Recording: The Department of Education's office of federal student aid welcomes you to day three of the federal student aid conference, and today's general session: Federal Update. Please welcome to the stage Jeff Baker and Dan Manzellan.

[Applause]

[Whistling]

Dan Manzellan: That worked way better in rehearsal yesterday. I didn't have 6,000 people watching me. But when Bill mentioned – well, I first say, I'm happy, he's grumpy. But when Bill first mentioned the Snow White story the other day, Jeff and I got to thinking about it, and well, we need to do a little bit of research on this. And so, when you research these days, what do you do? You ask the Google. So we went to the internet and looked up the story, and you know, it actually dates back to the middle ages. It's a German fable, a German folk tale. And then, when Walt Disney told the story, obviously, he was a wonderful animator and story teller, but he was, you know, confined to still animation. And you know, it's not well known, but there were actually, in the original story, ten dwarves, not seven.

And so, we did a little bit of research, and two of them were pretty easy to find. And…

[Laughter]

They were up on the first page of the Google results.

Jeff Baker: I think because they paid for it, right?

Dan Manzellan: They paid for it, I'm sure, yes. But then, we had to dig a little bit deeper, and kind of go beyond, and look a bit more to, you know, find that elusive tenth dwarf. And finally we did, and we were able to identify him. *[Laughter]*

Jeff Baker: Baldy, could you come up here for a moment? It's an exclusive club. There are only ten of us, so.

Dan Manzellan: Yeah.

Male 1: Oh, by the way, I've been called worse, by you by the way.

Jeff Baker: Yeah, we had a couple of ideas.

Male 1: Why can't we be friends?

Jeff Baker: I think he wants to change mine to Shorty. *[Laughter]* But on a serious note, so you know, Bill obviously, got into the whole Disney thing with his remarks the other day, and we're playing around a little bit today. So Dan and I thought we'd get him a little memento of his visit to the Disney environment here. But Bill has a young daughter, six years old, right?

Bill: She's seven, now, yeah.

Jeff Baker: She's seven, a seven-year-old, and so anything I – that we could find in the shops for Bill, we know they'd end up with her. So we had to find something that Bill could probably keep for himself, and no one would take. So we got you a pair of Disney shorts.

[Laughter]

Bill: Front view, rear view. Thank you very much. Thank you guys.

Male 1: There are great perks in this job.

Jeff Baker: Okay. Now we expect them to pay attention to what we're gonna talk about.

Dan Manzellan: Yeah, exactly.

Jeff Baker: And we also already – there's a clock up here. I don't know if you know the – the countdown clock, we've already used 14 minutes of our session here, so. And actually, it's more – there's a lot of information that Dan and I are gonna go over, some of which you're aware of just from other communications and training you've been to, and certainly a fair amount of it that the sessions you've been to the last couple of days, and maybe even gonna go to later today and tomorrow, so we need to get into it right away. Those are our topics. We're gonna go through some of them, at least, rather quickly, speak quickly. If there's – if you have questions or comments on them, I think at the town hall tomorrow you can bring them up. We'll all be there, and we can get moving on them.

So, appropriations and program budget.

Dan Manzellan: Well, this is where we always like to start these presentations, with the money. And so here's where we stand today, and the recent past. And again, we all know a couple of years ago, with the

stimulus legislation that provided a big increase to the education department in general, in particular the Pell Grant program, that increased the maximum award by $619.00 to $5,350.00 a couple of years ago. So again, those Pell Grant numbers that you see, especially with respect to the appropriations, I mean, these are just, for me, personally, astonishing. You know, back in – when I began my career in the education department, that Pell Grant number was way closer to $2 billion than $35 billion.

But again, the – what we are showing over on the far righthand side is the president's request, $5,710.00 for the Pell Grant program, maximum award. The congress has yet to act on our appropriations bill. Actually, we are operating, as we usually do, under this time of year, and there is what's called a continuing resolution, temporary funding, to continue government programs and operations. You're sitting in one big government operation right now. If not for the continuing resolution, you know, you might be here, but we probably wouldn't. Although we love you to death, we would not be getting paid. The congress, obviously, is back in their lame duck session. We anticipate – in fact, the house passed the continuing resolution last night, but we'll continue to be on the job for the next several weeks, and – in anticipation of the congress acting on our FY11 budget request.

One of the things, just to really quickly point it out, because it'll come to it in that next slide, if you look at that FY2010 column right in the center, you know, that roughly $27 billion is the appropriation for last year. But when we now look at the total title for aid available, of course what we want you to do, we want to draw your eye immediately to the lower right hand corner in yellow, to the – you know, the $156 billion in grant, work study, and loan aid that we would anticipate being awarded to our students and their families, under the president's budget. But you also notice in that FY10 column, it's actually about $32 billion for Pell Grants, as opposed to the $27 billion or so that was appropriated. You know, we're facing a shortfall in the Pell Grant program, a funding shortfall, not the first time, but you heard Michelle and Jody yesterday, as well as others, speak about the increase in our FAFSA applications year to year.

You know, this year to last year, same point in time, of 11-percent. So that's, again, an increase in FAFSA applications, increased demand for the Pell Grant program, and in our case unanticipated increase in demand. Now, we – you know, since 1973, the first year of the program, we have never not paid a student the full amount of the Pell Grant for which he or she was eligible. We

have flexibility, borrowing from future appropriations, et cetera. So we are in good shape for 10/11, the rest of this year. We put a payment schedule out earlier this year. We're gonna honor that payment schedule. But you know, in the next several weeks, when the congress considers our FY11 request, as well as funding for the rest of the government, that is something to keep an eye on, is where we are with our Pell Grant funding piece.

Over the past several years now, three, four, five, lots of legislative activity between the expiration of the Higher Education Act in 2004, and its renewal as the Higher Education Opportunity Act a couple of years ago, I think by our count we had 16 pieces of legislation extending the – our authority. Some of those were just simple extensions. Some of those had some policy changes. We've also had a couple of reconciliation acts, Higher Education Reconciliation Act, we have the College Costs Reduction and Access Act, two versions of the ACASLA, that allow us to purchase FFEA loans, an actual reauthorization of the Higher Education Opportunity Act. What else did we have? The SAFRA, part of the Healthcare and Education Reconciliation Act. So again, a lot of legislative activity over the past several years.

