

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
PRISON EDUCATION PROGRAMS SUBCOMMITTEE
SESSION 2, DAY 3, AFTERNOON
November 10, 2021

On the 10th day of November, 2021, the following meeting was held virtually, from 1:00 p.m. to 3:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. WASHINGTON: Welcome back to the afternoon session of our final day of the Prison Education Program subcommittee. So I just wanted to start out with just a few comments, so I did send the language to the subcommittee that we're working on today. And I noted that I noted where we've taken temperature checks, and I want to reiterate that I do not take things personally that I said during the subcommittee. I also want to clarify and really definitively say that I have not had any off the record substantive conversations with a subcommittee member about the regulatory issues at hand. I scheduled the meeting on October 29 with the Department of Education staff person, and Stan and Belinda to discuss the subcommittee report out to the main committee. Consequently, Stan was not available to make that meeting when Stan provided his availability to speak with me through email, I responded by cc'ing and the Department of Education staff member and Belinda that I would return Stan's call. Subsequently, I was able to call Stan one on one where we exchanged polite conversation with with the main focus of the discussion, the main focus of the approximately five minute discussion being the process for the subcommittee report out to the main committee. And so I will defer to

my colleague Steve Finley in OGC to discuss more of my role and the general role of the subcommittee.

MR. FINLEY: Alright, thanks, Aaron. I think we want we want to respond to some of the comments that at least have raised the question as to whether there's a conflict of interest with the Department's role on the subcommittee and I will say that's the first time I ever I have ever heard that suggestion. If it will help to clarify, the Department does have two different functions here. We're a member of the subcommittee, and Aaron represents the Department's constituency, you know, in the comments that he makes and just like the rest of the subcommittee members do in between sessions, he's he's getting feedback from his constituency on how the Department's positions should be expressed and discussed in the subcommittee meetings. But separate and apart from that, a significant amount of Department staff serve a support role to for the subcommittee writ large where we're providing background reg text, we are providing proposed changes that we think reflect a tentative recommendation from the Department along with statutory requirements and and that is done to further the discussions. We've had meetings with subcommittees before that start out with pretty much no material being provided when folks would just have a general discussion

and the feedback was always consistently that it seemed like the most productive parts of those meetings would take place later, when the Department started providing exactly those types of materials to underscore and support the discussions. And the goal in the subcommittee is is to collect differing viewpoints and to inform the the overall process with the backgrounds that everyone's expertise brings to them. So if if if some of what is presented feels like your comments are not being heard or expressed, you know our goal is to capture them somehow so they can be presented to the full committee. And we also note that the Department is not one of the presenters to the full committee. So that's another that's another area where we think it gives the subcommittee more control over how the report out is expressed. So thank you for that.

MS. MCARDLE: Stan.

DR. ANDRISSE: Thank you, Steve and Aaron, for for those opening comments. I would just like to clarify that on all the documents that I have regarding who is on the subcommittee, Aaron Washington is not listed as one of the subcommittee members and is not listed as representing a constituent constituency on the Prison Education Programs Subcommittee. I just checked that's according to the PDF document that I received upon

being nominated to this committee, and that's also still what is PDF on the neg reg website does not list Aaron's name as a subcommittee member on the site. So what you've just mentioned, about Aaron having the ability to weigh in on this conversation, would effectively be incorrect.

MS. MCARDLE: Aaron?

MR. WASHINGTON: I think that we can move the conversation forward with the statements that have been made previously. I would point the members of the public that are listening in and also subcommittee members to our negotiated rulemaking website. If you pull up a search engine and type twenty 2020 2021 negotiated rulemaking, it should be the first link if you scroll all the way part way to the bottom you'll see Pell Grant for Prison Education Programs parentheses PEP Subcommittee parentheses virtual. The first link you'll have there is subcommittee members. It's a link to a PDF and there there my name is listed as U.S. Department of Education Aaron Washington, office of Postsecondary Education subcommittee leader, and then it says Ronald Sann, Office of General Counsel, so that there is documentation on that on that publicly available website with that with my name on it.

MS. MCARDLE: Stan.

DR. ANDRISSE: There is also documentation

on that same site that lists the full committee members, as well as the subcommittee members. And that was the document that was provided to me upon my acceptance to the committee. And it does not list your name on it. So if you go to the full committee list, which includes the subcommittee list. Your name is not on there.

MR. WASHINGTON: Thank you for your feedback, Stan. I think we can probably reflect that in the comments. Vanessa, would you mind pulling up the comments and going to 668. well, actually, can you bring can you pull up the the documents just in general and at the top of the document? We'll give Vanessa a second to do that and after after we pull it up to screen share, we can, I can, we can add a common bubble. Thank you, Vanessa. So at the top, so just right there, maybe at the six sixty, I'm sorry, 600.2 definition, anywhere in there, we can put a comment bubble to 11/10 and then Stan can you can you can you repeat that? What would you like to go in that comment bubble?

DR. ANDRISSE: So on your neg reg site, if you go to the list of the full committee, your name is not listed on there. And furthermore, if you want to make the argument that Steve just made that you are a member of this subcommittee, it's still the subcommittee that decides what language gets put in there. So even if Aaron

were to have a voice which just again points to his conflict, but, you know, even if he was to have the voice on there, it's his voice shouldn't rule. So it shouldn't be his voice that decides what language gets put in there, which is which is what's happening, which is the Department deciding what language gets put in there instead of the subcommittee voting temperature checking to see what language gets put in there.

MS. MCARDLE: Steve.

MR. FINLEY: Yeah, thanks, Stan, I appreciate those comments and others at the Department do as well. The subcommittee is is a working group that supports the work of the larger committee. And so one way to think of this is that this working document that's provided for our discussion to record the different positions of the subcommittee members, is just that. It's a working document and the goal is to then provide, you know, the collective opinions of the subcommittee to the full committee. Consensus is nice, but it's the consensus and vote tallying from the subcommittee is a little bit different than it operates in the full committee. But thank you for those comments and we're you know, our goal, I think for this session is going to be to make sure that the document captures the different impressions and comments that we receive from the subcommittee

members, particularly where there are not agreements.

Thank you.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: I don't want to belabor this point, but I do agree with Stan on this, this issue. Specifically because only two I believe it's two myself and Dr. Andrisse are the only voting members on the main committee and we are outnumbered. If we look at the weight of the subcommittee versus the main committee, we are outnumbered. And so with that, I do think that there is a concern about the things that we're proposing is not being added in the document. I specifically remember yesterday we were figuring out one specific definition that was taken away. And so I do agree with Stan and I do think that some of the points that we are trying to make somehow miraculously disappears and then we have to argue to say, put it back in, and this document has become messy. So that's point one, point two, we are on day three with two hours left, and so I really want to make sure that we tackle some of these other issues before our clock runs out. So I just wanted to put that out there as well.

MS. MCARDLE: Kim.

MS. CARY: Thank you. Aaron, I'm not sure if this was put into the document or not. I know that one of

the points that started the conversation was the oversight entity, and you gave your explanation from the Department's view as to the what that meant from the DOC perspective in the act that they have surrounding them. Is that put in the document so that the main committee, when they get this and see it, they can understand that we had hoped for one thing but due to these restrictions, this is the conversation?

MR. WASHINGTON: Vanessa, I'm not sure Vanessa had a chance to capture that before the break, but Vanessa, if you could capture Kim's comment just anywhere on the oversight entity definition.

MS. CARY: I think that would help with this to get the full picture. Thank you.

MS. MCARDLE: Stan.

MR. WASHINGTON: Before we move on, I just want to give Vanessa a chance to capture that. Kim, could you state what you would like to go in the comment bubble, please, one more time?

MS. CARY: Yes. So the oversight entity position that the subcommittee had hoped for to have multiple groups weigh in on that as a possibility is this is what we hoped for. I don't know if I'm going to give you the right language because you'll have to probably repeat what you had said, Aaron.

MR. WASHINGTON: You know what, I can definitely also like kind of edit it after, you know, like I think I I understand what you're trying to say. So I think essentially can we can just say, yeah, we had hoped for more collaboration, but there is, Vanessa say collaboration but there is a statutory definition of oversight of the oversight entity already defined. Kim is that okay?

MS. CARY: Yeah. With the DOC and mentioned the act that they would be up against trying to enforce. You mentioned that earlier.

MR. WASHINGTON: The act, the law? The Act?

MS. CARY: The DOC has an act that they would have to go to to have. That we can't do this oversight committee, or way the entity, the way we want it because the there's an act, a legislative act that the DOC is bumping up against.

MR. WASHINGTON: Okay, you can just say the Higher Education Act, Vanessa.

MS. CARY: Sorry.

MR. WASHINGTON: That's okay, that's totally okay, thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: Thank you. So to Kim's point, I I ended up mentioning that I was not clear, and I think

Kim is asking that it be stated clearly why what your position was that you mentioned right before we closed. So and I mean, before we closed, I was also asking for that clarity. And, you know, if we're presenting this, we would need, I think Kim is asking, so it is noted that there is clarity on why you're saying that we can't take this position. I might also add once again that it should be up to the subcommittee if the subcommittee says that clowns should wear a red hat and nose, and that's what needs to be done and that's what we vote on and that's what you know, that's what we collectively say should be included. That's what we should present to the main committee. So again, I don't understand why the subcommittee's position is to include this. Regardless, if it is against statute, it should go to the main committee as what we voted for as what we what the consensus of our group said should be included. And the main committee can then go in to say that it's not going to work. But from us, this is what we want to include. Like, I'm not understanding why we can't have that That's not that's not I thought that's what we were here for. And again, I would like clarity as to why you're saying that it can't be included.

