

UNITED STATES DEPARTMENT OF EDUCATION

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NATIONAL ADVISORY COMMITTEE ON
INSTITUTIONAL QUALITY AND INTEGRITY

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MEETING

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THURSDAY
JUNE 9, 2011

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The Advisory Committee met in the Commonwealth Ballroom in the Alexandria Holiday Inn, 625 First Street, Alexandria, Virginia, at 8:30 a.m., Cameron Staples, Chair, presiding.

PRESENT:

CAMERON C. STAPLES, Committee Chair,
Partner, Neubert, Pepe, & Monteith
law firm
ARTHUR J. ROTHKOPF, Committee Vice-Chair,
President Emeritus, Lafayette College
ARTHUR E. KEISER, Chancellor, Keiser
Collegiate System
WILLIAM `BRIT' E. KIRWAN, Chancellor,
University System of Maryland
EARL LEWIS, Provost and Executive Vice
President for Academic Affairs,
Emory University
WILFRED M. McCLAY, SunTrust Bank Chair of
Excellence in Humanities,
University of Tennessee at
Chattanooga
ANNE D. NEAL, President, American Council
of Trustees and Alumni

WILLIAM PEPICELLO, Provost and President,
University of Phoenix
SUSAN D. PHILLIPS, Provost and
Vice-President for Academic Affairs,
State University of New York at
Albany
BETER-ARON SHIMELES, Student Member,
Fellow, Peer Health Exchange
JAMIENNE S. STUDLEY, President and CEO,
Public Advocates, Inc.
LARRY N. VANDERHOEF, Former Chancellor,
University of California, Davis
CAROLYN WILLIAMS, President, Bronx
Community College of the City
University of New York
FRANK H. WU, Chancellor and Dean,
University of California,
Hastings College of Law
FREDERICO ZARAGOZA, Vice-Chancellor of
Economic and Workforce Development,
Alamo Colleges

STAFF PRESENT:

MELISSA LEWIS
SALLY WANNER
KAY GILCHER
CAROL GRIFFITHS
ELIZABETH DAGGETT
KAREN DUKE
JENNIFER HONG-SILWANY
JOYCE JONES
CHUCK MULA
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2 (8:36 a.m.)

3 Welcome and Introductions

4 CHAIRMAN STAPLES: Good morning.

5 I'd like to call the meeting of the
6 NACIQI to order, and ask people to please
7 take your seats. I want to thank you for
8 being here today. We have a busy agenda.

9 We look forward to getting started.

10 And before we begin the process
11 of inviting agency representatives
12 forward, I'd like to have the members of
13 the committee introduce themselves.

14 We have nearly a full complement
15 of members today. It's nice to see
16 everybody this morning. My name is Cam
17 Staples, I'm the Chair of NACIQI. And,
18 Arthur?

19 VICE CHAIR ROTHKOPF: Yes,
20 Arthur Rothkopf, I'm Vice-Chair.

21 MS. PHILLIPS: Susan Phillips,
22 Chair of the Policy Sub-committee, and

1 Provost and Vice-President for Academic
2 Affairs at University at Albany, State
3 University of New York.

4 MS. NEAL: Anne Neal, President
5 of American Council of Trustees and
6 Alumni.

7 MS. SHIMELES: Aron Shimeles,
8 Bay Area Fellow of Peer Health Exchange.

9 MR. WU: Frank Wu, Chancellor
10 and dean, University of California
11 Hastings College of Law.

12 MR. KEISER: Arthur Keiser. I'm
13 Chancellor of Keiser University.

14 MR. LEWIS: Earl Lewis, Provost
15 Emory University.

16 MR. KIRWAN: Brit Kirwan,
17 Chancellor of the University System of
18 Maryland.

19 MR. ZARAGOZA: Frederico
20 Zaragoza, Vice-Chancellor of Economic and
21 Workforce Development, Alamo Colleges.

22 MR. VANDERHOEF: I'm Larry

1 Vanderhoef. I'm Chancellor Emeritus at
2 the University of California, Davis.

3 MR. PEPICELLO: Bill Pepicello.
4 I'm the President of University of
5 Phoenix.

6 MS. WILLIAMS: Carolyn Williams,
7 President of Bronx Community College, City
8 University of New York.

9 MS. STUDLEY: Jamiene Studley,
10 President and CEO of Public Advocates in
11 San Francisco.

12 MS. WANNER: Sally Wanner with
13 the Office of General Council at the
14 Department of Education.

15 MS. GILCHER: Kay Gilcher,
16 Director of the Accreditation Division,
17 Department of Education.

18 MS. LEWIS: Melissa Lewis,
19 NACIQI Executive Director, Department of
20 Education.

21 MR. MCCLAY: Bill McClay,
22 University of Tennessee.

1 CHAIRMAN STAPLES: Thank you
2 and welcome everybody. Melissa do you
3 have some opening comments?

4 MS. LEWIS: Yes, thank you, Cam.
5 I'd like to welcome everyone today.
6 Thank you for making it through this hot
7 and humid weather to the meeting,
8 appreciate it. The room temperature is a
9 little stuffy.

10 Yesterday, up here at least, it
11 was very chilly and apparently they've
12 overcompensated. We're trying to reach a
13 nice balance, but in the meantime, we're
14 trying to the keep the doors open and the
15 air circulating.

16 There's a high school group
17 using the hallway this morning during
18 breakfast, and then afterwards we can open
19 the doors, but we want to make sure the
20 audience can hear the proceedings as well.

21 I'd like to give an overview of
22 the events for the meeting. Over the

1 course of the meeting the committee will
2 be reviewing ten accrediting agencies and
3 one federal institution, seeking degree
4 granting authority.

5 This morning the NACIQI will
6 review the remaining three accrediting
7 agencies and the federal institution
8 that's listed on your agenda.

9 This afternoon the committee
10 will move into the policy portion of the
11 meeting, and will begin considering the
12 three issues related to the re-
13 authorization of the Higher Education Act.

14 With respect to the agency
15 reviews, I'd like to call your attention
16 to the bottom of the first page of the
17 agenda, and the Guidelines for Oral
18 Presentations for the Public. Both list
19 the order of presentations during the
20 agency review portion of the meeting.

21 With respect to the procedures
22 the public may use to make oral comments,

1 there are sign-up forms at the table just
2 outside the meeting room.

3 Upon receipt of a completed
4 form, they'll be time-stamped and the
5 speakers will be selected on a first-come,
6 first-serve basis. Up to five speakers
7 per agency may be selected, and we'll cut
8 off the sign-up time five minutes before
9 the scheduled time for review, or when we
10 have five speakers signed up.

11 Let's see, with respect to the
12 members, we're very pleased that 15 of the
13 17 NACIQI members are joining us today.
14 Bruce Cole and Daniel Klaich are unable to
15 attend the meeting.

16 Members, I ask that if you need
17 to depart from the meeting early that you
18 announce your departure and possible
19 return to the meeting for the record.

20 Also, concerning recusals, I'd
21 like to remind the members that if you
22 have any conflicts of interest that

1 require you to recuse yourself from the
2 review of an agency, to please announce
3 that you are recusing yourself before the
4 primary reader's introduction of the
5 agency, and to please leave the table at
6 that time so as not to confuse anyone
7 concerning your recusal.

8 The meeting is also being
9 recorded by the Neil Gross Court Reporter
10 Company. This gentleman by the screen's
11 recording it for us.

12 This is a reminder that when you
13 are speaking, please insure you turn on
14 the push-button microphone and speak
15 clearly into the microphone so he may hear
16 you, and also remember to please turn off
17 the mike when you're done.

18 We can only have a certain
19 number of mikes open at one time, and also
20 it affects the volume. The court reporter
21 will let us know from time to time if he
22 can't hear the proceedings.

1 Concerning administrative items,
2 the restrooms are just to the left beyond
3 the, as you exit the room, past the
4 elevators.

5 Restaurants, the hotel
6 restaurant is closed. However, there's a
7 sandwich shop right outside the meeting
8 room, a giant grocery across the street,
9 and at the end of the block on Montgomery
10 Street, if you turn left toward the river,
11 there are several different establishments
12 down there, both sit-down and fast-food.

13 Internet access for the
14 audience, you'll have to go out to the
15 front corridor, along the external wall of
16 windows to obtain internet access. And,
17 Mr. Chair, that concludes my remarks and I
18 look forward to a productive meeting.
19 Thank you.

20 CHAIRMAN STAPLES: Thank you
21 very much, Melissa. If there are no other
22 opening comments, we'll proceed with our

1 first item on the agenda which is the
2 American Bar Association, Council of the
3 Section of Legal Education and Admissions
4 to the Bar, and I would recognize Anne
5 Neal.

6 MR. WU: I'm going to excuse
7 myself from this.

8 CHAIRMAN STAPLES: Thank you,
9 Frank. Record will note that.

10 American Bar Association, Council of the
11 Section of Legal Education and Admissions
12 to Bar

13 MS. NEAL: The American Bar
14 Association established the Section of
15 Legal Education and Admissions to the Bar,
16 otherwise known as Council, in 1893, and
17 the council began to conduct accrediting
18 activities in 1923.

19 The council is both an
20 institutional and programmatic accrediting
21 agency. It currently accredits 199 legal
22 education programs.

1 Other legal education programs
2 accredited and approved by the agency, 19
3 are free-standing law schools and maintain
4 independent status as institutions of
5 higher education with no affiliation with
6 a college or university. These law
7 schools may use the agency's accreditation
8 to establish eligibility to participate in
9 ATA programs.

10 Since the agency's a Title IV
11 gatekeeper, it must meet the Department's
12 separate and independent criteria or seek
13 a waiver of those requirements.

14 NACIQI last reviewed the
15 council's petition for renewal of
16 recognition at its December, 2006 meeting.

17 On June 20, 2007, the Secretary
18 continued the recognition for 18 months,
19 extended recognition to include the
20 Accreditation Committee of the Section of
21 Legal Education and Admission to the Bar,
22 and requested the agency to submit an

1 interim report as well as a renewal
2 petition by December 5, 2007, for NACIQI
3 to review at its June 2008 meeting.

4 In the compliance report the
5 council on accreditation committee were
6 asked to show the progress in complying
7 with 17 criteria for recognition
8 identified in the staff's final report,
9 along with a list of records and reports
10 concerning any and all site evaluations,
11 training, retreat, or workshop materials,
12 and other materials concerning consistent
13 application of various standards.

14 In her letter, the Secretary
15 wrote, "I hope that the council will come
16 into full compliance with all the criteria
17 cited above by the time it submits its
18 December 2007, petition for renewal of
19 recognition.

20 However, I remind you, that the
21 Higher Education Act provides a 12-month
22 deadline for agencies that fail to comply

1 with the criteria for recognition to bring
2 themselves into compliance.

3 If the council fails to come
4 into compliance within the specified time
5 frame, the law requires a denial of the
6 council's petition for renewal of
7 recognition, and unless it is determined
8 that the agency should extend for good
9 cause, the period for coming into
10 compliance.

11 In absence of such an extension,
12 this 12-month period constitutes the
13 maximum time frame that the law allows for
14 the council to correct the deficiencies
15 noted in the final staff report."

16 Although, originally scheduled
17 to appear for review at the June 2008
18 NACIQI meeting, the Department
19 administratively postponed the agency to
20 review several third-party comments,
21 alleging substantive violations of the
22 Secretary's criteria, and deferred the

1 agency until the December 2008 meeting.

2 On August 14, 2008, the Higher
3 Education Opportunity Act amended the
4 Higher Education Act, which disbanded
5 existing NACIQI and revised many sections
6 of the statute. Agencies with pending
7 renewal petitions were scheduled for full
8 review after the full membership of NACIQI
9 had assembled.

10 The meeting today is the first
11 opportunity for the council to appear
12 before NACIQI for a review. At this
13 point, I'd like to turn it over to Joyce.

14 CHAIRMAN STAPLES: Thank you
15 very much. Joyce?

16 MS. JONES: Good morning, Mr.
17 Chair and to the council members. My name
18 is Joyce Jones, and I'm going to be
19 presenting on behalf of the accreditation
20 staff, a summary of the analysis and the
21 recommendations made after our review of
22 the American Bar Association's Council of

1 Legal Education and Admissions to the Bar,
2 which I will be referring to as the
3 council, or the ABA as appropriate.

4 The staff recommendation to the
5 Senior Department Official for this
6 agency, is to continue the recognition of
7 its accreditation throughout the United
8 States of programs in legal education that
9 lead to the first professional degree in
10 law, as well as the free-standing law
11 schools offering such programs.

12 This recognition currently
13 extends to the Accreditation Committee of
14 the Section of Legal Education for
15 decisions involving continued recognition.

16

17 Now, what did I say? Okay, I
18 would read that again except that I don't
19 remember what I said.

20 At any rate, the accreditation
21 committee involves review of continuing
22 accreditation law schools, and our

1 recommendation also includes requiring the
2 agency to submit a compliance report in 12
3 months on the issues identified in our
4 staff report.

5 We've based our recommendation
6 on our review of the agency's petition,
7 the supporting documentation and
8 supplemental documentation, the
9 observation of a site visit report, and
10 the observation of two decision meetings,
11 one by the council, one by the
12 accreditation committee.

13 Our review of the agency's
14 petition found that the agency needs to
15 address a few outstanding issues involving
16 standards such as job placement
17 expectations, as well as the procedures
18 for implementation, and procedures in
19 policies involving administrative and
20 organizational issues such as the record
21 of the student complaints, their
22 assessment of the impact of student loan

1 default rates in terms of how the agency
2 reviews it, enforcement actions where it
3 involves continuing monitoring of the law
4 schools.

5 The revisions of several of the
6 substantive change procedures that were
7 omitted in their procedures, the operating
8 procedures regarding third-party comments,
9 and the review process, their complaint
10 review procedures, and a teach-out plan
11 protocol with established agency criteria
12 in which it reviews and approves plans and
13 agreements, the transfer of credit
14 procedures and the notification
15 procedures.

16 We believe that these issues
17 will not place the accrediting
18 institutions or programs, students or the
19 financial aid community, or the financial
20 aid that they receive at risk, and that
21 the agency can resolve these concerns and
22 demonstrate compliance in a written report

1 in a year's time.

