

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
AFFORDABILITY AND STUDENT LOANS COMMITTEE
NEGOTIATED RULEMAKING SESSION 1, DAY 1, MORNING
OCTOBER 4, 2021

On the 4th day of October, 2021, the following meeting was held virtually from 10:00 a.m. to 12:00 p.m., before Pam Flores, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MS. MACK: Thank you, and good morning, everyone. My name is Kayla Mack and I am a federal facilitator with the Federal Mediation and Conciliation Service. It is my very distinct pleasure to welcome you all today to the United States Department of Education's Negotiated Rulemaking, through which the Affordability and Student Loans Committee will propose student financial assistance regulations.

In effort to welcome you all, the department, the committee negotiators, advisers, and the public logging in and viewing our session, I would like to turn it over to Ms. Jennifer Hong, the department's federal negotiator.

MS. HONG: Thank you, Kayla. Good morning and welcome to all of you joining us today and to the committee members and alternates seated around our virtual negotiating table.

My name is Jennifer Hong and it is my pleasure to welcome you to the U.S. Department of Education's first ever virtual negotiated rulemaking session. This is the Affordability and Student Loans table and I'd like to welcome my colleagues around the table, representing various constituencies who have been nominated by their peers and selected the federal student aid programs, authorized under Title IV of the Higher Education Act of 1965 as amended. You may recall we kicked off our negotiated rulemaking process

through our public hearings and solicitation of comments back in June when we heard from the public on various topics concerning affordability and accountability to federal student aid programs. We appreciate all of those who engaged with us through that process, shared your concerns and provided suggestions. Based on your feedback, we have formed this committee to focus on affordability and the student loan programs to include borrower discharges, public service loan forgiveness, borrower defense to repayment, interest capitalization and income-driven repayment of student loans. There will be a second committee that will focus on institutional and problematic eligibility, which will convene next year.

We have a robust agenda for this table on affordability and student loans. The [inaudible] issue papers describing concerns we've identified in the programs and in some areas proposed solutions for resolving these concerns through regulation. To the committee members, there are many issues we would like to discuss with you and specific questions to generate some ideas and potential solutions. These issue papers are available online. You can find our negotiated rulemaking website at ed.gov under "How do I Find" listed as higher education rulemaking. In that link, the issue papers listed under session 1.

As I mentioned earlier, this is the first time we're attempting this virtually. We implore your patience as we navigate this together. And without further ado, it is my pleasure to introduce our Under Secretary, James Kvaal, who will provide welcoming remarks. Under Secretary Kvaal was formerly President of the Institute for College Access and Success or TICAS, a research and advocacy nonprofit dedicated to affordability and equity in higher education. TICAS is nationally recognized for its research in policy recommendations on student debt. He also served in the Obama Administration as a Deputy Domestic Policy Advisor at the White House and Deputy Under Secretary at the U.S. Department of Education. Under Secretary Kvaal led efforts to cut student loan monthly payments, hold career colleges accountable for excessive debts and make community colleges tuition free. He helped organize the White House Summit on College Opportunity, which featured more than 100 college presidents and other leaders committing to actions to help more students graduate from college. He also has served in senior roles in the U.S. House of Representatives and the U.S. Senate. Please join me in welcoming Under Secretary Kvaal.

MR. KVAAL: Thanks so much, Jennifer,

and thanks everyone for being here. On behalf of Secretary Cardona and the full team here at the Department, I Want to welcome you to the Department of Education's first fully virtual -- I'm sorry, can you all hear me? Our first fully virtual negotiated rulemaking ever. We take this process really very seriously. We think the negotiated rulemaking produces the best possible regulations and it would not be possible without you and all of your hard work. So, thank you for being a part of it.

President Biden and Secretary Cardona Have laid out an ambitious vision for how we can rebuild Our system of higher education around equity and student success. And, over the last nine months, the Administration and Congress have made unprecedented investments in colleges in this time of national recovery, especially those inclusive colleges that are committed to the mission of equal opportunity and affordability. And Congress is now considering a round of substantial investments as we build back better. The Administration is also committed to attacking the generational problem of student debt and college affordability with ambitious new ideas. And we have pursued an unprecedented set of executive actions to address student debt. We have extended and expanded the pause on interest collections and repayment, saving borrowers billions of dollars a month. We have approved new groups of borrowed

offense claims and granted full relief to tens of thousands of others. We have protected borrowers with a total and permanent disability discharged under national emergency and issued a rule granting automatic benefits to hundreds and thousands of those borrowers, so paperwork won't stand in the way of relief that they need. And we granted additional closed school discharges to borrowers who attended one of the most notorious predatory institutions.

So, we are off to a fast start but there's a lot more work to be done. Secretary Cardona and I are committed to building a higher education system that is a force for equal opportunity and economic success. Too often, student debt stands between students and their goals. So, we will seek to ensure that the programs and benefits authorized by Congress to help student loan borrowers live up to their promises and root out patterns of wrongdoing when colleges fall short.

The rulemaking agenda is designed to ensure that millions of borrowers holding student loans today are able to repay or get relief on their loans and the future is even brighter for the next generation of borrowers. The work of this panel is also important in addressing the disproportioned impact that student debt has on borrowers of color and low-income students. This is a high priority for the President and it's my

hope that the regulations developed here will move us closer toward improved student loan policies that will help all borrowers and especially those that struggle to repay. Specifically, your work on the Affordability and Student Loan Negotiated Rulemaking Committee will include discussing proposals to improve or restore targeted programs and benefits such as the public service loan forgiveness and discharges when a college closes or when a borrower has a total and permanent disability. We will discuss ways to improve borrower defense to repayment so that borrowers have a path to relief when their institution takes advantage of them and to give borrowers their day in court by banning the use of predispute arbitration class action waivers.

The committee will also discuss proposals to help borrowers repay their loans. This includes a new repayment plan tied to borrower's income and prevents rise in balances by eliminating instances of interest capitalization when the department has discretion to do so. A few months ago, Secretary Cardona stated that the Department of Education's primary responsibility is to serve students and borrowers. And to do that well means taking a fresh look at a range of regulations to make sure they are not creating unnecessary barriers but can, instead, ensure that institutions and programs serve

our students well.

To this end, we're excited to work with you to develop a number of these regulatory provisions that reflect the Secretary's commitment. I also want to acknowledge the Prison Education Program subcommittee members whose work will soon get underway because this topic differs slightly from the loans focused agenda and given the importance of that issue, we wanted to dedicate an entire subcommittee to recommend the best path forward. With their help and yours, we will expand access and equity in educational opportunity for incarcerated students by establishing regulations that will help correctional facilities and institutions of higher education establish eligibility for programs.

For those of you who have followed past rulemaking processes, you know already but we will learn as the process goes on and proposals will evolve, I want to emphasize that we're entering these sessions with an open mind and the issue papers you have before you are a point of departure. We look forward to refining them based upon your expertise. The department staff will also make contributions on subjects like legal authorities, operational challenges and fiscal impacts and I'm confident we will emerge with a product we can all be proud of. Because this is our first virtual rulemaking, we know it may present some

technology challenges. We don't anticipate any major issues but please be patient if there are technical difficulties. On the bright side, virtual hearings have expanded access for negotiators who might've had a hard time traveling to DC and through live streaming and posting all recordings, we hope to continue to ensure full transparency to the public.

So, in closing, I wanted to say again thank you to the members of the committee and the subcommittee and those of you in advisory roles for your willingness to help us strengthen these rules and I know it is a substantial commitment of time to do so. The full team here takes your work and your expertise very seriously. Your efforts to scrutinize these ideas and bring to bear the perspectives of the students, colleges and others affected by these policies will, without question, lead to a stronger final product. So, thank you. I also want to thank members of the postsecondary community who are watching and will continue to weight in on these important issues. Your active participation is also an important part of the process. Finally, I want to thank the many members of the Department of Education staff who have worked to make these conversations possible, including Acting Assistant Secretary Michelle Asha Cooper and the staff of the Office of Postsecondary Education who are coordinating and leading these proceedings and work from across the Department,

including staff from the Office of Career and Technical Education, the Office of the General Counsel, Federal Student Aid, the Office of Planning, Evaluation and Policy Development and others from across the agency for all of the work that made today possible. So, with that, I will get out of your way and let you get to work. I do believe that your efforts will help us make colleges and universities the strong institution for equity and affordability that they have the potential to be. And really appreciate your hard work. Thanks very much. Bye.

MS. MACK: Thank you Jennifer. Thank you Under Secretary Kvaal. I would like to move forward now with getting to know each and every one of you and going through introductions. We first want to introduce all of our Department of Education participations. We want to introduce our primary and alternate negotiators on the committee. We want to introduce the experts that were selected to serve as advisors to your committee.

And finally, we would like to introduce our facilitation team from FMCS that includes myself and three of my esteemed colleagues. As mentioned before, and we've already heard from, the federal negotiator is Ms. Jennifer Hong. Jennifer, was there anything else you wanted to share by way of introduction to yourself?

MS. HONG: No, just, just to welcome

the committee and everybody around the table. My team works on all the issues that we're discussing this week and [inaudible] policy and the Office of Post-secondary education -- really excited about some of the proposals and interested in hearing your ideas.

MS. MACK: Alright. Thank you, Jennifer. Also, we have several folks from the Department's Office of General Counsel that I would like to hear an introduction from. First, Mr. Brian Siegel.

MR. SIEGEL: I'm Brian Siegel. I'm the Assistant General Counsel for Postsecondary Education in the Department's Office of the General Counsel. I join Jennifer in welcoming everybody to this process, and I look forward to the discussion over this week and in future sessions. Thank you.

MS. MACK: Alright. Department, I know that we have a couple of additional folks from the General Counsel's Office but I don't see them here today for introductions. Is that correct?

MS. HONG: That is correct. So, there might be some musical chairs with Brian here as issues arise. So, we, we'll flag that when they come to the board so we'll be sure we can introduce them.

MS. MACK: Nice. Sounds good. There are a few additional Department of Representatives who are going to

wear a number of hats, particularly helping us share correspondence and information, screensharing, tracking language and so I want to welcome and invite an introduction from, from them because they will be very, very helpful to us in our efforts. First is Mr. Aaron Washington.