And so, with that behind us, kind of where are we heading now in terms of the future? And we don't –

Jeff Baker: That's it, folks.

Dan Manzellan: That's pretty much it, at the moment. You know, we'll see where the – obviously, we have an appropriations bill coming up, and in terms of policy provisions, policy proposals for our student financial aid and the other programs we administer here, that's it.

Jeff Baker: I think we could all use a breather maybe, so maybe if it stays this way we'll be fine. We now wanna take a couple of minutes to talk about cohort default rates. We're talking about fell/direct loan ___ ____ single default rate. Normally, we just show some numbers here, but because of some changes, we wanted to remind people of what a cohort default rate is. A rate is a percentage. A percentage is a fraction. A fraction has a nominator and a denominator. So, under the current legislation, and for the current cohort default rates, we calculate the cohort, which is the number of borrowers who receive loans at your school, who entered repayment in a particular federal fiscal year – the federal fiscal year is October 1st through September 30th – and that's the denominator. That's the cohort.

And then, we monitor those borrowers for the rest of that federal fiscal year, and all of the next one. And any that defaulted become the numerator, and that becomes the fraction, and therefore the rate. This is a slide – and you've seen this before – where we show where the rates have been over the years. Way, way up there in the 22s, dropped down dramatically because the department took some dramatic actions to weed out schools that were not serving our students, or our country very well. Some leveling off and actually decreasing down in the early part of this decade, but then, perhaps not unexpectedly, because economic conditions arise and our cohort default rate is up to – the rates that were just released, the FY2008 rates released in September, at seven percent.

But the congress and the ATOA made some changes in the calculation, mostly – and the most important one, is to extend what we call the monitoring period for one additional year. So beginning with the 2009 cohort, and we'll establish the cohort the same way, those borrowers who entered repayment during fiscal year 2009, we will be monitoring them not just for the rest of 2009, and for 2010, but also for 2011, until September 30th, 2001. You don't have to be a math genius to figure out that, with some very, very few exceptions, with very, very small schools, rates are gonna go up. It's another – it's just another year of monitoring. Rates are gonna go up. The congress understood that, so they made some adjustments and sanctions and so on, and they built in a three year transition period. But we've done some sessions on this, that some of you have been to, and we'll do more, on communication, but – and we do plan on, in January, releasing trial rates, so you get an idea of what a three year rate would have been, had we had it in the past.

To get a better sense of this, this slide just made up some numbers here. If the FY cohort for a particular school had 5,000 borrowers enter repayment during the federal fiscal year '09, and we made up numbers here, 125 of them defaulted during the rest of '09, and then 230 during '10, for a total of 355, that resulted in a 7.1 percent cohort default rate. If we go down to the bottom part of that page, we just added another year, and I just threw in another 250 borrowers defaulting, you see that that rate goes up to 12.1 percent. That's the kind of impact – maybe not that dramatic, maybe more dramatic, depending upon your school.

Direct loan transition, you heard a lot about this on day one from Bill, and further from Tony and so on. We're very happy and pleased with the hard work that all of our schools have done, and our contractors and our FSA and OPE staff on direct loan

transition. We feel we've been successful in the transition of our schools to origination, originating direct loans and in disbursing them. Our next test is to make sure that we have a fully operational and proper and complete reconciliation process for schools who are disbursing direct loans. We're confident we'll be just as successful. We will offer the same kind of resources, assistance, whatever schools need to make sure that they reconcile these dollars properly.

You are aware that we've contracted with four additional servicers to service all of our federal debt, not only the direct loans that we've had, and the ones that you're all making now and will make in the future, but also the FFEA loans that we purchased under the ACASLA program. The five, including ACS, our current servicer, are listed there. Under the statute, the SAFRA legislation, we will likely be adding additional not-for-profit servicers. That process is under way, and we'll keep the community, of course, informed of that. And just as a reminder, there's been a little confusion earlier, these entities will – their responsibility is to service the direct loans and FFEA loans that we hold. They don't do anything on origination. Origination is a single process through our common origination and disbursement system.

This issue comes up all the time, and I know many of you have been – have expressed some concerns, and have some information about it, so I thought we'd share, just for a second here, what a split borrower is, and what we're doing about it, and what we can do about it; or in some cases, are not able to do anything about it. To be clear, what we're calling a split borrower here, and it's probably both grammatically and otherwise inappropriate to call a borrower split, but it's where a borrower has, in our case, title-four loans that are serviced by more than one entity; by more than one entity. This is much, much more about the ACASLA loans that we purchased, than it is about direct loan transition. It just all came at the same time. We purchased between – in loans made in the 2008/2009 year, about 72-73 percent of all of the fell loans that were made for that year. And for the '09/'10 year, we purchased about 98-percent of the loans that were made for that year.

So we have all of these loans that are now federal assets. And direct loans, obviously, and the fell loans, once we purchase them, once they're sold to us by the fell lender, become a fell – a federal asset. And the non education owned fell loans, the ones that were not sold to us, the older loans that are in repayment, loans made during other years, loans made during those years but the lenders chose not to sell them to us, they are – well, they're still a federal

loan, an FFEA loan, they are not a federal asset. And under the law, not the HEA but other legislation, federal assets cannot be combined or mixed in terms of servicing and billing, and so on, with non-federal assets; even though, in our case, they're all federal loans. And there's not much we can do about that.

We're working very hard, almost as we speak, and expect to be done in a month or so, with combining to a single servicer all of the borrower's loans that are federal assets; all of their direct loans, all of their fell loans that we own, combine them with one servicer. That servicer will then – and all of our servicers have committed to this – be able to have one single set of communication to the borrower, one billing, one payment process. But we are not able, under law, even if it's the same servicer – if they are servicing what we call commercial FFEA loans, they cannot be combined with the federal asset. And so, there's the separation and what we – nothing we can do about combining that. The resolution, if a borrower needs one, is to consider all of the pros and cons of consolidating when they finish their program in grace, or as they enter repayment, to consolidating their loans into a federal direct loan; in which case, they'll have, obviously, one servicers and just one loan. And depending upon the borrower's circumstances, might get some other benefits from moving into a consolidation loan.