2 Pursuant to the HEOA Amendments,
3 the agency has made revisions of its
4 standards policy, procedures, and the
5 council will address these revisions
6 tomorrow at the beginning of its council
7 meeting in, I think Salt Lake City.

8 Therefore, as previously stated
9 we are recommending to the Senior
10 Department Official that the agency's
11 recognition be continued, but that he
12 require the agency to submit a compliance
13 report in 12 months that demonstrates the
14 agency's compliance with the issues
15 identified in the staff report. Thank
16 you.

17 CHAIRMAN STAPLES: Thank you,
18 Joyce. Any questions or comments? Jamie,
19 did you?

20 MS. STUDLEY: I have two
21 questions for Joyce. My first question
22 is, I thought I heard you at the end, to

1 say that there is a council meeting
2 tomorrow at which, was it some or all of
3 these remaining items will be addressed?

4 MS. JONES: Most of the
5 procedures will be addressed tomorrow, and
6 they will be looking at making revisions
7 on the council standards concerning 509,
8 the consumer information, that goes along
9 with the requirements regarding the third
10 party.

11 MS. STUDLEY: Okay.

12 MS. JONES: I had made a list of
13 those, I think there were only two
14 standards involved and the rest are all
15 procedures, which some can be done in-
16 house because they're internal operating
17 procedures. Others are rules procedures,
18 which do require the council review. But
19 they will be doing that tomorrow, or
20 beginning their meeting tomorrow.

21 MS. STUDLEY: Yes, you mentioned
22 that the accreditation covers the first

1 degree in law?

2 MS. JONES: Yes.

3 MS. STUDLEY: And I'm wondering
4 whether it also would cover the LLM and
5 JSD degrees and other degrees granted by
6 law schools, or truly is this only for the
7 first --

8 MS. JONES: The recognition only
9 extends to the Juris Doctorate. The
10 council does acquiesce as I understand to
11 other degree programs, LLM and others.
12 But the recognition for that accreditation
13 does not extend that far, it's only for
14 the first degree.

15 MS. STUDLEY: Okay, and in the
16 case of the institutional law programs,
17 the institutional accreditation could
18 cover those?

19 MS. JONES: Beg your pardon?

20 MS. STUDLEY: If an institution
21 offers those degrees and is
22 institutionally accredited, then would

1 students in those programs be eligible for
2 Title IV?

3 MS. JONES: Yes.

4 MS. STUDLEY: Even without the
5 ABA's authority to accredit them. Thank
6 you. That's all I have.

7 MR. ROTHKOPF: Thank you, Joyce.

8 I have a question trying to tie these
9 latest noncompliance items to the ones
10 that occurred back the previous time, that
11 when Anne Neal read the Secretary's letter
12 and there were apparently a fair number of
13 noncompliant items. And I guess my
14 question is, and I know obviously the law
15 has changed, the regs have changed, are
16 there any items that still persist from
17 the earlier noncompliance? And if so,
18 what's your sense as to why they haven't
19 been remedied?

20 MS. JONES: There were issues in
21 the findings in 2006 related to particular
22 sections of the criteria. The new

1 findings are not related to the same
2 criteria.

3 If for instance, I don't know
4 what 602.15(a)(4) involved as far as a
5 public representative was concerned, but
6 the issue with us is that the agency needs
7 to demonstrate that they have fully vetted
8 the public members according to the
9 criteria. And therefore -- is there
10 anything you want to add, Kay?

11 MS. GILCHER: Yes, I just wanted
12 to say that we did do a crosswalk between
13 what had been the issues that were cited
14 in the past and the current citations.

15 There are three criteria that
16 are cited in this report that were
17 previously cited. However, the reason for
18 the concern is different in each case so
19 it's not the same finding in that regard.

20 And also as was hinted in your
21 question, we have followed the same
22 process with the ABA as with the other

1 agencies who were affected by this hiatus
2 in the lack of having a NACIQI for review.

3 And that is, we have started the
4 review of the petition based on a clean
5 slate since we do have new criteria, new
6 law that we are looking at. But in this
7 case because there was this pending
8 action, we did want to make sure there had
9 been a crosswalk. Sally?

10 MS. NEAL: Just to clarify that,
11 as I looked at it, while there are
12 potentially different clauses of the
13 sections, it does appear that there are
14 continuing problems with student
15 achievements, substantive change,
16 complaint procedures, and a public
17 notifications, which to my mind are fairly
18 significant areas of public
19 responsibility. Am I correct in singling
20 out those four as the areas that were
21 addressed earlier?

22 CHAIRMAN STAPLES: Are you

1 asking Kay that question?

2 MS. NEAL: Yes.

3 CHAIRMAN STAPLES: That's fine.

4 Kay?

5 MS. GILCHER: Okay, there was a
6 citation for 602.16(a)(1), Romanet I,
7 which is student achievement, as I said
8 it's for a different aspect of that.

9 There was also for 22(b), which
10 is in the area of substantive change,
11 23(c) which was the, remind it of what
12 23(c) is?

13 PARTICIPANT: The complaint.

14 MS. GILCHER: And then 26(c)
15 which is a notification. But as I said,
16 they are different aspects of
17 noncompliance in those criteria.

18 CHAIRMAN STAPLES: Anne, do you
19 have any more comments, at this point?

20 MS. NEAL: Not at this point.

21 CHAIRMAN STAPLES: Arthur, are
22 you finished?

1 MR. ROTHKOPF: Yes, thank you.

2 CHAIRMAN STAPLES: Okay, Art?

3 MR. KEISER: I was a little
4 curious that we only recognize their first
5 law degree and not the upper level
6 degrees, and is that fully disclosed?
7 Because that's the first time I've ever
8 heard that.

9 And the students who are
10 entering an, I guess it's an LLM program,
11 are they aware that that program is not
12 recognized by the Department? Is that in
13 their information?

14 MS. JONES: All of the
15 notifications given by this Department as
16 well as the ABA, limit their recognition
17 of accreditation of the first degree.

18 However, the agency is free in
19 its accreditation of first degree programs
20 to review and review the impact of the
21 advanced degrees or the doctorate, or LLM
22 or even in joint degree programs, where

1 they are required to look at that program
2 and determine whether it will have an
3 impact on the JD program.

4 However, with respect to
5 notifications, their public website
6 discloses what they accredit and they do,
7 in fact, are involving themselves in LLM
8 programs and joint degree programs offered
9 at the institution, but they don't
10 accredit them.

11 MR. KEISER: But is that normal?
12 It's the first I've heard that we would
13 recognize an agency that recognizes higher
14 level programs without our approval.

15 MS. JONES: The agency is free
16 to accredit or determine how it wants to
17 do or handle any of its other activities
18 so long as the recognition that we are
19 reviewing is for the first degree.

20 The agency is always free, and
21 that has always been the case, at least
22 since I've done the reviews since 1996.

1 MS. GILCHER: Actually in every
2 case of an agency coming for an expansion
3 of scope, to have new degree levels
4 included in its scope of recognition it
5 would have had to have been accrediting at
6 those levels prior to including in
7 recognition. Now on this case they've
8 just determined not to include it in their
9 scope.

10 CHAIRMAN STAPLES: Joyce, if
11 you're done, I just want to follow up.
12 You said though, in terms of access to
13 financial aid that could be covered
14 through other accreditations, so it
15 doesn't mean students in an LLM program
16 would not have access to financial aid?

17 MS. JONES: The students who are
18 in accredited institutions, that are not
19 accredited by the ABA in a specialty in
20 that area, have access to Federal Title IV
21 at the graduate level, through the
22 institutional accredited.

1 So therefore, those people in
2 LLM programs will have access to Title IV.

3 I'm not sure, and I defer to anyone, with
4 respect to how that is viewed where that
5 is a free-standing institution, and that
6 institution has gotten approval from the
7 state to offer the LLM.

8 I'm not sure what the
9 relationship is, other than the
10 acquiescence in which the agency will
11 review those programs for its impact on
12 the JDs.

13 CHAIRMAN STAPLES: Thank you.
14 Any other questions, Anne?

15 MS. NEAL: Yes. Just to follow
16 up on that Joyce. So in other words, the
17 schools that are currently ABA accredited
18 also have accreditation through the
19 regionals, with potentially the exception
20 of the 17 free standing, is that, so there
21 would already be accreditation?

22 MS. JONES: The accreditation

1 exists for those law school programs.

2 MS. NEAL: Yes.

3 MS. JONES: Housed in regionally
4 recognized and accredited regional
5 institutional agencies.

6 The free standing law schools, I
7 think that there are some who are duly
8 accredited by a regional in the region for
9 which it may be located.

10 And I'm not sure which one takes
11 precedence because of the institutional
12 overview of the regional accreditor. But
13 again the language about recognition,
14 wherever the school is located, is that
15 it's only for recognition of the JD
16 program.

17 CHAIRMAN STAPLES: Thank you.

18 Brit?

19 MR. KIRWAN: Well, that was
20 actually my question, so it has been
21 addressed.

22 I guess there's a little

1 ambiguity about what happens with the free
2 standing law school and for these more
3 advanced degrees, and federal financial
4 aid, but it's not related to the topic at
5 hand I guess.

6 CHAIRMAN STAPLES: Any further
7 questions? Yes, Sally?

8 MS. WANNER: Just wanted to
9 mention that the free standing, like any
10 other law school, can be duly accredited.
11 That's what a school would do if it
12 wanted to offer advanced degrees and it
13 would pick the regional as its primary
14 accreditor, and then all of its students
15 and all of its programs could participate.

16 CHAIRMAN STAPLES: Thank you,
17 any further comments or questions for
18 Joyce? Okay, thank you, Joyce. And we'll
19 invite up the agency representatives.

20 PARTICIPANT: Kay.

21 CHAIRMAN STAPLES: Oh, I'm
22 sorry, Kay.

1 MS. GILCHER: I just wanted to
2 correct myself. When in response to
3 Anne's questions about the criteria that
4 were cited both in the previous compliance
5 report and this one, the section of the
6 substantive change is a different
7 paragraph of the criteria that were cited
8 in the last time, so there is no overlap
9 in the substantive change.

10 CHAIRMAN STAPLES: Thank you,
11 Kay. At this time we'll invite up the
12 representatives from the Bar Association.
13 Good morning, you have the floor.

14 MS. DURHAM: Thank you very
15 much. There, I always have difficulties
16 with whatever technology is in front of
17 me. Good morning, members of the
18 Committee.

19 My name is Christine Durham.
20 I'm currently the Chief Justice of the
21 Supreme Court of Utah, and I am serving
22 this year as chair of the Council on Legal

1 Education and Admissions to the Bar of the
2 American Bar Association.

3 I'm very happy to have this
4 opportunity to appear before you today,
5 and I'm particularly honored to be
6 representing the ABA Accreditation
7 Project, and the over 300 volunteers who
8 participate each year in the accreditation
9 activities of the section on legal
10 education.

11 If you'll permit me a brief
12 personal aside, I'm having an existential
13 moment this morning. I served for 14
14 years on the board of trustees at Duke
15 University, and my last task on the board
16 as chair of the Committee on Academic
17 Affairs was to work with the university
18 administration in getting its own approval
19 from the Department of Education.

20 And then of course, I got to
21 work on the council's work as an
22 accreditor, and now here I am on this side

1 of the table yet again. It's been a
2 wonderful learning experience.

3 I'd like to thank the staff of
4 the Department, particularly Joyce Jones
5 and Kay Gilcher, for the professionalism
6 and the responsiveness with which they've
7 worked with us this past year.

8 Our work and our discussions
9 with them have always been based upon good
10 faith interpretations and application of
11 the Department's criteria, and their felt
12 responsibility to insure that we are in
13 compliance with those criteria, and of
14 course with our own efforts to be in
15 compliance.

16 We accept the staff findings.
17 Some noncompliance findings are the
18 results of new regulations with which we
19 entirely acknowledge we must come into
20 compliance and of course, we clearly
21 understand that.

22 One hallmark of our system

1 within the ABA is that new standards and
2 rules can only be adopted after
3 significant efforts at publication,
4 community input, and due process. And
5 of course I think as Joyce's comments
6 alluded to, in some instances changes that
7 we make in the rules go before a process
8 of review at the ABA general level, so we
9 have an issue sometimes as to scheduling.

10 There simply has not yet been
11 enough time to complete some of the
12 necessary changes while following our own
13 process, but I can say with confidence
14 that all of the required changes are well
15 under way.

16 As was mentioned, the council
17 will be meeting tomorrow in Salt Lake
18 City. We'll take care of changes to the
19 internal operating procedures that have
20 not already been dealt with, and we'll
21 finalize changes to the rules that will
22 then be approved presumably in August, so

1 that within a matter of weeks or months
2 all of those changes, I think will be
3 accomplished.

4 I would note that in a few
5 instances, and I believe that that's also
6 been alluded to by committee members and
7 staff, we've been cited for policies and
8 procedures that have been place for some
9 time where there's not been an intervening
10 regulatory change. So we were caught
11 somewhat unawares by those citations.

12 That being said, we accept the
13 findings as I mentioned before and will
14 move expeditiously to make any necessary
15 changes with respect to that.

16 We very much appreciate the care
17 with which staff has reviewed our
18 application. We express appreciation to
19 Joyce Jones, who attended both a council
20 meeting and an accreditation committee
21 meeting, and I'm sure she read every page
22 of the materials that stacked this high

1 for those presentations.

2 And to Kay Gilcher, who
3 participated in a site visit to the
4 University of Virginia Law School.

5 We look forward to a continuing
6 collaborative and mutually respectful
7 relationship going forward as we complete
8 the process of making the changes that we
9 need to make to be in compliance during
10 the 12-month period, should we be granted
11 that opportunity.

12 I would just note that since
13 2007, the staffing of the consultant's
14 office has increased by six full-time
15 staff including two additional lawyers.

16 The budget for the accreditation
17 project has grown substantially over this
18 period. At no time in its history has the
19 accreditation project been better funded
20 and staffed and had more resources to bear
21 on it's accreditation responsibilities.

22 I'm very proud of the work of

1 this action and its council, and I am
2 honored to have served this year as chair
3 of the council. I suspect, like many of
4 you, people often ask me, why do you do
5 this kind of thing? You have a day job
6 that's somewhat demanding.