MS. MCARDLE: Aaron?

DR. ANDRISSE: I would like you to provide

clarity at this moment as to why you're saying it can't be included.

MR. WASHINGTON: I just want to really start out by saying before I respond that I really want to ensure that we continue to engage in like respectful conversation. I am really here to answer your questions and I will answer when you ask me to answer. I was intending to answer, but I really want to make sure that the conversation remains, I hope, respectful, at least between between the subcommittee members. Stan this is a statutory provision, our Office of General Counsel has amended has proposed to put the entire prison education definition into Subpart P because we didn't want to repeat throughout. From the first session, we had repeated the appropriate State Department of Corrections or other entity that is responsible for overseeing correctional facilities or the Federal Bureau of Prisons repeatedly in the regulation. And we thought that it would be best to condense that down into an abbreviated term "oversight entity" in order to not have to in order to shorten the regulation, in order to not have to have that same phrase repeated over and over again in the regulation.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Along the lines of that, so if

this document is supposed to be a reflection of our subcommittee, then based on our earlier conversation around the "May" and "Must" component, I do want this document to reflect our stance on switching that language to "May". Because I know earlier you were saying that's what the Department is wanting to do. And if you're not voting on the main committee, then it should be we will present this as "May" and then we can send it to the main committee to do that. So I do think, yeah, I hear you that you spoke with the Department of Ed rep but for us, we are challenging, I am challenging saying that we want to change that language back to back to "May" because that's what's reflected in the language that was presented to us. And so that's an example of how, you know, we're presenting something or putting something forward and our our words are not or our thoughts are not adequately being captured. And so we kind of feel, let me not say we, I kind of feel like I'm being pushed up against the wall and sitting here twiddling my thumbs and wasting my time by my thoughts not being captured correctly or being glossed over just for the sake of the Department's clarity or whatever they want to do. If we're here to provide the intellect, the knowledge we are, the individuals on the ground doing the work. So we're trying to tell you all what's going to work and

what doesn't doesn't make any sense for the Department of Ed to ignore us because it just doesn't make sense to them. It makes sense to the people who are doing the work, boots on the ground. So I do stand behind Stanley Andrisse his statement, I agree 100%. I do think I do feel as if it's kind of been a waste of time because I see things that are talked about and then they're not added anymore or they they disappear. And then we have to go back through this whole cycle again, arguing just wanted to put that out there.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Thank you, thank you for that. Dr. McTier. I, this document is just for this was the Department of Education's document that you know that we were working on in between sessions to update the language during the session, to update the language for from our perspective. If you if you're if you join Stan and Belinda in presenting and potentially Kim and presenting during the main committee, you can present entirely different documents so your documents can say "May" like so and it doesn't have to be in a comment bubble. It could be, your document could actually say "May". The definition of oversight entity in your document can actually be the proposed definition in the blue comment bubble. Vanessa, if you can expand that, I

think it's 10, 11/8. I think it's 11/8 one the middle one. Yeah, that your your document can actually have that as opposed to or maybe it's not that one, but your document can have all of that language yep, added added in there, and that's what you can send to the main committee for your report.

MS. MCARDLE: Stan.

DR. ANDRISSE: So I don't feel that the response in terms of my asking for a clarification clarified you, you know, so what I heard was that we are adding that to make things, you know, less repetitive. That's not giving a reason why you're not adding the recommendation of this advisory committee. And I still don't, you know, there's what would be the reason for not adding the additional language of us, adding an advisory committee that advises the decision of the DOC or BOP?

MR. WASHINGTON: I I'm not sure if you were able to if you were able to join at that point, Stan, but I provided the rationale. Were you here for my discussion to the Federal Advisory Committee and limitations?

DR. ANDRISSE: I was here for the last 30 minutes. And you provided a definition as to why you're not including the advisory committee and I'm asking for clarification on why we are not including that text.

MR. WASHINGTON: Ok, so I will I'll so we

appreciate and share the subcommittee's interest in establishing a way to get stakeholder input. However, we have unresolved questions about how a formal advisory committee would be operationalized. We have learned that it will require the Bureau of Prisons to be subject to federal advisory, the Federal Advisory Committee Act, which creates a separate set of operational considerations, considerations. And we have questions about how feasible it is to stand up such a formal committee in every single state so quickly until we until we have the opportunity to fully explore those specific issues. It is not something the Department could commit to supporting at the main table. We have proposed instead language that we will see momentarily, and we'd still appreciate the work of the subcommittee to encourage us to expand stakeholder representation in the process.

MS. MCARDLE: Stan.

DR. ANDRISSE: So thank you for that. And if I'm not mistaken, I think Kim was asking for that clarification. But, you know, yes, so she was asking that that clarification be added in so we can properly explain that to to the full committee. But further, I would like to add that is it a belabored thing that we ask, you know, nonprofit entities to have a board or a committee and and and have advisory members? You know, it's it's

troubling to me that or concerning to me that the Department wants to add all these other tasks and things to do for other entities, but adding this piece feels like too much. I mean, isn't it, you know, that's that's our argument against some of the other points is that it seems like we're asking too much of DOC or asking too much of, you know, within this entity. So what I heard was it seems too difficult, but to me, that's not that's not a sufficient response. It's not that we can't do it. it's that it seems too difficult. That's not that's not that's not sufficient. That's not that's not we can't do it, that's I don't want to do it, but it needs to be done. So it should be done and it should be upon us to decide whether we want to propose that to be done.

MS. MCARDLE: Kim?

MR. WASHINGTON: Before Kim, I just wanted to say, Kim, if you can, you clarify? Were you talking about the Federal Advisory Committee Act or the Higher Education Act? So what I was referring to was the definition of actual oversight entity, and that's in the Higher Education Act. But the rationale I provided about about the Bureau of Prisons being held to the Federal Advisory Committee Act that can also be added if you'd like it to be added to the comment bubble. I apologize if I confused your point.

MS. CARY: No, I should have had the right wording. I just couldn't remember what you called it. The federal advising piece, I think, is good for the main committee to hear so they can understand the logic why that is a hindrance right now. But what I would like to add is maybe this is another piece that we can put into the bubble that says, we're startup of these programs I understand 2023 is right around the corner, and maybe this isn't something that can be in the initial startup. Like we've put two years on the other pieces. Maybe this is something that we could say, you know, two three years, depending on how long it would take for the Federal Advisory Act to be reviewed. How long would it take Federal Bureau of Prisons to come on board with having this type of oversight entity built. I think it's I think it's important to have all these stakeholders at the table. I understand the logistics of it that maybe we put a timetable on it for onboarding of this new idea for two or three years so that it's in the it's in the language that this needs to be part of it. And we wouldn't have to wait for the next time statute is looked at to to bring it back in.

MS. MCARDLE: Stan.

MS. MCARDLE: I guess Stan put his hand back down. Aaron?

DR. ANDRISSE: Oh I'm sorry, I'm sorry, I was muted.

MS. MCARDLE: Okay, sorry.

DR. ANDRISSE: I was mentioning that. So one thank you, Kim. And I was going to mention how on a number of occasions, Marisa, for instance, mentioned how providing a certain metric would be difficult for DOC to do. And so if we were just simply going off of we shouldn't do this because it's going to be difficult for DOC or BOP to do it, then there are several things that we wouldn't have included. But yet we included them. Despite, you know, there was we mentioned that it would be difficult for DOC to do. So now you're simply saying that it will be too difficult for BOP to do it. But we've been saying that on a number of occasions. So now you want to try to use it to your advantage to not include something.

MS. MCARDLE: Aaron?

MR. WASHINGTON: I think, Stan I just tried to I just wanted to add. We're asking Vanessa to add a lot of stuff all at once, so I just wanted to add to the document Kim's point and we hear your points. And if you'd like that added as well, we can add another comment bubble. But I think with an hour and a half left for the subcommittee, we have to move to the next section. We

have to move to the next section. So I would have to move us to a temperature check for this. If your if your thumb is dumb down, just please raise your hand because I don't think we can see everybody on the screen right now. So if your thumb is down, we've had substantial conversation about this. So just raise your hand in your comments will, you know, I think that we can move to the next section. So Sophia?

MS. MCARDLE: I see one hand up, which is Stan.

MR. WASHINGTON: Alright. And if you put your hand up right now, it's the reason that the hands are going, that reason that we're.

MS. MCARDLE: Kim is also up now.

DR. MCTIER: I'm sorry to interject. What are we raising our hands for specifically?

MR. WASHINGTON: The temperature for sorry, this is the temperature check for section 668.235 the definition that includes all the definition cross references and oversight entity definition as is displayed on the screen right now. And so if you do not agree. Sophia, can you see all the subcommittee members?

MS. MCARDLE: I can see that there are three hands up. Three. Those would be Stan, Kim, and Dr. McTier.

