

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
PRISON EDUCATION PROGRAMS SUBCOMMITTEE
SESSION 1, DAY 2, AFTERNOON
October 19, 2021

On the 19th day of October, 2021, the following meeting was held virtually, from 1:00 p.m. to 3:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. WASHINGTON: -program

subcommittee, we are going to well, we left off discussing how the subcommittee is going to define best interest. And I wanted to table that conversation for right now, because the Department is going to work on some visuals that we can provide the subcommittee, it was a request made by several subcommittee members. And so we're going to pick that back up tomorrow. And I think we should move on into different aspects of the definition of Prison Education Program, where we, where we have amendatory language that you all received, and that we can go through and we can get to your comments on that. So before I leave that, did anybody did anybody wants to say any last things about the best interest piece before I before we before we move on? I know that was a slight change. Okay. Alright, Vanessa, if you could project paragraph, well, paragraph five of the prison education program, definite of the of the definition of a prison education program, so that it starts with "offers transferability of credits to at least one institution of higher education." It's almost right under the school. If you scroll up, oh, there go. Yep. Yeah, it's actually perfect. Thank you, Vanessa. So this paragraph generally mirrors the statutes. And there's just been one technical

change. And so it's saying that the prison education program has to offer a transfer transferability of credits to at least one institution of higher education, as defined in sections 600.4 and 600.6 of the Code of Federal Regulations in the state in which the correctional facility facility is located or in the case of a Federal Correctional Facility in the state in which most of the individuals confined or incarcerated in such facility will reside upon release. So that is, essentially directly mirrored in from a statute and regulation. I will pause there for comments.

MS. MCARDLE: I see no hands.

MR. WASHINGTON: Okay. So the next paragraph is mirror statute as well, the majority of the next step number six mirrors statute however, so there, these are, these are actions that the Department of Education can take against institutions. So if we're looking at is offered by an institution that has not been subject during the last five years preceding the date of the termination, to any suspension, emergency action, or termination of programs under this title, so those are all actions the Department of Education would take against an institution and they're already defined in regulation. So the emergency action, suspension and termination are defined that mirrors the statutory

language. I will pause there for comment.

MS. MCARDLE: Once again, I see no hands.

MR. WASHINGTON: Alright, so romanette two, there is a slight change in the statute. This paragraph was based on statutory language but has been modified to include the words "final accrediting action." The final accrediting action means a final determination by an accrediting agency regarding the accreditation or pre-accreditation status of an institution or program. A final accrediting action is a decision made by the agency at the conclusion of any appeals process available to the institution or program under the agency's due process policies and procedures. A final action that is an adverse action is the denial, withdrawal, suspension, revocation or termination of accreditation or pre-accreditation, or any comparable accrediting action an agency may take against an institution or program.

MS. MCARDLE: Belinda.

MS. WHEELER: Yes, thank you for that. And thank you also for that clarity of the "final" being put in there. One of the things that I've been doing with Vera and talking with constituents is talking with accreditation agencies as we're getting ready for the Pell For All reinstatement. And a number of different

accreditation agencies that I spoke with, had wanted some clarity about what that adverse action was, because not all accreditation agencies are the same with their language. So Aaron, I did hear you just now, you know, explicitly define that final accreditation action. So my question to you is, will there be some kind of have like a footnote or reference there so that all the different accreditation agencies that will be, you know, in this space can see exactly what that is because the nine different accreditation agencies that are currently working with the 130 plus different Second Chance Pell sites, they themselves had noted that there that they have differing opinions on the adverse action. So just wanted to clarify, will there be some kind of footnote or endnote, or some reference there that will provide that clarity that the accreditation agencies are seeking?

MS. MCARDLE: Aaron, did you want to respond or should we go to Terrell?

MR. WASHINGTON: Sure, we also Belinda we also have preamble language that we can further describe changes that every regulation has preamble language we can further describe the the intent or what we mean and provide further clarification there.

MR. BLOUNT: I just wanted to share that I think Dr. McTier wants to chime in and is having

trouble accessing his mic.

MS. MCARDLE: Amy is that something-

MS. WILSON: I'm looking right now.

MS. MCARDLE: Okay. In the meantime, let's go to Elizabeth.

MS. WILSON: Okay.

MS. DAGGETT: Thank you, Sophia. I'm happy to be here today. I wanted to respond to Belinda's comments, and that both the final accrediting action and adverse action are definitions that are included in 34 CFR 602. So those are applicable to all accrediting agencies already. So I'm not sure where the confusion might lie with the agencies that you've been in contact with. But those are already regulatory definitions that Aaron was reading.

MR. WASHINGTON: Thank you. Thank you. I am happy that you were able to join us today. Did you want to just give us a brief introduction? I introduced you yesterday, but you weren't you weren't on. So do you want to give a brief introduction?

MS. DAGGETT: I'm sure that whatever you said is fine. I'm an analyst with the accreditation group. My name is Elizabeth Daggett. And I've been with the group for over 10 years. And I'm happy to provide any resources regarding accrediting agency requirements and

regulations that are outside of the area, which you're looking at right now.

MS. MCARDLE: Belinda.

MS. WHEELER: Thank you for that. I just wanted to speak back to, to that. We were just looking when I was talking with accreditation agencies, just the FAFSA simplification act from that language in in December. And that that specificity that you have provided that we can direct them back to that that's I think that will actually allay any kind of concerns, because when we're looking at the FAFSA simplification act specifically in isolation with prison education programs, we didn't see that reference. So I think you've addressed that. Thank you very much.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Belinda. So, Belinda, are you suggesting to cross reference back to the definition? So a final accreditation action as defined and 600., 602.3, is that, that's essentially-

MS. WHEELER: If that is possible, like again, just kind of like that same thing that we did with what was that one that we did earlier today?

MR. WASHINGTON: Location.

MS. WHEELER: Yeah, additional location, I think any time where things can be crystal

clear, especially given the fact that we have different stakeholders in this space now for example corrections, and that we're also having conversations with accreditation agencies of educational institutions, but also accreditation agencies of correctional institutions. I would certainly appreciate any extra kind of you know, looping everyone back so that you know, when we do talk about accrediting action, particularly as you know conversations are continuing with corrections and corrections on accreditation, I think that specificity would certainly not hurt anyone.

MR. WASHINGTON: Okay, we can we can definitely take that back. Thank you so much.

MS. MCARDLE: I don't see any hands but I don't know if we were able to solve the problem for Stan.

MR. WASHINGTON: Okay, and then Belinda?

MS. WHEELER: Yes, sorry. I was just looking back to that he just read reached out to me and said that he is currently got no access. So I'm not sure if there's some other things behind the scenes that can happen with that.

MS. MCARDLE: Thank you.

MS. WILSON: Is this for Stanley or

Dr. McTier?

MS. WHEELER: Sorry, McTier, Dr.

McTier.

MS. MCARDLE: Sorry, McTier, yes.

MS. WILSON: Okay. He should have it now. If you log subcommittee members, if you log off and you log back in, your access doesn't come automatically. So that's one thing to be aware of. But he should have it now.

MS. MCARDLE: Dr. McTier?

DR. MCTIER: I'm good, thank you.

MS. MCARDLE: Okay. Alright. No other hands right now then.

MR. WASHINGTON: Okay, so let's move on to the next paragraph romanette three, this language is also mirrors the statute. So I'll I know we do have representatives from SHEEO organizations. I don't know if we if there are any, if there. If the subcommittee has any comments on this, it does mirror the statue. But perhaps the committee members will want to weigh in if there's more clarification needs to be provided.

MS. MCARDLE: I see no hands.

MR. WASHINGTON: Okay. So the next, the next part of the statute moving on to paragraph number seven. Oh, sorry, the regulation. We say that it's

offered by an institution that is not subject to a current initiated adverse action. If an agency initiates an adverse action, institution cannot begin its first or subsequent prison education program unless and until the initiated adverse action has been rescinded. And so if it if an accrediting agency initiates an adverse action against the school or program, the school can't begin prison education program until that initiated adverse action is rescinded. So for example, the school appeals and the school appeals and through the agency's due process procedures, the initiated adverse action has been rescinded. So that's what we're saying here that if there's an initiated adverse action against a given institution that the institution would not be able to begin any prison education programs. I'll pause for comment.

MS. MCARDLE: I see no hands. Oh, wait, there's one. Kim, please.

MS. CARY: Thank you. It's not related really to the accreditation. But I do have a question for Department of ED. I know there's a limitations for schools who are in a program review and have not finalized that program review. Would they be allowed to initiate the prison education program during their open review? Or they have to wait for it to end?

MR. WASHINGTON: It's a great question, Kim. I can take that back and talk with the, I'll talk with my colleagues about whether we should include that.

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: Okay. Moving on into the romanette two, if so, this we're saying here that if the institute if the institution currently offers one or more prison education programs and is subject to an initiated adverse action, the institution must submit a teach out plan as described under 34 CFR 600.2 to the institution's accrediting agency. And so here what we mean by that is, if any, if an accrediting agency initiates an adverse action against a school or program, and the school already offers one or more eligible prison education programs, then the school must submit a teach out plan. A teach out plan is a written plan developed by an institution that provides for the equitable treatment of students if an institution or an institutional location that provides 100% of at least one program ceases to operate our plans to cease operations before all enrolled students have completed the program of study. A teach out plan is already required under 602 24 small c two romanette three for an initiated adverse action. With this provision, we seek to ensure that there

is a plan but the Department still seeks input as any special considerations or clarifications that might be necessary for teach out plans in prison education programs.