MR. WASHINGTON: Hi, everybody. I will be projecting my screen Tuesday afternoon, Thursday, and Friday in the case that you all have any regulatory language suggestions and I'll also be one of the facilitators for the prison education program subcommittee set to start on October 18th. And that subcommittee will work to present a recommendation to the main committee to implement various changes in the regulation. Thank you.

MS. MACK: Thank you, Aaron. We also have with us Ms. Vanessa Gomez.

MS. GOMEZ: Good morning, everyone. So, I will be the one sharing my screen today and tomorrow morning, as well as Wednesday all day, and I also work with Aaron. We work in the policy development group and I'm happy to be here.

MS. MACK: Thank you, Vanessa. Department, were there any other introductions that we needed to make this morning? Seeing none, and let me know if that changes with new attendees. Let's move to the Committee. So, I would like to now welcome and invite invitations from the members of our Affordability and Student Loans Committee. These negotiators

have been nominated by the public and selected by the Department to represent 16 respective constituencies. For each constituency, we will invite the primary negotiator and the alternate negotiator to briefly introduce themselves on behalf of their constituency group. So, first off, we have the constituency group of Accrediting Agencies. And I'd like to begin and welcome primary, Dr. Heather Perfetti.

MS. PERFETTI: Thank you, Kayla. Can you hear me?

MS. HACK: Yes.

MS. PERFETTI: Great. Good morning, everyone. I am Heather Perfetti, primary negotiator representing the constituency group of Accrediting Agencies. I am the president of the Middle States Commission on Higher Education and I was nominated to serve as a primary negotiator by the presidents of six other institutional accreditors who are members of the Counsel of Regional Accrediting Commissions, also referred to as CRAC. The chair and vice chair of my commission also endorsed my nomination and I appreciate the opportunity to represent the constituency group of Accrediting Agencies. I have served as the president of the Middle States Commission since July of 2020 but I have served in a variety of roles, including president elect, senior vice president for legal affairs and chief of staff and where I began as a staff member with my commission in 2015, and as vice president for

institutional field relations. I also have experience as a peer evaluator doing the work of accreditation while also supporting accreditation activities as a faculty member and chief academic officer across a number of institutions throughout my professional career. I look forward to contributing to this process and working with all of you. Thank you.

MS. MACK: Thank you, Heather. The alternate for that constituency is Dr. Michael McComis.

MR. MCCOMIS: Oh, thank you. Good morn -- good morning, all. My name is Michael McComis. I'm the executive director with the Accrediting Commission of Career Schools and Colleges. And am looking forward to assisting Heather as the primary negotiator. I have 27 years of experience in accreditation serving as the executive director most recently for ACCSC over the last 13 years. And I have significant experience going through this process as well. This is my sixth opportunity to serve as a negotiator and so I'm, I'm happy to be able to do that in a way that supports the Department's aims, all the other negotiators here as well, and Health specifically. So, thank you and good morning.

MS. MACK: Thank you. Our next constituency group is Dependent Students and for that we have primary, Ms. Dixie Samaniego.

MS. SAMANIEGO: Hello, everyone. Good

morning. My name is Dixie Samaniego and [inaudible]. And I'm the primary for Dependent Students and I'm currently a third-year political science major and [inaudible] study as minor at Cal State University Fullerton, and I also serve as the chief governmental officer of our Associated Students Incorporated. I also serve as a vice chair of legislative affairs for the Cal State Student Association that represents almost half a million higher education students in California. And was also nominated by the Cal State Student Association with my nomination being cosponsored by TICAS and the Ed Trust. Thank you.

MS. MACK: Thank you. Next, we have alternate Mr. Greg Norwood.

MR. NORWOOD: Good morning from the wonderful State of Texas. My name is Greg Norwood. I am the Southern Education Manager for the Young Invincibles, a national nonpartisan nonprofit that seeks to elevate the voices of young adults in the political process while creating economic opportunity for persons 18 to 34 years old. I am the alternate for Dependent Students and, as one who matriculated through college as a dependent student, I think I can speak very well to what that looks like, how we can better that process. I'm looking forward to taking this journey with each of you, each of you.

MS. MACK: Thank you, both. Next, I'd like to welcome the constituency group for Federal Family Education

Loan Lenders and/or Guaranty Agencies. First, we have our primary Ms. Jaye O'Connell.

MS. O'CONNELL: Morning. I'm Jaye and I'm the director of compliance and collections with the Vermont Student Assistance Corporation. I was nominated by three of our trade associations, National Council of Higher Education Resources, Student Loan Servicing Alliance, and Education Finance Counsel. I currently serve on the board of the Student Loan Servicing Alliance and just celebrated my 30th year at VSAC where I've worked with the loan program and we also support a number of other, a number of other aspects of higher ed. financing and support for students in the State of Vermont. So, thank you.

MS. MACK: Thank you. And our alternate for this constituency group is Mr. Will Shaffner.

MR. SHAFFNER: Thanks, Kayla. Hi, everyone. Welcome to our first session. This is exciting and it's nice to see everybody. This is -- I'm sorry, my 40th year in higher education finance. I've worked at the University of Central Florida at the few lenders, guarantors, and I'm now the director of Business Development and Government Relations at MOHELA. We are a servicer and an originator and owner of FFELP loans as well as [inaudible] service on behalf of other lenders in the private loan sector, and work with borrowers and families across the country. I was nominated by the National

Council of Higher Education Resources as well as the Education Finance, Education Finance Council, EFC. I serve on the board of EFC and I was on the board previously with [inaudible].

This is my second negotiation and I found the first one to be very educational, helpful, and I'm, I really am thrilled to be able to help in a small way or any way at all to help us reach consensus if at all possible and look forward to working with each of you as we tackle each of these topics. So, thank you, again.

MS. MACK: Thank you, both. I want to invite the negotiators for the constituency group of Financial Aid Administrators at Postsecondary Institutions to introduce themselves. First, our primary Mr. Daniel Barkowitz.

MR. BARKOWITZ: Hi there, everyone. My name is Daniel Barkowitz and I am the assistant vice president for Financial Aid and Veterans' Affairs of Valencia College. We are a community college with two-year and four-year degrees, a public college in the Orlando, Florida area. So, I have been nominated by NASFA. NASFA is the National Association of Student Financial Administrators, for this role. NASFA represents over 28,000 student financial aid administrators nationwide and over 3,000 colleges and universities in career schools across the country. And NASFA's members serve nine out of every 10 undergraduate students in the United States. Personally, I have a 30 plus-year history of working in

financial aid and student financing at a number of different institutions from large public to small private institutions. I have worked at a servicing company. I have worked also on the student lending side. So, I'm excited about the opportunity to discuss some lending issues over the coming weeks. I also serve currently as the treasurer for FLIP National. FLIP is the First-Generation Low-Income Student Partnership. It is a student centered, student led organization really focused on issues of concern to first-gen and low-income students and I'm, I'm pleased to have their nomination to serve on the committee as well. And finally, I was nominated by [inaudible] in their role as two-year public community college representation. So, very excited to spend some time with you. This is my first time as a negotiator and I look forward to the conversations we're going to have together.

MS. MACK: Thank you. And the alternate for this constituency is Ms. Alyssa Dobson.

MS. DOBSON: Hello and good morning, everybody. As stated, my name is Alyssa Dobson. I am the director of financial aid and scholarships at Slippery Rock University. Along with having a very unique name, we're also a part of the State System of Higher Education in Pennsylvania. I hold several roles with our Pennsylvania Association of Student Financial Aid Administrators. I won't bore you with

those details but they're going to assist in, in advising through this process. I've been at the negotiating table before and I am excited to review the issues before us as I do think they're some of the most important that face our students today.

MS. MACK: Thank you, both. We'll move on to the negotiators from our next constituency, which is Four-Year Public Institutions and begin with our primary, Dr. Marjorie Dorime-Williams.

DR. DORIME-WILLIAMS: Good morning, everyone. I'm Dr. Marjorie Dorime-Williams. I'm currently an assistant professor at the University of Missouri Columbia. My research and expertise focus on looking at assessment and educational evaluation in a variety of institutional settings with a focus on marginalized populations including students of color, looking at experiences of faculty and staff and thinking about how we can improve outcomes for all of these different stakeholders. I have experience in post-secondary education at a variety of institutional settings so I have worked at four-year public institutions, community colleges, and private institutions as well. And so, my nomination is based on my research expertise as well as obviously having been a student for a very long time to get to the doctoral status within higher education. This is my first time as a negotiator in this role and I'm really looking forward to the process. Like

everyone else has said, I think these are really important issues and appreciate the opportunity.

MS MACK: Alright. Thank you. And the alternate for this constituency group is Ms. Rachelle Feldman.

MS. FELDMAN: Good morning, everyone. Thank you. I'm Rachelle Feldman. I'm the interim vice provost for enrollment at the University of North Carolina at Chapel Hill. I'm also the chair of the Higher Education Loan Coalition which is a grassroots group of mostly financial aid administrators but all universities and colleges across all sectors and a past chair of COSUAA, which is the Coalition of State University Aid Administrators which represents four-year public financial aid administrators. I have about 25 years in higher education, all in the public sector and really looking forward to tackling these important issues. I have been at the table once before during the repay negotiations and really enjoyed that with my friend, Will, there. I was nominated by NASFA, as Daniel elaborated, and also TICAS, the loan coalition, and my institution, and looking forward to working with you all and supporting Marjorie.

MS. MACK: Thank you very much. Our next constituency group is Independent Students and our negotiators for that begin with primary Ms. Michaela Martin.

MS. MARTIN: Good morning. My name's Michaela [inaudible]. I'm currently a third-year law student

and single parent, section A recipient. I am really looking forward to this process.

MS. MACK: Thank you. And our alternate is Dr. Stanley Andrisse.

