

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
PRISON EDUCATION PROGRAMS SUBCOMMITTEE
SESSION 2, DAY 1, AFTERNOON
November 8, 2021

On the 8th 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: Thank you, Amy. So I wanted to just start. Well, welcome everybody back from the lunch hour, I wanted to start with just a few items I wanted to go over before we proceed on to where we left off before the break. We do have our colleague, Ronald Sann, joining us from the Office of General Counsel. Ron, do you want to say hello?

MR. SANN: Good afternoon, everyone. Happy to be here. And look forward to working with you in the hours and days ahead. Thank you.

MR. WASHINGTON: So Ron will be filling in, well, replacing Steve Findley for our discussions. Also, once we get into subpart P, we do have Soren Lagaard who also works in our Office of General Counsel, who will be replacing Ron for that discussion. So for the for the disclosures discussion and for the Pell calculation, for the Pell discussion for reducing the scheduled award, if reducing the award, if there's other aid involved and it exceeds cost of attendance, that will be Ron. And then once we transition to subpart P, it will be Soren Lagaard and I will allow Soren to introduce himself. I also wanted to speak a little bit about the technical difficulties we had earlier because we can't like because we're all in the teams meeting the public and the

subcommittee.. So if we do have technical difficulties this afternoon, I'll likely just ask all the subcommittee members to turn their cameras off and mute their microphones while the Department works to resolve those technical issues. I will pause. Anne Forsythe indicated that she would be joining us for the afternoon session and as a reminder, the main committee voted to add Anne from the Missouri Department of Corrections so that both the main and the subcommittee has an additional member. I want to pause to ask Amy, has Anne joined us?

MS. WILSON: I am looking right now. And I don't think she has yet.

MR. WASHINGTON: Okay, thank you, Amy.

MS. WILSON: You're welcome.

MR. WASHINGTON: And so with that said, I'll pause there. Are there any questions before we dive back into the language?

MS. MCARDLE: I don't see any hands.

MR. WASHINGTON: Okay, Vanessa, if you could pull the, well, share the regulations to the screen. We're actually going to go back to 668.32. We had a chance to discuss one of the recommendations that were made. Scroll, if you could scroll up to the blue highlight, yes, so as you all remember, I stated earlier during my during my opening remarks, that any actual

language changes that we make during the third session will be highlighted in bright blue. And so we did get a language suggestion from Kim over the break, so thank you for that, Kim. To further clarify the language for people who are going to be reading these regulations-- to try and make them more clear. And Kim, we appreciate the suggestion and what we've done is we've kind of amended your suggestion to break it out. So to break it out. So we still maintained the romanettes 1 and 2. We didn't we didn't want to add a C because of the structure. The structure may not flow very well, and it almost kind of could seem as though maybe students like students that were enrolled in Prison Education Programs also wouldn't have to it would have to be their first baccalaureate or professional degree or enroll in a post-baccalaureate teacher certification program. And so what we've done on your screen is we have changed it. So there's no longer A and B, there's no longer that confined, incarcerated, but we have combined the two. So if a student is confined or incarcerated, as defined in 600.2, then the student is enrolled in an eligible Prison Education Program as defined in 34 CFR 668.236. So, Kim, do you want to, okay I see a thumbs up. Alright. So we can move now to Vanessa. We can move back to 668.43. Okay, here, give me a second. The computer is running just a little slow.

Alright. Okay, so we did have five thumbs down for this temperature check, and I know that Dr. McTier had recommended we come back to it, so I'll just go back over some of the things that I said before the break so that they're kind of fresh on people, on people's minds. So Belinda and Dr. Paccione had recommended to remove upon request from both of the disclosures. And I think the concern was that it would so the concern that it would be that students may not know that they have the ability to request these documents. And so we just removed upon request, so if you're enrolling a student in a program that leads to professional licensure or certification, then you will be required to provide disclosures to those students about the educational requirements and also about if there are any prohibitions on licensure or employment. And Dr. McTier asked us to clarify that these disclosures are only specific to programs that lead to licensure. And so we've removed, so we've added, I'm sorry, we've added if applicable, and there was already, if applicable in romanette 2, but we just added that to romanette 1. So just to clarify that if it's if it's a general studies or liberal arts program, then they wouldn't be subject to these disclosure requirements. And I think I can pause there for discussion.

MS. MCARDLE: Kim.

MS. CARY: Thank you. This is where I think where we had talked last week, a group of us financial aid administrators and the idea that we don't want to we don't want to miss the opportunity to talk to students about everything that they're going to encounter and with the disclosures. Disclosures are very easy to let go or not mention more than once or even once. So we just want to make sure that there is something put into place. One of the ideas that was mentioned was similar to an entrance counseling that students have to do now with direct loans. Is there something that we could put together that would be something they could go through to make sure that they heard it at least once and then really encourage put in the must language to institutions that they must confirm that that has been completed? And how would they do that and how often would they need to do that? I just want to make sure we're protecting the students, especially in this licensure piece, that we give them what they need and not because they don't know what they need. We need to be the ones to make sure that we provide everything upfront and as they move along through the program. And I'm interested in thoughts on that.

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

MR. WASHINGTON: Whoever had their hand up first.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Just to kind of piggyback up off of that, I think that a timeframe would be important here. So, you know, it says if applicable, applicable, excuse me, I'm assuming that this is going to be on the front end of when they start getting their Pell Grant or receiving Pell Grant. Or does this mean that any time a student wants this information, they could get it throughout that duration and the institution has to provide it? I'm a little unclear as to when this information needs to be provided. And then if I actually like the idea of doing like an entrance and exit type of providing that type of offering. Again, because you can get it on the forefront and then it can take years for an individual to complete their program. By that time, laws have changed, policies have changed and time has moved on. And so I think having reiterating that at the end would be something good, but I do think a timeframe that needs to be in place here. But overall, I'm happy we're in the direction this is going so.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Yeah, so for the time for in regard to your timeframe comment, Dr. McTier, do you

have any language changes that you'd like to suggest that we can put in blue highlight?

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Sorry, I was on mute. It's Monday. I would probably say, let me look at it and then get it to you. It's something simple, so just give me just a second.

MR. WASHINGTON: Okay. And also, Kim-

MS. MCARDLE: In the meantime, go ahead.

MR. WASHINGTON: Oh yeah. And in regard to your language about entrance and exit counseling, I think my colleague David had his hand up. I would like him to talk about what Department currently requirements are around entrance and exit counseling and-

MS. MCARDLE: David?

MR. MUSSER: Sure, I can do that. Currently, in order to receive a direct loan, student has to undergo entrance counseling in which the institution provides information about the obligation of the student is entering, entering into with respect to their direct to their direct loan and provides information about various aspects of how the loan works. But those things tend to be directly focused on the loan itself and what the student what kinds of, for example, repayment plans are available to the student, etcetera. Exit counseling

similarly is provided at the end of the student's college experience, either after the student withdraws or after they graduate and provides similar information explaining what the next steps are for the student, when the student will be expected to repay their loans, begin repaying their loans and the conditions under which they'll repay the loans. To implement something like what Kim has described here, we would have, I think, one of two choices. We could either create a requirement for the institution to provide that information in a specific timeframe, both at the beginning of the student's program and at the end. Or we could condition receipt of Pell Grant funds on, for example, the entrance counseling piece, and of course, there's a lot of complexity associated with that, as I'm sure Kim can attest. But yes, in order to create something like that, we would essentially have to establish all of the timeframes for when that would be required and also express exactly what it needed to include both for the entrance and the exit counseling unless the content was expected to be exactly the same.

MS. CARY: Thank you, David. Just a quick follow up to what you were saying, there is I think it's just a protection piece for the student and for the institution to make sure that they have covered the

responsibilities of what the institution knows about licensure and certifications and whether or not they've provided that information to the student. And just and so that the student too can know, I choose to move forward with this, knowing that I may not be allowed to get the certification in my state, but it's just a protection for both as they move forward that those conversations did occur.

MS. CARY: Dr. Paccione.

DR. PACCIONE: Yeah, I was just wondering if it might be easier to just take out if applicable. Just say institution that offers an eligible Prison Education Program as defined must provide all available information. They still do the timeframes, but rather than, if applicable, just provide it. Whether the completion of that program meets the requirements for licensure or certification.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Dr. Paccione. The reason that we added, if applicable, was due to a recommendation from Dr. McTier that to clarify that not all Prison Education Programs will be subject to these disclosures, it would only be presented. I see you shaking your head, so should I continue or? Okay. So I would you like to add, would you like a comment bubble to

be added to remove if applicable?

DR. PACCIONE: I think that would be okay to add the comment bubble as well. Because this is just for professional licensure or certification.

MR. WASHINGTON: Correct.

DR. PACCIONE: So as Dr. McTier had said earlier, if you're entering a program and specifically for licensure or certification, you should know that at the beginning of the program, you should know it through the program and not be surprised at the end of the program. So.

