



[MARIANNA DEEKEN:] We would like to welcome you to this session on the general and non-loan programmatic issues. These are the new regulations that were published on October 29, 2009. My name is Marianna Deeken. I am a training officer with Federal Student Aid but I am actually currently detailed to the office of postsecondary education and working with them on the current round of negotiated rule making. I am presenting today with Brian Kerrigan, who just told me he does not really have a title so I could make one up, but Brian works in policy in the office of postsecondary education, so I am glad to be working with him today. Our job is actually to talk with you about the regulations that were published and it was a big package, formally internally we call it the Team V package, and it contained a whole lot of stuff and the two Pells in a year stuff so the two Pells in a year is actually in a different room at the same time if you really wanted to be there, we will wait now while you leave. We actually are going to talk about most of the rest of the stuff that was in that package that includes a lot of the campus safety disclosures as well as students with intellectual disabilities and readmissions of servicemen and a whole bunch of other stuff that was in that package.

We are first going to talk about the campus safety disclosures and we are going to do it really fast, like you just saw, as I bump up against the thing and it slides through 6 slides all at once. We are going to talk about fire safety, missing students, emergency notification, and hate crimes.

So the first thing I want to talk about today is fire safety and it is important to note that a lot of these provisions were actually effective on date of enactment, which was way back in August of 2008. The regulations are effective July 1, 2010. So what were you supposed to do in the middle? You were supposed to do a good faith effort and do the best you could to implement and so this is just a reminder that the regulations become effective on July 1, 2010, so whatever it is that you did on your campus, and we know you did something because you were supposed to. So whatever it is you did, you need to check whatever your procedures and things are against these new sets of regs and make sure that you are in compliance with what is required. So, the compliance of the fire safety provisions include fire statics, an annual fire safety report, and the fire log, and I am going to talk about all of those things.

It is required of your institution if you have on campus student housing and of course being the department, we define all of these things for you and an on campus student housing is defined as a dorm or other resident facility for students that is located on an institutional campus. So it is anything where students are living that is actually located on your campus. If you have all of these things, you are required to have fire safety procedures. You are required as part of this to collect a whole bunch of statistics and one of the other things that we did in these regulations and believe me, they spend a lot of time on this in negotiated rulemaking, is that we defined a fire for you. So just in case you weren't clear, a fire is an instance of an open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner. Okay, so that is what a fire is in case you wondered. You are required to collect certain information on each one of these fires in each of your on campus housing facilities. One of them is the number and cause of each fire and we actually define cause of fire for you as well. I



won't bore you with that detail. You also have to keep a statistic on the number of persons with injuries that were related to that fire and that resulted in treatment at a medical facility and if you have an on campus student medical campus health center, that would also be included as a medical facility, so anyone who went to the campus health center because of injuries due to the fire. You also have to keep statistics on the number of deaths related to that fire and that could include deaths up to a year out that are actually linked back to that fire and as long as you can reasonably track students that may have, for example, had to leave the institution or separated from the institution because they were unable to continue their education because of injuries. You also have to keep statistics on the value of the property damage that was caused by that individual fire. Remember that a campus we defined a number of years ago because we had to talk about things like campus safety, that a campus is, that the property or building is owned or controlled by the institution and any such building is considered on campus. All of these statistics do have to be included in your annual fire safety report and then be reported to the secretary, which means that we will be collecting all of this information via things like your IPEDS report that you already do. The first annual fire safety report is due October 1, 2010, so you have about a year to start getting this data together. The report has to include your fire statistics that we just talked about, a description of each of your on campus student housing facility fire safety systems, so what kinds of things do you have in place in each one of your on campus residences, the number of fire drills that were held during the previous calendar year, and then whatever policies or rules you have for those on campus facilities that talk about the rules regarding portable electronic appliances, smoking, and open flames. You know, for example, are people allowed to have, what do they call those things, burners, yeah those little burners in their rooms. What about candles, don't forget candles, candles are a biggie. So you have to disclose what your policies are regarding those types of things in your residence facilities. They were dorms when I went to school. I know they are not dorms anymore. Your report also has to include what your procedures are for evacuating student housing, what your fire education and training programs are for your students and facility and staff, what kinds of plans you might have to improve your fire safety if you determined that that was necessary, as well as a list of the titles of the persons or organizations on your campus to which a fire should be reported. So what is, you know, if somebody discovers a fire, what are they supposed to do? Well, probably pulling the little fire thing is the first thing, but, you know, where does that go? Does that go to an on campus fire department? Does it go off campus into the community? You know, after you pull the alarm, what is the procedure after that? So it is important to make sure that you have got the list of all of those procedures in place.

Let's talk a little bit about the fire log. Hopefully you have no fires like this on your campus. It does have to be written and easily understood by anyone who chooses to look at it. It has to include all the fires in your on campus student housing facilities, so you are going to keep a log of every fire that occurs and the fires have to be recorded by the date that they were reported to those individuals that were responsible for getting that report. You have to make entries in the log within 2 business days of receipt of that information. That should be included in the log, so it is important that the log be kept up-to-date. The regs are pretty flexible when it comes to the format that you keep the



log in but it does have to include the information that is shown, the nature, date, time, and general location of each fire. It also specifies that the log has to be maintained in a location that is available for public inspection, at least during normal business office hours on your campus and what has to be available is the information for the last 60 days. If somebody wants to see something that is more than 60 days old, it has to be available upon request within 2 business days of receipt of that request. So if somebody were to come in and say, "Well I want to see from 4 months ago," you would have to provide that information for them within 2 business days. There also needs to be an annual report to the campus community on all the fires that were recorded in your fire log.