DR. ANDRISSE: Hi, everyone. Stanley Andrisse. I am a formerly incarcerated person with three felony convictions who was sentenced to 10 years in prison. As a prior and persistent career criminal, in my early 20s I was sitting in a courtroom and had a prosecutor pushing for 20 years to life because she felt that I was hopeless and I had no hope for changing the decisions that I was making early on in my life. I'm now, you know, fast forward since I'm now Dr. Stanley Andrisse, an endocrinologist, scientist and assistant professor, tenured assistant professor at Howard University College of Medicine, formerly a professor at Johns Hopkins Medicine, visiting faculty at Georgetown Medicine and Imperial College of London and some other things as well, which show that I've clearly changed. I didn't quite live up to this prophecy that the assistant and prosecutor bestowed on me. That was many years ago. I'm also the executive director of an organization called From Prison Cells to PhD for which my nomination to this committee came from, as well as being supported by a coalition of nonprofits that are run by formerly incarcerated individuals called Unlock Higher Education. This is my first time at this particular table and I'm looking

forward to the conversations ahead.

MS. MACK: Thank you both. Our next constituency group is Individuals with Disabilities or groups representing them and our primary is Ms. Bethany Lilly.

MS. LILLY: Hi, everybody. My name is Bethany Lilly and I'm the senior director of Income Policy at the Arc of the United States. I'm joining you today on behalf of the Consortium for Citizens With Disabilities, Financial Security and Social Security Task Forces. CCD is a [inaudible] organization for national disability groups and so we represent over 100 national disability organizations. And I'm really happy to be here, providing that perspective of people with disabilities and on this issue. So, nice to work with everybody.

MS. MACK: Thank you. And the alternate is Mr. John Whitelaw.

MR. WHITELOW: Good morning, everyone. My name is John Whitelaw. I'm the advocacy director at Community Legal Aid in Delaware. We are a non-LSC legal aid program and we also serve as the protection and advocacy agency for the State of Delaware. I have been doing advocacy work for about the last 33 years.

MS. MACK: Thank you both. I would like now to invite the representatives of the constituency legal assistance organizations that represent students and/or

borrowers. Our primary is Ms. Persis Yu.

MS. YU: Good morning. Thank you. My name is Persis Yu. I'm the director of the Student Loan Borrowers' Assistance Project at the National Consumer Law Center and I'm here on behalf of our low-income consumers. I've been the director of the National Consumer Law's Center project for the, roughly five to six years but I've been here for the last 20 years and working in legal aid for over a decade. The Student Loan Borrower Assistance Project works with hundreds of legal aid organizations and private attorneys across the country in representing student loan borrowers. I was nominated by over 30 legal aid organizations from across the country, representing rural areas, urban areas and in-between. So, I'm very excited to be here. It is my first time as a negotiator but I have been an advisor to a number of different committees so far. So, thank you.

MS. MACK: Thank you. And an introduction from our alternate, Mr. Joshua Rovenger.

MR. ROVENGER: Good morning, everyone. My name, my name is Josh Rovenger. My program is [inaudible]. I am a senior attorney in economic justice at the Legal Aid Society of Cleveland. I've previously been in private practice and then also was a staff and then senior attorney at the Project on Predatory Student Lending at the Harvard Legal Services Center. Like Persis, I was also

nominated by 30 plus legal assistance organizations from across the country and I'm both honored to be here and excited to help Ed effectuate its goals of finding real meaningful solutions for low-income borrowers and borrowers of color.

MS. MACK: Alright. Thank you both. Our next constituency group is Minority-Serving Institutions. We do not have our primary with us today so we will hold that introduction for a later date. But we do have our alternate who will be subbed in later when we get to the substitutive issues at the main table and that is Ms. Noelia Gonzalez.

MS. GONZALES: Good morning. My name is Noelia Gonzalez. I have over 20 years of administering financial aid programs in the California State University system. I'm currently the interim systemwide director for the California State University System of the Chancellor's Office where we do award a combination of four billion dollars in federal, state, and institutional financial aid to just over, just under a half a million students. Thank you.

MS. MACK: Great. Thank you. Our next constituency group is Private Nonprofit Institutions and our primary is Ms. Misty Sabouneh.

MS. SABOUNEH: Good morning, everyone. I am Misty Sabouneh and I'm a primary negotiator representing the private nonprofit constituency group. I was nominated by the

leadership at Southern New Hampshire University where I work as the associate vice president of financial literacy and integrity. This is my first time as a negotiator and I look forward to working with all of you.

MS. MACK: Thank you very much. And our alternate for this constituency is Dr. Terrence McTier, Jr.

DR. MCTIER: Good morning. I am Dr. Terrence McTier. I am currently the director of the Prison Education Project at Washington University in St. Louis. I look forward to working with Misty to represent our constituent, constituency group and the prison education programs.

MS. MACK: Thank you very much. Our next constituency group is Proprietary -- excuse me -- Institutions. Our primary for this is Ms. Jessica Barry.

MS. BARRY: Thank you and good morning, everyone. I'm thrilled to be here. I'm Jessica Barry, president and owner of the Modern College of Design, a small family-owned college located in Kettering, Ohio. I'm honored to represent proprietary institutions on this committee. I was nominated by career education colleges and universities. CQ is the only national association represented in private or secondary career schools across various academic and occupational disciplines. CQ represents over 650 postsecondary institutions and works with Congress, the Department of

Education, accreditors, states, and other associations to promote access to high quality career education and importance of [inaudible] development. My history with the Modern College of Designs started in the '90s when I graduated from the Modern. I was a student myself. I have served as a, as the president since 2007 and became the sole owner in 2013. This is my second opportunity to serve as a primary negotiator as I served on the 2017 Gainful Employment Negotiated Rulemaking Committee. I look forward to getting to know each of you and learning more about your unique perspectives so we can find solutions that help students reach their educational goals.

MS. MACK: Thank you. And our alternate for this constituency is Dr. Carol Colvin.

DR. COLVIN: Good morning. I am Carol Colvin and I am representing proprietary schools. I currently serve as the senior vice president of Financial Aid for South College whose main campus is located in Knoxville, Tennessee, and I have been honored to serve students in the proprietary school market for almost 15 years. I also serve on many veterans' education committees, including currently serving as the president of Alabama Veterans Affairs Association as we assist in training school certifying officials in the southeast United States to enable them to better serve our military students and their families. This is

my first time serving on a negotiator rulemaking committee and I am so honored to represent proprietary schools and our students.

MS. MACK: Thank you both. Our next constituency group is the State Attorneys General. So, for the primary, I invite Mr. Joseph Sanders to introduce himself.

MR. SANDERS: Hi, everyone. My name is Joe Sanders. I'm a supervising attorney in the Consumer Fraud Bureau of the Illinois Attorney General's Office. I also serve as the Illinois Student Loan Ombudsman. In the first role, I enforce the Illinois Consumer Fraud Act and other consumer financial protection statutes including Dodd-Frank. I've been in that role for about eight years and my practice as an enforcement attorney focuses on for profit consumer fraud issues and student loan servicing. In my role as the Illinois Student Loan Ombudsman, it's primarily a policy position. I review all consumer complaints related to higher education that come through the Illinois Attorney General's Office and lead a team of consumer advocates that mediate those complaints to try to reach a resolution for individual consumers. I also make policy recommendations to legislatures and other policymakers here in Illinois.

This year, we were able to pass two bills. One is an amendment to our Debt Settlement Act that protects students from student loan debt release scams. And the second

was, is a bill called [inaudible] which notifies students if they have eligibility for federal student aid before they take out private student loans. It also provides transparency around the private students who are in the market through an annual report that is submitted to my office and the Illinois Department of Financial and Professional Regulation. I was nominated by Illinois Attorney General Kwame Raoul and I'm here representing State Attorneys General across the country and the student loan borrowers in our states that we enforce consumer protection laws to protect.

MS. MACK: Okay. Thank you for that. And the alternate for this constituency is Mr. Eric Apar.

MR. APAR: Hi, everyone. I'm Eric Apar. I'm the assistant deputy director for Policy and Strategic Planning at the New Jersey Division of Consumer Affairs where I work on consumer protection policy and enforcement, including in the student loan space. This is my first time as a negotiator. I'm really excited to undertake this process. These are extremely important issues and I'm looking forward to tackling them with all of you and to getting to know all of you a little bit. Thank you. It's an honor to be here.

MS. MACK: Thank you both. Our next constituency group is State Higher Education Executive Officers, State Authorizing Agencies and/or State Regulators. And our primary here is Dr. David Tandberg.

DR. TANDBERG: Good morning from sunny Colorado. Really happy to be here. My name is David Tandberg. I'm the senior vice president for Policy Research and Strategic Initiatives at the State Higher Education Executive Officers Association, or more commonly known by our acronym, SHEEO. SHEEO serves the chief executives of statewide governing policy and coordinating boards of higher ed and their staffs. I was nominated by my association and I'm really thrilled and honored to be here so thank you.

MS. MACK: Thank you. And the alternate is Ms. Susan Martindale, Suzanne Martindale.

MS. MARTINDALE: Good morning, everyone. My name is Suzanne Martindale. I'm the senior deputy commissioner for Consumer Financial Protection at the California Department of Financial Protection and Innovation. We are California's state financial regulator so we have authority to license and examine student loan servicers and we also have broad consumer protection authorities thanks in large part to the passage of some recent legislation last year, the Student Borrower Bill of Rights as well as our California Consumer Financial Protection Law, which gives us authority akin to a state level consumer financial protection bureau and student borrowers are one of our

target populations for targeted outreach and increased education and awareness. I've been at the department for less than a year. Prior to that, I spent more than a decade as senior policy counsel at Consumer Reports, a consumer advocacy organization. In that prior role, I served on three rulemaking committees. I served on the 2014 program Integrity and Improvement Committee, 2015 Repay Committee and the 2017 to 18 Borrower Defense Committee, so I'm fairly familiar with many of the topics on the docket here. I also teach a course in student loan law at UC Berkeley's School of Law and, on a personal note, I just completed my journey through public service loan forgiveness, so have some thoughts about potentially how we can improve that program. Nice to see so many familiar faces and looking forward to working with you all.

MS. MACK: Thank you both. Our next constituency group is Student Loan Borrowers. First, our primary is Ms. Jeri O'Bryan-Losee.

