

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING PROGRAM INTEGRITY
AND INSTITUTIONAL QUALITY
SESSION 1, DAY 1, AFTERNOON
JANUARY 8, 2024

On the 8th day of January, 2024, the following meeting was held virtually, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MR. ROBERTS: Good afternoon, folks. Welcome back from your lunch break. My name is Brady Roberts with the FMCS, we are going to resume our discussion on cash management for the remainder of the day, most likely and then pick up and end the day, as we will all days of this negotiated rulemaking with public comment. So we were still on number one of that list under 668.164 on student meal plans. And it's my understanding, Greg, you have a few comments to kick off the afternoon session?

MR. MARTIN: No, I- no, I don't really have much to say, Brady. I think we're just going to go-start- we had some people who were waiting to make comments. We heard some early remarks. And so I think we'll just proceed with who is in the queue at this point.

MR. ROBERTS: Great. If folks want to remind me who still had a comment to make on for this proposal number one in the cash management issue paper. Are there any additional comments on this?

MS. JEFFRIES: Brady, it's actually 668.161 is where we're discussing.

MR. ROBERTS: Slow on the uptake this afternoon. Apologies. Jason, go ahead.

MR. LORGAN: Thank you. I just wanted to ask a question about how R2T4 might be impacted by this. If a student withdraws with the- we return the unused portion at that time, or is it just the obligation to return the excess if they attend the entire period? Or how does that work?

MR. MARTIN: Sorry. Coming off mute here. So this- well, first of all, the requirement to return the funds is outside the R2T4. You know this- these are presumably students who are still enrolled. But is your question if a student- if a student were to withdraw during a payment period and have funds still unused? Is that your question? Because the only time R2T4 would come into play would be if a student withdraws during a payment period. So that could be like- we'll just make an example. So during the fall semester, the student were to, you know, I don't know, 40% into the term, the student would withdraw. And then of course, there's a statutory requirement to the R2T4 calculation. It's strictly the way it's- strictly the way it's done. And I suppose is the question that there would- that there could conceivably be at that point, a remaining unused balance on the meal and on the meal plan?

MR. LORGAN: I think just what you said clarified it enough.

MR. MARTIN: Yeah. Okay. Does that make sense, then? Because it would be- the two are completely separate. So we're talking about in the one case if the student withdrew. Unless David has something else to add. We'll ask if David wants to make a comment.

MR. ROBERTS: Alright. Thank you.
Jillian, I see your hand next.

MS. KLEIN: Yeah, and I think this comment- I don't remember who made it at the beginning, and I'm sorry to be duplicative. So I'm not trying to do that. I think the question was raised about, does this apply just to flex plans or to all meal plans? And I know the Department answered that question, but I would just- and I said this in the chat too, so sorry, but I don't think the regulatory text as proposed is clear that the Department's intention is just flex plans. So I just call that out. I'm not sure exactly how to do that in a way that doesn't also capture swipes or whatever. And I'm speaking a bit out of my depth because we don't do that here. But, I just want to be clear if that's the Department's intention, that they be clear in the regulatory proposal too.

MR. MARTIN: Okay. Yeah. Thanks.
Thanks, Jillian. We'll look at the language to maybe make that a little more- clarify that.

MR. ROBERTS: Thank you. DC, I see your hand.

Dr. Prince: Thanks. The question I have is to the Department. Is this a particular issue that is so serious that it has to be addressed right now? Are there blatant, you know, policies that are- that institutions are just blatantly disregarding? Is there like, millions of dollars that are being swept that the Department's trying to recuperate? I mean, I would- I put in the group before we left. I don't know if you saw it. Are we getting a lot of student complaints about this from students? And what- how many did we get? At what point of time of the year are they coming? It just seems as though that we're trying to target a particular area. And I'm not sure the Department wants to die on a hill on this one. And so I'm just trying to understand the brevity with- to make sure that we're making an appropriate vote here. And I don't think I heard that when I heard you, you know, introduce this.

MR. MARTIN: I can probably have Dave address if there are compliance issues involved, if he's heard anything as far as- you know, because FSA would be with the student complaints would be collected or else Denise Morelli an Office of General Counsel. But our concern is that collectively it does represent a lot of

money that's on these flex plans and that it is student money that, that, you know, that is unused and swiped back to the institution and that, that does contain Title IV- potentially contain Title IV funds. So, it is of interest to us. I don't know that we have any statistics about, you know, the- that we would have any statistics as to the amount that is involved here. But we have- you know, we have heard that, you know, that it- voiced that this is an area that needs to be addressed. I don't- if your point is, is it the most egregious problem out there? Probably not, but I still think it comes back to the fact that this is just- this is- unlike the standard meal plan, this is cash or this is- these are funds on an account which, you know, we're- student money for a purpose which institutions routinely sweep, and I don't- in addressing it here, I think that we close an area that- where I think it could be perceived that Title IV funds are being- not being used for the purpose for which they were intended. But I will ask- Denise has her hand up. She may have more to add about actual circumstances. Go ahead, Denise.

MS. MORELLI: I don't think we have statistics, DC, on terms- in terms of students or volume or amounts, but we have received complaints over the years of this being an issue where students that- believe

that it's their funds and it's being swept in. So it's an issue that we can address. I can- we can go back and check and see if we have more solid statistics. But it has been raised as an issue to the Department.

MR. ROBERTS: Okay. Thank you all. Anything else? Not seeing anything immediately. Greg, do you want me to turn it back over to your team for number two?

MR. MARTIN: Thanks, Brady. Not seeing anything else, we will go back and- in the issue paper, look at number- just making certain I'm unmuted here. We're going to go back and look at number two under 164. And Vanessa's pulled up the appropriate part of the issue paper here, and the discussion is on page- is on page two. And this is a relatively- a pro forma change we're proposing to make here. So in 2, we propose to increase the amount of current-year funds that may be credited against prior year charges from the current \$200 to \$300. To account for inflation and we give the regulatory citation there. Currently, the Department limits the amount of current-year funds that may be used to pay prior year charges. Excuse me, to \$200. This provision permits the use of Title IV funds to cover minor allowable charges in the prior year that would otherwise go unpaid, and could prevent students from re-enrolling

in the following term. This amount was established in November of 2007. As the price of goods and services continue to rise, the \$200 limit provides less benefit than it did 15 years ago. Using the US Bureau of Labor Statistics Consumer Price Index inflation calculator, the \$200 threshold established in 2007 would increase to approximately \$286, which we've rounded up to \$300 for simplicity and going forward, we would adjust this amount, if appropriate, on a five-year basis by publishing a notice in the Federal Register. So we can go back to the discussion. The actual reg text in 164 and if you look at the bottom of page five, you can see under 3 the discussion there. And we'll go to that. And Vanessa's pulled that up for us. An institution may include in one or more payment periods for the current-year prior year charges of not more than three. So you see, we had the \$200 adjusted to \$300 for tuition fees and institutionally provided room and board as provided under paragraph (c) (1) romanette 1 of this section without obtaining students authorization or educationally-related goods and services provided by the institution as described in (c) (1) and romanette 2 of this section. If the institution obtains the student or parents' authorization under 668 165 B, so with that I will open up the floor for discussion.

MR. ROBERTS: Alright. Thank you. Joe?

MS. BLONDIN: Yes? Hi, there. I'm just curious, historically, how \$200 was arrived at in November of 2007? Thank you.

MR. MARTIN: The whole- the whole allowance, so, I mean, if we go back, you know, historically speaking, the law makes no provision for this. I mean, basically the statement of purpose would be that Title IV funds have to go for allowable charges in the year in which they're provided. So, whenever I've been pressed in the past and said, well, why don't you allow more, bigger amounts of money? Because technically we are already, in allowing this, it's- well, OGC has determined that it is within the realm of statute, that it is- it's already a latitude that that's more we used to have. I'm trying to go back and reconstruct the past. We used to have it that schools could do it if they had determined that they could use prior charges, if they had determined that all other charges were paid, and we had a problem with that. So in '07, we just changed it to- we just simply changed it to a flat 200. I'm not sure there was any- and maybe David or Denise can correct me here. I'm not sure we did any, you know, extensive analysis about that. We just wanted to establish a- what we thought a small, you know, a small, minimal amount was

that would allow for the payment of minor charges a student had left over from the previous year. So we settled on the \$200, and that got established in regulation. I'm not certain if we tied that to anything else, to be honest with you. I have to go back and reconstruct that, and maybe one of my Department colleagues can remind me of that. But that was what was settled on. We've used that protocol ever since, and this really is just adjusting for a change. It's just really to allow for a minor amount of money to go for that, recognizing that that we still are sticking with what the law says about funds having to be used in the current-year. I hope that answers your question. I don't really have any more information now about exactly why we settled on 200. I could go back and look at that, look at the language in that- in our Notice of Proposed Rulemaking. It might be a little more detailed there, but it's a sufficient number of years ago now that I don't I don't recall the exact- the exact details of that, but that's pretty much where we are.

MR. ROBERTS: Thank you. Greg.

Jillian.

MS. KLEIN: Thanks. I think my comment maybe is sort of similar, although I don't know the spirit of what Joe was asking, but, I would just say, I

think, you know, having worked in higher ed for many years, I think folks in the industry have felt largely like the \$200 was low 15 years ago or whenever this started, especially given the way that we know that small balances can often be the catalyst for students to step out and discontinue their studies. So similar question to Joe. Like, I think it would be helpful if there's some sort of data-based rationale for why this is the right number, given that we know that it's the worst case scenario for students to have to step out just because they're carrying a small balance that maybe could be solved by this, even if we consider bumping it up to like \$500, and then it gets, sort of revisited on a five-year basis. But I would just want to make sure that that dollar threshold makes sense when we think about the problems that we know facing students in continuation.

MR. MARTIN: Yeah. Good point. I want to point out that in the past, I think when we discussed this, that some individuals have made the mistake of thinking and this is what- this is part of the problem we have with the- if you go back prior to 2007, when we had it that I think it was- I think it was \$100 [inaudible] and maybe David, correct me, it was \$100, or it could be higher if the institution documented that all expenses were paid. The problem with that is that a lot of people

interpreted that to mean only expenses due to the institution. I would remind- and I would always remind everybody at that point that when we're talking about Title IV Aid being able to be used for allowable charges, we're talking about those charges generally speaking, as part of the cost of attendance, which includes more than just tuition and fees, as everybody is aware, and that there really is no way the school can determine in any situation whether the school- whether a student is paid all or his or her current-year expenses, whether those are covered. The Department has always had concerns about- in allowing more than this, that, you know, there's only- there's a finite amount of money and a lot- and allowing an institution to go and apply current-year charges back to prior year charges- current-year funds, I'm sorry, to prior year charges that our concern is that there are potentially current-year. That the institution could be looking at it in terms of, well, what's important is that we get paid and not that the student can cover rent, food, those other things. So that's one reason why we've been reluctant to expand it by more than what we have here. The other again, is a statutory concern that our attorneys had in prior years. And probably still do, that even a small amount like this, if you're looking at it strictly, very strictly, it should

be zero. But, we do allow a small amount, so, we could- what we're doing here, I think- I mean, we're not establishing the amount where we were in 2007. This is simply an adjustment for inflation. I mean, to go back. So we're not really looking at it in terms of was the 200 appropriate at the time? So I mean, I would be reluctant to entertain, looking at that figure in any more detail, because I think that I've always been of the opinion that- and allowing it at all, it's somewhat of a stretch.

MS. KLEIN: Yeah, I get it. I mean, I guess I'm saying if you're going to crack it open, then maybe it's an opportunity to make sure it's the right amount. But I also hear you saying, Jillian, be happy with what you get and stop asking questions about- [inaudible]

MR. MARTIN: Yeah, the words are- yeah, I'll be- I know my colleagues have their hands up, so I'm going to go back to Brady to call-

MR. ROBERTS: Yeah. Dave, do you want to weigh in?

MR. MUSSER: Just real quick to give a tiny bit more regulatory history on this one. The amount was originally \$100 and was established back in the mid-90s at the behest of non-Federal negotiators. At the time, the Department made essentially the exact same

argument that Greg did just now, which is that, we have real concerns about our statutory authority to allow institutions to use funds from prior years to pay for charges in subsequent years. However, during the negotiation, we came to an agreement with, non-Federal negotiators to establish a de minimis amount, and the amount that the negotiators recommended was \$100. Then 10 years later, in around 2007, we raised it to \$200, acknowledging inflation. And that's essentially what we're doing again.

MR. ROBERTS: Thank you. Barmak, I think your hand is next.

MR. NASSIRIAN: The couple of observations here. Agreeing in part and disagreeing in part with comments that have been made. I appreciate the randomness of the number, but to whatever extent you want to hang your hat on the \$200 regulatory precedent, inflating it by the general rate of inflation really doesn't make sense, given the fact that tuition has historically not synced with general [inaudible] CPI. So I would suggest if you're going to inflate it, you have plenty of room and a fairly logical explanation that a larger amount can be accommodated. That's one point with regard to the magnitude of the amount. But I am troubled by the lack of agency for the students here. This is the

student's money and the idea of having the conduit for the delivery of funds pay itself is bothersome. If it's a nominal amount and there is a prior year balance, the institution is perfectly well positioned to counsel the student. Look, buddy, you got to pay this, or else you could be, you know prevented from enrolling, etc., etc. The idea of allowing the conduit for the delivery of funds to also pay itself without a prior authorization from the student or the parent is problematic. This is the student's money. To whatever extent you want to accommodate this little exception, it should be subject to the student's authorization. Thank you.

MR. ROBERTS: Thank you. Barmak. DC, I see your hand next.

Dr. Pince: The first question I have has a number of questions talking with folks about this particular issue. The first question I have is, what is the Department's threshold for not allowing, and I think I agree with Barmak to a point here, not allowing or not getting consent from students and parents. And then what- at what point do you believe a threshold would make you come back to negotiators and say that now we need even though we're going to go on based on inflation, now we need student or parent authorization. That's the first question.

MR. MARTIN: I- well, I think that the reluctance we had with the authorization part of it is- yeah, I mean, I agree that we could hypothetically increase the amount, right. And then say, well, it could be up to a certain amount if- with student authorization. But, again, we go back to a statutory problem, whereas there really is not such a thing as authorizing. I mean, a student- when you think about what student authorizations are, they're authorizations to- for instance, to, to use Title IV funds to pay for something other than tuition fees and room and board, if it's contracted through the institution, right? So for instance, the- an example would be your student bookstore, right. So to get- the student- we all know students go to the bookstore and they will charge books and supplies. All well and good, right. But the institution generally obtains a blanket authorization for that to occur. And that I think is good. But that is to allow for current-year charges to- current-year funds to be used as current-year charges. There really is no convention for using current-year charges, current-year funds for prior year charges. So an authorization would sort of presuppose that there is such a construct, and there really isn't. It's not something- I think it would- it would perhaps I don't want to use the word legitimize,

but perhaps bring into play this idea that it's something that we want to build in, and that something could be counter to what the law says. And we need to go back to the reason for doing this originally, it was for very minor charges. I fully understand that there could be situations where students owe more, and that's a problem. Not trying to gainsay that in any way. I'm just saying that what this is about are very minor charges. So we didn't feel at the time that it was necessary to obtain an authorization for something that was a relatively de minimis amount. and I think that's probably the best explanation I can give for it. I don't think it would be- I don't think it would be a- if we're sticking with \$200, could we go and require an authorization? I suppose we could. Schools can obtain those fairly easily. I'm not necessarily opposed to that. It does add a measure of administrative burden to schools. We can talk about whether we feel that's necessary. And I can say at this time that the Department is not disposed to allow it to be any greater than \$200. So, just to consider that in any comments you may have about whether or not a student authorization should be required.

MR. ROBERTS: And then DC, I know you had extra questions, but I see Denise's hand. Denise, do you want to weigh in?

MS. MORELLI: Well, I just wanted to note that if the negotiators feel strongly about there should be an authorization here if we're going to do this, or increase it, or even leaving at what it is that they should propose that and the Department would entertain it.