MR. WASHINGTON: Okay. And I think we've noted, I think we've tried to note all the concerns. If they're not noted, please let us know. But they are noted. I think we should move on to the to the 236. Is the hands up, I mean, Okay, thank you. Alright. Okay, thank you. Alright. Vanessa, can we go to 236? Okay, so here. Can you keep scrolling down Vanessa? Oh, yes, stop right there, please. Go back up a little bit to H. Okay. So while the statute so far this is H is the language about offering education to a student where there would be a prohibition on that student obtaining licensure or employment and the statutory language restricts while the statutory language restricts prison education programs from offering programs that lead to licensure employment in a job or occupation that typically prohibits licensure employment for formerly incarcerated students. We agree that we do not want the Department of Corrections to read that restriction too broadly, as is the proposed amendatory language tells the Department of Corrections to only prohibit enrolling a student if a specific state or federal law would prohibit a student from licensure employment. We do not read this and would not interpret this as including good moral character provisions or other provisions where a licensure board might have discretion. We think that it is more appropriate to

include language and guidance describing that interpretation, given the variance in these types of provisions and the need for further elaboration on all the provisions all the provisions that I that I stated. And so I'll pause there and open it up for comments.

MS. MCARDLE: I see no hands. And I now see a hand, Dr. McTier.

DR. MCTIER: So what you just read is obviously not in the screen, so. Has that been sent, that statement been sent?

MR. WASHINGTON: No, no, the statement has not been sent.

DR. MCTIER: Okay. So, because it was a lot, so I'm trying to.

MR. WASHINGTON: Oh, Okay, sorry. Do you want me to take it point by point and then I just we talk about each point.

DR. MCTIER: I think that'll be easier because this is a big piece and that that statement from the Department of Ed was rather lengthy and I'm trying to listen and read again.

MR. WASHINGTON: Agreed. Alright. While the statutory I'll just do the first bullet, okay? While the statutory language restricts prison education programs from offering programs that lead to licensure employment

in a job or occupation that typically prohibits licensure or employment for formerly incarcerated individuals, we agree that we do not want the Department of Corrections to read that restriction too broadly.

MS. MCARDLE: No hands.

MR. WASHINGTON: Okay.

MS. MCARDLE: Wait, never mind, Stan.

DR. ANDRISSE: So you agree that you don't want you said the Department of Corrections to read it too broadly?

MR. WASHINGTON: Yes. Okay. Should I continue, Stan?

DR. ANDRISSE: I'll have more on that, but go ahead.

MR. WASHINGTON: Okay. Alright. As is, the proposed amendatory language tells DOCs to only prohibit enrolling a student if a specific state or federal law would prohibit a student from licensure or employment. We do not read this and would not interpret this as including good moral character provisions or other provisions where a licensure board might have discretion. I'll pause there.

MS. MCARDLE: Stan.

DR. ANDRISSE: So I'll just again point to the point that I made yesterday where there has been

there has already been instances where there was a ban in place, there was prohibition in place and yet a formerly incarcerated person still surpassed and got licensed under that under that board. So in that case, you are eliminating that possibility because the person can't even pursue that type of degree because there's already a prohibition in place. So there have already been instances where people have beat them, and those are the cases that change the prohibitions, those that state now has changed how they proceed against formerly incarcerated individuals. We are by adding that you're stopping, you're hindering that process. And that is why yesterday I say it would be better just to not include that additional text.

MS. MCARDLE: Dr. McTier?

DR. MCTIER: I would also agree that many of if they're a student, a current student, they won't sit for the board anyway. So typically a person goes up for their licensure after they've graduated. So this text would essentially prevent them from actually taking college courses. Those are two different things, right? We want to allow our students if they choose to take the college courses in a specific field, right? There might be some, some stipulations, depending on the type of crime, but to specifically say if they can't get it from

the or get approved from the board, which is outside of the institution in and of itself, that's a problem. And so I agree with Stan on this, on this point, just with that added additional knowledge.

MS. MCARDLE: Marisa.

MS. BRITTON-BOSTWICK: Good afternoon, everyone, I completely agree with Stan and Dr. McTier. I think there are enough barriers for people leaving correctional facilities that we don't need to put that in there and I just want that on the record, I don't think that should be in there. I don't think as a person in education for many years, the last thing I want to do is put barriers on people on what they can do. So I would like that in there too.

MR. WASHINGTON: Sophia, if you wouldn't mind jumping in, I just want to make sure Vanessa can is able to record these. I believe we have a comment from yesterday, Vanessa, that said that Stan recommended. Yeah. Can you add Marisa?

MS. BRITTON-BOSTWICK: And I would agree with Stan's bubble from yesterday that the language is kept open.

MR. WASHINGTON: Okay. Alright. So Marisa agrees. Dr. McTier, can you clarify that Stan has another point in there for her to keep the language open do you

agree with that as well so we can capture both of you in this comment?

DR. MCTIER: Yes.

MR. WASHINGTON: Okay. Marisa and Dr. McTier as well, please, Vanessa. And when you close out of that, I know Kim has her hand up, so I want to expand to see Kim's entire comment because it kind of it kind of makes it seem like Kim is saying remove one or two. But that's not what the comment really said. The blue one. Yeah, okay. Yeah, so I'm sorry, Sophia, back to you.

MS. MCARDLE: Thank you, Aaron. Angie was next.

DR. PACCIONE: Yeah, thank you. I'm wondering if we might add that it's that whoever is providing the program informs the the incarcerated person that there is a possibility that they would not be eligible even if they take this course work, that they might not be eligible to be licensed because of state regulations or things like that. So while we may open it up for them to take those courses if they like, they should know that there's a good possibility, given the current legislation, that they might not be able to be licensed. And I think doing that on the front end would be really critical so that a student doesn't go through the whole thing and then realize what I spend all this

time doing this and I can't get licensed.

MR. WASHINGTON: Thank you, Vanessa. I think on that 10/20 comments, I think Terrell had made that proposal. Can you open up the 10/20? Yeah, can you add, Dr. Paccione is it okay if I say plus Dr. Paccione after Terrell's comment? Okay. Vanessa, can you put that, I'm sorry, can you put that on the same line just so we know that it doesn't that so it so Kim's comment was totally different, but it was the same. Yep. Alright. Thank you. Yep. Perfect. Thank you.

MS. MCARDLE: And the next would be Stan.

DR. ANDRISSE: So I I plus one that as well, and I think that was something that Belinda also had language on as well in terms of informing the student that of the possibility of the ban, but not denying them. I would just also just again like the point to why we've expanded this language of this particular point, yet our expansion of oversight definition is is deemed, you know, and, you know, not plausible, just pointing that out. It seems okay for the Department to add additional language, but for us to add additional language, there seems to be a problem with that.

MS. MCARDLE: Kim, was your hand still up or did you take it down?

MS. CARY: I took it down because I think it

was it's okay to be addressed like it was yesterday.

Thank you.

MS. MCARDLE: And Marisa, same?

MS. BRITTON-BOSTWICK: I just want to say something, and I don't want to get into the weeds because I can do that very easily, but I think this could be part of the disclosure statements in the beginning. That that's just something I I think it's important, but I don't think there need to be barriers written into this.

MR. WASHINGTON: I mean, I think I think I think we've captured your support, I'm sorry, Sophia, I just wanted to make sure I think we've captured your support for removing one and two, Marisa. I believe we have yeah, we did. Yes, so thank you for that comment.

MS. BRITTON-BOSTWICK: Thank you.

MS. MCARDLE: And now, Dave?

MR. MUSSER: Sure. Mine's short. I just wanted to clarify that the disclosure and I think this is what Marisa was alluding to, the disclosure is already being proposed that we would that the schools would be required to inform students that they were aware of prohibitions on employment in the area that this was being trained for. So I think the if I'm getting this correct, Marisa, your proposal would be that that disclosure sort of that we would build on that disclosure

to allow the student to make this decision one way or the other. Okay. But just wanted to be clear that the disclosure itself is already something that's in in the language that's being proposed.

MR. WASHINGTON: Thank you, David. So would that would that mean that you would want to add your support to Terrell's points that we allow the students to disclose or affirmatively acknowledge that they understand that there's a prohibition and still enrolled is that I'm just I just want to make sure. Okay, Alright. Can you say plus Marisa there, Vanessa?

MS. MCARDLE: Kim.

MS. CARY: I do you have a new thought. It's not really new, it's just kind of building on what I've said before is that the is there some way we could put in here and I can send you language regarding this I know the Department has done this before in language where they encourage institutions to basically, go out there go outside of their comfort zones and offer this kind of program knowing that it won't lead to licensure. Is there's some way we could encourage institutions, though, it says that they will not offer education. We get back to that typically involves prohibited prohibits. But I think you could have schools that would still read that as we don't want to take a chance on that. We'd

rather be conservative. And if the Department put something in there that says that it's encouraged, then that might open the window for some to actually to open those conversations at schools with their academic areas and schools could actually take that back to their accreditors and say, we're encouraged to do this as well, we don't have to, but we're encouraged to look at it.

MR. WASHINGTON: Vanessa, can you add that as a comment bubble?

MS. MCARDLE: And next, we will have Stan.

DR. ANDRISSE: I would just plus one that and think and add to it that maybe it could be even a Dear Colleague explanation of that. And I mean, I'm not I'm curious, and I don't want to belabor if it's going to take too much time, but do dear how do people that read these see it? Will the Dear Colleague be like an additional link that they can easily see that there is additional information that they can find on this piece. If that is the case, then yes, I would be for a Dear Colleague. If it's hard to find Dear Colleagues, then I think maybe we need to put it in the language.

MS. MCARDLE: Dave, would you like to speak to that?