MS. MCARDLE: Belinda.

MS. WHEELER: I just wanted to go on the record to say that this is so vital. And I'm so grateful that ED has actually put the teach out plan, like specifically kind of relisted here because they're, you know, right now there are potential kind of loopholes in this space. And I think that this when we look at quality for students, I think that this is really, really valuable to kind of make sure that the students' best interests are indeed being met. So I just wanted to go on the record as saying I appreciate ED adding this, it's so important.

MS. MCARDLE: And Aaron.

MR. WASHINGTON: Belinda, I wonder, do you have any input on any special considerations or clarification that we might need to make that might be necessary for teach out plans and prison education programs?

MS. WHEELER: Thanks for that. I don't believe so. I think that, you know, again, with the work that we've been doing, and talking with accreditation

agencies and looking specifically at their teach out plans, I know as we are moving, you know, we've moved from regional accreditation agencies now to everyone being national, and we're going to go from nine accreditation agencies now to you know, potentially, you know, hundreds of whether it's program or otherwise, there could be some slippages there as we move forward, but I don't think that we could kind of, being proactive, I don't think that we can actually envision anything now when it comes to language. I feel pretty confident. I'm worried to say that, but I feel pretty confident that you know, the existing policies that the accreditation agencies that I've seen right now on the Second Chance Pell experimental site space have really good policies for teach out. So fingers crossed.

MS. MCARDLE: Terrell.

MR. BLOUNT: Yeah, Aaron, can you reiterate, what the teach out plan is and also its impact on the prison education programs?

MR. WASHINGTON: Yeah, so the teach out plan is defined in regulation. And I'll just read it again. So let's see, a tech out plan is a written plan developed by an institution that provides for the equitable treatment of students, if an institution or an institutional location that provides 100% of at least one

program, for example, a prison education program, ceases to operate or plans to cease operations before all enrolled students have completed their program of study. And so essentially, we're saying that if there's an initiated adverse action, so if the accrediting agency seeks to initiate suspension or revocation of an institution's accreditation, then they would be required to create a teach out, a teach out plan, if they already have prison education programs at that institution. What that prison education plan looks like I would call on my colleague Beth to maybe give an example of if she has any examples of what are some components of a teach out plan that she may have seen.

MS. DAGGETT: Happy to Aaron. So a teach out plan usually is something that an organization, institutions put together to determine really what programs they offer. If they're going to stop offering those programs or cease a location, then their job is to, first of all have a list of their currently enrolled students when they anticipate graduation or completion for those students. And then they would look at what either institutions around them or if it's, you know, via distance education, and they might offer it that way. But they do have to offer it in try to offer it in the manner that in which it was offered previously. So I'm not

exactly sure. I think that there would be obviously some more give and take with a prison education program that was closing that if there would then be another institution that wanted to come in to provide the program that they could do like they could teach that program out for them or something, you know, if they have a similar program nearby. That might be something that might be part of the teach out plan element, but it would be something that would be reviewed by the accrediting agency and they would be looking exactly what it is exactly what Aaron has said, which is the equitable treatment of the students, so.

MR. BLOUNT: Got it so it sounds like this is something that could have come in handy pre 1994 ban when the well I guess, on the heels of the 1994 ban when, according to formerly incarcerated students at that time that were using Pell Grants, they said essentially, like once the ban was put in place, the courses stopped like shortly after that, and there was no real plan to continue, you know, courses or even fill out the rest of the semester, according to some people. So if a teach out plan was in place then, it would look like hey, this is I don't know, March where we're finding out that we have to end this program. But as part of our plan, you know, we may continue throughout December or something like that,

or whatever next steps that entails. Am I right?

MS. DAGGETT: Yeah, the whole I mean, the whole point of a teach out plan is to protect the students.

MR. BLOUNT: Got it.

MS. MCARDLE: Okay, no, no further hands at this point.

MR. WASHINGTON: Thank you Sophia. Thank you Beth as well. So we're gonna move on to paragraph eight. So, paragraph eight is also mirrors the statute, there were no changes made to this paragraph. So I won't read the paragraph to you because there were no changes made. But I wanted, I wanted to say that the paragraph is linked to a disclosure that we're going to jump to. But before we jump to that disclosure, we would like input on who should make the determination of the state in which most individual most confined or incarcerated individuals will reside upon release. So just to back up a little bit, maybe I should read it so so we can all get understanding where we are. So satisfies any applicable educational requirements for professional licensure or certification, including licensure or certification examinations needed to practice or find employment in the sectors or occupations for which the program prepares the individual in the

state in which the correctional facility is located, or in the case of a Federal Correctional Facility in the state in which most of the individuals confined or incarcerated in such facility will reside upon release. And so my question was really centered on that. Who should make the determination of the state in which most individuals will reside upon release? How should that determination be made? And when I say who should it be the Bureau of Prisons, Department of Corrections, the institutions, the postsecondary institutions offering the program? So I'll pause there, open it up for discussion.

MS. MCARDLE: Dr. McNear?

DR. MCTIER: Dr. McTier.

MS. MCARDLE: Sorry, Dr. McTier, sorry.

DR. MCTIER: So just just for clarity, so you're asking, can you repeat the question one more time?

MR. WASHINGTON: Yeah. So the statute, I think the statute says Vanessa, can you highlight where it says "in the case" is so start at "in the case of a Federal Correctional Facility" in the, yeah, so that's so I'm talking about right there. So the, if the program is designed to lead to licensure, or certification, the statute states that if the program is offered at a

Federal Correctional Facility, that the program has to satisfy the educational requirements in the state that most individuals or most individuals are likely to reside upon release. So let's say for example, I was going to institution partnered with a Federal Correctional Facility and offered English. I think we talked about English with no English wouldn't be licensed for a certification. Let's say plumbing, right, let's say let's say plumbing. Right, and it led to a license or license or certification in plumbing. They the institution would have to make sure that the program fulfilled the educational requirements of the state that the institution or the, the the correctional facility believe that most, most students will reside upon release. If that institution, let's say the correction the correctional facility is located in New York State and it's determined that most students will reside within New York State upon release, then the program would have to ensure that the plumbing program would have to meet the educational requirements professional license or certification in New York State. If it's a federal facility in New York, and they determine that most students will reside in New Jersey upon release, you know, then the federal facility would have to ensure that program met the educational requirements for licensure

certification in New Jersey, and so what we're trying to do here is the question from the Department is who should will make the determination of most likely to reside upon release for those programs offered in a Federal Correctional Facility. And if regulations are necessary to further clarify that, could we clarify that in preamble language or potentially other subregulatory guidance like a Dear Colleague letter or electronic announcement?

DR. MCTIER: Got it. I don't think it should be the federal facility. I think it should be the educational institution that's offering the degrees because again, we're the experts in what the educational requirements are. And then we just have to keep in mind that just because a federal facility, every state doesn't have a federal facility. And then people in federal facilities, just because they're in that particular state, they could do another interstate compact to another, another state, that's when their cases are transferred from one state to another. So there's, it shouldn't be the federal facility. I can tell you that much.

MS. WILSON: Belinda.

MS. WHEELER: Yes, I agree 100%, I do believe that it should be the educational institution, as

someone who used to direct the program in South Carolina, you know, it's part of the advising, you know, if an educational institution, you know, wants to provide X program, plumbing, you know, in South Carolina, at a federal facility, and as they're, as they're talking with potential students, asking them, you know, where are you planning on, you know, it's all about trying to get to know your students, where are you once you complete this sentence, where are you planning on locating? And then if the student says, you know, well, right now I'm thinking South Carolina, then the education, the educational institution can make sure that there's compliance. If the student says they're going to go to California, then again, it's up to that, at that advising mechanism. I think that, you know, as a former educator, there are systems in place to make sure of that. And also, I think that there's, not only is there a student responsibility to students, but there's also that fiscal responsibility if if an educational institution is going to receive those Pell funds from the government, with the agreement that they're going to offer this educational program, then they need to make sure that the resources are there and not to overburden I think this is an existing policy. So even for small programs, small schools, I think this is equitable, because again, it's just a simple part of

that advising before students are registered in classes to kind of let them know so just my two cents.

MS. MCARDLE: Terrell.

MR. BLOUNT: My comments were already shared.

MS. MCARDLE: Kim.

MS. CARY: I agree with Belinda, the (inaudible) has to happen up front and it also has to happen throughout their, their program. And especially at the end, those institutions, especially those that are along border states are going to know very quickly, where the students could potentially, you know, Missouri and Kansas are just right there. And there's a you know, Kansas City is right there on both. So we have a lot of students who go into Kansas, some are in Missouri, so those licensures could be a lot different. Those border state institutions are going to really know what those requirements are, and will be beneficial to students as they finish up.

MS. MCARDLE: And we have Dr. McTier.