We are going to talk about missing students for a little while. We have added a requirement, actually the law added a requirement, because once again, this was effective based on date of enactment. It is just that the regulations now tell you precisely how you need to do this. As part of your annual security report, starting on October 1, 2010, and you know you do an annual security report already, you also now have to include a statement of what your policies and procedures are regarding missing students and it is required of all institutions that maintain an on campus student housing facility. So if you don't have any on campus housing, you don't have to do this. As I said once again, it was effective based on date of enactment. It is contained in the regulations of 668.46, should you want to go look at it. A number of things have to be included in those policies and procedures. The first of them is individuals should report that they have discovered that a student is missing and that notification has to happen after you have determined the student has been missing for 24 hours. Any missing student report that is received by those individuals must be referred immediately to your campus police or security department or if you don't have one, then to local law enforcement and whatever local law enforcement has jurisdiction over your campus and we assume that you would know who that is. It could be city, it could be county, it could be sheriff, it could be whoever. Some other things that are required, the students need to be given the option to register a confidential contact person that would be notified in the event that that individual student has been missing for 24 hours. Within 24 hours of that determination, that contact would be notified that that student is now missing. You need to advise your students that that information is registered confidentially and it is only accessible to the authorized campus officials and that would be whoever it is on your campus that is going to handle the missing student notification procedures and it would not be disclosed to anyone except to law enforcement personnel that would be assisting with the investigation of the fact that individual student is missing. For students that are under 18 who are not emancipated, they need to be notified that their parent or guardian will in fact be notified within 24 hours of a determination that they are missing, but they also have the option to have a confidential contact as well. So it could be that they have to be told that their parents are notified but if they choose to have some other confidential contact, that is also okay. You also need to advise all students that local law enforcement will be notified within 24 hours of the determination that that individual student is missing, unless of course there is a provision that says if it was law enforcement that made the determination that the student was missing, then you don't have to notify law enforcement that the student is missing, because they already know



because they told you. We try to cover every, every eventuality so just in case it was actually law enforcement. Okay, that is all we have on missing students.

We also have added some provisions based on the addition of these in the statute on emergency notification and given some of the horrible things that we unfortunately hear about, it is not surprising that congress decided that they wanted all institutions to be totally prepared. You do have to have a statement of what your policy is on emergency response and evacuation procedures in your annual security report. So you need to make sure that whatever policies and procedures you have put in place for an emergency response and emergency evacuation are clearly spelled out in your annual security report and that would be what that first one that is filed in October of 2010, where you are also going to include your missing students and your fires and all those other things are going to get included in that annual security report next October. This one is actually required of all Title IV participating institutions and once again, it was effective on date of enactment. Some things that your policy is required to have and the first one is you have to have procedures to immediately notify the campus community once you have determined that there is a significant emergency that endangers the health and safety and imposes an immediate threat to individuals on your campus. You need to provide a statement that says that you will without delay in taking into account the safety of the community determines what that notice needs to say. Sometimes it would mean that you might need to tell people to evacuate a certain area, but perhaps without telling them why, because that might endanger their safety, so it means that there needs to be some judgment involved in what goes into that notification but that it needs to be issued without delay. You do have to have a notification system and you must initiate that notification system immediately unless doing so would endanger a victim or would otherwise mitigate the emergency. So once again, if it is determined that by notifying everybody to evacuate or to stay away from a certain area would endanger a victim or would otherwise make the emergency worse, you need to find another way to do it, but you need to make sure that you don't endanger an investigation either.

Some other things that you have to have in your policies is that what process that you are going to have in place, first off to confirm that there is in fact an emergency, determine who on campus needs to be notified. Sometimes it can be, maybe it is limited to students that are in student housing. You know, it is everybody in the location of the science complex. Maybe it is a certain part of your campus that is somewhat separate from another part of your campus. So, it is possible that not everybody on campus needs to know but it is possible that you may need to determine that only a certain segment of the campus needs to know that there is an emergency. Determine what the content is and determine who is going to initiate that emergency system and remember that an emergency is considered to be an immediate threat to the health or safety of students or employees on your campus. You need to have in your policy the list of the titles of the persons or the organizations who are responsible for carrying out the actions, who is responsible for initiating the emergency. Who makes that final decision to push the button to send the text messages or however you are going to do it and what your procedures are for decimating the emergency information to that larger



community. You also have to have in place a procedure to test your emergency response and evacuations and it needs to be spelled out in your policy what procedures you have in place to test that the system works and it needs to be done on at least an annual basis. Now the test can be announced or you can have unannounced tests but at least one of them has to be publicized in conjunction, I'm sorry, your procedures have to be publicized in conjunction with at least one of the tests that you do each year. You have to document for each test that you perform what the exercise was, the date, time, and whether or not it was an announced or an unannounced test of the system, and remember, you are required to do this at least once. You can do it more than that if you choose to. Now as part of your general overall crime report, which every institution is required to do, when congress reauthorized the Higher Education Act, they expanded the list of crimes that have to be reported to include hate crimes and the hate crimes that are now included include simple assault, larceny-theft except for a motor vehicle, intimidation, and destruction damage or vandalism. Remember that a hate crime is one that manifested the evidence that the victim was intentionally selected based on some sort of bias, be it race, color, creed, sexual orientation, and I think the list goes on even longer than that. This was also effective, as I said, for most of these on date on enactment. So it is important that whoever on your campus is doing your annual crime report knows that once again we have some additional crimes that do need to be reported as part of that ongoing annual report. I don't know why I can't talk right all of a sudden. Construction dust Brian says. Is there construction? He doesn't know. He is making it up.