MR. MUSSER: Sure, it's a good question, Stan. Dear Colleague letters are guidance that are

published by the Departments and published on FSA's knowledge center. And the knowledge center is the website that all financial aid administrators and staff of financial aid offices go to for information about the federal student aid programs. It is a well understood resource. It is easily searchable, and if someone is seeking to find information about prison education programs and everything that we've published on it, FSA does make it as easy as we possibly can to obtain that information. And we typically also include information that's as substantive as what you're what you're describing in the Federal Student Aid Handbook, which is a compilation of of of all the guidance that the Department has published on a very a given topic. The other place that the Department may publish guidance would be in the preamble to a Federal Register notice where we explain our rationale for a particular policy for a particular set of regulations.

MS. MCARDLE: Kim?

MS. CARY: Hi, yes, thank you. David, just to follow up for Stan, if I, for instance, am looking at the handbook for this particular topic, then sometimes there are pieces broken out in the side sidebar that would point me in the direction of that Dear Colleague letter or electronic announcement. Hope that helps.

MS. MCARDLE: Stan, do you have something to say or is it just still? Okay.

DR. ANDRISSE: Sorry that was.

MS. MCARDLE: That's okay. No, no, no further hands.

MR. WASHINGTON: Alright, thank you for that, David. I think what we should do now is move to a temperature check on the language that you see before you. I, I, I this is actually it would be a I think, Vanessa, can you scroll down, let me see, I think that's all for the, yep. So this would be a temperature check on the entire part. I think Vanessa is going to read my mind the entire part 668.236 and that's the definition of a prison education program. So there is, so if your hands up right now are for if you, you know, if you do not agree for this temperature check. So I see, Stan, Sophia I'll let you.

MS. MCARDLE: Stan's hand is up.

DR. ANDRISSE: Yes, mine is up, because I believe that that additional definition for licensure needs to be removed.

MR. WASHINGTON: Okay.

MS. MCARDLE: Kim's hand is also up and same with Dr. McTier.

MR. WASHINGTON: Okay. Are the comments are

the comments already captured in the documents? If they're not, then please let us know. We've got, we've got we've already we have for Stan to remove one and two in there. We have I don't know if we've got Kim's yet. Oh, I think we did get Kim's. Did we get Kim's? I think it says 11/10 we got Kim's and then Dr. McTier did you have anything you wanted to add?

DR. MCTIER: Nothing to add.

MR. WASHINGTON: Okay.

MS. MCARDLE: Kim, did you have something to add your hand is still up?

MS. CARY: No, just for the comments. It's the only reason I'm a hands down. So or thumbs down.

MR. WASHINGTON: Okay. Alright. Vanessa, if you could go to 668.238. The reason that we are skipping 237 is because yesterday we got general agreement on the accreditation requirements. So this is the application requirements if you scroll down. Where are the changes made there? Oh, Terrell had made he said that the language was there were some grammatical errors in the language, so we fixed that. And we also said, oh, this is where number (8) is, where we've said when we had when I talked about this earlier, in order for the Department to to calculate enrollment post-release or earnings or completion rates, we would have to know from the Bureau

of Prisons or State Departments of Corrections the release date of the confined or incarcerated individual that participated in the prison education program. And so here is where we've added language and you'll see it actually three places and as we go through the document, and that's number (8). So the documentation that the institution has entered into an agreement with the oversight entity to obtain data about transfer and release dates of incarcerated, incarcerated individuals, which will be reported to the Department of Education. So the BOP, DOC or other entity would report the release date to the Department of Education and again, you'll see this in three different places. It'll be. So this is the first place you see it right here is under the application for the first prison education program at the first two additional locations. We'll also see this come up in the second or subsequent many applications and then we'll also see this come up under the reporting requirements and it's the same text. It's just to ensure that there are no loopholes in this information being reported to the Department. Vanessa, can you scroll down a little bit? Yeah, a little bit more. Yeah, there perfect. So you'll see it right there, too. So for the second or subsequent eligible prison prison education program, you see how we have the kind of toned down

reporting requirements under 600.21. And we also have that we also have a requirement that documentation that the institution has entered into an agreement with the oversight entity to obtain data about transfer or release dates is also required here. So when after the Department has approved, that first person education program or the first two test locations, they'll still have to provide this documentation to us as well. And with that said, I would like to move us to a temperature check here on 668.238. I see David is on camera. David, did you want to say something before we did the temperature check? Oh, okay, Alright. Oh, okay. Alright. So can we get a temperature check? So we've made the grammatical change to that doctor that Terrell recommended and added in just some more language about release date. So can we take a temperature check on this language?

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

MR. WASHINGTON: Thank you. Vanessa, can we move to section 668.240? So here we have our general counsel, Steve Finley, has made a recommendation to add to (b) if the Secretary initiates a limitation or termination, the the institution will submit a teach-out plan. And Steve, would you mind you want to give a little bit more background on that?

MR. FINLEY: Yeah, I mean, the most recent

change was just saying that it's the start of taking such an action that would reduce the requirement to get a teach-out plan because it could take a while for a limitation or termination action administrative appeal to run its course. And it would be in the best interests of the students to already have a teach-out plan in place to deal with that outcome. Aaron, did you did you want me to just to more generally discuss why we need to provide an administrative appeal there or was that just the new part?

MR. WASHINGTON: Well, if you want to, I mean, yeah, it's up to you, Steve.

MR. FINLEY: Yeah. This is just this is how the Department would have to limit or take away the institution's ability to stop offering fully approved prison education program.

MR. WASHINGTON: Thank you, Steve. I want to give folks a second to like, read over it and then I'll move us to a temperature check, so, Sophia, I'm not, are we having any hands about this?

MS. MCARDLE: No, there are no hands.

MR. WASHINGTON: So can we go to a temperature check on this section?

MS. MCARDLE: Yes.

MR. WASHINGTON: If you have any objections,

please raise your hand and state why.

MS. MCARDLE: I see no hands.

MR. WASHINGTON: Okay. And let's move to and I think if we finish a little early, we can. I obviously, you know, go back because this is the final section, the best interest piece that we want to talk about so we can go back to discuss any other area of the regulation that that any subcommittee member proposes after this, depending on how fast we get through best interests. 668.241, I do have some points on this, let's see. Alright, so we we appreciate the concerns of, yeah, we appreciate the concerns over the use of recidivism rate, but we also believe that, well, maybe I'll save that for the recidivism, but here we've here, here and here in the green, we've added, "with engagement from relevant stakeholders who must include, among others, incarcerated students, organizations representing incarcerated students and individuals, and accrediting agencies." And that was if you can scroll down a little bit, Vanessa, that was, you can stop there, so I think that that was included in several of the indicators yesterday, but now that's included as a lead into the paragraph. So, Vanessa can you scroll back up? Thank you. We're essentially saying that you know that that the Bureau of Prisons and Department of Corrections or other entities are set best

interests- determination must include an assessment with engagement from relevant stakeholders as outlined there for for all of the indicators for all of the indicators.

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

DR. ANDRISSE: So help me understand why the stakeholders would be acceptable here but not acceptable in the definition of oversight entity?

MR. WASHINGTON: The definition of an oversight entity is is so if we were to take out oversight entity, we would have to put in that entire phrase that is in the statute, it's they they that that that that in those entities make the determination whether a prison education program can operate in one of the correctional facilities that they oversee.

DR. ANDRISSE: So I still I am not sure I understand. I mean, why they are able to be included here or why I should say not able, because I don't think that's the correct usage of words. Why you want them included here, but you don't want them included in oversight?

MS. MCARDLE: Steve, is that something you wanted to address?

MR. FINLEY: Actually, what I wanted to do is announce that Ron Sann is going to take the lead for

OGC on on this provision, and he may respond.

MS. MCARDLE: Okay. So is Ron on? Ron, do you want to say something to this, or shall we go to Dr. McTier? Dr. McTier, since I don't hear our see Ron, there you go, Ron. Okay. Dr. McTier?

DR. MCTIER: Yes. So this is a play on words and doesn't do what it is that I want it to do. It says an oversight entity's determination that a prison education program is operating in the best interest of students must include an assessment. And then there's a comma with engagement. I'm not a fan of this "Must", because that's not what the statutory language says. It says "May". So I want to change it back to "May". Include, I believe it's yeah, I think that's the part that says it says "May", so I want to add that "May" back in there. Because that's what the statutory language says. And I understand the Department of ED's stance or whatever, great, but for us, I wanted to say "May".

MR. WASHINGTON: I think Vanessa has noted that, Dr. McTier, thank you for your comment.

MS. MCARDLE: And Steve, I'm just checking your hand is still up, you're not not part of this conversation, correct? Okay, let's go to Ron and then to Stan.

MR. SANN: Hi. I just I just want to kind of

add in terms of the the draft language that's here is a requirement that certain factors must be considered doesn't doesn't take away the authority of the State Corrections Department or the Federal Bureau of Prison Prisons to ultimately make a determination as to what's in the best interest of students. So it's saying that these factors must be considered, but it's not changing the fact that that the responsibility to make these decisions still would will rest with with these oversight entities.

MS. MCARDLE: Stan.

