

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
PRISON EDUCATION PROGRAMS SUBCOMMITTEE  
SESSION 1, DAY 3, MORNING  
October 20, 2021

On the 20th day of October, 2021, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. WASHINGTON: Good morning, everyone, and welcome to our third day. This is our final session of the first session of the prison education program subcommittee. We have a full agenda today, so I want to dive right in. But first I'd like to do just a roll call to make sure that we have the subcommittee all the members of the subcommittee that are available to participate today on the on the virtual table. So, Belinda.

MS. WHEELER: Yes sir, I'm here. Thank you.

MR. WASHINGTON: Kim.

MS. CARY: Good morning.

MR. WASHINGTON: Stan.

DR. ANDRISSE: Good morning, everyone.

MR. WASHINGTON: Dr. McTier. Dr. McTier, will you be able to think I see you're at attendance, if you're having technical difficulties, looks like he's leaving. He'll work with Valerie Lefor to resolve them. Marisa.

MS. BRITTON-BOSTWICK: Good morning. I'm here.

MR. WASHINGTON: Good morning. And Dr. Paccione.

MS. WILSON: I don't see her logged in yet. I will let you know when she does.

MR. WASHINGTON: Okay, thank you and Terrell Blount cannot join us today for the morning or afternoon session. So today, we're going to finish the definition of Prison Education Program other than the best interest piece. And then we have one more disclosure to look at. And so I want to spend about an hour on that. So hopefully, by 11, we can transition over to the best interest discussion. And then we'll talk about that for about two hours. And then at for the final hour of our subcommittee meeting today, I would like to go back through the entire regulation and get those temperature checks that I talked about. We hadn't done them throughout. But I want to just get a temperature check for if there are any outstanding issues that the Department should consider when we're preparing amendatory language for the second session for you all to consider. And then the last few minutes before we before we finish today, we'll talk about the report a little more, I have a little more information to provide you for the report. So Vanessa, with that said, does anybody have any questions before we get started?

MS. WILSON: Aaron, Dr. McTier signed back in. Can we just check in make sure he has ability to

open up his video and microphone? It looks like he may not. Um, Dr. McTier, can you please email Val Valerie, so we can get this fixed?

MR. WASHINGTON: And that would be Valerie Lefor.

MS. MCARDLE: Also, we have Stan who would like to ask something.

DR. ANDRISSE: Yeah so just in relation to Aaron asking if, if we had questions opening up. In regards to the report and the reporting out to the full committee, and language. Is there we would like to provide, I mentioned to you that I wanted to provide some language. But does that have to be provided by closing day today or you know, the full committee won't meet again till the beginning of November, so do we have time to provide some language suggestions, even after our session today?

MR. WASHINGTON: Yes, you do. The report out we anticipate for the November session will be a high level overview of what we discussed. It will not be the committee's final recommendation, it will not be the start of the subcommittee's final recommendation to the main committee. It will just be a high level overview of what transpired during the subcommittee meetings for those main committee members that weren't able to view

the subcommittee meetings. And that's, that's kind of what we were thinking for the November meeting. So you can still provide us with those recommendations after the meeting today, tomorrow, next week, just try you know, the Department will be next week really working hard to update the amendatory language based on what we've heard here. So the sooner that you can get us those recommendations, the better.

DR. ANDRISSE: Good and we mentioned the first day about this subcommittee deciding on who might present that report to the full committee of question about and I you know, I volunteered and Belinda volunteer to help as well. And we can you know, maybe make sure the committee is okay with that. But the other question is, you know if it is Belinda and I, for instance, are one of you from the Department helping out as well or, you know, what will be your role, for instance, Aaron and that report out to the full committee?

MR. WASHINGTON: Well, the recommendation is the sub subcommittees recommend to the main committee. Keep in mind, the Department of Education does have a vote on the main committee. So the Federal Negotiator Jennifer Hong, does have a vote on the main committee, but the recommendation is directed to the

subcommittee. Of course, the Department has provided a general framework of what our thoughts were leading into this. So the subcommittee can take that into consideration. But if.

DR. ANDRISSE: I guess just more specifically, like as we report to the full committee, if there's questions, are we is it just solely like Belinda and I's responsibility to answer the questions or will you chime in to answer like questions that may come up about, you know, the subcommittee and its recommendation?

MR. WASHINGTON: Yes, I can be there as I will be there as a technical adviser, to provide any responses on behalf of the Department. Jennifer Hong as the Federal Negotiator will also be there to provide answers and but it is our intention to assist with not only helping to develop the high level report for the November session, The report for the actual recommendation for the main committee in December-- the Department, you know, is ready to assist in any way. As I mentioned before, we've seen 45 page reports , you know, and the amendatory language for the subcommittee recommendation. We've seen PowerPoint presentations in the amendatory language, we've seen dialogue in the amendatory language kind of like an interview style, you know, dialogue in the amendatory language for the report

out. So really that part you can be creative about, of course, we have to have the amendatory language for the main committee to consider. But the actual way that you report that-- is you and Belinda can get creative and the Department will assist in in any way, and thank you, Stan. So let's move over to. Vanessa, would you be able to post the inventory language, we're going to start with paragraph 11 of the definition of a Prison Education Program. Thank you, Vanessa. So here we are mirroring, this, paragraph 11 is about the process for an institution, a postsecondary student applying to the Department for approval of the first Prison Education Program at the first two additional locations. So yesterday, we talked about what an accrediting agency will do, and now today, in paragraph 11, we're going to talk about what the actual postsecondary institution will do. So that first paragraph is highlighting that you will have to apply for the first two additional locations-- the first prison education program at the first two additional locations, and there're some cross references in there. I talked a lot about direct assessment yesterday and we tried to mirror this after the direct Assessment Program regulations as well. So 600.7 the cross reference is we've already talked about that. That's the waiver. Following the Secretary's initial

approval of the Prison Education Program, the additional Prison Education Program at the same location may be determined to be eligible without further approvals from the Secretary. And so that's just saying that as long as the program is in compliance with 600.7, which is the waiver of the 25% waiver that we talked about 600.10 and that's the requirement that you apply for the first program at the first two additional locations. 600.20, C1, that's, that's if you want to add an additional location, you, if the school is under provisional certification, or if they're under any cash monitoring, they would have to actually apply to the Secretary before they can add an additional location. So there's some extra requirements around there. And then 600.21 is that they report that subsequent location to the Secretary. So after you've had your first Prison Education Program at your first two additional locations approved, as long as you're in compliance with these other cross referenced regulations, you don't have to apply for approval anymore. And then under that, you'll see what that application will entail. I won't read everything, I'll just give you a kind of a high level overview. And so the first thing is, you know, you would apply to the Department by describing your educational program, you will provide the documentation of approval by the

accrediting agency or the state approval agency, you will provide the name of the correctional facility that the institution is proposing to partner with, then the Department is providing the methodology, including any thresholds, benchmarks, standards, data or metric that the Bureau of Prisons used for the determination. Vanessa, if you can scroll down a little bit. And you'll provide some information on the types of services that will be provided to the students, including, you know, tutoring, and counseling and reentry counseling, affirmative acknowledgement that the segregation was wrong approval, we'll see that in paragraph 12. We haven't actually looked at that paragraph yet, but under the circumstances under which the Secretary can withdraw approval. And you'll also have to provide affirmative acknowledgement that you agree to submit an annual report as required by the statute every year. So those are the components of the application for the first program at the first two additional locations. And again, after that, you will not have to apply, well, I'll stop there. There is a kind of attenuated application that will happen after that for subsequent programs but we'll talk about that momentarily. I want to pause there for questions.

MS. MCARDLE: Sorry, I was on mute

Dr. McTier.

DR. MCTIER: I was gonna say this is this is on par with what we currently do with getting the accreditation, so I see no issues with this. My only concern is on or thought is on letter E with the reentry counseling. Let me see it says, the information about the types of services offered to admitted students including orientation, tutoring, and academic and reentry counseling. So interesting enough, we've kind of ran into an issue about offering reentry services on the inside. So I'm wondering, could this not be a requirement, the reentry counseling component, because some DOCs will not allow the educational institution to do that? Can we make that an optional if they're able to get approval from their specific facility or whatnot? I just want to make sure that we're not setting up programs that are not equipped to offer reentry solutions or counseling to students.

MS. MCARDLE: Stan.