DR. MCTIER: I think it's also important just to know that most higher education and prison programs are not offering licensure programs on the inside, because of the extra requirements that are needed, such as the internships, the hours of I'm

blinking out, but there's hours that they will have to complete. And they wouldn't necessarily be able to do that on the inside. So I just want us to consider that point as well. Most of them are going to be liberal arts programs or programs that are not that require licensure, because we wouldn't be able to fulfill that on the inside anyway.

MS. MCARDLE: No further hands.

MR. WASHINGTON: Thank you. Yeah. And just to respond to Dr. McTier, I think I think that that any applicable like kind of gets us there, I hope. Let me know if you think that there are more languages necessary. But I think that any applicable congress was kind of noting that not every program has to lead to licensure certification, it could be you know, more liberal arts type programs.

MS. MCARDLE: We had Stan raise a hand.

DR. ANDRISSE: Yeah, sorry. Come in kind of late on that point. But I think to this, we also need to I know, a lot of my fellow committee members expressed what's going on now, I think, you know, we should be thinking, kind of be forward thinking in that currently there are not very, there aren't really, you know, put, you know, higher education in prison programs,

offering nursing, for instance. But you know, why, what's stopping us from thinking right now about those higher education and prison programs, offering that in the future, to where we move to a space where we, you know, can put a student, an incarcerated student on work release, so they can get out and go fulfill the requirements of the clinical side of a nursing certificate? For instance, if you're doing a CNA licensing. You know, so I mean, how do we think about that, and be forward thinking to think about expanding what's offered within higher education in prison right now, to include such programs instead of right language that would exclude them from even being thought about?

MS. MCARDLE: I think Dr. McTier was first and then we have Belinda.

DR. MCTIER: I agree with you, Stan. I think that for me, I'm just thinking about the intricacies of the clinical requirements and the other requirements that students would have to engage in. I don't know. And I am thinking about right now, so and I will be honest about that. I don't know if our institutions would be willing to offer those opportunities. So but I do recognize your point. And I do, I do agree, I think we do need to be forward thinking when writing this. But the other side of me is the other

logistical components. So I'm a little (inaudible).

DR. ANDRISSE: Yeah, I mean, you know, when I think of this is when I think of this process, I think of it sticking, like in my head accurate or not, you know, I think of it potentially sticking for 25 years, like the previous process did. So you know, are we thinking 25 years ahead, where, you know, we offer language that makes it possible for prisons, and departments of correction to, you know, move in that direction. I mean, think about what COVID did to prisons. You know, many of them didn't have video capabilities. Now, almost every prison has opened up that opportunity to, you know, do video conferencing.

MS. MCARDLE: Belinda.

MS. WHEELER: Yes, I think that this is actually one of those, as someone who used to wear the educator hat, this is actually one of the areas that I'm actually a little bit more potentially excited about with the collaboration between education and correctional facilities, because I do think that we are, you know, we have to be proactive. And I think, you know, if an educational if there's like, say, for example, five different educational institutions that want to come into a correctional facility, and depending on what programs they have, just say, for example, all of them just to use

nursing, as you had mentioned, Stan. You know, if all of them are offering nursing, then there's an opportunity for engagement to take place between corrections and education, to say, look, okay, well, if you're planning on offering this degree, we realize that for licensure, you know, there are certain things that are going to have to take place. Has your educational institution thought about these things, so that we can provide more access? So I actually think this is a this is one of those opportunities, where I think it's exciting for both education, you know, for education with partnership, this partnership that's been forced with statutory language, but could be a real benefit is that the we're seeing that educational institutions will be forward thinking about, you know, look, this is a licensure that we've never actually noted. I think it comes back to that the advising kind of aspect too and also just these general collaborations between corrections, education and the community with wraparound services. But you know, if, if an institution is thinking of a program, as they're looking at the advising, potentially, if students are, you know, voting with their feet, so to speak, you know, that look, you know, this institution is only offering this but this other institution is offering this and they're going to provide, you know, this additional

support. I think that this unless you know the way that I'm reading, and I think that the current language that ED has provided is providing that opportunity for educational institutions to step up their game to provide those additional, you know, opportunities for students, because you're right. You know, there's a lot of programs that need to be expanded upon. You know, we've got different parts of the country right now, both in Second Chance Pell experimental sites, and not that are providing licensure, yes, they're small in number right now. But I'm sure, as you know, Pell For All becomes available, that we're going to see significant movements in this space. So I'm hoping this is a good moment for us being proactive moving forward. Thank you.

MS. MCARDLE: Next, we have Kim, and then Stan.

MS. CARY: Thank you, I would again go back to the partnerships that we're going to have to have within our communities. I know one of the licensure pieces that we looked at, when we started our Second Chance Pell program was a welding program. But again, it comes down to the space allowed within the correctional facility, whether that's available or not. And it comes down to the resources of working with either using institutional resources to provide that equipment or

working with industry partners, to have that donated. So just as we we talked about it, just the partnerships are so very important. And if you can't fit the space within the correctional facility is really what it comes down to is is there going to be availability to put equipment and things like that, so that if you're not allowed to move into a work release type situation, then they can receive everything there that they need. Thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: I think I lost part of my thought that I was thinking, but I would just say that I mean, I, I feel I would like to hear, you know how the Department of Corrections feels about, you know, some of these barriers and thoughts on how they would attack or not attack, but how they would approach licensure type of issue. Like would they be willing and amendable to what Belinda as you were mentioning, it's exciting to think about, that the educational institutions will start expanding their programming. But that needs to be met with excitement from DOC with the willingness to, you know, create access to different things. Because I know, you know, the example that I provided of, you know, providing work release to someone to go to a program, would need approval from the DOC. So that's just a thought that I feel like, you know, that perspective

needs to be present.

MS. MCARDLE: Marisa.

MS. BRITTON-BOSTWICK: So I think the main thing is that, I don't think anyone should be pigeon holed. And if we I think we need to be realistic and not, you know, dress people up with no place to go. But I also think that they should be able to do a lot of different things. You know, women don't have to go into the hospitality industry. And felons don't have to go and be a dishwasher. And if we keep doing that, we're never going to see huge growth. And so I think corrections needs to be open to it. But then you really have to have that realistic side. So it's this kind of, I think it's really something to look into. And I think the other thing is, that's huge is having partnerships with Department of Labor that tells you the employment gaps, so that you can start funneling offenders that are going back into the community into jobs that are sustainable, that they can have sustainable income and raise a family and things like that. But I think we need to be realistic, but we also, I mean, need to look at the licensure and see what what is realistic, but not push people into anymore you know, hospitality jobs and things like that. So I'm so glad you brought this up. And I'm very open to it. And I know a lot of correctional

facilities are open to it. But it's hard to it's hard to say to a sex offender that you can get a CNA licensure or you know, go work in a hospital when they can't get it. So that's where I'm at and I'm open to discussion on it, but it's really a hard balance.

MS. MCARDLE: Aaron.

MR. WASHINGTON: I'll let Stanley go before me. He may have wanted to respond.

DR. ANDRISSE: Yeah, I just want to say I appreciate that and, you know, agreement of I think we're on agreement in terms of the idea of the approach. I just also want to, you know, put it out there. And I know, this was something that I said at the full committee. And it's important, and it's been good within the language, but I also just encourage our fellow committee members, you know, to stay away from words such as felon, convict, criminal, you know, and refer to the individuals as individuals, people, students, is all that I wanted to add.

MS. MCARDLE: Aaron.

MR. WASHINGTON: So, essentially what I've heard in regard, Stan, did you want to, did you have something else to add, Stan? Okay. So what I've heard, you know, based on the Department's directed question, is that the actual postsecondary institution, well, there's

general agreement from everybody, but there's no agreement that the actual post postsecondary institution offering the program should be the should be the entity to define or determine where most students will reside upon release. Okay. Thank you for that. So we can I think, with that, we can move on into paragraph nine. So this is this is this is also paragraph nine, not the romanettes, but the actual paragraph was also directly mirrors the statute, it was copy and pasted from the statute in this paragraph. Well, actually, you know what? I think before we do that, let's move to disclosure because from we have a disclosure that we're going to propose for paragraph eight about the education requirements. So before we move into the prohibition on licensure employment, I wanted to move to the actual disclosure that links in paragraph number eight. So Vanessa, could you scroll down to 34 CFR 668.43? Alright, so here in in in relation to that, the statutory text and the regulatory text that we're proposing, we're proposing a disclosure for students. So upon requests, they will provide any information available regarding whether completion of the prison education program meets the educational requirements for professional licensure certification, including licensure and certification examinations needed to practice or find employment in the

sectors or occupations for which the program prepares the individual. And so we have A, we separated it out because that's kind of how the statute flows, we have A in the state in which the correctional facility is located. And and so that's for the state Correctional Facility, a local jail or reformatory or work farm. And then we have B, if it's a federal facility in the state in which most individuals in which the individual is confined or incarcerated, in which the individual is confined or incarcerated in such facility plans to reside, plans to reside upon release. And you'll note that, one second. So here we said, the, for the federal piece, we said the instead of where most students are likely to reside upon release, therefore, upon request, the school would need to provide the student with information about the state in which the individual student will reside, as opposed to the state that most individuals will reside. So for the statutory language, the Committee has proposed that the postsecondary institution will like analyze and determine where most individuals will reside will reside upon release and, and educational requirements will reflect that state, right? But here we're saying if, if the if the for Federal Correctional Facility if the student enrolls in a program, they can still enroll in the program. But let's say it's a correctional federal

facility in New York, and they determine that most of us will return to New Jersey, but the individual student says, hey, I want I'm going back to Maine, I want information about Maine, the the school, the postsecondary institution will be required to provide the student with educational information or the educational requirements about Maine. And I think this will help avoid schools having to know upfront about every single state law, but if the student actually says I want to know about that state, because that's why I want to enroll in this program and that's where I plan to return then they would have to the school would have to do some further research and provide them that information if it's located in a federal facility. So your thoughts on just the the just this disclosure.

