will recall that there is a statutory requirement for the state to demonstrate success in the program. We're also going to ensure that the success rate that states demonstrate is appropriate. In order to demonstrate this effectiveness, the current regulation requires the completion rate for participating students without a high school diploma or its recognized equivalent that must be 95 percent of the completion rate for students with high school diplomas. As we discussed just a few moments earlier, that's not really possible if the state has not had time to run the program. Hence, the introduction of the trial period. Other alternative performance indicators to be considered include earnings, employment credentials, credits, postsecondary transactions or transitions

rather. We also seek feedback on the most appropriate mechanism to hold states accountable when participating institutions do not meet the success rate thresholds. We also seek to establish reporting needed to retain access to Title IV to ensure states report institutional level data to the Department when such data are not available to the Department through the standard Title IV reporting. That's the introduction of what we'll be talking about here when we actually look at the regulations. And if there are no questions at this point, I think I'd like to move to a discussion of the regulations themselves starting in the general provisions and our definitions, 668.2. And we can walk through this. I want to make certain that we take this in chunks that are reasonable so that we don't go over too much before introducing discussion on that topic. I think that with what we have under 668.2, we can address what we have in that section. And in paragraph B, we can start with discussion on that, but before we get into that, does anybody have any preliminary comments or questions?

MS. JEFFRIES: Greg, there are several hands up, and there was a question placed in the chat as well. Sam. You are muted, dear.

MS. VEEDER: Thank you. I do have a

question on the state process. Greg, when you gave the statistics, most students entered the program through credits and 14 percent through tests. Is it fair to say that students are not currently entering ATB programs because of the requirements are unreasonable to have data in advance to go through the state program? Is that a fair assumption as to why the state option isn't currently being used?

MR. MARTIN: I don't know if I could say that that, as far as the unreasonableness of it. I don't know if I'd use the word unreasonable. It's a little unworkable. I mean, as it currently is, we did, as was pointed out in the introductory comments, approve one state. The other states that have been approved were done by default, since we didn't take action during the six-month period. Yes, it does put the Department in a difficult position because currently the regulations require the establishment of this 95 percent success rate where these state processes are mostly are new. So there doesn't exist any data for them to give to us to show this. So, it's a bit of a bit of a conundrum, we thought about it for the last couple of years and it's one of the reasons why we put it on this negotiating table. As to why only recently states have begun to participate to come into this, I think for a lot of

years before ATB was taken away in 2011, it just became established that there was the test process and then the credits, and that just seemed to be what everybody did. I don't think there was a lot of interest in the states in applying. It wasn't that we didn't permit it. It was certainly an option that was out there. But frankly, I've been around for about 30 years in this, and it just was something that was in the regulations that until very recently; we just didn't get the applications. So, I don't know without querying states where there are states that wanted it to do it but were put off by that success rate. That's possible. But as I said, I just don't know for sure. But it does seem that recently, anyway, in the past couple of years, there's a lot more interest in the state process, I think, than there has been previously. But that's about all I can say about it because for a lot of years, we just got no applications.

MS. JEFFRIES: Thank you. Johnson.

MR. TYLER: Hi. Thanks, Greg. I missed the number of how many people are using this, and then related to that, you said at the beginning of the paper that there are integrity issues. This is not an area of that I'm well-versed in. Could you just expand a little bit on that? And so, I'm curious, how many people is this impacting and what are the integrity issues that

you're concerned about?

MR. MARTIN: So, I'm going to get that. I'll try to find that figure, I think it was 240,000 last year, but if someone can recall, I'm going to ask my colleagues in the Department.

MR. TYLER: That's good enough. I know it's a lot of people.

MR. MARTIN: Yeah. I think it was about 240,000 and so that I'll have that confirmed or denied to me shortly because I just don't want to fumble through the paper while I'm while I'm talking to all of you. But as far as integrity issues are concerned, we are concerned about the well, as I said before, with respect to the state process, the current regulation is not really giving us what we what we need to put into place a viable way of assessing these programs. So, we with the current regulations we would be stuck with approving without that success rate or just not approving, which we don't want to do that, so I mean, we do we want to introduce regulations that will allow us will be fair to schools...I mean, rather, fair to the states and schools in bringing up this process initially and then being able to provide us the data to go to evaluate the program. So, when we say integrity issues, I think it's that it's a structural thing we're talking

about here. I don't think we've identified a specific state that we found was doing something untoward. But we but we realize this could be there could be large numbers of students coming in with this process. It is an alternate process. So, we are concerned about establishing integrity with that. With respect to Eligible Career Pathways Programs in general, you may recall that we did put out a dear colleague letter regarding these programs because there was nothing in regulation, simply in statute. And as far as integrity issues go, we are concerned. Again, this is not because we have necessarily identified in program review reports or audits specifically where this might be happening, but we do have concerns about the about the current structure allowing for a school to simply say, yeah, we have an Eligible Career Pathways Program. And just basically being able to say, yes, we have that without there being anything in regulation to hold that school to. So currently, I think the Department's opinion is that or belief rather is that there just isn't enough out there to ensure that when schools offer these ECPPs, that they're meeting the statutory guidelines. And that's why we're putting it into regulation here. I think that it will help codify that and to make it clear that this is not just something you do because you just

want to be able to take advantage of ATB. Again, that you want to, because remember, if Congress had wanted to bring back ATB in its entirety, they could have done that. They didn't choose to do that. They brought it back completely within the context of an Eligible Career Pathways Program. So, we feel that we have an interest in the taxpayer and students in making certain that that process is being adhered to.