DR. ANDRISSE: Good morning, again, everyone. It's exciting to be here on day three with you all. Um, yeah, I would say Dr. McTier, I would, you know, have two perspectives on what you mentioned. I think, you know, from the program director perspective, I have heard also, that it's challenging to have that component. And

as you mentioned, there's a DOC component that I, that I that I am going to offer a few words on that piece here in a second. But I think, you know, I wouldn't be a proponent of including this, in maybe a way to think about it is that there should be a partnership with the community organization, you are correct for it, you know, you are correct in what you say, and that, you know, the education institutions are really equipped, that's not what they were designed for. That's not what they historically know how to do in terms of providing reentry services, but it should then, you know, fall into the hands of organizations and entities that are, that is the purpose of what they do. You know, for instance, you know, what our program brings to the mix. I think maybe it should be added that there should be an impetus for educational institutions to partner with entities that that is their expertise, in terms of reentry. But leaving it out is that challenge, you know, so once the person comes home, how do we continue to provide them support, to help them continue to, you know, continue their education, but also just to do all the other things that they also need to do in order to continue their education? So I think it is a valuable piece to have there to say that we need to be programs need to be thinking about it, whether they do it themselves is a

question that I'm hearing from you. And I agree that you know, education institutions should not be providing reentry services. A reentry organization should be providing the reentry services.

MS. MCARDLE: Belinda.

MS. WHEELER: Yes, thank you for that.

I appreciate both my colleagues comments there. First of all, I just wanted to say that I think that it's great that the Department is making sure that as we're transitioning from, you know, just Second Chance Pell to Pell For All, that this is going to be the formula that's going to be used to onboard educational institutions. As someone who started a program prior to my role at Vera, Dr. McTier, I 100%, understand what you're saying there. It is a challenge with what has happened with some of the Second Chance Pell programs and those that aren't in Second Chance Pell but are servicing students who are currently incarcerated. I do think I do think this is a great opportunity, just as again, we're having all of these entities come together in ways that we haven't seen before, at least in since 1994, if at all and ever in this kind of capacity. So while it may indeed be a challenge for an educational institution to think of reentry counseling, I think that this is part of that, you know, as we get to those other parts of this, this

statutory language and you know, amendatory language, that we're trying to show all entities that this is a perfect opportunity to really be thinking about reentry counseling. And both corrections and educational institutions with community partners, having a conversation about what that will actually look like. So I have to kind of say that I see myself more in alignment with Stan on this particular thing, because I think it and that's what we did at our at my former institution was to work with a community partner in this space. And it's been while I was there, it was so much better because we had that community partner. And I think it's, I think this proactive, I think this is proactive, and I feel like it's a win for the students to make sure that they're getting more voices or more contextual information as they look to reenter into the community. So I am more of an advocate of keeping that in there. Thank you.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Sophia. I also wanted to add to the response, Dr. McTier, I think, under the approval, under the determination of best interest by the Bureau of Prisons, the State Department of Corrections, there is language in there that states that, you know, the Bureau of Prisons is going to

determine whether the institution offers relevant academic and career counseling services to incarcerated individuals while they're confined or incarcerated in advance of reentry, and upon release. And so there is a requirement that these things be also evaluated, you know, by the Bureau of Prisons, to ensure that, you know, that these services are being offered to students. So I think that's another reason why we would want to keep that language in there.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: So just to clarify, I'm not saying remove it totally, I do think it needs to be there. And I do think reentry services should be added. My concern is that we're saying that you have to provide these things, especially for those small programs who don't even have the manpower or the resources to even provide the reentry services. I just want to make sure that it's flexible that you I just don't want it to be hardcore, you have to do these things. Because again, we're going to set up a lot of programs for failure who can even provide those reentry services as or solutions because of the relationship with the DOC the location of the state that they're in. So I just want that little bit of flexibility. I don't want to remove it, I do think that there should be partnership with the community. I

agree with both of my colleagues in that in that respect. Just being on this side of the house, I'm running into issues and I see that you know, many programs are running into issues on trying to provide the educational component, and then going and trying to provide the reentry component and based off you know, conversations that I've had with the DOC, the reentry more so is aligned with supervision and surveillance and I just want to be careful about they're not in expectation of reentry, and the educational knowledge and expectation of reentry. I think is on two different wavelengths and those are my concerns.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you. I think we also have the first part of the paragraph says that under romanette two it says the Prison Education Program application must provide information satisfactory to the Secretary that includes--but it appears to me that the regulation does provide some flexibility. If an institution were to apply to the Department and say that, you know, the prison, local jailer from the facility is prohibiting us from providing reentry counseling here, but the actual prison is going to provide a reentry counseling, that could be something that the Department could consider. But I want to keep moving forward

because, you know, we only have until 11. So if, if, if I see more hands up, but I don't want us to get too caught up on this piece, because we do have a lot to get through today.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yeah, I just wanted to, again, advocate for the inclusion of a clause where they're upfront there is this building of coalition partners, to where a community based partner that does reentry, is, you know, as you're, as you're putting these requirements here, there could be an additional point that there should be a community based partner that is involved that that is that that is connected to the delivery, particularly, you know, providing support for reentry. So I think, I mean, that that is this idea of providing or creating in the language, the need for a coalition or advisory group of stakeholders. And I think, you know, it can serve the purpose in this regard to where it is not the educational institution providing the reentry services. It is a community based organization that has expertise in doing that, who's providing the services. And if it's written that that has to be in there, then you know it both, I think there's benefits on both the education, you know, Dr. McTier, a program such as yours wouldn't have to do it, you would just have to

connect with a partner who does do it.

MS. MCARDLE: Dave.

MR. MUSSER: Thanks for all those comments, and thanks, Stan, for that last suggestion. I do want to be careful, I want to make sure that everyone understands that this is the part of the regulations where the Department is doing a check of the how the program was approved by other entities. So if we want to incorporate Stan, your suggestion here, I think we would need to add a requirement that they submit the documentation that that partnership, had done that work and had done the approval, etc. So this is our way of just making sure all of those things happened.

DR. ANDRISSE: And that's what I would be in favor of. Thank you, David.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Okay. so let's move on to the next section. That's romanette three. And so if the institution is no longer required to submit an application to the Department, because it has gotten approval of the first prison education program at the first two additional locations, romanette three will be the process by which they submit subsequent applications to the Department. So they would submit documentation from the accrediting agency, noting that the institution

complies with paragraph (o)(7) I believe (o)(7) is about the initiated adverse action. So there are no initiated actions. If they, did they have initiated adverse action, they can't start a prison education program. Or if they already have prison education programs, they'd have to create a teach out plan. And they also don't have any final adverse actions. I think we probably should add in there, that's just a note for the Department itself to add in there that you don't have any adverse actions within the last five years, as required by law, and then they also would have to submit documentation, noting that they weren't subject to any actions by the state to revoke the license or authority to operate within the last five years either. So essentially, an approval by the accrediting agency and approval by the state authorizing agency. And the other piece, is obviously the Department piece, but we would be responsible for making sure there were no emergency actions, suspension determinations against the institution in the last five years. Well, so that's what the Department will be looking at. And then also, Vanessa if you can scroll back up just a little bit. I talked about a little earlier, just that, under paragraph 11, CFR section point seven 600 points and 62 point 26 point 21. They also have to comply with the sections, the waiver, getting approval if

they're under heightened cash monitoring, and also reporting to the Department. So you can scroll back down, Vanessa, I'll pause there to chat about that, for the subcommittee to provide comments on it.

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

DR. ANDRISSE: What-

MS. MCARDLE: Wait there's Stan.

DR. ANDRISSE: I'm sorry. This is just a tech. What number are we on here?

MR. WASHINGTON: So it's little romanette three. So where Vanessa has highlighted it--So for the second or subsequent location to fulfill the requirements.

DR. ANDRISSE: What is the full number of the location that we're at?

MR. WASHINGTON: Oh 11, paragraph 11, then romanette three.

MS. MCARDLE: Belinda.

MS. WHEELER: Thank you. I just wanted to say that I think that this is excellent guard rails again, as we're opening this up in unprecedented numbers that we've seen. I do want to mention that I think this is a good moment of pause for educational institutions that want to be in this space, that they are bringing the

resources to the table. And, you know, again, encouraging that whole idea of community partners, grants and things of that nature. This, this is clearly showing that, you know, while institutions under the experiment, educational institutions might have allowed a professor, for example, to have a PEP project of, hey, let's go into the prison space, an institution has just allowed that one professor to do all the work, that, you know, the Department is making a very strong position here that, you know, experiments or anything else have now finished, we're taking a very formalized approach to this. And you know, everyone who wants to be at this table needs to understand that there are checks and balances in place. So I just wanted to say that I think that this is great, great language, which is, you know, definitely serving the students best interest to make sure that they're protected, because we must make sure that we protect the students. So thank you for adding this language.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Belinda.  
Yeah, I mean, do we have any other, any other comments on this, otherwise we can move forward?