MS. MCARDLE: Terrell.

MR. BLOUNT: Yeah, so while that sounds, it sounds sound, right. I think the issue may be oversight. So let's say this is in place, students are requesting that information. The colleges aren't delivering that information. Where does that like leave the put in either here or as you mentioned some other way whether it's Dear Colleague letter or it has to exist somewhere else where there's oversight to make sure that colleges are providing students with that information.

MR. WASHINGTON: If David Musser is on, I wonder would he mind responding to the oversight piece of for any regulation?

MS. MCARDLE: Dave.

MR. MUSSER: Sure, the Department enforces the requirements for the Title Four programs in a variety of different ways. Many of them, as I think you're pointing to, in your question, are designed to address institutional policies when we do non-federal audits which are required annually. Auditors look at a series of things that are prescribed in audit guides, things like how the how the school completes various reporting requirements, application requirements, how it how it reviews student FAFSA information, but there are some requirements that really can't be addressed in those kinds of compliance reviews, at least not comprehensively. So for example, another kind of enforcement is done under FERPA where the FERPA office acts on complaints that are that are made by individuals when they believe that their FERPA rights have been violated. And FSA maintains a website and mechanisms to accept complaints other than the website as well, that allow students to complain when their postsecondary institutions have failed to comply with federal requirements. And the department then does followup to

determine whether noncompliance does indeed appear to have occurred. And if we determine that there is a problem, we could initiate a program review, and a program review or an audit or those formal compliance oversight procedures can result in monetary liabilities, fines, and other kinds of significant actions taken by the Department. So this would likely be one of those kinds of areas where the Department would really only become aware of it if the individual complained. And in that case, we would have to ensure that there was adequate information provided to the individual about their ability to complain, and to whom and, and, and what process they needed to go through, et cetera.

MS. MCARDLE: Belinda.

MS. WHEELER: Just to take up the excellent point that Terrell had made here. Since we are speaking of licensure and given another excellent point that a colleague had made, I forget who made it, I apologize for not lifting your name, had had mentioned about the Department of Labor? Couldn't there just be because I, I'm concerned about an individual student having to advocate for themselves in while they are incarcerated. Because while there is definitely a process right now, it's time-consuming. It's very onerous on the student. very stressful. Given that licensure is

something that, unless I'm mistaken, is like a state by state. And if we are making partnerships, like continuing to expand this partnership for this community that we're that we're invested in serving in in more ways than we've done in the past, couldn't we just make sure that each educational institution, say for example, they want to do plumbing in in the state of New New York, that that educational institution, as they're having a conversation with Corrections, they make sure that the advisors or whomever, again, equity here, can then have access to the Department of Labor Statistics so that again, the student has that information, the adviser has that information, Corrections, it's just there. So that we don't actually have to put, I think that approach like that Terrell is mentioning here and a colleague had mentioned with Department of Labor would be much more proactive than having to be reactive to individual students not getting the information that they see. I think there's potentially more slippage that students could potentially be entered into programs if that advising partnership is not really good, and getting a licensure in a degree program that wouldn't work for them when they go back to their home state. So I just wonder if there's a way that we could re-see this as just being proactive with the data that we have, again, assuming that licensure is like

a state by state and not a county by county, that this would seem an easy lift that we might be able to leverage with Department of Labor, just my two cents.

MS. MCARDLE: I see no hands.

MR. WASHINGTON: Thank you, Sophia. I just wanted to get confirmation from the negotiators that the interest in having institutions and making the determinant, the determination about licensure, is specifically related to the question about where the majority of students will reside upon release from a federal facility. So who is making a determination about whether students are about where the students are, are going to reside upon release? Is that is that information that the school would have? Or is that information that the Bureau of Prisons, State Department, State Department of Corrections are more likely to have? I mean, I guess to expand on that, if you're, if we're looking at the totality of the individuals incarcerated in a federal facility, would a school have access to the state that most individuals are likely to reside upon release? Or are you just talking about or is the Committee saying just for the students that are that they potentially think are going to enroll in the program or are enrolled in the programs will reside upon release?

MS. MCARDLE: Terrell.

MR. BLOUNT: Well, there's a number of things that I'm thinking about with this right. So one, is that, in regards to your question, the Federal facility should be in communication with incarcerated people, if they have a proper prerelease planning component in place, they should know where folks are being paroled to or headed to, if that particular federal or state Department of Corrections does not prohibit the college staff, from interacting with students, in such a way where they can learn about, you know, where they're returning home to, I think that would be a great situation where both institutions, the educational piece, and the correctional facility are, you know, kind of keeping that information. I think secondly, in regard to the licensure, I think it is a better fit for State Department of Correction and colleges within the state to offer that licensure to make sure that folks that are leaving that state facility are also returning within that state, I think it's just really touchy, as Dr. McTier mentioned, with prison education programs and federal facilities where you have people from all over the country. And, I mean, my thoughts are that maybe the program should stop just short of like any state specific, licensing, if that's possible, if that is helpful to students and not, you know, using any Pell

dollars toward a program that won't result in you know, employability within the state they're going home to, but just my thought.

MS. MCARDLE: Kim.

MS. CARY: Thank you for that. Just to follow up on what you just said, I think it's part of the onboarding or should be part of the onboarding process for schools, as they partner with with the prison education programs. We're going to have to have conversations with students, we're gonna have to get their financial aid in place. And part of that conversation is finding out throughout their process, where they're going to land, or what their thoughts are on landing, and maybe that's several places, they're not sure yet. But you have to, you have to do that early, and throughout their program because things could change. They may be planning to go home to a state where their family resides and then by the time they are allowed to be released, their family is no longer there, so then they have to shift gears. So I think there's just part of the onboarding process that institutions should be glad to take on because it's just going to help the student in the end. It's going to help with the completion rates at the schools. It's just going to make it a more successful program if they follow through. To tie back to the

question of what if schools do not follow through with the student's request. I'm not sure how we could do that short of part of their application process. And just making sure that they upfront tell us the possibilities of where they would like to end, which states and then that allows us to say definitively off of what the student conversations with us, here's the ones we offered up and expressed to the student. And I don't know how we would, we would, should be monitoring that as we move through with the student. But at least we would have something in writing, explaining what their their hopes are, which state to land in and which ones we've provided. Thank you.

MS. MCARDLE: I see no further hands at this moment.

MR. WASHINGTON: Thank you for the thank you for those ideas, Kim. I think David wants to say something.

MS. MCARDLE: Yeah, we just got Dave.

MR. MUSSER: I promise I won't take too long. I want to follow up on what Kim proposed about an institution making this determination in consultation with the student. There is a similar set of provisions that comes to my mind. That is the Department uses to ask institutions to determine of where students are located

when they're when they're receiving instruction through distance education. And essentially, what happens in that process is that the institution has to develop policies and procedures for how they'll make this determination, which I guess in this case, would be asking the incarcerated student to identify the place that they intend to go. And then they they apply that and they apply it in and they can just make sure that it's it's clearly stated, and they ask every individual before they enroll them, so they have a specific time and place that they obtain this information. And then they'd have to document their procedures for obtaining the information so that they can so that the Department could review it after the fact. Is that I wanted to just pose that to the subcommittee, is that a process that you guys think would be would fulfill this? Or does it need to be something, something else to get at where the individuals are actually going to end up?

MS. MCARDLE: I see no hands.

MR. MUSSER: Okay, we'll, we'll take that back.

MR. WASHINGTON: Yeah, maybe maybe people take the time to think about it, David, and we can circle back, you know, this most likely reside language appears in several paragraphs. So we can probably circle

back on this maybe even before the end of the day, or maybe tomorrow morning.

MR. BLOUNT: We have the opportunity to say how it's how it's to be done? Is that what we're talking about? Because I think if, if that's the case, again, speaking to federal facilities, and licensure, those two things tied together, talking about state licensure, if BOP along with the college, can make sure that incarcerated students when they're closer to release can then be in a facility in the state that they're returning to, where they can then complete the rest of that program so that they know now okay, if I'm returning to Wyoming then and I'm currently in a facility in New York, I know that I don't know a year short of me returning home, I will then instead of just being bounced around the system, I'm now intentionally being put in a facility where in the state that I'm returning home to and now I can wrap up my last two semesters as opposed to, you know, just taking something general and having to wait till you return home to complete those studies, which will definitely be an uphill battle in most cases.

MS. MCARDLE: And I do not see any hands.