DR. ANDRISSE: So I was the was advised by an advisory committee of individuals that helped me understand this a little bit better. And it is my understanding that the "May" that was in the actual statutory language means that we have the option to include or not include any of these. The language was in the law was intentionally, intentionally said "may" to allow the regulatory process to decide what should be included. And to that point, you know, you have a group of experts here informing you that recidivism should not be used and that we should stay with what is used to by accrediting agencies to generally describe what is, you know, metrics that are gathered for normal higher education programs and recidivism is not one of those

things. The law intentionally left that up for people like us to come in and help make that regulatory decision. And I mean, so, you know, I want to drop that on the table that it is very much up to us to decide whether we should include or not include something, and we've kind of pretty consensus around not including recidivism.

MR. WASHINGTON: If I can jump in there. That can be part of your proposal to the main committee. So if you submit amendatory language this exact document and you cross out "Must" and put "May" that's your that can be your presentation to the main committee.

MS. MCARDLE: Dr. McTier?

DR. MCTIER: I also want to just kind of push back a little bit on from the Department of Ed standpoint. How can we add and not take away? Does it make any sense? So if we're able to add other metrics to this piece, then we should also have the ability to take things away. So with that being said, because of the statutory language says "May", I want to propose that we remove the recidivism piece out of it basically the first four we remove completely out of this document.

MR. WASHINGTON: I think Vanessa is adding that now.

MS. MCARDLE: Kim.

MS. CARY: Thank you, so, Belinda, chime in here, if I don't say your, say this correctly, you had recommended to the committee that we read through a document where you had suggested that the "Must" be on certain pieces of this section. So let me come at this from a financial aid perspective and from listening to all of you through this subcommittee. You don't want DOC to have full authority to do what to do to only do what they want to do. So that's why we had expanded and wanted stakeholders to be a part of this. If we leave "May" in there, then they have the ability to "May" they may go out and get those stakeholders involved. They may not. If it says they "Must", then they have to get them involved in making these determinations if the best interests of the students. So I like the word "Must" because I want those other people involved in the conversation, but I don't like that it's in a "must" sentence where it says all of the following below it. I like the idea of breaking this out to each piece and saying, "Must" on this or "May" on this. So in the idea of number four with the recidivism, maybe that's a "May" and that's the only one in this group that's a "May". I like the idea of a "Must" on the rest of them. So I'll just put that out there or something to think about. We want to be inclusive with all of and Aaron, maybe you can address

with the peace where the definition of oversight entity can't include the stakeholders is that maybe that's tied back to a specific federal advisory to not bump up against that, but we can include it here as someone that the Oversight Committee, the Bureau of Federal Prisons, could act with those other entities to make the best interest of students. So maybe it's not in one place because of that Federal Advisory Committee issue, but it can be placed here. If that's how I'm interpreting this, let me know.

MS. MCARDLE: Aaron, do you want to respond before we move to the other comments?

MR. WASHINGTON: You know what, I want to make sure that your suggestion is captured and in a comment bubble. And I think we can move to the next speaker, so can you just make sure one second Sophia, I just want to make sure so Kim, can you just repeat what you like Vanessa to capture here, please?

MS. MCARDLE: Oh, you're on mute.

MS. CARY: Yes, I am, sorry about that. Maybe before we capture my bubble, we could let Belinda speak to it because I think we're on the same page, maybe. But she can address it from her perspective, and then we can collaboratively make the recommendation.

MS. MCARDLE: Belinda.

MS. WHEELER: Great. Thank you very much. Yes, what I'm going to say here basically just kind of reiterates the email that I'd sent out to my colleagues, everyone on the subcommittee and and the Department last night with regards to clarifying the "May/Must" issue. You know, as I mentioned, you know, the FAFSA Simplification Act did indeed say "May" we are seeing language here that says "Must". From a, you know, again wearing the two hats former prison education director who worked in the Department with with accreditation and things of that nature and now with my hat with Vera all of those benchmarks that are in there, with the exception of recidivism, are things that accreditation agencies already ask educational institutions to to provide that information to accreditation, you know, job placement rates. You know, if students are continuing their education, you know, what is the faculty, you know, what are their credentials and things of that nature? Because that is something that is standard in educational institutions around the country already, and it is something that accreditation agencies look for. I do believe that all of them, with the exception of recidivism, should remain a "Must" because accreditation agencies are going to say, look, we can't say no to one of these other ones because we've already got these we've

already got these benchmarks that we have every single educational institution in the country looking for. And in my in my letter that I sent to the group last night, I also mentioned that, you know, so so I am in alignment with Kim there, you know, if there is with the latitude, with what the FAFSA Simplification Act had said as a "May", that, you know, if we can't scrap recidivism altogether because again, I do not believe that it's something that really shows whether or not a educational program is effective or not, then I definitely would support a "May" in that. You know, there is language that the Department has provided listening to us about ways that we could perhaps mitigate that if it does indeed end up being a "Must". But you know, on the record, I did say and I continue that today that it would be great to either cut recidivism, put it in a section of "May" if that's not possible with all the other indicators. Again, I just go on the record as saying that I I strongly recommend for subcommittee members to not make them "Mays" because that would create an accreditation nightmare. Because again, these are things when I did at Paine College and at Claflin University, when we were preparing our reports for accreditation agencies. These were all things that are, you know, standard throughout the country that accreditation agencies ask for. So just

to sum up, Kim, I am in agreement with what you'd said about the a May if that is possible, let me know if anyone has any questions, but thank you very much.

MS. MCARDLE: Elizabeth has her hand up. Should we hear from her before we move on to Stan and Dr. McTier?

MR. WASHINGTON: Is that okay with.

DR. ANDRISSE: I'm okay with that.

MR. WASHINGTON: Dr. McTier is that okay with you?

DR. MCTIER: Sure.

MS. MCARDLE: Elizabeth?

MS. DAGGETT: Thank you just very, just very quickly, I wanted to respond to Belinda's points about what other accrediting agencies require. And yes, many of them do require the reporting on some of those, but it is not a requirement by the Department for those items. And in fact, we cannot require specific requirements around student achievements. We do require that they have to have standards related to student achievements. But these specific things related to median earnings for graduates, specific job placement rates, licensure rates, we don't have specific benchmarks in those areas. So just to let you know, it's not necessarily an across the board requirement by accrediting agencies and every single one

of the areas that are listed here.

MS. MCARDLE: Stan. Oh, I'm sorry, Dr. McTier, then Stan.

DR. MCTIER: Thank you, Elizabeth, for that clarification. Really, really helpful. I want us to keep in mind that the point of this right here is saying that the DOC and the Bureau of Justice is going to be responsible for this. Right. I just completed an accreditation application and I did not go to the DOC or the Bureau of Justice to submit my accreditation application. I'm going through my institution to do that. And so now to have again the Bureau of Justice and or the DOC to see if we operate in the best interest of the students, there's a disconnect. So these metrics they wouldn't need this information, is what I'm saying, and so I'm going to push back again on that. The application is totally different and it goes to something to someone different than the Department of Justice. Excuse me. The other piece to that is. Yeah. Let me let me get my thoughts back together because I was listening and then reading something, but for the most part, this whole application process, we have to keep in mind that this is the DOC who will be collecting this information and operating within the best interests of the students. I don't think that they have the capacity, as I mentioned

earlier. I mean, the other representative that was supposed to be here has not been here. And that should show a sign that I mean, it's often difficult to work with those in the DOC and now to have them carry out all of these expectations. It's just not going to be in the best interests of programs who are interested in starting up.

MS. MCARDLE: Stan.

DR. ANDRISSE: So thank you for all the comments, I just wanted to add a couple of points. You know, it sounds like at some point or another, there are different accrediting agencies asking these types of questions to the academic institution. So it would seem repetitive that we're asking them again because if there are students the incarcerated students will be just students of the academic institution. So in the overall reporting that the academic institution has to do, they would have to include those students who are incarcerated, so it seems repetitive. One thing that I wanted to point out and said, you know, the other thing is why are we asking DOC to do this? And I get it, it's in the statute that the oversight entity, you know, was asked to do this. But I would also just like since we have Elizabeth with us, Elizabeth, what is your perspective on what should be included as benchmarks

since you've mentioned that some of these are not actual benchmarks that are used by accrediting agencies?

MS. MCARDLE: Elizabeth.

MS. DAGGETT: I assume I can jump in. Well, they are all required to have benchmarks for student achievement it's just a matter of the agency determining whether or not it's at the institutional level or whether they set them as an agency. Many of our agencies in particular, it's much easier for a programmatic. So let's say they are all training, it's for occupational therapy and everybody is training for occupational therapy and it requires licensure. It's much easier for an accrediting agency that's only looking at those programs to set specific benchmarks for completion, placement and in licensure rates. It's much harder for an institutional agency to do that because generally they have, depending on which agency it could have only two year institutions, four year institutions. Many different variables go into that, so a lot of times they're focused more on an institutional level. I would say that many of these items, except for exactly what Belinda had said, many of the other items, except for our recidivism rate, would be something that would be within the portfolio of items that they would look at for student achievement that an accredited agency would look at. So I'm not sure if that

answers your question, Stanley, but I'm happy to expound if you need to.

MS. MCARDLE: No other hands at this point.

MR. WASHINGTON: I did just want to mention that we we do, and we're really happy to have another another person representing the Department of Corrections. Marisa has been with us the entire time and we're really grateful for her contributions to the subcommittee.

MS. MCARDLE: So still, no, no hands.