MR. WASHINGTON: So I guess just to follow back up, I think it would be helpful to have a discussion if Dr. McTier is willing to engage about this language, this was the proposal. Well, we added this based on Dr. McTier's recommendation, so I think we'd be at an impasse if we couldn't figure out a way forward,-- add if applicable, take if applicable out. I wonder, is there any compromise between the subcommittee members for the language here?

DR. PACCIONE: If we put add if applicable, then I think we definitely would need to have the timeframes on there. I would say that would be required. But if we take out, if applicable, then it means that you are going to provide it period. So I don't know that the

timeframes would be needed, so one or the other. And I don't have a dog in the fight, so I'm okay. Dr. McTier, on you, brother.

DR. PACCIONE: Dr. McTier.

DR. MCTIER: Okay, first, I want to say that if we can give Dr. Stanley Andrisse access to mic and video, he just texted me and said he doesn't have access. That's number one. Number two, I like what's going on here with what's proposed, the, if applicable. I would just add for the language of the timeframe, probably saying prior to distributing Pell to students. And then and prior to the student exiting the program or something to that effect. So it kind of gives you that timeframe.

MR. WASHINGTON: Okay. Okay, if you could give Vanessa a second, I'm sorry, Sophia, to jump in, but if you could give Vanessa a second to type those in there? Vanessa, can you add that language and in highlighted in blue. Dr. McTier, I don't know if can you repeat that? Where, where exactly it will go?

DR. MCTIER: Are you ready for me?

MS. GOMEZ: I am. Where do you want to in this-

DR. MCTIER: Okay, it looks like if we say if applicable, provides the information completion of the Prison Education Program. So if you can scroll down a

little bit. We would just need to say, prior to distributing Pell to students, it looks like it might go at the end. And then and prior to the student. And then adding and prior to the student exiting the program, that Prison Education Program or whatever. If it doesn't work there, it could we could kind of finesse it to go a little bit somewhere in that definition.

MS. MCARDLE: Next will be Marisa.

MS. BRITTON-BOSTWICK: So I just want to say that this is so important to have the entrance and the exit. And I think timeframe is super important also. But would there be any way to put in there some kind of-- in conjunction with the staff of the correctional facilities? So it also holds them accountable and that it's a realistic pathway for the students?

MR. WASHINGTON: Can you repeat? Can you repeat that I'm sorry, I didn't hear that.

MS. BRITTON-BOSTWICK: I'm getting an echo. So I think timeframe should be in there. The exit and the entrance (inaudible) but also, can we put in there in conjunction with Department of Corrections Education staff at correctional facilities? So that also holds Corrections accountable for this timeframe? (Inaudible)

MR. WASHINGTON: Okay, so, Vanessa, can you do you know where you would like that to be? And if not,

maybe Vanessa can just add a comment bubble with that language? Marisa, do you have a place you have a place in the regulation that you'd like it to sit?

MS. BRITTON-BOSTWICK: (Inaudible)

MR. WASHINGTON: Alright. So Vanessa, can you add a comment bubble and to and then just Marisa, if you wouldn't mind repeating that one more time?

MS. BRITTON-BOSTWICK: So. Somewhere in there in conjunction with Department of Corrections Education staff at the correctional facility so that corrections also held accountable.

MS. GOMEZ: Could you repeat it slower? You sound very echoey.

MS. BRITTON-BOSTWICK: I'm getting an echo on this end too, I'm sorry. In conjunction with Department of Corrections Staff. Education staff, actually. At the specific correctional facility. And that there needs to be a timeframe on the entrance and accounts (inaudible) for accountability.

MS. MCARDLE: Kim?

MS. CARY: Thank you. So knowing that financial aid administrators are very familiar with this language we look for must, we look for may in our language of, you know, how strong is it to follow through on. I think if you wait until the Pell is dispersed or

prior to the Pell disbursement, you've waited too late because you could have schools that wait until end of the semester to start doing that. Since it's there's not any there's no rush to do that until the end of the semester. I think it's an onboarding piece that we need to look at here. If we're if we know that we're going to be offering a program that is going to end up with a licensure or certification. I think you need to let the students know that up front in the onboarding piece so that they know and they have a choice at that point to either participate in that one or change if there's another offering. How the correctional facility may have limitations to access to that student. So we would have to be careful in how we establish those conversations. Could it be like? I know right now if we look at the entrance and exit counseling kind of idea that is in the online process, well not all of the students will have that access. So just keeping that in mind. I think it should be definitely an onboarding piece and not something that schools could wait to say, oh, we'll get them enrolled, we'll get them moving through and then we'll tell them. And then we still get the predatory type of institutions could use that kind of thought process.

MR. WASHINGTON: Sophia, before we move to Dave, can we add, Vanessa, can you add a comment bubble

to the blue text that was added, like where the documents are added and just that Kim suggested prior to enrollment Kim or you want to say onboarding or prior to enrollment?

MS. CARY: Prior to enrollment in the onboarding process.

MR. WASHINGTON: Okay. And then you can say, because the institution made the institution may not disperse Pell. The institution may not disperse Pell until the end of the payment period. Thank you, thank you, David, for allowing me to jump ahead.

MS. MCARDLE: Go ahead, Dave.

MR. MUSSER: No problem at all. I wanted to flag for the committee subcommittee that there are some considerations about when a student exits that are incorporated into the exit counseling regulations, that may be important here as well. And I'm actually looking to Kim, who's probably familiar with return of Title IV and how withdrawals sometimes work. The exit counseling regulations specify that when we say exit, we either mean one of two things-- either the school is required to provide the exit counseling shortly before the student borrower ceases to be enrolled, or if the student, the student borrower withdraws from school without the school's knowledge, the school has 30 days to provide the information to the student. So if that's what you guys

intend, we may need to include that somehow in in these provisions, and I just would. I would throw it back to the subcommittee members to ask you about that point.

MS. MCARDLE: Belinda.

MS. WHEELER: Thank you very much. I appreciate this conversation that we're having thus far. Wearing my former educator hat and former Prison Education Program director hat, I just wanted to offer up whether or not this meets with subcommittee members, with what has already been said. But I wonder in that blue text where Dr. McTier had entered some given that school programs, Prison Education Programs, we all have calendars that we submit to everyone, , students, administrators, financial aid. Everyone has like an academic calendar. I wonder, you know, bringing up Kim's excellent point and others' excellent points, whether or not we could have language that says, you know, that this information must be given to students before like the drop/add period. Like that's a specific like noted period every semester in an academic calendar which let students know that, you know, hey, if you want to sign up for this course, you've got until this date to drop that course and there is no penalties for your Pell or other things like that. So I wonder if, because that's always something that's very finite every semester, usually, you

know, and that would be something that the educational partner should, I think it's always mandated would give to the correctional facilities, would give to the students. Everyone would have that calendar. So I wonder if we could offer up as a suggestion that we put rather than prior to distributing or something like that actually say, you know, you know, I don't know what the standard template is for students, but you know, students are given this information, you know, at least, you know, five days before the drop/add period, you know, for each academic semester so that students are always every semester if they want that said, you know, information, you know, they're having it available to them every semester that they potentially sign up for a course in this kind of program. So I just offer that up to colleagues.

MS. MCARDLE: Stan.

MR. WASHINGTON: Quick, quick, quickly, Vanessa, can you add that suggestion under Kim's I'm sorry, I'm sorry to jump in, but after. When people make suggestions, I think it's I had been noted that it'd be best to capture them, you know, in real-time. So thank you for that, Belinda.

DR. ANDRISSE: So I think mine goes to the next I was kind of raising my hand in anticipation of

commenting on the next part. And so if we're not there, I can hold off. And because have we have we, were we simultaneously looking at Roman numeral one and Roman numeral two?

MR. WASHINGTON: Right. Yeah, essentially because we haven't made many, we had not proposed, I think we proposed very minimal updates to it, so we were looking at them all, both together.

DR. ANDRISSE: Okay, then my comment is. So, you know, I don't want to discourage the creation of programs that might lead to licensures that are currently really not sure if you know a form, a formula, a person with criminal convictions can obtain that degree and I had given and last time we met examples of people like myself who have gone through and broken ceilings to be in employment, you know, to work in positions that would not normally be suited for people who have criminal convictions. And I also noted that there are other individuals who have broken barriers and, you know, becoming lawyers, getting licensed and getting their bar to practice law. And individuals within our program who are nurses and working towards their medical degree. So I mean, I think to say that, you know, to, for instance, just this this current text would discourage a program from offering a pre-law track or a pre-med track or a

pre-health track because there are said barriers in place. So I have issues with this particular piece here. I think we should word it to where it is acknowledged that there are barriers to push forward in that particular path. But to say that it can't be offered that a program can't be offered, we are discouraging even the creation of the program. So people like Dr. McTier will look at this language and say, there's no point of me trying to create a pre-health program. It's not going to go through. So I think we need more. I think we need to make the language inviting so people like Dr. McTier in his position would be willing to create programs. And I think, Belinda, we had put together some suggestions for this particular text.