MR. WASHINGTON: Okay, let's move on to paragraph nine. So this is also coming directly from

the statute and the prison education program does not offer education that is designed to lead to licensure or employment for a specific job or occupation in the state. If such job or occupation typically involves prohibitions on the licensure or employment of formerly incarcerated individuals in the state in which the correctional facility is located, or in the case of a Federal Correctional Facility in the state in which most of the individuals confined or incarcerated in such facility will reside upon release. So this paragraph mirrors the statute. This paragraph is also linked to a proposed disclosure. But before we get to the proposed disclosure, we've added a couple of clarifying paragraphs to just expand on the statutory language. And so the Department seeks to ensure that postsecondary institutions do not offer programs to students if state or federal laws would ban, exempt or prohibit formerly incarcerated students from licensure or employment. We know that Pell is limited, you know, you can, it's limited to-- a student can't receive Pell forever. So if a student attends full time for the full academic year, six years in a row, then the student would no longer be eligible eligible for a Pell Grant after that. So we want to make sure that students don't exhaust their Pell Grant on a prison education program that would not benefit them. So our

current proposal does not account for situations where industry norms restrict employment for people who have been incarcerated, but where those restrictions are not codified in state or federal law. Including those restrictions may be difficult to operationalize, and may overtly restrict formerly incarcerated individuals from certain occupations. In addition, those norms are changing rapidly. However, offering a student a program of study where the reality may be that a student cannot find employment in that field is not a desirable, desirable result. So we do seek input on how the Committee views the balance of whether additional and whether additional language to address these situations is warranted. So you'll see in the romanettes we've broken it out in the case of a state in in the case of state and local correctional facilities, a postsecondary institution does not enroll any student in the prison education program. But any federal or state law in which the correctional facility is located, bans, bars, or prohibits licensure employment based on any criminal conviction or specific types of criminal conviction for that specific prison education program or, in the case of a Federal Correctional Facility, the postsecondary institution does not enroll any student in a prison education program at any federal or state law in which

more than half of the individuals confined or incarcerated in such facility will reside upon release bans bars or prohibits licensure or employment based on any criminal conviction or specific type of criminal conviction for that program.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: And just for clarity, you're saying this is already a statute? Am I correct?

MR. WASHINGTON: No. So the the the roman, the two romanettes are not in statute. That was more clarification that the Department wanted to provide and proposed to provide in regulation, but only number nine, only number nine is actual statutory language.

DR. MCTIER: Got it. Okay.

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: So this is I think that-

MS. MCARDLE: Wait a minute, Dr. McTier again.

DR. MCTIER: Yeah, again. Sorry. I mean, this is a little a little bit tricky. And it's unfortunate that, you know, this was made as a statute because it really ties our hands and what we can really do. And I'm thinking about, you know, the trend of where our students end up going, or the degrees that they

actually pursue. So we see the liberal arts, but we also see that a large number of our students pursue social work degrees at the Baccalaureate level. They pursue drug related programs or those counseling programs. And those are the programs where we really want the individuals with lived experience. And so it seems like our hands are really tied with this component. You know, with the statute in place.

MS. MCARDLE: Aaron.

MR. WASHINGTON: So Dr. McTier, I just wanted to clarify that we're not saying like, I don't the statutory language is not saying the school can't offer the program at all. It's saying that it couldn't enroll that specific student in the program, if there are any, if there are any prohibitions on licensure or employment, for that, for that for that student, and that would be in the state. If it's, if it's anything other than a Federal Correctional Facility in the state that the facility is located in or if it's in the federal facility, again, that language about where where where the state where most students will reside, and then all federal laws for all facilities. So it's not that they can't offer the program, it's just that they couldn't enroll this specific student in the program.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: What is that specific student? Because I feel like that's what you all are thinking of that particular type of student, I'm curious to know, what specific student is actually being excluded from because it's not clear.

MR. WASHINGTON: So the language says that so we say in the language, based on any criminal conviction or specific type of criminal conviction. So if, let's say, for example, if the student has a drug conviction, and, you know, in the state in which the correctional facility is located, the student would be prohibited from obtaining licensure or employment, to be a pharmaceutical tech, the school could still offer the program, they just could not enroll that specific student in the program, because the state law or potentially federal law would ban a student from attaining licensure or employment in that field.

DR. MCTIER: But but how does the student how does the student receive agency to challenge that system? I feel like if anything is going to change, we need to be able to give the students the ability to push the system. And it seems like we're stripping that ability for them to do that. I've seen where, you know, there were states that have laws that students couldn't practice law or receive their law license, but because of

the tenacity and the grit that they had, they were able to, you know, change the system. And so I feel like this is kind of restricting it in that in that manner. Yeah, just want to put that out there.

MS. MCARDLE: Aaron.

MR. WASHINGTON: So this is this is a statutory standard. And what we try to do is, you know, expand on it with some added language. Dr. McTier, if you have any language that you'd like to propose to clarify the language, maintaining, you know, maintaining understanding that we do have a statutory framework that we have, that we are required to follow. But if you have any reg language that you'd like to propose, that would be, that would be great.

MS. WILSON: Belinda.

MS. WHEELER: I really enjoy this conversation. And I appreciate both of you bringing these, these great perspectives to it. I wonder, Dr. McTier, if this is a potential place where just like earlier today, you'd put in that language about, you know, partnerships, or, you know, things of that nature for a rule that was completely different to this one, but I wonder if there may potentially be a way, because I see how ED is trying to make sure that you know, predatory, you know, institutions don't just come in and say, hey,

yeah, sure, exactly. You know, you've you've, you've got convictions for drug offenses, but let's sign you all up in pharmacy, and we will promise to do this. And the school saying, yes, we're gonna help you kind of buck the system for the situation, but not really knowing whether or not they're really going to follow through with those promises on the back end, as long as they're getting the money from the students on the front end. I wonder, with your great case in point, because you're right, the the law degree is a perfect example of what we've seen in New Jersey, New York and other and other places, too. I wonder, yeah, if there's a way that perhaps it could be written that, like on the front end, students aren't unnecessarily signed up for these classes to start and the Pell monies to start yet until such time as you know, I I'm trying to see whether or not there's a way that we can bring together the excellent point that Dr. McTier said with the, with the language with the Department of ED, because I, I do think there's an opportunity. I just, I'm very nervous about this whole, you know, predatory institution coming in, you know, giving these students and that's why we've seen a lot of the lawsuits that we have for students that have gotten degrees and the government has had to come in. But I do like the idea of, you know, educational institutions, working to advocate

for students for that particular licensure, for example, in a particular state and using their power to advocate for the students. Maybe in that particular case, students could be signed up for the gen ed courses only so that they're not restricted and that there could be an opportunity to pivot with advising, if you know, if things can't be changed beforehand. This is a really interesting one. So I'd be interested to see what other people have to say on this.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yeah, this is, yeah, I find it to be problematic for a couple of reasons that were mentioned. We, you know, maybe there's a way to word this differently. But when we think about just blatantly and blankly saying that it does not offer education designed to, you know, move towards some particular type of degree, that completely takes away the agency of the student, who may want to challenge that particular avenue of employment, like they may want, you know, there's, there's stories, like Sean Hopwood, who, you know, became a lawyer, after leaving from prison, their stories, like, you know, individually, we have individuals within our program that are in medical school, pursuing medical education, we have individuals in our program that are in nursing that have these bans, but they have worked to

basically, you know, bust through that glass ceiling. So I would just say that we should leave it, it should, I would encourage language that says that maybe that you will advise the student, but if the student chooses to move forward in that career, then you know, the student is making that decision, I don't think that we just take that decision away from the student. So yeah, I, this is a problematic clause for me, I think it needs to be we need to think of wording that is less exclusive, and moves more towards inclusivity.

MS. MCARDLE: Terrell.

MR. BLOUNT: Apparently Belinda, Stan, and Dr. McTier have it out for me, and I just taken everything that I've been wanting to say, while I'm waiting for my hand to be lowered, but exactly what I was going to say I don't think it's so much about telling the educational institution that they need to not enroll the student, I think it's more so about informing them on, you know, their particular situation. And again, that's where I think it was like letter G in whatever section that was about the proper and relevant student advising that needs to take place, and just letting the student know, like, what they'll be up against with their certain conviction, but then you also spill into, you know, what it is on the college's side, and on that particular

prison education program not wanting to enter conversations or, you know, receive information on what a particular student has been convicted on. So that kind of places a barrier, and in that mix sometimes because, you know, it is a value in practice to some great extent to not even, we're here specifically for educating, you know, learners, incarcerated learners. Don't want to know, don't care about what you did. So if that is the framework in which a program is working, then then you know, it is challenging, I guess, to figure out who to give that information to. So I just wanted to raise that point, which is a little different than what was said previously.

MS. MCARDLE: Aaron, do you want go, or if not, Kim.

MR. WASHINGTON: Whoever whoever had a hand up first, Sophia.

MS. MCARDLE: It was, I think you.

MR. WASHINGTON: Okay. As, Terrell, I mean, Terrell, you had made a point earlier about who would provide oversight, you know, to ensure that certain processes are actually happening. And I just wonder, like, would you have that same thought for this if we're saying, well, you know, the school is going to advise the student but then the student can still enroll in it

later. Wouldn't that same would there be that same concern that the who the guy who's providing the oversight and make sure that the school properly inform the student that, hey, this program doesn't you know, you'll be prohibited from getting licensure employment in this state, but, but we've told you about it? Like, how do you? How does how does somebody, how do you how do you provide oversight to make sure that the school is really providing that information to the student in a counseling session?