MS. JEFFRIES: Thank you, Greg. David Socolow.

MR. SOCOLOW: Yeah; hi; thank you. And Greg, I want, if I could at this point before responding to the specific metrics on which you requested feedback, which I guess we'll get to one at a time. I just want to do some response to the general frame you just said, especially about the congressional intent. So first, I applaud the Department very much for clarifying what it takes to get the Secretary's approval of the state process to help students who have neither graduated high school nor have an equivalency diploma become eligible for Title IV student aid. And I'm glad that there's a recognition that we need clarification about what's an eligible career pathway. But there's more that needs to be done in this reg to make sure that ATB can actually foster strong evidence-based integrated education and

training programs, IET programs, that help this population make career progress and educational progress. Well-designed IT programs, as the Department knows, can help students who don't have a secondary credential, but poorly designed ones can saddle students with unsustainable debt and really cause a lot of issues. That's why we asked the Department for more data. You provided a little bit of data here, but we are looking for more data, which we did send a request in about how ATB is being used now. You mentioned congressional intent. So, as you said 7 years ago, when ATB was partially revised, it was not a carbon copy of what had been eliminated in 2011. They carefully included the same definition of career pathways as in the Workforce Innovation Opportunity Act, WIOA, and it's now also in Perkins, the Career and Technical Ed Act. And so, it's clearly meant to restrict ATB for students served through true robust partnerships, coordinating adult ED under WIOA Title II with occupationally oriented coursework offered by Title IV institution. And so, as a state agency representative, here we are particularly involved in making these IET programs work. They require coordination. They require grading of state funding and different streams of federal funding in a lot of coordination among state and local entities in

different institutions. So, this regulation is going to need to further clarify how an eligible career pathway is going to be documented for all three modes of ATB. The six credit or clock hours, the test, or the state process. So, what I'm hoping that we'll be able to do in this conversation is look at the body of knowledge and guidance from coordinated programs. You know, the Department's own Institute of Education Sciences put out a research and practice guide on career pathways. And obviously, the experts at the Office of Career Technical and Adult Ed have a lot of research and guidance on IET. I'm going to suggest additional language to add to this red line that you're walking through now to ensure that eligible career pathways for ATB is aligned with the other federal and state investments to accelerate dual enrollment for adults. And not just, as you said, anyone who says they have a career pathway. Thank you.

MS. JEFFRIES: Thank you, David.

MR. MARTIN: Thanks, David. I do want to point out that your data request that was submitted to us is being worked on by our colleagues in Federal Student Aid and I also have a great team of colleagues supporting me here, which is a great thing for me and as I do, where I've may have misspoken. I said earlier that I wasn't aware of any program review findings related to

Eligible Career Pathways Programs, but I was informed by our staff that we have indeed had some program review related findings associated with Eligible Career Pathways Programs, so I do want to correct myself on that note. And as far as any proposed language, we'll certainly be willing to take a look at that. And as we go through and look at what we have here, we'll discuss that. If I mean, obviously, the Department feels that what we've presented does accomplish what was just being discussed. But we can start with going through that. Cynthia, do we have any other comments we need to take before we go into the reg?

MS. JEFFRIES: We do. We have two more comments; and, Greg, I would like to point out there was a question put forth in the chat when you were presenting from Michael Lanouette. Michael, do you want to pose that question since you've been waiting patiently?

DR. LANOUETTE: Oh, that's alright I was just wondering if the Department could share how the 240,000 students were divided up by sector by sector.

MR. MARTIN: Yeah, ATB schools are required to report, but someone from my group is going to have to clarify this. We know if it's a test and it used to be reported if it's a test or the six credits. I

don't think we have a mechanism for reporting state process, but I'll wait for them to clarify that for me. One second here. Ok, I'll wait for clarification on that, but I believe that we use the reporting that we get when schools use ATB and they're required to report to us that they have used it. Yes. It's just been confirmed to me by my colleague Aaron Washington that we have reporting for the six credits and the test, so that's currently all we've all we have right now. We don't have a mechanism currently built in to collect state process, so we can only break it down by those two mechanisms right now...by either the test itself or us or the six credits.

DR. LANOUILLE: Thank you.

MS. JEFFRIES: Thank you. A couple of things before we move on; we have two comments from Jamie and Will. I do want to welcome Ms. Amanda Martinez to the table for the newly added constituency of civil rights. Welcome, Amanda. I also want to point out that Ashley Schofield has come to the table in place of Beverly Hogan for minority representing institutions, and I think those are the only two changes at this point. So, with that, Jamie?

MS. STUDLEY: Thank you. I first learned about ATB in 1993, but on behalf of those of us

learning about ECPP in this process, it would be helpful, Greg, if you could tell us a couple of simple questions, I think. Do these provisions affect in any way ATB students at other than ECPP programs? Are ECPP programs exclusively or almost entirely ATB students who have not yet who were in dual enrollment or other kinds of programs, or are there mixed enrollments at these programs that would allow comparison between people who have a traditional high school diploma and others? Then a thumbs up for the Department on the notion of having initial and renewal conditions. I think that's a thoughtful and creative way to think about what you can know at the beginning and to start on a contained basis. But just a little bit about the ECPPs to understand the scope of these provisions.