Okay, peer-to-peer file sharing. This is one we have gotten a lot of questions on for a number of reasons and I will try and cover some of those as I go. There are two places where we added pieces that deal with peer-to-peer file sharing. The first is in your program participation agreement, which is in 668.14 of the regulations, but it is also that big long thing that your CEO signs as part of your contract with the department to authorize the programs. I know one thing we have been asked is does everybody have to go right now and update their PPA and the answer is no. As you go through recertification or as you do any one of the number of the other things that you use our online application for, be it adding programs or whatever, you know how you go through the whole thing and you go through all those certifications, once the system gets updated, it will just be updated as we go through. Then there are some new disclosures that have to be done. Now you are required to make a disclosure to all your prospective and enrolled students. You are not required to notify employees but we encourage you to notify employees of an explicit statement that your institution does not support the unauthorized distribution of copyrighted materials and that may subject the student or anyone else who does it to civil and criminal liabilities and there is a description of your policies on unauthorized peer-to-peer file sharing including what disciplinary actions would be taken on your campus for whatever disciplinary actions there are. One of the questions that we have been asked is for example, our students have no access to computers on our campus. You know, they have to go home to use a computer. So consequently, they can't download an illegal file so we don't have to do this right? Well the answer is yes you do because it is the unauthorized distribution of copyrighted material. That can happen lots of ways including taking a book to a copy machine,



right, and then distributing it. So it is important to realize that the scope of this, while some of it may have come from things like downloading music and distributing it illegally, but there are lots of other kinds of unauthorized distribution of copyrighted material and your institution needs to have an explicit statement that basically says this is not supported, you can't do it, don't do it, find another way to distribute materials. You also need to have a disclosure that summarizes what the penalty is for the violation of federal copyright laws and we will be starting to develop a list of what the civil and criminal penalties are for violations and we will include those in the handbook. We also anticipate that individual institutions as well as other associations and commercial entities will start to develop lists of criminal and civil penalties. We are going to ask, and I forgot to say this at the beginning, so Brian can yell at me because he told me to say this, is that we are going to ask that you wait until the end to answer questions, only to make sure that we get through everything and then we will try and get to as many questions as we can, because we have got a whole lot of stuff here and we understand it is a huge laundry list of things and unfortunately this set of regulations really was a huge laundry list of things, but if we can wait until the end and then we are going to ask that you go to the microphone, I only see one microphone, do you see another one? No, okay, but we will ask that you go to the microphone so that we can hear you as well as everybody else.

So anyway, every institution does have to have a policy as part as your program participation agreement regarding the unauthorized distribution of copyrighted materials. You must agree as part of your program participation agreement that you have developed and implemented written plans to effectively combat unauthorized distribution of copyrighted materials and particularly by users of your network. The one thing that was made very clear is that we expect that institutions will develop these plans without unduly interfering with the educational and research use of that network, which is often used by faculty and students to do research. The written plan for the network has to include what technology based deterrents there may be, what mechanisms you have to educate the community on what is allowed and what is not allowed, what your institutional policies and sanctions are for violations of that and that could be, you know, the mechanisms could be things like, you know, student handbooks. You could have an honor code. You could have a code of conduct that is provided to every student. You could have paper and email disclosures, but all of those things would fit under education as well as notifying students about what your policy is and what sanctions there are for violation of that policy. You do have to have in place a spell out of what the procedures are for handling violations including what disciplinary actions would be taken against students and anyone else for that matter who violates the policy and a procedure to periodically evaluate whether or not your plan is effective. We have not spelled out in regulations if there are any particular technology measures that are required to do this. Your institutions also are going to be required to certify that you will, in consultation with whoever your institution designates and we are typically expecting that this would be a chief technology officer, somebody who is in charge of information services or whoever else on your campus is overall responsible for your network, that you are going to periodically review what the legal alternatives are for downloading material or otherwise accessing copyrighted materials. You are going to



share the results of that annual review or your periodic review with students and that could be done on your website and whatever other ways you're disseminating information to your students. You also have to offer other legal alternatives to downloading and the regulations are pretty clear. It is simply not blocking sites or otherwise blocking the acquisition of the material does not necessarily qualify as offering a legal alternative. So, just because you say well we don't let you get there, doesn't necessarily meet the qualification that you have given them another alternative for requiring material that is copyrighted.