7 And my response, although I
8 pretend, well I don't pretend, I think I
9 am a law junkie. I love to do work that
10 improves the quality of legal education,
11 the quality of the profession.

12 But more than that it is the
13 quality of the people with whom I am
14 privileged to work in that capacity.
15 People who are dedicated to the project of
16 legal education, and that has been the
17 great reward of serving on the council.

18 I want to assure this committee
19 and the Department that we're fully
20 cognizant of the comprehensive nature and
21 importance of this process of our review
22 process with you. We take it very

1 seriously and we view it as an opportunity
2 to refine and improve our process.

3 Let me introduce, perhaps I
4 should've done that at the beginning, but
5 to my right is Hulett Askew, also known as
6 Bucky throughout the world of legal
7 education, who is the consultant to the
8 Section on Legal Education and serves both
9 as essentially the Executive Director, but
10 also the substantive legal advisor to the
11 entire accreditation project.

12 And to my left is Dan Freeling,
13 who is the deputy consultant who works
14 very closely with Bucky.

15 I would encourage you to ask all
16 technical questions, particularly ones
17 associated with complicated subsections of
18 your rules and ours, to Bucky and Dan.

19 But I thank you for your
20 attention and I'll be responsive to any
21 questions. Let me ask first whether,
22 Bucky, you want to say a word?

1 MR. ASKEW: Thank you, Chief.
2 We believe strongly on accountability all
3 up and down in our system including our
4 accountability to the Department of
5 Education. By my count we are being cited
6 for 17 matters of noncompliance. I think
7 Ms. Neal mentioned that in her opening.

8 While on the face this appears
9 to be a large number, in fact, most of the
10 citations are for matters that are either
11 the result of new regulations because of
12 the Higher Education Act, and nine of
13 those by my count, or are for matters that
14 we believe we can resolve in relatively
15 short order.

16 The Council has a process, as
17 Christine mentioned, for standards or
18 rules to address the new regulatory items
19 and those should be finalized at least by
20 the fall. There's a council
21 meeting tomorrow and Saturday in Salt Lake
22 City, in which a number of these items are

1 on the agenda for the council meeting, and
2 then there are a few others that will be
3 appearing on the August agenda. So we
4 believe by September, many of the new
5 regulations will be adopted as noted in
6 the staff report to you.

7 Of the eight items that are not
8 the result of new regulatory changes, we
9 are being cited for some of our policies
10 and procedures that have been place for
11 quite a while.

12 But we accept the
13 recommendations of the staff and we intend
14 to make the changes necessary to bring
15 ourselves into compliance with all of
16 those items in short order, and believe
17 that we can do it in short order.

18 I heard yesterday some of the
19 agencies and some questions being asked
20 about, is one year enough time? Is it
21 really doable by the agency?

22 I think I can safely assure you,

1 I know I can safely assure you, that we
2 believe we can do all of these certainly
3 within the year and in many cases much
4 sooner than that.

5 Let me mention, speak to one
6 issue that you just discussed, about the
7 free standing law schools and LLM's. Of
8 our 199 law schools, 19 are free standing
9 independent law schools.

10 A number of those, I don't know
11 the exact number, but as many as seven or
12 eight are regionally accredited, have
13 chosen to be regionally accredited.
14 Mostly for purposes of their LLM programs.

15
16 The other 10 or 11 are not
17 regionally accredited, we're the sole
18 accreditor for them, but I know from
19 talking to those deans that a number of
20 them are beginning to seek regional
21 accreditation outside of our process. And
22 as Joyce explained, they can have dual

1 accreditation.

2 So it could be in the next few
3 years we're down to just a handful of free
4 standing schools that aren't recognized
5 for their LLM programs.

6 We do not accredit LLM's, we
7 make that clear to the law schools, to
8 students, to the public. We also make it
9 clear to the Chief Justices of the United
10 States in a mailing every couple of years,
11 because most every Supreme Court relies on
12 an ABA approved degree for purposes of Bar
13 admission.

14 We want to make sure that the
15 Chiefs understand that we do not accredit
16 LLM programs. So an applicant for
17 admission who has a law degree from a non-
18 ABA approved law school but has a LLM
19 degree from an ABA approved law school,
20 does not meet the requirements of having
21 their JD degree from an ABA approved law
22 school.

1 Now some states may decide to
2 admit them anyway, but we want to make
3 sure they don't make a mistake and think
4 that the LLM is an accredited degree,
5 because it's not. We've never sought
6 recognition for the LLMS or SJDS or other
7 advanced degrees, and we have no plans to
8 seek recognition for those degrees. Thank
9 you.

10 MS. DURHAM: Thank you very
11 much.

12 CHAIRMAN STAPLES: Thank you
13 very much, any questions? Jamie?

14 MS. STUDLEY: I'd like to begin
15 where I think we all begin, which is with
16 student learning outcomes, and ask you to
17 tell us a little bit more about your
18 current thinking about student learning
19 outcomes, the measures that you use, the
20 goals for the accreditation process, not
21 so much for the outcomes, but for what you
22 aspire to do?

1 And just so that you can wrap it
2 all together, I saw reference that you
3 have in-process work on student learning
4 outcomes right now going forward, as so
5 much of higher education is thinking how
6 to be more thoughtful about that.

7 And I'd be interested in hearing
8 what that going forward process does and
9 how it relates to what you are currently
10 doing.

11 MS. DURHAM: Okay, if I might
12 say just a word from the perspective of
13 the council and then Bucky can fill in.

14 At the moment, the Council, like
15 everyone in higher education, is aware of
16 the emerging research, the work, the focus
17 on student learning outcomes. We do not
18 currently have under advisement at the
19 council level, any revisions in our
20 accreditations standards associated with
21 that.

22 But what we do have is a

1 comprehensive review process that began
2 three years ago and has two years to go,
3 comprehensive review of the standards.

4 Bucky works closely with our
5 Standards Review Committee, and he can
6 probably tell you where they are. They
7 are struggling, as again everyone in
8 higher education is struggling, with the
9 issue of measurement and assessment. And
10 it will not be until their work is done
11 and their recommendations come back to the
12 Council that there's likely to be any
13 impact on the standard.

14 MR. ASKEW: Thank you. We began
15 the comprehensive review of our standards
16 as required by your regulations and our
17 bylaws in November of 2008. But prior to
18 that a prior council chair, Chief Justice
19 Ruth McGregor of Arizona, appointed a
20 special committee in 2007, to look at the
21 issue of outcome measures. That's the way
22 it was described then.

1 Special committee worked for a
2 year that involved legal educators,
3 private practitioners, judges, and came up
4 with a report to the council that
5 recommended that we move in the direction
6 of student learning outcomes, and that the
7 council set in place a process to develop
8 student learning outcomes.

9 The time of that report
10 coincided with the beginning of the
11 comprehensive review of the standards, and
12 so the council turned it over to the
13 Standards Review Committee, which has been
14 functioning actively for the last two and
15 a half years, and asked it to come up with
16 student learning outcomes.

17 That was the first item on the
18 agenda for the comprehensive review. And
19 I just received an email last night
20 ironically from the chair of the
21 subcommittee that's been developing
22 student learning outcomes, President Steve

1 Bahls of Augustana College, saying that
2 it's final as far as he's concerned.

3 Now the way we're doing this is
4 we have a subcommittee that reports to the
5 full committee. The full committee will
6 then consider the subcommittee's report
7 and then make a recommendation to the
8 council.

9 Once the council gets the
10 recommendation, we then publish them for
11 notice and comment to the world
12 essentially, and then we conduct a public
13 hearing. And then it comes back to the
14 Standards Review Committee and onto the
15 council, so we have a very extensive
16 public input process.

17 We are in the middle of that
18 process right now. The Standards Review
19 Committee has, they're on their ninth
20 draft of the Student Learning Outcome
21 Standards, and our lingo, they're
22 Standards 301 through Standards 305.

1 And, what the standards will do
2 on student learning outcomes, is we're
3 going to restructure the Standards on
4 Curriculum and Program of Legal Education
5 to require outcome measures and assessment
6 of student learning, that'll be all four
7 of those standards address that.

8 Standard 302 on learning
9 outcomes will require all schools to
10 identify, define, and disseminate each of
11 the learning outcomes it seeks for its
12 graduating students, and for its program
13 of legal education.

14 Standard 304 will require
15 schools to apply a variety of formative
16 and summative assessment methods across
17 the curriculum to provide meaningful
18 feedback to students.

19 And, Standard 305 is going to
20 require ongoing assessment of
21 institutional effectiveness, both in terms
22 of the student learning outcomes and the

1 curriculum.

2 And, then we are changing
3 Standard 306 requirements regarding
4 academic standards and achievement to
5 adapt to the new student learning outcome
6 requirements.

7 Those standards have been worked
8 on almost for a year-and a half now, with
9 a huge amount of community input. One of
10 the things the Standards Review Committee
11 decided to do at the beginning of this
12 process is run a totally transparent
13 process, and every draft, every comment,
14 is put on our website in real time to the
15 extent possible.

16 We have received over 250
17 comments so far during the standards
18 review process, a large number of them
19 were about student learning outcomes
20 because that's where we started this
21 process.

22 And there's a huge amount of

1 interest in this in the legal education
2 community and where it's all going.

3 As a result of the comment
4 period, nine drafts of these standards
5 have been done, and they're now final as
6 far as the subcommittee's concerned.

7 The full committee meets in
8 July, and will be considering the final
9 draft of the student learning outcomes at
10 that meeting. Then they will come to the
11 council some time probably in the fall of
12 this year.

13 MS. STUDLEY: In terms of the
14 current learning outcomes and the
15 measurements that you use, bar passage,
16 placement and grades, exams and other
17 evaluative measures during law school,
18 could you just talk to us about how you --
19 for every accreditor or every institution,
20 it's a tough job to accomplish some
21 consistency across them, but also to be
22 respectful of institutional differences.

1 Could you speak to how that is
2 currently done under those standards that
3 the council applies now?

4 MR. ASKEW: Yes. Student
5 achievement, we look first, the primary
6 measure is bar exam passage for the
7 graduates of the law school.

8 In 2007, we went through a very
9 long process with Department input, on
10 adopting a new bar passage interpretation.

11 It's in our world, it's
12 Interpretation 3016, which lays out a very
13 definitive set of criteria that schools
14 must meet to be in compliance with the bar
15 exam passage requirement.

16 That also went through our
17 lengthy process of adoption, and it's been
18 in effect now for three years. And every
19 school as they go through the process, and
20 on an annual basis, is judged against
21 compliance with that standard.

22 A school can comply with it in

1 two ways. One, by its first time bar
2 passage rate of it's graduates, and
3 secondly, by its ultimate bar passage
4 rate, and there are two different formulas
5 for calculating that.

6 I have to admit they're very
7 complicated and they were developed very
8 carefully, because as you heard from
9 another accreditor yesterday, there are 50
10 different standards for bar admission
11 around the United States.

12 Every state supreme court adopts
13 its own requirements for bar admissions,
14 what the bar exam's going to be, what the
15 passing score's going to be, what the
16 character and fitness requirements are.
17 And so to set one national standard is
18 very tricky when there's a standard
19 deviation between California and South
20 Carolina, in terms of what the passing
21 score is.

22 So we developed a standard that

1 we think is fair to everybody, regardless
2 of where they may live and what bar exam
3 they choose to take. That was a very
4 complex thing to do, but we've done it.
5 So we do measure every school annually on
6 it's bar passage rate in terms of our new
7 interpretation.

8 In terms of placement, we do
9 annual questionnaires and collect
10 placement data from every law school in
11 the country, employment placement and
12 salary data from every law school in the
13 country.

14 We require the schools to report
15 to us on how many of the students in the
16 prior year graduating class have they been
17 able to contact, and they give us a number
18 of how many they contacted. Of that
19 number, how many are employed? And then
20 the employment is broken down into
21 categories.

22 How many employed in jobs that

1 require a JD, and if it's requiring a JD,
2 it's broken down by types of employment,
3 private firm, public employment, public
4 interest, that sort of thing. And then if
5 it's a job that doesn't require a JD, how
6 many of your students are in those sorts
7 of jobs?

8 That data is collected from
9 every school annually and we publish it in
10 what we call our 509 Book. Our Standard
11 509 is our consumer information standard
12 where we collect lots of information from
13 schools that we then print in a official
14 guide to ABA approved law schools.

15 That comes out annually and is
16 now online. It has been online for quite
17 a while, but is printed every year, and
18 there is four pages on every law school in
19 America.

20 Two narrative pages describing
21 the program, describing the curriculum,
22 the mission of the school, and then there

1 are two pages of data on every school.

2 In that data is a box and a
3 block on employment information that
4 provides the data from the prior year
5 class in terms of employment.

6 We are in the process of both
7 reviewing and updating our questionnaires,
8 and the council is going to hear a report
9 Saturday from our questionnaire committee
10 suggesting changes in the questions on
11 employment.

12 The word "granularity" was used
13 yesterday. There's a suggestion that we
14 ask for granular data on employment and
15 that we break the categories down a little
16 more specifically so that students would
17 have more information. Is it part-time,
18 full-time, is it permanent, is it
19 temporary? Break the information out a
20 little more so that we can provide more
21 information.

22 So we do collect and publish as

1 a matter of consumer information, a lot of
2 employment data and we are moving to
3 collect even more, and more detailed
4 information.

5 MS STUDLEY: Mr. Chairman, I
6 have some more questions but I'd like to
7 let others have their chance and I'll come
8 back if there are any more.

9 CHAIRMAN STAPLES: That sounds
10 fine. Thank you. Art?

11 MR. KEISER: Good morning. I
12 happened to be here, what about five years
13 ago, almost?

14 PARTICIPANT: Yes.

15 MR. KEISER: Probably the most
16 contentious meeting that I had been to in
17 my three years, my first three years at
18 NACIQI.

19 What surprises me, and I don't
20 understand is, you have a reputation of
21 being a very tough, very specific and,
22 it's not the word difficult, but certainly

1 rigorous accrediting agency.

2 Yet after that meeting you had
3 five years ago, and you come, and issues
4 like the complaint procedure, which would
5 be central to a legal institution, is not
6 met.