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: Okay, thank you,  
Sophia. Okay, so the next paragraph refers to the reports

of the Department of Education. The statute requires institutions to submit an annual report, it actually requires the Department to submit a report to Congress as well. But here we're talking about the report that the institutions will submit to the Department of Education. So we're proposing that we will define the requirements of the report in a Federal Register Notice or a Dear Colleague letter or -- so we're proposing not to regulate on each individual component of the report, and that would provide the Department flexibility to adjust to any changing data elements that we might need in the future. That will provide the Department flexibility in being able to determine different data elements or, things that we would need in order to provide a comprehensive report to the public and to Congress. So some of the things that will be likely included in the report are examining in custody outcomes and post release outcomes, attainment of postsecondary degree or credential, the safety in the law regarding penal institutions with prison education programs, the size of the waiting list, the extent to which individuals continue their education post release, employment and earnings outcomes information, rates of recidivism, and extent to which relevant career services are offered to those participating in the prison education programs. But again, we didn't want to codify

all of those things in regulation, because we also in the Federal Register Notice or the subregulatory guidance, want to provide more guidance on how institutions will submit that information to the Department. We talked a little about verification yesterday and if any of you have seen our annual verification notice, our annual deadline dates notice, we provide a lot of information for institutions in there. So we say, well, the student has to submit their, let's say their tax information, but we provide a process how they do it, we provide information on tax filers versus nontax filers. And so it just provides us a space to provide information. And if you've seen that notice, it slightly changes every year, because we're able to adapt to different changes in IRS systems and when we get feedback from the community, we're able to make those changes as well. So I will pause there for comment.

MS. MCARDLE: Belinda.

MS. WHEELER: I hope I don't sound like a broken record here. I think that this is another really good piece that ED is putting in here. I like that there's that level of flexibility, as myself and some colleagues had mentioned yesterday, there are some data points that, you know, we may perhaps be a little bit nervous about, you know, like, how might that data be

used or things of that nature. And I think the idea of just kind of having, you know, a broad like report here without, as Aaron had mentioned, like those statutes of certain things-- I think it allows both the Department and also educational institutions accredited as corrections-- You know, as we look at how this rolls out, we see that kind of flexibility. So I just wanted to go on record from the Consumer Advocacy Organization standpoint and say that I think that this is a good idea that we're collecting this data with the report and then we also have some of that flexibility to see how things move forward. So, thank you.

MS. MCARDLE: Aaron.

MR. WASHINGTON: So, I wanted to make sure that we have provided an opportunity to speak to anybody who hasn't had a chance to speak. I don't want to call out any specific subcommittee members. But this is something you know, the report is something that the institution would submit. So if anybody who has background at a postsecondary institution or wanted to provide, you know, comments on that, that would be welcomed by the Department.

MS. MCARDLE: I don't see any oh, Dave.

MR. MUSSER: This is not in response

to Aaron's question, but I did want to give a little bit of context for the group about what we might collect at the Department. Mostly because as you guys saw in when we went through the statutory provisions earlier, there are a host of things that Congress asked the Department to collect and include in an annual report about prison education programs. Many of those things the Department will have through our own internal administrative data collections and that's things like the amount of Pell grant funds received in a prison education program, the field that the prison education program is in which we will use the zip code, and then in some for some things and subsequent enrollment, which we've talked about in another case, we'll have that through NSLDS. So there's a what we would require schools to report for this purpose would be anything other than those administrative data items that you guys that the financial aid office are already submitting. So that I just wanted to make that part clear that we're asking for the things in part to help us do this report that on the areas that we're required to report on, but exactly as Aaron mentioned, in part so that we have the ability to adapt our data collection to the data that's available, the data that's most useful, the data that the field is asking for.

MS. MCARDLE: Kim.

MS. CARY: Thank you for that. I think this is a good opportunity to stop and for anyone listening in with institutions, that might not be the financial aid office, to remember that the financial aid programs are a college responsibility. And so bringing through academics all of the different research offices, and things like that are much, much necessary, collaboration and should work together to collect the data. It doesn't always happen across campuses easily. At ours, it does, so very thankful for that. But just an opportunity for institutions to know this is an opportunity moving forward to work collaboratively, and to provide information to make this successful.

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: Okay. We can move to, let's see, paragraph 13. So this paragraph gives the Secretary the ability to revoke approval of a school to operate a prison education program at a correctional facility. And our authority, we're saying that if the institution violated any terms of this section-- meaning providing materially inaccurate information about the definition of a prison education program, so 668.80, or that the information that the institution submitted to the Secretary, the accrediting agency, the state approval agency, the State Department of Corrections, or Bureau of

Prisons, or the other oversight entities-- that just provides the Secretary the means to withdraw approval or to withdraw approval of the institution to offer a prison education program.

MS. MCARDLE: Belinda.

MS. WHEELER: Great, thank you. I don't have any problems with how this language is written. I think it's crystal clear. I just wanted to ask a clarifying question. So if indeed that situation happens, does the Department then go back to that policy of like the teach out plan to kind of make sure that like, you know, if, if it does, indeed need to come in, again, thinking of the students, so that if an institution, you know, does get that approval revoked, that there will be some kind of teach out plan or something in place just to make sure that the students are protected? I just wanted to make sure otherwise, I'm very happy with the language.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Vanessa, can you add a comment bubble there to just to potentially add language regarding a teach out or wind down process in the event that the Secretary withdraws approval of an institution to offer for the education program?

MS. GOMEZ: Can you repeat that Aaron?

MR. WASHINGTON: I'm sorry.

MS. GOMEZ: Can you repeat that again?

MR. WASHINGTON: Oh, I say potentially add language regarding teach out and or wind down for when the Secretary withdraws approval. And I think that kind of ties a little bit back to the waiver or withdraw we provided. I believe, a year after an award you're after the withdraw for them to wind down the program. So it doesn't make sense. Withdraw put a withdraws between the Secretary and approves. withdraws approval withdraws approval, yeah, yep. Thank you Vanessa. How does it that look, Belinda for our suggestion?

MS. WHEELER: Yes, thank you I just wanted to make sure that you know we've got it written there so that again the students are protected if you know if this situation does occur, thank you.

MR. WASHINGTON: Okay.

MS. MCARDLE: No other hands.

MR. WASHINGTON: Okay.

MS. MCARDLE: Just a moment, I think I just Stans hand go up. Stan.

DR. ANDRISSE: Yeah, this is more so in relation to wanting to go back and I'm just still grappling with the idea that all of this is just how we are expanding Second Chance Pell. You know, it's not this

is not Pell For All this is not creating, we're just discussing how we expand Second Chance Pell in that I mean, that's essentially what this is. And you know, what would bar us from saying that in order to be eligible for Pell, that you have to be part of a program offering a prison education program? And then also just adding another requirement of another way that you can be eligible for Pell on the inside. So we still meet the statutory requirement of defining what a prison education program is. But we add a piece that says that Pell can also be attained in some other fashion. And I know this goes back up to some of the definition that we were talking about earlier. But I feel like that is still a, you know, something that is on my mind.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you for that, Stan. Vanessa, do you have the statutory language available to project? Thank you, Vanessa. Can you scroll down just a bit? I'll tell you when stop you right there. Can you highlight paragraph three? It says Pell Federal Pell Grant eligibility. So Stan in this it says notwithstanding-- subsection a-- in order for a confined or incarcerated individual who otherwise meets eligibility requirements, and that that section is really just talking about all the other stuff, right? High

school diploma, everything, you know, of this title to be eligible to receive a Federal Pell Grant or section 401. That's where the statute authorizes the Federal Pell Grant, the individual shall be, shall be, we don't really use shall in the regulations, new law, we use must, so shall be enrolled or accepted for enrolling in a prison education program. So if the individual is incarcerated, confined or incarcerated, they would not be eligible for a Federal Pell Grant unless the individual enrolled in a prison education program. And that's part of the statute.

DR. ANDRISSE: So is there a way to, is there a way to add an and/or to that to where we still hold that to be true? And expand on the eligibility? Where are my lawyers at?

MR. WASHINGTON: Yeah, that's what I was gonna say. I was gonna call on our General Counsel that they wanted to provide a response. The Department's General Counsel.

DR. ANDRISSE: Like I guess the focus is on that shall part. If that is what is, you know, if it's written as shall you know, what, how can we work with that to expand eligibility?

MS. MCARDLE: Steve.

MR. FINLEY: Yeah, I'm sorry, I, my system had frozen up. And I'd had to reboot a moment ago.

But, you know, the statute defines what we what we can work with, right? It says outer constraints and we cannot enlarge the prison education program piece bigger than the statute allows us to. So I mean, this is really I, I think of this as Congress coming in with a half step to open the door for these types of programs. And with all these safeguards to see if it works, and hopefully because they'll eventually open the door wider.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Vanessa, can we, thank you for that, Vanessa. Can we go back to the amendatory language? We do have about 15 minutes left. Of course, we can, you know, take some more time to talk about this if the subcommittee feels as though we should stay here. But we want to make sure we get through everything today. So Stan, I appreciate your comments. I hope that you know, our responses. I hope that you can take our responses back and think through more of.

DR. ANDRISSE: What was that section number? Vanessa, do you have that pulled up to where you can just say the number?