Michelle and Jody went over IRS data retrievals. I'm not gonna do a lot, but there's a couple of important points that we wanted to make about that. This is a – that's why this is bolder – this is a non-consent process. Okay? This is not a situation where the tax filer – and by the way, the IRS calls us "tax filers," not "tax payers." I thought that was kind of cute. I'll remind them of that when I decide not to send my check in. But it's not the process of consent, where a tax filer can ask – can tell the IRS, "We have – we're giving you consent to release our information to a third party."

Dan Manzellan: Yeah, just a little bit of history, and I'm – maybe some of you know this, or maybe you're like me and know it and are trying to forget, but we actually proposed some legislation and had it introduced in the congress seven or eight years ago, that would have provided for a – you know, a transfer of tax-payer information to our central processor, via a consent-based process. But it was because of the strict disclosure and re-disclosure requirements in the tax code, this legislation was anything but straight forward and transparent. So, again, it's – we attempted to go down that road. It really had, you know, many blockades, many

impediments. And so it's – I think it's just really important, and again, as Jeff said, we bolded this notion of a – you know, a non-consent-based process.

Jeff Baker: In addition to non-consent, it's voluntary on the part of the – our FAFSA applicants/tax filers as to whether to use it or not. These slides, don't worry about them. They're old, and they're also different – you saw them yesterday. But the only reason we have them here is, again, to enforce the point, emphasize the point, that when the borrower is at a slide like this, and actually in the new software it's slicker than this, they're still on the FAFSA on the website. You see – it's the FAFSA on the web colors, you see the logo, you know, Federal Student Aid, start here, go further there. Once they decide to do this, if they do, and they have a choice to link to the IRS, now it's a different site, different format. You see the IRS logo. That's very important. That was critical to making this work, that we're sitting in the background waiting for the tax filer to decide what they're gonna do. They're still at the IRS here, and now, if they decide to transfer, now they're back to our sites. That's the reason for these slides.

As was mentioned yesterday, starting – when we start up for the 2011/12, which of course, will be based on 2010 IRS data, this retrieval process can be used during the corrections routine, not just initial filing using FAFSA on the web, on corrections on the web, and we think that's gonna increase dramatically the numbers, with your help, of students; whether they've been selected for verification, or they've done estimated tax returns, and now we want them to get the exact information is – the easiest way is just to go into corrections on the web. When you get to the point, link to the IRS, do their magic here, and if they choose to transfer, it'll come in, and all of that will be taken care of.

You saw this yesterday, a version of this, that Jodi and Michelle talked about, that there'll be codes that will show up on the ISORS about what the student's or parent's behavior was in terms of whether they used the IRS retrieval, and what they did with it. And this is very important. And actually, this is in effect now, even though our – we – in the regulations, we codified it to clarify it, to be clear, but the – right now, if you get a student who's selected for verification, and they use the IRS data retrieval, and the code that came back is this 02, which means they used it, it came from the IRS, and it wasn't changed, you can consider that as acceptable documentation. You don't have to collect an IRS 1040.

[Applause]

Thanks. Maybe the only one, Dan.

Dan Manzellan: Yeah, I know.

Jeff Baker: The two Pells in award year, as was mentioned, we have another session this afternoon at 1:15 PM. We had two in the last couple of days. Thank you all for coming. Some of you came twice, and you might come again today. Okay, whatever that's worth, but I just wanna remind everyone, two Pells in award year authorized by one of these pieces of legislation that Dan mentioned, the Higher Education Opportunity Act, basically, if a student is eligible, they can get more than one scheduled award. The objective is to help needy students, and there can be significant help here, lots of extra dollars going to our needy students. And that's very, very important to all of us, I'm sure. And under the statute, it was effective for the 2009/10 award year. We did our regulatory work last year, and published final regulations in October of 2009.

And just to kind of set the framework a little bit, a couple of slides here. It's very important to understand that two Pells in award year did not change at all the concept of a scheduled award. A scheduled award is the amount that the student would receive, based upon their EFC, and to a lesser extent, their cost of attendance, if they were a full-time/full-year student. That has not changed. The definition of a payment period in our regulations has not changed. For term-based programs it's the term. For non-term-based programs, clock hour program, it's half the academic year. The way you calculate the award for a Pell Grant does not change. What changes is whether you can pay it or not, even though the student has, or will exceed, 100-percent. So you can go beyond one full scheduled award. That's what's changed.

In the regulations, we have the provision, because we wanna get to the neediest student the most grant money that we possibly can. This is what we do. This is why we have our program. This is why the Pell Grant program exists. And so, for a crossover payment period, which by our rules and legislation, gives a lot of flexibility, we – starting with the 2010/11 year, so effectively this upcoming 2011 summer, the student must be awarded from the award year that will give the student the highest payment amount. And the other provision in the regulations, in order to give meaning to the statutory term of accelerate the program, the student must, in the payment period for which they're going to be receiving second schedule award funds, be taking at least one credit hour, or clock hour, that applies to the students' next academic year; academic

year defined as you define your academic year, based upon our minimums of 24 semester or trimester hours, 36 quarter hours, or 900 clock hours.

So if some of you are – wanna learn more about this, and haven't yet, and you get an opportunity, come by our session this afternoon.

Dan Manzellan: On the regulations side, we've been pretty busy. Just a brief update. Coming out of the Higher Education Opportunity Act, the reauthorization, we had a – as we always do with new legislation of that magnitude, a significant regulatory effort. Jeff mentioned one of the provisions, one of our five regulatory teams that considered student assistance general provisions. For the most part, those rules were all published on time, and for – on time, meaning the master calendar, and therefore effective this past July first. There was one regulatory package within that grouping that was not subject to the master calendar, although it was subject to negotiated rule making, and that was for our discretionary grant programs; basically Trio, Gear Up, and a couple of actually high school-related programs that are authorized in the Higher Education Act.