MS. MCARDLE: Kim.

MS. CARY: Belinda, if you want to go ahead and acknowledge that, then I can come back.

MS. WHEELER: Thank you, if that's okay. Yes, so you're right, Stanley, we do have we do have language, but it's for another section of it. It will then for that other section will end up being cross-referenced with this one, but not particularly for that particular one. But let me double check my friend, but I believe that where we put the amendatory language was in the PEP one, which is part P, which we're going to talk

about later on this afternoon. And if indeed that then gets done, it would then go back to this one here. But let me let me double check.

MS. MCARDLE: Okay, back to Kim.

MS. CARY: Thank you. So just a few things to tag on to Belinda and Stan, so it's my understanding this doesn't prohibit the offering of a program. But I hear what you're saying, I think institutions will be discouraged from wanting to do this because it's going to impact their accreditation numbers. So we would have to write things in or, you know, accreditation entities would have to understand that those numbers shouldn't be included so that there's no penalties to institutions in moving forward with continued accreditation. You know, we've mentioned before, job placement rates shouldn't be impacted for institutions because they may not be able to get a job in that area. So I think that if we can address that for institutions, then that will be the progressive way to move forward knowing that they are protected, but yet still trying to offer an opportunity to remove those barriers moving forward. Now, coming back to the original reason I had my hand raised. I want to make sure that we talk about the exit counseling really quick that David had mentioned, so of course, it's so different for the direct loan program students. We won't know if a student

maybe even ends up withdrawing beyond their choice, so maybe something happens within the facility that prohibits them from continuing. They may be transferred to another institution and then we have no access to that student, so we wouldn't be able to make exit counseling a requirement. Just a suggestion, as you know, for the good of the student, because we would be limited in what we could actually control. But then again, David, I'd like to make sure I point out at this point that maybe we bring it up some time later in the conversation is the withdraw piece of that does impact students as well. So that's all I have right now.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Yeah. Kim, to your point about returning Title IV Aid, I do want to leave quite a bit of time to talk about other issues that affect Title IV Aid, and so hopefully not hopefully, once we get through this, we can circle back to the return of Title IV Aid. I think you had some a few other suggestions in there, professional judgments. I think that was one of them that might have been made by another member, but I know that there are some Title IV specific issues that folks want to talk about. I wanted to get through this language. Of course, if you wanted to make a motion to like, you know, discuss it now we can. But I was I really

wanted to get to the language and then circle back to those remaining issues after we've gotten through the language.

MS. CARY: No that that sounds great. One addition to the bubble that I would put in my fellow financial aid administrators on here are going to understand Belinda's comment about at least five days. Let's make that at least five business days. Or yeah business days, we don't want calendar days, because that could really limit us. We want business stays in there. She's got a thumbs up for me, so that's good.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Yeah, yeah, thank you for all those comments and just to reiterate, we're going to take all these back and discuss them. I, you know, you know, in Pell, there's the concept of Pell recalculation dates. Of course, not every institution has a Pell calculation date, so tying it in regulation to add/drop dates, we'll have to take that back. I don't know if we have that defined in regulation anywhere. But we obviously do have the concept of a Pell recalculation date. Perhaps we can look there. But again, not every institution has Pell recalculation or utilizes Pell recalculation dates, so that's just something that we'll take back and think more about. We have the ideas about

prior to enrollment or, so we have we have several things that we can play around with if that's the, you know, and come back with a stronger recommendation.

MS. MCARDLE: I have no other hands at this time.

MR. WASHINGTON: So as Belinda stated earlier, you know, this section is about disclosures that are tied to some requirements in the definition of a Prison Education Program. And so we will be talking about those it potentially could be today due the fact that we do have quite some time left. And so with that said, do we want to move on to the next section or do we want to spend more time talking about these? Because, you know, we will be talking about the license licensure and employment prohibitions in the in subpart P.

MS. MCARDLE: Dave.

MR. MUSSER: Yeah, thanks, I think we can move on after this, but I wanted to raise one more thing about the context that that that we're dealing with, but when we're creating these requirements, there are already requirements for disclosures related to whether a program meets the educational requirement for licensure in a given state. And again, this is really just as information for all of you in the subcommittee. But one of the requirements that was established, I believe it

was in regulations published in 2020, was that an institution must notify a student if it if it determines that a program that the student is enrolling in would not qualify that student for licensure based on the institution's understanding of those requirements. And there's a whole set of provisions about how the school does that when they do it, about needing acknowledgment from the student. So one of the things that I think the Department will take a look at when we go back is how those requirements kind of interweave with these. We don't want to create regulations that are duplicative or achieve the same purpose. So I just think we need a little bit more time to consider those things in relation to the changes that you guys are proposing here. So I wanted to raise that and we'll look into it and come back with some more information.

MS. MCARDLE: Aaron.

MR. WASHINGTON: I also wanted to pause here and ask if and if our new subcommittee member, Anne Precythe, if you have joined the public on the public view or if you are trying to join and you can hear this, please email Amy Wilson at Amy.Wilson@ed.gov for assistance in entering the session. We have not seen Ms. Precythe enter the discussion yet to allow her access. So I wanted to make that on record that we are and we will

send her a message asking as well an email asking as well if she's having trouble accessing the meeting. With that said, I think we can. Well, let's do let's do a temperature check. Let's be consistent and do a temperature check on this language and this language also just recognizing that we will be talking about educational requirements, prohibitions on licensure and employment in subpart P. So if you have so but this is so this is just for the disclosure that institutions will have to make related to those requirements. So if we can get-

MS. MCARDLE: We do have a comment from Stan, I think.

DR. ANDRISSE: Just to acknowledge that I would be a thumbs down until it is noted that it references the text that we are yet to discuss.

MR. WASHINGTON: Okay, so, Vanessa, if you could queue up like a comment bubble with the thumb taking into account people who have a thumbs down, so if we could do the temperature check now again, please raise your hands and we have we've noted Stan's comments. Maybe, Vanessa, you can say thumbs down Stan. You can say Stan is a thumbs down until we until we visit the language in the definition.

DR. ANDRISSE: Yes, I would like it cross-

referenced.

MR. WASHINGTON: Okay.

MS. MCARDLE: Belinda.

MS. WHEELER: Yes, thanks. I was just noting my thumbs down until such time as we can talk further about those bubbles or things of that nature. Thank you.

MR. WASHINGTON: Thank you.

MS. MCARDLE: That's the only two hands.

MR. WASHINGTON: Alright. Alright. Vanessa, can we go to all the way down to I think if at the very bottom, so it would be 690.62, we're going to skip over subpart P for right now, just so we can get through all of the technical things and then go into subpart P right after. Yeah, right there. So you can probably scroll down a little bit, Vanessa. I think we have some yeah to that that text. Okay. Alright. So for this discussion, there were no thumbs down in the section, and so but we did have just the small highlighted technical amendment to add indicator before 34 CFR 668.164. We do, I do have to make one update to this paragraph and I will make it. I will make it now. This paragraph B has to is we have to remove paragraph B, we just released a Federal Register Notice on October 28, 2021, and it was a technical package that updated our Pell regulations to include the concept of year-round Pell. Sorry, is somebody's trying

to say something? Okay, alright. That was that to include the concept of year-round Pell, and that's been the law since, so the year-round Pell has been it has been in the law since 2017. And so that's why we and paragraph B was removed because and that's because we release a Federal Register Notice every year that highlights the Pell minimum. So the old regulation states that no Pell payment can be made to a student if the Student Annual Award is less than two hundred dollars, then it adds a little more language on there. The new regulation and the rationale in the regulation we remove 669.62B because since 2012 2013, the change in the law has been explained in an annual Dear Colleague letter. So the Pell minimums are explained in explaining the annual Pell Payment and Disbursement Schedule dear Colleague letter that we released and so we had to delete paragraph B, which doesn't really. It's just a technical change. It doesn't affect what we're working on here. And finally, we received two questions from the main committee, and we also received an email on the effects of this language on lifetime eligibility used. And the Department doesn't recommend any further changes to the regulatory. That's the regulatory text here. But I did draft and my colleagues assisted me with five examples of how Pell is calculated when an award is required to be reduced to not

exceed cost of attendance. And I'm going to just kind of I just want to make a few points before we dive into those, dive into those scenarios. But my first point is that any time the amount of amount disbursed is less than the scheduled award, the students will not have used 100% of their schedule award and any reduction to the students Pell Award as a result of other aid that cannot be reduced is a reduction to the amount of the student is going to get. It is not a reduction in the student's scheduled award because the annual eligibility used for a student is calculated by dividing the amount disbursed by the scheduled award. So I wanted to make those points because I think that it wasn't really clear with the with the main committee what this language was trying to get to. Now I do want to pause there as well because before we go over to the scenarios, because I did see an email from Kim. Kim, and I don't know if would you mind speaking to that? You know, I know that there was a point of clarification because I think that there was after seeing the scenarios and after discussing with other financial administrators. I think the actual Pell calculation and LEU is totally understood by financial aid administrators. But I think that there was just some suggestions that were that were raised about just LEU in general and how appropriate it was to apply LUs to those

that are incarcerated.