MR. WASHINGTON: Just give me one second, Stan. It is Section four-- eight, of the Higher Education Act, and the paragraph is small. So, and then, the sub paragraph is number three, so four--eight-IV--

four--three. And these are the amendments that the 2021 Appropriations Bill made to the Higher Education Act.

DR. ANDRISSE: Yeah, I appreciate that. And I mean, you know, just to wording wise, you know, Belinda, I know, you've been using the wording Pell For All, I think, for the public, it would be more accurate to not use that language as it is not Pell For All.

MS. MCARDLE: Belinda.

MS. WHEELER: Thank you very much for that, Stan. Sorry, I usually use them interchangeably between Pell Reinstatement, which reflects the language. So yes, I will, I will use Pell Reinstatement. But again, I'm just using the language from the FAFSA Simplification Act, my friend and I do understand, you know, that there are statutes here which are blocking this larger expansion. I think I would defer back to the legal counsel that just spoke and said that, you know, I think that there, you know, we do want this open 100%. And yes, I think perhaps me using Pell For All, I probably shouldn't just say Pell Reinstatement, but I think(inaudible).

DR. ANDRISSE: Partial Pell Reinstatement and my more accurate viewpoint of it.

MS. WHEELER: Yes, sir. Yeah.

DR. ANDRISSE: Full Pell  
Reinstatement.

MS. WHEELER: Yeah, I understand, my friend. So I'll just default to the language. But thank you very much for that comment. I appreciate it.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Perhaps when moving forward, we can agree to say Pell for confined or incarcerated individuals who enroll in a prison education program. Now that's a lot of language to use. But just so we can be very specific about what we're talking about, I will make an effort to refer to it as Pell for confined or incarcerated individuals enrolled in the education program going forward. Let's move into, but thank you for your comment, Stan. Let's move into paragraph P. So we're we can always come back to it, but we have completed a review of a definition of a prison education program. So now we're going to move into paragraph P. So currently, the statute only prohibits those incarcerated in a state or federal facility from accessing Pell. There may be students right now in local jails and juvenile justice facilities accessing Pell eligible programs. And so we need to provide those students and those programs, time to transition, and institutions time to transition those programs to prison education programs. Or if they

unfortunately choose not to transition their programs to a prison education program, we need to provide them time to wind down. This will ensure that students enrolled in these programs are not automatically cut off from aid on July 1, 2023 when the statute and these regulations will go into effect.

The July 1, 2029 date—so we have, for institutions operating eligible programs in a correctional facility that is not a federal or state penal institution--confined or incarcerated individuals-- So we're not talking about prison education programs here. We're talking about students right now, that are in local jails, juvenile justice facilities, anything other than a federal or state institution. If they don't meet the requirements under paragraph o, the definition of prison education program we just talked about, they can continue to receive Pell until July 1, 2029, or the student reaches their maximum timeframe, their own maximum timeframe as defined in the Code of Federal Regulations. And that is 150% of the published length of the program. So if it's let's say it's a IV year program, that's six years, or if it's a two year program that might be three years, or the student has exhausted their Pell eligibility. And we talked about that quite a bit about eligibility use and we talked about how Pell is not

unlimited. There are limits to Pell-- 600% lifetime eligibility used or six scheduled awards. And so the rationale behind the July 2029 date is that going back to that min/maximum timeframe for a typical full time bachelor's degree program, there will be a maximum of six years. So we want to provide six years after July 1, 2023. We also say in paragraph number two, that the institution would not be permitted to enroll confined or incarcerated individuals. And they wouldn't be permitted to enroll additional students after July 1, 2023, unless the institution converted the program to eligible for the education program as defined in paragraph o. And this would ensure that institutions do not continue to enroll students after July 1, 2023. So I'll pause there.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yeah, this this touches right on, you know, what I was just mentioning. I mean, not only is this not Pell For All, but we're proposing to remove Pell eligibility for folks that actually have it right now? I mean, I'm, I'm very much, you know, to me, that's what it reads as. So people in jails now that are able to get Pell under the current, you know, under the law that was in place before this was passed, are now getting will now not be able to do that after July 1, 2029. Am I reading that correctly?

MR. WASHINGTON: That is correct. That is what the law says. If the student as of July 1, 2023, students.

DR. ANDRISSE: What is the thinking behind that?

MR. WASHINGTON: The statute states that as of July 1, 2023, a student, to access Pell, must enroll in a prison education program. What we're doing here, is we are ensuring that students enrolled in local jails, or juvenile justice facilities, continue to be able to access Pell. Because as of July 1, 2023, the student would have lost eligibility without this regulatory language. So if a student is enrolled in an eligible program, that is not a prison education program, they will still be able to continue. Stan, if I can, I'm sorry, if I can finish Stan, they will still be able to continue receiving Pell through July 1 2029. So if you enroll a student right now, and if a student is in a local jail, and they are in an eligible program, and they enroll right now, they will be able to receive Pell all the way until July 1, 2029. Or if the student has been receiving Pell than they would, if they bumped up against their lifetime eligibility, then the statute says they can't receive Pell after that. Also, each student has a maximum timeframe for how long they can receive Title IV

aid for a program. And so if they bump up against that they will no longer be able to see receive Pell either. But those are all statutory requirements. So this provision absolutely expands eligibility to ensure that students in these situations continue to receive Pell and I think our-- Sophia, I apologize, I think we'll let Stan respond but then we have Steve Finley, right, who wants to ask.

MS. MCARDLE: And also Dave Musser wants to.

DR. ANDRISSE: So I mean, this is again, would point to a lack of understanding the carceral system. When putting this type of wording in place. People in jails and juvenile facilities are only I mean, most people don't spend it is they're not supposed to spend more than a year, oftentimes they do illegally, and often in some cases. But even when it's done illegally, it's not done, most of people are not in those institutions for more than a year to two years, maybe a little bit more than that. So to think about someone who is using Pell right now, they're going to be long out of their institution that they were in by 2029. So they're no longer I mean, that number of people is small. And this is actually restricting, this is now the other challenge that is brought in many of my program, folks

that run prison education programs can attest to this. Most prison education programs don't want to go inside of a jail because they know that the population inside jails only are there for less than a year. So they can't really offer a prison education program with them because they're going to be being sent back into the community. So what makes most sense for those people is just to access regular Pell, and potentially, you know, they may, they may be in jail for a couple of months, they may be able to, you know, either continue a prison, either continue, because they were already in college when they got incarcerated so they are somehow maybe attempting to continue their education through an online course, or through a correspondence course. But they don't have access to a prison education program, because most providers don't want to mean because of the time limit aren't providing that inside of jails.

MS. MCARDLE: Steve. Steve you might be on mute.

MR. FINLEY: Thank you. I just think I appreciate Stans concerns. I mean, we're limited by what we can do within the statute. The provisions that talk about trying to maintain access for as long as possible under the statute, are just designed to make sure that that anyone that is getting those benefits, if they

remain incarcerated will continue to do so pretty much for as long as we can define them within the limits of the statute. And I'll turn this over to David now.

MS. MCARDLE: Dave.

MR. MUSSER: Steve and Aaron have effectively covered what I had to say. These provisions were intended to provide as long as I guess you'd call it a runway as we possibly could, given the statutory restraints that that we're under. To ensure that individuals who are currently in these programs or who start one of these programs prior to July 1, 2023, don't suffer those consequences based on what the law provides. But we don't have a whole lot of flexibility beyond that, given what we were handed by Congress.

MS. MCARDLE: Belinda. Okay, back to Stan then.

DR. ANDRISSE: I slightly disagree with that. Because didn't we, in this meeting define what a correctional institution is, which we added jail to it? So maybe we don't add jail to the definition of a correctional institution? I mean, so we're not bound by the statutory limit, because we were, it was we are deciding what a correctional institution is in the language. If we didn't add jail, then they would still be eligible.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Let's go to Belinda, I think she's been waiting.

MS. MCARDLE: Yeah.

MS. WHEELER: Thanks for that. I just wanted to interject two small things, wearing my previous hat as a prison education director, at my institution, we were in the process of doing some programming with jails. And for what we were doing, those people had not yet been given a sentence yet. So we were, we were working with using traditional Pell monies for those for those students anyway. So this particular, this particular data like that's listed here, for the program that I had started, wouldn't actually be adversely impacting them, because we were using traditional Pell funds for those people because they hadn't yet been sentenced. Another thing, I would just say, this language from my other hat that I'm wearing, with Vera representing, you know, well, we're not representing, providing technical assistance for the Second Chance Pell institutions in this space. If this data here isn't listed with this July 1st of 2029, the former program that I ran at Claflin would end before this period, because we were part of second round of Second Chance Pell. And if we didn't go through these other things, those students would be caught would be

caught out. So from that perspective of Second Chance Pell and consumer advocacy groups, this actual additional runway, I think, from our perspective, as we're seeing this is actually very beneficial for the students, because it's giving out a wider window. So I'll just add that from my two cents there. Thank you.