We did publish that final rule this – just a couple of weeks ago, at the end of October. So that's important for us on our grant side, as we are now implementing certain important statutory provisions, especially related to the Trio program. So we're pleased about that, as we have finally finished our regulatory work with respect to the Higher Education Act, the Higher Education Opportunity Act. So once we had – actually, we hadn't quite completed that work, and we commenced on a second round of rule making that we called "program integrity," and again, this was not particularly statutory driven, but basically things that we were aware of, concerns raised by our inspector general, and others. And so it was time for us to, again, take a close look at some of our provisions regarding – largely general provisions in the student aid programs.

I should also point out, before I get too far ahead, as part of this regulatory process, we also engaged in some rule making around HEOA related to foreign institutions, our students who take student loans are domestic students who use student loans to attend foreign institutions. We didn't have to do that as quickly as the other provisions coming out of HEOA, because of some statutory timing issues. But again, we did complete that negotiation effort, and did publish those final rules, again, I think it was right on November first. But again, coming back to the program integrity, not

necessarily statutorily driven, but again, what we – we really felt the need to improve, as we said, the integrity, the performance, and the outcomes for our programs, our student financial aid programs.

When we began this effort and started to talk about the kinds of things that we wanted to do, and we got a little bit of push back, that – you know, that we would essentially, or maybe, could be some unintended consequences maybe, you know, harming our, you know, most vulnerable, lowest income students. And you know, we were sensitive to that, but we were also sensitive to the fact that, you know, our low income, most vulnerable students are not well served by programs that leave them – do not prepare them for well paying jobs, only to result in, you know, lower paying jobs, and you know, in too many cases leave them with, you know, high debt levels that they'll be unable to repay. So again, it's part of the approach that we're taking here, is to really address the concerns that we have with our – you know, our most vulnerable population.

So we engaged in, as we always do for the title four programs, a process of negotiation to develop a notice of proposed rulemaking, which we divided into two parts. I hope you can follow this. It gets – the process gets a little bit confusing. But we publish the bulk of our program integrity rules as proposed rules, as you see there on June 18th, with a 45-day comment period. And we published – and what we had there was all of our integrity provisions, things like satisfactory academic progress, some of the verification changes, incentive compensation, those kinds of things. But everything except our gainful employment rule. And we held that out for a second notice of proposed rulemaking, to give us a little bit more time to develop our proposals there.

But on this first package, you know, again, we published the proposal, and we analyzed the public comment, and we – and then we published the final regulation on, as you see, October 29th, before our November 1st master calendar date, so that these rules could be effective on July 1st, 2011. That's, for the most part, some of the provisions relating to verification are delayed a year. But as we got into this rulemaking, again, we were concerned about our students who receive our federal aid, so we had a number of policy objectives that you see there. And as we are always looking for, always striving to achieve, always wanting to ensure that, you know, only eligible students receive federal funds, and you know, we've talked here in this conference, in previous years, about you know, getting the right amount of money to the right student within the right timeframe. I mean, that's really what

we're about, in terms of managing these programs from the federal side.

So, in terms of insuring – whoa! Didn't you pay the bill, Bill? But – so again, thinking about these, you know, broader terms and concepts, you know, ensuring that only eligible students receive federal funds, in response to some work by our office of the inspector general, in response to some complaints that we've heard, you know, we're concerned about, you know, the validity of high school diplomas. We all know that, to be eligible for our program, you have to be a high school graduate or, you know, possess the recognized equivalent. There's an ATB piece, of course. But we started learning a few years ago about some online high schools, and started to get some questions about these kinds of diplomas, or diplomas from these kinds of schools.

And so, we you know, looked into it a bit and decided that, again, it was something that needed to be on the regulatory agenda for the program integrity piece. So again, as you see on the screen there, you know, and I think as you heard Jodi and Michelle talk about yesterday on the FAFSA, about asking for, you know, the name of the high school, the city and state, we'll match that up, or we'll have a drop-down with some information that we have from our national center of education statistics, who collect information related to high schools in the United States; not comprehensive, and not complete. And again, our requirement here, as you see, is for institutions to develop a process and follow that, to you know, ensure the validity of a student's, or financial aid applicant's high school diploma, if there's some reason to question that validity.

So the – as we say, we're trying to streamline this a bit by putting this question on the FAFSA. It'll be of limited reach, again, just first year students. And the important thing, as Michelle mentioned the other day, is that you know, being on that NCS, you know, drop down list, does not mean that you're necessarily approved, nor does not being on that list mean that it's, you know, not approved, or of questionable nature. So again, what we're after here is to ensure the validity of high school diplomas, but only in those – requiring action only in those instances where there is some question, either by you, yourselves, or maybe something we discover on our end with respect to, you know, particular schools.

Mentioned briefly the ability to benefit – you all know that certain students who lack a high school diploma or recognized equivalent can nonetheless be eligible for federal student aid. And so, part of our regulatory effort was to implement some statutory provisions

coming out of HEOA that provided for an alternative means to demonstrate ability to benefit beyond, you know, traditional testing. And again, as you see, that – you know, successful – essentially, successful completion of six credit hours, or the equivalent, and our regulatory equivalent of six credit hours is either 225 clock hours of college work. Within this regulatory effort, again, responding to some of the concerns expressed by external parties, such as GAO, improving some of our oversight of test publishers and the manner in which ATB tests are administered. So again, some strengthening there. That, again, gets back to the notion of having our federal student aid dollars being awarded only to those students who are eligible for those funds.

There we go. In that same vein, some work on satisfactory academic progress. Part of this was, you know, recognition on our part that, you know, we spoke to SAP here, and regulations in there, and here, and so in a number of different places. So just in terms of procedure and, you know, trying to make that a little bit easier to follow in our regulations, but also to clarify that, you know, what kind of things that you all need to do, with respect to measuring a student's academic work, but again, not imposing, you know, specific requirements. I mean, allowing you that flexibility to determine what constitutes satisfactory academic progress. So we did clarify in the regulation that, you know, if you are chose to evaluate, to measure this more frequently than annually, then you know, for example, you're gonna do it twice a year, every semester, by payment period, then if there's – you find a deficiency for a student, then you know, you need to provide that student with some sort of a warning.