MS. O'BRYAN-LOSEE: Good morning, Everybody. My name is Jeri O'Brian-Losee [inaudible]. I am first and foremost a student borrower, hoping to get through the PSLF program. I have been nominated by the American Federation of Teachers, which is 1.7 million members. I am part of their local United University Professions. We

represent the faculty and professional staff of the State University of New York System 37,000 members. Before that, my role at the college was a director of opportunity programs, collegiate science and technology entry program, and the science and entry technology entry program and, before that, I was the coordinator of disability services and, before that, I was an academic adviser. Part of the reason I was nominated was not only my experience and the experiences of the thousands of students I've had but also because I currently run student debt clinics every two weeks and have helped about 2,200 of our members work through the student loan process. And I'm really looking forward to -- this is my first one, very nervous, so I look forward to working with everybody.

MS. MACK: Alright. Thank you very much. And the alternate is Ms. Jennifer Cardenas.

MS. CARDENAS: Hola. Hello, everyone. My name is Jennifer Cardenas [inaudible]. I am a nonprofessional first generation low-income student that graduated from Columbia University in the spring, so yay me. I represent the Young Invincibles National Youth Advisory Board. I've always represented students, especially who have been historically excluded from spaces like the one I was in and I am located in Fontana, California. I am currently an outreach specialist for Young Invincibles and I'm glad to be here. This is my first

time and I look forward to representing the needs of students. Thank you.

MS. MACK: Thank you very much. Our next constituency group is Two-Year Public Institutions and our primary is Dr. Robert Ayala.

DR. AYALA: Good morning, ladies and gentlemen. My name is Bobby Ayala. I am the dean of Arts and Sciences here at Southwest Texas Junior College. We service quite a big area down here. Some say it's larger than Rhode Island. We'll, we'll see how that measurement exactly comes out. I'm a first-generation American, first-generation college students with over 16 years of experience in higher education. Although, I go ahead and say this, I think the last two years, we should be able to comment it's like 10 years, is that right? Most of us in higher ed, that should be at least 10 years of credit. It's been quite a journey. I have experience in higher ed at tier 1 research institutions but I spent most of my career at two-year colleges, which is really near and dear to my heart. I'm also a PI of several research grants, mainly focusing on equity and access for under-represented students [inaudible]. This is my first time serving as a Negotiator. I'm extremely excited to engage in conversations with each of ya'll, also incredibly nervous but I'm also looking, you know, looking forward to learning from

everybody here. Thank you.

MS. MACK: Thank you. And the alternate for this constituency group is Dr. Christina Tangalakis.

MS. TANGALAKIS: Good morning. Thank you, Kayla. My position currently is associate dean of financial aid at Glendale Community College in Glendale in southern California. I was nominated by NASFA, National Association of Student Financial Aid Administrators. I am, was -- been active with NASFA for several years. Last year, I was on the board and I oversaw projects including state advocacy [inaudible] toolkits and guidance for financial aid administrators. I'm currently in a three, first year of a three-year term on the ethics committee and the first year of a three-year term as chair elect for the Certified Financial Aid Administrator Committee, which is a voluntary certification of professional competency in the field of financial aid administration. I, I have my doctorate in higher education administration and leadership and I, where I looked at the impact of immigration policy on undocumented students in their pursuit of higher education. I have about 22 years in higher education. I've worked at four-year public regionals, four-year private research institutions, private graduate schools. I was director of financial aid at Hispanic Scholarship Fund and now I represent

and work at a two-year public community college where I plan to stay for quite a while. So, I'm where I wanted to end up for years and I'm finally where I want to be, representing open access institutions and I'm thrilled to be here. Thank you.

MS. MACK: Thank you. And our final constituency group who I appreciate for their patience is the United States Service Members, Veterans or Groups Representing them and our primary is Mr. Justin Hauschild.

MR. HAUSCHILD: Thank you, Kayla. Hello, everyone. My name is Justin Hauschild and I'm honored to have been nominated by more than 20 military and veteran serving organizations to serve as a primary negotiator for U.S. service members, veterans, and the groups that represent them. I work for Student Veterans of America as a member of the government affairs team where I conduct legislative and regulatory policy analysis and advocate for policy solutions to support student veterans and service members. This is my first time serving as a negotiator and it is, of course, my intent to represent veteran and service members' interests and amplify their voices in these proceedings to ensure the Department's regulations can serve these individuals as well as they possibly can. It's a pleasure being here with you all and I look forward to our conversations today and the weeks and months ahead. Thank you.

MS. MACK: Thank you. And our alternate for this constituency is Ms. Emily DeVito.

MS. DEVITO: Good morning. I'm Emily DeVito. I am the associate director of the National Legislative Service for the Veterans of Foreign Wars or the VFW in our DC office. I oversee economic opportunity policy here. Like Justin, I was nominated by a coalition of 22 military and veteran service organizations to represent service members and veterans. I myself am a Navy veteran and a military spouse. Following my active-duty service, prior to my role here at VFW, I worked at institutions of higher learning on teams that were focused on military-connected students. So, I am very much looking forward, as Justin said, to representing the interests of those military and veteran students. This is my first time participating in the rulemaking process and I'm looking very forward to working with each of you.

MS. MACK: Okay. That completes the primaries and alternates on the committee. I thank each and every one of you for introducing yourselves and I thank you in advance for your time, your efforts, your expertise and your commitment to this process and the representation of your respective constituencies. We're glad to have the opportunity to work with each and every one of you. To assist you with your work, we would also like to take this opportunity to introduce two expert advisers who have been selected to serve as a resource to your community, your committee. These individuals were similarly nominated by the public, selected by the

Department. They are not themselves members of the committee and nor will they participate in our consensus decision-making process, but instead they're available as a resource to you to provide experience and research-based information and data and perhaps make recommendations on the regulatory language. So, first, I'd like to welcome and invite an introduction from our adviser on economic and/or higher education data, that is Dr. Rajeev Darolia.

DR. RAJ DAROLIA: Everyone, good morning. I'm Raj Darolia. I'm the [inaudible] professor of public policy and an associate professor of public policy of economics at the University of Kentucky. I've done research and evaluation work that leads to a number of topics that will be discussed in this session. And I've worked with a fair amount of related data, though, as we will likely talk about throughout this session and these discussions. [inaudible] fully answer many of the questions that you're going to want to ask often does not exist or is, is hard to come by. I do understand my, my role is new in a process like this and so I think there are still some questions to, to answer about how best I can serve you. I'll just say at this point I look forward to hearing about how I can best support the committee. My goal is to make sure that you all are informed as much as possible by data, by research, by analysis so you make decisions in a negotiated way that will lead to the best

solution.

MS. MACK: Thank you. And I hope to address some of those questions on our opening remarks this morning so that we can provide some clarification around, around your role. So, so thanks for pointing that out. Next, I'd like to welcome and invite an introduction from our adviser on qualifying employers on the topic of public service loan forgiveness, and that is Ms. Heather Jarvis.

MS. JARVIS: Good morning, Kayla. Good morning, everyone. It's my pleasure to meet those of you that I have not met previously. I'm a private attorney, specializing in student loan repayment and forgiveness provisions. I began work on the public service loan forgiveness program before its passage in Congress in 2007 and have monitored the process throughout these, this decade and these ensuing years and it is my pleasure to serve as adviser to this committee with regard to the regulatory language, statutory language, and the experience of public service employers. As well, I know many of you have your own personal experiences with public service loan forgiveness and these forgiveness provisions and I want to invite you to please ask anything of me as an adviser that crosses your mind. I'm looking forward to this process of improving access to student loan forgiveness. Thank you.

MS. MACK: Alright. Thank you to both of

our advisers. Last, I would just like to take a moment to introduce you to your facilitation group for this round of negotiated rulemaking. I and three of my colleagues who I will ask to introduce themselves momentarily, are commissioners or federal mediators with the Federal Mediation and Conciliation Service. FMCS is a small independent federal agency of the executive branch and while we have several statutory bodies of work, one is in fact negotiated rulemaking. Specifically, the Administrative Dispute Resolution Act of 1990 and the Negotiated Rulemaking Act of 1990 authorize FMCS to put our expertise and dispute resolution skills to work, to bring together both the regulators with those impacted by the regulations in a collaborative process prior to the issuance of a new rule.

In this regulatory negotiation process, you can expect your FMCS team as a neutral third party to host all of the technology and the platforms within the virtual sessions. We are going to facilitate each of the discussions and the consensus taking for all issues. We're going to assist the committee with both identifying and overcoming issues and barriers as they always arise in multiparty negotiations. We will continually monitor your process, pushing forward and enforce the organizational protocols. We will work with your committee as appropriate during breakouts and caucuses during our session time together and perhaps in small working groups

between our sessions in October, November, and December. We are also going to take charge of soliciting and distributing documents and information to the Department, to the committee, and to the advisers. And we want to capture your process and progress by drafting session summaries that we can provide to you. Truly, we plan to be here and work with you every step of the process. While you are the subject matter experts focused on the topics before the committee, we're going to drive the process and move the committee through each session. It is our role to navigate the order, the agenda, timeliness, strategies, and all dynamics at and away from the table, all with an effort to assist you all in being very solution oriented and ultimately with the hope of building consensus around each and every one of the issues. We want you all to feel encouraged and empowered to reach out to us directly with questions, comments, and concerns throughout the entirety of the process and please feel free to do that. You can do that through direct chat in the sessions but you should all have, by now, our emails and phone numbers and we welcome the communication directly from you. I have been a mediator with FMCS for five years, working out of our Denver, Colorado field office. I know I have another fellow folk from Colorado here. I really truly enjoy high stakes multiparty negotiations and really appreciate in my role the opportunity to work with so many different subject matter experts in various sectors,

industries, locations, and circumstances.

I am joined by three very esteemed FMCS colleagues who I want to invite to introduce themselves but also to share anything additional from their perspective around our role and/or our agency. So, first, Emil, would you like to introduce yourself?