There is another section that got added because these regulations as well as a lot of pieces of the Higher Education Opportunity Act were all about disclosures about educational outcomes. We have added some new requirements that institutions disclose the placement and types of employment that graduates of your degree or certificate programs receive and what types of graduate or professional programs the graduates of your institutions are enrolled in. It is anticipated that you could do this based on what existing data, you know, what existing data your job placement office may have or what other existing data or your campus may have available to it already. We have not specified exactly how you have to gather the data but if you calculate placement rates, then you must disclose them. If you are not required to calculate placement rates, then you don't have to calculate them, but if you are already doing it for some other reason and lots of schools calculate placement rates for different programs, whatever calculations you have, you must disclose and if you also have to disclose what time frame this covers and what methodology you used to calculate the rates. I know that is a little confusing but essentially, there are some schools that are required to have graduation and placement rates, especially for short programs, actually everyone is for short programs but some schools have more short programs than others. We are not saying now that you need to calculate those rates, but if schools are calculating the rates, then you must disclose the rates, as well as the method that you use to calculate them. You also are going to be required to report the retention rates of your certificate or degree seeking first-time, full-time, undergraduates entering your institution, and that is those students, for example, who progress from first year to second year at your institution and a lot of these were also effective actually on date of enactment. Now you are already calculating completion and graduation rates and those have been around since I think the 1992 amendments or was it, yeah the 1992 amendments. Your institution calculates already completion and graduation rates. You know, you have your completion rates, graduation, transfer out, and those calculations haven't changed, but what you also must now do is you have to disaggregate that data and report those same statistics by gender, by a major racial and ethnic subgroups, by those students who receive a Pell grant and a direct loan other than an unsubsidized, by students who get neither a Pell or a direct loan except for an unsubsidized loan, so you are going to have to disaggregate all that data that you are already collecting into specific groups of students who have received certain kinds of aid, students who are a specific gender, and students who belong to certain groups. The only exception is if the number is so small that it would not be statistically valid or because the number is so small, it would reveal personal identifiable information about



a specific student. With that, I will turn you over to Brian, who is going to start by talking about students with intellectual disabilities.

[BRIAN KERRIGAN:] Thank you Marianna. Along with Marianna, I would like to thank all of you for coming here and sharing your time with us and one thing I always say was reiterated I think by the Secretary of Education this morning, we actually can learn as much from you as you can learn from us and perhaps more so and so whether you have comments, questions, or whatever, the exchange that we have with you is important to us and so that is good. Also, on listening, Marianna mentioned a number of things about, you know, gave you reg citations from time to time. It occurred to me what happens at these conferences is that first of all, if you don't show up at the conference, you can download these presentations. Maybe that is good, maybe it is not so good. It is really not so good because there is not enough information just in the presentation itself for you to really know what you are supposed to do. It just kind of alerts you to the fact that there is something there that you have to kind of be aware of. If you come and you listen to a presentation by somebody, well that is better because you get a little more filled in there but it is still not enough. As boring as it might seem, it is really important for you to read the regulations and it always reminds me years ago when the first time I saw this, I never get over it, it just seems so odd, but nevertheless it is the case, when the IRS, if you call up the IRS and you ask them for tax information, they will always have a disclaimer, whether they give it to you or not, there is always a disclaimer that they will not stand behind the information that their IRS agents give to you. We are the same way. We are not going to stand behind anything we tell you up here. If we tell you something and you say, "Ah, Marianna said it, well I am sure it is right," and it is not in the regulations and you get cited for it, well then that is your problem. So we try to be as complete as we can but it is important to read the regulations. It is also, the regulations by the way, look like this. If you have a CFR book or if you, you know, download a federal register publication and you can go to the IFAP webpage and you can download all the regulations and you really should be taking care of that. If you do have a CRF book, it is only up-to-date to a certain date and time, you have to know what is published afterwards. Now this particular set of regulations happens to be in this CRF book but there are things that are published afterwards that you have to kind of be aware of. So it is really your responsibility, so I just want to kind of have you keep that in mind. Also on effective dates, as Marianna mentioned, the law was effective on enactment. The regulations basically are effective come July 1, this upcoming July 1, but there are a number of things in the regulations that are specified at the institution's option you can implement early. It is kind of so what I suppose, because as Marianna indicated, you complying with the law already so if you implement something early or you just continue to do what you have been doing all along, you are going to be okay. There are, if you look at the regulations, there are a few things at your option you can implement before July 1 of this coming year.

Okay, now I will probably screw this up. I never know, but this thing is not advancing. Well, lets see, I don't know. But it doesn't matter anyway because you have to read the regulations and what I say is irrelevant. Okay, students with intellectual disabilities. Anything congress does of course is important. After listening in negotiated rulemaking



to a number of people who were in the community that deals with students with intellectual disabilities a lot, I came to the conclusion that they thought this was pretty important and the department thinks this is pretty important and the concept behind all of this, of course, is that it is a good idea to get people, students with intellectual disabilities, onto the campus for higher education. If they are going to get on campus for higher education, it is probably a good idea to provide them with aid if they are poor students and so congress decided to amend the law and allow these students to be eligible for aid. But even though part of law deals with training these people for gainful employment, I think they recognized that it is unlikely that these students are going to come out and get extremely high paying jobs. So it is not good idea probably to have them take out a lot of loans. So, in fact, they are not eligible for loans. What these students are eligible for are the grant programs and the work-study programs and they apply and qualify the same way as anyone else. They have to be basically you will see later on, they have to fill out a FAFSA just like anyone else. Their eligibility when you look at the statute and you look at the regulations, it talks about the fact that the secretary is authorized to wave a number of eligibility criteria and he has chosen to wave some things and these students, in fact, among, basically the couple of things that they do not have to comply with in terms of what other students have to comply with is, they do not have to a high school diploma, a GED, or an Ability-to-Benefit test if they don't have either one of things and they also do not have to be "a regular student," that is to say, they do not have to be enrolled in a program that leads to a degree or certificate. Okay, let's see if this works now. It does.