MS. MCARDLE: Dave.

MR. MUSSER: I think Aaron, did you want to say something first?

MR. WASHINGTON: I just wanted to respond to Stan's last question he asked. Can we remove jail from the definition of an incarcerated individual? And going back to the reference that I gave earlier, the 44 sub part IV, section 44 the Higher Education Act. Congress defines the combined incarcerated individual as an means an individual who's serving a criminal sentence in a federal state or local, penal institution, prison, jail, reformatory work farm, or other criminal or other, other similar Correctional Institutions. So based on the statutory language, we would not be able to remove jail from the definition.

MS. MCARDLE: Would you rather go to Dave or Stan, Aaron?

MR. WASHINGTON: Go to Dave, because I think he had his hand up next.

MS. MCARDLE: Okay.

MR. MUSSER: And this doesn't change anything about Stan's remarks or any of the anything else that's been said. But this is a follow on point to what the lender mentioned, which is that the prohibition on Pell eligibility applies when an individual is currently incarcerated in a federal or state penal institution. But individuals aren't even considered incarcerated, meaning they're eligible for all types of aid, if they're not serving a criminal sentence. And the number of programs where individuals are serving a criminal sentence in local jails and institutions are offering programs in those spaces, is quite small according to FSA's data. We do collect data from institutions and identify who is incarcerated. And it's a small population, it's still in, it's still certainly important and it's part of why we want to address it here. But most students who are in local jails, typically have not yet been sentenced, and therefore are fully eligible for Title IV aid if they are otherwise meet the requirements.

MS. MCARDLE: Stan.

DR. ANDRISSE: I think that that's my point, is that we don't want to take that away from them. So and to, you know, Aaron, the definition that you read, there are people in jails that have been sentenced, and

there and that are serving a, you know, a prison, a sentence, an incarcerated sentence, then there are people in jail, that have not been sentenced, and they are not serving. And those individuals, as David just mentioned, had always been, had been eligible for Pell. To my understanding the way that things are changing, we are now taking that away from them. We're now saying that if you're in a jail, you have to be in a prison education program. Whereas before, David, as you just mentioned, if you were in a jail, you weren't sentenced yet, you can access Pell, Pell, just like any other person who doesn't have a criminal record or who's not confined.

MS. MCARDLE: Dave.

MR. MUSSER: So I want to actually defer this to OGC. But my understanding based on our earlier discussion, and the amendatory text that we were looking at for the definition of a confined or incarcerated individual, actually stated that they were serving a criminal sentence. And so if that factor doesn't apply, I don't believe that they would be considered ineligible for any kind of Title IV aid.

DR. ANDRISSE: Okay, that clarifies what, Okay, thank you. So that those individuals not sentenced will still be as they were before able to access Pell under the current language that we have.

MS. MCARDLE: Steve.

MR. FINLEY: Yeah, we'll go back and take a look at that and confirm that that's the case. And at the risk of stating the obvious, someone who is incarcerated only has as much access to use that Pell as they are given within the limits of their being confined.

DR. ANDRISSE: I mean, there's online courses and correspondence courses, and if the person was currently in school, they can continue using that to, you know, despite being small, as you said, David., And really, the reason that it's so small, is because there's not enough advocacy around letting you know, we work inside jails. And we, when we tell people that they're eligible, they're like, what? That's not what the word on the yard is, is I'm a convict, you know, I can't access that. So there's not enough education and knowledge is why that number is so small. It's not because the number of people who wish and would want to use that is low, it's because they don't have the knowledge of that they can use it.

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: I wanted to move down quickly, Vanessa, to one more disclosure that we didn't talk about yesterday--there you go 668.43. And so I failed to talk about the disclosure yesterday related to

the prohibition on any prohibitions on licensure or employment. So um, so we're looking at six romanette two. So, so we're saying an institution that offers an eligible prison education program as defined and 668.8, if applicable, must make available information upon request that confirms that the education is designed to lead to licensure, or employment for a specific job or occupation. This does not typically involve federal prohibitions on licensure or employment of the formerly incarcerated in the state in which the correctional facilities are located or in the case of a Federal Correctional Facility in the state in which the individual is confined or incarcerated. So that's just another disclosure that we wanted to provide upon request from the student, that confirms if they enroll in the program, there are no prohibitions on licensure, employment, if they, if they take that program. And again, here we use that for the Federal Correctional Facility because we wanted to make sure that the student could request information about the specific state that they plan to return to. And not just the state that most students will return to. So for instance, though, I'm going to find a Federal Correctional Facility and I want to return to Maine again but they've determined that most students will return to New York, I can request

information about Maine and any prohibitions on licensure or employment, there.

MS. MCARDLE: I see no hands.

MR. WASHINGTON: Alright, so let's move into the best interest conversation. So we'll go back to the best interest conversation. So Vanessa, if you can pull up the chart that I sent you. I sent the chart to all the negotiators this morning. Let me get a thumbs up if you if you all have received it this morning. Think I Stan, Stan you have it? It's also projected here. Thank you. Alright, so we've discussed continuing education. Correct me if I'm wrong, I think we talked about job placements, I think yes. We talked about job placement and, and earnings. And so we wanted to move to recidivism, and then complete the discussion. And we have reserved quite some time to talk about this as a conversation and early then we can definitely go back through the entire regulation and do our temperature checks. But so for recidivism, the rate of low-before I start, does anybody have any questions? I kind of transitioned, abruptly.

MS. MCARDLE: I see no hands. Oh, wait, sorry, hold on Dr. McTier.

DR. MCTIER: So this document that you're showing on the screen, these are the metrics which

the Department of Education is going to be collecting?  
That's my understanding.

MR. WASHINGTON: So yeah, so these are the indicators that the Bureau of Prisons will be using to determine whether the program is in the best interest of students. And what we're doing here at the subcommittee will be defining--will help the Department in ways that we can define these to provide the Bureau of Prisons and State Department of Corrections with guidelines, guidance, assistance, with making those determinations. And what we've heard throughout --you all correct me if I'm wrong, but what we've heard from members is that the Bureau of Prisons may not, does not have the capacity to do these things. And so we've heard support for the Department's position that these will be defined because the Department does have the authority to define them. But we've heard support for that position. And my understanding is that we've also heard support for the Department using its own data sources, specifically for earnings and continuing education rate for potential metrics, and potential cohorts. So that's what we've heard. I know there was a little discussion on, you know, the institution's role on the job placement rate. But I think if there's more conversation about continuing education, post release or earnings, we can have that,

but I think it'd be beneficial to move through recidivism, and completion, so we can make sure we have a conversation about those. I'll pause there.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Okay, so if you're saying the Bureau of Prisons is going to actually be collecting this information? Not the Department of ED?

MR. WASHINGTON: No, the Department, the Department. I'm sorry, for continuing education. We talked about using our National Student Loan data system to collect that information. And then for earnings, we talked about using College Scorecard data, College Scorecard information to collect that information. So the Department will be the potential data source, the Department would be the data source

DR. MCTIER: Okay, I just wanted to be clear, because you said the Bureau of Prisons will (inaudible) I was a little bit confused. I will add this and then I'll yield my time. The only concern that I have is that we do not actually have a representative from the DOC here to discuss. So basically, we you know, we're saying that they can't do these things. But it would have been really, really nice to as much as it pains me to say this, to have them at the table to really discuss their capacity or what they can and cannot do. And then you

know, just building that potential partnership. I feel like we're missing that component in this subcommittee, and yeah.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes, I would, I was just going to echo the same thing. I think a lot of the language has said that the DOC is going to do X, Y, or Z. And we have and you know, I've mentioned it a couple times and I really wasn't directing at Marisa, because Marisa is really a partner within the DOC system, but you know, to have for instance, I believe the organization name is called ASCA, the Association of State Correctional-- that was their old name, they have a new name now, but I do know the director of that, for instance, is Anne Precythe, who is the director of DOC in your state, Terrence, Dr. McTier, in Missouri. But she also is the one that oversees this collective of correctional leaders. You know, I think having them at the table is missing and I, you know, being a member on the full committee, I would actually, I'm interested in proposing to the, you know, the full committee when we get back, that we add this DOC member to our committee, as a full voting member has that ability to do that, to my understanding. So that is something that I will be bringing back to the full committee. But as Dr. McTier

mentioned, we're missing that voice, and we're having them do a lot and they're not at the table.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Stan, I think we I mentioned in the email that I sent to the subcommittee, that we won't be adding members to the subcommittee, but with the full support of the subcommittee, we can invite individuals to address the subcommittee. Oh, I'm sorry. Alright. It sounded like you said you wanted to add to the full committee, I apologize.

MS. MCARDLE: Stan.