MS. CARY: Sure, thank you, Aaron. It is not an easy concept to understand a lot of times, so I just wanted to clarify that lifetime eligibility, regardless of which group we're talking about incarcerated individuals or your traditional student. They're both going to be calculated at the same rate and same usage. So one is not being negatively impacted more than the other. It's just they're going to use smaller amounts of their percentage than a traditional student because their cost of attendance is going to be so much lower, which because of the removing of the room and board and things like that. So I think really the question, and Belinda, sure, if you think I'm saying this wrong is whether or not we should impose that LEU on these students while they are incarcerated. And the idea behind that the traditional student can choose whatever program they want, they knowing going forward with their career, they can say this is what I want to do, and they choose that knowingly and willingly. Incarcerated students may be subject to only a few choices, and in some instances, maybe only one where they have no choice but to go into this one program or two programs. It's not really what their true career choice might be. So if they were to be released and here they've used up a percentage of their

Pell Grant, then when they are released and they go to the field that they really, truly wanted to do with their career, then they've already they're already inhibited by use of the Pell Grant to finish out that next degree. So it's just a thought to ask that the lifetime eligibility not be impactful to the incarcerated individual until they become a until their released, and then can start at that point. Does that help Aaron?

MR. WASHINGTON: It does help, thank you very much for that clarification, and I think with that, I don't think I will go through every single one of the scenarios because I know they kind of, you know. But I do want to go through one just to have it on the record. But just so people can see because I know there's been a lot of discussion about it, but we'll put a comment bubble into the document with your suggestion. I did want to raise that lifetime eligibility used is statutory statute limits the students to six scheduled awards, and we measure those awards and percentages. So the percentage of the scheduled award the student uses every award year is, you know, they're added on top of each other until the student reaches the 600% lifetime eligibility used. So that that that is in the statute. And we in our Pell updates that I just talked about the revisions that we did to the regulations that incorporate the year round

concept. We did also update that language as well to demonstrate in the regulations that student would be limited to the equivalent of six scheduled awards. I think as I stated before, I mean, there's a way we can make that clearer that that statutory complex clear and regulation. I think that's what we can probably take regulate recommendations. But that is a statutory requirement, so we are required to enforce that for all students.

MS. CARY: Yes, and that's what I figured. So in addition then to the onboarding process, that's another piece that we would want to make sure is very clear for students going into a program and what that might look like. So maybe that's where we put that piece. I know I keep saying onboarding, onboarding, but it's just so important to get everything up front, so correct decisions can be made.

MR. WASHINGTON: So with that, I just wanted to walk through one scenario, you know, so that the community or financial aid administrators listening and that still have concerns about the way that we'll be calculating or the way that eligibility use will be calculated if the students award is combined with other aid that cannot be reduced. So, Vanessa, would you mind screen sharing the scenarios for us and we'll just we'll

only go through one. So and I think that'll save us on some time. Perfect. So here, oh, if you could scroll up a bit, Vanessa. I think, yeah, so the bolded part here is that we have these are just students that, you know, these are not real, these are not real students. I'm sure there are some real students with these names, but I've just created these students. They're enrolled at University of ABC in a Prison Education Program in general studies, that leads to an associate's degree. It's a standard term program with one fall and one spring payment period, and their cost of attendance is \$6,495. Many of you recognize that that is max Pell for 2021-2022. And so our first example, scroll down a little more Vanessa, please. Alright, thank you very much right there, so our first example is Jerry, and he he's enrolled in the program full time for the full award year and he has the EFC of zero. That's the EFC is expected family contribution that's calculated when the student enters their all of their information on the FAFSA and the Department where our central processing system does analysis of their need behind the scenes based on different characteristics. And so, Jerry's scheduled award is \$6,495. That is the maximum for the 2021-2022 award year. And Jerry also gets a VA education and training benefit for \$5,495, and the VA states that this

this aid can't be reduced. You know, in our proposed regulations we say if they get other aid that pushes the total aid above cost of attendance, you have to reduce that aid first. However, the VA is saying we're not, we're not going to, we're not going to reduce the VA benefit. And so Jerry's total award now is \$11,000 plus. So a current B because remember, we had to get rid of the we had to get rid of the B because we do with technical change so that so the proposed language that we're proposing to add will be the new B. So Jerry, you have to pay Pell. We're going to pay Pell in two payment periods, right? We have the fall payment period. And a lot of people would a lot of people when I was in school, we just said, like, semester, right? But for in Title IV speak, we say payment period. And so we have the fall payment period and we have the spring payment period and you divide the schedule the award into two, right? If so, that that would be the case if Jerry was not incarcerated. However, the university has to reduce Jerry's award right because to \$1,000 because that addition of the VA benefit would have caused Jerry's award to exceed cost of attendance. So what we're going to do is we're going to the university determined yeah, so the university determines this by subtracting the \$11,990 by the \$6,495. So Jerry, so Jerry's cost of

attendance is exceeded by \$5,495 and then the university then subtracts the amount above from Jerry Jerry's, sorry, the university subtracts the amount above Jerry's Pell Award from Jerry's original award, leaving \$1,000. So that's how much Jerry can actually get in Pell. And then remember, we still have to pay it in two payment periods. And so for the fall payment period, Jerry is going to get \$500 in Pell and for the spring payment period, Jerry's going to get \$500 in Pell. And the way that looks for eligibility used, which has been the main part of discussion, is that Jerry will actually only end up using 15% of his scheduled award, so that's how much will be added to his lifetime eligibility used right. So he's that much. Let's say this is Jerry's first, first, first semester ever. Jerry's lifetime eligibility use right now will be 15.3964%. Of course, if this is his third or fourth or fifth year, it could be higher than that, depending on how much Pell he used before then. But it will increase by 15 at least 15%. Scroll down a little bit, Vanessa, so I can. So thank you. So, Sam, I'll just talk about one more. This is kind of the same scenario above, except that Sam did not get a VA education benefit. Right. So Sam, he has the same cost of attendance as Jerry. He has the same EFC as Jerry's zero EFC, but Sam receives no other financial assistance. So

in this case, Sam-- his LEU would increase by 100% because Sam is going to get his entire scheduled award for the fall and spring term that was split into two payments. I think David wanted to add something

MR. MUSSER: Just very quick, as you guys are looking at these examples, when we say that the LEU increases by 100% for the year. Remember that, as Aaron has pointed out before that the way that that Department calculates lifetime eligibility, we eligibility ends when the student reaches 600%. So when we say the student has had 100% use, that means one full year of their eligibility has been used.

MR. WASHINGTON: So we have three more scenarios here that we kind of just try to apply some of the concerns of the main committee. But now that Kim has clarified what the real concerns were, I think, you know, not the real concerns, but, you know, more clarified on what some of the other concerns were. I think we're I think we're hopefully we reflected that that the regulations should not be amended any further. And I want to pause for a second and then move us into a temperature check.

MS. MCARDLE: Kim? Kim, I believe you're on mute.

MS. CARY: I am. Sorry about that. Aaron,

this brings up a point that was also in the issue paper we sent out to the subcommittee. What if a student wants to decline their Pell Grant but still be part of the program? What does that look like? So, for instance, this student had VA benefits, so. And do they have to do anything special to say they choose not to use their Pell if they want to save it for later?

MR. WASHINGTON: I have to defer to David for that one.

MS. MCARDLE: Dave, you're on mute. There you go.

MR. MUSSER: Yeah, thank you. No, that's a very good question. And in that case, in fact, the student is permitted to decline their Pell Grant for the period. The Department provides when actually going back to when the statutory limitation on the number of years that the student can receive a Pell Grant was first introduced, the Department heard from schools and others that declining a Pell Grant could very well be part of an overall strategy of a student to preserve their eligibility in a situation where they didn't they had other resources, or there was some other reason that they didn't want the Pell Grant for a particular period. So since that time, the Department has allowed students to decline their Pell Grants for any reason that the student

determines that they want that they want to decline it for. So in the circumstance that you described Kim, a student would be permitted to say, I don't want any of my Pell Grant for this period. I just want to have the veterans benefits. And in that case, the student would not receive Pell for the period. And no, no lifetime eligibility would be used. I would note that if a student does not decline the Pell Grant and this may be where Kim is sort of pointing to, the institution is required to provide the student with the maximum amount for which the student is eligible. So the student does have to proactively decline the award in order for the school to avoid providing them with funds for which they're otherwise eligible. But they do have that ability to decline the amount.