MR. MARTIN: Thank you for the kind words regarding our efforts; we always appreciate that. First off, as far as these programs are concerned, we certainly are aware of the fact that there have been career pathways programs in existence. And we are introducing the title here of an Eligible Career Pathways Program. I don't have any data or statistics on it, but I'm certain that there are career pathways programs out there that students are participating in that are not involved in ATB. So, I don't think that

that there's an exclusive there. But the important thing to remember here is that...let's just take the state process out of it completely. If a student is going to establish eligibility by demonstrating ATB, either through the approved test or through the six credits (or the requisite clock hours), then it still has to be an Eligible Career Pathways Program, so there's no other entry point or gateway ATB other than the Eligible Career Pathways Program, regardless of which particular means the student uses to establish that. So, the Eligible Career Pathways program has to be there. So that's why we're talking about trying to make a distinction between career pathways programs that might be out there, which may or may not meet all of these statutory criteria that we have here for an Eligible Career Pathways Program. But yes, I think you're right, your point about it could it be a mixed group of students. Yes. I mean, there could be students enrolled in career pathways programs. There could be students enrolled in a program that meets the Eligible Career Pathways Program and all the all the rigor that that that necessitates, but that are not accessing through ATB. Although, if you're in an Eligible Career Pathways Program that has a dual mechanism through which students are taking the postsecondary credential and also having

a pathway to a to a high school diploma as well. So, one would suspect that the majority of cases these students, if they're accessing Title IV, don't have a high school diploma.

MS. STUDLEY: Cindy, may I ask a clarifying question?

MS. JEFFRIES: Sure. Go ahead.

MS. STUDLEY: Is this the only quality screen that the career pathways program has to go through? Is this where the control about whether it is good enough takes place, as opposed to all of the other things we're going to be talking about?

MR. MARTIN: Yes, when we walk through the rule, you'll see we'll start with the definition of a career pathways program. So, there's the definition. What are the elements of it career pathways program? And "b" is taken from the from the statute. And then we also are proposing to regulate how a school demonstrates that it is just done this--beyond just saying, yes, we have it. Does the school have mechanisms to demonstrate to us that it is an Eligible Career Pathways Program? I mean, currently it does have to meet these statutory criteria. But we will be putting it into regulation, and we've not before been specific about how a school has to demonstrate this in our dear colleague letter. We

essentially just reiterated the statute and left it at that. So, we are introducing a higher level of, I think of program integrity here with this.

MS. JEFFRIES: Ok, thank you. Alright. Will, you are up next.

MR. DURDEN: Thank you, Cindy. Good morning again. Will Durden in Washington state with one of those approved plans, so thank you Gregory and the Department for the state plans that have been approved so far. I think we were the second state in the nation, and we've been pleased to be hearing of other applications coming in as well. I really want to second Mr. Socolow's comments, and to that end, won't reiterate what's been said in the interest of time. Also want to make a few general comments to really highlight just how important just how critical this work is for us and how much it matters that we get this right. So, we're pleased to be at the table here. We designed our state strategic plan in the Community and Technical College System in Washington state explicitly to leverage the potential for Ability to Benefit with our career pathways that our colleges offer through our Guided Pathways initiative, which we which fits well with career pathways. Our state IET model, which I-BEST nationally recognized and our competency based high

school completion program High School Plus. So, Ability to Benefit for us is a core component of our state's strategy to lead with racial equity. It's really connected to and central to our equity efforts in the state to transform lives within a culture of belonging that advances racial, social, and economic justice and service to our diverse communities. We took our state financial aid system, the Washington College Grant, and lined up the eligibility rules with federal ATB so that we could have a state and federal Ability to Benefit package easier to administer in the state because the rules match. That has really helped colleges [inaudible] state and federal resources to support students. So, it's a core recruitment and strategic enrollment strategy for us to bring more underserved students, including students of color, into our high wage, high demand programs. I'll have additional comments at specific points in the regs. But just want to note that, I like the Eligible Career Pathway Program. It has taken us a lot of time to help colleges feel comfortable with those criteria. We've often felt confident that the colleges are meeting that criteria, but they don't always have that same level of confidence. And to that end, I don't see it as an additional burden for an additional accountability measure. I really see it as

support and guidance for institutions to feel like they know that there's a process that says, yes, we have ECPP, and we can feel good about that. So, we absolutely welcome efforts from the Department to ease and help institutions use this. I'm surprised by the 240,000 figure. I thought it would be a much lower, so I'll be curious to see where the state distribution of that is and the industries in the other information that comes out on that.

MS. JEFFRIES: 30 seconds. Okay, I was just going to give you your 30 seconds. Thanks, Will.

MR. MARTIN: And thank you for your kind words. I appreciate that.

MS. JEFFRIES: Alright. I see no other hands. Greg, do you want to move us forward?