DR. ANDRISSE: I was just going to make the correction that it was that bringing that to the full committee and understanding that committee, you know, we had that conversation in the full committee-- of bringing on a new negotiator. And it you know, we have the according to the protocol, the ability to do that. And I'm just mentioning that I will be bringing that to the full committee in our November meeting. Because I do think it's, you know, we're missing out on that, in this particular conversation. I mean, a lot of the things that we've been saying, Dr. McTier and other partners working with the DOC, we are very capable. But it would be great to have their perspectives on it.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you for that clarification Stan. That was my mistake. I need to admit, I didn't, I thought you were referring to the subcommittee, so I apologize for that. So what I'd like to do is move into recidivism and talk about talk a little bit about that and get the subcommittee's thoughts. The statutory language requires that the Bureau of Prisons and State Department of Corrections take into account the recidivism rate when determining if the programs are in the best interest of students. And a potential metric for that would be the percentage of formerly incarcerated individuals who are re-incarcerated within a certain number of years. Some of the data sources the Department is thinking about-- under WIOA state's report on their rates of recidivism. And that data may vary from state to state. There is some information from the Bureau of Justice Statistics. And there's also some information from the US Sentencing Commission. I also researched recidivism for the federal system. And then we'll be looking at potential cohorts. The Department would seek to include only students who will be released and may require additional reporting. I'll pause there.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: You know, I understand

this is statutory so, note that I know that. But I've got to go on record and say that collecting recidivism rates has nothing to do with education and should not be used as a metric for understanding and or trying to get a glimpse of whether or not a higher education and prison program is doing their job or doing the right thing or providing that quality education. We cannot control what happens once a person leaves a facility. A higher education institution can't do that. And then trying to track recidivism rates when we know that you know, people --probation or parole is revoked not for new crimes, but just for technicalities and just other areas. This is not the right metric to be collecting. It has nothing to do with education. And I want to go on record saying that I'm not in support of having recidivism rates as a metric, a part of any part of the educational component.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes, I would concur with Dr. McTier that, you know, in terms of evaluating the quality of a program, I think I had given an example earlier of how recidivism rate doesn't quite touch on the quality of a program. I was gonna ask about, is there a way to maybe color code some of the data sources so to say like, so we can see which ones are being the data sources, the Department of ED, which ones are from the

Department of Corrections, which ones are from the educational institution that's responsible for getting that data?

MR. WASHINGTON: We can try and work on that after lunch. I don't want to put.

DR. ANDRISSE: Yes, that's fine. Because and then just to also like, which ones are DOC required and which ones are the educational institution? Which ones are you leaning on the DOC to get? Which ones are you leaning on the educational institution to get or provide?

MR. WASHINGTON: Well, we would like your feedback on that. So what we heard in our initial discussions is that the Department of Education for at least the earnings and continuing education, sounded like the subcommittee was in general agreement that the Department of Education will be the data source for those two indicators. Job placement, you see there we say the Department of Education can also use College Scorecard information. So to do that we also got information from the subcommittee that the institution may play a role in that these are all proposals. We're going to go back and work on amendatory language for you for the section of the regulation-- before the second subcommittee meeting. And so these are not concrete-- these are proposals. And

it's really all a proposal Stan, and honestly, until the main committee votes on it.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: So just a point of clarification and something to consider. What does the Department consider as recidivism? And then what will be collected with that understanding? What is the timeframe after release that the Department will be collecting that information? So is it going to be once a person is released? Is it going to be the first three months, six months a year? Is it going to be every time that that individual returns back to a confined facility? This one, I think there needs to be a level of clarity here. Again, just pointing back to my other note, I don't think this is a good metric. But I think having this information, yeah, is needed.

MS. MCARDLE: Aaron, did you want to clarify, or should we go to David?

MR. WASHINGTON: Let's go to David first and then I'll.

MS. MCARDLE: Dave?

MR. MUSSER: Okay, sure. This is just a clarification. Who would be responsible for providing data that would enable us to calculate these rates. I think, as Aaron mentioned, what we've talked about so far

is that the Department would be in large part responsible for providing the data for the continuing education rate, the earnings rate and the completion rate. But there's a caveat, and that is that row number five on the potential cohort exclusions. WE don't have data on individuals who are released. So if we want to exclude those individuals from any of the continuing education or the earnings, we would need to get that information either directly from correctional agencies or the penal institutions or through the schools who would have to obtain it from I believe the penal institutions themselves.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Yeah, and just a follow up on Dr. McTier's question, about the timeframe, what is recidivism? I think that we wanted to get the subcommittee's ideas on support around these. And that's the purpose of allotting two hours for the discussion today to get your feedback on what the timeframe should be. If you have a definition that we should be including for recidivism, or in the potential cohort exclusions, what students to exclude? I think that's, that's the whole point of the discussion is to get your expertise and feedback on how the Department can draft the amendatory language for you all for the next session.

DR. MCTIER: Can I interject just to

answer that point, to provide clarity, is that okay?

MS. MCARDLE: Sure.

DR. MCTIER: So, but I think what will also be helpful is to hear what the Department considers as recidivism. Because you all propose this so we will I least want to know where your thoughts are. And so that way we can kind of work through that point. Instead of just going in based off our opinions, we at least want to see where you all (inaudible) are at with this metric.

MS. MCARDLE: Aaron, did you want to respond or should we move to Belinda?

MR. WASHINGTON: Let's go to Stan and then Belinda. I think they've been waiting.

MS. MCARDLE: Let's go Belinda, next and then Stan.

MS. WHEELER: Thank you very much for that. Yeah, um, recidivism rates--this is something that we're definitely in the field trying to get away from. I understand it's statutory. So we've obviously got to deal with it in some capacity. And I appreciate the opportunity for us to try to help guide how this actually happens. I would be very interested, I know obviously, you know, continuing this conversation today, but also I'd be interested to see some other ways that the Department might want to reach out to other you know,

community groups or organizations that report in this space. This data though, it's unfortunate that we need it, because it's statutory, is not invasive, towards the people that we're trying to, you know, to serve in the space. So, you know, one of the things that, you know, I definitely want to make sure that we're not seeing is, for example, and it's an awful example, but I think it highlights the potential issues here-- a student finishing up with a program, and then the Alumni Association having to track and, you know, ask, like, Hey, you know, like, Where's your address? And you know, that, that kind of situation, and if we don't , put in place proper guard rails, this really could be very hurtful, you know, to the students that we're trying to serve. So, I definitely would like to see how we can, you know, I think the use of existing data points so that it's not as invasive and you know, people know, that they're, constantly being looked over, you know, over their shoulder as to, hey, people are waiting to see, you know, if I recidivate. So, but I think there's a lot of good, community partners that are publishing reports in this space and using data. I would like to see how the Department will kind of move forward with this for conversations as we get ready to figure out how this data will 100% be tracked.

MS. MCARDLE: Stan.

DR. ANDRISSE: So, I wanted to ask for clarification, and then also, you know, propose a thought. So clarification question. These are the metrics that will be used to determine if a prison education program is able to continue offering a prison education program, Correct? Could you clarify what the use of this is?

MR. WASHINGTON: Can we, Vanessa, can you project the amendatory language? And can you scroll down to the definition? Yep, 668 and then scroll down a little more. Scroll down a little more. So three i, yep, there, that's perfect. So we say here, after two years of approval under paragraph two, that's remember, from our discussion, paragraph two was that initial timeframe, because we know that institutions and the Bureau of Prisons won't have data. So we're giving them two years. Now the schools, the programs have to be approved by the Bureau of Prisons, but they don't have to be approved under these standards. So after the two years of approval under paragraph two, has been determined by the Bureau of Prisons, the appropriate State Department of corrections, or another entity that is responsible for overseeing correctional facilities to be operating in the best interests of students. An oversight entity's

determination that a prison education program is operating in the best interest of students is based on all of the following. And so that's BOP-- and DOC will base their determination on these indicators. And what we're going to do here is define indicators to provide to the Bureau of Prisons.

DR. ANDRISSE: Okay. So the program has started offering a college in prison program. And it's now been two years and these metrics need to be provided to assure that they continue? Is that a correct summation of it?

MR. WASHINGTON: Correct.

DR. ANDRISSE: And so I'm sorry to be rehashing this. What is the process to even first let them in to the prison? Just the DOC approving that they can come in and offer College in prison?

MR. WASHINGTON: A prison education program, correct?

DR. ANDRISSE: For the first two years. So the DOC is the gatekeeper, to decide if a prison education program comes into their Correctional Facility. And then after two years, they have to meet these metrics to continue being a prison education program?

MR. WASHINGTON: Based on how we

define them during the subcommittee.

DR. ANDRISSE: Okay. And so my proposal is, should the Department of ED be the one that is determining the eligibility of the program? And I mean, it sounds like, again, the DOC is the one that's determining. I'm just I guess I'm, I'm a little bit mixed up on, I understand that we're trying to figure out the metrics of what a good quality program that is working in the best interest of students. I'm just wanting clarification on how it's going to be used and who is using it?