MR. WASHINGTON: Okay. Alright. Let's see. So we did have some change proposals here, but before we did those, we did have some notes. I know recidivism specifically has been mentioned by several the subcommittee members. And so we we do appreciate the concern raised over the use of recidivism recidivism. But we also believe that it is a measure that Congress wanted oversight entities to consider among a suite of other metrics in the implementing policy. We've also heard this week and in our last meeting that recidivist recidivism rates continue to be a metric that oversight entities think about and place emphasis on. One thing we do not want to do is to permit the use of deeply, deeply flawed, a deeply flawed version of a metric. And to that end, over the course of the subcommittee meetings, we have

incorporated some limitations on how an oversight entity is permitted to define recidivism, excluding excluding recidivism after a reasonable number of years and excluding less serious examples of recidivism by trying to define trying to to keep the definition to new felony convictions with U.S. sentencing guidelines, we also have worked to build in substantial amounts of stakeholder engagement, which will allow incarcerated students and their representatives to advise the oversight entities on appropriate definitions, measurements and emphasis placed on the emphasis to place on recidivism metric. I think with that, I would like to move us to some updates that we've made to this definition based on some comments that were made before lunch. And then we can so with just in the interest of time, it is 2:18 I just want to make sure that we touch upon what several of the updates we made. So Vanessa, can you scroll down just a bit to have (5), (5) and (6) and (7) on? There you go (5), (6) and (7). So let's see, for the, give me one second, I'm sorry. Alright, so for number (8), Belinda had, can you can you open up that comment bubble right there? If you scroll up a little bit, Vanessa, not that one, but the one above it. Just the note, the blue one above it, I'm sorry, I'm not being clear enough. It's like it's at 11/9, Belinda, yeah that one, the yeah, I don't think it's that one

either. Maybe scroll down. Let me let me go on my computer. I'm sorry. These were we were trying to add these to respond to Belinda's point. So essentially, what we've done here is we are proposing to add language to the to add whether whether the institutions ensure that all formerly incarcerated students are able to fully transfer their credits and continue their programs at any location of the institution that offers a comparable program, including the same mode of instruction barring exceptional circumstances surrounding the student's conviction. And so that was a piece that Belinda had recommended to add. We believe and what we had more feedback from the subcommittee about what the implications of that could be. So we try to accommodate or update the regulations to reflect Belinda's recommendation. So I see I won't take Sophia's job, but I see Stan's hand up but also Belinda's as well, you know, on the added language to the indicated number (8).

DR. ANDRISSE: I just I'm switching devices and I've entered in another device. Can you switch my device, please?

MS. MCARDLE: Stan, are you planning to say something or should we go to Belinda? Go ahead okay then go ahead.

DR. ANDRISSE: No, no, I'm not. Thank you.

MS. MCARDLE: Ok, Belinda, then thank you.

MS. WHEELER: Thank you. I just wanted to respond to Aaron addressing me. Yes, I appreciate the Department's willingness to work with both recommendations that I had, and I think I know Kim with any location everyone's good feedback that we provided the this morning. So I just want to say thank you ED for taking into account everyone's thoughts this morning. Thank you.

MR. WASHINGTON: Yeah, I was just, any other hands?

MS. MCARDLE: There's no other hands, so.

MR. WASHINGTON: Alright, yeah, so I was trying to find my notes for this. And so, yeah, so essentially that's, you know, we agree that institutions would welcome formerly incarcerated students after release and the statutory requirements. In short, transfer transferability to one other college in the state doesn't go far enough. So we hope that this does reflect that. I think, Belinda, you confirmed that for us in regard to academic counseling and advising, I think that is number (7). We appreciate and share the concern about having adequate services and resources for students. However, we think that we think a clarification that institutions may use outside organizations,

community partners and correction agencies to offer that programing is best offered through guidance to institutions about these best about these best practices for serving incarcerated students. We cannot explicitly require that such partnership exist, and we are concerned that language encouraging them to do so and regulation will be confusing both to the institution and to the oversight entity. So I'll pause there for Belinda's feedback or anybody's feedback, but that was a Belinda recommendation. So anybody's feedback?

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes. So that's saying that, for instance, when a RFP requires that a letter of support be provided for some partnership that the RFP is requiring. I mean, I mean, that's something that's commonly done. So we're saying that it would be challenging to ask them to potentially seek a partnership?

MR. WASHINGTON: I think the the point was we can't explicitly require such partnerships exists.

DR. ANDRISSE: And why is that?

MR. WASHINGTON: We are concerned that language encouraging them to do so on regulation would be confusing both to the institution and oversight. So I think the general idea is we explicitly we can't require

them to and that's the Department has discussed this over the lunch break, and we did say that we would come back to the table and provide the subcommittee with more information on this. But that was the determination made that we cannot explicitly require such partnerships to exist. But we are but we did say that we could potentially provide guidance to institutions program as best offered through guidance institutions as best practices. We could potentially provide guidance as a best practice as opposed to in regulation.

MS. MCARDLE: Stan and then Kim.

DR. ANDRISSE: So we, as in the Department, when you say we you mean the Department of Ed and then you additionally said that we, as in the Department of Ed, could provide guidance. Has the Department of Ed run a reentry program before? That's a question to one of my Department of Ed colleagues.

MR. WASHINGTON: I can't I can't speak to that Stan.

DR. ANDRISSE: So you're considering providing guidance on how to run a reentry program, but haven't, Ed is not designed nor an expert in doing so. And furthermore, why would it be I still see there's grant applications from, you know, it's regular, it's a regular occurrence that, you know in an RFP would ask for

particular types of partnerships. I mean this this whole thing doesn't operate without partnerships. It's a partnership between we're asking DOC to partner with an education institution. We're asking the education institution to abide by the accrediting agencies guidelines to be accredited. This, this whole thing is a massive partnership. So why would we be against adding an additional partner that the experts that you've brought to the table have mentioned would be a good partnership to have in this already collective group of partners? This this entire thing is a partnership. What would be the problem with adding an additional partner?

MR. WASHINGTON: I I think, you know, I Stan I've tried to respond to the question that we don't think that we can explicitly require our partners to exist. I can just speak from my personal experience at the Department of Education over the last eight years, the Department and I am not saying this is the exact direction the Department is going to go in. But I have been involved in several working groups where the Department has reached out to community stakeholders when drafting sub regulatory guidance meaning toolkits. I've been involved in several toolkit toolkits where there have been there have there has been input from relevant committees, stakeholders, community based organizations

and so so it so I know, at least from my perspective, that there has been those instances in which the Department has sought expert guidance.

MS. MCARDLE: Let's move to Kim. Did you put your hand down, Kim? Okay, Dr. McTier?

DR. MCTIER: Yes. Can we strike, hold on. I got to go back to it. Can we strike that "barring exceptional circumstances based on the student's convictions"?

MR. WASHINGTON: Oh, Vanessa, can you add that as a comment bubble, please? And you know what, I did just notice the time. I think we have a few more sections in this part to get through. Actually, we talked about this before lunch, so we actually talked about a lot of stuff going so. But I do want to make sure that we speak to Belinda's comment on the appeals process and the timeline for adding new indicators before 3:50. So.

MS. MCARDLE: Belinda?

MS. WHEELER: Thank you, super quick. With regards to number (8), I actually want to see, I would like to recommend a period after, "offers a comparable program" period and then cut the rest, "including the same mode of instruction barring exceptional circumstances surrounding the student conviction". One of my original concerns that I mentioned before lunch was,

you know, if there is a student who is currently incarcerated and you know, the only modality for them is online because of their situation. This this school that's there, for example but then when they are released, they want to exercise their right to be on campus. And I think the "including the same mode of instruction" might further it would do harm, which is not what I was planning on doing. And then the same with the "exceptional circumstances" I did just want to say, Kim and others, Marisa and others who had mentioned that, I want to say that I'm not minimizing what you had said, but given the complexities with barring the box and things on a on an institution by institution level, I think it would empower the students if that language is not there so that if, for example, a student felt like they were being inadvertently discriminated against by an institution for whatever reason, barring the box or whatever that the student gets the chance to exercise their rights. And I think if we do include that, that that might prevent that and I certainly didn't want to cause harm and then super quick with number (7), I just wanted to double check, this is under that's one section where at the very beginning we have the stakeholders and all that kind of listed that the Department had actually put there, correct? So I just wanted to make sure that

while while (7) hasn't necessarily taken into account what the subcommittee had recommended for that, I just wanted to clarify it if I'm understanding what the Department has done since lunch is that the stakeholders in that that that at least I can only speak for myself that I was thinking of with reentry services and things of that nature, that there is perhaps there that language at the very beginning there with outside stakeholders, that opportunity to include that. So that's it for me. I know we're really pushed on time. Thank you very much.

MS. MCARDLE: Dave, did you want to speak before Dr. McTier to something that Belinda was saying?

MR. MUSSER: Yeah. Thanks, Sophia.

MS. MCARDLE: Do you mind, Dr. McTier?

DR. MCTIER: No, I forgot to actually put my hand down.

MS. MCARDLE: Okay, perfect.

MR. MUSSER: I just wanted to confirm what Belinda was saying. That language is intended to cover all of these. So all of these are that would we would we at the Department would expect that the group of stakeholders would be involved in the evaluation of these components. And so that's operationally what we would be looking for to ensure that the the institution that all of this is documented, that that involvement was there.

So just just want to put that out there, that that was intended to address all of these at once.

MS. MCARDLE: Angie.