MR. TOTONCHI: Yes. Thanks, Kayla. My name's Emil Totonchi. I'm a commissioner in the Chicago office. I have also, like Kayla, been with FMCS for about five years. I very much look forward to working with all of you and helping drive this process forward and we really look forward, as Kayla said, to your substantive expertise on these important topics and we will do our best to be the process guardians to ensure that this process moves forward. Thank you.

MS. MACK: Cindy, would you like to introduce yourself?

MS. JEFFRIES: Good morning. I'm Commissioner Cindy Jeffries. I am based out of our Orlando, Florida field office. I have just started my 12th year with FMCS and this is my third negotiated rulemaking as a facilitator as the other, the previous two were with a different entity other than the Department of Ed. I look forward to working with all of you and making this a successful process.

MS. MACK: Thank you. And last but

certainly not least, Brady, would you like to introduce yourself?

MR. ROBERTS: Sure. Good morning, everyone. My name is Brady Roberts. I am a commissioner of FMCS in the beautiful Philadelphia region. I've been with the agency for about two years and I'm really looking forward to getting to know all of you a little bit better and assisting you as you do this very important and critical work. Thank you.

MS. MACK: Alright. I believe that completes the introductions but if I have missed anyone at all, I apologize and would invite you to let me know at this time. Alright. I think we've covered it then. Now that we've gone through introductions, we have some housekeeping pieces to go over. I want to identify a few technology reminders and then I want to review the protocols with you. I know that you have seen them previously and had an opportunity to discuss them with us during our out, outreach sessions but based on those dialogues and a few questions that have already come up, there are some highlights that we need to review together. First and foremost, let me remind you technology-wise, if you haven't already, and I think most of you have, we're trying to have a consistent naming convention. So, again, that would be your first thing, an A, or a P for alternate or primary and then an abbreviated reference to your constituency group. If anyone is not comfortable with us utilizing their first name, please

alter your naming convention to reflect how you would like to be referred to.

Along those lines, a couple of other technology notes. While you're not speaking, please keep your audio muted. Everyone's done a fantastic job of that thus far but we'll continue to remind you of that just to cut down on background noise, distractions and that will help us all more readily identify the speaker at any given time. If you are at the main virtual table and have something to share when we invite questions or comments, please use your virtual hand. We will go by virtual hands and do our best to call on folks in order that the virtual hands are in fact raised. If there are any questions about how to do that, please let me know.

Should you have any technology-related questions, concerns, or issues throughout the day, please send a direct message to Brady. He can either help you through direct message in the chat or feel free to email him. Brady, if you haven't already, or even if you have, perhaps do again, place your email address into the chat box for everyone's reference.

A quick note on the chat feature, it will remain enabled as we've previously discussed with you but group chat messages going out to everyone will be subject to an ongoing transcript. Each day, the public will have an opportunity to log into our meeting and view it via

livestreaming. The Department has posted a registration link on their website. That link is actually the same place where all of you may capture updates and documents. Every document that we share out to the full group will be posted there, so that is actually a really great resource for you to have. We've sent it out in a couple of emails but I'm going to ask that Brady post it again in the chat box for your reference. Lots of good information, updates, registration links and documents posted there.

Now, I want to move us on to the organizational protocols. Again, I know that each of you received a copy of these protocols and that we had an opportunity to discuss them at least briefly with each of you in our outreach session. However, some important questions came up in those meetings with you. So, there are a number of topics that we thought it would be good to cover at the outset of our initial session to make sure that we are all on the same page in how we will operate moving forward.

These protocols are how we are going to hold each other accountable, and how us facilitators are going to hold each of you accountable, to the process. So, first and foremost, I wanted to address primary and alternate committee members. We recognize per the protocols primary and alternate committee members are a team representing their constituency. And to that end, we value the input, expertise, and

representation that all of you bring to the process. However, in our virtual process, there are several important distinctions that we must note to make sure that we are operating in an efficient and clear consistent manner.

First, as in previous in-person rulemakings, only the primary for the constituency group sat at what is the main table. Obviously, we don't have a main table here so we're going to try to replicate that virtually. What we want to do is, in an effort to replicate that, have at the main table our primary negotiators on screen on camera at all times when they are at the table. And during those times, we will ask our alternate to turn off their camera. That will help us as facilitators and the public viewing delineate between those who are at the table and those who are not for the purpose of that topic and for the purpose of taking consensus at any given time.

After much consultation and consideration, this was truly the best virtual practice that we would arrive at to achieve replicating the idea of that main table.

Alternate committee members, however, will be invited to turn on their cameras and come to the main table and this might occur in a number of instances. First and foremost, in the absence of a primary member, the alternate will participate at the main table and participate in our consensus decision-making. For example, we have a primary who

is not present today. We will ask that that alternate remain on camera and at the table and to participate in consensus checks if we get there later this afternoon. The primary and the alternate may also decide that an alternate is going to sub in for the primary for a particular topic. For those topics, we would ask that the primary go off camera and the alternate come on camera so, again, we can easily delineate between who is participating for that topic and who will participate if we take a consensus check.

Another instance that the protocols addresses is that a primary may ask that an alternate be able to speak on a particular subtopic. If an alternate is coming on screen, so it will just be for a short period of time on a specific subtopic, that at that point in time we may in fact allow the primary and alternate to both remain on screen. After the alternate has spoken on that subtopic, they can then go off camera.

Again, we've thought a lot about this. We hope that all of you understand this is purely driven by the virtual and, and logistical reasons and so we hope that that is not an issue for everyone. We would also like to remind you, per the protocols, if an alternate is going to substitute in for a particular day or a particular topic, to give the facilitator advance notice as soon as it's known. This will help us be prepared and easily be able to help you monitor the

on camera/off camera and consensus check components.

The same will work for our advisors. Advisors, we're going to ask that you go off camera for certain instances. When you have requested to speak on a particular topic or the facilitator or committee member has asked you to speak on a, on a topic, we will invite you to the main table, have you turn on your camera for that portion of the hearing. So, that is the way that we want to navigate that piece.

Alright. I'm going to keep going and I'll pause for any clarifying questions after we cover everything that we hope to cover this morning.

The next piece that I would like to cover with you is consensus decision-making. Some of you have been involved in consensus taking before. This may be new to others but we thought it would be helpful to clear up a few aspects of this.

We will utilize good faith group problem solving to address the interest of the committee members and ultimately reach unanimous agreement. Otherwise, described as building consensus. It is not a majority vote but rather an expression of each individual at the table's agreement or dissent. And we have built consensus once everyone is in agreement. And until then, we haven't so no individual or minority group can be outvoted in dissent, in, in consensus decision-making.

A few important notes here. Per the protocols, members of the committee, you should not block or withhold your consensus unless you have serious reservations about what is being proposed, okay? Absence at the time of the consensus check will be deemed the equivalent to not dissenting, meaning your absence will not hold up reaching consensus at that given time. I want to be clear on those points as they, as they are included in your protocols.

To take the consensus checks, we are going to use an official three, my thumb on screen, three thumb approach, okay? This is how we are going to take and monitor consensus. An upward thumb, this is an expression of agreement, okay? This means I am in agreement, I support the proposal at hand, we are good to go. A sideways thumb is actually also an expression of agreement but what this does indicate is perhaps this isn't your first choice, perhaps you're not in love but you will agree with the proposal, the outcome and you will support it moving forward. If everyone around the table during a consensus check is up or sideways, we are in consensus and keep moving forward. The only way that we are not in consensus is if one or more of you has a downward thumb. And this in fact indicates that you are not in agreement with the proposal at hand or whatever we are taking consensus on and that our work, our dialogue needs to continue.

I do make it a practice if possible if there

is someone with a downward thumb, I would encourage you to be able to articulate why you cannot support that proposal at hand and perhaps to the extent possible have an idea or a proposed idea that could potentially get you to here or here. Again, we encourage you all to be very solution oriented and the goal truly is to build consensus on each of our issues. So, to the extent that you are not, and we are going to ask in a solution-oriented manner that you bring additional ideas to build consensus. And we will keep at it until we do in fact build consensus within our scheduled time together.

One other note on, on that. We will be seeking consensus issue by issue and I know that that is different, particularly from past experiences with those of you who have participated in negotiated rulemaking before where consensus was either taken based on groups of issues or a package at the end of session. That is not the case here. We will in fact be doing a consensus check on each issue. That way, issues that we have in fact reached consensus on are not held up by other issues where a consensus has not been reached. So, again, I just want to make special, call special attention to that nuanced approach where we will take consensus issue by issue.

Throughout the process, we may also take what I am going to refer to as a temperature check for tentative agreement. As we go through these topics and issues

and talk about subtopics therein, we may ask the committee on this subtopic can I check for tentative agreement? And that is us -the facilitation team-- and perhaps you with each other, getting an idea of where everyone is at that time. If we ask for your temperature or a tentative agreement as I'm going to call it, we will utilize the same three thumb approach. The thumbs will mean the exact same thing. However, that will not be an official consensus check to complete and finalize an issue. And I promise you that this facilitation team will make it clear if we are in fact checking for a tentative agreement or we are in fact taking an official consensus check. Alright? So, again, there three thumb approach issue by issue for each topic for consensus decision-making.

Another piece that has come up is data requests and information requests. We've thought about this a great deal and in an effort to streamline an effective and consistent process for sharing data, this is what we would like to do. If you have data requests, if FMCS could receive those and then we will provide them to the advisers. We think that will be a streamlined and consistent manner to do things. And if the advisers then have information, then have information or data available to share back, they can provide that to FMCS and we will blast that out to all committee members. The intent here, again, is to make sure that all of you receive and have the benefit of the same information. Alright? So, advisers,

we want to help you streamline your process and be consistent and we're, and, and help respect if and address if duplicitous or multiple information requests are coming in.

Data requests for the Department, we will ask that you share out and provide at the time that we are introducing new topics. Alright? We want to, again, receive those. FMCS will share those with the Department. We can discuss those as necessary during the session and any information that is provided back from the Department will in fact be shared out with all of the committee members. So, that is information requests and sharing out. Again, we want to streamline this, be efficient and consistent with our approach so that you all receive the same information.