They've gotta look at – you know, your – you, the student, are not doing so well. Your aid could be, at some point in the future, at risk. So you need to, you know, pay attention to things. And then, if you are – and then, again, then the – in that same circumstance, where you're monitoring more frequently than annually, you know, the second time you come around and the student is still deficient, then that gets into this – what we're calling this notion of probation, which has some requirements around that. If you are doing this just once a year, and the – again, the student is deficient in this regard, again, that triggers this notion of probation. And then, on your part, that requires the student then to have a – you know, basically have a plan for resolution, which is how am I gonna get off this – how am I gonna get myself back on track academically, not only to, you know, advance at persisting and

complete the program, but also to maintain eligibility for our student financial aid programs?

Continuing the same vein, with some verification changes, or changes to our verification rules, a large part of this was positioning ourselves, getting our regulations with sufficient flexibility, so that we can move, as appropriate, I'll say when, some people say if – I'll say when we expand some of the data retrieval and other partnerships with the Internal Revenue Service. Again, I think we've – as we said earlier, we're pretty amazed that we've gotten as far as we have at this point, but you know, we're – we all think our reach should extend beyond our grasp, and we want a little bit more. So again, we're setting – we're working with our – in this regulatory process, to again, put us in a position where we can move forward there. But we also did some more concrete pieces, you know, where right now someone gets selected for verification, you do five items. We're – you know, we're pretty sophisticated, have gotten pretty sophisticated in our process, and we've certainly gotten very sophisticated on the front end. I mean, you've seen the examples of FAFSA on the web, but rather than, you know, when someone is selected verify all five items, what we can do – I'm very comfortable that we – feel we are comfortable we can do that, when we select you for verification and we get you to verify the item that is – we think has a problem, not all five. Maybe just one, maybe two, maybe three. I don't know, maybe all five, but very likely just one or two.

We're – we've also, again, eliminated the 30-percent cap. We've – as you see there, we want everything to come back through the system, you know, in our essential processing system, so we have records of these kinds of changes. One of the reasons we feel comfortable about eliminating the cap is we do some – I'll use the word again – sophisticated statistical error prone modeling, and you know, we're pretty comfortable based on the experience that we have with our, you know, 13, 14, 18, 21 million FAFSA applicants, that we're pretty good at identifying patterns that are likely to be inaccurate or in error.

Jeff Baker: Yeah, just – excuse me – one thing, clarification on the elimination of the 30-percent institutional cap, that's the provision that was in the regulations that allowed a school to stop verifying beyond – once they reached 30-percent. First of all, very few schools do that. But I do wanna make it clear that we have – we intend, in our selection, to still select approximately only 30-percent of the applicants. So we're not gonna shoot it way up. Now, that doesn't mean that you'll get no more than 30-percent selected. It depends

upon the nature of your school, your population, where the error prone-ness is. But everyone we select for verification, if the student's gonna receive title four aid, they have to be verified. We're not gonna select 30 – you know, 50, 60, 70 percent of applicants. We're gonna select just about 30-percent.

Dan Manzellan: Then, one of our other, you know, sort of broad policy areas, with respect to the – our program integrity regulations, again, our notion of protecting consumers as, again, I said earlier, that we think our students are not well served by programs that do not result in employment with, you know – well paid employment, and you know, too often too much debt. And so again, in that context, what we've gone into our regulations and strengthened some of our provisions, especially around misrepresentation of – an institution's misrepresentation of its educational program, you know, the – we've – we moved a bit – we had been – had moved in this direction, you know, a number of years ago, when we were doing some of our regulating around the, what was then, the new cohort default rate, that whole default reduction initiative from several years ago.

But again, our more recent experience with what we've seen in the marketplace, what we've heard, sort of the complaints that have come into us directly, other complaints that have come into us less directly, that you know, there is – there are certain issues out there with respect to promises that are made that, you know, largely, you know, would not be fulfilled. And so, again, this gives us some additional tools in that regard. Part of that, as well, is you know, if you have a complaint, as I said, some of the complaints came into us directly, some from, you know, third parties, and some from our, you know, independent investigative arms. But also, you know, we all know that one leg of the triad is state authorization, and you know, we feel that that's another area where, you know, students, our students, borrowers, aid recipients, ought to be able to go and, you know, file complaints, ask questions, get some answers.

So we wanted to strengthen the role of the state authorization, the state authorizing agencies as well, and a part of that was also to help us to better address circumstances not unlike that which occurred in California a few years ago, when the agency that was responsible for oversight of certain California institutions ceased to exist. Or I guess they continued to exist, they just didn't have any money, which I think is probably the same thing. So that kind of left us scratching our heads about, you know, does that mean we just have two legs in California instead of three? So the – you

know, so again, based on that experience, as well as, again, protecting our students and their families, we did go in and strengthen the state authorization function requirement for student aid programs. We also, as you see there, defined a credit hour. This is not about the long arm of the federal government reaching into the academic affairs of colleges and universities. Rather when we were regulating, previously, as Jeff had mentioned, the two Pell Grants in one award year, we had some – because again, two Pells in one award year is about acceleration, right? You're going – you're moving through your educational program faster than you ordinarily would have, and so we'll pay you for, you know, that increased velocity.

But one of the things that we heard, and were concerned about, were you know, inconsistent measures of that kind of accelerated progression. So that's why we went into, again, in our rulemaking effort this time, and provided, basically, you know, some clarification, some kind of a baseline, kind of a limited definition of a credit hour, which still provides colleges and universities with considerable flexibility in making that determination themselves, along with their accrediting agencies. The – we – the incentive compensation rule, we have a statute that says it's basically the bottom half of that slide, that says you can't pay anyone based in whole, or in part, on success in securing applicants, or admissions for applicants for federal student aid. And you know, through the years, we have provided a lot of individual guidance, private letter guidance we called it.