MR. MARTIN: I could do that. We'll move into our first regulation, so it's a milestone here as we as we get started on ATB. I think what we'll do is thinking about the protocols for this. We'll discuss in this case, it's not the entire section of 668.2; it's just the pertinent part of that of that section that we're dealing with today. Again, 668.2 is in definitions in the general provisions. We have added this; this is a brand-new regulation, and it's coming up on the screen now. Thanks, Vanessa. The definition of an Eligible

Career Pathways Program. So just want to point out that as we go over this will take all of "b" and then go through it, then discuss. But I want to point out that this is just the definition. We're not getting into anything here about what schools have to do to demonstrate that they meet this requirement. We're just talking about the definition of the Eligible Career Pathways Program at this point. So, I will walk through it, our proposed definition. An Eligible Career Pathways program: a program that combines rigorous and high-quality education training and other services that aligns with the needs, skill needs of industries in the economy of the state or regional economy involved, prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, commonly known as the National Apprenticeship Act; includes counseling to support an individual and achieving the individual's education and career goals. Includes as appropriate education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster; organizes education training and other services to meet the particular needs of an individual in a manner that accelerates the educational

and career advancement of the individual to the extent practicable; enables an individual to attain a secondary school diploma or its recognized equivalent, or at least one recognized postsecondary credential, and helps an individual enter or advance within a specific occupation or occupational cluster. So that is our proposed definition under (b). And having gone over that definition, I would invite any comments on that.

MS. JEFFRIES: Sorry about that, I had trouble getting my mouse to cooperate with me. Thanks, Greg. Kelli has her hand up.

MS. PERRY: Good morning. I just I have a question on where it talks about enabling an institution to individual to obtain a secondary diploma. Can you clarify whether or not that means that a school would just need to offer a way for them to obtain that or that it becomes something that they actually have to obtain that that they have to get that diploma. I guess what I'm saying is, schools are going to offer or disburse aid based on outcomes that haven't happened yet. Are they going to be retroactively penalized if the students do not actually obtain that secondary diploma? Or are they just need to provide the ability for them to obtain it?

MR. MARTIN: That's a very good

question. So, to answer it broadly, no; these regulations are not requiring that in order for the students who have been eligible that there's going to be a retroactivity test of whether the students did complete the high school credential. Having said that though, it's extremely important to us that the means to obtain the high school diploma would be real. And our moving students toward this, the whole idea of this Eligible Career Pathways Program as a student is that the student emerge with the postsecondary credential and also get the high school diploma, I think we all are aware of the fact that irrespective of whatever else a student may do, it's important for people to obtain that high school diploma. It's an important milestone in people's lives, and it's been shown to be of great importance economically and socially in other ways. So, now, we're going to go through the proposed regulations, and you'll see how we propose to bring integrity to that process of making certain that the that the pathway is there. However, again, we are not proposing that if the student does not ultimately obtain the high school credential would a student lose eligibility, nor would the Eligible Career Pathways Program become ineligible.

MS. PERRY: Thank you.

MR. MARTIN: Sure.

MS. JEFFRIES: Thank you. I have lost my screen, I'm going to log in and out on the meeting, Commissioner Brady Roberts will step in until I can get this screen back.

MR. ROBERTS: Good morning, everyone. Cindy, just let me know when your screens back again. Sam, I see your hand next, go ahead.

MS. VEEDER: Thank you. I have a question regarding item number one here, aligning with the skills needed in the economy of the state or the regional economy, and I'm curious how that will be demonstrated and/or measured as an outcome. Is this something like the TEACH Grant proposal, which can be very difficult to monitor and also, I think, restricted some students, right, who maybe didn't want to stay in the state or region once they achieved their credential or their skill? They might want to take that skill somewhere else where it is needed. So, can you describe how that will work in more detail, Greg?

MR. MARTIN: Yeah, we will get we will get to that. You're talking about again (going back to my document here) just for clarity's sake, aligns with the skill needs of industries in the economy of the state. Yeah, so what we're looking for here is, again, we're going to get into more detail about the ECPP

itself, but what we are looking for here is that there be on the part of schools, a real assessment of did you look at what the skill needs were in the economy or the regional economy involved...and certainly within the context of the state process, we have states doing that. But again, this is available; you don't have to go through the state process in order to participate to have an Eligible Career Pathways Program. So with schools, we would be looking to see what measures the school took in designing the program...like what data did you look at to determine whether or not this aligns with industry needs out there, looking at what jobs are available, what pay levels are, what the economic success rate is of these of these students...and what we're what really trying to prevent...to not allow to happen here...is for there to be a sort of a judgment that oh yeah, we have an X program, and everybody knows that the world needs whatever this is. So therefore, sure, there's a skill need in the state for this; but you actually have to have looked at data and applied that to that decision. I don't know, as far as this kind of thing goes. I think we all have to be cognizant of this, honest about this, that this is not like how many days you have to make an R2T4 payment. It's not quite as objective as that, but we will get to that, and I point

out here that this is described in 668.157. So, the definition; we will get to that point, but I'll read it now. The program aligns with the skill needs of industries in the state or regional labor market, in which in which the institution is based or located based on research, the institution that's conducted. Again, as I pointed out already, it can't just be, yes, we teach X, and everybody knows people need to hire that. So, that would be government reports in identifying occupations with the greatest hiring demand in the state, region, and the regional market surveys; interviews; meetings; or other information obtained by the institution. So, you can see here we're not being 100 percent prescriptive. There is obviously some subjectivity involved here that we can't entirely take out. But this is this is statutory, and this is how we intend to regulate it. We'll get to that and we're not there yet, but we will get there. But I just wanted to read that because that the question was asked. So that's how we intend to put it into regulation. As far as like being any more prescriptive than that, we're not saying exactly which government reports, which surveys, which interviews. I mean, just establishing the fact that this has to be researched and not just eyeballed. And I want to thank my colleague Aaron Washington for pulling that

up for me.