Dr. Prince: I think that goes into my next question is this- it's a- it's also a process issue as well and so what are my risks as an institution? And I think I know the answer, but I want to see the Department's perspective is if I don't allow this at all. Because at the end of the day, if we can't- I think the issue becomes it's incremental money. And without a clear understanding of what- at what part do you want to get authorization or not? But really, is this- this doesn't seem as though it's a large enough problem to even entertain an increase or even have at the moment. And so why not propose- well, it could proposed, and what the Department's perspective on eliminating 3 altogether?

MR. MARTIN: I think the- I don't- well, first of all, in proposing this change, the Department is not suggesting that it's revisiting its position that it's- that it's acceptable to use a small amount of current-year funds to pay for prior year charges. So, we're sticking with that line of reasoning

in these rules. Again, all we were doing here was accounting for the standard rate of inflation. so I don't think we're departing from that- from our position that it's acceptable for a small amount to go for prior charges. So, I don't- we're not- I don't think we feel that there's any feeling among the Department- among, you know, Department officials that that it needs to be eliminated, that there's abuse. The fact that we limited it to \$200, now would be three, is an adequate- is in adequate control on that. To address your question about, you know, do schools have to do this? No. You could as an institution determine you're not going to apply any current-year charge- any current-year funds against prior year charges, even up to the amount that's allowable. You don't have to do it. It was supposed to be something that was administratively simple for schools that wouldn't require a lot of extraneous work or burden that they could just- that they could just do because, you know, if a student had like a remaining balance of \$150 or something that was relatively small, it could just be covered. Where those balances get large, I think that- that's an issue that institutions have to take up with those students. You know, that there are other things in play where a student might owe, you know, larger amounts of money. So I don't think that we- again in proposing

this, we're not trying to go back and reassess our position. It was simply a matter of accounting for inflation.

MR. ROBERTS: Thank you. Jessica, I see your hand next.

MS. MORALES: Yes. I just want to make sure that we're keeping in mind that while most of us- I don't at the point- at this point in time have a job 150 or something minimal wouldn't seem like much. but I'm- anything really past \$20 for a student is actually a lot. And in terms of when we're planning on going to school and things like that, if one, I don't know that these charges are going to come out of my account. I am planning on having that money. And so I would very much push back on us saying, not having obtaining students' permission, or rather, it should be on the institutions to be talking to their students with money that needs to be paid back. Because again, if one, the process is hard enough as it is. And for students that don't know- don't know how to navigate the system, we're just adding on something else and then adding on more and more surprises of where that money is going to come from. It's going to put a student in a different mental state and not be ready for actually starting. And again, if the student is not able to return, then we have other problems. But just

keeping that in mind that while 200 doesn't seem like much for those of us that have jobs and those of us that don't have jobs, that is quite an expensive amount of money.

MR. ROBERTS: Thank you, Jessica.
Jamie, your hand is next.

MS. STUDLEY: Very briefly, I think there may be some eliding going on here between whether this is unused funds. I understand it to be new- funds from the new semester that are now allocable back at the institutions option to the outstanding balances of the previous semester. And if that's the case, it really is the students ability to allocate their new semester's funds between this semester's expenses and the last semester. And I wonder if that affects- perhaps that should affect whether the student gets to make that choice even for such a small amount. I think where some of us are importing or hearing that it's related to the other item about the food services, that sounds as though it's leftover money could be applied back. And I think we just need to keep those two distinct- that distinction straight in the interest of students' control of the funds for them.

MR. MARTIN: Right. Well, first of all, I want to clarify its prior year- its prior year

funds. We don't- it doesn't go by semesters. So generally speaking, if you have a student who has a- you apply funds in the fall and there's a credit balance. The student- you would refund the credit balance, right, generally speaking. Well, you could obtain the student's permission to hold a credit balance if the student wants to do that. They could hold the credit balance and you could apply that to next semester's funds. This talks about at the end of the year. You're talking about having- you're talking about- you're not talking about anything left over. So that's what- I think that's the most important thing here. Nothing's left over as far as money goes. Charges are left over. That- that's what's left over. We have prior year charges. And now we're in the next year, we have a current-year A, right? No credit balance that we know of so far. This is just allowing you to say, okay, could you take- you know, usually you would take the next year's or current-year's funds and apply them towards the current-year's balance. But as we all know, when you look at the student's account, if there's a remaining balance that's going to be on what the student owes in total. And so when you apply Title IV Aid, it's going to apply to that balance. And that balance that it's applied to can consist of currently \$200 of prior year charges. So it's a year thing. And

you're right that there are obviously current-year charges to be paid. It's the school's- and it's the school's discretion whether to do this. And the reason we allowed it, I think, and as David pointed out, schools asked us for it, negotiators asked us for it way back in the 90s when we started this. And it was because I think in a lot of cases, schools might prohibit students from enrolling, even with a minor- even with a minor charge, right? So they might be prohibited. So in order to- we know it doesn't eliminate the number of times where- it doesn't eliminate students not being able to enroll because they cannot pay their extent charges, but it would at least make it so that for very small amounts of money, that might not be the case. The current-year charge could be applied against it and cover those charges. So it's- it- that's certainly- that's what the spirit of it is.

MR. ROBERTS: Okay. Thanks, Greg. And I do want to say I- thank you, Barmak, for putting the proposal in the chat. And obviously, negotiators, you're encouraged to submit any and all potential modifications to the regulatory text you've seen thus far for additional comment and review. Not seeing any additional comments on this. Greg, do you want to move to cost of books and supplies?

MR. MARTIN: Yes. Let's move on. So we are now still under dispersing funds. And we're moving to point three on page two, and Vanessa's already there. And this proposal would eliminate the provision, allowing institutions to include the cost of books and supplies as part of tuition and fees under 668.164 (c) and (m). The current regulations permit schools to automatically charge students for books and supplies as part of tuition and fees without student authorization, even when the materials can be obtained from a source other than the institution. The regulations permit these charges if the school has a contract with a third-party publisher or retailer, offers the books below competitive market rates, and gives students a way to opt-out so long as the student can obtain the books and supplies by the seventh day of the payment period. The Department is concerned that the lack of disclosure and transparency limits students' ability to find expensive- less expensive rather, materials or assess if their school is offering the most affordable arrangement. Under the proposal, we would maintain the allowance for including books and supplies in tuition and fees when institutions demonstrate there is a compelling health or safety reason, or if the institution is the only option for students to access the books or supplies. So let's turn

to the relevant part of the regulation. And that can be found. I'm just trying to make sure I'm where I want to be. Right. So we're on two- on page five. Right. So there you see the- you see the relevant rule changes. An institution may include the cost of books and supplies as part of tuition and fees under paragraph (c)(1) romanette 1 of this section. If the institution documents the current basis, books and supplies, including digital or electronic materials are not available elsewhere or accessible by the student enrolled in that program from sources other than those provided or authorized by the institution or the institution demonstrates there is a compelling health or safety reason, and you can see the elimination of the other elements there that we had- that are currently in the regulation. So essentially what we're doing here is the overall option for institutions to include books and supplies as part of tuition and fees, with the exception of what you see in romanette 1 or romanette 2 would be eliminated. So with that, I will ask if either Dave or Denise have anything to add, and if they do not, we will open the floor for discussion.

MR. ROBERTS: Denise or Dave, anything to add before we turn it over to the negotiators? Alright. Any feedback? Questions? Yeah, Barmak.

MR. NASSIRIAN: So, first of all, I do

support what the Department is doing here, but I have to point out that for romanette 1- basically defeats whatever additional improvements you think you're making because it is so easy to make cosmetic or minor changes, particularly now that a lot of stuff is online. I mean, in the olden days, those of us who had to take calculus let's say more than once, remember how a canonical field where there is frankly, very little that is new in introductory courses somehow magically resulted in very expensive textbooks being published every semester. So at least in the old days, the publishers had the decency to make- to print this stuff. Now it's a matter of changing a web page in very inconsequential and cosmetic ways. So you have created a giant loophole. I think you- you think what your- the Department believes that it's sort of, yes, in good faith, if you have a benevolent environment in which the, you know, the effort is to minimize cost to students. Yes, that could be an exception. But again, exceptions can be accommodated with permission. Nobody is saying these charges are not eligible for Title IV support. The question is whether the institution can just automatically use Title IV funds without the student's permission. And I just have to point out this is a giant loophole that romanette 1 should be stricken. That's my proposal. It is not necessary. The institution, if there

is- if there are resources that are only available through whatever contract the institution may have with publishers. Well, you know, the student is not insane. The student will pay for that. But the idea of having the institution automatically, charged the fees is problematic. And there's plenty of evidence, by the way, that publishers market their stuff precisely on the basis of the fact that- great news, this reminds me of the student loan debacle of some years back, where the gatekeeper purports to be operating in the best interest of the people whose money they're sort of spending, but is, in fact, engaged in a little bit of self-dealing. So I feel like it can be stricken without any harm. It doesn't limit the ability of students to obtain stuff, or for the school to use materials that are only available to it. Thank you.

MR. ROBERTS: Thank you. JoEllen, I see your hand next.

MS. PRICE: Yeah. I just wanted some clarification on part of tuition and fees. So are we talking about when schools are rolling it in and it's disguised within the tuition and fees, or are we talking any time they charge for any kind of materials on their account? So I just- I want clarification on what that means.

MR. MARTIN: Okay, I can- I think I can offer that. So what we are talking about here is- we can start with the current- what's currently permitted and I don't- and when I say what's currently permitted, I don't think that what we currently permit happens a lot in the- what we call the traditional environment. I mean, if we're talking about the traditional collegiate university environment, the student is just- obviously the cost of attendance includes, you know, an allowance for what- books and- books and supplies it can cost. But when it comes down to how it's paid for, generally what happens is the institution charges tuition and fees and room and board. They don't need the student's authorization to credit Title IV Aid against that. Books, supplies, what happens is, the institution will, when the student enrolls, collect an authorization for this- for the school to use Title IV Aid to apply against that. And the student might then purchase the- I mean, I'm going back with what Barmak said, be careful about my 1980s view of the world. You know, the big calculus book or the- or the 14th Norton edition of, you know, of medieval poetry, which couldn't have changed all that much in the 13th. But nevertheless, it was a good excuse to have another [inaudible]. But, I don't mean to single out. Those are great- those are great books, by the way.

Fantastic. Fantastic compendiums of literature. But, the- I think here, so what we're talking about here is in certain situations, especially where you have programs that are more like, vocational in nature or- so you would have where the student signs a contract or enrollment contract, so you'd have, like, tuition and fees and books and supplies all rolled up into one- into one charge. Right. So, all of that's- all of that is, is part of what the student owes. So maybe let's just say for the- it might even be charged for the entire program. The student owes, let's say \$21,000 for all of the instruction, all of the- all of the supplies and everything. So it's all simply rolled into tuition and fees. And in most of those cases, like it's fairly common in some programs for the school, especially where there's a kit necessary. So like I could use cosmetology as an example. Typically there's a kit, obviously you're gonna be cutting hair. You're gonna be doing things like that. You need to have a lot of tools. Also medical. Medical programs as well, where you need to have certain tools and a lot of schools, you know, want to make certain that there's a standardized set of things you get. In many cases, the easiest thing to do would simply be- was simply to roll that into tuition and fees. So I wouldn't say it was disguised. Typically there's a enrollment agreement where it's

actually laid out exactly what that is, but you are obligated to pay for the whole thing. And although the current rules do have an opt-out provision- there is an opt-out provision there, moving to this would simply- wouldn't negate schools from offering those things. They could still offer the kits, whatever to students. Students could still opt to buy from the school, but it would be moving all programs pretty much to a situation where the school would have to obtain the students authorization to apply Title IV funds against that and then they could go ahead and do it. So whereas currently it can just be- it's considered part of tuition fees, but I don't- I wouldn't go so far as to say it's never seldom, except in the case of really bad actors. And it is an attempt to disguise. It's simply a convention that many of those types of programs use. That's how I would describe it.

MR. ROBERTS: Thank you. Jillian, I see your hand next. I do also just want to note we have two alternates coming on there later on in the queue, but it's Dom Chase on behalf of business officers and Michael Cioce on behalf of two-year colleges. We'll get to them in a bit, but for now, Jillian, the floor is yours.

MS. KLEIN: Yeah, so I'm really glad JoEllen asked that question, because, Greg, what I heard

you say is not my interpretation of what's being proposed in the regulatory text. So what I think I heard you say and tell me if this is not the Department's intention, is that if an institution is clear and transparent, that the student, for example- that there's a fee being charged that's- maybe it's called a book fee or a supply fee or something that is not rolled into one charge that the student is being charged for tuition and books or whatever other things, that that would still be permitted under the existing language to- for students to not have to opt-into that, that there would just, I don't know, I guess- I mean, you guys are striking the opt-out. I guess I'm confused, like your answer was not what I expected, and I don't feel like it aligns with what I think I'm seeing in the regulatory text. So that's my first question, which was not going to be my question, but maybe I'll start there. And then I have more.

MR. MARTIN: Well, I think, you know, what it would no longer allow is the- and what's- and it's, it's interesting because, you know, if we go back a couple of years, I think a lot of schools we put out a- we put out an electronic announcement back in 2019, I think it was March about charges- about institutional charges versus non-institutional charges. And there were a lot of schools in the vocational or trade sector that

wanted to move away from, you know, from having to- from putting- from having book and supply charges as part of tuition and fees because, as you know, especially if you charge, upfront for those, they need to be prorated, if they're part of tuition and fees. And a lot of schools didn't want to have to do that anymore. but to the extent that schools still want to do that, what this would preclude with the exception of the- of romanette 1 and 2- romanette 1, which has been questioned by Barmak and others, would be to disallow practice of simply including- so the charge for tuition and fees, if your books currently and supplies are rolled into a tuition and fee charge, that's a- that's an institutional charge, right? Not a non-institutional charge. Institutional charge. The school does not need to obtain the student's permission to apply Title IV funds for that. So if I take an enrollment contract currently and it has tuition and fees, books and supplies, all that's in an enrollment contract and there's no other option for the student to purchase anywhere else, the school is saying you have to sign this. You must purchase from us, currently that's permissible. There is an opt-out provision that we have currently, but I'm- as it is now, you could do that. You could charge it as tuition and fees. No authorization from the student necessary. This would be- this would be

moving to a situation where, while the school could still provide- could still offer a kit, for instance, right? You could no longer include the cost of- I'll just use the word kit, as part of tuition fees anymore. That could be broken out, and the student would have the option of either purchasing it from the school or seeking it from an alternative source. And the student could still opt to purchase it from the school, but the school would have to obtain the student's authorization to apply Title IV funds for something other than tuition fees. I hope that clarifies.

MS. KLEIN: Sort of. But I'll go-

MR. ROBERTS: Jillian, is it okay if I just get Denise- I see her hand, so if there's anything to add to this, go for it.

MS. MORELLI: So I guess I want to understand where the negotiators are coming from, what-the problem that we are trying to address here is that we've seen, a lot of abuse and had a lot of complaints from students when we're out, say, when I- when we're out in the field doing program reviews and also has come in through complaints. A lot of it is dealing with the- say like the cosmetology industry or other industries where they have like a kit and it's a mandatory, the students have to buy the kit. And I'm just using cosmetology

because it's one of the areas that I'm more familiar with. But they have to buy the kit from the school. And a lot of times that kit may be inferior. Students may be able to use their money elsewhere to buy the kit at a cheaper price and have the additional money then for other expenses that they need. And what I guess I want to get from the negotiators is when you're talking about whether it's hidden, I'm not sure whether in other instances- and we've also had situations where it's also book charges, right? They have to buy the books from the school. They can't go anywhere else. And the book charge is also on the student ledger and in the student enrollment agreement, with the charges being included and with the students required to pay. So, Jillian or anybody else, when you're talking about, I don't know, do schools, traditional schools or other schools just have it as part of the cost and you still have to buy the books? I'm not quite sure where the distinctions come, and we're seeing it where it is in the enrollment agreement and on the student ledger as separate charges. And students are having problems with it because there's been abuse and the students are getting ripped off in a lot of cases where they're getting inferior equipment, inferior quality, or they don't even get the books. Like I've had situations where that's happened. Students don't

get the books the whole entire time, but they've had to pay for them. So we wanted to try to address this problem by allowing the students to go outside of the school unless it's a safety issue or the other area that we talk about, where it's not available anywhere else. So does that help you at all, or is there other situations that we're not aware of where maybe it's included in tuition and you still are mandatorily requiring it, the book to be purchased from the school? I'm not sure exactly what you guys are getting at as to something different than what I'm describing.