Schools would write in to us and ask us about a plan. Is this acceptable? We would write back to them, and so we accumulated a number of years of these kinds of private letter guidance. And after some period of time, we were just kind of tied up in knots. I mean, we just had – we never felt the guidance was conflicting, because we were answering specific case examples, specific questions. But certainly in the community there was a view that the department was providing – I'll use the term – conflicting information. But the – so several years ago, about seven, eight, nine years ago, now, I guess, we undertook a regulatory effort. And in the incentive compensation area, we said, "Here are the safe harbors. You can do these – a combination of one or more of these 12 activities. And we will say that you are not in violation of the incentive compensation rule. Don't talk to us anymore." I mean, that was it.

It was, here's what it is. You can read it. You decide. Don't ask us. And so, that's pretty much the way it worked. But then we

learned that, you know, these safe harbors, especially one in particular that provided for changing compensation based on success in securing enrollments, as long as it was not the only measure, and that turned out to be a large loophole. And so, again, hearing from the families, hearing from students, hearing from our borrowers about these high pressured tactics, you know, we knew it was time to go back in and look at this particular rule. You know, it just didn't work the way we had hoped it would work when we implemented these provisions, seven, or eight, or nine years ago. So basically, what we've done is – and again, this applies to all schools. This is not just, you know, the for-profit sector. But being, you know – eliminating – we've rescinded these safe harbors, and basically have – being a – we now have a regulatory scheme that is very consistent with the intent of congress with the express statutory provision.

A few other elements within the program integrity, you know, around consortiums, written agreements between one or more – between or among one or more institutions to provide a program of post secondary education. You know, the real, you know, concern that we had here, at least going into this, was that second bullet there, that you know, a student signs up for a program at a particular institution, and you know, we would think that they would have an expectation that they would be taking coursework at that institution. That doesn't always happen. And so we want to make sure that, in these circumstances, that students really – again, they know what they're getting into. That if there is a circumstance where school A is contracting part of their program with school B, well then, you know, student C ought to know about that. So again, that's the – and then, as you see there, at the last bullet, some other provisions around agreements with institutions that have lost their – prohibitions against agreements with institutions – among institutions that have lost their ability to participate in the student aid programs.

We also did a little bit of work around return of title four. We have a bit of experience with that, now that – I guess it's 10 years or so now worth of experience, of the not refund, but title four – return of title four aid. And again, it's a real simple concept. You get paid title four aid for the period of time you're enrolled, if you withdraw before completing. And so, you know, as Jeff said, that's a fraction, and a fraction has a numerator, and a fraction has a denominator. And so, again, the denominator is the number of days in the payment period, right? It's the timeframe. What's the numerator? Well, we – you know, it's the number of days attended. And we want – and we've said this before, many times –

that we want the best date that we can have for when the student stopped being a student. And so we have traditionally regulated this that, you know, if you are required to take attendance by an external entity, maybe your accreditor, or maybe a state agency, then you know, you take attendance. You know when that student has actually withdrawn. That's the date to use.

So we've expanded that a bit, and again, trying to get to this notion that we want the best withdrawal date that we can find, because certainly in terms of a loan, there's the possibility that the student, even though they have withdrawn, may have an obligation to repay part of that loan. So again, it's part of protecting students. And so, if – you know, if there's some sort of requirement at your school that can only be achieved by taking attendance, even though maybe you're not required to take attendance by your accreditor or somebody else, again, we want to be able to use that date in that return of title four calculation.

In the last couple of pieces on the – you know, this first program integrity piece, as you see there, we've modified some of the disbursement provisions. We had heard, you know, concerns that, you know, some students were not getting their Pell Grant aid, especially low – obviously, Pell Grant is low-income students – not receiving their aid in time, you know, to purchase text books and other course materials that they need. So again, a modification to those provisions to allow those students to have access to their Pell Grant funds a little bit sooner, again, for the purpose of purchasing, acquiring course materials.

And then, the last one, about some clarification around retaking course work, you know, this has to do with, you know, if you fail a course, you know, you can retake it and you're still eligible. Forget about SAP for a moment, but again, you can continue, you know, and retake those courses that you fail. And I think Jeff and I had similar undergraduate experiences, probably way different from the ones you had, where there were a number of courses where we were required to retake them. But this is also about not students who fail a course, but rather, you know, wanna retake a course because they need – want or need a better grade. And you know, so again, we're clarifying that, that you know, you can do that. You know, I got a C, but I need a B for graduate school, or something like that. So we're allowing you to, again, retake that course, on a failed course, one time.

So as I mentioned, the – we divided the actual rules into the program integrity pieces, program integrity one, and then the

gainful employment piece. And so, again, as you may recall from the earlier slide, we've published the NPRM for the other – program integrity one, as we call it, in the middle of June. It was about a month later we did the gainful employment rule. Again, as we said, we needed to take a little bit more time to do some analytic work around this, convince ourselves, convince others in the administration, that we were moving in the right direction here. And so, we had never intended the gainful employment, what we'll call the metrics, the measures, to be effective on July 1st, 2011. We always thought about those as being effective on July 1st 2012. I mean, we needed some lead time. There is some new information we needed to collect from schools to implement this new provision.

So we – but there was another part of the gainful employment proposed rule around new programs that we wanted to be effective for July 1st, 2011. So again, that little piece we actually published as a final rule, the new programs piece of gainful employment on, as you see there, October 29th. Remember, I warned you a half hour ago, that this process was gonna get a little convoluted. But again, what you need to be concerned about is the outcome, you know, the results at the end. So again, the – even though we separated a piece of the gainful employment rule, we kind of brought it back in, in order to have it effective on July 1st, 2011, and that's the provision around new educational programs that are subject to the gainful employment rule. So we are still working on the – again, as we call them, metrics, the gainful employment metrics. You know, we had considerable interest in this rule.