The next point that I want to talk about is breakout rooms and caucuses. And I, I want to assure you I don't intend on speaking for this long at any other portion of any day of any session. So, just bear with me for a few more moments. I do want to share with you some additional information on breakout rooms and caucuses. I know that if we were all in person it would be easy for you to speak with each other on breaks and lunches or call a caucus during those times, in person. We want you to be able to do that here. The protocols anticipate any committee member being able to call a caucus for consultation for a specified and hopefully limited period of time. We are going to achieve that within our

virtual space with the breakout rooms. I think we, in our outreach meeting with you all, addressed the breakout rooms and there's a couple of points that I want to make.

First, the breakout rooms are confidential and secure in that there will be no livestreaming or recording of the breakout rooms. So, if you meet with other committee members, alternates, advisers within those breakout spaces, again, no livestreaming, no recording. FMCS will make ourselves available to facilitate those caucuses and breakout rooms and we'll check in with you periodically to make sure that we are being productive and that we are keeping to our timelines. I'll remind you that if you are ever in a breakout space and a facilitator is not present, there will be an icon at the bottom of your screen that either says ask for help or call host. If you click on that, it will alert your facilitation team that you are ready to meet with us or need assistance in some manner.

For time management purposes, I can tell you that us facilitators are going to work with you to make sure that we are using caucus time intentionally and strategically for limited periods of time. It is no secret that we have a number of very important topics that you all feel very passionate about to address in a relatively short period of time. So, during our session time, we will help navigate those caucuses and make sure, again, that they are for limited times

and that they are very productive because we want to use all of your time productively and if anyone is going to a caucus, the main table session hits the pause button. Alright?

In terms of participation, only those within these Zoom meetings will be allowed to access the breakout rooms through Zoom. This means that we will not be able to admit other individuals with whom you may want to consult into the Zoom meeting for purposes of joining you with your caucus. I know this came up in a number of our one-on-ones with you and I understand the concerns there. Consultation is critical and this is in no way to stifle dialogue or input from others with whom you may need to consult. And we respect that. It is simply a matter of logistics, keeping the facilitators focused on the task at hand with the committee, preserving our time together by minimizing potential technical issues and protecting the security of our virtual meeting in Zoom for government.

While in the breakout rooms, we encourage you to contact and consult with anyone that you need to. Feel free to call them, open up a conference line or use whatever technology you deem appropriate to welcome those folks in your caucus. We simply cannot do it through the Zoom platform. And I, I'm going to ask all of you to understand the reasons driving that.

We also encourage you to consult with those

folks on breaks, on lunches, outside of session hours and in-between our sessions so that you can readily have their input available to you. But again, we appreciate your understanding around protecting the integrity of our, of our Zoom platform.

Another piece in the protocols are subcommittees. The Prison Education program subcommittee has been created by the Department already. Two of your fellow committee members will in fact serve on that subcommittee along with others with relevant expertise. This subcommittee will meet in October and November providing an update to your committee in November and additional information and perhaps a recommendation in December. It's important to keep in mind that that the subcommittee is not a voting body or decision-making body. Their recommendations will in fact come back to this committee for consideration and consensus.

Mr. Aaron Washington, who introduced himself earlier from the Office of Postsecondary Education will be part of the team leading that subcommittee. FMCS is happy to field any questions that you have about the subcommittee and if we don't have the answers, we'll consult with Aaron to get those for you.

Any committee members interested in observing the subcommittee sessions may do so by requesting that, the livestreaming link. And this can be completed at the link that was already shared by Brady in your room. So, so

please save that link. It is a great resource to you all.

Your committee, per the protocols, can create additional subcommittees by consensus. If that's something that someone seeks to do, we can address that. Again, those subcommittees will not be a decision-making body but, again, would refer back any recommendations to your committee for decision.

The last piece that I want to touch upon is social media. This came up in a number of our conversations together. First and foremost, we ask, pursuant to the protocols, that everyone refrain from posting and commenting on social media during our sessions together. If for no other reason than because we want you fully engaged and participating when we're together. We also recognize that outside of our sessions, we appreciate that social media can be a really effective tool for positive use, such as solicit, soliciting feedback from your respective constituencies. So, we ask, however, if you do engage in social media, it is done consistent with the protocols. So, a couple of things to remind you.

Each of you shall act in good faith in all aspects of the negotiations and each of you should refrain from characterizing the views, motives, and interests of your other members regarding negotiated rulemaking. We want to be clear to acknowledge that each of you are here because you have

expertise. You were nominated by the public and selected by the Department to work together in good faith in striving to reach consensus on a number of really important issues. Each and every one of you are valuable to this process and we ask that you each treat each other accordingly.

Finally, it's been previously conveyed that your agreement to participate and serve as a negotiator indicates your willingness to follow these protocols. And so, we are going to ask you at this time to approve the organizational protocols and adopt them. Before we do that, are there any specific clarifying questions? Yes, Daniel, I see your hand up.

MR. BARKOWITZ: Yeah, thank you, Kayla. Can you give some context or background about the move from consensus overall versus consensus by issue? What are the thoughts around that particular choice in this negotiation? I understand that's a change from past practice.

MS. MACK: Yes, you are right. I believe in past practice there has been sort of a package consensus taken and I think here -- and, and this was deliberated and discussed by many at length, considering perhaps pros and cons of both approaches. But I think we ended up landing on issue by issue because we did not want the whole package to be held up where a consensus couldn't be reached on anything if perhaps consensus was only not reached on one or two issues. So, if you reach

consensus on the majority of the issues, that consensus gets to move forward without the few issues where consensus wasn't reached. Facilitation team, if you have any other thoughts on that, I invite you to share. Daniel, does that answer your question? Perfect. Will, please.

MR. SHAFFNER: Thank you. Quick question, kind of along the same lines of Daniel's question on the consensus reaching by topic. Now, in the past in the last [inaudible 01:26:57] I served on, if consensus was reached then we were able to speak positively and the Department handled the preamble and some of the other language. Now, if consensus was not reached, then it was kind of like alright all bets are off and people may be speaking from their perspective on certain topics. Is that still the case and -- because in the past, obviously, if consensus was reached in its entirety, it kind of locks everything down. But if we're going item by item, that sounds like that might change?

MS. MACK: It is my understanding that it would be a differentiated approach, so just what you articulated for those pieces where a consensus was reached, that would be the case and then those other pieces where a consensus wasn't reached, would, would, would be exactly what you said but for those cases. So, it's just a differentiated and more nuanced response. But I would invite Jennifer, if you have any additional thoughts on that to share, happy to hear

them.

MS. HONG: No, I think you've care-characterized that correctly. On those issues that we reach consensus, we would expect that you would not comment negatively on those issues.

MS. MACK: Okay. Thank you. And I saw your thumbs up, Will, so we must've answered your question. Any other clarifying questions before I ask you to formally adopt these protocols? And utilize your thumbs for the very first time in this negotiated rulemaking to reach agreement. Michaela, please.

MS. MARTIN: Yes. So, if we reach consensus on one topic, does that mean that we can at no point -- are we always going to do that before we move to the next topic? Or we will be taking this consensus first, like towards the end? And I ask that because I wonder if that in any way limits our ability to negotiate on that broader kind of conversation, like if folks were like oh, this, you know, I mean, it's negotiation. I'm not the most familiar with how this process goes, this particular negotiation goes, but how those kind of things can come into play. If we start with one and come to a consensus, and then we're done, we shove that aside but then later maybe somebody might want to use, you know, part of that part of a negotiation for another part.

MS. MACK: So, I'm, I'm tracking you and

I will tell you that my best answer is we we will take a nuanced approach. It is not our intent to begin an issue and continue it until we are in consensus before we move on to another issue. We will begin, introduce an issue, discuss it, see where we can get in the allotted period of time or where it makes sense to hit the pause button and then we will in fact move to the next issue. So, we'll take consensus checks throughout the sessions in October, November, and December if and when it makes sense for us to do so. But we will be pushing on each of the issues to reach consensus and not holding up one for another for strategic purposes that way. Does that answer your question, Michaela?

MS. MARTIN: Yes, thank you.

MS. MACK: Mm-hm. Any other clarifying questions, just raise that virtual hands. Okay. And I am going to ask our primaries, our federal negotiator and our one alternate who is sitting at the table to indicate whether or not you are in agreement to adopt these organizational protocols. And I'm going to look for your thumbs. And I'm going to ask my facilitation team to help count them as well. I counted 17 upward thumbs, so you have reached your first agreement of this negotiated rulemaking and adopted your protocols. I appreciate that and congratulations on the first agreement. I intend next to move into reviewing the agenda. I see your hand, Persis.

MS. YU: Thank you. I would also like to move to add negotiators to the table. Is this an appropriate time to do so?

MS. MACK: We can discuss that now. Persis, who are you -- give us more detail, please.

MS. YU: Yes. So, I would like to propose to add two seats to the table. I would first like to propose that we add an additional borrower seat. I think having the voices of those impacted by the policies that we are negotiating at the table is incredibly important. We are fortunate to have representation from both the public and nonprofit sectors but there is not currently a borrower from the proprietary sector. There should be parity in borrowers and institutional representation and, moreover, the panel does not currently have anyone with personal experience in the borrower defense process. I, therefore, nominate Theresa Sweet [phonetic], former student at the Brooks Institute to be, as a named plaintiff in the lawsuit [inaudible] Cardona to this negotiating table. I can go further into her qualifications if that would be helpful.

MS. MACK: Actually, can I ask you to place that individual's name and respective constituency in the chat just so that we all have that for a reference.

MS. YU: Sure thing. I'll do that right now.

MS. MACK: Let me remind you all that per the protocols, your committee by consensus may add additional individuals to the committee. And this is what Persis is suggesting. Persis, are there any other motions to add additional members?

MS. YU: Yes. I also would like to move to add a consumer advocacy representative. This is a seat that has been historically represented at the negotiated rulemaking table and has been omitted this time around. Student debt is at its core a consumer protection issue. While the product that it finances may be unique, the debt itself is originated, serviced, and collected like any other. So, therefore, it only makes sense to have a negotiator who understands how credit, servicing and debt collection plays out for consumers. In particular, for consumers of color as we have centered equity in this conversation. I nominate for this purposes Jaylon Herbin [phonetic] who is an outreach associate for the Center Responsible, for the Center for Responsible Lending where he focuses on outreach and development and student loan [inaudible]. The Center for Responsible Lending has advocated, both at this negotiating table, for many years and has advocated to level the financial playing field for low-income borrowers and borrowers of color in particular. So, I can add his information to the chat as well.

