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# Welcome to today's WCET|SAN Webcast

**August 20**

*The webcast will begin shortly.*

*There is no audio being broadcast at this time.*

*An archive of this webcast will be available on the WCET website next week.*



August 20

P r o f e s s i o n a l

L i c e n s u r e

N o t i f i c a t i o n s

N o w R e q u i r e d !

# Welcome!

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*Use the question box for questions and information exchange.*

*Archive, PowerPoint, and Resources available will be next week.*

*PowerPoint can be downloaded via the link in chat.*

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## Questions from the Audience

*If you have a question during the presentation, please add your questions to the question box.*

*We will monitor the question box and have time for Q&A at the end of the webcast.*

Moderator

**Cheryl Dowd**

*Director, State Authorization Network*

*WCET*



# Speakers

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**Aaron Lacey**  
Partner  
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**Shari Miller**  
Consultant



**Jeannie Yockey-Fine**  
Director for Regulatory Relations  
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# Federal Regulations

## 34 CFR 668.43 – Institutional Information

Notifications for programs  
leading to professional  
licensure and certification



# Disclosures for Licensure Programs

- The 2016 Rule included significant “make available” and “direct” disclosure requirements that covered any Title IV program that was provided through **distance education**.
  - These requirements became effective May 26, 2019, and remained in place until July 1, 2020. Institutions that were a party to a state authorization reciprocity agreement were not exempt.
- The 2019 Rule jettisoned most of these DE disclosures, along with most of 34 CFR 668.50. However, disclosures relating to **professional licensure** not only were preserved, they now apply to **all programs**, without regard to whether they are offered online or on ground.

# Disclosures for Licensure Programs

“[T]he Department notes by moving disclosures from § 668.50, which only applied to distance education programs and correspondence courses, to § 668.43, which applies to all title IV eligible programs at institutions of higher education, the Department broadened the scope of these requirements so that more students can make informed enrollment decisions.”