Okay as indicated, the secretary is still authorized to wave additional requirements if he so chooses. He hasn't really waved anything else at this point in time. The last bullet or the second bullet on this page is basically indicating that along with all the stuff that Marianna talked about in terms of consumer information, as well as other stuff that she didn't talk about that you have to provide to your students, you also have to provide them with the information about what your school offers to the extent that it does offer anything in terms of services and facilities available to students with intellectual disabilities. Okay, the program that these students have to be enrolled in is called a comprehensive training or transition and postsecondary program. This is a program; it has to be offered by a participating institution. It says it is designed to support students with intellectual disabilities and, as I have already mentioned, it is designed in such a way that is going to lead to gainful employment. This was something that everybody thought was very important, so we made sure to incorporate that concept in the regulations. It also has to include an advising and curriculum structure and it has to require students basically with intellectual disabilities to participate with other students who don't have intellectual disabilities. Now what it talks about that you see some reference in the regulation and in the statute to a half-time requirement. This is not a half-time requirement in terms of the student being a half-time student. Basically what it is talking about is that whatever the program is that you have at your institution, if you have one right now or if you develop one later on, at least half of the students participation in that program has to focus on academic components in a number of areas that they specify and they specify taking regular credit bearing courses or auditing courses or other activities or noncredit courses. All of these have to be taken with



students without intellectual disabilities and again, at least half of the student's participation in this program that is being developed for them has to focus on these academic components. But again, the student can be less than a half-time student as long as whatever he is doing, at least half of his program, is focusing on these academic components. It also says it has to be delivered to students physically attending the institution. During negotiated rulemaking, we had a lot of discussion about this and some people were saying we were disadvantaging these students by not allowing them to take distance education courses. Well in fact, they can take distance education courses. It is just that the entire program cannot be a distance education course or program, because again, congress was very clear in stating that the intent here was to involve these people with other students without intellectual disabilities. So you can't just set up a distance education course. However, you could set up some components of this course to be distance education.

Okay we provided a number of definitions in the regulation. A student with an intellectual disability is a student and provides what they have to be here. I will not read the first part of it, you can read it for yourself, but the second thing is what you really need to focus on. In addition to the first sub-bullet there, these have to be students who currently are or were formally eligible for free appropriate public education under the IDEA. So if this does not mean, and this was another point that was hotly debated, this does not mean that students with intellectual disabilities cannot have been homeschooled students, they can't. However, if they were homeschooled students, they still had to have been eligible, had to have a determination made that they were eligible for this free public education. If they didn't, then they are not going to qualify as a student with an intellectual disability. So they could be homeschooled students but they still would have had this determination made that they were eligible for this free public education.

Okay, the program, by the way, just out of curiosity and I don't expect to see too many hands going up, does anyone know if they have on their campus right now any of these programs offered for students with intellectual disabilities? I would expect there wouldn't be very many people who would raise their hands because as far as we have been able to ascertain, there are not that many programs out there right now. So for the most part, schools are going to be developing these programs and for the most part, they are going to be adding these programs to their list of eligible programs. They are going to do this the same way they deal with any other educational programs they want to add to be an eligible program. They will get onto E-application with the department and they list this new program that has developed and they will say they want it to be a program eligible for Title IV aid at their school. Right now, if they were getting onto E-application, they would just have to just go to question 69 and just fill in the information there. The regulation specifies that they have to give a detailed description of the program and also a policy for determining whether the students in the program are making satisfactory academic progress. Now keep in mind that the law specifies that these students do not have to make satisfactory academic progress in the same way that other students have to make satisfactory academic progress. So, what the school has to do or has the option to do, is they can choose to identify a satisfactory academic



progress policy for these students in the program that they are in, which could be different from the satisfactory academic progress for the rest of your students, because they are specifically exempted in the law from satisfactory academic progress that is defined in certain areas of the law and certain areas of the regulation, but then specifically required to have something developed for that. Okay, the application also and all the stuff is in the regulation, it is going to have to be very detailed information you have provide us. The application is going to have to provide us with the weeks of instructional time, another words, the length of the program. It says credit hours here. It could be a clock hour program, credit or clock hours in the program and description of the educational credential offered or the identified outcomes. I mentioned before these students do not have to be in a program that leads to a degree or a certificate. They can be in a degree program, they could be in a certificate program, or they could be in a non-degree and non-certificate program. If it is the latter, then you are going to have to say what is the basic identified outcome of the program? That information will have to be provided to us and you have to give us evidence, a letter or some other form of notice that you have sent to your accrediting body. There is not a requirement that the accrediting body accredit the particular program. In fact, most accrediting bodies right now probably don't have the expertise to accredit these programs, but we want the accrediting body to be aware of the programs so you have to provide to them basically all the information you are sending to us and you have to provide to us proof that you have sent this information to the accrediting body.