DR. PACCIONE: Yeah, I just want to support Belinda's comment there for the for the striking, the last part of that sentence.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Thank you for those comments. Let's go to well, actually, we can just stay here, I just wanted to provide some feedback on a few of the other comments that Belinda made before lunch. We got some feedback about an appeals process. We appreciate and agree with the overall interest in ensuring that institutions have some ability to appeal the determinations of their oversight entities. We are concerned, though, that we haven't had time to thoroughly vet any language, including with our federal partners at the Bureau of Prisons. At the federal level, there are substantial legal requirements surrounding how that appeals process can be treated, and we will need to coordinate with the Bureau of Prisons to better understand how any language might affect the agency. So, yeah, I'll pause there and allow because it was Belinda's recommendation. But anybody else can, of course, comment.

MS. WHEELER: Thank you very much,

Department, for taking that into consideration. I understand that this is a very complex thing that we're rolling out, and I look forward to the opportunity to work with the Department and, you know, others in this capacity as we move forward because I do believe that some kind of appeals process is warranted moving forward. But I do understand that it may not be possible right here. So just looking forward to an email receiving from the Department to kind of talk this one through because I do think that on the record, I think it's very important to have an appeals process. Thank you very much.

MS. MCARDLE: Kim.

MS. CARY: Thank you. Really quick just to jump back up to the piece that that was several want to take out our number (8), would the Department recommend that schools and put something in their PEP which would address that last line internally with each institution so that we have because I know that sometimes we do reach out to parole officers and run through the scenario with them to make sure that the student is not unknowingly doing something that they shouldn't do to hurt their release. So we would keep it very broad, of course, that we want to have some type of protection there too, because if you read it as is, it would be I can come

there it says I can come to your institution you have a comparable program and then we would have to go to our own internal policies and procedures to explain why would that be something you would write that you would recommend?

MS. MCARDLE: Dave.

MR. MUSSER: : We can't offer an exact recommendation for how you might comply with it, though what you described, I think, is the way that we would that we would see an institution ensuring this. Because institutional locations are sometimes more independent than others. So I don't want to say that there's one particular way that an institution should should comply with this. There may be cases where each each of the locations is sufficiently independent that they all need to agree at the outset and have their each have their own policies and procedures that that clearly state that this will happen. But in other cases, an institution that simply has locations that are all sort of reporting up to the main, they might have a single set of policies and procedures that address this. So there's a variety of ways that it could be done. But I think what the Department would be would be looking for is that it's been addressed. And keep in mind here that these are the things that the correctional agency and the the group of

stakeholders are going to review. Certainly, the Department is going to come back and evaluate what was reviewed and how it was reviewed, but this isn't necessarily the Department doing this. So how how you comply with all of this is something that would be primarily evaluated by the Department of Corrections and that group that we discussed earlier.

MS. CARY: Ok, thank you, David. We would obviously very be very open and encouraged to create an open environment, but we also want to protect the student. And in situations like I mentioned earlier, we have several campuses. Their ability to attend one campus might be prohibited, but they could have other options to attend elsewhere to not be in violation of their probation. Thank you.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Yes. I just want to go on record that just a few minutes ago, with roughly 30 minutes left on the clock that it was stated that the Department of Ed would need to consult with the Bureau of Prisons and those entities, and here we are and here I am have said that from the get-go, we need that representative at the table. And then a few minutes ago, well, probably about an hour ago, Aaron, you mentioned that we had I believe it's someone here on this call

representing the Bureau of Prisons that you all just said y'all did not consult and need to consult. So again, we don't have the appropriate individual here representing that agency. We've said that from the get-go and we've received a lot of pushback. And I find it very, very interesting that the Department of Ed is now saying, oh, we haven't had time to do it, but we need to do it. I just want to say this, let me tell you something, I've never known a prison to work in the best interest of anyone, and I'm going to be quite frank and now to have them do this particular work, to work in the best interest of a student trying to better their education. Many of the prisons that I've talked to, or maybe even many of the students that have talked to have faced so many barriers, have been denied their applications never get in because these same prisons are saying, oh, we don't want them to have that education. I don't think that prisons operate in the best interests of individuals trying to better their lives, and we're not going to be I would be remiss if I did not state that. I don't think that the appropriate individuals are here. I don't think these these provisions that are provided in this section for best interest. We're giving all of the power to the prisons, and I disagree with what we're doing and how we're moving forward. The last thing I will say is that

many of the prisoners I know can't hardly keep track of the individuals that they were detaining, they don't know anything about them once they leave the facility. Right. And so now to have them take on educational statistics and you know, all this data, they can't even do that for their own selves. So I'm struggling with all of this and I just wanted to voice that concern and that opinion.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Dr. McTier, for that. I just wanted to one quick clarification. I mentioned we have a subcommittee member from the Department of Corrections, not the not the Bureau of Prisons. And Marisa has been with us the entire time, the entire six days, and we appreciate Marisa's contribution to the subcommittee. In regard to us consulting with the Bureau of Prisons, I was specifically responding to the points I was trying to make was specifically to Belinda's request to draft an appeals process in the regulation, and we haven't had the chance to talk to the Bureau of Prisons or State Departments of Corrections regarding an appeals process. Keep in mind that the Bureau of Prisons and State Department of Corrections have the ultimate authority whether to allow a prison education program to function in there in the institutions institutions that they oversee. And so in discussing an appeals process

with the in drafting in an appeals process, we really have to determine whether the Department of Education, the postsecondary institution has the ability to require that the Bureau of Prisons allow the postsecondary institution into their facility to offer a program to their students, but I will leave that there. I really no, not with, we have the it's 2:40 I just want to get go through the remainder of the section. We already talked about this prior to the lunch break. So Vanessa, if you wouldn't mind scrolling down. I just want to make sure that we hit on every point during the subcommittee today. So here we've already talked about this piece. The Department has clarified that the the oversight entity is able to while they have to make those determinations 120 days before the expiration of their program participation agreement, they can make the determinations more more than that more regularly than that. If they if they determine that it is in the best interests of students to make a determination before the expiration of the PPA. Vanessa, can you keep scrolling down?

MS. MCARDLE: We have a comment from Stan.

MR. WASHINGTON: Just one more thing, Sophia. I just wanted to give this out and we can just open it up for like just conversation for the rest of the day, honestly. And this was this was just, oh, this this

was adding in we've added in the record section the time that institutions must maintain documentation in regard to their prison education programs. That's for as long as they're active or three years following the discontinuation of the program. So what I wanted to do is I wanted to take a temperature check. I know that there will be comments on this, but what I want to do, I want to make sure that we do a temperature check. And then at that point, we just open it up for a conversation for the rest of the day until we close out. And so if we can take a temperature check on 668.241 the best interest of students. You can just raise your hand and let us know based on the language on the screen, based on the unedited language on the screen. And we we we of course, added in Belinda's comment about transferability of credit so that you're also voting on that. But just the language on the screen. Could you please raise your hand if you are not in agreement during the temperature check?

MS. MCARDLE: I have three hands up. I have Stan, Dr. McTier, and Belinda.

MR. WASHINGTON: Okay. Alright, and I think for the rest of the day, we can just that that concludes.

MS. MCARDLE: I'm sorry, I would like to add Kim.

MR. WASHINGTON: Okay. I think I think let's

give Vanessa a chance to capture that. And I think we we have gotten through the entire documents. I think that I have like so many papers here, it looks like we've moved 600.2, 600.7, 668.32, 668.43, 668.38 and 668.40 up into the agreement section. So outstanding sections were 668.235 that's the definition section, 668.236 that is the prohibitions on that is the definition of a prison education program, so that's like that that's the main issue there was the prohibition on licensure employment. And also, I think we're about to hear some comments on 668.241 the best interests of students.

MS. MCARDLE: Okay, let's start with Stan and then Dr. McTier.

DR. ANDRISSE: So. In regards to the appeal process. You're saying that you need to consult with the BOP and then you add it also with the State Department of Corrections, which was, you know, one of the reasons that I proposed to have director Precythe join us, which you know, was a last minute thing and it was hard for her to join us, but so you say you need to consult with them, yet you didn't bring them to the table. On this appeal process, but you're not thinking that you need to consult with them for all of these other things that you're trying to get them to do? Like what, how does that make sense you want you want to consult with them about

appeals, but not consult with them about all these requirements that you're going to have them do in terms of best interests of students and the other requirements within the document. I I just can't help but feeling as if I've just participated in structural racism. I feel like this is at the core of how structures are put in place that promote harm to certain groups of individuals that happen to look like myself.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Stan, you done dropped the mic on that brother. I agree, because this is this whole document's mess. And with 13 minutes to go, I'm not exactly sure as to how much we can really or even how much we've actually accomplished, because there's still so much confusion, a lot of ambiguity within this document. People not at the table. And we are trying to roll this out and we're all not in agreement. And I find it concerning that again, you have experts who are on the ground boots on the ground doing this work. You have someone who's running a program right now, myself, doing this work and we're telling you this ain't going to work. And I just find it concerning that, you know, from the onset of this, this subcommittee, it's been, you know, so much resistance to trying to get the appropriate pieces in play, trying to get voices at the table, trying to get

clarity and whatnot and trying to, you know, extend the time and even sometimes just to flush this out. And we've essentially been pushed against the wall. And I do feel like while I have been speaking, my voice is still, people hear me but then they roll their eyes and then just move on because they're going to do what they want to do. It seems like the Department of Ed has made up their mind on the direction in which they want to go, and we were just a formality for this particular piece. And you know, at times, I do feel like my time has been wasted because things are not being heard. Sure, we've made some progress in some areas, but overall, I just feel like this is this is very muddy and it's still murky. And then even it seems like the lawyers who've been on here, the Department of Ed, they're not in agreement in some areas. And so it's just I just want to put that out there that I'm not really I'm happy that we're having these conversations. I want to say that, but I'm still not happy with this document. There's a lot more work that needs to be done. And unfortunately, we have reached the end of our our time. So I wanted to put that up there.