MS. CARY: Thank you, David, for that clarification, because it is an entitlement, so we don't want to skip on that. I had another question, and I just completely lost it. It'll come back, I'm sure.

MS. MCARDLE: Kim, again.

MS. CARY: I remembered. So let's say the student chooses to decline their Pell for the fall semester and then they receive other benefits, whatever they may be. That covers their entire semester for the spring. Is it only the semesters they receive a Pell

Grant in that are counted in the overall metrics? Or is it just by being in the PEP program?

MS. MCARDLE: Dave.

MR. MUSSER: That's another good question. And you're asking about when Pell LEU is calculated?

MS. CARY: And no, not necessarily. I'm just talking about students who we so they come into the Pell older program, they're in the metrics as an enrolled student. Do they still get counted regardless of if they get the Pell or not? So they're eligible for the Pell, they just declined it. Would they be in the metrics at the end of the you know, all the data that we're going to be pulling and counted towards at the end of all of this to make decisions moving on in the years. Will they be part of that if or is just the Pell semesters that are used?

MR. MUSSER: So I can't give you a final answer on that yet, because the Department is still determining how it's going to analyze and evaluate Prison Education Programs and how we're going to collect data to support that analysis. Obviously, in the case that you described, the students LEU wouldn't be counted. They have to receive disbursements of Pell in order for that to count toward their lifetime eligibility. But in terms of whether that they are an individual that they

Department would track, I think the Department has in mind that we will try to identify the individuals who apply for Pell Grant funds but do not ultimately receive them to the to the extent that we can. Now remember that once a student applies for aid, we know about them in that year and we can have some information about them. And for example, the reasons that they didn't qualify for Pell,-- , some basic information that they provide on the FAFSA. But we may not receive subsequent enrollment information about that student if the National Student Loan Data System doesn't ultimately collect their enrollment information at subsequent institutions. That said, it is still very likely that we will be able to collect that information because most institutions report their total enrollment regardless. But I can't, you know, I can't confirm that those individuals would always be perfectly reported upon in every case.

MS. CARY: Thank you, David.

MS. MCARDLE: No other hands at this moment in time.

MR. WASHINGTON: Thank you, Sophia. So I think we can with Kim's comments noted, I think let's see, Vanessa, can you bring back up the proposed amendatory language, please? And if you wouldn't mind scrolling up a bit. So what so we've added comment

bubbles, Kim, to account for adding Pell LEU to counseling on interest for entrance counseling. And you know, we need to take back and clarify whether an individual, if individual declines Pell, would they still be counted in any of the Department or Bureau of Prisons Department of Corrections metrics for determining best interest? And then I think we have one more common bubble if you scroll up a little, Vanessa. Let's see, I think we do. Oh, oh, Okay. I think we already answered that one. So with that, can we take a temperature check knowing that we have to regulate within the statutory framework of six scheduled awards what we need are can we take a temperature check on the language just in 690.62? So I see Kim's recommendation would really not impact this. It would probably impact whether we put entrance counseling into 668., well, somewhere else, wherever, else, wherever the Department maybe recommends to put it. So can we just take a temperature check on the language, as is here on the screen? And if you have if you again, if you're in if you have your thumb down, raise your hand and please state why.

MS. MCARDLE: I don't see any hands.

MR. WASHINGTON: Okay, so Vanessa, can you put another comment bubble and just or you can add to one that's already there, either one. Just to say that we had

no thumbs down for the section? Thank you. And could you scroll all the way up to where it says, let's see subpart, it should say subpart P. No, actually, it says, yeah, it says 34 668 yeah. Alright. So I think we're going to have to pause here one more time. I believe that we have Soren Lagaard replacing our council, replacing Ronald Sann, our counsel. Has Soren joined us?

MR. LAGAARD: Hello, Aaron, I'm here.

MR. WASHINGTON: Hi, Soren, would you mind coming on camera and introducing yourself? I don't know if the subcommittee has had a chance to meet you yet.

MR. LAGAARD: Maybe they haven't. So as Aaron said, My name is Soren Lagaard and I'll be working and helping here with some (inaudible).

MR. WASHINGTON: Okay, so as stated earlier, you know, we did say that we wanted to provide the Prison Education Program language with its own subpart, as opposed to trying to put it all into the existing language in 668.8. I don't think we need to take a temperature check on that unless a subcommittee member feels strongly that it should remain in 668.8. It would have its own its own entire subpart dedicated to Prison Education Programs. And so here we just rework the structure. And does anybody have any questions about how we did this or why we did this or? Okay, so the first

section, every at the beginning of a subpart, most of our subparts begin with a scope and purpose. It's 668.243. That's what we're proposing to. We have to we're following along. I think the last the last regulatory provision was before this was 668.233. So we're doing 668.234. I'm sorry, I'm mixing my numbers up. And so this is just an introduction that we've drafted. And you see, it's all in highlight because it's all new language. So it's just kind of an overview of, you know, what the reader can expect coming in the regulations laid out in this subpart. Does anybody have any comments on the language or anything you'd like to add? This is more of a summary. So I think we have some flexibility in here to add some language. I'll give everybody a second to read it. Okay. So I. It doesn't look so do we have any hands or?

MS. MCARDLE: No, no hands.

MR. WASHINGTON: So I like to. Take a temperature check on it, you know? Is the subcommittee okay with this language as proposed here. Just the overall summary, if no, if no hands are raised.

MS. MCARDLE: No hands are raised.

MR. WASHINGTON: Alright, let's move into the let's move into the next section. Here is most of our subparts also contain a definition section. And so I

think you can see on this slide we referenced on the screen share, we referenced two definitions and six hundred point two. That was additional location in a confined or incarcerated individual. That the juvenile justice piece that will be moved. So that will be moved back to 600.2. So that will no longer that will no longer be there so I can actually take that out now, so that's not something that we're looking at that could impact, or either me or Vanessa would see that would just that would just go away. And then I can just note that has been moved to 600.2. And we also so the one definition that we are proposing is to add the oversight entity definition and that is because the statute references the statute, the statutory language is the appropriate State Department of Corrections or other entity that's responsible for overseeing correctional facilities or the Federal Bureau of Prisons. And it repeats that language in a few places. We had that repeated all over the regulation, and we thought that oversight entity would be a more succinct, simple way of referring to that entire statutory clause. So that's essentially the only definition that we've that we've added to the definition section in the Prison Education Program subpart.

MS. MCARDLE: We have some comments for us, Belinda and then Stan.

MS. WHEELER: Thank you, I would like to propose that we pause on a status check on the oversight entity means until we have a chance to actually review, and I do remember it is all over the language and I definitely understand that. But now that we have something here, I would like to definitely not do a temperature check on this until we get the whole context first so that then potentially we could provide some amendatory language if needed for that. So I just wanted to kind of put that there because this is the first time, obviously, that we're seeing it as this and it makes sense. But I just want to see it in the context of everything else. First, before we do a temperature check on that. Thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yeah. Similarly, I would agree because I want to propose, I think, how I was going to propose this to add like a sub definition, and that's how I was going to propose to add this idea of an advisory committee that helps to advise the Department of Corrections or that other entity and the overseeing of the or just to assist in several different places where oversight entities is mentioned, so I don't know. As Belinda mentioned, it is going to come up again here in a second, so I don't know if it's more appropriately to

actually add it within this definition, which I think maybe it would be. So that way, every time it is mentioned, oversight is mentioned there is this definition, the appropriate state Department, etcetera, and then add a sub definition saying that is advised by an advisory committee made up of members that we that should be somewhere later in in the in the language. So my proposal would be to add a sub bullet point to that.

MS. MCARDLE: Aaron?

MR. WASHINGTON: Oh, yeah, I was going to ask Vanessa that, but she's already doing it.

MS. MCARDLE: Stan, did you have something else?

DR. ANDRISSE: Well, I was just going if she needed me to repeat anything.

MS. GOMEZ: Do you want to revise anything I wrote? Or does it look good, Stan?

DR. ANDRISSE: That looks good. And I mean, to add that we've the members of the advisory group, we've listed that, I think later of what that advisory group may look like, we listed some potential stakeholders further down.

MR. WASHINGTON: Stan, do we have the language, or is it something that is going to be submitted or developed later?

DR. ANDRISSE: I think we are going to be sending that to you soon, but I mean, I mentioned it was in the bullet, just off the stakeholder groups that we mentioned last time were in the bullet. Were in the bubble, I mean.

MS. MCARDLE: No other hands right now on the show to respond further, Aaron.