Okay, if the student is going to be eligible, he has to be enrolled in one of these eligible comprehensive transition postsecondary programs, maintaining satisfactory progress, again, this is for these types of students. They have to have filed to FAFSA because we said, we are talking about need-based aid these students are qualifying for and they have to meet the general student eligibility requirements except for what we have already mentioned, a couple of exceptions, they don't have to be high school graduates, recipients of a GED, or have an Ability-to-Benefit test, none of that is applicable to them, and they don't have to be enrolled in a program leading to a degree or certificate. Other than that, they are going to have to meet the general student eligibility requirements. Now, the school is also going to have to obtain a record from the local or state educational agency that the student is or was eligible for special education related services. If they get this record and it does not specify that these are students with intellectual disabilities then the school is going to have to document that some other way and the regulations specify a couple of things in there, such things as, I have never heard of this term before, so I have got to read it, a psychoeducation evaluation and diagnosis by a psychologist or some other qualified professional or there could be a record of disability that might come from a local educational agency or a government entity like Social Security Administration or a vocational rehabilitation agency. Again, the school has to get something like that if the record that they obtained from the local or state education agency does not specify that the student is a student with an intellectual disability.

Okay, switching topics right now. Returning service members. First of all, I won't read this but this what we are talking about, pretty much people know what a service member



is, but this is the specific definition you have to make reference to and in terms of the general requirements. What we are talking about here is congress, in much the same way at an earlier time, they talked about and provided for service members to be able to return and get their jobs back once they have gone into the service and came back. They are doing a similar thing here. If the student goes into the service, then congress is specifying that the schools have to do whatever it takes basically to make sure this student can come back and get back into school. It is a pretty all encompassing requirement and there are some exceptions, we will talk about those. Basically you want to focus on the fact that you have to do this and you have to do this even if it is going to be a burden on you, even if it is going to cost you some money, you have to do this. So you basically cannot deny readmission to a service member. This requirement supersedes any state law. If you have, for example, a state law that says you can only have 100 people in this one program at your school and you have got 10 service members that are coming back and you readmit them and that is going to push you over the 100 members, you have got to readmit those 10 service members. You are going to have to deal with that state law in some other way, because this supersedes a state law.

Okay, you have to promptly readmit the service members with the same academic status and promptly readmit as it says means in the next class or classes in the program unless, there is an exception, unless the student wants to say, "Well I don't want to go into the next classes, I will wait one term and then I will go into it." So that would be an exception. Same academic status means to admit the student to the same program. Again, the exception would be unless the student says, "I am not going to go into the same program, let me go into a different program." You can do that then; you can comply with the student's wishes. If the same program does not exist, he has been gone 3 years, you no longer offer that program, then the requirement would be for you to readmit that student into the program that is most similar to the program that he originally was in with the same number of completed credit or clock hours, the exception would be, suppose he is in a different program and the credit or clock hours he earned before he left are not applicable to that program. Well obviously, they are not applicable. You are not going to move them over. So, basically within reason, you have got to bring him back in the same status.

Tuition and fees. What do you have to charge these students? There was a lot of debate on negotiated rulemaking at this. We originally started off with the concept that you were going to have to charge these students the same amount you were charging them when they left forever. Well, some people said that and some people thought that was a little bit too much. We also were taking about more than tuition and fees originally at negotiated rulemaking, but we kind of moved away from that through the negotiated rulemaking process and also through the comment and response process that is part of publishing the purposed rule and then listening to public comment and then publishing a final rule. So the rule right now is, the general rule is, you are going to, if the student is readmitted to the same program, he is going to be charged the same tuition and fees that he was charged when he left. The exception to that is suppose, in all likelihood this is the case, suppose a student has enough veteran's benefits or other



benefits that are related to the fact that the student is a veteran or a service member to cover the difference, well then that is okay. So for example, when the student left, he was being charged \$5000 a year for tuition and fees, 3 years later he comes back and now you are charging everybody \$7000 a year for this program. Well the first requirement, you only charge him \$5000; however, in all likelihood, he has got veteran's benefits. If the veteran's benefits amount to \$1000, then you charge a student up to \$6000. If the veteran's benefits amount to \$2000 or more, you can charge him the same amount you are charging everyone else because what he was charged before plus the amount of veteran's benefits or other types of service related benefits that he has, if they total up to what you are charging other students, then you can charge him the same as what you are charging the other students. For other programs of course, that is only talking about the same program. If you are talking about for other programs or if you are talking about for subsequent years, then you charge a student the same as you would be charging other students. So it is only for the first year and only for the same program and you have got the caveat or the out that veteran's benefits can come in there to make up the difference, which is almost always going to be the situation.

Academic preparation. Again, we mentioned that, you know, congress, the Department, takes this seriously. You have to do everything in your power to make it the case that this student is going to be able to come back and get into the program. So you have to make reasonable efforts is what we say in the regulation to help them to prepare to resume or complete a program and whatever these reasonable prep things are, they are at no extra cost to the student. So if the student needs some refresher course work, you have to offer that to the student at no cost. You have to absorb that cost. If he needs to take some sort of a pretest that he has already taken and has to retake it, no cost to the student. So you have to do whatever is reasonable there and if it is unreasonable, you don't have to do it. However, you don't want to focus on this thing about whether it is unreasonable or not because basically you have the responsibility, you have the burden of proof to prove that it is something unreasonable if you are going to say you are not going to do this for the student. Preponderance of the evidence, the burden of proof on your part by the preponderance of the evidence has to show that is unreasonable. If you try to do these things with the student and he is still not prepared, well then you don't have to readmit him or if he is still unable to complete, well then, if you have done what you can, you have done what you can. Again, if there are no reasonable efforts that you can make, then you don't have to do these things. That is what the regulation and the law says. Again, however, the burden of proof is on you if you are going to say you have done everything you can and the students still cannot make it.