MS. MACK: Perfect. That's exactly what I

was going to ask you to do. Before I ask for comments on this, does anyone else intend to make a motion to add anybody to the committee at this time? I'm not seeing any. So, let me open it up for comments. Jennifer, please.

MS. HONG: Thank you, Persis. Just a, just a couple comments on these nominations. I just want to say from the outset something that you'll notice is that we were absolutely cognizant that this is a rulemaking on student loan borrowers and we've tried to put borrowers front and center in this discussion. And I believe that we've, we've really got it right in terms of the categories that we've opened up for borrowers and for students. We have a dependent student category, in independent student category, the student loan borrower category and constituency that you represent, Persis as well. So, we, we have been -- I cannot emphasize enough how deliberate we've been in trying to constitute this committee. And actually, hearing all your introductions, I feel like we've done a really good job of capturing the universe here of the topics that we're trying to address. We have a longstanding policy where we cannot, we cannot have students [inaudible] that have an outstanding lawsuit against the Department. We also, we also -- while we may have considered having students represented by sector, institutional sector, we realize that's just not feasible. First of all, we, we tend to have difficulty getting students to sit on the committee given that

students are very busy. We're fortunate that we have really great representation right now; however, we recognize also that in negotiating our defense rules that it's not exclusively a for profit issue. We realize that it, it largely effects for profit institutions but it's not exclusively a for profit issue. So, I just want to put a statement on the table on the onset, in the onset.

MS. MACK: Thank you, Jennifer. Does anyone else want to comment on the motion to add one or two individuals to the committee. Josh, please.

MR. ROVENGER: Thank you. Actually, it's more of a question for the Department about the practice against allowing students who have an active lawsuit against the Department to sit on the committee because, I mean, to my mind, someone like Ms. Sweet brought this litigation to hold the Department to its own regulations and to AGA. And so, I'd just be curious in hearing a little bit more as to, as to why there's that prohibition.

MS. HONG: Sure, Josh. I'd be happy to answer. We've had this situation in the past and we've just found that, for the purposes of the negotiations, it has been a distraction where we really want to stay laser focused on the issues rather than the outstanding legal challenge that the Department is facing. And we've found that that has been the case. And, just to keep our negotiations above board, we

decided to adopt this policy to prohibit individuals that have an outstanding lawsuit against the Department from participating on the negotiating committee. We find that to be a reasonable policy. I just -- I, I realized I failed to address Persis's second nomination on the consumer advocacy piece and I just wanted, I do want to draw your attention to the fact that we have State Attorneys General which we've opened a seat in the AG spot for and, again, we added a borrower's spot to reflect that this is a student loan borrower negotiation. So, this is quite unprecedented that we have this many slots available for student borrowers and we're quite pleased that we have the committee constituted as we do.

MS. MACK: Excuse me. Thank you, Jennifer. Really quickly, I would like to ask at this time all of our alternates and advisors turn off their camera because we are going to take these to a consensus check and it will be much easier for us to take a consensus check on these motions when we need to do that. So, I appreciate your, your compliance with that at this time. With the exception of Noelia, please remain on in lieu of the primary. Thank you. Brian, please.

MR. SIEGEL: Yes, thank you. I just want to note that, to respond to the question about parties in litigation with the Department, it -- we look at it not just in regard to individual students but in regard to attorneys and other representatives who are representing parties against the

Department on issues that are being discussed at the negotiating table. At the same time, those parties representing those representatives are representing parties in litigation on those same issues. It just complicates our relationship with those parties and our ability to talk to them in, in those different circumstances. At -- as an attorney, we're restricted in talking to parties who are represented by counsel in other, in other matters at the same time. So, it's been a consistent practice over the years, over the more than, or close to 30 years we've been doing negotiated rulemaking to exclude parties from the, from the negotiated rulemaking table who are in active litigation against the Department on those topics that we are also discussing in the negotiated rulemaking.

MS. MACK: Thank you, Brian. Jessica?

MS. BARRY: Yeah, I have a question for the Department while we're talking about student seats. I know there are two student seats from the public sector but I wondered why there, there isn't a seat for a student from a proprietary school.

MS. HONG: Kayla, can I jump in there?

MS. MACK: Yeah, please, absolutely.

MS. HONG: So, the question was why there's no student representation from a proprietary school. Is that it? Okay. So, as I mentioned to Persis, because I

think that what is on the table is that we -- while we considered doing this by sector, it just wasn't, it wasn't feasible. Again, we find that students are, are very busy and we've opened up these student, the student loan borrower category exclusively for students and then divided the categories for independent and dependent students. And we felt like that was a most reasonable approach as opposed to -- we, we didn't deliberately select students based on school sector.

MS. BARRY: Okay. Thank you for the answer.

MS. MACK: Alright. Thank you both.

Persis, please.

MS. YU: Yeah, I just had a, a follow-up question about the, the litigation aspect and whether or not that includes any member of the Sweet class or, you know -- because this is a fairly, obviously, a very large class or whether or not it is restricted to named plaintiffs.

MS. MACK: Department, so you have an answer to that question?

MS. HONG: I'm going to defer that to our legal counsel, Brian.

MR. SIEGEL: We have to [audio] that, that we received -- Ms. Sweet was originally nominated as part of the public process and we considered her -- the, the issues that, that I raised earlier in regard to her initial nomination and they still hold. If you -- you know, the Sweet class is,

as you said, very large. It would be -- it's the named plaintiffs who are in litigation since members of the class don't necessarily opt in or opt out in this type of case. We would limit the, our litigation exception here to named plaintiffs in this case.

MS. MACK: Alright. Thank you all for the questions and comments around the motions to add these two individuals. Can we take a consensus check on whether or not to add them now or does anyone need a moment? Marjorie, please.

DR. DORIME-WILLIAMS: I just wanted to ask a clarifying question. While I understand some of the issues around this particular individual as a nominee, is the committee sort of been not allowed to perhaps offer another name of a student who could be from a proprietary institution to serve or are we -- is the argument that we shouldn't be making additional nominations at all?

MS. MACK: The committee members do have the right to make a motion to add someone to the committee and each one would be subject to a consensus check. Department, do you want to speak to the proprietary? Jennifer, I see your hand. Go ahead.

MS. HONG: Yeah, I just, I just want to clarify that we're not opposed to the institution from which a student comes from. I, I think we were, we didn't set up the

category in that way nor did we think it was appropriate to do so. We thought it was more appropriate to gather independent students, dependent students, and student loan borrowers at large and that is what we did. And that's what's reflected here but, I mean, it's, it's not, it's not that we were against getting a student from a proprietary institution, we just ended up with the students that we did. If that helps.

MS. MACK: Thank you, Jennifer. David, I see your hand.

DR. TANDBERG: Yeah, if we were to consider a different student, would they need to be prepared to join the committee today or, or is there any policy regarding adding someone and their ability to actually engage in the negotiations?

MS. MACK: If you reach consensus, that individual can join the committee immediately. That's my understanding.

DR. TANDBERG: My question is would they have to be able to join immediately?

MS. MACK: Jennifer, can you speak to that?

MS. HONG: There's no, there's no policy prohibiting -- I think the idea is that they are able to participate immediately if they're, if they are available.

MS. MACK: Thank you.

MS. HONG: But in their absence, the other

rules apply in terms of protocols.

MS. MACK: Heather, please.

DR. PERFETTI: Thank you. So, I just had a question. In what capacity do they join if we have identified a primary and an alternate, and the group determines consensus to consider another student, in what capacity would they be joining?

MS. MACK: They would be joining the committee and would be part of the consensus decision-making for their constituency group. Daniel?

MR. BARKOWITZ: Thank you, Kayla. Just a quick procedural question. I know you were moving to a consensus check. If, if that, if we mean to move that direction, are we taking each of these as a separate item and is this is a check or a vote? I'm just trying, I'm trying to understand the difference between a consensus check versus a sort of a temperature check, what your intention was in that conversation.

MS. MACK: If -- that's a great question. Thank you for clarifying this. We will absolutely do these separately and individually. And if I say consensus check or a vote, in my mind I am meaning those to be the exact same thing. So, if it's consensus, it's official. If it's tentative agreement or I say temperature check for a tentative agreement, that would be unofficial. I'm suggesting that we move these to

an official consensus vote. Any other comments or questions? Heather, please.

DR. PERFETTI: Thank you. So, I believe we talked about the first individual, Theresa Sweet. The second one is being proposed for what constituency group? Is it an additional constituency group not reflected or one of the current constituency groups?

MS. MACK: Persis, can you speak to that question?

MS. YU: Yes. I'm suggesting that we add a constituency group that's the consumer advocacy community and that's a, a seat that has historically been on the negotiated rulemaking table and I think that, while I appreciate the perspective that AGGs and students and my constituency have overlapping interests with consumer advocacy, I think that it is still an important constituency to add. I think that it is distinct. They have a broader sense of the consumer finance world as well as a lot of understanding about how that interplays with low-income communities and communities of color in particular.

MS. MACK: Thank you, Persis. Heather, did that answer your question? Okay. Jaye, please.

MS. O'CONNELL: So, my question builds a little bit on David's. I feel like at a prior negotiation where there were members added in person, the, the people were in the

audience and were able to, like they were present and ready to start. So, I think maybe my question is a little bit in this virtual world, where are those people? And are they ready to engage?

MS. MACK: Persis, [interposing] you are nominating?

MS. YU: Yeah. I, I can answer that. Ms. Sweet and Mr. Herbin are both watching virtually right now and ready and available to join.

MS. MACK: Thank you, Jaye. Thank you, Persis. Jennifer, please.