7 I find it hard to understand.
8 And I think that's what Anne Neal was
9 alluding to, that after five years of
10 grace, because of the political
11 environment that we're in, were here again
12 with a whole longer list, and it's not
13 difficult things.

14 And what's even more surprising
15 to me is, you know, I know when I was an
16 accreditor, we always thought we were from
17 Missouri, you had to show me. You
18 couldn't just say, we're going to do it.
19 A want to do is not an appropriate
20 response.

21 You're meeting tomorrow, the
22 meetings today, why wasn't this done last

1 year or the year before? I mean the regs
2 came out two years ago and they're still
3 not in compliance, I don't understand
4 that.

5 MR. ASKEW: Well, let me, it's
6 sort of ironic I guess that there were 17
7 findings in 2006-07, and there's 17
8 findings today. But I think Kay Gilcher
9 was correct. In our review of it
10 they are not overlaps. They are not
11 findings of the same issues of compliance
12 from 2007 that they are today.

13 By my count there may be three,
14 but I saw two that were the same section
15 of the criteria, but they were for
16 different issues.

17 For instance, in 2006, we didn't
18 have a 24-hour notice in our rule about
19 announcing a decision of the council, a
20 final decision of the council on the
21 status of a law school. So we amended the
22 rule after the 2006 round to add the 24-

1 hour requirement as we were required to
2 do.

3 The citation this time is we
4 haven't demonstrated that we've applied
5 the 24-hour notice. Well, the reason we
6 haven't demonstrated it is because we
7 haven't taken any adverse action against
8 the law school since 2007, which is what
9 the 24-hour requirement relates to. So we
10 couldn't demonstrate it because we haven't
11 taken any adverse action. But it's for a
12 different reason than we were cited in
13 2006 and '07.

14 In terms of the changes in the
15 Higher Education Act and the movement
16 we're making to adopting standards, rules,
17 internal operating procedures, bylaws
18 changes, whatever is required to come into
19 compliance, I think we have all of those
20 well in hand.

21 Under our process, as I was
22 describing the standards review process

1 earlier for student learning outcomes, we
2 do that for these changes required by HEA.

3

4 We publish them for notice and
5 comment, we receive comment, we hold a
6 public hearing, we then bring them to the
7 council for review. The council may well
8 send them back for further amendment, that
9 sort of thing.

10 However, I believe in the June
11 and August meetings of the council we will
12 adopt all of the required changes. I
13 believe the staff report says on each of
14 those, that once they're adopted they will
15 be compliant with the requirements of HEA.

16 They will then want to see
17 obviously how we implement them and to
18 make sure we can demonstrate
19 implementation. But we are certain that
20 those changes, or the new standards and
21 rules and ILPs will be compliant with the
22 requirements of the Act.

1 MR. FREELING: If I could just
2 add a little bit to that. First of all,
3 again we do accept the recommendations of
4 the staff.

5 Some of the things that we were
6 cited for were items that we have been
7 doing in a certain way for many, many
8 years and we simply weren't aware that we
9 were out of compliance.

10 Let me just give you one.
11 There's a requirement of notice to state
12 licensing agencies when we make certain
13 kinds of decisions. Well, we interpreted
14 state licensing agencies as the bar
15 authorities of the jurisdictions and we
16 did provide them with notice.

17 But that's not the state
18 licensing agency we're now told that we're
19 supposed to be providing notice to. It is
20 literally the state ability to operate in
21 a specific jurisdiction, and we will of
22 course going forward, notify those

1 agencies as well as the bar authorities of
2 the state.

3 In terms of some of the matters
4 that are new standards, we are
5 implementing and have begun implementing
6 already. For example, the transfer of
7 credit standard. We did that at our last
8 accreditation committee meeting and we'll
9 be doing this weekend with the council
10 meeting.

11 CHAIRMAN STAPLES: Art, do you
12 have any further questions?

13 MR. KEISER: I think I'll beat a
14 dead horse, no.

15 CHAIRMAN STAPLES: Anne?

16 MS. NEAL: I want to follow up a
17 little bit on that. Having read the
18 transcript, it is very clear that the last
19 session in which you appeared before
20 NACIQI was a somewhat hot one.

21 And certainly there is
22 documented in the record and in the

1 Secretary's statement, a continuing
2 concern about the ABA's historical
3 difficulty in addressing the various
4 criteria.

5 In this letter it says,
6 describing the council's extraordinarily
7 casual and dismissive toward the
8 Department's requirements, process and
9 staff, and a history of problems with
10 criteria.

11 And I guess I share Arthur's
12 concern. In looking at the criteria which
13 have been found that you've been out of
14 compliance, I mean it seems to me these
15 are fairly significant ones, and ones that
16 have existed for the last five years over
17 which time you've had an opportunity,
18 including student achievement. I'd like
19 to pursue a little bit more that with you.

20 The last time the bar passage
21 rates were raised there's a question of
22 consistent application and clarity. This

1 time it's been raised, a question of
2 graduate placement over three years. And
3 I appreciate you've outlined that you're
4 providing us information in this report.

5 Do you have a standard of
6 graduate placement that you consider a
7 trigger that concerns you if it's, or is
8 this simply at this point in time, just
9 reporting whatever the graduate placement
10 is?

11 And also if you would address
12 for me, I know that we're not the only
13 ones concerned about this, because it's
14 clear that members of Congress are
15 concerned that the ABA allows law schools,
16 and reading from Barbara Boxer, to report
17 salary information of the highest earning
18 graduates as if it were representative of
19 the entire class.

20 Also when reporting critical
21 postgraduation employment information, law
22 schools are not distinguishing between

1 graduates practicing law full time from
2 those working part-time or in non legal
3 fields.

4 This seems to me goes to two
5 critical areas. Obviously student
6 achievement, but it also goes ultimately
7 to your Title IV compliance, where you
8 also were found in today, as not complying
9 with advising students of loan default
10 rates, and helping them to address the
11 questions of tuition.

12 So I'd like to hear you address
13 these two critical areas, because as you
14 well know whether it's for profits and
15 others, we're all very much concerned
16 about default rates now and student debt,
17 and it appears that this is a significant
18 area of concern in the bar world.

19 MR. ASKEW: Let me address the
20 student loan default rates first even
21 though that was the second part of your
22 question.

1 We do collect data through our
2 annual questionnaires on student loan
3 default rates. Since we're an
4 institutional as well as programmatic
5 accreditor, it's the 19 independent
6 schools where we get the direct
7 information on student loan default rates
8 from them directly, rather than from the
9 institution.

10 We do publish those student loan
11 default rates. We do then make them a
12 part of the site review process, and ask
13 the site evaluation Team to review the
14 student loan default rates and to write in
15 the report if they view them to be
16 excessive or above the limits set by the
17 Department of Education.

18 That is a part of our format
19 memo that we provide to every site team
20 and a part of the report memo that we ask
21 them when they provide a report.

22 I think the issue for the staff

1 has been, do we then take those student
2 loan default rates and use them to assess
3 the program of legal education?

4 Is there a problem with the
5 program, is there a problem at this
6 particular law school, with student loan
7 default rates? It might be impinging upon
8 the quality of the program or the quality
9 of the institution.

10 That's what we have to work with
11 the staff on from here. It's not that we
12 don't collect the data and display the
13 data and use it in our site evaluation
14 process, it's whether we then take that
15 data and apply it to making judgments
16 about the school's program.

17 In terms of placement and salary
18 information, we do not have a trigger in
19 our standard for what is an acceptable,
20 unacceptable employment statistics.

21 We do ask, require schools to
22 collect as I described earlier, collect

1 the employment data from their graduating
2 students, and the salary data.

3 I have to be honest with you and
4 admit the salary data is very difficult to
5 collect because this is self-reported
6 data. The schools ask
7 students to report back to them on their
8 salaries, many students are hesitant or
9 refuse to do that. They will tell the
10 school whether they're employed or not,
11 but what their exact salary is they're
12 hesitant to report.

13 We're looking at ways to try and
14 improve that or produce regional state-
15 wide data that students, because the whole
16 issue really is, students who are
17 considering law school or matriculating to
18 law school, do they have good information
19 about what their employment prospects of
20 the graduating class right before they
21 came, what happened to them, and what may
22 happen in terms of their employment three

1 years from now?

2 So we are looking at trying to
3 improve that data. But schools do collect
4 it and do report it to us, as I described
5 before. But we do not have a
6 trigger that says employment rates have
7 dropped below a certain level, and
8 therefore that leads to further review or
9 further investigation by the accreditation
10 project.

11 To be honest with you I think
12 historically employment rates for law
13 graduates have been quite high up until
14 2007, 2008.

15 There has been a lot of public
16 concern expressed about employment,
17 probably in all sectors, certainly and
18 maybe for all graduate schools. But
19 there's been a lot of attention paid in
20 the law school, legal education, legal
21 employment world, about employment rates.

22 Therefore, that's why we've

1 asked the questionnaire committee to look
2 at our questions and make sure that,
3 should we be asking for additional more
4 granular data about employment, and also
5 our Standards Review Committee in terms of
6 what we require schools to publish on
7 their websites about employment.

8 MS. NEAL: Now you yourself have
9 indicated that this has been a concern
10 since 2007, 2008, and yet you all are
11 still beginning to think about it. I
12 guess we are responsible for certifying
13 accreditors and insuring that taxpayer
14 dollars are going into institutions where
15 the taxpayer dollar is going to be well
16 served.

17 And I guess, and along this
18 line, I'm a little concerned. I know the
19 ABA Journal just this month reports that
20 only 68.4 percent of 2010 grads were able
21 to land a job requiring bar passage, the
22 lowest percentage since the legal career

1 professionals group began collecting
2 statistics.

3 And that back in 1998, there was
4 a national student loan survey looking at
5 monthly student loan payment which exceeds
6 15 percent of income. In that study it
7 showed law of 53 percent student loan
8 payments exceeded 15 percent of income,
9 and then it pointed out that 35 percent of
10 law borrowers exceeded a 30 percent ratio.

11 Obviously this is a fairly
12 significant issue when it comes to student
13 debt and when it comes to federal
14 financial aid. And so I'm concerned that
15 the ABA has not aggressively attempted to
16 address this, given my role of protecting
17 the federal dollar.

18 MR. ASKEW: Well we share your
19 concern about student debt, employment,
20 all of those issues. I may stand
21 corrected, but I don't believe we were
22 cited in '06 and '07 for student

1 achievement regarding placement, so I
2 don't think it's an issue that's been
3 pending for five years, up until this year
4 and where the citation was.

5 The citation I think was not
6 that we aren't collecting the data,
7 displaying the data, making it publicly
8 available, that we don't have a good
9 consumer information standard. The
10 concern was, do we have a trigger when we
11 begin to look at a school's employment
12 rate?

13 And that's what we need to work
14 with the staff on I think going forward,
15 about how we improve that aspect of what
16 we do. At the same time, we are
17 collecting more data from schools and
18 working on that part of the process as
19 well.

20 MS. NEAL: I have more
21 questions, but I'll share time with
22 others.

1 CHAIRMAN STAPLES: Okay, Arthur?

2 MR. ROTHKOPF: Yes, could I
3 maybe leave this? I'm not really leaving
4 the topic but I'm cutting another end of
5 it.

6 The data that you collect that
7 you require your accredited institutions
8 to report to you, so I assume there's a
9 place for a perspective student to go to
10 look at, compare law schools as to the
11 various items, you know, bar passage,
12 employment, where the employment is and so
13 on.

14 My question is, does that
15 information, do you require that
16 information to be put on, in public
17 information of the law school?

18 For example, are they required
19 to put that on their website, and say, so
20 that a perspective student who may or may
21 not think of going to the ABA to find it,
22 simply wants to go to the University of

1 Utah Law School, or Northwestern or what
2 have you, to find that information? Do
3 you require that information to be posted
4 on their website or at least have a link
5 to your information?

6 MR. ASKEW: We do publish the
7 data in our official guide which is both
8 online and in hard copy, and it does have
9 the employment data as well as bar passage
10 and a lot of other data about law schools.

11

12 And that is widely circulated to
13 undergraduate placement directors who are
14 prelaw advisors, who are advising students
15 about attending law school.

16 Our Standard 509 is our consumer
17 information standard. Dan, we do require
18 the posting of employment data on the
19 school's website?

20 MR. FREELING: Well, sorry.
21 Where we are with that is, that schools,
22 we don't require that the same things that

1 are in our online version, which is a
2 joint project with another entity, that
3 all law school applicants are familiar
4 with, The Law School Admissions Council,
5 and in the 509 book.

6 But we do require, when schools
7 publish this information on their website
8 they have to do it in an accurate and fair
9 manner so that it is consistent with our
10 509 requirements.

11 The Standards Review Committee,
12 which Bucky mentioned earlier, is also
13 working on this matter of placement and
14 providing appropriate information to
15 potential law school applicant, and to
16 current students, and that will require
17 that schools place placement information
18 in a prescribed format on their website.

19 Where we're still sort of having
20 this tug, as you might imagine, this is a
21 matter that law schools are, in this day
22 of U.S. News, law schools, they'll fight

1 you over every inch about. But where
2 we're having this tug is, what and how to
3 do salary information.

4 One group wants to use all of
5 the data, all of the salary information
6 from all of the schools and report from
7 all of the schools for each jurisdiction
8 by size of law firm and so on.

9 Another group wants to report on
10 a school-by-school basis. And the problem
11 with the latter thing is that often times
12 they're simply aren't enough data in many
13 of the categories, and there's also,
14 either because there just aren't enough
15 students or graduates in a specific
16 category.

17 And also as was mentioned
18 earlier, if you are with an Am Law 100
19 firm, you're probably going to report your
20 salary because it's quite generous. If
21 you are with a three-person law firm, you
22 may well not report your salary because it

1 is far less generous.

2 And so that's the problem. It
3 gives the impression even though there may
4 be no data entered for these small law
5 firms, but it gives the impression, or
6 could give the impression for applicants
7 that wow, when I get out this is the kind
8 of salary I'm going to be making. And we
9 don't want to encourage that. We want to
10 be as granular and detailed as possible.

11 But we're still sorting out
12 among our various committees how we're
13 actually going to do that.

14 MR. ROTHKOPF: Just maybe
15 following up on that, I mean even if you
16 were an Am Law 100 firm, you may be in
17 Wheeling, West Virginia, earning \$40,000 a
18 year so it's a, I'm not sure that that's,
19 the world is changing pretty rapidly in
20 law.