MR. BLOUNT: Yeah, I mean, just by listening to these conversations, I'm seeing myself the role that FICGN could play in providing, like ombudsman-like or -esque services for incarcerated students, so that they can report if they aren't receiving the type of academic advising that they, you know, is pertinent and relevant to their educational journeys, because relying on the same system that is oppressing individuals to provide that avenue to speak to folks which we, you know, the folks that work in like, you know, justice reform, know that an ombudsman that is provided through the prison, you could call and write letters all day, regarding, like, any type of abuse or mistreatment that you're receiving, and you won't hear anything back until a justice reform organization or community-led

organization catches wind, and then they make it a big situation, you know, that we can't rely on that type of oversight. So I think community organizations, and those that are, you know, subject matter experts in prison education programming, maybe those, and again, it goes back to that the conversation about partnerships, and this being a collective effort, and not just like two entities, meaning the education institution and DOC, so maybe it's, it's, you know, external partners that can, you know, hear from students on what they're experiencing, and try to, you know, eliminate those barriers.

MR. WASHINGTON: Sophia, I know, I see two, probably have two hands up. I just wanted to see if Vanessa can just throw up the statutory language really quickly, because I think that there's some concerns with the language. But I just I want to see if she can throw up the statutory language really quickly. And so the subcommittee can see that what the statute says, and maybe the subcommittee will be able to provide some language. I will give Vanessa a second and then maybe Sophia, we can throw it to the next people in line. And we give Vanessa a chance to pull that up. Thank you, Vanessa. So if you just, she has it up already, so if you scroll to scroll down a little bit, "does not offer" I

think it's right there. Alright. So paragraph seven, Vanessa, if you can, it says "does not offer education" if you just highlight that. So this, so just so the subcommittee can see that this was taken directly from from the statute, and we just tried to expand on it further. I'm done, Sophia, thank you.

MS. MCARDLE: Sure. Next we have Kim and then Dr. McTier.

MS. CARY: Thank you. Just to follow up on several things that individuals have said, and working with regulations.

MS. MCARDLE: (interposing) I'm not sure, did you hear me? Next we have Kim and then Dr.

MS. CARY: Can you hear me?

MR. WASHINGTON: Sophia may have frozen. So we have Kim next, Yep.

MS. CARY: Okay. Just a follow up on some things and having working with I work with regulations every day. So very familiar with the do's and don'ts. Several things. We've talked about job placement. So Terrell, I understand what you're saying as far as we don't, we don't need to know why someone is incarcerated. It may be a matter of a blanket statement that we provide to incarcerated students when they're choosing a program that we're offering, to say these are

the things that, based on statute, we're not allowed to, to provide. And so that's a challenge if we if we don't know what their their situation is, how do we take care of the statute that we're required to, to monitor but at the same time, we want to, to Stan's point we want to not pigeon hole them into not being allowed to take that program, because things could change. So if we allow that piece, then what does that do to our job placement rates? So it's kind of a never ending circle of, we might be opening up possibilities for a student one way but then hurting end results, one with job placement if they're not actually able to go into those fields that they received their education for. So just things to think about how we when we come back to how are we supposed to implement this from an institutional perspective? Thank you. Thank you.

MS. MCARDLE: We next have Dr. McTier followed by Stan.

DR. MCTIER: I yield.

DR. ANDRISSE: So I just wanted to raise the point of I know we've mentioned, so two points. One point I'll start with is, you know, I would ask the Department of ED, to refer back to language that they created, a term beyond the box, which was a guidance that was created under the Obama administration that was tart,

you know, was telling the education community to help remove barriers for people with criminal convictions. And it addressed this particular issue of licensure, and how we should be working and how ED is devoted and committed to working to reduce barriers. Yet, this here itself, is creating a barrier. So you know, in terms of language that, you know, came from your department, I understand that this administration, but nonetheless, from your department, stating that it should be working to reduce barriers for this population. So to my second point, so I dropped that to say, you know, ED says they're committed, but are you really committed? And then so the other point that I would say is, you know, we've talked about Dear Colleague letters and things of that nature. So if this is statute, the way I read it, I see the word "typical" in there. So it says "typically does not result in employment for these individuals." That is, to me not a definite. That is, to me a room, you know, that leaves room for a Dear Colleague letter to further explain beyond the statute that says that actually ED encourages, you know, to create language that says, we encourage you to, if it's on the fence, for instance, like, you know, encourage your student that this is this, you know, this job typically, may not, but that doesn't mean that you can't be the one to break that ceiling. And, you know, I

think the statute offers that room, and the department should stand on, you know, the values that it says, you know, it promotes.

MS. MCARDLE: Belinda.

MS. WHEELER: Yeah, thank you. Thanks for pointing that out, Stanley. I, so let me clarify with you, Aaron, with those two Roman numerals one and two there. Would they negate the "typically," or, because unless I'm mistaken, this is the English major and me coming through here, but I do not see "typically," or a synonym of "typically" in those other, you know, one and two, like, I'm assuming that one and two won't negate nine, because that's already the statute. But that is, that is a good point that Stanley mentions there. I think this could be one, you know, just for the record, like pressure check, this is one like this for me (sideway thumb), because there is a lot of, there is a lot of issues here. I would hope that as Pell For All becomes available, that partners that really want to move the needle forward, will be trying, you know, with community organizations, employers to break down a lot of these bars so that eventually hopefully, something like nine will just end up getting taken out eventually, because there won't be those kind of bans or it'll stay there but

nothing will be excluded. Very interesting. But yeah, this is one of those for me (sideway thumb).

MS. MCARDLE: Aaron.

MR. WASHINGTON: Yeah. Thank you for that Kim, and Stan. I think that, you know, what we were trying to do here was ensure that the student wasn't, you know, exhausting their limited Pell Grant funds on a program that was meant to lead them to licensure or employment. And that's kind of where we started from, but hearing from Stan and hearing from Belinda, and I think that if you all had any language that you would like to propose, I think that we can review that and take that back, I hear a I heard a concept from Terrell that, you know, there could be some sort of advising to the student, that the program may, you know, that you may be, you know, barred or prohibited from licensure or employment in the state if you continue with the program. But if the student is is advised of that, then they should be able to enroll in the program. Anyway, but I think we'll have to take that back and we will, we'll discuss it further. But again, we have a general concept from several subcommittee members. And and I think we can I think we have enough, I think we have enough information to either propose some changes to the amendatory language, or, or if the subcommittee actually

wants to propose the actual language, we can take that back and review it with our colleagues to see if it fits within the confines of the statute.

MS. MCARDLE: Stan.

DR. ANDRISSE: So thank you, Aaron. I, I think that I'm okay with what you suggested. I just wanted to add that maybe, you know, we can certainly think up language to, you know, to address this, but what if, what if we think about somehow incorporating maybe not here, but somewhere, I mean, I know, we incorporated the idea of what Dr. McTier brought up earlier this morning, about having stakeholders involved in the process of the oversight. But what about somehow involving stakeholders to what Terrell was mentioning, as kind of this advisory committee that, you know, is not a requirement but is encouraged for states to create? I know, I don't know if Dr. McTier pointed out that Kansas has a similar type of advisory committee that they've put together of various stakeholders, and Connecticut has something similar. And in that way, Terrell, you know, that could include groups such as FICGN that helps create best practice language for interpreting the statutes and providing guidance to what's in the statutes.

MS. MCARDLE: Aaron.

MR. WASHINGTON: I mean, Stan, if you

have, if you wanted to reach out to those, as a representative of your constituency, if you wanted to reach out to any stakeholder and work with them to craft, develop, or provide language to the subcommittee, I think that we would we would definitely accept that language and then discuss it and see that, and ensure that it was in line with the statute and the intent of the statute. And then, you know, potentially, potentially if it is, adopt that language.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Yes. Terrell Blount was knocked off. If we can give him access to the camera and mic, that'd be great.

MR. WASHINGTON: Alright. So, I think, nobody else, Sophia?

MS. MCARDLE: No, but we're wait, I just wanted to give one second to see if we could get Terrell back on. If not, then, he can't for the moment. No, go ahead, Aaron.

MS. WILSON: I'm giving him access right now.

MS. MCARDLE: Okay, thank you, Amy.

MR. WASHINGTON: So and so if we have further comments on nine, I think we can if we have no further comment on I think we can move into paragraph

ten. We're going back into accreditation. You have any comments? Okay. Alright. So paragraph ten is about accreditation requirements. This this language paragraph ten does not appear in statute. So this is language the department is proposing and regulation as an interpretation of our statutory authority. And so, if the subcommittee is familiar with direct assessment, you'll see that we've kind of tried to tie similar elements to provide consistency across regulations to what accreditors would have to do in reviewing or evaluating these programs. So paragraph ten is a prison education program that is not consistent with the requirements of institute of institution's accrediting agency or state approval agency is not an eligible program under 668, I think we should probably put 0 there in order in order for any prison education program to qualify as an eligible program the accrediting agency must have and we say evaluated at least the first prison education program at the first two additional locations to ensure the institution's ability to offer and implement the program based on the agency's accredited accreditation standards, and include it in the institution's grant of accreditation, or reaccreditation. And, you know, I will I'll stop there. Before I get into the other requirements, just in case we had any comments about,

about the first romanette. We are open to subcommittee feedback on the number of PEPs that prison education programs that have to be reviewed by their accreditor. But we, in essence, want to ensure that the prison education programs are are high quality and meet the accreditor standards and and this will, we will see also that this will mirror the review that we propose by the Department of Education so it will be the first prison education program at the first two additional locations.