MR. WASHINGTON: No, I think we have the I think we have the bubble and I think we have I think we'll just have to we can either reference back to the first the bubbles from the first session or wait for the language that will be submitted. So we're going to pause on the temperature check here and move into the next section. That would be 668.236, eligible Prison Education Program. So here we're going to get into the definition of the Prison Education Program. So you all. So what we've done here is you can see in paragraphs A, B, C and D where we've removed, you know that the kind of like the longer sentence, the appropriate State Department of Corrections, etcetera, and added oversight entity. So these could be viewed as, you know, technical changes to improve clarity. We also updated a few legal citations. You can see the indicators that were put before 34 CFR 600.4, 600.6, and then let's see paragraph C --there's a technical change, and that doesn't affect the substance.

It doesn't change that substance. It just clarifies a paragraph and makes it more succinct, adding the oversight, adding the information about the oversight entity. But for paragraph C, I did know that one of Belinda's points of clarification was specifically about the initial two-year period, so I wanted to pause on paragraph C to see if there were any further comments on.

MS. MCARDLE: And we'll start with Stan and then Belinda.

DR. ANDRISSE: So this was so it looks like the bubble was removed, but Dr. McTier had mentioned a bubble in this particular part as well, if I recall correctly. But this is where we were. This is why I think it would be important to add in that definition. If you're simply going to say oversight entity here, this is where we would want this advisory group to advise the decision of the correctional entity. And that advisory group included stakeholders such as the accrediting institution. Institutions of Higher Education included community-based organizations, reentry organizations. We had a list but I don't see it anymore.

MS. MCARDLE: Belinda?

MS. WHEELER: Yeah, I'm sorry, I'm still I'm going backwards and forwards between the previous one and then this one here to. So there's definitely amendatory

language that we do want to offer up into here. But some of the bubbles that I had with amendatory language are not working with-- now, you know, crossed out stuff. I will just offer anecdotally something else -- and by offering this I don't want to, like Stan's point is really important here. So just with regards to the two year, I did have language that I will send the subcommittee with regard to this whole idea of like, because a lot of constituents-- of all subcommittee members, our constituent groups have talked about how the two-year period just is way too short. So one of the things that we have as amendatory language is possibly like some kind of probationary period. Like if we think of traditional education accreditation standards, you know, there's a comprehensive review that happens at, say, for example, year six, but there might be a preliminary kind of smaller document that educational institutions need to provide an accreditation agency at year three, for example. So that's one of the amendatory language pieces that will be coming to the to the subcommittee group later this afternoon once we finish. So I definitely wanted to give voice to that because I can see that that's still and let me clarify Aaron with you now that the two year isn't, you know, it's being kind of crossed out here. Does that mean we're still

possibly able to provide amendatory language about that timeframe here? Or I just want a point of clarification with that because I'm a little, you know, you guys gave us all this and everything. I'm just still trying to look at the document that I have with amendatory language and then back to this document with some of the stuff crossed out.

MR. WASHINGTON: Sure, I can respond to that and I want to turn over to our OGC counsel, Sorin. So we still have that initial two-year period. So it's a lot of red in there, but it's tucked in there. It says after an initial two-year approval is determined by the oversight entity so that all that, all that language that's crossed out is just that, you know, the appropriate State Department, Bureau of Prisons. So we cited the initial two year period in there and we did mention it in the response to your email that we do. We are willing to, you know, we want to see your proposed language. And so once we get that, perhaps it could be incorporated here. I know I don't want to jump ahead too far to the best interest, but I guess I am going to. I am jumping ahead. But you know, in the best interest piece, I think we'll see, probably not today, but tomorrow how the Department did try and draft some language around the Bureau of Prisons, State Departments of Corrections reaching out to

relevant stakeholders in order to make these determinations. And so, for example, just I'll just read one quickly for the rates of a confined or incarcerated individual continuing their education post-release as determined by the percentage of students who reenroll in higher education, reported by the Department of Education, meets thresholds established by the oversight entity with input from relevant stakeholders,-- which must include, among others, incarcerated students, organizations representing incarcerated students, and accrediting agencies. So I don't know if folks have had a chance to look at that language that we've incorporated into several of the indicators, but we have tried to resolve for some of the comments that were made in the in the first session about there being a lack of collaboration among community stakeholders or relevant stakeholders, I'm sorry, including incarcerated students. So.

MS. MCARDLE: Soren.

MR. LAGAARD: Thank you. Yeah, and just what Aaron was saying was going to be my point as ,, just that we've included that language there. If you're looking down further down the page towards a new section of 241 the best interest determination. And so Aaron cited paragraph A1. But we've also included it in A1, 2, 4, and

then 8 as well. So in four different areas. But you know, again, don't want us to jump too far ahead here, but that's where that language now lives. And we thought that again, breaking out the best interest determination since that was a pretty important determination and pretty long that that would be easier to understand in terms of like the organization of the regulation. Thank you.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Yeah, I'm not a fan of the oversight entity. I see you all just drop the work collaboratively text that I had previously suggested back into the document, and I don't know if it's just a show where it was at or what happened to it, but it looks like it's just completely being eradicated. And so I am not a fan of this. And by simply saying the oversight entity, it's a clever way to push out the important people from the table. So I think it's important to spell out exactly who we want at the table because again, this is a new provision that's being provided and we want to make sure it's clear and concise. I just think the oversight entity is too vague.

MS. MCARDLE: Kim.

MS. CARY: Thank you. Going back to the two-year approval, just for my colleagues to think about, each school has a different level of what is their

highest credential that they offer. So maybe it gets tied back to that as when the oversight is looked at because you don't want. I'm from a two-year institution, so we don't want to go six years before someone comes in and looks at our program to make sure we're doing what we need to do. Maybe our timeframe is less than a four-year institution, so just keep that in mind, maybe when we're talking later in our subgroup.

MR. WASHINGTON: I'm sorry. Can I just, so Kim, just so we can capture that point? Did you want us to establish different initial periods based on institution like so for a two-year school would have a shorter initial period or?

MS. CARY: Right, so we were saying earlier that through Belinda, that two years is probably too little of a time. So but when we do determine what that level should be, I think it can be important to make sure we're acknowledging institutions and their highest level of credential and then looking at that to make a determination of when there the oversight entity should be coming in and taking a look at. Again, it's going to keep your bad players out of the mix sooner than later.

MR. WASHINGTON: Vanessa, can you add a comment bubble quickly? Not quickly, not quickly, but can you, can you add a comment bubble just to say take into

consideration type of institution? Sorry, institutions highest credential offering in timeframe for the initial approval? Kim, can you just expand on that just a little more so for like, let's say, the highest credential offering is an associate's. What would be the timeframe versus, you know, a bachelor's or?

MS. CARY: Well, I think you could look at maybe tying it to the kind of like the (inaudible) did where we would if you have two year credentials, our highest and maybe at three years, you come in or if it's four, then you go to six.

MR. WASHINGTON: Of initial of initial like just no. Okay, alright. Okay, so Vanessa, can you put that in there? Three years for two-year institutions. Four years, six years for four-year institutions.

MS. CARY: Does that make sense, what I'm saying?

MR. WASHINGTON: Yeah, it makes sense. I just wanted to make sure we captured it and you we're able to respond to it tomorrow or at a later date. Thank you, Kim.

MS. CARY: Thank you.

MS. MCARDLE: Stan.

DR. ANDRISSE: Yes, so I would like to go back up to the oversight entity and the language that I

would like to propose is you can copy it from Dr. McTier's and I's comment. So if you scroll down and copy. What we had already said previously, the only addition to that that would need to be added is if you subpoint it, you can just simply say the above oversight entity. The above oversight entity's decision will be made and paste everything that you have there. And this was something I'm, you know, as Dr. McTier mentioned, it's frustrating that we specifically mentioned, it seems to me that, you know, it is it is not this subcommittee that is making the decisions on what the language should be, which is what to my understanding it should be. That's what we are gathered here for is for us as the subcommittee to make the language, and we specifically asked for that to be added. And instead, it was quite cleverly removed and added in other places. Adding it in those other places does not give it the strength of adding it in the place that we had originally asked for it to be added in.

MS. MCARDLE: Kim, is your hand still up?
Okay. Aaron.

MR. WASHINGTON: I let's see trying to sorry, I was. So with that said, thank you for your comment, Stan, first. I did want to move us into Paragraph D because I think, you know, we've captured your points. I mean, to respond to your comment, Stan. I

don't want to interpret what you are saying, I but I do want to just say that it not including the comment bubble, was not a clever attempt to mask or hide you or Dr. McTier's suggestions, if you look over the entire documents, I think the entire subcommittee will see that no one's comments were included in this draft. They were all removed, the only comments in the draft are comments from the Department of Education. So you'll see, you know, you'll see author or the subcommittee members, this language has been simply removed. A Department official or Department staff person added those comments. But there were many comments made by many people other than you, Stan and Dr. McTier, that are no longer that are not in this document. There are none of the comments from session one are in this document. It is all new comments or new explanations or directed questions for the subcommittee and this document. You'll see a lot of them under the best interest piece, which we hope to spend a lot of time talking about, but there was no attempt to hide that that suggestion. In fact, what we tried to do was incorporate your suggestions into the best interest piece. So I think with that hope that we can move to the next portion for discussion, and that would be Kim, one of Kim's recommendations for paragraph D.