84 FR 58889 (Nov. 1, 2019)

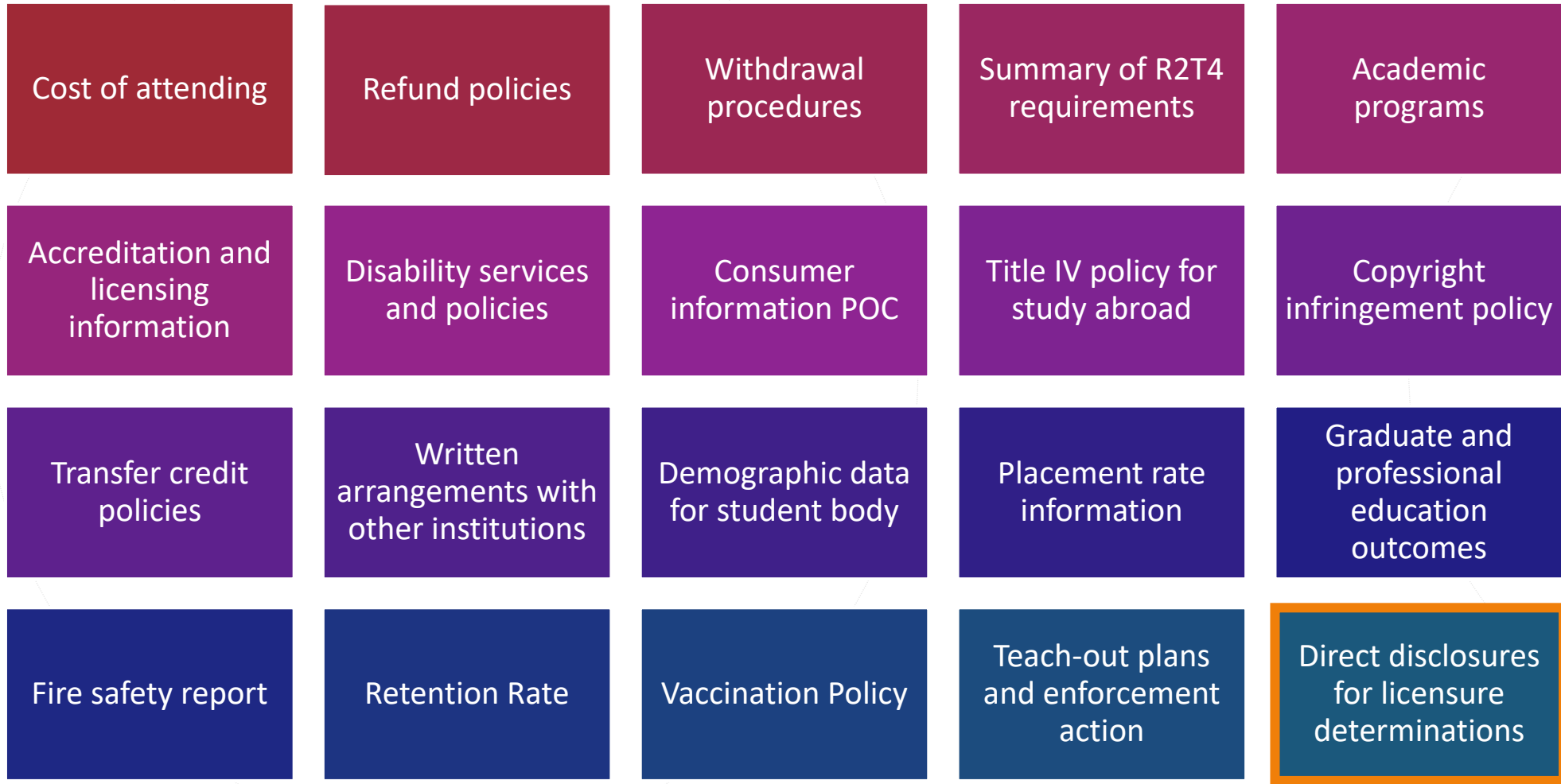
# Consumer Information

- In fact, the 2019 Rule revises and expands the listing of information that must be provided about the institution, as set forth in (668.43).
  - Pursuant to 668.41(d), institutions already are required to “make available to any enrolled student or prospective student through appropriate publications, mailings or electronic media, information concerning” a wide range of topics, including financial aid (668.42) the institution (668.43).
  - As specified in 668.41(b), institutions can satisfy this requirement by posting the requisite information “on an Internet website or an Intranet website that is reasonably accessible to the individuals to whom the information must be disclosed...”

34 CFR § 668.41 (July 1, 2020).

# Consumer Information

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# The Master CI Disclosure

- Also keep in mind that each year institutions must distribute to all enrolled students a notice of the availability of the consumer information required to be disclosed pursuant to 668.41. The notice must list and briefly describe the information and tell the student how to obtain it.
- Further, if the make available information is on an Internet or Intranet website, the master notice must include:
  - The exact electronic address at which the information is posted; and
  - A statement that the institution will provide a paper copy of the information on request.

34 CFR § 668.41(c) (July 1, 2020).

# “Make Available” Disclosures for Licensure Programs

- Under the new rule, a covered licensure program is one “designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, or is **advertised** as meeting such requirements...”
- For each covered licensure program (online or on ground) an institution must make available “information regarding whether completion of that program would be sufficient to meet licensure requirements in a State for that occupation, including” the licensure lists on the following slide.

34 CFR § 668.43(a)(5)(v) (July 1, 2020).

# Required Licensure Lists

## Positive Licensure Determinations

- A list of all states for which the institution has determined that its curriculum meets the state educational requirements for licensure or certification.

## Negative Licensure Determinations

- A list of all states for which the institution has determined that its curriculum does not meet the state educational requirements for licensure or certification.

## No Licensure Determinations

- A list of all states for which the institution has not made a determination that its curriculum meets the state educational requirements for licensure or certification.



# The “No Determinations” Option

- “The regulations do not require an institution to make an independent determination about whether the program it offers meets the licensure or certification requirements; the regulations provide that an institution may disclose that it has not made a determination as to whether a program's curriculum meets a State's educational requirements for licensure or certification. Including that option provides sufficient flexibility so that an institution need not incur any additional burden.”
- “If an institution opts to not confirm whether a program meets the requirements for a State because it enrolls a small percentage of students in that State, the institution will remain compliant by disclosing that it has not made a determination.”

84 FR 58886 (Nov. 1, 2019).

# The “No Determinations” Option

- “While the Department does not preclude an institution from advertising a program for which it has not made a determination regarding the program's alignment with State licensure or certification requirements, the Department expects that institutions will accurately and truthfully provide that information on the required disclosure.”