MS. MCARDLE: Okay, we have Belinda.

MS. WHEELER: Yes, thank you for that. Point of clarification, so when we're saying so, these are specifically just for the additional location, correct? Like, we're not talking about like an online, like this is the going back to the traditional accreditation description of you know, substantive change additional location, so like bricks and mortar physical. And it's not encompassing online education, correct? Or am I incorrect with that?

MR. WASHINGTON: This is encompassing any prison education program provided through any format. So-

MS. WHEELER: Okay, so so then just to follow up, and I hope this isn't getting into the weeds, but it's a part of another thing that when speaking with

accreditation agencies right now, if institution X has a Bachelor's bachelor's degree in English that's been approved for an online location, currently before COVID, COVID is not a factor here, if that educational institution has that online program, and they want to make it available in different carceral spaces, the current accreditation process is that accreditors do not need to currently have those additional locations that happen to be in carceral spaces kind of reviewed, because that's the current procedure for accrediting of online programs. That is actually something that we've been talking about as being a potential issue because a traditional online student is certainly not the same as a traditional online student who happens to be in a carceral space. So just to get back to that further clarification, then with that, are we now saying if we're introducing this a statute, statutory language, that that would include two additional locations that could be online, and therefore this would be a different we're seeing ED kind of, perhaps, update policies and procedures to reflect that, for example, online education on the outside is very different to online education on the inside. So just want to double check.

MR. WASHINGTON: Well, I can provide an example. If there if a if an institution wanted to

provide distance education at an additional location. The regulation currently says that that program would have to be reviewed, the first program would have to be reviewed and evaluated in fact, as it says, by the accreditor. If they wanted to offer the distance education program at another additional location, that second additional location would also have to be evaluated by the accreditor. Beyond that, there will be a shortened applicative application process to the Department. But the first two additional locations the first two correctional facilities that that distance education program will be offered it would have to be reviewed, evaluated, I'm sorry, I keep saying reviewed, but evaluated by the accreditor. Does that answer your question?

MS. WHEELER: Yes, that does and I just wanted to say that that is actually something very good that a lot of accreditation agencies have actually wanted to take place.

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

DR. ANDRISSE: Yes. I was just wanting to ask a question, was there a policy think tank that was consulted for putting this language together?

MR. WASHINGTON: So I think I mentioned earlier, Stan, that we, we mirrored the

regulation after the direct direct assessment regs. So, I mean, I can just tell you what a direct says I keep saying direct assessment program. But a direct assessment program is a program that in lieu of clock or credit hours as a measure of student learning utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others. And so we have regulations as 668.10 about direct assessment programs. And we do require in those regulations, that the first direct assessment program is evaluated or by the by the, by the accrediting agency. So we actually say, in order for any direct assessment program to qualify as an eligible program, that accrediting agency must have evaluated the program based on the credit accrediting agency standards and criteria, and included it in the institution's grant or accreditation, or reaccreditation.

MS. MCARDLE: Aaron, I think you may be muted.

MR. WASHINGTON: I did sorry. And so you know, some of the Department's rationale behind that and we kind of anticipated a question on why to prison education programs would be subject to approval when only one direct assessment program is, and we thought that multiple directs multiple direct assessment programs offered by a single institution are likely to have more

similarities than programs offered by two different prison facilities. So that was the rationale behind it. If you had information from a policy institute that you'd like to share with us, we'd be more than willing to hear that information.

MS. MCARDLE: I believe we had Elizabeth next.

MS. DAGGETT: I was just going to clarify what Aaron had said earlier is that and trying to clarify for Belinda which, which is, the way the language has been proposed is that it would be the first program at the first two additional locations and whether that additional location is defined as a brick and mortar location, or a distance education or correspondence that that would be the determination of whatever the program that's being offered, but it'd be the first two additional locations. So I just I had wanted to provide that clarification. And also, I will just add on that, I worked with Aaron on doing the rep, creating this language. And we did use the direct assessment language as guide because that's really the closest thing that we have that we would look at an evaluation and what we require an accrediting agency to do for a specific type of program.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: So to be clear, because I think Stanley asked a really good question. So no one outside of you two or the Department was consulted with writing the language? Because I think when he asked that question, you went on a tangent with something else.

DR. ANDRISSE: If I could add into clarification, and, you know, I appreciate, Aaron for, you know, going into the details, I think, as Dr. McTier's, you know, offering clarification to what I think you thought that I was saying was that this is different than that, though, you know, this is a very specific population. And so as Dr. McTier was referring, I think it would be valuable to, you know, consult with and I appreciate that you're putting this group together, which is, you know, a group of people and experts and constituency groups. But I think you know, it certainly, I was asking because this is a very different population. So I feel as if I was just wondering whether there was an expert consultant that came in to help with this very different type of population than what all your other regulations, you know, typically deal with.

MS. MCARDLE: Aaron, would you like to respond? Or should we go to Belinda?

MR. WASHINGTON: I think Belinda is waiting, so I'll respond after Belinda.

MS. WHEELER: Thank you. So just want to piggyback again, with the additional locations in the Roman numeral I, I know earlier, we had looked at 34 CFR 600.2 as the definition of additional location. So again, I just wanted to make sure that with this language, that it won't be misread by accreditation agencies, as you know that what has been happening with additional location as a bricks and mortar, it's great that you're bringing in that, that technology like online components. So point of clarification, do we need to perhaps revise additional location here so that it may not be read back to that other earlier definition, which is talking about geographically apart, which might make people assume that we're talking about a bricks and mortar? So I wonder whether or not that particular additional location could be potentially tweaked with so that there isn't that conflict. And then also, I just wanted to double check, when, as we're going into this space, and we're going to see a number of different educational institutions into this space, some of them quite substantial. I want to make sure that we're not with with these two additional locations, that we're not providing a potential loophole where an educational institution might be like, we'll do the first two as online. And then our third one, we're going to make sure as the bricks and mortar, but we've

already qualified, you know, with with getting clearance on this other way, or vice versa, as opposed to two additional locations being technology online component and two additional locations being actual, like bricks and mortar, because we have seen some loopholes here, which are a little scary. So just wanted to kind of clarify both of those, please.

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

MR. WASHINGTON: Beth, did you want to go first and maybe provide accreditation perspective, and then I can?

MS. DAGGETT: Sure. So there is a difference, Belinda. So in the requirements of what accrediting agencies are required to review for additional locations, it is different. I do believe that the change and I'm not sure if-- I think you've talked about the change in the definition of an additional location. Forgive me, I wasn't here, when you started yesterday, that it would include that specific language that would define any prison education program was no matter how it is delivered as a additional location. So there would not be quote, a loophole, but it would only that particular part where we're looking at the delivery method of distance or via correspondence would only be

applicable to prison education programs. And it would then further be defined by this particular regulation we're talking about now to require the review by accrediting agencies of those first of the prison education program at the first two additional locations. To your point, it could happen, at least as it's written right now that in a institution could offer up two additional locations exactly as you said, via distance at two different, you know, two different correctional facilities, and then offer another one that's a brick and mortar at a different location, and that would be outside of the required review listed and regulation here. You know, I believe that the Department would be interested, is obviously interested to hear any feedback you might have. Part of just to give you part of the rationale for the limitation for two, the first two is that there's a definite understanding and if you've been talking with accrediting agencies, I'm sure you're aware of the workload that would be required to then take this on and so there was trying to be a give and take of how many programs do you want to be implemented and how fast do you want them implemented versus, you know, the oversight that you and, you know, review that's necessary to determine, you know, the educational quality of those programs. So that was, you know, part of what was taken

into account when putting together this proposed language.

MS. MCARDLE: Belinda.

MS. WHEELER: Yes, thank you very much for that. Yeah, this is a very interesting space for sure. I wonder, just to offer up, because I know that the with the accreditation, we've got the additional location, one of the things that, you know, with the nine different accreditation agencies that are currently serving educational institutions in the Second Chance Pell space, one of the things that has been discussed is another way to look at the student demographic, in addition to location is substantive change student body. And that was one that, you know, has been interesting talking with constituents about, particularly when it came to, you know, that online program, because, you know, previously, educational institutions have just seen, you know, Bachelors of English degree, it's approved online on a main campus, and it doesn't matter if you're international wherever that, you know, things are kind of definitely different. I just wonder whether or not that could be something, you know, in addition to the idea of additional location, maybe like student student population with the purpose of the online, not to discriminate against that student body, but to make sure

that the educational institution, you know, when when your faculty members are going into a prison setting for this, it's very clear to them that they are totally in a different location and they've really got to think about those students support services for students. Sometimes, you know, what we're seeing is that when it comes to online, a lot of times faculty and other community members on a on a college campus may not necessarily be thinking, it's not as in in your face, so to speak, as a, you know, face to face college program. So that was one of the things that we were, you know, potentially talking about is, you know, student change of student body to kind of have people think about, particularly for that online, because we can see that there's going to be a lot of educational institutions that particularly are very excited about offering online programs to students, but this whole cut and paste of an online degree on a main campus versus cut and paste into a carceral space will not will not work.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Belinda.