MS. MCARDLE: We still have a comment from

Dr. McTier.

DR. MCTIER: So if I'm understanding so, this entire document 12-page document that we got is this is what we're working off of now. But it doesn't have anything that we've worked so hard on the last session. Wouldn't we want to have that document? Because now, honestly, I'm becoming confused by trying to keep track of what's added, what's not added, what's been eradicated and that level of confusion for me as I'm looking at this, this latest document, I don't know what's being proposed and what's not or when we're going to receive that combined information. It just becomes daunting to try to sift through all of the information and then to go back and to recall, you know, where we made notes at and whatnot. As I mentioned before, I'm a visual learner, and so I like to see, so these bubble comments help. But if you're removing our stuff and if this is not the official document, then I'm kind of confused as to what we're doing.

MS. MCARDLE: Stan. Do you want to respond first or should I go to Stan, Aaron?

MR. WASHINGTON: I can see if we can try and add back in the comments that were made in the first rounds. I've tried, I've stated verbally where the Department has made an update based on a subcommittee

member's recommendation. And in fact, we will see that in the next paragraph. Indeed, Kim made a recommendation in the previous round to define the oversight entity, I'm sorry, defined the postsecondary institution as the entity that makes the determination on where students will be most likely to return upon release. And so you'll see there that we have adopted Kim's suggestion. It just doesn't say Kim Cary in the bullet made this suggestion. And so what I can do is I can go back through and add tonight where subcommittee members made suggestions in this document that is projected so you will have all that information.

MS. MCARDLE: Stan.

DR. ANDRISSE: Thank you, Aaron. I think that would be helpful because I was, you know, those are kind of landmarks to for me to like, know where I want to add my points that I had made and I think they'll be helpful. And you know, again, to the point, it looks like and I know this is I mean, you, you all are, you know, working to you know, do the best that we can. You know, I truly I believe that you're working in that interest to get this done, but you know, what you did was kind of take our suggestions and kind of do what you wanted to do with them and incorporate them the way that you wanted to instead of incorporating them, just the way that we ask

them to be, you know, so this language, you know, particularly pertaining to this, we specifically wanted that advisory stakeholder group to be at the level of overall, you know, to be part of the overall decision making on all those best interest bullet points instead of picking a best interest bullet point to say that it should be part of, you know, you know, my suggestion that I just made, I want, you know, that's you know, I think I want to have that in the language. And you know, that's you know, that's why we made the suggestion. That's what we made the suggestion for earlier. The other thing that I was going to propose to the committee, you know, me personally, this is me. I feel that we're in need of a break and I would like to propose a break.

MR. WASHINGTON: If I could just respond to that, we you know, we do end at 3:00 today, Stan. What I can try and do tomorrow is incorporate a break, I think with 23 minutes left, you know? I would hope that we can, you know, push through today.

DR. ANDRISSE: Oh, that's my fault. I'm on the main committee as well, and we go an hour longer, so my apologies. Yes, that's correct.

MR. WASHINGTON: I know, but tomorrow we can tomorrow, I think, you know, is going to be mainly the definition of a here, we're going to be in subpart P

tomorrow mainly so perhaps a break around 2:00, a 10-minute break would be beneficial.

MS. MCARDLE: Dr. McTier.

DR. MCTIER: Yes, so just to kind of go back on this information, so you mentioned that as an example, Kim, Kim's spot was added to the text and so that again lets me know that what we proposed was not added. And we I remember specifically having a long conversation about the stakeholder piece. And so it seems as if the Department of ED is not wanting to add that information into this. Is that what I'm taking from this? If we've added other suggestions throughout this particular document, the very most important part in terms of stakeholder collaboration that needs to be added is not being considered. Is that my understanding and take-away from this?

MR. WASHINGTON: I think we have a different understanding of what we've tried to do. We've tried to add that to the best interest piece. I did read a bit. I do remember Vanessa scrolled, Vanessa, you don't have to scroll to it again, but I believe Vanessa scrolled to it. If that language is not sufficient, as you've stated, or if that language is not what you'd like to see? We've noted that that's language you would not like to see. You would like to see different language added to the

definition of an oversight entity. So we put a comment bubble there. And I think we have to move to paragraph D at this point. I don't know if it's beneficial to-- I don't want to just give you the same answer over and over again, you know, so, well.

DR. MCTIER: Well, I was asked, I'm asking for clarity, so please don't blow me off. My understanding from this document is that elements have been added into this document, is that what I'm taking away from this? It seems like that's a yes. Am I correct?

MR. WASHINGTON: I'll let Soren, I think Soren wants make statement.

MR. LAGAARD: Thanks so much, Dr. McTier. No, the purpose of a reorganization didn't change or add anything here, at least as so far as just reorganizing things. What was happening is, as we were going through and this subcommittee met and proposed the reg is it became really kind of unwieldy, right? And so, you know, we had folks who looked at it and tried to read it, you know, not having, you know, engaged in any of this work and just trying to like plain language, look at it. And it was getting it was getting a little bit much. And so, you know, knowing how important best interest was, we broke that into a section that is going to be discussed below. I hope that helps. I don't think we did in any way

try to change, you know, anything that you know, otherwise we were we were trying to do there through the reorganization and it just as a personal note to the members of the committee. If this is a subcommittee, if this is helpful, sometimes I view these this document on just clean or a clean draft because with the highlights and if you have the red line, it can be a little difficult to actually, you know, see what is the actual language that the Department is proposing? So hopefully that's helpful.

MS. MCARDLE: I don't see any hands at this moment.

MR. WASHINGTON: Okay, thank you. Let's move to let's move to paragraph D. So here we have. So there are several places in the regulation that kind of talk about a federal correctional facility and something some entity, someone or some school having to determine where most students will reside upon release from the correctional facility. And Kim, Kim recommended that postsecondary institution decide where our student correctional facility is most likely to reside upon release. So we've added that language throughout the document and that these are the one. This is one of the places that we added it. And that is in regards to the transferability of credit to at least one institution of

higher education, either in the state if it's something other than a federal correctional facility or the state that most students are likely to reside if it is a federal facility as determined by the postsecondary, the school postsecondary institution, and that's based on and based on information provided by the oversight entity. Keep in mind, you know, the oversight entity was the BOP DOC entity, so the school will have the ultimate authority in making that determination. So I'll pause there for comment. In fact, I can. I'll do it directly, question, Kim, is this is this is this does this kind of align with what you would have wanted to see generally for the most likely to reside language?

MS. CARY: Yes, it is, because if I remember correctly, it was the DOC was going to make that determination and that didn't make sense because we're the ones working with the students in the onboarding and throughout their program to determine where they're going to land upon their release, so.

MR. WASHINGTON: Mm-hmm. Okay, let's move to. Well, I think temperature checks would be better for like the entire part, the entire like 668.236, I'll wait to do a temperature check. I won't do it paragraph by paragraph, but I'm sorry, Sophia, did we have any more hands raised for that?

MS. MCARDLE: No, we did not.

MR. WASHINGTON: Okay. Alright. So for paragraph E, we had a suggestion from Belinda to cross reference to our definition section in the accreditation regulations. Keep in mind, we do have our Elizabeth Daggett, our accreditation expert, on with us for the full day today. So if anybody has any questions about accreditation, she is here as our advisor. But here we've added that we just added the cross reference here. And so any comments on that? I think I think we've just accepted with the recommendation and also we discussed the idea of adding a program review, as suggested by Kim. However, we don't recommend adding that here. A program review is an investigation of an institution's compliance with Title IV requirements, and therefore performed for a variety of reasons. And so some program reviews are conducted as a result of FSA's risk analysis. Others are routine evaluations of an institution's compliance with Title IV requirements and are not associated with potential risk. So in some cases, program reviews will result in liabilities or other negative actions against the institution by the Department. But some result in no negative actions whatsoever, so therefore, it's in the Department's view that it is more appropriate to condition eligibility on the result of a program review,

such as a limitation or termination in the statute, we have suspension, emergency action and termination rather than a program review itself. So I will pause there and in case Kim wanted to add any comments on that.

MS. CARY: Thank you, Aaron. I think I just wanted to clarify that. I mean, sometimes it can be years that an institution is starting a program review and ending a program review. And during that timeframe, there are very limited. You're very limited as an institution on what you can do. So I just wanted to make sure that during that time, could an institution actually go into a partnership with a correctional facility to start offering these types of programs? Or they really locked down and saying, well, not until that program review has ended and a determination has been made. So I just know it's very restricted on even who you can talk to at DOE while you're in a program review, so that's really what I was getting to.