MS. KLEIN: Yeah, I mean, I'll say- so a couple things. One, I think- I keep hearing you guys say the student is required, and I just want to be clear because I feel like you bury the lead a little bit when we don't talk about the fact there is an opt-out, which I know people have various feelings about. But again, there is not a scenario- there should never be a scenario at a school where there is not an opportunity for a student to buy books through whatever means they want to, if that's the decision that they choose to make. So I think it's important to retain that language all the time because students need to have that right and that needs to be disclosed to them. What I'm seeing in the narrative for this change is that the issue, I think, that the

Department has is around disclosure. So my recommendation would be, you know, as an institution, like I would like to see greater clarity from the Department around what would be an acceptable disclosure, whether that's disclosure to the student about what the fee is or disclosure to the student about what the books are. I mean, I feel like we do that really well here. I assume other institutions do as well. But maybe there needs to be more clarity around what the expectation is on an institution about what that disclosure looks like. And then you all as the Department holding institutions accountable for that. But I think, you know, if you look back at the preamble from 2016, when this was created, the Obama Administration said it's- there's, you know, a compelling case to be made that this is a way for students to get access to books that they need so that they're prepared for their classes and also often at a cost reduction to students. And so the end of the day, like, I would love to figure out a path forward where this flexibility can be retained for students so that they have accessibility to books at a lower cost and have their books on the first day of class. Because I'll tell you that there are plenty of students who will just not buy their books. or they will not buy their books in time. And so I think there's been some advantages to

students being able to get these from their institution, as long as their institution is being clear about what's being provided to them, what the opt-out opportunity is, how they can otherwise get their books if they're publicly available. but if what I'm reading in the narrative is the issue is a disclosure issue, then I would like to figure out if there's a proposal we can come out- come up with that tackles that and still retains, you know, in some ways, things that I think can be really beneficial for students. I was confused in general by Greg's answer. I don't know how to articulate any different what my question was, but I think I'm confused by him- what I thought I heard him suggesting was cases where it's like a free book situation, where books are- like, you pay tuition and you get free books. But really, obviously we all know that institutions are probably bearing that cost in the tuition. Right? as opposed to like a separate, very clear charge to students, it's like, here is a book fee that you are paying to get your books. And here's how you can opt-out if you want to buy your books on your own. And I think I've taken too much time, so I'll stop.

MR. MARTIN: It's a separate- it is- I will clarify, it is a separate fee. It's not that it's- and probably in an enrollment agreement, it can even be

disclosed. This is the amount for books. But operationally we allow currently schools to include that as tuition fees, which essentially makes a book charge that would be non-institutional become an institutional charge. Whereas under this convention here that would no longer be allowed. Is that- does that help? No? Okay. I don't know if maybe- because it's not. It's not- it doesn't have as much to do with the fact that there's a tuition fee charging a book and supply charge. It's how those books and supplies are treated. Can they be treated as tuition as- essentially as tuition fees?

MS. KLEIN: Yeah, it's definitely either you said it or I heard something that sounded like institutions are hiding this fee [inaudible]-

MR. MARTIN: No, I don't think-

MS. KLEIN: -and so I want to be clear that that's not the scenario that most institutions are [inaudible]. I mean, the bad ones are, but like most institutions are making it clear to students what those charges are for books. And here's a separate fee that you can charge to get these books.

MR. MARTIN: Right. I mean, I think you're right. Most institutions are making it clear. I'm not trying to hide the fact that there's a book charge, but in- going back to what Denise said, in your- in an-

in enrollment agreements, we typically see the student signs and they are required to buy the books. There is the opt-out. I understand that, but upfront they're- the default is that they're required to pay the tuition fees and the book charge as part of the enrollment agreement, it being- and- the books being part of an institution- being an institutional charge. When there is the opportunity for students to purchase the books elsewhere up front, without the opt-out, then it is not an institutional charge, and that's what we'd be going to here. With the school obtaining the students permission to use Title IV funds to pay for books and supplies if the student opted to buy those from the institution.

MR. ROBERTS: Barmak, did you want to add- I saw your comment in chat. Do you want to preserve your spot in line to ask a new question of the Department or do you want to add to this discussion?

MR. NASSIRIAN: No, it's this discussion. But there are others ahead of me I want to give them-

MR. ROBERTS: Yeah, I got you. Yeah, we'll get to you. Alright, Erika, I see- and I do just want to say D'Angelo is in on behalf of HBCUs, TCUs, and minority-serving institutions. But, Erika, you go ahead.

MS. LINDEN: Thank you. In general, I

want to say I support the ambiguity and the questions that Jillian's been raising. I have a slightly different question. and I know we're going to want to come back to the former, but my slightly different question was, this- what is a compelling health and safety reason? And if our concern has been about historical abuse in the past, what is it that a school would have to do to demonstrate that it is a compelling health or safety reason to now change this to a requirement that it come via the institution?

MR. MARTIN: Well, I would say the compelling health and safety issue number one is one we've had that's retaining when we currently have to understand that.

MS. LINDEN: Yeah, I understand that.

MR. MARTIN: But we've kept health and safety. What would be compelling? Well, I mean, I think there is certainly some- there's obviously some measure of subjectivity involved there. I mean, I think that it's one of those things where it would be incumbent upon the school to make certain that in saying it was a compelling health and safety issue, that it wasn't just an attempt on the part of the school to restrict the students options, that there really was some- I don't know how to- maybe if a certain- if a certain, you know, tool or product wasn't used, it would compromise the students,

would compromise the students' safety, or with medical- a medical program, it would compromise patient's health or something along those lines. I don't have an absolute hard and fast example of health and safety. Maybe my colleagues can jump in here, but it would certainly be something that I think- that would be open, you know, I mean, certainly a reviewer or an auditor would have the authority to look at what the student- what the school's rationale was for saying that it had- that there's no- the- due to this overriding health concerns, we're going to say that there's no other option for the students to purchase other than this particular item and through- and through us. I don't think it's an insurmountable bar. I think it would be pretty high because the school- I believe the school could even impose- you could say to a student, you know, in going out to look for- if you want to purchase whatever- whatever we're talking about on the open market from some other source that it be to these specific standards. You know, I mean, you could always stipulate that. So, I think it would be- it's not a low bar that we would be able to say that it would have to be a pretty compelling. But we've not offered any specific examples, but I'll open it up to David or Denise if they have anything further.

MR. ROBERTS: I see- Dave, your hand's

up, please.

MR. MUSSER: Yeah. I mean, I agree with everything that you said, Greg. It would have to be a pretty high standard. There is one example that we gave in the preamble to the final regulations in 2015, which is a case where, for example, a marine biology program required certain kinds of scuba equipment and diving classes as a condition of enrollment. That's the sort of thing that, if the equipment is inadequate, it could have direct safety implications for students. And the school is essentially, you know, asserting and documenting that there is a certain level of equipment that they believe is necessary in order to ensure the safety of its students. That would be a case where the school could make use of that exception.

MR. ROBERTS: Thank you. Jason, you are up.

MR. LORGAN: Thank you. So I've maintained oversight responsibility for textbooks at different campuses for my entire 30 year higher ed career. And during the first two decades, I watched lower income students struggle to afford their textbooks and was told by many that textbooks were a problem for decades and I should just get used to it. And then in 2015, the Department issued new regulations around books

and supplies, and for the first time, I began to witness real positive change in the textbook space. The success of the Department's regulations are hard to overstate. Data from the College Board, The National Association of College Stores, and Student Monitor all show one consistent new trend since the regulations went into effect. The amount of money our students spend on textbooks has declined. The irreversible price increases suddenly reversed. Even during the recent period of extremely high inflation. On my own campus before a program was created that leverages the current regs, only 22% of UC Davis students self-reported that they had access to all of their required textbooks. During the most recent fall terms, 87% of UC Davis students had access to all of their required textbook content because of the innovation that was made possible by the 2015 regs. Before the 2015 regs, students on financial aid often faced delays in getting their textbooks. That also goes for veterans and other third-party billing situations. After 2015, students on financial aid had access to their textbooks before the first day of class. This kind of progress is new and inspiring and 1900 campuses have leveraged the regulations to make positive change, so this will affect a lot of us. The concerns the Department has voiced around transparency and disclosure

are important, and I believe these can be addressed without eliminating the innovative models that have developed on these regulations. I'd like to shift a little to the convenience these programs provide textbooks at their core intellectual property like music and movies. Prior to the current regulations, most college stores resembled Tower Records or Blockbuster Video. We sold individual physical products at individual prices. Consumers flat out rejected the Tower Records Blockbuster Video model of IP distribution and embraced digital delivery models of IP such as Netflix and Spotify. The current regs allow educational institutions to innovate our processes, to react to the changing consumer IP marketplace and leverage the advantages for our students' benefit. Digital distribution now happens through the campus learning management system. And finally, to summarize, it's my belief that the apparent transparency and disclosure concerns the Department has can be addressed through language enhancements, as opposed to reversing the significant progress that has been made on the 1900 campuses that have improved their process based on the 2015 regs, particularly the students that rely on financial aid for their textbooks. Thank you.

MR. ROBERTS: Thank you, Jason. Before

I move to Dom, I just want to note that Magin is in on behalf of civil rights and consumer organizations. So with that, Dom, you're up next.

MR. CHASE: Thank you. Thank you for the opportunity to speak. Just would like to start by echoing something that Gillian had mentioned, which I think there is a solution here. It seemed to- from reading the materials that the concern is the transparency piece, but the proposal goes all the way to removing the capability of this. And this is a program that we do at Ivy Tech Community College. And I've worked with a number of other institutions on as well. And just like everything that the more you buy of something, the lower the per unit price should be. And this program has enabled us to become bulk purchasers on behalf of our students and advocate and negotiate for the benefit of all of them. And what we find overwhelmingly is that our students have reacted positively to this type of program. More than 80% of them, which we survey regularly report that it positively contributed to their academic success. And you can find study after study that would say similar things. But we know nationally, two-thirds of students have reported going without a textbook due to price. And in an eight-week model like at Ivy tech or a more modular type of terms that we move toward. you can't miss a day

of class without the textbooks. You need that equipment in order to be successful right away. So these are- this is a break-even operation. The revenue that comes in goes out for the costs. And it's something that we find to be very beneficial. So, what does this mean in terms of academic outcomes? We've seen positive academic outcomes. We measure passing grades, improvements in passing grades. And, we see better academic outcomes for economically disadvantaged individuals or groups of students as well. And I think if you- to kind of echo what Jason mentioned, if you look at the BLS, I know they lumped together textbooks with primary and secondary education, but the pricing has been relatively stable since around 2019. In fact, our per credit hour rate is going down this year from last year. And then we'll go down again in a time when core and headline are running pretty hot. So, would certainly support this language or finding an alternative- sorry, support keeping the language the way it is to allow these programs or finding an alternative that doesn't eliminate the capability of us being bulk purchasers on behalf of students so they have these course materials on the first day of class. Thank you.

MR. ROBERTS: Thank you. We'll turn next to Michael. Go ahead.

MR. CIOCE: Thank you, and thank you to all of the previous commenters who stole big chunks of my thunder. But so as I as I piece through what's left here, I think you know, Greg's explanation upfront definitely was more confusing to me from my initial reads of the paper. It sounds like both his example and Denise's example- and I get why they were cited, but were they- you both cited cosmetology examples, and I get why, the scuba one made more sense. But that's not what we, at least as a community college that has a pretty traditional student population uses our bookstore and our day one you know, fee charge for. So to- back to Jillian's point, if this is more tied to disclosure and authorization- active authorization versus sort of passive opt-outs, you know, we've been running an operation here for five years, and we've had like zero opt-outs. We had zero opt-outs in '22, '23, and we had zero opt-outs in the fall of '23 and we had zero- so, I get what- I think I understand what the intent here is, but the red line, all- everything that's been stricken in the document actually does more harm than good. So, I think if it's a disclosure issue, I would get behind it a lot stronger. But I'm more confused now than I was when the day started. So, I'll yield my time.

MR. ROBERTS: Alright. Thank you,

Michael. Magin, please.

MR. SANCHEZ: Yeah. So, I mean, reading this in particular really stands out to me because I know most- myself, most of my friends, you know, at the college I went to we had an Inclusive Access program, and more often than not, the textbooks that the university would offer, I would be able to find cheaper on Amazon. Right. And so I- while I understand the intent of this, I think more often not, right, it's- it doesn't necessarily do what it's trying to do. I know there was support in 2020 by PIRG, where they found that when they were looking at public existing contracts, it tended to be that the books that were offered on- under these plans would be [inaudible] students were being charged more, right, than what was considered the average of that year. And so I'm concerned about the effectiveness of these, you know, Inclusive Access type programs. And that's where I think it's valuable the language as being proposed. But I am a bit concerned about the compelling health and safety reason, like exception there, in part because I can imagine an example right where, say, you're a student, you're incarcerated student, right, and your only access point is the kit or the book offered by that institution where you're at. There isn't transparency there to say that that book you're being offered is at a

fair price or whatnot. So I'm a bit worried about institutions, bad actors could take advantage of that and take advantage of students who may not necessarily understand, or may not know what they're being charged in that case. So a big concern on that front. But I- in regards to specifically the opt-in versus opt-out debate, I do think that it's important to give students choice in this matter. Thank you.

MR. ROBERTS: Thank you. Barmak.

MR. NASSIRIAN: So I want to start by pointing out that I'm very respectful of the experiences that colleagues from campuses have shared. And I understand that again in benevolent hands, a lot of good can be done this way. But to clarify what we're talking about, we are talking about a second round of automatic billings that are distinct from tuition and published tuition amounts. Now we run- at VES, we run a help line for student veterans who have run into issues. And it's a persistent complaint that you know, the place said tuition is X, ten grand. And then lo and behold, there was an additional two grand in books and supplies automatically charged to my account. That's the issue. If anybody- look, if something is such a compelling necessity as to constitute, you know, it's a parachute jumping class and I don't trust anybody else's parachute,

but the one I give you, well, you know, put it in as a freebie and jack up tuition and that's your tuition. And, you know, the supply is- that's not what we're talking- what we're talking about is the idea that the student is communicated one price, and then they find out that a not insignificant amount of additional charges have been stacked on, particularly for entirely frivolous reasons, things that are, you know, a barber shop, you can't use this kind of razor. You need to use that kind of razor. It's available elsewhere. You know, I don't know, is that Bob Dylan song, what price I have to pay for going through all these things twice? The Department has been down this road with the same rationale. Let us have preferred lenders lists because we will give a better deal to students. Remember that from a few years back? You are not regulating just the for-profit vocational sector. You're regulating the five mega publishers who dominate 80% of the textbook industry. And they are very much using these exceptions as a rationale to get institutions to act as gatekeepers and hand over their students. The fact that you have zero opt-outs is troublesome because it says opt-outs don't work. Either opt-outs are easy or they're hard. If- we need to always think about the agency of the party footing the bill, the student is the party footing the bill. If you're so

benevolent as to believe without these materials, the student couldn't possibly succeed, jack up tuition and include it as a freebie. That is allowed. But if you want to announce one tuition and then claim that something is such a necessity that it can only be secured through you and automatically paid for out of the student's pocket, you're kind of making it a little different argument. I acknowledge that some people can use this very benevolently, but I also point out to the Department that, you know, honest graft degenerates into dishonest graft really quickly. And it has in this case, I don't want to cite chapter and verse, but you can all go to Inclusive Access, which is the euphemism for let us pay ourselves first, Inclusive Access.org, and you will see plenty of mainstream academic organizations endorse the idea of allowing the students to opt-in if something has to be charged. But in general, the idea of letting institutions pay themselves- [30 seconds]. Thank you.