MR. ROBERTS: Just as a quick update, I think, Cindy, you're back and ready to go.

MS. JEFFRIES: I am, yes. Thank you, Brady. Amanda, you are next.

MS. AMANDA MARTINEZ: Hi all, thank you. Well, one, I just wanted to introduce myself, thank you all for the vote of confidence. It's great to be here and I'm excited to learn and ask all the questions and hopefully come out with the better outcome for students who have been historically excluded from the higher education sector or been taken advantage of. So just kind of a context, I have two questions but before I get into my two questions about this specific issue paper, I did want to remind folks that the K-12 sector has been also laden with many issues. So those students who are maybe didn't complete high school or had issues with their high school education that's coming from a long-standing history of, as we know, segregation in our K-12 system, which continues to be actually worsened a in our high schools and the quality of education that students, especially black and Latino students, are receiving. So, I'm particularly interested in seeing the intention of schools using this Ability to Benefit. The definitions here are really important because we wanted

to make sure that the students who maybe didn't receive the best high school education or not by their own choice or their own fault, but really at the institutional level and are still interested in pursuing their career goals and achieving additional educational opportunities...that whatever opportunities that they're provided or seem to, which could be through this pathway that states are hoping to utilize, that they are of quality, that they're not once again being given a worst outcome. So that's my introduction. I will then ask my two questions. Hopefully, the Department of Education can answer. So my first question the specific the definition that we're going over at the moment Eligible Career Pathway Program. It says in our issue papers that this was taken from or inspired by the definition drawn from statute is that are each of these line items specifically, was there anything that was added or separated from the statute or is this exactly replicated from the statute definition? I was just interested if you can just make those differences for me. And then my second question is that line three includes counseling to support an individual. Is that really the definition of counseling? How are you defining what quality counseling is? Is that academic, not academic? It's not really included there. So, I'm wondering if there are

other regulations that can help support what includes counseling really means and how are you assessing its quality of counseling?

MR. MARTIN: Okay, I'll take the first question. Our definition as proposed here pretty much mirrors the statute. That's to my knowledge, we have not added anything there, but I'll ask my colleagues to weigh in with me about that, but that's taken from the statute. As far as the second question about the career counseling, again, we're going to be, and my colleague, Aaron, has just told me that he confirmed that this is pretty much cut and pasted from statute. So even a higher level than what I said, exactly the statute. Regarding the counseling, so again, we're jumping forward to 668.157 where if you look in your papers, if you want to just 668.157 is not the definition of a career pathways program, but it's where we say an institution demonstrates the Secretary that a student enrolled in an Eligible Career Pathways Program as required in 668.156.83 documents that lie in the following ways. And then we lay out how that's documented. And we do have the career counseling aspect there that the program provides career counseling services that assist students in obtaining jobs aligned with the skill needs described in paragraph two of the

section and identifies the individuals providing the counseling services. So, what we did there, to your point about bringing an added measure of integrity to this beyond just yes, we yes, we provide those services is actually required in the school to indicate who does provide these services so that they'll have to list people. We can definitely in any type of a compliance setting say which individuals provide this and then determine do these people actually provide the career service and/or the career counseling services? Because I think that the important thing here is that this is actually taking place, not just to check the box...yeah, we provide services. A student asked us a question we'll answer. Are there real career services? Is there real career counseling going on? And again, we're in a subjective area where that's to some extent a judgment call, and I don't think there's any way out of that entirely. But I think it's important that we do look at that, so that would be the way we intend to enforce that, and I can say that the Department is very serious about that. When a school says we meet these criteria, that they actually do. And I also want to say to Amanda welcome it takes a lot of guts to be back. I think she's a veteran of my subcommittee for Distance and Innovation. So, the fact that she's back with me does

say something about her tenacity and willingness to go back at it again.

MS. JEFFRIES: Thanks, Greg and Amanda. Will, you are up next.

MR. DURDEN: Thank you. One question on item five in that list, I recognize it's in statute and we're just seeing it again. But any comment on what acceleration or acceleration to the extent practicable, how that was interpreted by the Department and how they might look at regulating that?

MR. MARTIN: I'm sorry, you said number five, right? So yeah, organizes education training other services to meet the needs of individual in a manner that accelerates the additional career advancement of these of the individual to the extent possible. I, again, with the acceleration, I'll ask my colleagues to weigh in with that statutory language. And I think what we're looking at here is the individual student and what will advance that student's placement to the extent that that's practical. The whole purpose of this career pathways program is we're generally not talking about students who are traditional students and say, a four-year program, so the whole goal here is to get these students started into a career. We haven't been prescriptive about this, and we don't when we're

not in these regulations either. But I think that I would say that if you want to say, what can we define accelerates well, it's going to be a little difficult to do. But again, the whole idea of this is that's a career pathway. It's supposed to be able to take a student from a certain point and move that student into a job and into a career, and that we expect that to this program to be something that increases that pace beyond maybe what the student could ordinarily accomplish without benefit of the program. I think that's where the accelerant...I don't want to say the word accelerant, it's not a chemistry class. That's where the acceleration aspect of this occurs.