MR. WASHINGTON: Thank you, Kim. And I think, you know, I think I might have said it too fast, but we think that we should condition the eligibility of the Prison Education Program on the results of the program review. And so it would be that result that whether the Department decides to limit or terminate that the institution's participation in Title IV programs. And

then the paragraph also says, you know, within the last five years. So of course, if there was any of those issues in the last five years, not just a program review, but a suspension, emergency exit or termination in the last five years, then that's when the institution would not be able to provide a Prison Education Program. And only at that point would they not be able to provide it. Of course, there are some other things that we'll talk about, like the initiated adverse action that we've added, but at least from the Department's perspective we're proposing we're recommending to keep it to the suspension, emergency action and termination or termination.

MS. MCARDLE: Dave.

MR. MUSSER: Yeah, I wanted to speak to Kim's question. When a program review is initiated, the primary limitation in the law about providing information about that program review is on the Department's findings and related information coming out of the program review. So, for example, neither the Department nor the institution are permitted in general to share the program review report with anyone other than a small number of oversight bodies. The same thing would be true in this circumstance, mostly because the Department considers an open program review to be something that has not yet been

established or decided. And I want to defer in part to my OGC colleague Soren here. In most cases, the Department does not choose to take an action or to prevent an institution from doing something without finalizing a determination about some something about the institution. So that's part of why we're recommending here not to introduce the concept of program reviews into this set of set of restrictions, because program reviews could mean nothing if we determine that there are no problems, or even if we're in the middle of determining whether there are problems at an institution, we wouldn't necessarily want to take an action on that or basis or across the board prevent an institution from offering a Prison Education Program. So that's I just wanted to say that's our general approach to this is that program reviews are sort of an ongoing process until we publish a final program review determination and that establishes what we identified as compliance errors. And that could result in some of these actions. And we might want to condition eligibility on those.

MS. CARY: Thank you, and I brought it up initially because I agree with you, I don't think it should be held against an institution trying to enter into this partnership. So just to bring it up and make sure that you could have some institutions that are in

the middle of that and don't know that they may think it hinders them from participating, and we want to make sure that they know it does not. So thank you.

MR. MUSSER: That's right.

MS. MCARDLE: And I do not see any hands at this moment.

MR. WASHINGTON: Thank you, Sophia. So moving into the next section, we only have a few more left, I don't know if we'll be able to get to all of them before we close today, but there were no thumbs down on paragraph F, which will be a new paragraph F will no longer be paragraph seven. I think that's what you're seeing on your screen. Yeah, so. I think we're I think we can move to the paragraph G. This was this paragraph F was just about the initiated adverse action and well, we have what we have added, you know, just made some very technical updates to this paragraph, but nothing that would change the substance of it. I don't believe we had any thumbs down on this paragraph last time, so I'll pause there for comment. So essentially, this paragraph is saying that if an institution is subject to a current initiated adverse action, they would not be able to offer a Prison Education Program until that adverse action was rescinded. And they would also have to produce a teach out plan. Or submit a teach out plans, sorry, to their

accreditor.

MS. MCARDLE: I see no hands.

MR. WASHINGTON: Thank you, Sophia. Alright, paragraph G. This was about the program satisfying ensuring that programs that do lead to licensure or certification do satisfy all of the educational requirements, whether that be if it's a federal facility in the state that most students are likely most likely to return or if it's anything other than a federal facility. The requirements in the state in which that facility is located. And here we have made a change. Again, we updated the language based on Kim's feedback, and so, he said, as determined by the institution. And we've also added not less than annually based on information provided by the oversight entity to ensure that you know these that the that the postsecondary institution is continuing to evaluate their students to make sure that the licensure requirements sorry, the educational requirements are in line with either the state or the state that most students are most likely to return. And so that's why we want to have that periodic annual review for Federal, for Federal correctional facilities. And that'll be a consumer that should be a consumer good for the good for the student because the program will always ensure that they're following the educational

requirements of that, whatever state most students will return to.

MS. MCARDLE: I see no hands. Okay.

MR. WASHINGTON: And let's begin the conversation on H. This is this is this is the paragraph that informs the disclosures that we were talking about under 668.43. In this paragraph had a lot of discussion in the first set in the first and our first session. And this was about not offering education that is designed to lead to licensure or employment for a specific job occupation. If in the state, if that job occupation typically involves prohibitions on licensure or employment to formerly incarcerated individuals, and again, we have that Federal clause most likely to return to or state clause whatever state the correction of whatever state that the correctional facility is located in. The Department added one and two to provide more background on or more of an explanation on the regulatory the statutory on the statutory text. And we did get some thumbs down here and a recommendation from Terrell and Terrell recommended that a student and again, I will add these comment bubbles. But Terrell did recommend that a student can acknowledge prohibition to a student, should be able to acknowledge prohibition to licensure or employment, and still enroll in a program after

counseling. The Department from the Department's perspective, we cannot override the provision in statute, which prohibits students from enrolling in a program which would lead to licensure or employment in a field which is not currently accessible to individuals with criminal convictions. By defining this part of the statute to only apply where state or Federal law prohibits employment, we believe we can protect students from predatory institutions while maintaining as many options as possible within the language of the statute for students to pursue education. So I'll pause there for comment, because I know we only have five minutes left, so I don't want to go on and on. I want people to be able to comment.

MS. MCARDLE: Stan.

DR. ANDRISSE: So. Again, pointing to the typically point. So because typically is in there, it doesn't, it's not it's not barring a program from offering it and doing it, as Terrell mentioned. So I mean, we have five minutes left. I don't know what we intend to get into in five minutes to try to even to jump into this. But I certainly have more to say, and I don't think that we can get through what needs to be discussed in this in five minutes.

MR. WASHINGTON: Belinda, if I could. I'm

sorry, Belinda, I think I'm always in a position to be like Belinda, can you just give me a second? But I wanted to just cue up the conversation. I think that we are definitely going to. I think I even alluded to it before I started that we'll likely return to this tomorrow morning first thing. I anticipate a lot of discussion around this. And I don't I'm not proposing to take a temperature check on this paragraph before 3:00. I just wanted to introduce it and therefore we can just dive right into it tomorrow.

MS. MCARDLE: Belinda.

MS. WHEELER: Great, thank you very much. Yes, I just wanted to say thank you for Stan for your comments, my friend. This is one of the emails that I'd sent out to the subcommittee asking for clarification with regards to that, and I want to thank the Department for responding to me and where we could potentially go in this space. One of the two of the recommendations that the Department had mentioned here is, you know, within this framework, the subcommittee could consider whether recommendations should be made about how an institution would make those determinations of what a typical prohibition on the licensure or employment might be. And then also that the subcommittee may also have recommendations on programs ensuring that they're keeping

track of rapidly changing laws in this space. I think one thing that I've learned a lot about in this space is just how different certain things are and how some states seem very progressive in wanting to kind of open things up, you know, to people that have some form of carceral experience and trying to open up careers and licensure for those individuals where some states seem quite less excited about kind of taking those taking those approaches. So one of the things that I will be doing with the subcommittee tonight is, you know, taking, you know, sending an email out to everyone with regards to some of those recommendations that the Department has there and perhaps proposing a very early kind of draft form of amendatory language and I'm very interested to see what you know subcommittees have to say here, because some of the things such as, you know, keeping track of rapidly changing laws, is there an actual website that we might recommend that keeps, track of these things so that we can kind of make sure that, you know, educational programs and things of that nature, there can be some kind of positive pressure to bear, you know, on some states that, perhaps you know, can be made that the licensure can open up, , for those students. So. So I just wanted to say thank you ED for acknowledging, you know, my clarification. I appreciated your feedback. It's

still something I'm definitely working on. So I'll send an email to the subcommittee members overnight and just say that I definitely recommend, you know, welcome their comments on this because I do think, as Stanley pointed out and others had previously, that this is an area where we can really add some value. Thank you.

MS. MCARDLE: Aaron.

MR. WASHINGTON: Thank you, Belinda. Yeah, I did, you know, in response to those rapidly changing laws, if the law the law changes in an occupation, you know, an occupation becomes newly opened to a formerly incarcerated students. Institutions would be able to add those programs at the time. And you know, like, like you said, we do see we do seek feedback on language to ensure institutions reflect updates to Federal and state laws as soon as possible. I think the idea here was that Pell is limited. We've talked about that quite extensively and some of the examples, you know, to six scheduled awards and we really do look forward to your feedback. I know that this was a place that you said that you know that we you indicated you would provide, you know, there would be some amendatory language coming our way. And so what we look forward to seeing what that language is and with that I think we should close for the day. I mean, it's 3:00 now and thank everybody. I wanted to thank the

entire subcommittee and everybody from the Department of Education that assisted with this process, and we will see you all tomorrow at 10:00 a.m. Eastern Time. Bye.