MR. WASHINGTON: Belinda, I am so sorry. I know you've been waiting. I just want to answer Stan's questions as they come. So Belinda, would you mind if I answered this question and then we will turn it over to you? I do apologize for making you wait.

MS. MCARDLE: I think it was actually Kim.

MR. WASHINGTON: Oh sorry. I'm sorry. (Inaudible) answer the question. I can't see Kim on my screen if you have a thumbs up? Okay. Well, for what we-- Stan, what I heard yesterday was, and you correct me if I'm wrong, but it was pretty clear to me, what I heard yesterday was that the Bureau of Prisons and State Department of Corrections could not collect all this

information. So that seems to signal to me that the Department should be defining the process to provide guidelines on how the Bureau of Prisons makes these determinations. State Departments of corrections or other correctional authorities are tasked with reviewing and approving individual programs. And this will be a new role for many of them. And to ensure adequate protections for students, and a fair and comparable process across states, we believe that it is appropriate for the Department to define these terms. And then the DOCs, the BOPs and DOCs, will then determine whether the programs meet those definitions. I thank you Sophie. Thank you. Thank you. Thank you for letting me skip ahead, Kim and Belinda.

MS. MCARDLE: Kim and then Belinda.

MS. CARY: That's no problem Aaron, thank you. I think just a follow-up from an institution perspective. Knowing that DOE we will have things in place for us to monitor our progress and if we're doing things correctly. I think, to answer Stan, I think this is the DOC's opportunity to get rid of the institution that's not fulfilling their original promise, when they set up that relationship to have the program within their institution. So I think by the time two years roll around, you're gonna know if that's the relationship you

want to continue for incarcerated individuals at your correctional facility. So I think that's kind of a, I think it's good, I'm glad to say that they're, we want to make sure that we're fulfilling our role in our what we've promised to do. And these metrics, I think, will have a good role in that. Thank you.

MS. MCARDLE: Belinda and then Stan.

MS. WHEELER: Thank you. Aaron, to get back to your question earlier about the timeframe, you know, if we haven't had to, indeed, you know, collate data on recidivism. I think we would like to see a very long runway given, you know, I do not have carceral experience myself, but I've worked and have friends who have carceral experience-- and that transition back takes time, you know, it takes time for the individual, you know, the community, and things of that nature. So if we do indeed have to, to count some data, I would, you know, I think it would be in our best interests to give individuals, their families and communities time to you know, get back, readjust, you know, get immersed back into the community and things of that nature. So, I would like to kind of put out there perhaps something like a five to seven year, kind of timeframe here again, you know, before we actually start, you know, checking to see, you know, if someone has indeed recidivated. I think

doing smaller intervals of, you know, three months, six months, twelve months, whatever that case might be, I think that I'm not sure that that's very positive. I don't think that collecting this data in of itself is positive anyways. But I like the idea of that longer runway, so that, you know, people have a chance to readjust and, you know, hopefully again, with these wraparound services, the community and things like that, I think if we do indeed have to capture that snapshot, that it would be, you know, it would definitely be more advantageous. And that's another point that you'd said about, you know, what is the definition that we're going to put in here? You know, is it going to be a new felony? Is that a return to prison? You know, Dr. McTier had mentioned, you know, sometimes people might be out on probation and, you know, some something happens that, for whatever reason, unfortunately gets them back into the, to the system, I think it would be more fair in capturing this data that we're a little uncomfortable with, that we really specify exactly how that metric is defined. Because I think something like a new felony is very much different than if someone you know, is out on probation. And, you know, an unfortunate situation happens, and I don't know, something trivial and unfortunately, that person is back. So I think it's really important for us

to, you know, take the time. I welcome my colleagues on the subcommittee to, to, for us to kind of think about how we define that to make it really as fair as possible for all parties in this. Thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes, and thank you, Kim, for the clarifying point that you made. And thank you, Aaron, as well for helping clarify the question that I had. And I guess partly what I was coming to is that proposing this idea of the Department being responsible for ensuring that a prison education program is meeting quality metrics. And in a way, the way that I was envisioning it, there can be, in a sense, a pool of programs, that a DOC can go around, and know that they have a list of approved quality programs. And any given DOC can say, I like this, let's bring, let's bring five of them to my institution in some manner. So I guess I was just, but in order to get to that indication of being a quality program, I understand that they need to be offering prison education. So they would need to have already been partnered with the institution. Just trying to wrap my head around all of that, and doing that out loud. But thank you for the clarifications and a point to what Belinda just mentioned. Um, I, the two year expectation seems pretty short, I think, to gather some

of these metrics after two years will be challenging. I would be in favor of what Belinda just mentioned in terms of having more time, maybe doing a halfway point at two years, but then, you know, having a bit longer than two years for like a final determination.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you for all the comments. I did say I would circle back to Dr. McTier's question, what is recidivism? I think, you know, I'm going to repeat myself. But I think that's what we were all here to discuss, to figure out. I believe that, you know, we've tried to assemble a subcommittee of experts to provide us with more information. And I heard Belinda say, you know, consider new felonies, or returned to prison. Dr. McTier you mentioned if probation is revoked. So those are things that can be considered in the definition. But I do think that the reason that there wasn't a regulatory framework that was presented to us is because we wanted to hear from you all, what the most accurate definition could be, what the cohort could be, what the data source could be. So I see Dr. McTier's hand raised, and I I'm not taking Sophia's job, but after Dr. McTier's comments, I would like to move to completion rate. So we can talk about that before lunch, because we have to come back and talk about three more indicators,

the inputs, after lunch. And then stop that conversation but I hope that conversation would, we could wrap that conversation up an hour, so then we could go back to the temperature checks for the last hour for the entire proposed regulation.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: I'm just really concerned that the Department is not willing to tell us what their thought process was or what the definition was for metrics that they've created. I feel like you all are trying to utilize us as a scapegoat to put into place something that you've already created. And I think that's unfair. So I still want to know, what the Department's thought process was, what was their definition when creating these metrics. It can't just be put off on us because I don't agree with utilizing this as a metric. So if I really want to hear what the Department's stance is, and I feel like you all are not willing to tell us and you all are trying to hop over my request. I don't think that's fair.

MR. WASHINGTON: Dr. McTier, I hear your concerns and I, you know, we sent out the proposal. And I mentioned earlier as well that this is defined, going back to the definition that Congress amended, the Congress put into the 2021 appropriations bill that

amended the Higher Education Act. Rates of recidivism for such individuals is in the actual statutory text. We did not provide regulatory language, here, we provided a lot of them-- amendatory language in the document, there's a lot of red lines. And you can see that we didn't provide the mandatory language here because we wanted to hear your feedback. We are not trying to trap anybody. We are not trying to hold anything back. There is no amendatory language right now. For the indicators, there's none. And we've assembled you all to provide us feedback-- If you don't like what's proposed here. We do really want to hear what your thoughts are. Or you can submit that information if you want. You've gone on record you know to say that several subcommittee members have gone on record publicly to say that they don't think that recidivism is a good indicator to determine if a program is in the best interest the students. The Department will take everything you said back and consider everything you said. But we're not withholding anything, because we didn't provide any regulatory framework. I really would like to move to completion rate to have a small discussion on that, Belinda but I did, Sophia.

MS. MCARDLE: Aaron. Belinda has changed her mind.

MR. WASHINGTON: Thank you. Vanessa,

can we repost the chart please? Thank you very much, Vanessa. Alright, so the Department completion rate does not appear in the statute, but the Department is proposing to add a completion rate. And so a potential measure would be the percentage of students who complete their program within 150% of the expected time to completion. We talked a little bit about that. And when we talked about maximum timeframe, as defined in our regulations. Potential data source-- institutions currently report graduation rates to IPEDS and, and the Department produces completion rates for Title IV recipients through the College Scorecard. And institutions could calculate and report graduation rates specific to prison education programs. And institutions would need to identify which students are enrolled in prison education programs so that it can calculate the rate. And a potential cohort would be-- the Department could align reporting requirements with IPEDS--our scorecard calculations, and we could exclude students who are involuntarily transferred across facilities with additional reporting requirements. I think I will stop there and open it up for conversation.

DR. ANDRISSE: So to my comment before on the two year period, this is one of those metrics that even more clearly shows that two years is too short. You

know, what type of completion rate data could you have in two years? I mean, it's, you know, it would be challenging to get that type of data in two years. The other point that I wanted to bring back is, so any program can come in and start a prison education program, as long as the DOC who's the gatekeeper, according to legislation, has been decided to be the gatekeeper. And it's not until two years that we would find out if they're a bad actor, according to how it's written, right, and then potentially remove them because they're not meeting some metric. But if I'm understanding correctly, any program could come in and at least be there for two years, despite being a potential bad actor. As long as the DOC- the gatekeepers- had let them in. Is that correct?

MS. MCARDLE: Stan. Aaron, would you like to respond?