MR. ROBERTS: Greg, I see your hand up, and I just want to note that we've got Scott coming to the table to ask a question on behalf of private institutes of higher education.

MR. MARTIN: Okay. I- my purpose for wanting to speak is I just, I think I want to ask the group a question about something I'm a little confused

about, which is I don't- and this- I don't perceive in making this change what how we are- what I want to say is materially interfering with the school's ability to offer what they want to offer or what institutions feel that this rule takes away from them? Because I want to- I'm going to point out that in the instance where a school believes that it is providing- we're not taking away the school's ability to offer whatever it wants to offer. Going back to Barmak comment about an opt-in versus an opt-out, the student could still opt-in to purchase from the school. And if the school is providing these supplies or this kit, whatever you want to- however we want to refer to it, at a discounted or reasonable price, then I would submit that most students will opt to purchase from the institution and that these- this rule change does not preclude that in any way. All that would require is that the school obtain much as what happens in the traditional sector, where the school obtains an authorization from the student to allow Title IV Aid to be charged or rather to be used against books and supply charges. So, and that's a relatively pro forma thing to get. You get it up front when the student enrolls. You don't need to get it again for the remainder of the student's matriculation. So I- inasmuch as this doesn't- the only thing that this would change is the current situation in which a school

can essentially without the, exceptions notwithstanding, can require a student to purchase the books and supplies from its- from itself as opposed to other sources out there. And our contention is that students should be free to pursue the possibility of purchasing from another source that may be more beneficial, cheaper, and we believe that if the school really is offering the best bet for students, that that's what the students will opt for. I do understand the argument that, you know, including everything up front and having the students pay for it could go- you know, might be a step toward making certain that everybody has everything on the first day of classes and that there could be those students who, for whatever reason, you know, if it's not prescribed, don't ever purchase the books or don't get what they're supposed to get. I think some of that or a lot of it could be taken care of, you know, in counseling students and being upfront with them about the fact that it is absolutely necessary to have these materials on the first day of class. And I think that if a school really is offering these at a much better price and a much- in a much more- in a much easier way to get the most students would opt for that. So I'm just curious as to how this rule is pejorative to institutions providing those materials.

MR. ROBERTS: Thank you, Greg. We'll go to Jillian next.

MS. KLEIN: Yeah. So- sorry, I'll try and be brief, and I already went once. So a couple things. One, I think Greg what- maybe I misheard you again. I think what I just heard you say is an institution can have a student opt-in to having Title IV cover books and supplies when they start their program, and then the institution never has to provide any more information to the student during the life of their career in order to do what we're talking about, which I think that's what I heard you say, which I would say- [interposing]

MR. MARTIN: Right. So what it is, what I'm saying is the student- the school would obtain an authorization from the student up front that would allow the school to use Title IV Aid to cover the cost of books and supplies and then for the remainder of the student's matriculation at that school, at the school, the student- the school could, with the student's permission, can apply Title IV Aid to those charges.

MS. KLEIN: So I would say- so to me, that's a thousand times worse than what you're proposing to get rid of. Because what I just heard you say is like a student can blindly sign on to having Title IV pay for

these book charges, and then never get any other information from the institution about what exactly it is that they're getting. I mean, I can't believe that we're in this world. This is what we're talking about.

[Interposing]

MR. MARTIN: It's- I would disagree with you, Jillian. It's not blind at all. The student is saying- is authorizing the institution to use- it's a convention used across almost every- if you're looking at like, community colleges, two and four-year institutions that we use currently. What is the instrument that allows a student to go to a bookstore at the university and purchase any type of book or supply and allow Title Four Aid to pay for that? It is that- is that convention that facilitates that. Without it, it wouldn't be possible.

MS. KLEIN: Sorry about my light. But I guess I would say that seems less transparent to a student than I think what, you know, what I'm trying to represent from an institutional perspective. And I think- and there was some comments in the chat, which I know I started to mention that, but I think Barmak said this, and it's also in the chat about, well, an institution could just put books- give free books and sort of hide that cost.

MR. MARTIN: I don't think we want to

go so far as to say that's acceptable.

MS. KLEIN: Yeah. So that's what I was gonna say is it's definitely not a best practice. I don't think that's what's currently happening at least like in our institution. We still- if a student wants to opt out, we still find a way to siphon off part of that and send them a refund. But we should definitely not be also writing rules that create that scenario where that is okay. So I want to be careful to make sure we're not actually creating other bad behaviors in trying to solve for whatever it is that's happening here. I think Barmak again, you made a comment about students being surprised by a fee that shows up, and I totally hear you. And that's a terrible situation. But again, it gets me back to the comment about disclosure. And would you feel so strongly about that if it was a scenario where an institution is doing what they should be doing and saying, this is a materials charge, here's what it contains. We have assessed that this is the cheapest place you can find it. I think the comment about books being more expensive than what's on Amazon, then the institution is not following the requirement, because the requirement is that regularly an institution is making sure that books are being provided- materials are being provided at a cost lower than what the student can buy on

the market. And for us, we go to Amazon and we Google it. We look at other sources of places that students can find it. So I would say in that instance, the institution really is not doing what the requirement already says that they should be doing. And then my last thing I'll say is just the comment about that piece in general about if institutions are documenting and I'm going to probably get fired for saying this, but I'm saying it anyway. If institutions are documenting a lower cost point and opt-out and all those things, we keep records of doing that here at our institutions, I'll tell you, we've never been asked for those by an auditor or by the Department. And so there is maybe like a piece of what is the expectation on the institution. And then how can the Department and other third-party auditors make sure that they're holding schools accountable for those requirements, to make sure that we're providing a pathway for this, and also that institutions that are not doing what they're supposed to be doing are held accountable also. I promise I'm done now.

MR. ROBERTS: Thanks, Jillian. I'm appreciative of the dialogue thus far, but just glancing at the time and the volume of reg text we'd like to get through today, I would request that we take Jessica's, Scott's, and Jason's comments and questions and then move

on to number four in that list, if that's alright. So with that, Jessica, please go ahead.

MS. MORALES: Hi. So- and I- obviously I'm getting a little bit confused between what's been said. I think Greg, and maybe this is what Jillian was understanding, please, if I'm incorrect. So are you saying that literally once a student opts in, or once a student says, yes, you know, this is okay, then at no other point will there be a touch base for that student to say, nope, don't use those funds.

MR. MARTIN: No, no. Under the current system- so currently what the authorization does is not allow a student to it's not it does not permit a school to simply charge students every semester. It simply provides the conduit through which Title IV Aid may be used to apply to books and supplies. Right? So given a traditional model, when you were at university, right? You go in and you- and let's just say you were going to purchase from a bookstore, you could go into the bookstore and you could purchase books. And if you have Title IV Aid, then that aid would be- that aid would be charged- would be credited against those charges. The instrument that allowed that was that authorization, only needs to be obtained up front. But you're still making each time you do it the conscious decision to purchase

from said institution or not. You know, you could you could give that authorization and decide this semester, you know, no, I'm not going to the university bookstore. I'm going to one that's- another one, a private one in the university town, or I'm going to get them online, however else you're going to get them, right? In this situation, the authorization obtained from the student would be so that they could apply Title IV Aid to those charges, but it would still have to be the student's decision to purchase. And they have to get that conscious decision from the student. Yes, I want to purchase the kit from the institution. Yeah, that would still be up. It would not allow for school to simply charge a student every, you know, every so often. Now in many cases the books, the kits for certain types of programs are obtained up front and one time. So in cosmetology generally that's done once and then you have the remainder- [interposing]

MS. MORALES: Okay. Sorry for that confusion.

MR. MARTIN: I'm sorry if I confused people on that note, but- [interposing]

MS. MORALES: And I just think that in that same context, obviously, in terms of the student being able to decide the opt-in option is actually what

is beneficial, what would likely be easier for students and institutions if a student could say, yes, I can get it from there or not. And the only other thing, only concern I would have is, I think somebody else raised it earlier about the institution demonstrating that there's a compelling health or safety reason. I think that- I'm not quite sure how or what the standard would be for that to really say that there is a compelling concern or not otherwise you- if you tell a student, I think somebody mentioned the scuba diving, if you tell a student you need this one or else you can potentially die, I'm pretty sure a student will make the likely decision to choose the one that they need so they don't die. But nonetheless, I think that this is student funds and should be able to use it accordingly.

MR. ROBERTS: Thank you, Jessica.
We'll go to Scott next.

MR. DOLAN: Yeah. Thanks so much. Like others, I am a little confused in terms of the conversation we've had about the language from what we saw that was shared to where we are now. With that said, I think some of the negotiation I'm hearing is really about a difference between what needs to be disclosed on the front end, which we all, I think are in agreement of we can potentially refine. And how do we enforce existing

regulation to- against bad actors who are maybe doing something that we don't think they should be at the risk of our student consumers? So, if a cosmetology school or scuba school is offering texts at higher rates than what is available in the market, that's an enforcement issue. It's not, to Julian's point, not really aligned with the regulation as written. Or if they're not of the quality as determined by the consumer, that would be a question that could be raised as well. So it seems like, one, confusion around what the proposed language will actually look like based on the conversations, but, you know, would be the mind to maybe think about what disclosure looks like on the front end and keeping regulations that allow institutions to be bulk purchasers and allow students to opt-out would be a little clearer about what they would need to do on the front end in order to disclose that this is the model that [inaudible].

MR. ROBERTS: Thank you, Scott. And we'll conclude our number three with Jason.

MR. LORGAN: Thank you. So I wanted to answer Greg's question if I could. So he asked, what about the current regulations would prevent institutions from moving forward with this? So I want to- there's really nothing that would prevent an institution from moving forward with this, but it would potentially

dramatically increase the price and the difficulty to administer such a program. So in an opt-in- so let's- you know, UC Davis has 3500 courses per term. So let's just take one course and it has 100 students in it. And we go to an opt-in model. That means there's 100 transactions that the institution has to do for those opt-ins, and 100 transactions that the publisher has to do to arrange for that student to have access in the learning management system to that content. In an opt-out model like they have here, there's operational efficiency built into the model where every student gets free access to all of the content through the add/drop period. And so then all of the students who choose to opt-out, it's a 60-day opt-out period at UC Davis. You can make your decision and change your mind ten times if you'd like. At the end of the add/drop period, the students who opted out, all thousands of those, and unlike some of the others on this call, thousands of students do opt-out at UC Davis. we send that one spreadsheet to the publisher, and they turn off the thousands of students access all at once in one transaction, versus hundreds of thousands of transactions of individual students in individual courses, turning on and off access. So it wouldn't prevent, but it's an incredibly operationally efficient model. And that's why I think we've seen price declines year over year in

textbooks since the regulations went into effect. And I will add, for the 50 years before the regulations went into effect, every solitary year, the average price that students spent on textbooks went up.

MR. ROBERTS: Okay. Thank you, Jason. Thank you to all the other negotiators for offering your commentary on this issue. Greg, do you- would you like to move on to number four now, the credit balance?

MR. MARTIN: I would. Before I do, I want to thank everybody for that discussion. It was really, really good. We got some great points there which we will take back. I also want to make a clarification. When I mentioned student authorizations, I do want to clarify and one of my colleagues, you know, reminded me of this, that, students do have the authority to rescind any student authorizations if they want to, that they've given, even though they can be obtained up front for the duration of a student's matriculation, students can rescind. And schools can also choose to collect those more frequently than once, if they wish to do so. So that's just a point of clarification there. Yeah, so, Brady, we're going to move on to number four. And that can be found on page two of your issue paper. And Vanessa is taking us there as we speak. And let's take a look at that. This provision would be to require institutions to

issue a credit balance to any student that receives Title IV and has an amount of aid in excess of tuition and fees. This is under 668.164(h)(1). Reviewing this, when a student receives aid from various sources, including non-Title IV financial assistance in excess of allowable charges, institutions are only required to pay students a credit balance if the Title IV funds received exceed the charge on the student's account. When students pay amounts in excess of allowable charges but their Title IV funds received do not exceed the charges on the student's account, this can result in the student not receiving a credit balance. This proposal would change the definition of a Title IV credit balance to also take into account non-Title IV sources of funding if a student receives Title IV assistance. In such circumstances, any funds exceeding tuition and fees would be required to be issued as a credit balance within 14 days of the balance occurring on the student's account. So let's go to the applicable part of the regulation. And we can see that at the top of page six. And Vanessa is already there. And that is in 668.164(h). So let's take a look at that language. And this would change the definition of credit balance from the existing definition found there, as follows: A Title IV HEA credit balance occurs when the amount of Title IV HEA program funds and any other

Federal or non-Federal funds, including but not limited to scholarships, grants, private loans accredited to a student's ledger account for payment- for a payment period exceeds the amount assessed the student for allowable charges associated with that payment period as provided in the paragraph C of this section. So that is a change over what we currently have. I want to spend a little bit on why we're doing this. Currently there exists a- I do believe that many schools, maybe most, simply have a policy that, where a credit balance exists, they relieve that credit balance or refund it to the student, however you want to say it, within the 14 days prescribed in our regulations. However, as you know, the current credit balance only- the current definition of a credit balance is only where Title IV funds exceed allowable charges. So it is possible in situations where a student obtains a significant amount of Title IV funding and may also obtain- I'll just use maybe Veterans Administration funding as a- as an example. The student could have \$4,000 of allowable charges and get \$4,000 of Title IV assistance and \$3,000 of VA assistance. And as we all know, that would constitute a credit balance, but not a Title IV credit balance. And in that case, we would have no- we don't have any regulatory link or regulatory authority there to use to compel that school to refund a

credit balance. So this would address situations like that and we feel would be a lot more fair to- be a lot more fair to students.

MR. ROBERTS: Alright. Any questions, comments, feedback to the Department? Anything for the committee to consider? Yeah. We'll start with JoEllen, please.

MS. PRICE: Okay, so just have a quick question. The explanation of it talks about excess of tuition and fees, but the- but it's also written in excess of allowable charges. So I think it's written correctly in the, regulatory language. But I just want to make sure that we don't get caught up that is it beyond allowable charges or is it beyond tuition and fees?

MR. MARTIN: It is allowable charges. That's correct.

MS. PRICE: That's what I figured. My other question is, what happens when we cannot deliver those funds? So right now, if we cannot deliver a Title IV credit balance within a certain amount of time, we have to return it to that program. What happens in the case of non-Title IV Aid? Will there be the same rules in place? So, I don't understand how we're going to handle that piece of it.

MR. MARTIN: Do you mean where you've

attempted to relieve a credit balance that now is in excess of Title IV funds? And while you were unable to relieve the Title IV credit balance, you would return what you could to the Title IV- to the Title IV programs. What would you do with the remaining funds? I- well, first of all, the- with those- I would default to whatever the requirements for were from that funding source as far as how you would return those funds when you- our primary concern here and I'll be honest with you, JoEllen, we didn't really maybe think it out to that extent. Our primary concern here was to get institutions. And I think that- and I want to say up front, I think the vast majority of institutions are very up front about credit balances and get- and they're serious about getting all credit balances to students. So, this is definitely to control actions from either schools that are bad actors or just not being attentive to getting these balances to students. We would certainly look for, you know, the school alleviate- trying to relieve the credit balance. And I think that's our main thing. Did the school try to relieve that credit balance to the student, make every attempt to do that and do it within the requisite timeframe? I don't at this point know what else I could list in my example of VA funds, you know, what would you do to return to the VA? I think you'd have

to follow the protocols in place for that. And I see David has his hand up, so he might have a little bit more to add with respect to that. So, Dave.

MR. MUSSER: Yeah, thanks, Greg. I think the Department's authority extends only as far as the administration of Title IV funds. So in any case where you've exhausted the entire amount of Title IV funds that the student has received for that period, so you've tried to provide a credit balance to the student. and you've essentially returned all of the student's Title IV funds to them, Greg is right, that there is there's really nothing further that our regulations compel you to do. You would then look to the requirements of whatever the other grant or scholarship, you know, demanded in order- in terms of getting the funds back to the student in a particular period of time. If that wasn't 14 days or if that was a longer period, then you would go to that. But for the- for purposes of the Title IV programs, you would essentially pay all of the student's Title IV funds to them as a credit balance, and then you have discharged your obligation to the student as far as our programs are concerned, if that- if the credit balance is really that large.