MS. MCARDLE: Belinda.

MS. WHEELER: Thank you. I just. First of all, I just wanted to thank my colleagues on the on the

subcommittee with this work that we've done together over the last six days. I did have a question for the Department with regards to and I know that Aaron will send an email to Stan and myself and CC the subcommittee members as we get ready for December. I just had a quick clarification about process that we could expect to see, the subcommittee members could expect to see, in December. And I just want to clarify, I think, Aaron, you had mentioned that after, you know, Stan and I do a presentation in December, all the main committee members, you know, will obviously have a chance to ask questions and things of that nature when voting does indeed take place in the main committee with regards to these recommendations, I think you had mentioned is it that it has to be 100% consensus with all the subcommittee members for something to to move forward and if that is indeed the case, say, for example, there might be some things that are agreed upon in the main committee. But then, for example, there may be some things that that consensus wasn't wasn't maintained within the within the group. How does the Department move forward, for example, with something like that, if there if there's, you know, one or more pieces where there isn't consensus just from kind of a, you know, a layman's kind of perspective here could obviously the subcommittee work finishes, you know,

now does that kind of take that under advisement and then kind of move forward with things? Does that mean something completely like it's dead? I was just kind of curious on, you know, once the main committee, you know, does vote and things of that nature, what potentially happens to the work that the subcommittee has put into here? If you wouldn't mind kind of clarifying that I'd greatly appreciate it.

MR. WASHINGTON: Thank you, Belinda. And I wanted to also tell Stan and also Dr. McTier that I I heard your comments and I really I did hear your comments just to just to talk about the process going forward. So the the package that we've developed here, I think we can we can we this is what the Department, you know, my role here was to kind of hopefully show you what the you know, the what the Department would be likely comfortable with like a package of Department be comfortable with approving and consensus is 100% for the main committee, not the subcommittee, but the main committee. Everyone on the main committee, I think there's 13 or 14 constituencies, plus the federal negotiator who is Jennifer Hong all have to agree. They do a lot of they do a lot of temperature checks on the main committee and they everybody has to vote yes. And I think I think it's been announced that we will be voting, that the the main

committee will be voting on things in buckets and packages. And so everybody on the main committee would have to vote yes to the amendatory language proposed in order for consensus to have been reached. If consensus is reached then Department publishes what was agreed to during the during the main committee as a Notice of Proposed Rulemaking. And then the public can comment on that. And then after that, with the Department drafts of final rule, sorry, it's not bucket's it consensus by issues. I apologize. But then there's a final rule that's published hopefully by November 1st well it has to be posted by November 1st because the statutory framework goes into effect on July 1st 2023. In regards to the subcommittee, I think I know it's getting super redundant, but I just wanted to like just to respond to you Belinda I know you've heard this, I don't want to I don't want to make it seem like you haven't heard this, but you can submit we have we have general agreement in all but three areas. And so the subcommittee members who don't agree in those three areas that I mentioned can present the language to the main committee so it can be more than Stan and Belinda. It could be just Stan and Belinda representing the subcommittees, the dissent on the subcommittee as well. They can just be emails to them about that. Or it could actually be the subcommittee

members themselves that didn't agree with that language, presenting actual amendatory language to the main committee. It does not have to be the package that you see on your screens in front of you. This is just what the subcommittee has developed over the last six days. So Belinda did I answer most of your questions? I know Steve wants to jump in there too.

MS. WHEELER: Thank you. Yeah. Just to clarify, so I totally understood everything that you said there and that that particular part wasn't actually my question. I was just curious that, you know, whatever is presented, you know, to the main committee, including, you know, what is kind of like consensus and what is perhaps not a consensus and letting the main committee know that I was just curious if there are certain parts of, you know, whether the language that the subcommittee agreed on or the language that the subcommittee did not agree on, that the main committee basically votes down. I was just curious what happens to that language because obviously it wouldn't go into that, you know, that published document that's ready for, you know, November. Is that something I just wanted to know if there was any language, you know, whether consensus in this space right now or not, consensus in this space is not approved by the main committee. I was just curious what the

Department does with that there? Do you guys kind of go back to the drawing board? Do you take it under advisement? I was just curious about that. It was just a I hope I didn't muddy that, Aaron, but just a general.

MR. WASHINGTON: No, you didn't muddy it. I think Steve has his hand up, so I'll let him jump in there. I don't. I, you know, I think he can provide a good answer.

MS. MCARDLE: Steve, you're on mute.

MR. FINLEY: Thank you. As as as Aaron mentioned, the full committee will go for consensus votes issue by issue. If if there's a consensus reached on the issue that that will be what is put into the Notice of Proposed Rulemaking, unless for some reason the Department decides not to adopt a part of it, and then that has to be very well explained. But in general, that will be the in the NPRM. For items where there's not a consensus reached the Department is not bound to use anything, but I can tell you from a lot of experience that the Department views the negotiated rulemaking process as a way to become much better informed on how the regulations are written and the pieces that are put into them. So even in prior years where we had to have we had consensus tied to an entire package and and consensus may not have been reached, but a lot of the agreements

that were that were reached during that process ended up in the final regulation. So I hope that answers your question.

MS. WHEELER: It does thank you very much.

MR. WASHINGTON: So with that said, with three minutes left, I personally wanted to thank the subcommittee. I want to thank Stan. I wanted to thank Terrell. I wanted to thank Dr. McTier. Thank you, Dr. McTier. Thank you, Dr. Paccione. Thank you, Belinda. Thank you, Marisa. Thank you, Kim. Thank you, Anne, for being with us. I really appreciate you taking the time out of your schedules to speak with us about such an important issue. And I know that you all want wanted to be here too. So I think we all want it to be here discussing these issues. I also wanted to send some shout outs to people at the Department of Education. Vanessa has worked really tirelessly on projecting for us and really keeping up with all I mean our comments got intense today. So thank you so much, Vanessa. And Steve Finley, Ronald Sann, Soren Lagaard, Beth, who was with us, our accreditation expert David Musser. I mean it goes without saying this guy is a is a huge help. Thank you, David. Amy Wilson, who has been running like behind the scenes, the logistical aspect of it. Sophia, thank you Sophia, for being an amazing facilitator and Brian

Schelling on our first day. There are a ton of people behind the scenes who are, you know, who who. We have to also send a huge shout out to and thank you. I couldn't list them all, but and I did I wouldn't want to list them all because I don't want to forget anybody and have anybody upset with me. But I think the main thing is to express appreciation for the communities that have worked very hard for this change and that we sat around this table to help write proposed amendatory language we want we we our goal was to hear those voices representing impacted students and and we hope that we hope, at least with these comments that you all gave us, everything is recorded. There's a transcript. So everybody's comments, everybody's comments are in stone they're in writing forever, they're going to be posted to our website, so go there and check those out. So I just so that's it. That's we got one minute left. I'm not going to end early. Oh, they thank you. I appreciate that we're not going into early cause I don't want to get an email. Remember, like last time, I don't want to get emails saying we ended a minute early, so we got we got how many seconds left let me see 40, 20 seconds. So I don't know if anybody else wants to say anything or.

MS. MCARDLE: Kim has your hand up.

DR. PACCIONE: I just want to thank you

Aaron, for for all of your work on this as well. Sorry, I jumped in there, but thank you for your work on this as well.

MR. WASHINGTON: I appreciate that. Thank you.

MS. CARY: And I just want to say thank you, everyone, this has been a great learning experience for me since this has been my first one that I have sat on. And it's definitely expanded my comfort zone into areas I didn't really know about, and it's actually increased my interest in getting more involved in areas that I've learned I've learned about in this setting, so I would be remiss for my financial aid administrators that I am here for. If I didn't ask the Department to be thinking about the the FAFSA, all things surrounding the barriers that students will be. You've addressed them, you said they're coming, we'd love to hear more about that. And one thing I would like to add in is there's some confusion about what can be included in cost of attendance since Pell is going to be paying for that. So would that be the internet services, things like that, the tablets, things like that? What could be included in that? So just wanted to say thank you for thinking ahead of all of that and getting word out to us so we can do this effortlessly as much as possible. Thank you. Thanks Aaron, you've done a

great job working through a very, I think, emotional, important topic for a lot of people. So it was I knew it was going to be difficult. I think you've done a great job. Thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yeah, I just wanted to echo thanks to all the committee members, all the people behind the scenes and and the Department. And as was just mentioned, you know, specifically, David, I would love to connect offline and talk about we had mentioned and that kind of goes for all the other subcommittee members, I would hope to connect in ways that we can support your work. But it's been a pleasure being here with you all.

MR. MUSSER: Thanks, Stan.

MR. WASHINGTON: Okay, with that said, we're going to conclude the meeting for today and have a great rest of your week.