MR. WASHINGTON: I'm sorry Kim, I just want to respond to Stanley's question really quickly. Thank you. So there are other program eligibility requirements that were in statute that we replicated. And so if the program had any negative actions against it within the institution, and negative actions in the last five years, from the Department's perspective, emergency actions, suspensions, terminations from a creditor

perspective, adverse actions or initiated adverse actions --that we've added to the regulation. From the state's perspective if there's any revocation of state authorization in the last five years, the programs have not been able to operate. And then also, that we've put into the regulation that even under the initial two year period, the institution would still be required to provide us with information on how the Bureau of Prisons determined the programs are operating in the best interests of students. So we would still have the information reported to us as well. We have authority, the Department has authority to revoke approval, if the institution violated any parts of the definition of a prison education program. So within that initial two year period, there are protections built in to help to deter bad actors or to not allow in bad actors. However, if you have any suggestions on language, I think that was one of the comment bubbles--, I think it was on the kind of bubbles we had in the document--I think I asked the subcommittee members, were there any additional restrictions that we should tie into that initial two year period. Perhaps we put a cap on the number of additional locations that the institution can expand to, in the first two years. Perhaps we put a cap on enrollment, or, you know, perhaps we say, instead of, for

example, instead of in the initial two years, the institution is only able to provide a prison education program at one additional location. Or for the first two years, for example, the institution has to apply to the Department and the accreditor for every single prison education program that they want to provide in this location. Or perhaps, for another example, could be during the first few years, the, the institution that wants to offer the prison education program would have to submit applications for the first prison education program at each additional location. You know, I think that's where I was trying to get feedback from the committee, whether there could be additional parameters around the first two years.

DR. ANDRISSE: Thank you for the clarification.

MS. MCARDLE: Okay, Kim.

MS. CARY: Thank you, Aaron, for all of that. I know that there's a lot that can be done. What I'm saying-- all this, it's actually coming back to institutions that I'm putting this back on. So hopefully all agree with me, but for the betterment of the program, I think there're ways that the Department could retrieve data from us and they're still going to have satisfactory academic progress in place, that that kind of data could

show how students are progressing. It may not always be the institution, or the academic aspect of it, it could be the student as well, but I think it would be a good metric to look at to make sure students are completing satisfactorily, you know, amongst all other programs. We're talking about two years also and completion rates, and 150%. Not all of these students are going to be allowed to take full time enrollment. So we're talking about a longer expansion to complete a degree or certificate in two year, four year, whichever one it is. So maybe metrics are put in depending on the type of program they're in as to when things are reported out. That helps institutions know how they're doing and to reassess if they're being productive or not. It also allows DOC to say, hey, they're not really providing us good instruction, we're not seeing good outcomes for our students. Maybe we need to make a change or talk to the institution about that. I think there's a lot of things we could put into place there, through additional, you know, through colleague letters, language, just as ways to move forward. But I don't know that two years is going to actually do it. It'll give us a good idea. But with 150%, that's a normal view of a full time student at an institution, it's going to take a little longer, I think, in this population, depending on what the DOC allows

their students to take. Thank you.

MS. MCARDLE: Marisa.

MS. BRITTON-BOSTWICK: Well good morning, everyone. I think for me, this is a big one. You know, this is all big, but two years in a correctional facility is much different than in the university system. We all know that. But we really need to look at this unique environment with that two year limit. I think there needs to be consistent, like you said, Aaron, consistent benchmarks and parameters and things like that. But I don't really agree with the two years that I think there needs to be some discussion on that two year window. So thank you for bringing up the caps and the parameters. I think that's so important. The other thing is to not to go back to this, but I think the definition of recidivism is going to be huge. Because that is the first thing people go to, in front of, you know, everyone always asks, What's your recidivism rate? What's that? So I think I agree with Dr. McTier, we have to look at that. So thank you.

MS. MCARDLE: Belinda.

MS. WHEELER: Thank you. Just a couple of comments. So number one, to get back to your what you were saying about completion rates, I think that is a very important metric. You know, I talked yesterday about

how certain things when people are looking at a traditional university setting, and certain you know, what your employment might look like after high school, what it might be with an associate's or things like that, those are standard practices that we see in traditional educational settings. And the completion rates is equally as important. We know that completion rates in a carceral space are likely going to look quite different from a quote unquote, traditional campus or a main campus. And that's okay, I think that, uh, you know, as we're moving into this space on mass, you know, as a post July 2023, that, you know, this gives us a really good opportunity, you know, to kind of check and see. , The corrections setting-- for two years and traditional education setting being quite different. A lot of current educational programs, who are in prisons, like to run a traditional, kind of, you know, fall semester, spring semester, a summer semester, and that's it. Is that very fair to have that like three, you know, three sessions or four sessions-- fair to people who are currently incarcerated? A lot of students would say, look, you know, don't give me that huge break over the summer or whatever, give me as many classes as possible. So, you know, I think this is a really good opportunity for educational entities, students and others to look at how this works. And

completion rates will be one good way for us to kind of evaluate things. Second point, I just wanted to say, with regards to the two years-- I understand my colleagues' concerns about certain things, if I'm understanding what ED is saying here, it's my understanding that things like recidivism, for example, if we do the five to seven year runway-- or completion rates, if we're looking at students starting, it might take them four years, six years to complete their degree. It's my understanding that this two year level wouldn't count against these institutions because ED knows that this data would be coming sometime later. So if I'm, if I'm hearing that correctly, and I'm understanding it correctly, I still personally like the idea of the two years because honestly, as someone who started a program myself, and has looked at other programs, both Second Chance Pell and non-second chance, there's a lot of different ways that you can see whether or not a program is serving students' best interests within that two years. And if we extend beyond that two years, just think about that Pell clock ticking for students, so I still like the two years. Thank you very much.

MS. MCARDLE: Dave.

MR. MUSSER: Mine is very quick, but I wanted to follow up on the suggestion that Kim made a few

minutes ago regarding the use of satisfactory academic progress. I don't want to speak to that particular suggestion. But I will say that FSA in response to the statutory requirements for the reporting that we'll have to do, FSA is working on developing a process for collecting credits earned and credits attempted by incarcerated individuals. So if the subcommittee thinks that that might be a useful metric to look at, I think there may be feasibility for the Department to collect and calculate something along those lines as well. I'll stop there.

MS. MCARDLE: Marisa.

MS. BRITTON-BOSTWICK: So I just want to say again, that completion rates over a two year period in a correctional facility, even our very high level, students cannot take a lot of classes all at once. It's a very unique environment, they have jobs, they have other programming, they are you know, working to get back out into the community working with their case managers, and things like that. So I just wanted to bring that up again, to make sure that that's on the record. Thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes, thank you. I want to agree with Belinda, that two years is a critical point, but maybe as a checkpoint, as I had suggested

earlier. And I also wanted to just ask if recidivism tracking is in the statute, you know, it's required. , i- Is there funding to do that, and, and two if it's required, I think maybe adding regulatory language that clarifies that this is not being gathered, or, you know, we're not getting this data to assess whether the program is working or not, or quality or not, it is just data that is being gathered outside of the quality of the program. It would be a suggestion that we add language, if it is something that we're requiring. And that touches on what Dr. McTier says about the use, I mean, it's not a useful metric to say that a program is particularly quality or not, because there's so many other factors that may play into a person recidivating. That, you know, Dr. McTier's program may be awesome, it may be the best one in the in the country. But that, you know, then you are looking at these types of metrics that aren't, you know, aren't showing that. So maybe my suggestion is that, even if we're tracking it, it's not being used to say that this program is quality or not.

MS. MCARDLE: I see no other hands.

MR. WASHINGTON: That concluded our discussion. Thank you, Stan, and everyone else who provided ideas. That concluded our discussion on the outputs piece. After lunch, we will look at the inputs--

that would be the teacher experience, credentialing and turnover, the transferability of credit in the academic counseling and support services. And keep in mind, the Department wants to ensure that the prison education programs are offering similar services, or providing a similar level of offerings to those that are in prison education programs and other eligible programs at the institution. So that's what the conversation will be centered around after lunch.

MS. MCARDLE: I believe Kim has a hand up.

MS. CARY: Thank you, Aaron, just really just a statement before we break. This was for Department of ED to think about over our break and come back to give them an opportunity to think about it. The issue paper really again does not address the FAFSA process itself and the barriers that might be there for incarcerated individuals. Part of that completion rate might be inhibited by being able to complete that process each year. Especially for dependent students who are incarcerated, there are certain you know, as we talked about the other day, you're looking at verification, you're looking at different components of the process for this group, but I encourage ED to look at would (inaudible) these individuals, would there be a

necessity? We don't always have the ability to help dependent students reach out to families that may or may not be willing to help them. And then what do they do? They're kind of stuck in the process. So I encourage you to look at that and then maybe address that when we come back. Thank you.

MR. WASHINGTON: Will do thank you so much, Kim. So we will reconvene at 1pm. Thank you, everybody.