MS. JEFFRIES: Okay, thank you. Seeing no other hands on this 668.2 definition. Would it be, do you want to take a temperature check on this at this point, Greg just to see where the committee is lying?

MR. MARTIN: I would; yes, I would.
Thank you.

MS. JEFFRIES: Alright. You are welcome. So, remember, a temperature check is not consensus. It's just a check to see where the committee falls. I do know that there have been statements that additional text may be presented throughout this ATB. This is just on the language that is out there on 668.2

only for a temperature check so the Department has some sort of understanding of where the committee as a whole, where their thoughts are. So, with that, if I could please see thumbs up and please hold him high, because sometimes it's a little hard to see. So, if I could see your thumbs, I would appreciate it. Okay, I'm not seeing any thumbs down. So hopefully that is helpful for the Department on 668.2. I want to thank you all for that. So that brings us to the next section, Greg. Johnson, you have a question.

MR. TYLER: Yeah, I'm sorry, this is a late question but the ECPP, this applies to all sectors it doesn't apply just to the nonprofit or the private nonprofit. Is that correct?

MR. MARTIN: That's correct. We don't we do not limit access to Ability to Benefit by institutional type. I think largely it probably is either career schools or community colleges. But that's not limited. And again, the Eligible Career Pathways Program, I have to make sure I get the acronym right myself eligible career, ECPP, not ECCP, is a prerequisite for accessing any of any ATB. I think if you look at it like that, that's the basis you have to have that and then moving to either the state process or the test for the credits. But yes, it is a universal,

it's universal applicable.

MS. JEFFRIES: Ok, so we have about roughly 14 minutes before the scheduled lunch break, Greg, do you want to start into 668.32?

MR. MARTIN: Yeah, I think so, I don't want to waste the time, although anybody who knows me knows what a compulsion they have about lunch. I'm always tempted to definitely go to lunch, but I'm not going to do that in this capacity. So, we will start with 668.32. And I think that we will begin with that, and I think with 32 as well, we can walk through what we have. And just hold on one moment. And we'll walk through 32, this is just to clarify this student eligibility and remember, I want to point out that when we're presenting you, it probably goes without saying but I just want to reiterate that obviously all of 668.32 is not here. That's the asterisks indicate that we're just putting the applicable portions in here. But this is the student eligibility section of the regulations. And we're only giving you here what is applicable to what we're doing with respect to ATB. So, let's take a look at this at the student eligibility and I this is not very lengthy, so I'll walk through it and then we will discuss after this particular paragraph (e) here. So, looking at eligibility, the first way of a

student establishing eligibility is, of course, to have a high school diploma or its recognized equivalent. Next has obtained a passing score identified by the Secretary on an independently administered test in accordance with subpart (j) of this part. So the tests obviously are the approved ATB tests and there are only two mechanisms like I kind of I'm going to apologize. I misspoke a little bit before and saying that the ECPP is the only mechanism through which you can access ATB. That's not quite true. I think it is true for all practical purposes now that we are as far away removed as we are from 2012, I should say for most practical purposes. So, let's take a look at this. They could take the test, and either was first enrolled in an eligible program before July 1, 2012, so they would have to prove that they were indeed eligible program before that. So obviously, we could have nontraditional students who meet that requirement or is enrolled in a career pathway program as defined in 668.2 which we just looked at and did our temperature check on. I think in most cases, it is going to be romanette 2 there. But I do want to point out that there still is this grandfathering that Congress did when they brought back ATB that was probably a little more pertinent at the time. As we move away from 2011, it's less and less so with each year, but certainly it's

possible. And 3, you can see here we bring in the is enrolled in an eligible institution that participates in a state process approved by the Secretary under subpart (j) of this process. And we'll be looking at the state process later on in this discussion of our ATB issue paper here. And either was enrolled in an eligible program before July 1, 2012 or is enrolled in an Eligible Career Pathways Program as defined in 668.2. So again, you're seeing there that even with test or the in this case, the state process still have to have the Eligible Career Pathways Program. The next mechanism is...was home schooled and either obtained the school completion credential for home school other than a high school diploma or recognized equivalent provided by a provider for under state law or if the state does not require home school students who obtain a credential described in this section as completed the secondary school education in a home setting that qualifies as an exemption from compulsory attendance requirements under state law. So just that's not pertinent to what we're doing here, but just a reminder of all the ways the student can establish eligibility other than our high school diploma. And lastly, has been determined by the institution to have the Ability to Benefit from the education or training offered by the institution based

on the satisfactory completion of six semester hours, six trimester hours, six quarter hours, or 225 clocked hours that are applicable toward a degree a certificate offered by the institution. And that has been there for quite some time. As we discussed in the history of ATB, but here we are adding to for clarification purposes, was either enrolled in an eligible program before July 1, 2012, or is enrolled in an Eligible Career Pathway Program as defined in 668.2. So, basically what we're doing here...I think this is a good clarification the regulations tying all of these mechanisms that are related to ATB back to the Eligible Career Pathways Program requirement. And again, just throwing in there that there is that other option, not really an option, it's a possibility, where the student was enrolled in an eligible program prior to July 1, 2012. So, with that, I'll open it up for comments discussion.