Okay, we are running short of time, I think. We will probably skip the last few slides and I will tell you why when we get to them, but returning service members readmission procedures. Basically if you just keep in mind you are going to have to readmit these students; that is a good thing to keep in mind. It talks here about the fact that the student is entitled to readmission if the student or someone from the Department of Defense or someone from the Armed Forces gives advanced oral or written notice of the service. So another words, if the student is in a school and he is getting ready to



drop out, he gives you this advanced notice. That is what he is supposed to do. However, there is an exception to that. He may not be able to give this advanced notice if there is some critical mission component or something that would be compromised by him giving you this notice or something along those lines. If he does that, if it is precluded by military necessity he doesn't have to do that, but even if it is not precluded by military necessity and the student does not give you this advanced notice, it doesn't make any difference as long as he comes back later on and simply gives you an attestation of the fact that he was in the service. So even though the statute talks about this stuff, the statute goes on, the regulations track the statute, and they say here is what you have to do, but if you don't do this, the student can always come back and just say hey I was in the service and so it is almost like you don't really need any of this stuff to begin with, but it does talk about it being required with these being exceptions.

Okay, also they are entitled to readmission if the cumulative length of service is 5 years or less, but then it goes on to talk later on about well it is not going to count certain parts of the service as counting towards those 5 years. For example, if the student is in an initial period of enrollment in the service and he gets extended against his choice, against his wishes, well then, you don't count that. So if he comes back 6 years later but they just sent him back to Iraq 4 times or something and he was extended, then the 5 years again is going to stretch out to more than 5 years. There is also a list of about 15 things in the regulation where we gave specific sites if there are specific orders that the student got. Basically, it all amounts to he is being kept beyond his desire to be there, then it can be beyond this 5 years. Finally, it says you give oral or written notice of intent to return so they basically have to do that. The institution has to designate an office for the student to provide this notice to them but they cannot say here is a specific format that you have to use to provide this notice. In addition to that, they cannot attach to it a specific time frame; say you have to do this within 30 days or something like that. So again, the thrust of everything here is that you have got to do everything in your power to readmit these students and you can't put barriers in front of these students by having artificial forms or formats or time frames or things of this nature. The notice of intent to return says has to provide not later than 3 years after completion of the period of service or sometimes a person might be a VA hospital or something. If this extends things on, it says not later than 2 years after the end of the period necessary for recovery. If you get beyond these points in time, it doesn't mean you can't readmit the student, it is just that you are not required to under these provisions. You would then follow your normal provisions you have in your school for leaves of absences and things of that nature as to whether or not you would readmit the student. Okay, it says the student has to provide documentation to establish a couple of things, that he has not exceeded the limitation, the time limitations we talked about, and that also his eligibility for readmission has not been terminated because of something like a dishonorable discharge or a discharge for bad conduct or something like that. So he can bring in, as it says in the example, a certificate of release or discharge from active duty and as long as that is not dishonorable or bad duty discharge, then that would be the documentation that the student could use.



Okay, shifting gears here and trying to speed up a little bit. We have got a number of slides on the federal work-study program but there is really not too much in the new regulations dealing with federal work-study. The first thing they do is they thought it important to add this field of emergency preparedness and response to the list of fields of service included in the definition of community service. This is simply talking about when you get into the regulations in 675.18 they talk about the fact that at least 7% of your community service appropriations have to go towards community service jobs. This is adding one more field for community service here that can go towards that 7%. In terms of cash management, when we published regulations before, we tried, we made a mental note and then forgot about it to update the federal work-study regulations. We come back this time and so we started to update them and we discovered that by statute, federal work-studies differ in a number of areas. So the one thing you want to remember when you are looking at this, this looks kind of familiar, what you really want to focus on here is that when you are talking about cash management for the federal work-study program, you go to the federal work-study regulations and the first thing it is going to tell you in there is you follow the federal work-study cash management regulations and not the regulations and the general provisions in 668.164 for the rest of the program with the couple of exceptions. Because there are statutory exceptions that are pertinent only to the federal work-study program. So you always want to follow cash management rules as outlined in the federal work-study regulations themselves. Now this particular slide here is just talking about what is in the federal work-study regulations. It tracks what is in the general provisions regulation. The difference really, which is not highlighted on the slide is that for federal work-study you always have to get the student's permission to credit his account, whether your crediting his account for current year charges or prior year charges, this is talking about prior year charged or tuition and fees or room and board or anything, you have to get his permission. Whereas with the other programs, you don't have to get the student's permission if you are talking about tuition and fees and room and board charges, whether it is current year charges or prior year charges, but you do have to get permission for the other programs for other charges that they might have.

This here talks about in terms of electronic disbursements. We are trying to encourage schools to go with electronic disbursements. Federal work-study regulations refer then to the general provisions and regulations about these areas and so you have seen this before for the other programs. In these areas, you basically are doing the same thing for the federal work-study as your doing for the other programs. We have a requirement that says you can require, let see here, you can require the student to basically to participate in an electronic format in dealing with her and you can do this for federal work-study as well. However, for everything including federal work-study, if the student says the heck with you or he just forgets to do it, even though you are requiring him to have a bank account and he does not get one, you still have to find a way to pay him. You can't deny him a job, a federal work-study job because he doesn't get a bank account. You can't fire him because he does not get a bank account and you can't hold his wages up. So you can require him to have the account but if he doesn't comply, you got to pay him anyway, so we are just trying to encourage these things basically.