So was there a recommendation in there? I know that sounds like the recommendation could be that was that we would consider adding language around, I guess, modality of instruction and saying that well, if the first you

know, like, that the accreditor would have to evaluate brick and mortar. And if if there's a distance program, even if that the first two were the first the first program, and the first additional locations was brick and mortar, if the third program at the third additional location was distance, then that would have to be evaluated as well, because it was a different means of instruction.

MS. WHEELER: Yes. Yes, sir. Yes.

MR. WASHINGTON: Just wanted to make sure I got that. Thank you so much for that recommendation. Beth, did you want to add anything? I saw you shake your head. So I want to circle back to Stan's point. We did work with many people at the Department of Education. It was Beth, myself, and there were also other people, we had an entire team of people, in fact, work on these regulations that brought in their experience from outside of the Department and brought in relevant work experience or experiences before, you know arriving at the Department in order to craft these regulations. These are proposals, Stan, and what we've done here, which you mentioned is try to bring together experts in the field. So if you have, I keep saying it, but if you have, you know, information that could further inform this, you know, let it let us know or if you have especially-- this

is not in the statute, this is something that the Department believes is our believes we have authority to regulate under the statutory framework. And so you can propose some language changes here. I know we've said before where we have stuff that's copy and pasted from the statute there's not much wiggle room but I think that if you wanted to propose some some language here, you know, we can we can take we can present that to the subcommittee and review and just like Belinda has submitted about cross referencing more to 602.3 or 600.2 or just like Dr. McTier has recommended.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes. And I appreciate that and that that I was you know, more so just asking for clarification than anything but I appreciate that, that you've brought us together. And that you, you know that the Department has opened this opportunity for the negotiated rulemaking session, you know, both this subcommittee and the full committee, which, you know, I also sit on, and that also that that kind of just and to your point, we do have, we have a whole, you know, I'm pretty up to, I'm pretty up to speed on all this. But I, you know, I would be remiss if I didn't say, that we've put together a whole constituency advisory team to help us out that are watching along. So you know, we've

already done that, Aaron, and we do, I would say, you know, we do have language that we are planning to send over, I was waiting till the end of the third day really to send it over. Because I do find it to be more challenging to send the email as opposed to the chat like we have on the full committee. But then my other question was, we are able to caucus on the full committee. Are the caucusing rules still the same for this subcommittee? Not that I'm not trying to call a caucus right now. But do they still apply into the point of being like private?

MR. WASHINGTON: We had not anticipated that the subcommittee would be caucusing. So the because of our, our limited time, six days, we wanted to-

DR. ANDRISSE: Right, no, I understand. I just was asking. But you know, to the full committees, you know, we had the in the full committee, we can caucus during the meeting, but we also can caucus after the meeting, if I understand the rules correctly. So I mean, we we kind of have our own little I just mentioned, because we've gathered some thought leaders together and have our own kind of private advisory caucus. So I was just, you know, to your point of getting people together to experts together, we've already done that. We came to the table with the experts with us.

MR. WASHINGTON: That's that sounds great. I mean, yeah. And there's, and there's no, there's no prohibition on, you know, subcommittee members getting together, you know, at any point to talk amongst yourselves. I mean, there's-- the Department is not prohibiting that, it's just that we won't, we don't we don't we won't be caucusing during the actual sub, the actual during times of the subcommittee. It's 2:52. I let you know what let's just I think we've got a lot of information. Thank you for your recommendation, Belinda, and Stan is going to get back to us with some more language on on this section. Let's look at the second the second clause, we'll look at the second clause. So and then maybe we can if we have a lot of comments, then we will, you know, table the discussion for for tomorrow, for tomorrow. So we we're going to hear we're proposing to require the the agency to perform a site visit as soon as practicable practicable. But no later than one year after initiating the first prison education program at the first two additional locations. And just to provide a little background, I think there are some, and Beth will correct me if I'm wrong, but there are some situations in which a site visit is required. That would be if there's a change in ownership or control, or if there's an addition of a branch campus. Beth, shake your head yes or

no. Thank you. Those are six months. And so here we decided to provide a year because, you know, we know that there, there's a there's, there may be some things that accrediting agencies need to do behind the scenes to enter the correctional facility. So we wanted to provide like six months' additional time for them to get in there and do that site visit. It could happen before then before the year mark as well. So maybe a couple of minutes before and (inaudible).

MS. WHEELER: Yes, thank you. I just wanted to say that I think that that's a really good addition. I think that you know, I and it's good to know that ED has spoken with accreditation agencies too, like I know this is an equity situation and it's going to be to be a lift here. You know, but I think it's very good to make sure that you know, we are getting those site visits in in a timely in a timely manner too. So thank you for adding that language.

MR. WASHINGTON: Any the other comments on that?

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: Okay, and the last one, I'll just go quickly go over it. Based on the indicators that we discussed earlier, the best interest indicators, we're going to ask or require in the

proposing requirement regulations that the accreditors review the methodology behind the teacher turnover, credentialing, the transferability of credit and the offering of academic and counseling services, we're going to ask the accreditor to review the methodology behind that to ensure that the prison education program meets the same standards as the same or substantially similar programs that are not prison education programs at the institution. So they're going to review and improve the methodology for how the Bureau of Prisons or the BOP or DOC made that determination. So, do you have any comments on that? Belinda? Sorry, I'm taking Sophia's job.

MS. MCARDLE: Belinda.

MS. WHEELER: I'm not sure. Was that for me to speak? Sorry.

MR. WASHINGTON: Yep.

MS. WHEELER: Okay, thank you. Yes. So I just again, I think this is a really good. This is a really good turn of events. And I'm glad that ED is considering this. I know that as accreditation agencies and educational agencies work in partnership with corrections in this space, that, you know, this is something that accreditation agencies haven't had to do en masse since before 1994. And, you know, I think this is, this is one good way it'll be interesting to see how

it how it actually pans out. But I think that this is a good start to the conversation with this to try to bring accreditation, educational institutions, corrections, and eventually community partners together with this.

MS. MCARDLE: Terrell.

MR. BLOUNT: Yeah, I just want to make sure this was this is in regard to corrections departments providing their methodology on how a prison education program was determined to be in best interest of the students?

MR. WASHINGTON: So correct. So this is in regards. Yes. So the the determination that the Bureau of Prisons is making. So and it's specifically in regards to three of the input indicators, we haven't actually spoken about them yet, because we kind of we only talked about the output so far. But we'll talk about the inputs tomorrow. And so where we're essentially what we were saying is that for teacher turnover, credentialing for transfer related credit, and for academic counseling, and advising services that the Department's proposing that they offer similar services, in prison education programs, to other eligible programs that the institution offers that are not prison education programs. And so we want the accreditor to review those specifically, those specific indicators, and the

methodology behind which how the Bureau of Prisons came to those determinations. So when I asked them what their accreditors approve it to approve their I guess we are, we're review and approve, approve the methodology for how yeah, yeah, so we're asking the accreditor to look at look at the methodology behind how the Bureau of Prisons approved those indicators.

MR. BLOUNT: Okay, got it. I just want to end with one thought that I've kind of come to over the course of these discussions and just reviewing the document. I think, you know, some of the a lot of what's being put in place, appears to be, you know, protecting the student as well as, you know, ED just doing their due diligence, and any other accrediting bodies or institutions, providing oversight, to make sure that people are doing what they should be doing in regard to providing education on the inside. But I can't help but think about how some of these things that are being put in place are going to be even more of a challenge for educators of color that work for colleges, that are trying to create college in prison programs, they already run into a number of challenges and getting those necessary partnerships that need to be in place. And it's not always because of the institution it's because of the bad actors within these institutions that will give the

green light to another program because of who it's led by versus or maybe even the content that's being provided, versus that educator of color who may be offering something that is less desirable to that Department of Corrections. And the people that you are the information that's going to be provided to those incarcerated individuals. So and that's just one piece of it, I think that's something that hasn't really been looked at. And I think maybe, you know, well not maybe on my side, I think I will reach out to, you know, people of color who are, who have run into a lot of these barriers and some of these things that have been proposed and then see how they perceive that may be a challenge for them.

MR. WASHINGTON: Thank you Terrell. Because we reached the 3:00 hour, I think you, if you we can pick back up on that comment tomorrow. I think it's an important comment. And I want to make sure that we have we provide others on the subcommittee a chance to respond to that. So Terrell, I'll try to remember but if you remember, can you please make sure to make that, that that point tomorrow morning, so that we can have a more general discussion about it? Thank you very much. So it's 3:01. That concludes our day two of the prison education program subcommittee. Thank you all for joining us today, including those members of the public that viewed, that

were with us on the viewing side, and we will pick back up tomorrow at 10:00 a.m. Thank you.