21 But it seems to me that the data
22 that should be available at least is bar

1 passage that they shouldn't have to go
2 scout around.

3 I mean this is me speaking, not
4 NACIQI and it's not, I know required, but
5 if you're going to, and a fair number of
6 law students, or student people apply,
7 after they're out of school and they don't
8 have, you know, a counseling office to go
9 to. They may be out working, doing
10 something else. They may go part time.

11 I mean it seems to me that if a
12 student wants to go to XYZ Law School, he
13 or she ought to be able to figure out what
14 the bar passage data is on that school,
15 and some employment.

16 And I agree, you know, salaries
17 are very complicated, I'm not sure the
18 best test of anything because the public
19 service person may be making a whole lot
20 less, maybe doing a whole lot more useful
21 things than someone out of a big law firm.

22 So all I'm saying is I think it

1 ought to be out there and available as
2 consumer information, that perspective
3 students should have when they decide on a
4 law school. And it shouldn't just be in
5 something that they have to go to the ABA
6 for, because a lot of people don't think
7 about going to the ABA.

8 They think about looking up the
9 specific law schools in their area because
10 most people aren't thinking about these
11 big national firms, they're thinking about
12 their local law schools. Thank you.

13 MS. DURHAM: It's somewhat
14 facetious, but today's perspective law
15 student is likely to google bar passage
16 rates at University of West Virginia,
17 which would take him or her I assume
18 directly to our website where that data
19 would be available. But I'm guessing,
20 because that's not my first instinct.

21 MR. ASKEW: Well, we do publish
22 the bar passage data for every school and

1 schools publish it on their websites.

2 But we also, one of the
3 important things that Dan mentioned is
4 that with the new Standard 509, the
5 recommended changes is, we're going to
6 require schools to report the data in the
7 same way. All schools report it the same
8 way.

9 The problem has been perhaps
10 that schools report it in a slightly
11 different way and so it's hard to compare
12 across categories. The committee is
13 coming up with a chart that every school
14 would use and so the data would be
15 comparable from school to school.

16 MR. ROTHKOPF: I appreciate that
17 and I think that would be highly useful
18 for perspective students.

19 MS. NEAL: We heard yesterday
20 from one accreditor that occasionally used
21 an independent auditor to make certain
22 that the information being reported was

1 accurate.

2 I know again, that in writing to
3 the President of the ABA, Senator Boxer
4 has raised questions and the editor of
5 U.S. News and World Report has raised
6 questions about the information that law
7 school deans are reporting, and asked
8 deans to be more vigilant in their data
9 reporting.

10 Do you do any independent
11 assessment of the reports that are posted?

12 MR. ASKEW: We do not audit the
13 data that schools provide to us on
14 employment and placement, no.

15 MS. NEAL: Although, there are
16 occasionally opportunities during the site
17 visit reviews to verify data that's being
18 reported. Certainly not things like
19 employment, well, I don't know, maybe even
20 that, but our site visitors are trained to
21 make an effort to compare the published
22 information about the school with what

1 they see on the ground.

2 CHAIRMAN STAPLES: Any further
3 questions? Jamie, you had some more, or
4 Anne had some more?

5 MS. STUDLEY: I have some more,
6 you want to go up next?

7 MS. STUDLEY: Again, higher
8 education is looking at measurement of
9 inputs and outcomes, and results, and how
10 to balance the two.

11 And, as a former deregulator,
12 I'm always thinking about which ones we
13 need, and do we need both. If somebody
14 is, if you're looking at outcomes, what do
15 you have to look at going in, if the
16 outcomes are coming out okay. I'm seeing
17 nods, these are familiar questions.
18 Faculty, always the most, and everybody
19 would agree, a critical input.

20 So, I was looking at two of your
21 interpretations related to student
22 faculty, or both quality teacher

1 effectiveness and student faculty ratio,
2 wondering how you, for example "examine to
3 determine whether the size and duties of
4 the full-time faculty meet the standards."

5

6 And then 403-2, that
7 interpretation, that you make efforts to
8 insure that the, this is interpretations
9 about how you will go about asking schools
10 to demonstrate their teaching
11 effectiveness.

12 And on that second, it looked to
13 me like there were process and input
14 references, did you train the teachers?
15 What kind of pedagogical activity did they
16 undergo? I'd be very interested in how
17 those are connected in your thinking to
18 outcome measures.

19 And, if a school is doing fine
20 on the outcome measures, how does that
21 affect this, and vice versa? If a school
22 is not doing as well as you'd like, or is

1 on a pathway that seems troubling, how do
2 you think about the faculty component of
3 it, in terms of determining whether they
4 meet the standards?

5 MR. ASKEW: You've asked a
6 wonderful question. Our Committee in the
7 beginning, that was dealing with Student
8 Learning Outcomes, wrestled with that very
9 question. Should we abandon all input
10 measures and go strictly to Student
11 Learning Outcomes?

12 And they decided no, that there
13 would be a hybrid approach. And what they
14 have is still in the 301 through 306 that
15 I mentioned, a few input requirements.
16 There still shall be legal writing
17 offered. That's not a voluntary decision
18 by schools.

19 There will still be a live
20 client clinic required. There will be
21 ethics, professional responsibility
22 required to be taught. The standards

1 continue to have some of those things in
2 there, and that's not, schools will
3 continue to be required to have those in
4 their curriculum going forward.

5 But, there is this shift towards
6 Student Learning Outcomes, and the
7 requirement that the dean and faculty
8 identify, and adopt, and pursue Student
9 Learning Outcomes. And, then they measure
10 the curriculum, and do an assessment of
11 students, and all of that. So they tried
12 to reach a balance between the two.

13 The fear was, I think that if
14 they move too quickly totally towards
15 Student Learning Outcomes, that some
16 values in legal education might be
17 abandoned.

18 In terms of the second part of
19 that, Dan do you have any comment on that?

20 MR. FREELING: Well, I'll try.
21 We look at faculty in a variety of ways.
22 We look at course hours they have to

1 teach, committee assignments, what kind of
2 work they have to do for the university
3 and for the community, for example.

4 And, we look at, to get a sense
5 of the quality of teaching, we look at
6 student evaluations of all the faculty,
7 including part-time faculty.

8 On our visits, we sit in on
9 classes, all members of the Site Team sit
10 in on classes, and we have a standard
11 sheet that we ask them to fill out, and to
12 provide comments about such things as, was
13 the professor prepared? Were the students
14 prepared, were the students engaged? Did
15 the professor follow up with questions,
16 and press the students to think more
17 deeply about the matters at hand?

18 Where we really see, looking at
19 quality of teaching in particular, is when
20 we see either, what we would call an
21 abnormally high academic attrition rate,
22 whatever that may mean, or a low bar

1 passage rate.

2 When we see a low bar passage
3 rate, I will say, if I may editorialize
4 here for a moment, but by developing the
5 bright line for bar passage, in order to
6 take into account all of the
7 jurisdictions, the bright line is maybe
8 not as high as some of us would like.

9 And so, schools can make the bar
10 passage requirement. But when you look at
11 that school, you say, there's something
12 not working here, there's something just
13 not right.

14 And, in those situations we do
15 look even more carefully at the quality of
16 teaching, whether or not there's both
17 formative and summative assessment. And,
18 we look at their academic support program.

19 Our mantra is, "If you admit
20 them, you must believe they can succeed
21 and pass the bar." What are you doing to
22 provide them with the tools to do that?

1 And so, now for example, with
2 academic support, we require that, how are
3 you assessing the quality and
4 effectiveness of your academic support
5 program? Is it working?

6 But, we tend to see sometimes
7 is, that schools will do a lot of things,
8 start a lot of programs for academic
9 support, some of which may be working, but
10 they don't really know necessarily which
11 ones, or you know, and so we're trying to
12 be a little more forceful with schools,
13 that it's more than just having programs,
14 you have to find some way to assess, are
15 these programs being effective.

16 I don't know if that's
17 completely responsive to your question,
18 but if you've got some follow up, I'll
19 try.

20 MS. STUDLEY: Well, the follow
21 up is just on the, kind of the flip side.
22 If a school is performing very well

1 against the outcome measures that you use,
2 are they, what room do they have to
3 determine how to deliver that program?
4 Are they freed up from the input measures,
5 or the formula in terms of, say balance of
6 number and type of faculty?

7 MR. FREELING: Well, that
8 depends if you ask us, or if you ask the
9 law schools. Our view is they are freed
10 up. It is extraordinarily rare, in fact I
11 can't remember in the past five years,
12 there may be one or two, but I can't
13 remember offhand, that we have cited
14 schools for student/faculty ratio.

15 In fact, what is tend to happen
16 more so than, from us in that regard, in
17 terms of number of faculty and teaching
18 loads, that's been lowered, I think more
19 in an attempt to basically position
20 themselves better with the rating
21 agencies, as opposed to our requirements.

22 Now that said, having a low

1 student/faculty ratio is hardly, and I
2 think most of us would think is, that's
3 hardly a bad thing.

4 But some schools have, you know,
5 that have a ratio that's higher than what
6 our standard would say that would be a
7 presumption of compliance. But they can
8 then demonstrate, that well, they're doing
9 well on these outcome measures.

10 Schools have, I think in terms
11 of hiring faculty, and teaching loads,
12 have done that more on their own than out
13 of a response to what we, you know, push
14 them to, or expect of them.

15 MS. STUDLEY: And, I will
16 acknowledge, although this doesn't rise to
17 a conflict, a perspective on this, which
18 is that I have taught at three different
19 accredited law schools, as a lecturer-in-
20 law or as an adjunct, and never as a full
21 time faculty member, so I've followed this
22 with interest.

1 Just a couple quick items, and I
2 understand I think, Ms. Neal does too,
3 that we are running over the time
4 scheduled for the ABA, and I'm hoping that
5 given yesterday's pattern, that we will
6 have some --

7 CHAIRMAN STAPLES: I think we'll
8 spend sufficient time, so, yes we are up
9 against our time, but I think whatever we
10 need.

11 MS. STUDLEY: Okay, we
12 appreciate your making the additional
13 time. Quick clarification, you mentioned
14 that there's a requirement for live client
15 clinic, is that a live client clinic for
16 each student, or available in the
17 curriculum?

18 MR. FREELING: Let me clarify,
19 it's an opportunity for a real life
20 exposure, so that could be done by a live
21 client clinic, or by an externship
22 program. For example, with the Chief

1 Justice here. But, that is the
2 opportunity.

3 MS. STUDLEY: But available for
4 each student who wants one, or required
5 for all students, or available?

6 MR. FREELING: It is not
7 required of each student, but we do look,
8 if their demand exceeds their supply, they
9 have to provide more opportunities.

10 MS. DURHAM: So, the opportunity
11 is universal and mandated, but that each
12 student participate is not.

13 MS. STUDLEY: Then I would like
14 switch gears to one final area of
15 questions, and that relates to
16 independence of the Council from the ABA
17 overall. It was mentioned in the
18 materials, that the budget is developed by
19 the Council and by the Council staff.
20 But, at another point, it comments that
21 there's a contribution from the Fund for
22 Justice, and what's the E stand for?

1 PARTICIPANT: Education.

2 MS. STUDLEY: Education. That
3 becomes part of the revenue for that
4 budget. How is the FJE contribution
5 determined? And, I'd love to set my
6 budget and know something was coming from
7 some place else, but how is that
8 established to fold into your budget?

9 MR. ASKEW: There are three
10 major sources of funding for the
11 Accreditation Project. One is the school
12 fee system, that we charge schools for
13 annual fees and fees for certain types of
14 programs.

15 Then there are take offs. We
16 aggregate all the data that we collect
17 through the questionnaires, into national
18 data and sell that back to the law
19 schools, and collect fees from that, and
20 come from that.

21 And then the third, is a grant
22 from the Fund for Justice in Education.

1 The 501(c)(3) arm of the ABA, there are no
2 dues that go into that fund, and I think
3 that would violate the regulations.

4 It's an independent entity
5 within the ABA structure. One of it's
6 requirements is that it is Fund for
7 Justice in Education on a 501(c)(3), that
8 it fund educational activities.

9 So going back to 1999, when
10 separate and independent became an issue,
11 the ABA decided and the Department agreed,
12 that the most efficient and clearest way
13 of doing that is have FJE make a grant to
14 the Accreditation Project. It's not part
15 of the regular ABA Budget Process.

16 What we do annually, and we had
17 a good bit of staff interchange about this
18 over the last couple of months, is we
19 prepare our budget for the coming year.
20 We know, pretty much, what we're going to
21 collect in the way of fees from schools.
22 It varies a little bit because sometimes

1 they're starting new programs or it will
2 go up a little bit.

3 But, we generally know what
4 we're going to collect in the way of fees,
5 and in the way of the sale of the take
6 offs.

7 So we then calculate what is the
8 delta, what's the difference between what
9 our budget is and what we're going collect
10 through fees, and we inform the FJE Board
11 that we need X number of dollars for next
12 year to meet our budget.

13 The FJE, in my experience going
14 back to 2006, has always provided every
15 penny that we have asked for through their
16 own budget process. And so, it's never
17 been a problem.

18 That is the contribution made to
19 support the Accreditation Project to make
20 certain that we can perform the
21 accreditation activities. And, it's
22 worked well in my experience over the last

1 five years.

2 MS. STUDLEY: Also related to
3 separate and independent, what are the
4 policies regarding communication between
5 the consultant's office at the
6 accreditation staff and Council
7 leadership, and ABA elected and staff
8 leadership on policy issues?

9 MR. ASKEW: The ABA Executive
10 Director and leadership understand
11 separate and independent.

12 I have been very careful over
13 five years, every time there's a new ABA
14 President or a new Executive Director, and
15 we've had three in my tenure, they are
16 briefed thoroughly. They're provided with
17 a memo and a copy of the regulations, the
18 criteria, and an explanation under each
19 one of the criteria on separate and
20 independent, about how we comply.

21 And so, the staff and leadership
22 is quite aware of the requirements of

1 separate and independent. Obviously the
2 ABA leadership cares about legal
3 education, you can see the President this
4 year has been outspoken about his concern
5 about student debt, about employment.