You may have heard that we got – when we published the proposed rule on the 26th of July, with a September 9th due date for comments, that we got quite a few comments. We got about twice as many as the department had ever received on any regulation before, and that number was a little more than 90,000. I think back in the '80s, the department had a rule that got about 40,000 comments around some IDEA implementation. So a lot of interest in this provision. We also – we certainly had gotten an inkling of this a year before, when we started our negotiating process, which we start by having regional hearings. And you know, there were these people showing up at these regional hearings that we'd never seen before. And these people were Wall Street analysts.

So, you know, we come to these hearings, and we're like, you know, Butch and Sundance. Who are these guys? And – but you know – so again, we knew early on that, you know, we were onto something here that was vitally important. We know that sort of

inherently, but then to see how the response of the community, and especially the for-profit community has been here. So, we are continuing to work on our measurements, as we say, the metrics. We always intended these to be effective July 1st, 2012. So you know, by our master calendar, we have until November 1st, 2011 to publish these. We're not gonna take that long. We anticipate shortly – not long after the first of the year, to have this final rule published in the federal register. The thing to remember about gainful employment programs that, again, this is a statutory provision. Programs offered at certain institutions are required to – by statute, to gainful employment in a recognized occupation.

We, over the years, have regulated what "recognized occupation" is. We've never regulated what "gainful employment" is, and so that's what we are doing now. We are defining "gainful employment" in our regulations, to implement the statutory provision, the long standing, I should say, statutory provision. So this – basically, the way to think about this is that, very broadly – there are exceptions – very broadly, it applies to all programs at for-profit schools. Very broadly, it pertains to almost no programs at not-for – now, there's exceptions here – but I mean, that's – it's not that clean a division, but basically, public and independent not-for-profit schools, it's only, like, certificate programs. Again, more on that in a second.

But anyway, that's the – sort of the big division there. But it gets more specific. And as you see here on the slide, that you know, for proprietary institutions and post-secondary vocational technical institutions, it is – again, covers all programs at those institutions, except those programs leading to a four year degree in liberal arts at proprietary institutions. And again, you see the comprehensive transition programs of students with individual – intellectual disabilities, and vocational institutions. So again, all programs except – and so, again, those are rather limited exceptions. For the state supported public independent not-for-profit institutions, again, it's the non – there are certificate and non-degree programs. So two year degree, four year degree, you know, advanced degree, terminal degree, you know, those are not covered. But their certificate programs are. And again, with a couple of exceptions, that those programs that are at least two years, that are fully transferrable to a four year degree program; and as we saw with the vocational technical institutions, again, those comprehensive transitional – transition programs.

So, the – part of the gainful employment rule, the non-metric part that we want, again, we want it to be effective on July 1st of 2011,

so this rule isn't final. There is some new reporting information, new reporting requirements of information from you schools, wherefore your programs covered by gainful employment. You have to, you know, give us some information about individual students, identify them, tell us, you know, about their enrollment status. These are people entering programs, and also we want to know about their non-title-four educational debt, to the extent you know about that, including, basically, tuition financing programs. So again, it's the notion of educational credit that is not provided through the title four student loan programs.

And so, we also – and there are some requirements around – in terms of the identifiers of not only who these students are, but you know, what particular programs they are enrolled in. And again, as you know, we have SIP codes, standard instructional program – is that it? – standard? – yeah, SIP. The –

Jeff Baker: Classification of Instruction Program.

Dan Manzellan: Yeah, that's it. It's CIP. Where'd I get - ? Oh, whatever. I think I'll have one. *[Laughter]* The –

Jeff Baker: Let me add something, while you're gathering yourself.

Dan Manzellan: I just – I can't believe I –

Jeff Baker: Just a couple of different things on that, before Dan goes to the next slide. On this reporting, while under the master calendar it's effective July 1st, 2011, the regs also state that the first reporting by institutions will be due October 1st, 2011. We are working on different proposals about how that reporting is gonna be done. So over the next two, three, four months, we'll be getting information out to schools about specifically what data need to be reported to us, specifically the timing, what technology we're going to use to have you provide that data, by the regulatory deadline of October 1st, 2011.

Dan Manzellan: In addition to some – the new requirements about reporting certain information to us, there's also requirements, as you see, that are effective next July 1st, regarding disclosures to students and prospective students with respect to your programs covered by the gainful employment rule. So again, you see on the screen there, you know, just the good consumer information around, you know, placement, completion, those kinds of things that students – well, prospective students really need to know as they make their decisions about whether to enroll in these programs, and therefore,

you know, very likely, you know, financing the costs of those programs with title four students assistance.

This is the – you see we call this "part two." This was the part that was in the gainful employment that we want effective on July 1st, 2011. So we actually published it separately on October 29th, and this has to do with, you know, institutions that want to add new programs that are covered by the gainful employment rule. And so, when we had proposed this, it was basically – you know, required an affirmative response from the department that you tell us about a new program that you want to have in place, and you wait for us to tell you it's okay. We modified that in the final rule in response to public comment, in that you still have to tell us. You need to inform us of your desire to add a new program that is covered by the gainful employment rule 90 days, at least 90 days, before you wanna offer that program. And you have to provide us some information around why you want to provide that program. What are the local labor market conditions? What's the local industry? What are the local businesses looking for?

So we need this kind of information. We get into a bit of detail in the regulation, but it's – you know, what we're after is, before, you know, approving these programs for title four purposes, is to, you know, understand and really feel comfortable that there is, in the local labor market, a need for these – for this kind of training and these kinds of – for these jobs that this kind of training will lead to. And so, we'll – you know, you will provide that information to us. We'll – you know, we'll examine it. If we need some more information, we'll get back to you and ask you for some more information. But if you otherwise, you know, don't hear from the department, then you can, you know, begin offering that program; again, within – at the end of that minimum 90-day window. So again, it's – we are sensitive for the need for, you know, a little bit of additional flexibility on the part of institutions to respond more quickly to changing labor market conditions in the local communities.