84 FR 58886 (Nov. 1, 2019).

# “Direct” Disclosures for Licensure Programs

- **Prior to enrollment**, an institution must directly notify a prospective student if:
  - the institution has made a determination that the program does not meet state licensure requirements in the state in which the prospective student is located; **or**
  - if the institution has not made a determination regarding whether the program meets state licensure requirements in the state in which the prospective student is located.
- “[T]he Department expects that the institution will provide this disclosure before a student signs an enrollment agreement or, in the event that an institution does not provide an enrollment agreement, before the student makes a financial commitment to the institution.”

34 CFR § 668.43(c)(1) (July 1, 2020); 84 FR 58886 (Nov. 1, 2019).

# “Direct” Disclosures for Licensure Programs

- **Within 14 calendar days**, an institution must directly notify a current student if:
  - the institution has made a determination that the program's curriculum does not meet the state educational requirements for licensure or certification in the state in which the current student is located.
- Direct disclosures must be made directly to the student in writing, which may include through email or other electronic communication.

34 CFR § 668.43(c)(2), (3)(i) (July 1, 2020).

# Determining and Documenting a Student's Location

- An institution must make a determination regarding the state in which a student is located at the time of the student's initial enrollment and, if applicable, upon formal notification that the student's location has changed to another state.
- Determinations regarding a student's location must be made in accordance with written policies, which must be applied consistently.
- Upon request, institutions must be able to provide ED with written documentation of its determinations regarding a student's location, including the basis for the determination.

# How to develop a compliance plan!



# Practical Project Strategy...

*Let's Begin!*

But first...

- 2019 Federal Regs regarding professional licensure disclosure
- No one-size-fits-all approach
- Defensible
- Risk tolerance
- Not legal advice

# Why?

- It's the law
  - State compliance still required, including under reciprocity (SARA)
  - Federal compliance doesn't necessarily satisfy state requirements
  - Federal compliance doesn't necessarily satisfy SARA requirements
- The student as consumer
- Institution's moral obligation...who knows best?
- Marketing advantage



# How to Support Compliance Efforts

- Prioritize this project in words and actions
  - Lead by example
  - Select a strong leader for this project
- Time is of the essence
- Access to subject matter experts and those in leadership
- Ensure that compliance team has needed resources
  - Enlist outside resources when necessary
- Willingness to assist
  - Be familiar with the contents of the Handbook
- Awareness that this is an ongoing responsibility for the institution

# What...

- Requirements of the 2019 Federal Regulations pertaining to professional licensure disclosures
- Broader application to:
  - Title IV eligible programs at institutions
  - All modalities
  - All programs that potentially lead to professional licensure
    - Designed to meet educational requirements
      - For a specific license and
      - Is required for employment in an occupation, or
    - Marketed or advertised to meet the educational requirements
- Varies by state
- All institutional statements must be “full and accurate”

# Who...

- Challenging task for the compliance team
- Requires collaboration across institution
- Critical partnerships
  - General counsel
  - Provost
  - Financial Aid
  - IT
  - Institutional Research
  - Marketing, Registrar, Accreditation team, Deans of programs, Curriculum designers, anyone with knowledge of licensure programs or willingness to help

# How...

- QUICK assessment of what information or systems currently exist
- Create team including staff with knowledge of program curriculum that may lead to professional licensure
- Documentation is key (defensible)
- Maintain frequent communication regarding status with those above and below in the hierarchy

# Institutional Data: Program List

- Across all modalities
  - Face to face
  - Distance ed
- Requirements for inclusion on the Program List
  - Is the program listed as having been designed to meet the educational requirements for a specific license required for employment in that profession, **or**
  - Is the program marketed or advertised to meet the educational requirements for a license
- Cast a broad net
- Keep documentation for support
- Determine the most appropriate format for storing data
  - All good systems start with a thought and a spreadsheet
  - Accessibility to stakeholders...curriculum review

# Institutional Data: Student Location

- Defensible policy as to how your institution makes this determination
  - Regs provide leeway for institutional policy/procedure
- Three subsections provide guidance (paraphrased):
  - Must make a determination, in accord with institution's policy/procedure, must be applied consistently to all groups of students
  - Must provide written documentation of how the determination was made (upon request)
  - Must make the determination about student location at time of the student's initial enrollment in an education program and upon formal receipt of information from the student (per institutional policy for student relocation)