MR. MARTIN: And I think it's important to point out that, like, you know, what Dave

said, like in my- so in my example before, currently there wouldn't be a credit- there would not be a Title IV credit balance. There would be no credit balance we would control. And under these new rules, that credit balance would exist and there would be a- \$3,000 credit balance, which we would expect to be paid to the student. And since that's less than Title IV, then the total Title IV funds out there, if you could not return that to the student, be given back to the Department because it's still less than the total amount of Title IV funds. So it does- I think in any case, it works to the benefit of the student and it works to the benefit of the programs. And I don't think that the rule- for any school that's operating- as I said before, doing what they're supposed to be doing, and getting credit balances to students, I don't think this affects them- this will affect them at all.

MR. ROBERTS: Alright, Jillian, I see your hand next.

MS. KLEIN: I wasn't even going to ask a question because, I mean, I agree with you, Greg. I think most institutions already do this, but I'm just sort of curious. I'm trying to figure out the Department's- like, there could be a scenario where the student's Title IV that they received is less than what

the credit balance is that's being returned to the student. So I'm trying to figure out the Department's authority to say that they- that institutions have to also release within a certain time frame that credit balance to students, even though, to Dave's point, it might not be actual Title IV funds at all. I mean, I don't really care. I don't know what I'm asking, except I'm just I'm just curious on authority.

MR. MARTIN: Our authority. I can always defer to Denise with legal authority here, but I think our authority was in the fact that really there's no- the way we currently define credit balance again where allowable charges- where Title IV funds exceed allowable charges. Even if that's not the case, so the Title IV funds don't exceed allowable charges but there is a credit balance because there's other types- in my example there's VA funds, right? So because of the VA funds and the Department funds and Department funds, we have charges. We have aid in excess of allowable charges, we're basically saying that if Title IV Aid is involved- if there's no Title IV Aid involved, then we have no authority, right. But where Title IV Aid is involved, there- we don't have any first in, first out provisions in our regulations as to what causes a credit balance, right? We don't dictate that. We don't say that, well,

this came in first, so this caused the credit balance. The credit balance exists. And so if the credit balance exists and contains Title IV funds, we're not looking to what caused that credit balance. There are Title IV funds. There is a credit balance. Therefore, Title IV funds could or are part of that credit balance, we're presuming that that they are. So that's really our authority for it because there is a credit balance and it does consist of- potentially consist of Title IV funds. And there's no way out of that by saying, well, we- yes, but we credited Title IV funds first and then we credited VA funds, therefore not. So because- [interposing]

MS. KLEIN: I'm not saying that scenario. I'm saying a student gets \$10 in Title IV funds, and their refund that's owed to them is \$100. I'm trying to figure out how you have authority to require an institution to disburse \$90 to the student that came from non-Title IV. So again, I think this provision is fine. I'm not mad about it. I'm just- I just have a question on the authority piece, but it's- maybe we can talk about it a different time just for fun.

MR. MARTIN: Okay, well put it in the chat and we'll definitely review it.

MR. ROBERTS: Alright. Moving that fun conversation maybe to a later date. Greg, do you want to

move on to number five?

MR. MARTIN: If we are done with discussion on number four, yes.

MR. ROBERTS: I don't see- oh, sorry. We do have additional discussion. DC, I see your hand.

Dr. Prince: Yes. A question on- again, this is a process on the credit balance. So to be clear that if a student gets Title IV Aid and they have what we call a refund but a credit balance, then you expect us to disperse that. Now, the question I have for the Department is why- has there been discussions about the amount of credit balance given to a student that either does or does not exceed a certain amount based on what they might be? Because if you add- I can see in a scenario where with this including other non-Federal aid, a student could get a higher amount on a balance, which, let's just say, is a larger percentage of COA. So say it's 15 or 20% of COA they might get in that. Has the Department really thought about financial literacy in this more so around cutting and saying that that if Title IV funds are used, a credit balance can't go back to the student if it exceeds 5%, 10% of the overall amount based on an equation, or is this more so whenever it's used, whatever the credit balance is? Because it just seems to me that we're not addressing more of the bigger issue,

which is the financial piece, financial burdens kinds of things rather than more of a process-oriented piece here towards institutions.

MR. MARTIN: So the thing- the reason for this is, is simply to get- is simply to have- to get credit balances, you know, released to students is to change the rules in such a way that a credit balance- the existence of a credit balance is not completely contingent upon Title IV funds exceeding allowable charges. That's really what this is about because in the in the example I gave where I think I said there were \$4,000 of allowable charges, \$4,000 of Title IV, and let's just say, \$3,000 of VA, you've got \$4,000 of allowable charges, right? You've got \$7,000 of aid that has been dispersed to the student. You have a \$3,000 credit balance, and there was \$4,000 of Title IV Aid. So, what we're saying here is that in that case, we would require- because the entirety of that credit balance, as I said before, when I was discussing with Jillian, the makeup of that credit balance is really impossible to determine, right? I mean, we know that in my example, there were VA funds and there were Department funds. So the credit balance is comprised of some combination of that. We don't know what it is because we don't have any order of posting rules, and we're not going to put in the

end. So, you know, could you say that, well, all \$4,000 was covered by VA, therefore there's \$3,000 of Title IV? You know, you could call it that way. You could call it either way. So what our contention here is in making this rule, it compels the school to simply return to the student the entire \$3,000, which currently the school could say, well, yeah, I've got \$3,000 of a credit balance on the account here, but your rules don't make me do anything. Your rules simply say, I have to look at this and say, do Title IV- do a- does Title IV Aid exceed allowable charges? And the answer in my example is no, it does not. They equal allowable charges. So you could come back to me and say- I'm not saying you would do this because you- I'm sure you would refund all the money the student. But hypothetically, for purposes of your question, you could maintain that well, there is no credit balance. I'm not obligated to do anything, you know? And if that being the case, then there's now \$3,000 of potentially Federal money sitting on a student's account and the school. And because I don't believe there are any- if there's no requirement on the part of the other organization to refund, then at that point, the school can simply hold on to it. I don't know how many schools are actually keeping it forever, but certainly a lot of schools are delaying it. Under this, what would

have to happen is that \$3,000 goes back to the student within 14 days. So I don't think it- I don't think that it prejudices the schools in any way and you know it gets student money. This is all student money. So I mean whatever they're going to wind up spending it on. And we absolutely hope that that will be educational expenses when they get it. It can't be anything but good for the student because it is the student's money. And they can use it for any- any number of educational expenses. I see Denise has her hand up and wants to- maybe wants to clarify a little bit. So I think I should have Brady go over to Denise.

MR. ROBERTS: Yeah, Denise, go ahead. I think you're on mute right now, by the way. You're still on mute.

MS. MORELLI: Okay. Can you hear me now? Am I on? Okay. Alright. Keep hitting the wrong button. So I just wanted to kind of give a background on this. As Greg said, most schools are doing this. But what we found in our compliance work is that other entities of especially Federal and a number of state funding or tuition only. Some of the ones I've run into are VA, right, VA funds that go to the schools. They know they have housing funds as well, but the ones that we were dealing with are tuition only. WIOA funds, tuition only.

TAP scholarships, FIA scholarships, they're tuition only, right? So what we've run into were situations where non-reputable- not so reputable actors have tried to make the argument that you're only supposed to be looking at your Title IV funding. And so we would even- years ago, I went back to farm workers at Department of Labor and say, okay, are you going to get your money back? Because the Title IV funds can go not only for tuition and fees, but for living expenses, right? So we want to make sure the students are getting that living expense money if they can. And what we found is the majority of other aid that's coming into a student's account is for tuition only. So VA doesn't ask for it back. WIOA doesn't ask for it back. Farmworkers doesn't ask for it back. So what ends up happening is these not reputable schools would try to get us on technicalities and say, alright, well, it doesn't technically meet your credit balance, but they were keeping \$5,000 of VA money, \$4,000 of Title IV money, \$3,000 of WIOA money because none of the agencies or the other entities were asking for the funds back. So basically we don't really tag it as Title IV. As Greg said, you know, there's not any first in first out because that would create a problem as well. But we're trying to address our situations where the other funding is tuition and fees only. So that goes to the tuition and

fees. And we want to get the living expense money back to the students. So we want to make sure there's nothing in our regs that creates a loophole, which is what we were seeing happen before when we were trying to do our compliance work. So that's the background of why this provision is being proposed.

MR. ROBERTS: Thank you. Denise. we have two alternates coming to the table, both with questions. The first is Zack Goodwin on behalf of financial aid administrators. And the second is Ashlynn Haycock-Lohmann on behalf of groups supporting veterans. So I see Zack's hand first.

MR. GOODWIN: Thank you, Brady. It's- hopefully it will be okay that I actually have two questions. And I'm getting real in the weeds here. but a couple of concerns I had, especially being at a public institution, is about escheating, that if these are considered HEA credit balances, we often have counted on when we're not able to get funds to a student, we attempt for the allowable period to get some credit balance to the student's hands, and we can't, checks come back, deposits are rejected, that kind of thing. We will usually eventually allow that to escheat back to the State of Nevada. But if that is now an HEA credit balance, do we foresee that being an issue? That's

question one. And the question two is even nitpickier because this has to do with, what seems like a broad range of possible funds, including other and not limited to. I would want to be sure that the intent there is not about student payments, that we're just talking about financial aid from other sources. And I say that because students will often pay- you know, they'll register for spring, say, in October or early November. If they want to make a payment toward that, then they absolutely can. But if it creates a credit, even if just a temporary credit, I would like to be able to hold those for those students since their intent was to pay for a future term. Hopefully that makes sense.

MR. MARTIN: Yes. As a former training officer, I guess you- I have to let you go into the weeds because that's what people in that position often do, right? So- and it's great to see- it's great to see your face again. Your second question is the easiest one to answer. It's only program funds. So no, it would not be inclusive of any funds the student paid as far as cash to the school goes. So that one's very easy. Your second question is a little more weedy, obviously. We do- we are defining this as Title IV HEA and credit balance. So by definition then it would- by definition what we have here preclude escheating. However I will- it is a- it's an

excellent question. And make sure you put it in the chat. We will take it back and discuss that.

MR. GOODWIN: Thank you very much, Greg.

MR. ROBERTS: Thank you. And I'll turn it over to you. Ashlyne.

MS. HAYCOCK-LOHMANN: Less of a question, more of a comment. But one thing I really wanted to flag as a major issue in the veterans space is that oftentimes, GI Bill benefits paid are paid significantly later in the semester. Many school certifying officials opt to wait until after drop, add/drop, or much further into the semester to certify tuition and fees. But this also leads to schools refusing to release Title IV funds to that school- to that student, even though they know they will be receiving that GI Bill money. It also causes late fees for our military-connected students because instead of allocating that Title IV funds to things like room and board and other fees, that money is being temporarily held under tuition until the VA pays, when that money could be immediately allocated in a way to prevent late fees for our students.

MR. MARTIN: Yeah. I would address the- I think that, first of all, I want to say upfront

that, you know, we, although the disbursement rules are somewhat flexible for our programs to, you know, allowing students to schools to disperse at any time during the payment period, we- there is a Pell requirement that the school disperse funds in such a way that, I think it's, if I can paraphrase it, in accordance with the needs of the student, and we generally take that rule and apply it to all Title IV funds. So where a school is delaying the disbursement of Title IV funds for some other reason, whether it's to- for whatever it is at a convenience or to be able to assess more fees or something along those lines, that is an inappropriate practice and one that the school risks being called out on by program reviewers and auditors. So I'm not in any way in favor of that. I do want to say that, the- or I want- obviously, I'm not in favor of it. I want to come out against it. The- yeah, then there is a possibility that another source of aid disperses later on. But remember that the creation of a credit balance is an accounting terms, just when that disbursement occurs and at the point at which when those disbursements come in, there is now a credit balance created. All we're saying now is that if it's a credit balance where Title IV funds are included, as opposed to where Title IV funds exceed the allowable charges. So, but excellent comment. I really appreciate you pointing

that out and calling out what is not an appropriate practice.

MR. ROBERTS: I do see, Denise, your hands up. Do you want to-

MS. MORELLI: I just wanted to- do that right again. Okay. Ashlynn, were you suggesting any changes as a result of that? Because I'm aware of that, too, because that's some of the arguments we would get back from schools is that the VA money comes in later, WIOA money comes in later. But my understanding is when it's like- I don't want to call it pledge, but when it's provided for and they're planning to pay the money, the VA will get it to the school at some point in time.

MS. HAYCOCK-LOHMANN: So in theory, that is how it works. It's supposed to work that way. But what we end up seeing is, even though it's pledged, if a school- each school has a different policy on how they do the school certifying efficiency. So some schools will certify right up front at the beginning of the semester or before the term starts to make sure they get paid right away. A lot of schools, what they found to prevent overpayments from the VA that end up on the student is to wait until after add/drop or even later in the semester to certify tuition and fees. And so while it's a pledge, because they haven't certified, they're holding back on

Title IV funding to see, you know, what the final bill will be from VA.

MS. MORELLI: Okay. So you're- are you proposing any changes though?

MS. HAYCOCK-LOHMANN: Like make sure that, you know, we are protecting those students in this process.

MS. MORELLI: That's one of the big groups that we are trying to protect, because that's the area that I've run into the most.

MR. ROBERTS: Okay. Any additional or new comments on number four? Credit balance. Okay. Moving right along. Greg, do you want to have your team walk us through number five, late disbursement? You're muted but I sure.

MR. MARTIN: Sure. Sorry about that. So, you see, Vanessa has gone to the appropriate part of the issue paper, the bottom of page two. And this is to revise regulations granting the Department authority on a case by case basis during a- during the audit or program review process, to direct institutions to make late payments beyond the 180-day limitation. So, and this is 668.164(j)(4)(i). A late disbursement is a disbursement of Title IV funds that occurs after a student becomes ineligible, either because they withdraw, or because they

have completed the payment period for which the disbursement was intended. Under the current regulations, schools may not make late disbursements more than 180 days after the institution determines a student withdrew or lost their eligibility. There is no flexibility for the Department to allow exceptions. However, there are occasions during audits and program reviews when auditors and reviewers identify disbursement errors committed by the school that would justify late disbursement to one or more students. This proposal would provide the flexibility to consider additional information as appropriate. So if Vanessa will go to the applicable part of the regulation. I'll go there myself as soon as I can find it. There we go. I made it. And you can see here under late disbursements. And we're in 668.164 in the center of the page under late disbursements on page six. An institution may not make a late disbursement later than 180 days after the date the institution determines the student withdrew, as provided in 668.22, or for a student who did not withdraw 180 days after the date the student otherwise became ineligible, pursuant to paragraph (j)(1) of this section. And now the additional text we propose to add. However, in the event of an audit or program review conducted by the Department, the Secretary may, at their discretion, direct institutions

to make late disbursements after the applicable 180-day period. So again, I'll ask Denise or Dave if they have any comments. If not, we will proceed to open the floor.

MR. ROBERTS: And I'm not seeing anything immediate from Dave or Denise. So I turn it over to the negotiators. Any comments? Feedback? Questions? Alright. Not seeing anything. As always, folks are welcome to add anything that might come late into the chat to the official transcript. Alright. Any questions to pose to the committee? Do you want to move right on to number six?

MR. MARTIN: I think we'll move on to number six. This might be the first time that's ever happened to me in all the days that I've done these negotiations. So, it's- I want to make- write that down for posterity, but yeah, let's move on to number six. Number six is a bit of an adding of a flexibility here and sort of an aligning of the rule to- in a way that we think makes more sense. So to allow late disbursement of loan funds in any payment period, regardless of whether the student successfully completed the period for which the loan was intended. And again, we're in 668.164. This is (j)(4) romanette 2. And let's read that. Currently, students must successfully complete the period of enrollment to receive a second or subsequent late

disbursement of a loan. This requirement means that some students were unable to complete the period of enrollment due to financial limitations or other reasons, may not be able to access additional aid in the form of a second disbursement, which could lead to student dropout. This proposal would create parity for students who withdraw in a first or second payment period. It would also reduce the complexity of Title IV student- Title IV funds, or rather R2T4 calculations, by removing an impediment to making post-withdrawal disbursements of Direct Loans. So we feel that this, as we point out here, brings parity to both payment periods and makes it easier to administer the programs and overall more fair for students. So we can turn to that portion of the regulations, which is going right back to where we were before, I believe, on page six under late disbursements. And you can see that all we've done here is, we've stricken romanette 2 there where we currently say an institution may not make a late or second- late second or subsequent disbursement of a loan under the Direct Loan program, unless the student successfully completed the period of enrollment for which the loan was intended. And I, again, would ask if David or Denise have anything to say about that. If not, we will open the floor for discussion.