6 But it's never interfered with
7 the operations of the Accreditation
8 Project. And maybe Christine could speak
9 as Council Chair about her experience with
10 it?

11 MS. DURHAM: Well, I just
12 wanted to add, the Council is extremely
13 sensitive to issues relating to separate
14 and independent. And, clearly there's
15 communication between leadership and staff
16 on all kinds of issues, budget, not least
17 among them.

18 But I, certainly in my tenure on
19 the Council, and in my three-quarters of a
20 year now as Chair of the Council, I know
21 of no instance in which the Council has
22 accepted direction from the leadership of

1 the ABA, or felt itself pressured in any
2 way to accept such direction.

3 We understand very clearly, and
4 we rely on Bucky and his staff to work at
5 the staff-level in communicating that.
6 And, in every instance where there's been
7 a discussion of the issue, the principle
8 of separate and independent has prevailed.

9 MS. STUDLEY: You mentioned Mr.
10 Askew, that there's a very open and
11 transparent process now of comment, on a
12 number of the issues under development.
13 What are the guidelines, if any, about how
14 ABA leaders would, or would not
15 participate in that kind of broad exchange
16 of views?

17 MR. ASKEW: They are free to
18 comment on the development of standards,
19 just like any person is free to comment.

20 We do not provide independent
21 notice to the ABA or its leadership about
22 where we are in standards. It's all on

1 our website, they're free to access it and
2 make comments, as anybody else would.

3 But, those comments are put into
4 the process just like any other comment
5 would be. If I could back up and just say
6 one thing. When the Committee began the
7 comprehensive review process in November,
8 2008, it decided rather than jump right
9 into reviewing the standards, that it
10 would develop a document on, what are the
11 goals of accreditation, and what are the
12 goals of the Standards Review process?

13 And it took four months to draft
14 a very comprehensive document, which was
15 sent out for Notice and Comment, and
16 published on the website. And it said to
17 the world, particularly the accredited
18 community, these are the criteria we're
19 going to apply in reviewing these
20 standards.

21 So that every time we receive a
22 recommendation, or we consider a new

1 standard, we will apply these goals, these
2 criteria against what we're doing. That
3 has been the mantra under which they've
4 operated for the last two years, and it's
5 served them very well.

6 The ABA, in my experience, has
7 never attempted to exert any influence
8 over the standards, the review of the
9 standards, or over any accreditation
10 matter as long as I've been a consultant.

11 CHAIRMAN STAPLES: We have
12 recent third-party commenters, and it
13 might be appropriate for us to proceed,
14 unless there are pressing questions you
15 need to ask now, and then agency
16 representatives will have an opportunity
17 to come back and respond to those and
18 further questions. I just want to try to
19 keep us not too far over schedule. So,
20 why don't we right now proceed to the
21 third-party commenters that we have.

22 In our agenda, we have Jenny

1 Roberts and Gary Palm. Why doesn't Jenny
2 Roberts come up first? And, welcome to
3 the meeting, we look forward to hearing
4 your comments. Just so you're aware, we
5 have a three minute time limit for
6 comments and you will see the lights on
7 that box in front of you indicating when
8 your time is up, okay?

9 MS. ROBERTS: Thank you Mr.
10 Chairman.

11 CHAIRMAN STAPLES: Thank you.

12 MS. ROBERTS: Thank you Mr.
13 Chairman and Committee members. My name
14 is Jenny Roberts, I'm an Associate
15 Professor at American University
16 Washington College of Law and a board
17 member. I'm the Clinical Legal Education
18 Association, which I will refer to as
19 CLEA, to keep my seconds going here.

20 CLEA represents more than 900
21 dues-paying faculty and more than 180 law
22 schools and is an affiliated organization

1 of the Council. It's the nation's largest
2 organization of law professors and has
3 worked closely with the Council for almost
4 20 years to advance American legal
5 education.

6 CLEA does support the ABA's
7 Petition for Continued Recognition. The
8 independence and stability of the legal
9 profession have been enhanced by the ABA's
10 commission to our profession, as both a
11 learned and professional pursuit.

12 The American Bar plays a unique
13 role in our polity, and it's essential
14 that law schools be accredited by an
15 agency with a deeply rooted understanding
16 of the legal profession.

17 Despite our support for the ABA
18 and our admiration of much of its work,
19 however, CLEA does have some concerns
20 about the Council's willingness to consult
21 at important decision making points with
22 the various constituencies in legal

1 education.

2 I'm going to summarize those
3 here. We urge DOE leader to evaluate and
4 provide guidance regarding the extent of
5 the ABA's good faith compliance with a
6 letter, and in the spirit of the criteria
7 for recognition, in connection with the
8 current comprehensive review of the
9 standards for law School accreditation.

10 The quality of much of the
11 process and the substance of many of the
12 proposals involved in this review, which
13 is currently before the Standards Review
14 Committee, have generated significant
15 dissent and distress amongst almost all
16 important constituencies in legal
17 education.

18 Unfortunately, it appears that
19 more often than not, views of the
20 Council's affiliated organizations, and of
21 other interested constituencies are not
22 considered, or even referred to as the

1 Committee goes about its work.

2 The most notable example among
3 several, is one radical proposal currently
4 under consideration in standards review
5 that would strip important protections of
6 academic freedom, and faculty governing
7 its rights in law schools by eliminating
8 tenure and security of position for deans
9 and faculty members.

10 This proposal is the product of
11 a small subcommittee on Standards Review,
12 which has not consulted or collaborated as
13 required with any other groups or
14 individuals.

15 And I would note as an aside,
16 that this is a different subcommittee than
17 the Outcomes Committee, which Mr. Askew
18 referred to earlier.

19 This has been so alarming as to
20 motivate more than 65 law faculties to
21 pass formal resolutions in opposition to
22 the proposal. Every other significant

1 group of faculty in legal education has
2 also voiced opposition, including the ALS,
3 SALT, All Wood, a group of law school
4 deans of color, American Association of
5 Law Libraries, AAUP, and a group of ALS
6 past presidents.

7 Indeed, we are aware of no
8 organized group, other than the Standards
9 Review Committee's own small drafting
10 subcommittee that supports this set of
11 proposals. The resulting controversy is
12 deep and divisive and might well have been
13 avoided had the Council directed standards
14 to reach out and work collaboratively with
15 a full range of stake holders.

16 Adding to the problem is the
17 fact that the composition of standards
18 review does not itself reflect the
19 constituencies involved in legal
20 education.

21 CHAIRMAN STAPLES: I'm sorry to
22 do this to you, but we've reached our

1 three minutes.

2 MS. ROBERTS: If you would
3 indulge me for 30 seconds, I can probably
4 finish the statement.

5 CHAIRMAN STAPLES: I'll give you
6 30 seconds.

7 MS. ROBERTS: I'm speaking as
8 fast as I can. More than one-third of the
9 committee members are deans or former
10 deans, more than any other constituency,
11 while only one's a practicing lawyer.
12 These shortcomings implicate Section
13 602.13, which requires standards, policies
14 and procedures that are widely accepted.

15 It also implicates 602.21, which
16 requires a systematic program of review
17 that involves all of the agencies,
18 relevant constituencies, and affords them
19 meaningful opportunity for input.

20 Input is most meaningful at the
21 developmental stage of comprehensive
22 review, and when significant proposals are

1 being drafted.

2 But in the current process, too
3 often the only input, those outside the
4 ABA's formal structure, have been able to
5 offer on important matters, have been
6 limited to written comments on proposals
7 that have been in development behind
8 closed doors, without any involvement by
9 concerned stake-holders.

10 In short, the comprehensive
11 review process should be, but has not been
12 consistent and transparent. And finally,
13 we're concerned about 602.21(b)(3)'s
14 requirement that the agency examine
15 revisions to the standards as a whole.

16 The accrediting agency should
17 step back and consider how proposed
18 standards' revisions will work or fail to
19 work together. The net impact on American
20 legal education, of all the current
21 proposals being considered by the Review
22 Committee, has not yet been publicly

1 discussed at any level.

2 This kind of big picture
3 discussion should've taken place at the
4 start of the comprehensive review, and
5 should've included the many groups and
6 stake-holders who have been trying, with
7 little success thus far, to be heard and
8 participate.

9 In sum, we just wanted to point
10 that the process has been insufficiently
11 attentive to the stake-holders, and not
12 provided adequate opportunity for input.

13 The DOE's regulations, and the
14 spirit that underlies them, contemplate
15 that all groups in the profession will be
16 participants in the process of developing
17 the standards of professional education.

18 And, we hope that DOE will
19 encourage the ABA to develop a more
20 inclusive, transparent, and collaborative
21 comprehensive review process that comports
22 with the intent of the criteria. I

1 apologize for my fast speaking.

2 CHAIRMAN STAPLES: Thank you.
3 Any questions from members of the
4 Committee? Anne?

5 MS. NEAL: That it does seem to
6 relate directly to the finding that the
7 agency does not demonstrate, that it has
8 implemented its policy to solicit and
9 consider third party comments as part of
10 the accreditation review and decision
11 making.

12 MS. ROBERTS: That is
13 essentially our position.

14 CHAIRMAN STAPLES: Any other
15 questions or comments? Thank you very
16 much. Oh, I'm sorry Jamie, did you have
17 your hand up?

18 MS. STUDLEY: I would just like
19 to hear the other comment and the
20 response, and if Professor?

21 MS. ROBERTS: Roberts.

22 MS. STUDLEY: Roberts, I expect

1 would wait until you hear that, I might,
2 just don't want to.

3 CHAIRMAN STAPLES: Might have
4 further questions, okay, if you wouldn't
5 remain waiting until after the, to the
6 end?

7 MS. ROBERTS: I'm planning on
8 remaining until the end, thank you.

9 CHAIRMAN STAPLES: Mr. Palm?

10 MR. PALM: Good morning. My
11 name is Gary Palm and by way of
12 introduction, I'm a retired professor of
13 law at the University of Chicago Law
14 School. I served on the Council for six
15 years, and before that, on the
16 Accreditation Committee for seven years.

17 I'm going to deviate from my, oh
18 and one point I'd like to make is that I
19 wish that Christine Durham could remain
20 the Chair well beyond her next two months.

21 She's been a major change and an
22 improvement, but not enough to change my

1 mind that the ABA should not be, sorry,
2 the Council should not be reapproved.

3 I'll try to just answer you,
4 it'll be a little disorganized, because
5 I'm trying to pick up on questions that
6 were raised here. The first one, I
7 think is on the question of public
8 members. And, the public members from
9 2003 through 2009, they had one, the
10 President of Cornepiac, who had an
11 accredited law school in his University.

12 And then, they nominated another
13 president to serve on the Council, to be
14 elected in 2009. I reported that to DOE,
15 staff here intervened, and contacted the
16 Section, and they did not withdraw his
17 nomination and refused to find him not
18 qualified, but then that President
19 withdrew after he was elected.

20 So, they have a clear, blatant
21 violation and should be punished for this.

22 They didn't get approval, obviously of

1 the staff or anybody, the secretary, and
2 this went on for a total of seven years.

3 Now, secondly is that there are
4 conflicts of interest throughout the
5 process. The Department of Justice found
6 that the Section, which is a separate and
7 independent entity that is over 90 percent
8 law professors and deans, who join through
9 a group membership program in which the
10 schools get a discounted membership, and
11 get the votes of all those faculty.

12 And, they then elect the Council,
13 which is the accrediting body.

14 And that clearly is not, the
15 individual faculty do not generally get a
16 right to refuse to be included, and it's
17 not clear, if they were not included, that
18 they qualify for the discounted
19 membership.

20 I think you should follow what
21 the Justice Department has found, and say
22 that this is not sufficient. If I could

1 have just two more points?

2 CHAIRMAN STAPLES: Go right
3 ahead.

4 MR. PALM: The issue of the
5 independents and free standing schools,
6 Mr. Askew said they'll be down to just a
7 handful. The only reason that they have
8 to have separate and independence, is
9 because of that handful, three or four
10 free standing schools. And the others
11 have all found it better to go to an
12 institutional accreditor.

13 So, I would suggest that you
14 look at this, this whole mess about
15 separate and independent, and look at
16 this, because it's really not the ABA
17 that's doing anything, yet everybody
18 thinks they go to ABA accredited law
19 schools.

20 And the third thing, and the
21 last thing really, is that there's no
22 monitoring of compliance between the site

1 visits, between the sabbatical site
2 visits.

3 If information comes in, it is
4 not presented to the Accreditation
5 Committee, nor does the questionnaire even
6 ask about litigation that has been brought
7 against the school in the interim. Thank
8 you.

9 CHAIRMAN STAPLES: Thank you
10 very much. Now on our agenda, the way we
11 would proceed is to have the agency have a
12 chance to respond. I guess I'll let
13 Committee members decide, but it might be
14 most appropriate to have them respond,
15 have the Department staff respond, and
16 then have questions for any party,
17 Committee members all right with that?

18 And then you can ask questions of any
19 parties after that, I think it might just
20 allow us an opportunity to clarify some of
21 the issues that were presented. So, the
22 agency, if you'd like to respond now to

1 those commenters?

2 MS. DURHAM: I'm going to ask
3 Mr. Askew to provide some chapter and
4 verse, but let me just indicate, in
5 response to Professor Roberts' concerns
6 and questions.

7 With respect, because I
8 appreciate the position, my view is that
9 it reflects an entirely inaccurate
10 perception of the openness and
11 transparency of the standards review
12 process.

13 I think the most cursory
14 examination of the postings on the
15 Section's website, of the work of the
16 Standards Review Committee, would reflect
17 the degree of publication, comment, it's
18 true most of this is done in writing. We
19 have people all over the country, who are
20 very exercised, particularly about the
21 discussion that's going on around security
22 of position issues.

1 But, one of the things that the
2 Council did two years ago, was to appoint
3 a special subcommittee or task force on
4 the educational continuum, which has as
5 its Chair, a very well-respected clinical
6 professor from NYU, and in fact its
7 membership is dominated by clinical
8 professors.

9 That Committee has been in
10 constant communication, to my personal
11 knowledge, with the standards review
12 process. The Standards Review
13 subcommittee on security-of-position, and
14 on other points under discussion, has
15 taken their comments. The nature of the
16 comments is reflected in subsequent drafts
17 of the subcommittee, and in the work of
18 the whole committee.