# Student Location Key Points

- The institution must have a policy for determining student location
- The institution must have a policy for being notified when a student has relocated
- The policies must be consistently applied across groups
- The data needs to be accessible for compliance reporting
- The practice across the institution **MUST** match the policy
  - If not, make revisions so that they align
- There are plenty of resources available to help institutions create these policies
- Not knowing where your students are located is not an option

# Prioritize State Research

- Research state licensing requirements to determine:
  - The requirements for an individual student to be licensed in that state, and
  - If the institution's educational program curriculum satisfies the state professional board's requirements so that a graduate of the institution is eligible to be licensed in that state
    - This may include obtaining state board approval of the program curriculum
- Uniqueness of institution requires that each institution conduct this step
- Need a plan, can't do it all at once



# Next Steps

- Handbook lists the details and tips
- Create a matrix or crosswalk of state requirements compared to institution's programs (and curriculum) to determine compliance and non-compliance
- Determine which programs potentially lead to licensure (all modalities)
- Prepare for posting general disclosures and distributing individual disclosures (verbiage, location, etc.)

# General Disclosures

- Based upon broad Program List created
- Must disclose by program a list of states for which the program:
  - Meets the state educational requirements for licensure/certification
  - Does not meet the state educational requirements...
  - The institution has not made a determination if the curriculum meets the educational requirements...
- The easiest approach initially is #3 while the data is gathered
- Post the information on website, catalog (remember it will be frequently updated)
- Yes, but... is a NO so list “No” and what efforts are being taken to obtain information

# Individualized or Direct Disclosures

- Must disclose directly to enrolled and prospective students in writing
- Required if either *does not meet* or *has not made a determination* from General Disclosures
- Prior to time of enrollment...
  - Before financial commitment
  - May not be at time of institutional admission
- Requirements if status changes
  - Relocation
    - Institution allowed latitude in creating this policy...defensible
  - No longer meets requirements

# Ongoing Involvement

- Include the compliance professional on key decision-making committees such as curriculum review, policy committee, risk management, Faculty Senate, etc.
- Alert the compliance team to key personnel and leadership changes
  - Provide access when needed
  - Enhance the visibility of the compliance team across campus
- Recognize the need for updates on a frequent basis
- Be available, be flexible
- The time to act is now

## SARA Manual

### Section 5.2 revision

Required notifications for courses and programs leading to professional licensure or certification and subject to SARA Policy.



# Modifications to Align with Federal Regulations

*NEW Language - <https://nc-sara.org/resources/guides>*

## 5.2 Programs leading to Professional Licensure

SARA has no effect on State professional licensing requirements. Any Institution approved to participate in SARA that offers courses or programs designed to lead to Professional Licensure or certification or advertised as leading to Licensure must satisfy all federal requirements for disclosures regarding such Professional Licensure programs under 34 §C.F.R. 668.43. For SARA purposes, these requirements will also apply to non-Title IV institutions.

For SARA purposes, institutions that are unable, **after all reasonable efforts**, to determine whether a program will meet state professional licensure requirements shall provide the student or applicant with current contact information for any applicable licensing boards, and advise the student or applicant to determine whether the program meets requirements for Licensure in the State where the student or applicant is located.