MR. ROBERTS: Alright, we'll first

turn to David and Denise. Not seeing anything immediate from them. I would briefly note I just saw in chat, Joe, on behalf of business officers for IHEs has had to step away for the remainder of the day, but we have his alternate Dom in for the remainder of this session. Anything from the committee? Questions, comments, feedback on number six for disbursement? Again, not seeing anything, Greg.

MR. MARTIN: Okay [interposing]

MR. ROBERTS: If we're- if we are okay to move on to severability, do we want to take a quick break? I know we haven't had one in the afternoon session. Typically we do have a quick 10 or 15-minute.

MR. MARTIN: Yeah, I think let's keep it brief because we have- we're limited and I'd like to get through this. Let's keep it ten minutes if we can.

MR. ROBERTS: Yeah, absolutely. I have 2:56. So if folks are okay coming back at around 3:05, 3:06, we can hopefully finish up with this issue paper and then move right into public comment.

MR. MARTIN: Excellent. That sounds great.

MR. ROBERTS: Alright. Thank you all. We can go off live and pick it up in about ten minutes.

MR. MARTIN: Thanks, Brady.

MR. ROBERTS: Welcome back everyone. Hope you enjoyed that short break. We do intend to move right to public comment promptly at 3:30. And we have one more section of issue paper number one to get to. So with no further ado, I will turn it right back over to the ED team to kick us off under 668.167. Severability. there are three items under that section.

MR. MARTIN: Thanks, Brady. And because these are sort of intertwined and I think part of it is just moving different areas from different portions of the regulations here, we're going to go through- I'm going to I'm going to address all of these at once, and then we'll discuss them- we'll discuss them as a- collectively, I guess is the word I'm looking for. So this is under one- currently under 668.167, severability. And you can see here that Vanessa is already there. And, what we're proposing to do here is to consolidate Department regulations from program-specific regulations to cash management regulations related to overpayments. So the requirements related to overpayments are for any of you who've dealt with this over the years maddeningly interspersed amongst several- in several regulatory sections. So we propose to move them- to move them here under 167. By the way, this won't be severability anymore. Severability will become 168. So we're going to

move all of these under this one, this one regulation, which we feel will make it a lot simpler. And what we're going to do new is to establish new deadlines related to overpayments and to add clarity for partners and students, we propose the following deadlines for overpayments that are not tied to non-attendance, which is in 668.21 or R2T4 in 668.22. So these would be not related to those sections of the regulations. The first one will be 30 days for instances of overpayment where the student is responsible, schools must notify the student and either receive payment in full or make satisfactory arrangements within 30 calendar days of discovery of that overpayment, 15 calendar days. If the above 30-day- 30 days have elapsed and the school has not received full overpayment or made satisfactory repayment arrangements with the student, the school has an additional 15 days to refer the overpayment to the Department. The total timeframe would thus be 45 days from discovery through referral. And 45 days, for instances of Federal Student Aid grant overpayments where the school's responsible, the schools have 45 days to resolve the overpayment. This aligns with the amount of time a school has to actually make a return of Title IV funds to the proper program accounts. We also seek to modify the small- I almost said small business write-off,

small balance write-offs, and applying a new adjusted rate to small write-offs. We propose to increase the amount of the small balance write-off. And you can see that Vanessa is there again, applying- we propose to decrease the amount for small balance write-offs for Federal Pell, TEACH, and FSEOG Grants from 25 to \$50 and for Direct Loans, for- from \$25 to \$100. And now let's go to the applicable area of the regulations and take a look at them together. And so we are now on page eight and we're looking at a) returning funds. And I'm not going to go over all this because as I said before, a lot of this is just taking areas related to overpayments in the rest of the regulations that we haven't changed, and simply incorporating them here, moving them all to one area, which I'm very excited that we're doing. I remember doing training on overpayments in the past and finding it maddening going everywhere. But we're going to look at B, which is new, and that is where we discuss the overpayments timeliness for overpayments for which the institution is responsible and that are not tied to non-title- non-attendance or return of Title IV funds. We see here that the institution must promptly send a written notice to the student requesting repayment of the overpayment amount. Institutions have 30 days from the date the notice is sent to recover the overpayment in

full or enter the overpayment arrangement. Enter into a repayment arrangement with the student. And then we move down to two. The initial 30 calendar days have elapsed and the institution has not received full payment or made satisfactory arrangements. The institution has 15 days to report the overpayment to NSLDS and refer to the Department. And for FSA grant overpayments for which the institution is responsible, institutions have 45 calendar days from the date of discovery, two for FSEOG, restore the institution's FSEOG account for the overpayment, plus any administrative cost allowance claimed on that overpayment and for Pell Grant and teach over payments made the appropriate downward adjustment in COD and either return the funds to G5 or use them against future draws for other eligible students. And the only other portion that we're hitting- the rest of this is basically where we're incorporating the existing overpayment rules. And then if we go over to page 11 under FSEOG overpayments, you will see that we have changed the amounts there for, if a student is not liable for the institutions not required to attempt recovery of an FSEOG overpayment, nor is the institution required to refer an FSEOG overpayment to the Secretary if the overpayment is less than \$50. And then we see the- I think that's. Yeah, I believe that- oh, we have Direct Loan overpayments too

where we include the other addition where a student not liable for and the institution is not required to attend recovery of a Direct Loan overpayment if the amount is less than \$100 and it's not a remaining balance. And Federal Student Loan servicers and lenders must write off totals for borrowers, principal and interest, of \$100 or less after 30 days. And those are the changes. So unless David and/or Denise have anything to add, we can open the floor for discussion on those changes.

MR. ROBERTS: Great. As we turn it over to the negotiators, I do just want to make a note that we're a little over 15 minutes away from public comment. So if you have received an email about a speaking time for your public comment today, if you wouldn't mind starting to log in and endeavoring to make sure your name on zoom matches the name that you registered under, so that we can let you in on a- in a prompt fashion. But I will turn it over to our negotiators for any questions, comments, feedback for the Department or each other on the severability pieces. Yes, Jillian.

MS. KLEIN: Thanks. hopefully just one easy one. So in the overpayment section, so 167 (b)(4). I think this is what you meant, but I would just recommend clarifying where it says institutions have 45 calendar

days to make restitution that that be edited to say institutions have 45 calendar days from the date of discovery to make restitution. So that would be in line with how you've treated three and I think just clarifies for institutions that the clock starts at the point where the institution determines it or it's been determined, not from some point in the past when it should have been determined.

MR. MARTIN: Noted.

MR. ROBERTS: Thank you, Jillian. Dom, I'll turn it over to you.

MR. CHASE: Thank you. I too have something minor just for a suggestion. I know, Greg, you had mentioned the kind of- it's easier when you connect a deadline or something of that nature to something else. So in terms of 668.167, the small balance write-offs, would there be any thought to just making them the same amounts for consistency's sake, whether that be 50 or 100? Just a suggestion.

MR. MARTIN: We'll take it back. Dave, do you have any comment on why we- why we chose those specific numbers? I don't recall myself being involved in that discussion, but if not-

MR. MUSSER: Yeah. So the intent was to use \$100. And we identified that there is some

statutory language, dealing with overpayments for some of the grant programs, that identifies \$50 as the amount. I would defer to Denise as to whether that sets a floor or not. But that was our initial read of it. And we can go back and look at it to see if that is indeed what we're limited to. But that was the reason for the \$50.

MS. MORELLI: Right. We will go back and take a look. I think we thought it was a cap, but I will- we definitely will look at it.

MR. ROBERTS: Thank you. We'll turn it over to Sophie next to- I just want to note for the live stream sake is alternate speaking on behalf of Legal Aid. So with that, Sophie, the floor is yours.

MS. LAING: Thanks. We had some concerns with these proposals in that they don't seem to do anything to encourage or ensure that students actually have affordable repayment options for repaying overpayments and may actually result in more overpayments being referred to the Department, where they, again, wouldn't have any affordable repayment options. We are especially concerned for Pell Grant overpayments, where these are low-income students who, you know, are unlikely to be able to come up with that lump sum quickly. Just as an example, the Legal Aid Foundation of LA had an older student with some significant mental health issues whose

only income was \$1,500 a month from SSDI and SSI, and he was taking community college classes but because of his mental health, had to drop most of those classes. As a result, he had a Pell Grant overpayment of a little over \$1,000 that he had to pay before, you know, enrolling again, getting any more aid. But he had already spent that money on living expenses and now was unable to pay it back. He had tried to get- and Legal Aid to try to get him a \$40 a month payment plan, which was rejected by the school. And now it looks like it will be sent to the Department, where again, he will be asked to pay for that lump sum amount. So we'd like to propose that students have access to, you know, an Income Driven Repayment Plan like SAVE and in-school deferments because many of these students aren't going to be able to pay back these overpayments and lump sums, and then we'll be barred from, you know, continuing on in their education.

MR. MARTIN: I can address that to some extent. I- and I'm going to have to ask my Department colleagues to jump in if I'm saying something incorrectly here. So schools- we say that schools can- I think in most cases schools don't generally enter into repayment arrangements with students. They're difficult to monitor. Students have to go in and change COD amounts every time students pay. When a student is referred to

the Department for collection, our- we don't call it debt collection service anymore. And someone maybe put in my chat what we refer to it now as. But, they are authorized and empowered to enter into agreements with a student whereby the student will be eligible right away and be put on a plan to pay it back. I'm not sure exactly what the mechanics of that are, but I believe it is the case that they have the authority to allow a student to pay it back and not simply demand, in your case, the full \$1,000, or else the student is ineligible. So- and so we used to say that in some cases it may be beneficial for a school to get authorization from the student to turn it over to the Department right away. If the student doesn't have the ability to repay it right away, they're actually better off being reported to the- referred to the Department because there will be- they'll be able to give that student- put that student on a payment schedule to repay it back.

MR. MARTIN: But I'm going to ask Denise or David to confirm that I am not an expert in debt collection by any stretch of imagination, but I believe that is the- that is our protocol. But I will definitely make sure that I'm correct about that. So I believe, though it's not enshrined anywhere in reg, I believe that it does- that that is currently what our

practice is and that we are interested in getting students eligible as soon as possible and not having them have to forego their education because they owe \$1,000 in- I mean, they do owe it. There's no getting around that. If it's student fault, they- [inaudible] fault, but overpayment due to the student's actions, then that individual has to repay it. There's no getting around that. But the whole idea is, can the student remain eligible and can there be terms? And anytime someone's entered into a satisfactory arrangement, either with the school or with us, they are eligible. So I'll leave it at that and then see if anybody else has any comments or knows more about that process than I might. So pleading a little bit of ignorance there, but thinking that I do have it mostly correct.

MR. ROBERTS: Dave might be bailing you out here. Dave, do you want to add something?

MR. MARTIN: Yeah. Come bail me out.

MR. MUSSER: Anytime, Greg. So, there are- there's quite a bit of flexibility for the Department's debt collections team to assess the real financial circumstances of students who have overpayments and in general, the debt collections team will find a payment amount that is acceptable to the student, given their financial situation. All of that said, I do think

that the Department can consider suggestions around ways to give those- the debt collections folks potentially additional instruction around, you know, what reasonable payments might mean, that kind of thing. I would hesitate though, to go down the road of full Income Driven Repayment, primarily because at least in the form that it's used for Direct Loans, we- most students get- demonstrate their income using IRS information, and the IRS is directed to give us that. We may or may not be able to have IRS provide personal tax information about income on an ongoing basis, absent a statutory direction for them to do so. Potentially they might, but it's not assured. But at any rate, there are definitely potentially some options that we can look at. So we can take it back.

MR. ROBERTS: Thank you, Dave. And Sophie, did you want to follow up?

MS. LAING: Thanks and thanks for explaining that a bit further. If it's possible to get some more, I guess, clarification or details on, like what those payment plans or options look like that the Department is offering students. that would be very helpful, I think. And then also just to clarify, I think one thing that Greg, you said. So students, if they enter into a payment arrangement with the Department, they do

regain their financial aid eligibility at that point or not, until they pay it off?

MR. MARTIN: They do, once you've entered into a repayment, unless they were to abrogate that arrangement and they gain eligibility. Likewise, if they've entered into a repayment arrangement with the school, the school has a mechanism to indicate that, and then on SLDS, a school can indicate that they've referred an overpayment to the Department. I like to say people should not think of being referred to the Department in the pejorative sense, because in many cases it can be a great benefit to the student. I mean, if the school doesn't- isn't interested in entering into an overpayment- I mean, not overpayment, into a repayment arrangement, and they may not be, then the best bet the student has is to go to- it might be even a better bet for them right off the bat to go straight to referral, right? So the school might give the student a 30-day demand letter. But, you know, I think schools should indicate that, you know, they can or talk to the students and say, you know, we can refer this to the Department right away and get you on a repayment- they can get you on a repayment plan and get this resolved in a more efficacious way. So I would point that out. I also have something in the chat here, I wanted to read it. One of

our people, David [Inaudible], pointed out that the new language states that for Direct Loan overpayments, we were asked about the amount the student is not liable for, and the institution is not required to attempt recovery of a Direct Loan overpayment if the amount is less than \$100 and is not a remaining balance. Federal Student Loan servicers and lenders must write off totals for borrowers or principal interest of 100 days, \$100 or less after 30 days. So that was an intentional amount that's already keyed to a requirement for Direct Loan servicers. Just wanted to point that out. And I thank my colleague David [Inaudible] for pointing that out.

MR. ROBERTS: Okay. I saw- JoEllen, did I see your hand go up and then come back down? Are you- did you want to ask-

MS. PRICE: That was actually my question.

MR. ROBERTS: That was actually- okay great.

MS. PRICE: Was the \$100. So does it include \$100 or does it include anything less than \$100? That was my question.

MR. ROBERTS: Great, great. Glancing at the clock, I'm not seeing any new hands. And I do want to point out, Carolyn, you did post in chat that you had

to add one question related to an earlier- a previous discussion. Did you want to ask that now or make that comment?

MS. FAST: If that would be okay. I just wanted to flag a concern that we have that, although the Department has opened 668.164, there were no proposed changes that relate to what we thought was a pretty significant issue, which is about junk fees on bank accounts marketed to students under that provision related to disbursement of Title IV. And we just wanted to flag that as something that the CFPB has been looking at. And we plan to provide information to the group about the issue and some proposals.

MR. MARTIN: Yeah, you're welcome to provide that to us. We did think about whether we wanted to entertain tier one, tier two is what you're talking about. We- our conclusion was, at this point in time, though, we absolutely agree with you about the existence of junk fees, that was too much to take on at this time. If we do tier one, tier two, we have to involve bankers in the discussions, not anything against bankers, but that's a whole nother level of- for those of you who remember the previous discussions. I also want to- I also would point out we did issue a Dear Colleague Letter on tier one, tier two. Maybe one of my colleagues can drop

that in the chat. I cannot off the top of my head remember what it is. But if someone will be generous enough to drop that in my chat, I will give that to all of you. But thanks for bringing that up. I appreciate it, Carolyn. And back to Brady.

MR. ROBERTS: I'm going to throw it over to Barmak, who I think might be our final comment for the day.

MR. NASSIRIAN: I'll be very brief, but I would beseech the Department to at least consider amendments that are procedurally protected. We are not attempting to regulate bankers. We're attempting to regulate the behavior of institutions that are already subject and well represented to this regulatory proceeding. So we will submit some language that I really hope the Department- you know, given the orders of the difficulty of dealing with reg neg and the master calendar, it's really a lost opportunity not to clean regs up that you have already opened. So we'll submit something later today through Brady. And then we'll see whether you folks may at least think about it. Thank you.