19 As I said, Bucky Askew will talk
20 to you about chapter and verse, but the
21 degree of publication of all the drafts,
22 the opportunity for public comment, the

1 conduct, how many public hearings have we
2 had now?

3 PARTICIPANT: On security-of-
4 position?

5 MS. DURHAM: Right.

6 PARTICIPANT: Two.

7 MS. DURHAM: Two public
8 hearings. And, I would like to emphasize
9 that procedurally, for the Council to
10 intervene at this stage, and to tell its
11 Standards Review Committee what result it
12 wants, as a consequence of this discussion
13 and consideration, would be inconsistent
14 with our internal operating procedures.

15 When the Standards Review
16 Committee completes its comprehensive
17 review process, its proposals, of which
18 none exist at the Council level yet, will
19 come to the Council, the Council will
20 discuss them, and then the Council will go
21 through a process of publishing for
22 comment, and putting out the information,

1 yet again to all of the Section's
2 constituent organizations, and to the
3 world at large.

4 Will conduct public hearings and
5 will itself reach a conclusion. So, we're
6 still at a quite preliminary stage with
7 respect to this process.

8 MR. ASKEW: Well, the Chief said
9 it very well, there's not much to add. I
10 would say that, no decisions have been
11 made yet, so this is criticism of a
12 process that's still underway, and no
13 votes have been taken by the Standards
14 Review Committee on any of the standards
15 that Professor Roberts raised.

16 At the April meeting of the
17 Standards Review Committee, we had a three
18 hour open forum where anyone could come
19 forward and speak on any issue they chose
20 to. We had 19 people come and speak to
21 the Standards Review Committee in that
22 open forum.

1 Many of them spoke on the issue
2 of security-of-position. The Committee is
3 listening, the Committee is taking written
4 comments. It took oral comments in this
5 case. And so, but yet the subcommittee
6 draft has not even been considered by the
7 full committee yet. So, the attack now is
8 on a draft that has not gone forward.

9 Secondly, this has been the most
10 open, most transparent, most easily
11 accessible process the Section has ever
12 run on this.

13 And, all you have to do is look
14 at the website to see the number of
15 written comments that are there to
16 understand that people are participating
17 actively and the comments are being
18 reviewed.

19 The reason we had nine drafts of
20 the Student Learning Outcomes changes is
21 because of the public comments. Because
22 the committee was reviewing them, paying

1 very close attention to them, and adapting
2 those standards, and there'll be better
3 standards as a result, there is no doubt
4 of that, so. Should I speak to Mr. Palm's
5 comments?

6 CHAIRMAN STAPLES: I'm sorry, if
7 we have questions at this point, Joyce do
8 you have any additional comments you'd
9 like to make?

10 MS. JONES: No sir.

11 CHAIRMAN STAPLES: Okay. We
12 have questions we can ask them?

13 MS. STUDLEY: I have just one
14 quick question right on the issue that
15 you've been addressing, and that's the
16 comment about 602.21(b)(3), examining
17 revisions as a whole. Can you just tell
18 us, in light of Professor Roberts'
19 question, how you envision that coming
20 together? She was critical both of the
21 launch of the process, and I would ask
22 about the integration of the separate

1 recommendations?

2 MR. ASKEW: Yes, as I mentioned
3 earlier, the Committee published on the
4 website, after taking comments, this
5 Statement on the Goals and Principles
6 Underlying Accreditation and the Standards
7 Review Process. And, security-of-position
8 was specifically mentioned in that
9 document that was published in May of
10 2009.

11 So, notice was given, this was
12 going to be take up by the Committee early
13 on, and it was only delayed in getting to
14 it because Student Learning Outcomes was
15 the major issue under review.

16 The Committee is working on
17 chapters. We have eight chapters in our
18 standards, and it's doing a chapter-by-
19 chapter review. Once it completes an
20 individual chapter, it will send it to the
21 Council for review, and the Council can
22 either then take it forward to publish it

1 for Notice and Comment, or it can send it
2 back to the Committee and say that we
3 don't agree with some of these, we want
4 you to keep working on them.

5 What I think Professor Roberts
6 was suggesting is what another group has
7 suggested, we should stop this process and
8 start it all over again. That's after
9 three years of work. That's because of
10 their fear, I think of the ultimate
11 outcome of what this is going to produce,
12 which they don't agree with.

13 So, they're suggesting that we
14 restart the process, and engage in a
15 community-wide effort of consensus
16 building around these standards.

17 It's our position that it's the
18 Council's responsibility to adopt these
19 standards, and that they have to be in
20 compliance with DOE regulations, and we
21 have to follow the DOE process.

22 But, it's the Council's ultimate

1 responsibility to do this. And, to stop
2 this process, restart it and try to build
3 community collaboration after three years
4 of work, is something yet that no one yet
5 has suggested that we should do.

6 CHAIRMAN STAPLES: Any other
7 questions Jamie? No. Anne?

8 MS. NEAL: In anticipation of
9 the discussion we're going to have this
10 afternoon, which I think will deal with
11 cost and intrusiveness.

12 Some complaints that we've heard
13 from a significant number of institutions,
14 I want to follow up on the standard and
15 look at some of your standards with that
16 in mind, because again, getting back to
17 the responsibility, as an accreditor of
18 insuring educational qualities, and
19 protecting the taxpayer dollar.

20 My question is, in looking at
21 your standards, how these standards
22 advance both those goals? For instance,

1 you have a requirement that a law school
2 shall not grant a student more than four
3 credit hours in any term, toward the JD
4 degree, in distance education.

5 You have a requirement that a
6 law school should require that the course
7 of study for the JD degree be completed no
8 earlier than 24 months and no later than
9 84 months.

10 You have a requirement that a
11 law school shall not permit a student to
12 be enrolled at any time in course work, if
13 that would exceed 20 percent of the total
14 course work required.

15 As I understand it, you have a
16 rule that students should not have outside
17 employment.

18 You have a standard that a ratio
19 of 30:1 or more, presumptively indicates
20 that a law school does not comply with the
21 standards in terms of student/faculty
22 ratios.

1 And then again, we get to this
2 issue of security-of-position, how are
3 these very intrusive, if I may say,
4 criteria in any way bearing on your
5 assurance of educational quality, and
6 protecting the tax-payer dollar?

7 Because it seems to me, looking at
8 these criteria, they're very much cost,
9 input criteria that are likely to make the
10 education more expensive, not less, at a
11 time when we see students having massive
12 debt already.

13 MR. ASKEW: A number of these
14 are under review by the Standards Review
15 Committee actually, but no decision's been
16 made on the outcome of that.

17 In terms of the distance
18 education requirement, that's a regulation
19 that was adopted around 2001, 2002, there
20 is already a recommendation from a
21 committee that did, Technology and
22 Information Services Committee of the

1 Section, to the Standards Review
2 Committee, that the minimum number of
3 hours permitted in distance education be
4 increased. And that will be
5 considered, and I can't predict the
6 outcome, but I think the Standards Review
7 Committee is very open to increasing the
8 number of hours permitted in distance
9 education. It's a learning process for us
10 on distance education, and I think we're
11 adapting as we're learning more about it.

12 In terms of the 84/24 rule, in
13 terms of the 20 percent course in any one
14 semester, I think those are educational
15 judgments that have been made by the
16 people who adopted the standards early on.

17 That for a student to achieve
18 the kind of quality education that we
19 expect from an ABA approved law school,
20 that a student shouldn't be taking 20
21 credit hours, or 24 credit hours in one
22 semester in order to speed up a

1 graduation, and not be able to participate
2 fully in the programs of the school, or
3 take all the courses that are necessary to
4 graduate. It's just simply an educational
5 judgment that was made.

6 Earlier, there was a question
7 about placement and do you have a metric,
8 do you have a particular criteria that a
9 school must comply with, to know whether
10 it's in compliance or not, these are very
11 specific in that regard. So, schools know
12 what the rules are. And, there are
13 schools that have two-year JD programs
14 that comply with the 24 month rule.

15 There are also questions about
16 the 84 month rule and whether a student
17 should be able to continue their education
18 over that extended period of time. But,
19 they're simply judgments that were made as
20 these standards were developed, about what
21 is the best educational outcome for these
22 particular students.

1 I heard you ask questions
2 yesterday about cost versus benefit, and
3 what are the costs to schools of the
4 Accreditation Project, and do we have any
5 way of knowing what the cost of schools
6 are.

7 The Standards Review Committee
8 is paying attention to that as they
9 develop these standards. Is there a cost
10 implication to a change in the standards?

11 But, the government
12 accountability office did a review of the
13 costs of legal education in 2009, and
14 specifically looked at the issue of, are
15 the costs of an accreditation driving the
16 increased cost in legal education. That
17 report's available online, and they
18 concluded that the cost of accreditation
19 are not the driving factor of the
20 increased costs in legal education. It's
21 a number of other things that they
22 identified, but it's not the cost of

1 accreditation.

2 Those costs in their view, are
3 rather minimal compared to the other
4 factors that are driving the cost of legal
5 education.

6 MS. NEAL: I don't understand,
7 the cost of accreditation, you mean, dues
8 and?

9 MR. ASKEW: No, to the, well,
10 both direct costs in terms of payment of
11 fees and I would venture to say, our fees
12 are rather modest compared to many other
13 accreditors. But, the indirect
14 costs, the cost of compliance. What are
15 those costs? And, GAO took a look at that
16 and concluded, and interviewed 20 deans, a
17 lot of students, a lot of faculty members,
18 and others, and ultimately concluded, it's
19 not the cost of accreditation that is such
20 a driving factor in the increased costs of
21 legal education, it's other factors.

22 CHAIRMAN STAPLES: Thank you.

1 Any further questions? Okay, then I guess
2 we're all done with the questions. Thank
3 you very much. Do we have any further
4 questions for any body else, or are our
5 primary readers prepared to make a motion?
6 Jamie?

7 MS. STUDLEY: For the sake of
8 the reporter, it's the standard language.
9 I move that NACIQI recommend that the
10 Council on Legal Education's recognition
11 be continued to permit the agency an
12 opportunity to, within a 12 month period,
13 bring itself into compliance with the
14 criteria cited in the Staff Report, and
15 that it submit for review, within 30 days
16 thereafter, a Compliance Report
17 demonstrating compliance with the cited
18 criteria.

19 Such continuation shall be
20 effective. I think this is the right
21 language, I'm positive because it's not
22 sounding familiar. Karen, could you put

1 up what you've got as the standard
2 language. Okay, everybody's telling me
3 I'm right.

4 Such continuation shall be
5 effective until the Department reaches a
6 final decision.

7 CHAIRMAN STAPLES: Moved and
8 seconded. Any comments, yes Art?

9 MR. KEISER: I second the Motion
10 just to get going, but I'm very concerned.

11 I served on an accrediting commission,
12 and if a school came to me, or to our
13 commission, with 17 concerns, then had a
14 whole lot of time to consider, to analyze,
15 to review, and then came back with 17
16 concerns, we would've taken a negative
17 action.

18 It is concerning to me that the,
19 especially lawyers, especially a group of
20 lawyers, could not understand that
21 reporting to the state licensing agency,
22 in dealing with the law that's been in

1 effect since the '92 reauthorization, with
2 the Triad, and the Triad does not consist
3 of bar sub-bars, but consists of state
4 licensing agencies, or approval agencies
5 in the state, the feds and the accrediting
6 commissions, and I just don't understand
7 that, and it is very troubling.

8 I will probably support the
9 Motion, but it is a real concern that this
10 agency doesn't get it, and I don't
11 understand why.

12 CHAIRMAN STAPLES: Any further
13 comments? Okay, seeing none. I'm sorry
14 Federico?

15 MR. ZARAGOZA: My understanding
16 was that the findings were not
17 specifically the same cited in the earlier
18 version, is that correct? I just need
19 clarification.

20 CHAIRMAN STAPLES: Kay, did you
21 want to respond to that?

22 MS. GILCHER: Yes, that is

1 correct. There were some with the same
2 criterion, but it was a different aspect
3 of that criterion.

4 CHAIRMAN STAPLES: Art and then
5 Anne?

6 MR. KEISER: But, just to
7 respond, I mean, that's not the point.
8 The point is there's a process, this is a
9 process, this is a very strenuous process,
10 one of where you have to do analysis of
11 your compliance with the standards.
12 That's what accreditation is all about.

13 And when we, as institutions, go
14 through that process, we have to go
15 through the process, and check down the
16 checklist to make sure that all the
17 processes are done before the accrediting
18 visit.

19 It's not going to help to say,
20 we're going to get it done, because then
21 that accrediting commission will tell me
22 that you are out of compliance, at which

1 point, they will take some kind of action,
2 whether it be a warning, whether it be a
3 probationary activity, or fail to grant.

4 Whether it's 17 before that are
5 different, or 17 now, there is still a
6 flaw in their process that would vet them
7 after five years of intense scrutiny, to
8 not come to perfection. I mean these are
9 the lawyers. You go to court and you make
10 the mistake, you go to jail.

11 These are not that complicated.

12 And, if you have placement and you're
13 required to have a benchmark, and you
14 don't have a benchmark, something's wrong
15 because you didn't follow the rules.

16 So, you know, I don't have a
17 problem giving them another year, but I
18 will, in a year from now, which I assume I
19 will still be here, you know, I will take
20 a very, very hard look.

21 CHAIRMAN STAPLES: I think Anne
22 had her hand up first Jim.

1 MS. NEAL: Well, and I
2 appreciate the Motion, but I just want to
3 signal that I will oppose, I will vote
4 against it because I do not, for the
5 reasons that Art is articulating, I do not
6 have an expectation that they will meet
7 these standards, given the history of
8 continuing problems with the criteria.

9 CHAIRMAN STAPLES: Arthur?

10 MR. ROTHKOPF: I guess I share
11 the concerns expressed just now. I'm
12 really sort of searching and is there any
13 way, short of this Motion, or anyone have
14 any idea of how to express the deep
15 concerns that we have with some
16 alternative motion, and I don't have one
17 to pull out of my hat, but I just ask if
18 anyone can think of something that would
19 reflect, I think the concerns that were
20 expressed through a lot of the questioning
21 that went on, and the points that both Art
22 and Anne have reflected?