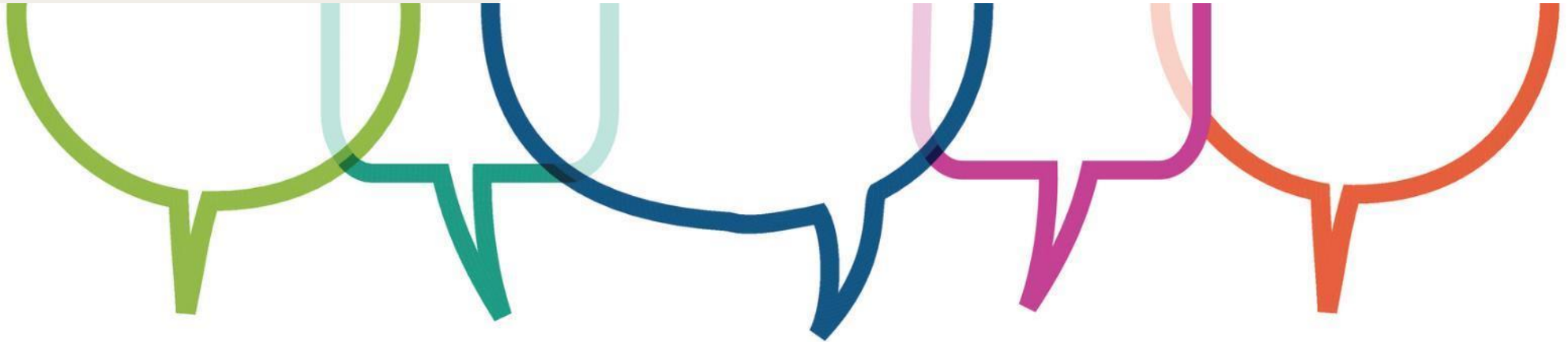
# Impact on SARA

- For all SARA institutions (Title IV and non-Title IV).
- **General** disclosures are now required.
- **Direct** disclosures are required when an institution knows that the program will not meet licensing requirements and when it does not know.
- Institutions are required to provide **contact information** for professional licensing boards when the institution cannot determine, after all reasonable efforts, whether their course or program will meet the licensing requirements.

# Professional Licensure Directory

- NC-SARA has worked with the SARA State Portal Entities (SPEs) and regional compacts to create the Professional Licensure Directory, which provides contact information for five programs that lead to a professional license. We chose the programs with the most enrollments per the data provided by our participating institutions.
  - Counseling
  - Nursing
  - Psychology
  - Social work
  - Teacher Education
- This resource will NOT house regulations or requirements. It is exclusively general contact information. We will update the contact information twice annually.
- <https://publish.smartsheet.com/6e3fb27658f443588ff16ad36ccf5a94>





Questions from the  
Audience

# Resources:

- [Professional Licensure Disclosures: Implementation Handbook for Institutional Compliance with the 2019 Federal Regulations.](#) Includes Flowchart! Author: Shari Miller
- [State Authorization and Crossing State Borders, Part 2: Additional Approvals and Professional Licensure](#) July 22, 2020; SHEEO; Cheryl Dowd & Russ Poulin
- [SAN Virtual Seminar 2020](#) - HEA & Federal Rulemaking: The Impact on Institutional Compliance – videos and documents available (or find on [Youtube Playlist](#))
- [SAN Special Interest Team on Professional Licensure:](#) White paper on licensing compacts, WCET Frontiers Articles, Checklists, and Research Template
- [Final Federal Regulations for State Authorization Released;](#) Nov. 4, 2019; WCET Frontiers; Cheryl Dowd and Dan Silverman
- [Board of Nursing Professional Licensure Requirements](#) - by state - prepared by National Council State Boards of Nursing (NCSBN)
- [Professional Licensure Directory](#) (contact information in each state for state boards of Counseling, Nursing, Psychology, Social Work, Teacher Education); NC-SARA
- [Common Professional Board National Links:](#) Updated April 2020 (requires SAN Member login)
- [Licensed Professions per State with Board links](#) Updated April 2020 (requires SAN Member login)

# Contact Information

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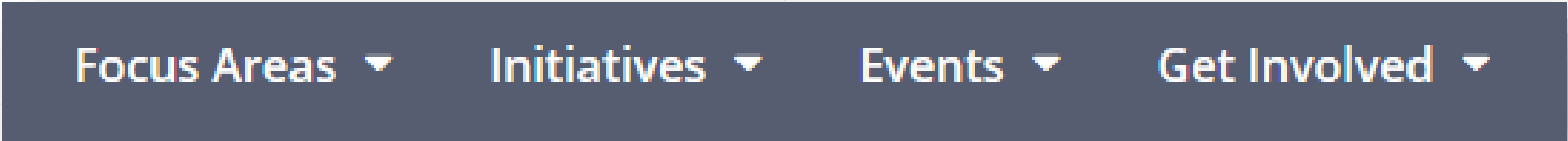
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## ADDITIONAL INFORMATION AND RESOURCES

Access to the resources discussed during this webcast, including the archive, will be available next week.

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