MS. JEFFRIES: Okay, thank you, Greg. If we could stop this screen share, please? Thank you. Alright. Questions? Comments? Not seeing any. Okay. How about we go ahead and take a temperature check on this section just to just to see where we're at Greg?

MR. MARTIN: I think that's a good idea.

MS. JEFFRIES: Okay. Alright. If I

could see your thumbs high, please. I'd appreciate it. Jamie, can I? Okay. All thumbs are up. Thank you very much. Alright. Greg, you have seven minutes before lunch.

MR. MARTIN: I want to thank everyone for that and why don't we move on. I think we're going to move on to 668.156. And here is where we are discussing the approved state process. So, I think because this section is dealing with more of a lengthy, lengthy session, a section here I would like to. I think I'll go through it by applicable paragraph, so why don't I just start with (a). We might be able to get a little bit of discussion in. I realize we have a hard stop at 12:30 and we don't have an excessive amount of time for lunch today. So, we want to make sure that we adhere to that. So, let's just start here, I'll go through, and we'll have a discussion of that and see where we stand. So, the approved state process, a state that wishes the Secretary to consider its state process as an alternative to achieving a passing score on an approved independently administered test or the satisfactory completion of at least six credit hours or recognized equivalent coursework for the purpose of determining a student's eligibility for a Title IV program funds must first apply to the Secretary for approval of that

process. So, making it clear here that the state that wants to participate in this process must make application to the Secretary, to the Department for approval. And let's look at what the state's application for approval must include. So here that the institutions it would include the institutions located in the state included in the proposed process, which need not be all of the institutions located in the state, making clear that the state process did not have to be inclusive of all participating institutions in that state that the state can in this process include such institutions as it sees fit or that they want to be part of this. But in any case, they do have to inform the Department of which institutions will be participating. The requirements that participating institutions must meet to offer Eligible Career Pathways Programs through the state process. So, each state has a different process, and they have different qualifications the institutions must meet to participate. We need to be informed of what those are and a certification that as of the date of application, each proposed career pathways program intended for use through the state process constitutes and constitutes rather an eligible career pathway program that is described under 668.2, the definition we just went over. So, certifying to us that all of the

programs included in this do meet the definition of an Eligible Career Pathways Program and we also are requiring that it be disclosed to us what the criteria used for determining student eligibility participation in the state process is. Before approving the state process, the Secretary will verify that a sample of the proposed Eligible Career Pathways Programs comply with the definition of an Eligible Career Pathways Program under 668.2 of this part. So, we will be informed of all of the programs that are all the institutions and programs participating in this through state process. And prior to our approval, we are going to sample some of those programs to determine that they do indeed meet the definition found in 668.2. So, I'll stop there. We still have three minutes. I guess we can entertain a few questions or comments before we reach the 12:30 break point.

MS. JEFFRIES: Okay. Johnson?

MR. TYLER: Hi, great. Wasn't there a provision that said if the Secretary didn't act on something within six months it became uh it was by default approved? And does that undercut this monitoring thing where the Secretary is supposed to do a sample?

MR. MARTIN: The when the when the school makes when the process, yeah, When you're talking

about the six months, if the Secretary doesn't act on the application to either approve or deny, does that remain and does that remain in effect? And that is in there, and my colleague just gave it to me, so if you look at, it is in the section; we just haven't got to it yet. Looking, yeah, (d) (1), okay, so if you look over on (d) (1), that is still included, the Secretary's response to the state's request for approval of its state process within six months after the Secretary's receipt of that request, if the Secretary does not respond by the end of six months to state process is deemed to be approved. So that is consistent with what we are proposing here, because it doesn't require that the Secretary have actually gone through every step of approval, we simply have to respond to the request for approval within six months and that is in the statute. So, we have mirrored that here in our regulation and again in (d) in (d) (1), paragraph (d) (1).

MS. JEFFRIES: Ok, thank you Johnson and Greg. Kelli?

MS. PERRY: Sorry, I was just trying to find my mute button. Question about number two and the third one where it talks about the certification. That it proposed CP, sorry, ECPP, That's part of it. So, I guess my question is, does that certification require

that each of the pathway programs be listed? Because if not, how are you going to verify a sample in number three if they're not listed? Does the state have to list each of the programs?

MR. MARTIN: I am on mute. Okay, I'm not on mute. So, yeah, as you can see in the regulation, the institutions in the state have to be identified and I mean, we would know. I mean, so obviously if the institutions are identified, we know that those institutions have career pathways programs. I'm not, I don't think, and I'll ask my colleagues who are back monitoring and doing all the legwork here. Here we do say the institutions must be identified and we would know, obviously then, if the institution has been identified that does have a career pathways program, I think we would have an avenue to sample that. I don't know that we've been prescriptive here so when the state informs us of the institutions themselves, that will be participating, is it required at that point that the listing of institutions that each program be identified or with the Department, certainly we could get to that by simply querying the schools that we're going to sample of which programs are offering that are career pathways programs. But I'll take that back with me, does that need to be fleshed out a little bit more. I don't

think that we're at a deficit here because if the institutions identified to us then we know it does have career pathways programs the state certified that it meets so know then which programs those are. We can certainly determine that. But I'll ask for some more clarification here. And I'm being told from my colleagues that, yes, they are going to take that back and think about that because we haven't. That's a good question. I think that's sort of imputed here, but not made 100 percent clear. Thank you very much.