MR. MARTIN: Sure. Submit- please feel free to submit whatever language you have for us to consider.

MR. ROBERTS: Thank you. And that's a

good reminder to everyone on the committee. Any proposed modifications or new regulatory text, feel free to send to the facilitation team. We'll disseminate it and make sure the Department gets it as well. So, thank you. Greg, any final comments or questions for the committee to consider? We have a few folks in the waiting room for public comment. I'll say again, if folks have received a confirmation email that they have a speaking slot today, if you want to start logging on so that we can make sure that we have time to get you in for your comment, I would be most appreciative of that. But, Greg, anything you want to end the day on?

MR. MARTIN: I just was informed that Dear Colleague Letter is Gen 22-14, I believe, so, DCL 22-14, which is available on our Partner Connect site. You can still type in IFAP and probably FSA friends will not like that I said that, but you can. Pull up that website and go under- if you go into the knowledge center, you can click on Dear Colleague Letters in 2022 and 22-14, we did issue a Dear Colleague Letter clarifying some elements of- we didn't make any regulatory changes, obviously, but there are some clarifications, I think, to people's benefit, students benefit, in that Dear Colleague Letter 22-14.

MR. ROBERTS: Yeah, I believe Dave

just posted it in our chat.

MR. MARTIN: Oh excellent. That's fantastic that he did that. So I really appreciate my colleagues stepping up there and bailing me out. Thanks. Nothing else from me.

MR. ROBERTS: Alright. Thank you all for this productive first day. We're going to move right to public comment now. Everyone who would like to join us on camera, feel free to turn it on so members of the public who are addressing can see everyone, and I will actually turn it over to Krystil Smith on the FMCS team to admit our first speaker.

MS. SMITH: Okay, well, I'll go ahead and admit Jasmine Thomas.

MR. ROBERTS: Alright. Good afternoon, Jasmine, can you hear me? I think you're on mute and I can see you. Yep. You're good.

MS. THOMAS: Can you hear me now?

MR. ROBERTS: Yes we can. Thank you and welcome to public comment. You'll have three minutes to address the committee. You'll be given a 30-second time warning when your time is almost up. And your time will begin whenever you start speaking.

MS. THOMAS: Okay. I'm ready. Hi, my name is Jasmine Thomas. I spoke at the public hearing in

April of last year and shared my awful experience at Fortis Institute, specifically in Nashville. I wanted to speak again today because it is important that you keep what happened to me from happening to other students. I am now \$28,000 in debt and don't even have a degree to show for it. I started the nursing program at Fortis in 2020 and expected to be done with the program in two years. This was a stressful time in my life. My husband was serving in the Army. He was deployed to Poland in 2022 for nine months. I was alone with our two young children and I had a long commute to classes. After making it to the end of my program the first time, Fortis refused to give me my degree and prevented me from taking the NCLEX because I had not received a required score of a 900 on the HESI exam, exit exam. The HESI is just a practice test for the NCLEX, but Fortis won't let students graduate without a certain score. Even if a student completed all parts of the required curriculum. I took the HESI a second time and received an 883 the first term, but the school had increased the required score from an 850 to a 900. I filed a complaint with the Tennessee Higher Education Commission, but they did not do anything. I had to take the final nursing course again and take the HESI exam for a third time. This time during the second term of this- of the school, I scored- of the

class, I scored a 954. That still wasn't enough because Fortis added a new standardized test two weeks prior to graduation. Apparently my score was not high enough on that test, and I was half a percentage point short of passing the course and graduating. I filed another complaint with the Tennessee Higher Education Commission, but they ruled against me and both of my complaints. I also filed complaints with Fortis' accreditors, including ACEN, A-C-E-N, and ABHES, A-B-H-E-S, the nursing program accreditor for ACEN and the national accreditor being ABHES. ACEN had a policy that using exams like the HESI to keep students from graduating was not a best educational practice, but that did not matter. Neither of the accreditors helped me. I have spent a lot of the past year trying to advocate for myself and understand what happened. I've read about how it's considered a high stakes exam, and when the schools use the HESI to prevent students from graduating and the schools use high stakes exams to protect their NCLEX pass rates, and how the maker of the HESI says schools should not use the exam to prevent students from graduating.

MR. WAGNER: You have 30 seconds remaining.

MS. THOMAS: But nothing I have read has helped me understand why schools are allowed to do

it. My time at Fortis was financially and emotionally devastating for my family. I am here to ask the committee to do something so that does not happen to other students. Thank you for your time.

MR. ROBERTS: Thank you, Jasmine, for your comment. Appreciate it. Who do we have next?

MS. SMITH: So, our next speaker is Dale Sanders. He's the director of retail operations from the University of Missouri System.

MR. ROBERTS: Good afternoon, Dale, can you hear me?

MR. SANDERS: Hello? Can you hear me?

MR. ROBERTS: We can. Yes, we can hear you and see you. Welcome to public comment. You'll have three minutes to address the committee. You'll be given a 30-second warning at 2 minutes and 30 seconds and your time will begin whenever you're ready.

MR. SANDERS: Good afternoon. My name is Dale Sanders. I'm the director of retail operations with the University of Missouri. The changes being proposed in section 668.164(c) (2) will increase course material costs for students by effectively eliminating the incentive for content providers to reduce the cost of course materials through strategic affordability programs. In 2014, the University of Missouri launched

its first course Utilizing Inclusive Access Materials, a program we now call Auto Access. Auto Access was originally developed and implemented as an attempt to reduce the cost of course materials for students at the four institutions within the University of Missouri system. In the last 12 months alone, Auto Access has saved our students over \$7 million on course materials. Students in these courses have access to their materials digitally on the first day of class, eliminating delays and learning brought on by various availability issues surrounding traditional print textbooks. Under the current rules, course materials cannot be included in auto access unless they are quote "below competitive market rates." Though this current language is vague, it provides a structure that institutions can use to incentivize content providers to lower their costs. At the University of Missouri, we interpret this line to mean that materials in our Auto Access program must be the most affordable option available or it is not included. Additionally, under current rules, there is a provision that requires institutions to allow students to opt out of these programs. With regards to the opt-out policy, issue paper one expresses concern about the lack of disclosure and transparency. If additional transparency is needed regarding opt-out availability,

perhaps consideration could be made for adding to the current language with additional guidelines. At the University of Missouri, we notify students of their ability to opt out over email no less than three times; when they enroll in the class, on the first day of class, and before the opt-out deadline two weeks into the semester. Talking points are provided to faculty for use on the syllabus that communicate opt-out information. Students can opt out by going directly to our campus bookstore websites, directly on the course within the LMS, or by contacting our bookstores in person or via email. Inclusive Access programs like Auto Access and equitable access programs help to change a long time national trend of increasing course material costs. According to the US Bureau of Labor Statistics, after years of significant annual increases, the price of college textbooks has remained flat since 2017, despite high national inflation in recent years. I believe this is due in large part to the nationwide adoption of programs like auto access. As a result of the 2015 regulations-

MR. WAGNER: You have 30 seconds remaining.

MR. SANDERS: -the changes proposed effectively turn back the clock on student course

material affordability by unintentionally driving up the cost of course materials under the guise of increasing transparency. The best interests of our students and the University of Missouri system are always our primary concern. It is on their behalf that I ask the committee to reject the proposed rules within this section. Thank you.

MR. ROBERTS: Thank you for your comment, Dale. Krystil, who do we have speaking next?

MS. SMITH: Our next speaker is Nicole Allen representing S-P-A-R-C, SPARC, and Nicole is on.

MS. ALLEN: Thank you so much. Hi.

MR. ROBERTS: Good afternoon.

MS. ALLEN: Good afternoon.

MR. ROBERTS: You'll have three minutes to address the committee. You'll be given a 30-second warning at 2 minutes and 30 seconds. And your time will begin whenever you're ready.

MS. ALLEN: Awesome. Thank you. So hi, everyone. I'm Nicole Allen, Director of Open Education at SPARC. We're a nonprofit organization that advocates for open and equity and education. And I want to appreciate-express just appreciation for the Department and committee members and the complex and thoughtful discussion you had earlier on the books and supplies

provision, 668.164(c)(2) and we fully support the proposed changes. Our understanding is that the proposal would essentially reestablish the longstanding consumer-friendly practice of requiring student authorization for the use of Title IV for books and supplies costs. You know, I know much of the discussion focused in on, like cosmetology kits and scuba gear, but this issue is actually much broader. As we heard, this rule is being applied to sort of run of the mill textbooks and other course materials through the so-called Inclusive Access model, which are used at many institutions to provide textbooks for individual courses and even packages that include all of the textbooks for a program at a flat fee. And we share the concerns raised by the Department and negotiators that the existing rule is going to allow students to be automatically billed for materials that they could instead purchase from other sources at a lower price, and it gives them less control over their critical and really precious at this time Title IV dollars. We hear from our campus members how textbook vendors have leveraged this provision to negotiate, you know, special deals with many institutions, deals that are often of greater benefit to the publisher or vendor than the students, since, you know, their products get to be automatically billed to students rather than having to

compete for students' business like they have historically. And, you know, we've seen how textbook prices have skyrocketed. And now that more textbooks are becoming digital, I think we need to be extra intentional about preserving student choice. Being able to shop around and vote with their feet is the only check and balance students have left in the marketplace, and they can't do that if they're being automatically billed under the current rule. The Department's proposal would simply mean that institutions have to get authorization from students before these charges are added to their Title IV Aid. There's no reason why this would result in increasing costs at campuses with these Inclusive Access programs. They could simply continue under an opt-in model where students opt-in rather than having to opt-out. And if the programs offer the great deals and value that they claim, there's no reason to think students wouldn't choose to opt-in. And for that reason, I would urge the committee to remove the entire paragraph of (c) (2), including the exceptions for health and safety reasons, or if the [30 seconds] is the only source of the material. if there is really a compelling health and safety reason, or if the institution really is the only source of the material, there's no reason students wouldn't choose to use their Title IV Aid to pay for

that, if that's what they want to do. So in closing, I just want to say thanks for the hard work you're doing and for the chance to comment. And again, we fully support the Department's proposal in (c) (2) and actually recommend striking that entire paragraph.

MR. ROBERTS: Thank you, Nicole, for your comment. Who do we have next, Krystil?

MS. SMITH: We have Steven Kish. Steven is a professor at Zane State College.

MR. ROBERTS: Good afternoon, Professor Kish. Can you hear me?

MS. SMITH: You're on. You're on mute, Professor Kish.

PROF. KISH: I'm an anatomist, not a computer scientist. Yes, I can hear you.

MR. ROBERTS: Great. Good afternoon and welcome. You will have three minutes to address the committee. You'll be given a 30-second heads up when you're at 2 minutes and 30 seconds, and your time will begin whenever you start speaking.

PROF. KISH: Good afternoon. I've been an educator for 27 years. In that time, many products and ideas have been pitched to help student learning and increase knowledge retention. Inclusive Access is the program that's delivered on both. Inclusive Access has

made educational materials more accessible and affordable. My students used to pay \$500 for a textbook and a lab manual for a two-semester anatomy course. Inclusive Access provides the text and lab manual for \$115. That's \$57.50 per semester. It's a cost reduction of 77%. I teach at a community college where many students are older, have jobs and families that prevent them from attending classes between the hours of 8 a.m. and 2:30 p.m., combining online course delivery with digital course materials allow students to access information at times that better fit their schedule. In the past, many students did not have access to their course materials until days or even weeks into a class. Now, students are using Inclusive Access programs and have access to course materials on or before day one. Inclusive Access provides me and my students access to the text, robust animations, and simulations that allow me to review materials with the students over zoom as if we were in the lab. The digital course materials today provide students with a variety of tools to increase information retention. The program I use requires students to be honest with themselves about their level of understanding. As students progress through the program, their retention along with their confidence increases. Before I started using digital courseware

coupled with Inclusive Access in the summer of 2018, my pass fail rate was 50/50 for 2017-2018 academic year. Now, pass rates as a whole are in the high 70s and mid 80s, having programs that allow the students to review information at their own pace and provide them immediate feedback, has boosted their confidence and their performance. I would like to end my statements by asking this question, why are you looking to keep students from using financial aid to purchase their course materials through programs like Inclusive Access, which ensure all students have the choice to receive their course materials on or before the first day of class, and at the lowest possible price? About 90% of the students at my institution receive financial aid. Removing the ability to access Inclusive Access programs would force them to spend more money on their course materials. The cost savings alone should warrant the use of financial aid dollars for Inclusive Access. Students are better prepared to succeed in their chosen career field with Inclusive Access, and I would urge the committee to allow students to use their Federal financial aid monies to purchase their course materials through Inclusive Access programs. Thank you very much.

MR. ROBERTS: Thank you, Steven, for your comment. Krystil, who do we have next?

MS. SMITH: Next we have Katie Wagman. Katie is representing herself.

MR. ROBERTS: Alright. Good afternoon, Katie. Can you hear me?

MS. WAGMAN: Yes, I can. Can you hear me alright?

MR. ROBERTS: We can. We can see you as well. Welcome to public comment. You'll have three minutes to deliver your public comment, and you'll be given a 30-second heads up at 2 minutes and 30 seconds, and your time will begin whenever you're ready.

MS. WAGMAN: Perfect. Thank you so much. I support the proposal to eliminate the provision allowing institutions to include the cost of books and supplies as part of the tuition and fees. As a student at UCLA, I have plenty of experiences with programs like Inclusive Access. On my campus, we are opted into these fees and are automatically charged for materials that are given to us from our classes without giving students the option to shop around for used materials, share materials, or to find alternative sources. Just last quarter, I walked into class and was told that I would need to pay \$100 on the spot to access Pearson, which would include not only my book but also my homework. This was not in the syllabus, nor was it told to us

previously. Since all of my homework is only available through this interface, I had no choice but to buy it. That money could have gone towards my food, my bills, or my tuition. As a low-income student, I am disproportionately affected by these programs. These costs should not be something that students need to worry about. Even worse, the contracts that these programs use often limit the number of papers- paper copies provided, creating a lack of accessibility for students with diverse learning needs. These contracts also typically include quotas for participation to uphold the proposed discounts, as well as undisclosed discount structures. I am particularly concerned with the fact that there are confidentiality clauses that mean that only the campus bookstores can see these contracts, creating a lack of accountability and transparency for the institution. Further, the UC System wants to move forward with UC Davis's Equitable Access Program, which charges students a flat fee for all of their materials, regardless if their materials even add up to that cost. This is unfair to students who are in courses that use OER and are not participating in these equitable access programs, but are still forced to opt into these programs to subsidize other students' costs. After having talked to students across the UC campuses, many students share these same

concerns, especially when these fees can start at almost \$200 a term. I am worried that programs like these will still be able to function, even if the Department does eliminate the regulation that allows Inclusive Access. I am worried that making an exception where the institution is the only option for accessing textbooks could easily be exploited. There are so many tricks where publishers make us buy access codes or custom content that is really no different than the last edition, that I worry that they will find a way around it. Equitable access still carries all of the same contract issues and lack of transparency as Inclusive Access programs do, and I ask the Department to please consider this as well. Thank you for your time and consideration.

MR. ROBERTS: Thank you, Katie, for your comment. Alright, Krystil, who do we have next?

MS. SMITH: We have Angela McMillen. Angela is representing herself.

MR. ROBERTS: Alright. Good afternoon, Angela, can you hear me?

MS. MCMILLEN: Yes. Can you hear me?

MR. ROBERTS: We can. We can see you as well. Welcome to public comment. You'll have three minutes to address the committee. You'll be given a 30-second heads up and your time will begin whenever you are

ready.