MS. HONG: Real quickly, Persis, I just also wanted to draw your attention that we did expand the state role here to include state oversight bodies. I don't know if that displaces your concern here. And I also just wanted to clarify we're looking at two, Persis is proposing two seats, one for [audio] for proprietary schools and a consumer advocacy seat. I'm just trying to clear what's on the table.

MS. MACK: That's my understanding. Persis, can you confirm?

MS. YU: Yes. And, and I apologize. I wrote in students from propriety schools and I, I meant borrowers since we do have two students. But I think two borrowers is actually what I meant and Ms. Sweet is a borrower. And that'd be a more accurate description.

MS. MACK: Thank you. Justin, please.

MR. HAUSCHILD: Yeah, thank you so much. I actually would just like some additional clarification on how ongoing litigation bars member's participation. You know, it's my understanding that in the past state attorneys general have been involved in the process despite having been involved in litigation and perhaps the distinction was already made but I'd just like clarification on what exactly are we distinguishing between a student here and, and or the borrower and state attorneys general. Thanks so much.

MS. MACK: Jennifer, please.

MS. HONG: Thank you, Justin. Again, as Brian describes, the prohibition applies across the board for all committee members in the past. If, if that occurred, we learn from the past, that it is a distraction and, you know, at worse, it, it's -- there, there are other individuals that we could choose from that don't have these outstanding lawsuits. And just to kind of keep our conversations, our negotiations above board, the prohibition applies across the board. Again, I think we've, may have, whether inadvertently, had that happen in the past. If that's the case, we've learned from it now and it does, it applies across the board and it applies to the state attorneys general that we have on the committee today.

MS. MACK: Daniel, please.

MR. BARKOWITZ: I have a procedural question

again. So sorry. Process oriented. So, if there's a nominee for a primary, does there also need to be a nominee for an alternate in that particular seat or can a primary be nominated without an alternate to serve? Is this a package deal or how does that, how does that function given that every seat has a primary and an alternate representative?

MS. MACK: That is a great question and to be fair, your protocols do not address specifically whether or not individuals be nominated and approved by consensus for both primaries and alternates. So, I'm going to defer to the Department based on your prior negotiated rulemaking, since we did not address it outright in the organization protocols here, if we do indeed add an individual, do we have to find an alternate for that respective individual in constituency group?

MS. HONG: I'm going to say no.

MS. MACK: Okay. And, just to be clear, it is not required by the protocols either. Okay. Thank you. And thanks for the question, Daniel. Any other clarifying questions that have not already been asked? Is everyone -- Persis, please.

MS. YU: Sorry. Just to, to say, I, I've been in, informed that if folks are willing to add the seat that there are, that we may possibly be able to find additional, an additional nominee for this, the borrower seat. If we can do that this afternoon. But that there are additional people

watching who are, that they may be willing to stand in.

MS. MACK: So, since that is going to require some further deliberation and isn't -- why don't we go ahead and take a consensus check on the individuals and their constituency groups as currently proposed? If, in the future, someone wants to move to add someone to the committee, we can address that at that time. Alright. Does anyone need any additional time before we take a consensus check? David, please.

DR. TANDBERG: Yeah, I want to be clear. We're voting now -- are we voting on the individual or the constituency group? If we're voting on the constituency group, then that would preclude consideration of a different individual for that group, correct?

MS. MACK: Yes, it would. My intent was to vote on these individuals; however, if the committee would like to vote on the constituency group, we can in fact do that at this time as well.

DR. TANDBERG: Okay. I prefer to vote on the individuals.

MS. MACK: Okay. Thank you. Daniel?

MR. BARKOWITZ: And I return to a question about the student nominee. So, the Department is, has made its position clear on the, on the generalized nature of student loan borrowers, is there a concern or -- I, I guess I would say I

have a concern that there are other groups that aren't represented. Namely, for example, graduate students, career schools. So, I guess my question is, is -- Persis, if you can specify for me what, what sets this apart and elevates this above the need of other voices from other particular constituency groups? Do you have a -- is there a rationale that we should be considering?

MS. YU: So, I mean, I think this particular constituency is very important to have represented and highlighted. I would say that while, while I, I acknowledge that we do not have a main seat for all of these bodies that you've identified, I think there are many people around this table who do have graduate degrees, who have been graduate students but that the experiences of someone who has attended an institution, who has been defrauded by their institution is fairly unique and I think that that, that that voice deserves to be heard during this process when we are going to be discussing at extreme length different rules around those, around those particular issues. So, I think this is a particularly unique constituency that needs to be added. I think also these borrowers have experienced the, the administrative burdens of the current process and so that is also a fairly unique voice that is not being heard at this, at this table. So, I think that there is a particular reason why this particular constituency is, is relevant for this discussion.

MS. MACK: Jennifer.

MS. HONG: Just real quick to respond to Persis. I just want, I just want to be sure also that you know that those concerns can go to a jury as well [inaudible] member and also I, I also want to be clear that we would not be able to vote for an individual that has a, an outstanding lawsuit against the Department. So, it would be, we would be voting against that individual if that's the case. If that's what's playing, put forward.

MS. MACK: Okay. At this time, I am going to move your committee to a consensus check vote. So, please get your thumbs ready. First, I want to specifically invite the committee to either approve and agree or not on the addition of Ms. Sweet, representing borrowers from proprietary schools. Specifically, for Ms. Sweet. Does the committee want to add her to the committee or not? I need to see everyone's thumb please. Thank you. She will not be added to this committee. Next, I would like to move you to take a consensus vote on Mr. Herbin on behalf of consumer advocates. Do we want to add this individual to your committee? Please let me see your thumbs. That individual will not be added to the committee either because we are not in consensus. I really appreciate your dialogue, questions, and answers for that.

We only have a few minutes before the lunch hour, so I would like to review with you our planned agenda for

this afternoon. The planned agenda was attached to the Department published on the Department of Ed's website at the link that we shared out, which has also been emailed out to you. This is our plan, basically, on the order in which we want to introduce topics to you. This afternoon, we will plan to begin with total and permanent disability discharge and then move into closed school discharge. Alright? Any questions about the agenda and the plan for this afternoon? Okay. We are four minutes until our lunch hour, so we may begin that a little bit early. We are going to start promptly back here after the hour, pick up with that very first issue. All of you have the ability to turn your screen or your cameras off. You do not, in fact, need to log out and back in during the lunch hour unless you choose to do so. Alright? So, this will -- David, please. You're muted, David.

DR. TANDBERG: Gosh, that's going to happen a lot.

MS. MACK: It is going to happen.

DR. TANDBERG: My apologies. I thought we were going to consider someone else for the for-profit borrower position. Are we doing that later or? I don't have one to nominate but, Persis, I thought that that perhaps you did.

MS. MACK: It's my understanding that we don't have a specific nominee.

DR. TANDBERG: Oh.

MS. MACK: But if and when that individual is determined, that we will discuss and address that again. Persis, is my understanding correct?

MS. YU: That was my understanding as well.

MS. MACK: Okay.

DR. TANDBERG: Okay. Very good then. Thank you.

MS. MACK: No problem. Daniel, please.

MR. BARKOWITZ: Thank you. I do have a question that was raised I think very well by Michaela. So, to the extent that there are some issues that you tied together, can we just return for a second to the consensus process? So, if, if for example the closed school discharge issue pertains later or has a connection later to borrower defense to repayment, are we going to take those as separate issues and attempt consensus by each or do we wait until the end of later conversations when back to that first issue?

MS. MACK: So, we are not going to group them together for purposes of consensus, okay? And at this time, we are really just introducing issues and beginning the conversation. If the committee felt strongly or indicated by tentative agreement that we are really close or on, on, on the right track, Daniel, at that time the facilitators may, in fact, ask the group for a consensus check. We will not hold up one issue, at least asking you for a consensus check based on

another but I believe that it is likely before we reach consensus on these, we will at least have introduced, begun the dialogue and reviewed solutions on the other issues. We will continue to revisit each of these issues during each week of all three sessions.

MR. BARKOWITZ: Thank you very much.

MS. MACK: Mm-hm. Any other questions?

Okay. I told you that you were going to get dismissed early for lunch but that didn't, in fact, happen. Great questions. Thank you for your time and attention this morning. And we will see you all back here for this afternoon's session.

1 STATE OF NEW JERSEY)

2 I, Pam Flores, Shorthand Reporter in and
3 for the State of New Jersey, do hereby certify that the above
4 and foregoing contains a true and correct transcription of the
5 public hearing that was held by the Department of Education
6 virtually on October 4, 2021.

7

8

9 Certified by me this 4th day of October,
10 2021.



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Precise Transcripts

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Appendix

**Department of Education, Office of Postsecondary Education
Zoom Chat Transcript
Affordability and Student Loans Committee - Session 1, Day 1,
Morning, October 4, 2021**

DISCLAIMER:

Note: The following is the output of transcribing from a recording. Although the transcription is largely accurate; in some cases, it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

From Emil - FMCS to Everyone:

Example: Jennifer, Student Loan Borrowers (A)

From Emil - FMCS to Everyone:

Example naming FYI: Jennifer, Student Loan Borrowers (A)

From Brady - FMCS to Everyone:

Feel free to email me at broberts@fmcs.gov with tech questions at any time during the meeting.

From Jennifer - ED negotiator to Everyone:

I'm understanding that the feed might not be live? can we confirm?

From CEMS Production 4 to Everyone:

It is live and being monitored on 4 devices.

From Brady - FMCS to Everyone:

Feel free to email me at broberts@fmcs.gov with tech questions at any time during the meeting.

From Brady - FMCS to Everyone:

Please visit
<https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/index.html> for registration links and relevant documents.

From Persis Yu, (P), Legal Aid (she/her) to Everyone:

Theresa Sweet

From Persis Yu, (P), Legal Aid (she/her) to Everyone:

students from proprietary schools

From Persis Yu, (P), Legal Aid (she/her) to Everyone:

Jaylon Herbin

From Persis Yu, (P), Legal Aid (she/her) to Everyone:

consumer advocate seat

From Dr. McTier (A) Priv. & Non-Profit to Everyone:

Don't we have a student representing already?

From Dr. McTier (A) Priv. & Non-Profit to Everyone:

Got it thank you!