This simply says that they can combine these authorizations together, that didn't used to be the case. You no longer need separate authorizations and in terms in the work colleges program, very small changes. It specifies now that it has to be a four year degree-granting institution if you are going to have a work college program and in this some specificity that is now in the regulation that you see in front of you there. It talks about the amount of service that has to be performed by these students, and again, it can only be at four year degree-granting institutions.

This is simply talking here about the fact that normally the federal share cannot exceed 75%. In these situations where you are talking about students doing these types of activities here that deal with projects to educate or train public in evacuation, emergency response, and injury prevention and stuff, you then can use 100% of federal funds.

Okay, and the last one that is kind of interesting here, I think it is the last one, you can actually pay a student federal work-study wages for not working in certain situations. A very specific situation where you are dealing with a diaster-affected situation, can't do it for more than one year, the payment cannot exceed the amount of federal work-study wages the student would have earned. The match is still going to apply and the student basically is not going to be eligible, he must have been eligible before the diaster occurred and he is not eligible if he is separated from his employment before the major diaster occurred, and the final thing is the student has to be unable to be, you have to be in a situation where you cannot reassign the student for another federal work-study job. If all of those things kick in and basically you will be paying a student federal work-study wages for not working. In another words, you are giving him a grant.

These last things we are not going to go over. These were not part of the regulation. They were just put on the tail end of this thing because a number of people have raised questions about them. If anyone has any questions afterwards, they can come up and ask me. We did publish a dear colleague letter about prior year charges on September 8, 2009 and we laid out some rules that were different from rules we had talked about before, some sub-regulatory guidance as to how you deal with prior year charges. If you don't have any problems with prior year charges, you probably don't have to pay any attention to this. If you do have a problem with prior year charges and you haven't read this dear colleague letter, you should read it and if you have any question on what is in here, you can come up and see me. With that, oh we do have a few minutes, 5 minutes for questions.

[AUDIENCE:] [inaudible]

[KERRIGAN:] Yes, without, my recollection is and I can look it up for you, that if you have a dishonorable or a bad conduct discharge, then you would not be eligible for the benefits that flow from this statute and regular provision about readmission procedures.

[AUDIENCE:] [inaudible]



I don't understand when you say it is based on the veteran's benefits, not on the Title IV benefits.

[AUDIENCE:] [inaudible]

[KERRIGAN:] Well, okay again what we are talking about here is whether or not you have to comply with the provisions for readmitting these service members and you do have to in general for all these returning service members; however, you don't have to comply with these provisions if the returning service member had a bad conduct or dishonorable discharge. Once they get returned and everything, then we are getting into the regular Title IV rules for Title IV aid.

[AUDIENCE:] Hi, I have 2 questions. The first one is related to the peer-to-peer new disclosure; oh you are going to refer to Marianna. I just want to know if there will be a disclosure in the FSA handbook, next year's FSA handbook, just like you do for the annual security notice, will you have a sample, are you going to develop one?

[KERRIGAN:] I don't know if Marianna knows anything about this. I don't know off the top of my head. This is going to be an ongoing process to develop this type of information, so as we get it, we will make it available in the handbook or some other way, but I don't know if there is any plans right now to have something like this. This scenario, we are unfamiliar with right now to tell you the truth, because we have never dealt with this before.

[AUDIENCE:] Okay and my second question is related to the readmission of service members. You were talking about we must have a designated office or offices for these service members to provide advanced oral or written notice?

[KERRIGAN:] Correct.

[AUDIENCE:] Now given that they don't really have to give advanced notice because they can subsequently return and provide documentation that they had to leave, does the notice have to go to that particular designated office or can any other department receive the notice?

[KERRIGAN:] You are still required to designate an office where the student can give you this notice. Even though, as you say, if he doesn't give you this notice, he can still come back with an attestation that says hey I am returning and blah, blah, I had my service and let me in and that is fine, you are still required to have a designated office that this student or a member of the Department of Defence or a member of the Armed Forces can contact in terms of any notices with regard to this provision. So you still have to have this designated office.

[AUDIENCE:] Right, but could that notice be received by another office that has not been designated so as an institution we would honor that? I mean, I am kind of



referring back to the official withdrawal process to where you have a designated office, so is it going to mirror that?

[KERRIGAN:] I guess we will have to look into that but again, as long as you get a designated office and again, thinking in terms of what I said before, we want to stress the fact that your job is to do what you can to get these people, returned service members, readmitted, so if you have a designated office, but you know, people go someplace else and you allow this to happen as well, you can go beyond this designated office as long as they know there is someplace they can go to I guess the answer.

[AUDIENCE:] Okay, thank you.

[KERRIGAN:] We have one minute, so if it is a fast question.

[AUDIENCE:] Yes, I have a fast question. The slide, which was I think #28, where you were talking about completion and graduation rates, is that at the undergraduate level or also at the graduate level?

[DEEKEN:] As I indicated, it is the same rates that institutions calculate now based on the cohort and you know, completion and graduation rates for first time, first year freshman, so it is undergraduates. Thank you.