MS. MCMILLEN: Okay. I'm ready. As I said, my name is Angela McMillen, and I'm a Navy Veteran. I enrolled in the University of the Rockies, which later became Ashford University during my attendance. I wanted to share that my concerns about Ashford should have been prevented with better oversight. I obtained a master's degree in psychology, health and wellness from the school in 2014 and transferred into a PhD program. Despite promises, the school failed to obtain accreditation from the American Psychological Association. The school also converted the Ph.D. program I enrolled into to a PsyD program, but failed to provide the curriculum that was necessary for the PsyD program. After seven years at the schools and over \$140,000 in loan, I ended up with only a master's degree and one that no one even recognized as a psychology degree. When I embarked at the school, I was assured the institution was going to get APA accreditation. Regrettably, those assurances remained unfulfilled. Further, while I was enrolled, the doctorate program changed from that PhD to a PsyD, which altered the focus of the curriculum. As somebody who is deeply passionate about research in psychology, this change did not align with my academic and career aspirations. Plus, the PsyD program did not include clinical work that is

necessary for a PsyD degree. And my dissertation was supposed to include work with clients, but there were no clinical hours. The longer I attended, the more I realized I had been duped. I ended up withdrawing from the PsyD program. After leaving, I was unable to transfer or build on any of my credits because other schools did not view my master's degree as a psychology degree. I learned that all of my psychology courses were designated as Ashford as org for organizational program courses, instead of psy for psychology program courses. I'm sharing my story because I think the oversight agencies should have understood that what the school was describing to students was not actually what the school was providing. I thought I received a master's in psychology and transitioned to get the PhD in psychology, but certainly the school's accreditors should have understood that what was being offered by the school would have not been recognized by any other institutions as an actual psychology degree, and at least should have known that a PsyD program requires clinical hours. Thank you for your attention on this urgent matter.

MR. ROBERTS: Thank you, Angela, for your comment. We appreciate it. Alright. Krystil, who do we have next?

MS. SMITH: Next, we have Dr. Michael

Moore. Dr. Moore from the University of New Hampshire.

MR. ROBERTS: Great. Good afternoon,
Dr. Moore. Can you hear me?

DR. MOORE: Yes, sir. Can you hear me?

MR. ROBERTS: Yes, sir. We can see you
as well. Welcome to public comment. You'll have three
minutes to address the committee. You'll be given a 30-
second heads up. And your time begins whenever you're
ready.

DR. MOORE: Great. Good afternoon, Mr.
Martin, commissioners, committee negotiators. I
appreciate the opportunity to provide public comment
today. My name is Mike Moore. I'm an affiliate research
assistant professor at the University of New Hampshire.
I'd like to provide comment for section 668.164,
subsection C, parts one and two, with respect to
including the cost of books and supplies as part of
tuition and fees. As an academic researcher, I spent the
last several years attempting to understand how having
access to course materials impacts a student's ability to
successfully pass or complete a course. The course
intervention model is born out of the committee's
language change in 2016 helped solve a centuries-long
challenge of ensuring that all students had access to
their required courses without barriers, based on their

socioeconomic status. The literature and research are clear and pointed in the assertion that course materials serve as a barrier to higher education access for a large population of students. Not having access, or the ability to acquire required courses, forces students to delay or defer necessary courses, or prevent students from potentially pursuing a major that aligns with their hopes and aspirations of pursuing the American Dream. Through my research and the research of others, we have learned that students ability to have day one access to course materials through intervention models, commonly referred to as inclusive and equitable access, solve the barrier of access for students unlike any intervention in the last 150 years of higher education. These intervention models are also helping students be more successful in the classroom. Even the most critical study on these intervention models has shown students participating in one of the models are 7% more likely to pass a course with a letter grade C or better than in previous semesters. The effectiveness research on these intervention models show that underrepresented student populations are experiencing exponential benefit by having unprecedented access to course materials. In both my Inclusive Access studies, students who identify as Black experienced nearly a 13% increase in success rate,

letter grade C or better, when comparing pre and post implementation populations. In my Equitable Access Study, which was completed at two two-year institutions, students who had identified Black and opted out of the Equal Access Program were 21% less likely to complete their course than students who identify as Black and stayed in the program. Additionally, in the Equitable Access Study, Pell Grant recipients who opted out were 17% less likely to complete their course than Pell Grant recipients who stayed in the program. Higher education in the United States has long made course materials a required part of participation. However, until the regulations were modified in 2016 to allow for these charges, there's been little done to remove the institutional barriers of access to course materials that has prevented under-resourced students from achieving their aspirations of bettering their lives and the lives of those around them. [30 seconds] I implore the committee to continue to allow the use of Title IV funding to be used as part of these intervention models and reaffirm your commitment to the American Dream for every student who is willing to attempt to change their fortunes through education. Thank you.

MR. ROBERTS: Thank you for your comment.

MS. SMITH: Brady, next we have Annabelle Folsom. She's with the PIRG and the University of South Florida.

MR. ROBERTS: Alright. Good afternoon, Annabelle, can you hear me?

MS. FOLSOM: Yes.

MR. ROBERTS: Excellent. Welcome to public comment. You'll be given three minutes to address the committee, given a 30-second heads up, and your time will begin whenever you're ready.

MS. FOLSOM: Okay. Thank you. Good afternoon everyone. Like she said, my name is Annabelle and I am a student at the University of South Florida. Thank you so much for giving me the opportunity to speak today. So my university currently operates using an opt-in system for textbooks rather than an opt-out. So I have the autonomy to choose whether I want to opt-in, which I think is great. I cannot be- imagine being at another school and being automatically opted in by my university because as a college student, I have a low budget and I like to be able to compare the costs of my textbooks. I don't think that institutions should be able to add books to a student's tuition bill without their authorization, and textbook programs should be opt-in, not opt-out. And if these hidden opt-in fees were automatic at my

university and included in my tuition, I would just likely end up paying it without being able to shop elsewhere for my course materials. And I know that many students are currently dealing with this all across the country. Further, as a Pell Grant recipient myself, I want to be a good steward of the money that I am given from the Federal Government. And I don't want it to be automatically applied to expensive resources when I could be comparing costs with used books or rentals to find the most affordable options for me. So the Department's proposed change to the rule would give students back the ability to shop around. I think that the Department could go further by completely eliminating an institution's ability to automatically bill for books and supplies as part of tuition fees. Allowing institutions to do this if the material is not offered elsewhere would maintain yet another loophole for publishers. They could make customized materials for individual campuses to get around this provision, and still automatically bill students for them. Thank you.

MR. ROBERTS: Thank you, Annabelle, for your comment. Krystil, who do we have next?

MS. SMITH: Next we have Shahrooz Moosavizadeh from the Spartans All Inclusive Learning program at Norfolk State University.

MR. ROBERTS: Excellent. Welcome, Shahrooz. Can you hear me?

PROF MOOSAVIZADEH: Yes, I can. Happy New Year everyone, and greetings from Norfolk, Virginia. I'm Shahrooz Moosavizadeh, professor of mathematics and the director of the Inclusive Access Program at Norfolk State University, NSU. NSU and HBCU institution is home to a significant number of first-generation college students, where over 90% of our students receive some kind of financial assistance. As chair of the Department of Mathematics at the time, I introduced the Inclusive Access Program at NSU due to the fact that a large number of our students simply could not afford the cost of course materials, especially the cost of online homework software. I began the program with 49 courses in fall of 2018. It grew to include over 403 sections university-wide in less than four years. Today, the program encompasses all courses and sections at NSU with a flat rate of \$25 per credit hour. No additions, no extra charges. Flat 25. That translates into \$375 for five classes, 15 hours, regardless of the discipline. As professor of mathematics, I feel obligated to share some data on the success of our program with you. We surveyed 3,976 of our 5,300 students last academic year, that is 75% of our student body. I'm happy to report that the

saving to our students was \$2,539,544, 92% of our students said the program saved them time in shopping for course materials. 86% claimed the program better prepared them for their academic term. 83% reported that the program had a positive impact on their academic success, 91% found it convenient to have their course materials bundled and ready for them on the first day of classes, 83% felt the program provided them with more affordable course materials. 89% said they were likely to recommend the program to other students. [30 seconds] Spartans All Inclusive Learning Program, or the SAIL Program at NSU, is today part of the culture of NSU. I conclude with expressing my highest support and commitment to the success of Inclusive Access programs- program at the higher ED institutions nationwide. And I truly am going to finish with a question for the committee members. Why are we questioning a very successful, entirely student-oriented program today? To change now is a travesty. Thank you very much for the time for allowing me to address you.

MR. ROBERTS: Thank you for your comment. Krystil, I believe we're on our last speaker for the day. Who can I introduce?

MS. SMITH: We are. It is Kelly Denson from the Association of American Publishers. It looks

like Kelly might need to- she's still connecting to audio. She might have to accept the join audio button. She probably needs to click that.

MR. ROBERTS: I can message her as well.

MS. SMITH: I could. Reach out to her. Alright, there she is. Alright. And you're on mute now, Kelly.

MR. ROBERTS: Great. Kelly, can you hear us?

MS. SMITH: You're still on mute, Kelly. There you are.

MS. DENSON: Okay, can you hear me now?

MR. ROBERTS: Yes. Welcome. You will have three minutes to address the committee. You'll be given a 30-second heads up at 2 minutes and 30 seconds. And your time will begin whenever you're ready.

MS. DENSON: Great. Thank you. Good afternoon. I am Kelly Denson, speaking for the Association of American Publishers. We urge the Department to retain the current provision under cash management crediting a student ledgers account rule that allows institutions to include the cost of books and supplies as part of tuition and fees. Such access and

affordability course material programs, such as Inclusive Access offer low-cost, high-quality course materials to college students and dramatically increase faculty and student choice and deliver particularly strong benefits to low-income and at-risk populations. By way of background, access and affordability programs were developed by colleges and universities during the Obama Biden Administration, when the Department issued Federal guidance, creating an important mechanism for institutions of higher learning to include course material expenses as part of tuition and fees, with a caveat that those materials had to be offered to students at a low cost- at a cost below the competitive market rate. This move enabled low income students to pay for course materials through their Federal grants and loans rather than going out of pocket, providing significant relief to those struggling to afford their degree. In the years that followed the introduction of these programs, the positive impact has been nothing less than extraordinary. More than 1900 colleges and universities from across the country now offer access and affordability programs. The response from students has been extremely positive as well. In just one example, 83% of students surveyed at Norfolk State, as you just heard, University, said that such programs had a positive impact

on their academic success, and 89% said that they would be likely to recommend the program to other students. The call to retain the rules is made even more urgent by recent independent academic research that found substantial increases in course completion rates for underserved groups participating in these programs. In particular, Black students completion rates were found to climb by 21%. In terms of affordability, these programs have contributed to a dramatic 57% decline in student spending on course materials over the past decade, according to independent research group Student Watch. As part of that ongoing trend, students now spend an average of just 310 a year in the category, according to the 2023 Trends in College Pricing and Student Aid Report from the College Board. In short, these programs are an essential tool for making higher education affordable to a broader range of Americans. Additionally, these affordability and access programs accelerate student access to high quality course materials, providing them seamlessly on or before the first day of class and dramatically improve student outcomes and retention rates. However, the proposed new regulation would make it more difficult for students to apply their Federal Student Aid to course materials, thereby essentially eliminating a program that benefits low-income students. Affordability and access programs

will, of course, continue to improve and evolve over time. We are committed to enhance transparency and disclosure for students, but there is simply no good reason to threaten the extraordinary progress that these programs have made in terms of affordability and improve student outcomes [30 seconds] over the past eight years. The Department of Education and the current administration must act decisively to protect these essential programs, preserve the progress that has been made over the past decade, and invest in a better future for all of our nation's students. Thank you.

MR. ROBERTS: Thank you, Kelly, for your comment. Alright. that's going to conclude day one of week one of this 2024 negotiated rulemaking. We will pick up tomorrow promptly at 10 a.m. eastern to resume discussion. But I want to thank all of our negotiators and members of the public today for listening in and contributing. Thank you.

Zoom Chat Transcript

**Program Integrity and Institutional Quality- Session 1, Day 1, Afternoon,
January 8, 2024**

***Chat was copied as presented, as a result minor typos or grammatical errors
may be present.**

P, Jessi Morales, Student/Borrower to Everyone:

I have my hand up.

Barmak Nassirian (P) Vets to Everyone:

I propose deleting ", without" and replacing it with "after" in the text below: (A) Tuition, fees, and institutionally provided room and board, as provided under paragraph (c)(1)(i) of this section, without obtaining the student's or parent's authorization

P. Jo Blondin, Community Colleges to Everyone:

My alternate, Michael Cioce, has a comment.

Joe Weglarz - P (NACUBO) to Everyone:

My alternate, Dominick Chase may have a comment

P Jason Lorgan Public 4-year Higher Ed to Everyone:

I agree with Jillian. It appears those who list books more transparently are being singled out for their transparency. If a school buries the book charge in tuition, it is OK and if schools are transparent, it is not ok.

Barmak Nassirian (P) Vets to Everyone:

I agree with Jillian: schools can charge tuition and include "free books/supplies" as part of that. The scenario we're talking about is where tuition is set at a given, and then additional charges for books/supplies are automatically paid if the material is otherwise unavailable from other vendors/sources.

P, DC, HBCUs, TCUs, MSIs to Everyone:

My alternate @A - D'Angelo Sands - HBCUs, TCUs, MSIs will be stepping in for me for a few.

Barmak Nassirian (P) Vets to Everyone:

I can answer the question

P - Carolyn Fast, Consumer/Civil Rights to Everyone:

My Alternate Magin Sanchez is going to come on to make a comment.

P, Jillian Klein, Proprietary Instit to Everyone:

Replying to "I agree with Jillian..."

I believe current state, institutions (at least this is what we do as at very least a best practice) in this scenario would still have to figure out what portion of what is being charged for tuition is for books and provide an opt out. If not, what you are suggesting actually makes the problem worse -- because institutions could hide exorbitant prices for books in "tuition"

P, Jessi Morales, Student/Borrower to Everyone:

Stable doesn't necessarily mean affordable.

A - Dom Chase, Business Officers to Everyone:

In an environment where inflation is increasing, stable pricing in the aggregate is a price cut in real terms.

P - Erika Linden - Private/Nonprofit to Everyone:

Alternate Scott Dolan will be commenting for private nonprofit

Kevin Wagner-FMCS Facilitator to Everyone:

Just a reminder that comments by the negotiators are limited to 3 minutes. Please be mindful that comments should be used to bring new dialogue and not reiterate or offer support of another idea.

P, Jillian Klein, Proprietary Instit to Everyone:

Greg/Denise, the scenario I am mentioning is the student received \$10 in FSA funds and is owed a \$100 refund, what is ED's authority to place requirements on the \$90 that are from non-TIV sources.

P. JoEllen Price, Financial Aid Administrators to Everyone:

Alternate Zack Goodwin has a question.

Barmak Nassirian (P) Vets to Everyone:

My alternate will step in to make comments

(A) Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Question: Does the proposed revision to §668.164(h)(1) mean that no credit balance on a student's account, when issued but cannot be delivered to the student, could escheat to the State?

Joe Weglarz - P (NACUBO) to Everyone:

So sorry, need to leave for an appt. My alternate will be in my seat

Carolyn Fast to Everyone:

I have a comment, but it relates to cash management in general, so would like to make the comment after we conclude discussion of this section

P, DC, HBCUs, TCUs, MSIs to Everyone:

@department of Education, just a notice, can you ensure all mention of "days" are either stipulated as calendar or business "Days".

P, Jillian Klein, Proprietary Instit to Everyone:

Reacted to "@department of Educa..." with 👍

P. Jo Blondin, Community Colleges to Everyone:

Agreed, DC

Dave Musser, ED to Everyone:

Cash management Dear Colleague Letter referred to by Greg a moment ago: <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-10-13/cash-management-tier-one-and-tier-two-arrangements>

Barmak Nassirian (P) Vets to Everyone:

everything we hear about "inclusive access" was said about preferred lender lists, the big difference being that not even the lenders went so far as to demand being the automatic choice. All the good that "day one" access provides can still be achieved with an opt-in system.

P, DC, HBCUs, TCUs, MSIs to Everyone:

@Department of Education, I would propose to change wording from health and safety to financial reason. Or we remove the entire wording and only discuss that universities must only have an opt-in option for cost of books and supplies as part of tuition and fees.