The – as you see, part three, the – and this is our gainful employment metrics. And again, this is the gist of the definition of gainful employment. As you see on the screen there, we will deem, determine a program to in fact be leading to gainful employment if a substantial number of the students leaving that program are – you know, they're repaying their title four loans, or you know, have a reasonable debt service; again, the debt – income to debt earnings ratio. So we have proposed a couple of measures, as you see, the repayment rate, again, we keep coming back to fifth

grade arithmetic with our fractions, numerator and denominator. So basically, a repayment rate of – you know, of the people who entered repayment in a time period, we have proposed four years, the number of those who have paid down some of their original principle balance. And so, again, that's a – it's a people count, but then we weighed it by the original principle balance of the loan to, you know, better distinguish between sort of people in – paying back low balances, and people paying back high balances. So you do wanna give credit for both of those.

So we have proposed that rate at four to five percent calculation. The other – excuse me – the other debt-to-earnings ratio, the other measure of gainful employment, as you see there, we make a determination of debt service, and you know, the debt we assume, as you see there, a ten year amortization at 6.8 percent interest. And so, what's the – and then what's the income? Well, we have a couple of measures of income, average annual earnings, and again, we get – we propose getting that information from another federal agency, or a measure of discretionary income, discretionary income being your income above 150-percent of poverty line. So we've set some parameters. We've proposed to set some parameters around the debt-to-earnings ratio; so either eight percent of annual earnings, or 20-percent of discretionary income.

So, basically, if you know, you have a relatively high repayment rate, relatively low debt-to-earnings ratio for a program, you're fine. If you're at the other end, relatively low repayment rate, where we have proposed 35-percent, relatively high debt-to-earnings ratio, and depending on the calculation, either 20-30 percent, you're not okay, and you're really not okay, because those are the programs that become ineligible. Middle range, there are provisions for restriction, meaning number of new enrollees in those particular programs in the mid-range are limited. If you're just a little bit below the top, but not too far down, there are some additional disclosure requirements. But again, you know, these – there's a lot of detail here, and when you look at this regulation, or look at the proposed rule, actually, there was remarkably little regulatory language, but boy, is there a preamble, and is there a regulatory flexibility act analysis in there.

But again, it's reflective of what – kind of the importance of this, and the importance to us of getting this right, and you know, that's also reflected in the fact that we are taking this additional time to, again, really examine the issue, being absolutely certain that the information that we have, that we are making our decisions on the data that we have, is the best that we can have. So, just – we have

– we didn't know what to say for this slide. We said, "Other," but then we said, "Final words." And I just wanna say, just quickly, the asset protection allowances Jodi mentioned yesterday, that for next year they're gonna be less than they are this year, and there's actually a reason for that. It's really kind of straight forward. What's the asset protection allowance? It's the present value of an annuity that fills an income gap in the future, in retirement years. What's the income gap? It's social security, anticipated social security benefits, and a moderate BLS standard of living. Those two things have different inflation measures.

BLS has a December/December. Social security has an August/August. Sometimes they don't move in the same – or they don't move equally. So if, for example – and this is what happened this year, or what will happen for next year – the BLS inflator went up a little bit, but the social security inflator went up more. So the gap is less, and that's why it's – we get this question every year. No, we don't. We don't get the question when it's, "How come the gap's bigger?"

Jeff Baker: Right, it's when it's smaller. And finally, very, very quickly on these last few things here, we've been asked about the functionality of our software and systems for Windows 7, the Microsoft release from several months ago. We have tested Windows 7 with all of the – virtually all of the browsers that students and schools and families use, and are confident that Windows 7 and the stable of browsers will work for FAFSA on the web, and corrections on the web, NSLDS access, web access, and our web products. We are confident, but we have not yet fully tested that the batch products in the SAIG process, the Student Aid Information Gateway process, whether or not there'll be any difficulties for schools who use a PC and Windows 7. We don't expect that there's gonna be any problems. If there are any, it'll be that a process doesn't work, not that a file you submit is going to get corrupted. It just won't work.

But we're pretty confident, and our IT people are gonna be checking that out, and we'll get a little more information out just to make absolutely sure. But we see no reason why Windows 7 will be a problem for any of our stuff. Disbursement COD and G5, just very, very quickly, you know, we announced that, beginning with the '11/'12 year, we will not be putting out an advanced allocation amount for the federal Pell Grant program. That will have no impact on you, because what you'll need to do, and you always need to do, if you send us a COD origination record with disbursement dates, Windows disbursement dates become true.

And that's either because you submitted them within seven days of the disbursement date, or you submitted them earlier, and then you came into the system and made them true within seven days. Our system will, within a day, pass information from COD to G5. G5 will total up all those expected disbursements from that upcoming disbursement, plus any going back that you haven't drawn down yet, and make sure there's sufficient money up there for your financial people to draw down the funds. There will not be any problem with this.

Parent plus and student FAFSA, this was mentioned yesterday, and I just wanted to emphasize, because there's been a little confusion here, what we're requiring here – and by the way, as was noted, 98-percent this happens anyway – is that the student for whom the parent is attempting to get a direct plus loan must have filed a FAFSA, not that the parent has to file. The student has to file, and we'll enforce that through the COD process. And ability – COD ability to benefit, just a last point, we've announced this in various ways. Beginning with the '11/'12 year, if you have a student who does not have a high school diploma, a recognized equivalent, home schooling and so on, and the only way they're eligible for federal student aid, for title four aid, is by one of the ability benefit measures, either they took and passed one of our approved ATB tests, they have the six credit hours or 225 clock ours, you need to identify that student in your COD record, your direct loan and Pell Grant, and if appropriate, Teach Grant and IASG record, that this student is only eligible for this aid because they passed the test, or took the grades. And we'll have different kind of codes, and so on.

This is important. We are – our own data analysis needs are important that we have this. And frankly, the agencies outside of the department that monitor our activities, our inspector general, the government accountability offices, and others, wanna know and get a handle on ATB activity. So it's not gonna be a big deal, because it's no extra burden, except to make sure that the coding gets into the system.

So we wanna thank you all very much for sitting here for all of this, and for putting up with our little silliness at the beginning. Thank you, Bill, for your good humor. I'm sure we'll be discussing it later, when we get back to the office.

[Laughter]

Thanks very much.

Dan Manzellan: Yeah, thank you.

[End of Audio]