MS. PERRY: And then Cindy one other question, my alternate Emmanuel has a question that he would like to ask.

MS. JEFFRIES: Great, thank you.
Emmanuel?

MR. GUILLORY: Thank you so much. I guess this is now more of a comment because of my colleague Kelli, who kind of talked about that issue that she brought up. But I think when we are looking at this, the Department should consider, I'm assuming that this would be public available information for students and families to be able to look at and know what Eligible Career Pathway Programs are being offered in the state, what institutions are offering them. So, I'm assuming this is going to be public. I just didn't read

that it would be, but I'm assuming that it would. Also, I think the Department should think through across multiple states with varying processes and the components that make up the processes what that would actually be. So, what I mean is if in one state to have the Ability to Benefit going to the state process, you have to meet certain requirements in mathematics and science and education and whatever the case may be, but versus another state, those requirements are different or they vary. Does that put that student at a disadvantage, if they could, if they live in Texas, but they can't seem to go to the state process display in Texas, but in Louisiana, they could go through that process because the process is different. So not that I know I'm not advocating for a standardized process, necessarily across every single state in the country, but I just think it's something to think through when it comes to putting in this language of allowing a state, even though in statute, technically, I guess a state could already do this. But just kind of clarifying in the language that there is a six-credit hour coursework equivalent state could create. So, I just wanted to highlight that and see the Department's gone through that too as well.

MS. JEFFRIES: Ok, thank you. It is.

Greg, did you have a response or?

MR. MARTIN: No, no, we'll take that we'll take that back.

MS. JEFFRIES: Okay, great. It is 12:34, four minutes past Greg's lunchtime. So, with that, we will break for lunch for 30 minutes. We will come back here around 1:00. You are free to log off and sign back in, or you can mute yourself and go off camera. It is entirely up to you. With that, let's go off live broadcast and everyone have a great lunch.

1 **Appendix**
2 **Department of Education, Office of Postsecondary Education**
3 **Zoom Chat Transcript**
4 **Institutional and Programmatic Eligibility Committee**
5 **Session 1, Day 1, Morning, January 18, 2021**
6

7 From Brady Facilitator FMCS to Everyone:

8 Morning all- I can handle any tech issues that arise
9 this morning. Please feel free to DM me with issues or
10 email me at broberts@fmcs.gov.

11 From Beverly (primary/MSIs) to Everyone:

12 I have informed Commissioner Jeffries. I will leave
13 the table at 11:25 EST this morning for a prior scheduled
14 meeting. Ashley Schofield, the alternate, will join the
15 table. I will return at 1:00 pm.

16 From Brady Facilitator FMCS to Everyone:

17 [https://www2.ed.gov/policy/highered/reg/hearulemaking/
18 2021/index.html](https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/index.html)

19 From Jamie Studley (P) Accrediting Agencies to Everyone:

20 I don't see her CV in our mail or chat. Is that
21 available?

22 From Anne Kress (P) Comm Colleges to Everyone:

23 + Jamie, I also do not see her CV.

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

26 [https://www.linkedin.com/in/michael-l-halmon-mba-
27 0311a4b8/](https://www.linkedin.com/in/michael-l-halmon-mba-0311a4b8/)

28 From Jessica Ranucci (A) Legal Aid to Everyone:

1 Can the alternates join the breakout rooms?

2 From Mike Lanouette (A) Proprietary Institutions to
3 Everyone:

4 Brad indicated earlier that I will be joining as the
5 primary for the ATB discussion.

6 From Rozmyn FMCS Facilitator to Everyone:

7 Amanda Martinez has joined the session.

8 From Cindy FMCS Facilitator to Everyone:

9 Ms. Amanda Martinez has joined the meeting for the
10 Civil Rights constituency.

11 From Mike Lanouette (A) Proprietary Institutions to
12 Everyone:

13 Could Greg share with us how the 240k is divided up by
14 sector when he is done with his remarks? TY

15 From Barmak Nassirian (Alt) Vets & Military to Everyone:

16 Regarding program integrity implications of ATB, a
17 reminder that ATB students represented 24% of enrollments
18 at Corinthian Colleges in 2009

19 From David Socolow (A) State Agencies to Everyone:

20 It's essential that this ECPP definition in 668.2(b)
21 be verbatim from the HEA statute, because the identical
22 definition of Career Pathway is contained in 3 separate
23 federal laws (HEA, WIOA, and Perkins Career & Tech Ed) --
24 and that shared definition drives the true and robust
25 partnerships with adult ed systems that are the hallmarks
26 of real career pathways.

27 From Emmanuel Guillory (A)-PNPs to Everyone:

28 Wanted to share that, as Greg has mentioned, the ECPP
29 definition is taken from statute, but it is not literally
30 verbatim. The only difference is in Section 484(d)(2)(B) of

1 the HEA as the department's regs exclude "(referred to
2 individually in this Act as an "apprenticeship," except in
3 section 171)" This exclusion does not have any sort of
4 bearing on the meaning of the overall program but just
5 wanted to be specific about it.

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

8 Do you recommend we stay on zoom with video off and
9 mute on during the lunch break or do you recommend logging
10 off and back on at 1:00?

11 From Brady Facilitator FMCS to Everyone:

12 Completely up to the committee! I will readmit folks
13 when they log back in, but you are always welcome to stay
14 on