1 CHAIRMAN STAPLES: I don't know
2 if there's, Larry do you have a
3 suggestion, or a comment?

4 MR. VANDERHOEF: Well my comment
5 is that, isn't what this Motion, in fact
6 is doing, it's saying we've got a history
7 there that we're not proud of, and in one
8 year it's got to all be cleaned up. Isn't
9 that what this is doing?

10 CHAIRMAN STAPLES: And I would
11 say, I would agree with that also. I
12 don't think we should understate the value
13 of the discussion we're having and the
14 presence of the agency, and that we are
15 all going to be here next year, we hope,
16 and we'll review their compliance. Brit?

17 MR. KIRWAN: One question I have
18 is, when the letter comes back in a year,
19 do they have to come back to a NACIQI
20 meeting too?

21 CHAIRMAN STAPLES: They will
22 come back because we will need to make a

1 decision then.

2 MR. KIRWAN: Okay.

3 CHAIRMAN STAPLES: About whether
4 they are renewed.

5 MR. KIRWAN: So okay, they don't
6 just submit a letter, they have to come
7 back and actually respond to questions?

8 CHAIRMAN STAPLES: Right, I
9 don't think they're invited to come back,
10 I think we could debate and act on their
11 proposal without them, but I think it's
12 most likely they'll be back.

13 MR. ROTHKOPF: I would just note
14 that I think the last time around, the 12
15 month period became an 18 month period.

16 (Off-mic comment.)

17 MR. ROTHKOPF: Well, but then
18 there was 12 month, and yes I agree. But,
19 the compliance wasn't there within the
20 time originally stated that it was
21 supposed to be.

22 CHAIRMAN STAPLES: I think we're

1 limited to 12 months now under the
2 regulations, aren't we? Yes, Bill?

3 MR. MCCLAY: Cam, I'm just
4 reacting to what you just said, what
5 troubles me about it, is that the, we're
6 saying that the same language that we've
7 used in other instances to sort of
8 indicate, well we understand that some
9 regulations have creeped in over the
10 years, and you need some time to adjust
11 that, and we're going to give you a year
12 to do that.

13 In other words, the glass is
14 three-quarters, seven-eighths full, and
15 we're expecting that the same language, in
16 this instance, is meant to convey, we are
17 very concerned about this situation.

18 And, I think, at the very least,
19 we ought to consider adding a sentence or
20 clause that would say, you know, in effect
21 that this is a situation of deep concerns.

22 And, again I'm not sure exactly

1 how to do it, but to say that this is
2 reflected in the discussion that took
3 place in the meeting, that there's concern
4 over the delay and the seeming
5 lackadaisical quality of the response to
6 past warnings, and we're really serious
7 about it this time.

8 You know, again I'm struggling
9 to find the right words, but it does seem
10 to me that using the same boiler plate
11 language won't necessarily convey, that in
12 this instance, we're really quite
13 concerned.

14 CHAIRMAN STAPLES: Jamie, did
15 you want to respond to that?

16 MS. STUDLEY: Yes, I'm thinking
17 of questions that we discussed yesterday
18 and a very fine point that was made, fine
19 as in good not narrow, point that was made
20 about consistency in how we review
21 accreditors.

22 We ask accreditors to be

1 consistent in how they review
2 institutions, and we flag that we have,
3 ourselves the same responsibility to be
4 consistent across accreditors. I hear the
5 concerns of some of the Committee
6 colleagues. I also hear the
7 understandable, and I think all of us
8 lawyers would respect it, the expectation
9 that we set as lawyers, a model for
10 following the rules, and understanding and
11 interpreting the rules. So, but that is
12 not written into the NACIQI expectations.

13 I think if we look back
14 yesterday, at the type of questions that
15 we had, the procedural effect of the
16 disappearance of NACIQI, and the
17 reauthorization of the Higher Education
18 Act.

19 For the other accreditors, that
20 the, in my view, the scope and scale of
21 the concerns that have been raised here,
22 about the Council are comparable only to

1 one other agency, as to which we did
2 express, in the record, saying that we had
3 serious concerns, and expected them to
4 return with a fully fledged Compliance
5 Report in a year.

6 But that, a part from that, we
7 took no special actions, and I don't think
8 that the record here is either on the
9 process, or on the merits of the areas of
10 concern, beyond the capacity of the
11 accrediting agency before us to complete
12 satisfactorily in a year.

13 And, I'm there trying to parrot
14 the standard that the staff uses, in their
15 effort to be consistent, and ask questions
16 about whether the agency has understood
17 the nature and gravity of the
18 considerations, and can satisfy these
19 accreditation standards within the next
20 year.

21 CHAIRMAN STAPLES: Thank you.

22 Yes Larry?

1 MR. VANDERHOEF: First of all, I
2 don't think we should apply any different
3 standard to this group because they happen
4 to be dealing with lawyers. I mean, let
5 me just leave it at that. We really have
6 to treat them the same as everybody else.
7 No, it really has to be that way.

8 It might be tempting, but it
9 can't. But, I think the language actually,
10 the problem with the language is not that
11 it's inappropriate for this group or other
12 groups, that we might seem to think are in
13 greater trouble. It's that we're applying
14 it to groups that are in hardly any
15 trouble at all, and it's the same
16 language. You get back here in a year.
17 So, I think that's the problem with the
18 language.

19 We could get into the business
20 of going down the list and stating all of
21 the difficulties, but we do that, don't
22 we? I mean, they've got the report and

1 they've got every single one of the things
2 that have to be corrected. So, I don't
3 see any problem with the Motion, and I
4 don't see any difficulty with going ahead
5 with it as it's stated.

6 CHAIRMAN STAPLES: Thank you
7 Larry, and I'd like to echo that. I don't
8 think the Motion captures any sentiment.
9 I don't think any of these motions do,
10 they capture a process.

11 They say you need to come back,
12 you're not renewed, you are continued, and
13 you have to satisfy the report. All the
14 sentiment is on the record, and whether
15 that's sufficient or not, I think it's
16 expressed in front of the agency.

17 I don't think there's any reason
18 they should be surprised if a year from
19 now, if they haven't satisfied all these
20 requirements, that this Committee takes a
21 very stern view of that. I think that's
22 pretty apparent from this discussion.

1 Any further comment, questions?

2 Seeing none, all in favor of the Motion
3 as drafted and posted, please raise your
4 hand.

5 Any opposed? The Motion
6 carries, you have the vote recorded?
7 Thank you very much. We will take a short
8 break, since we are slightly behind
9 schedule, but I think we should take a 10
10 minute break and return. Thank you.

11 (Whereupon, the above-entitled
12 matter went off the record at 10:44 a.m.
13 and resumed at 11:03 a.m.)

14 CHAIRMAN STAPLES: I thank you
15 and welcome back. We are going to adjust
16 our schedule a little bit. We obviously
17 went over our time with our first review.

18 However, some of our other reviews are
19 likely to be a little shorter than the
20 allotted time.

21 But based on some scheduling
22 requirements, we are going to move to Air

1 University at this point and then we will
2 go back to the Transnational Association
3 of Christian Colleges and Schools and the
4 Council on Occupational Education, in that
5 order, with the expectation that we'll
6 move expeditiously obviously allowing time
7 as necessary.

8 But at this time I'd like to
9 recognize Art Keiser, who chaired the
10 visiting team to Air University.

11

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1 Air University

2 MR. KEISER: Thank you, Cam.
3 This is a little different than what we
4 normally do in this committee.

5 We have a statutory requirement
6 or responsibility to review requests by
7 the National Military Command for degree
8 approval especially at the graduate level,
9 and Cam and I visited the Air University
10 based on their request to establish a PhD
11 program in the military strategy.

12 Now I'll provide some background
13 and then I will discuss the responsibility
14 we had as a committee to what we were to
15 look for and then our recommendations and
16 then a couple of basic comments.

17 Air University first sought
18 degree granting authority for its
19 Associates in Applied Science degree from
20 the Community College of the Air Force in
21 1976. Currently it offers eight programs
22 of professional military education of

1 which four are degree programs authorized
2 by the Congress of the United States.

3 Additionally, it has several
4 affiliated programs that are not within
5 the command structure of the university.
6 However, these programs fall under the
7 educational guidelines established at the
8 university.

9 Air University is the degree
10 granting institution for the affiliate
11 programs and all degree programs offered
12 at the school. The last Air University
13 degree program recommended for degree
14 granting authority by the U.S. Secretary
15 of Education was the Masters of Science
16 degree in Flight Test Engineering at
17 Edwards Air Force Base Test Pilot School.

18

19 The Test Pilot School falls
20 under the command authority of the Air
21 Force Materiel Command, whereas the Air
22 University falls under the command

1 authority of the Air Force Education and
2 Training Command.

3 After degree granting authority
4 was granted to Air University for this
5 degree, it became an affiliated program
6 under the educational umbrella of Air
7 University.

8 After visits by the Secretary's
9 National Advisory Committee on
10 Institutional Quality and Integrity, the
11 requested authorization was granted by
12 appropriate legislation.

13 Our job as a committee was to
14 review a number of issues that are
15 specifically set forth in the statute.

16 One, that the conferring of the
17 authority to grant the graduate degree in
18 question is essential to the
19 accomplishment of the program's objective
20 of the applying agency.

21 The second is that the graduate
22 program in question and/or the graduate

1 degrees proposed cannot be obtained in
2 satisfactory terms to the facilities of
3 existing nonfederal institutions of higher
4 education.

5 Third, that the graduate program
6 conducted by the applying agency meets the
7 standards for the degree or degrees in
8 question which are met by similar programs
9 in nonfederal institutions of higher
10 education. Four, that the
11 administration of the graduate programs
12 concerned is such that the faculty and
13 students be free to conduct their research
14 activities as objectively, as freely and
15 in unbiased manner as found in other
16 nonfederal institutions, and that the
17 existence of an advisory committee of
18 educators from regularly constituted
19 institutions shall be regarded as some
20 evidence of the safeguarding of the
21 freedom of inquiry.

22 Accreditation by an appropriate

1 accrediting body, if such exists, shall be
2 regarded as another safeguard.

3 Well, we went through this
4 process of review. We visited the base.
5 We had a tour of the base. We met with
6 students. We met with faculty. We met
7 with the members of the administration,
8 and frankly it was educational nirvana.
9 It was the most incredible program I have
10 ever seen.

11 First of all, you should be
12 proud of our military officers. The level
13 of learning, Cam will agree with me, was
14 off the charts.

15 The amount of work that these
16 people do is amazing and I kind of wished
17 I was in the military, and that's really
18 hard for me to say coming from my
19 background.

20 These people, the faculty, were
21 incredibly dedicated both military and
22 nonmilitary. We had a chance to spend a

1 lot of time with them. They are
2 incredibly academically prepared and they
3 were extremely motivated to push the
4 students through their program at an
5 incredible pace and with incredible rigor.

6
7 The classes are tiny. I think
8 there are an average of six students in a
9 class, and you were talking about people
10 that you would not -- it's just amazing.

11 One of the students was a woman
12 who was a member of the Blue Angels Flight
13 Team. This is a woman who's not too tall,
14 and they were kidding her because she got
15 reprimanded because she was flying under a
16 100 feet upside down, because she could.
17 It was just an incredible experience.

18 So these are the summary of our
19 recommendations. The team members
20 reviewed the self-study of Air University
21 School of Advanced Air Power and Space
22 Studies, Doctor of Philosophy and Military

1 Strategy program and conducted a site
2 visit to the institution. After
3 meeting with the administrators, faculties
4 and students, and reviewing additional
5 materials on site, the site team is
6 satisfied that the proposed terminal
7 degree program meets the requirements of
8 the federal policy governing the granting
9 of academic degrees by federal agencies
10 and institutions.

11 Based on the extremely high
12 quality of the program, the site team
13 unanimously recommends to the committee
14 and recommend to the Secretary that he
15 recommend the university to the Congress
16 that it be granted degree granted
17 authority as requested, by a Doctor of
18 Philosophy degree in Military Strategy.

19 We also want to make it clear
20 that it is our intent to recommend to the
21 Secretary that the current class that is
22 in the program be eligible to receive

1 their degrees if degree granting
2 authority, even though Congress may not be
3 able to act before the current class
4 graduates.

5 One other thing that just really
6 was so important to me was a week later I
7 was in China and reading the Shanghai
8 Daily. I read an article which was
9 incredibly apropos that the Chinese
10 military is making a huge emphasis on
11 creating doctoral programs for their
12 command leadership.

13 And this is important for us to
14 do and I highly recommend it. And I'll
15 turn it over to Chuck, wherever Chuck is.

16 There's Chuck.

17 CHAIRMAN STAPLES: Come on up,
18 Chuck.

19 MR. MULA: Good morning, Mr.
20 Chair and members of the committee, and
21 thank you, Dr. Keiser, for that report.

22 I briefly just want to emphasize

1 that the staff was there to verify the
2 study and to provide technical guidance to
3 the committee and that it was indeed a
4 great pleasure visit the school.

5 And I'd like to take this time
6 now to introduce the Chief Academic
7 Officer of U.S. Air University, Dr. Bruce
8 Murphy.

9 DR. MURPHY: Mr. Chair,
10 committee members, the last time that Air
11 University appeared before this body as
12 Dr. Keiser mentioned, was for the approval
13 of the Flight Test Engineering degree Test
14 Pilot School. And I'm pleased to
15 report to you that this Saturday night for
16 the third year in a row, we'll be awarding
17 Flight Master of Science and Flight Test
18 Engineering degrees out at Edwards Air
19 Force Base to 24 graduates of that
20 program, United States Air Force as well
21 as Marine Corps, Navy and international
22 students.

1 We would like to thank the
2 staff, particularly Kay Gilcher, Melissa
3 Lewis and Chuck Mula, for their help in
4 bringing us along on this multiyear
5 project to gain accreditation and approval
6 of this degree.

7 We'd also like to thank very
8 deeply, the onsite work of Dr. Keiser and
9 Chairman Staples for coming down there and
10 asking us the tough questions and getting
11 us through that visit.

12 Each of us would like to now
13 just make a very brief statement, and I
14 would like to introduce the folks that we
15 have in front of you today.

16 First of all, to my left is
17 Major General David Fadok. He's currently
18 the commanding officer or the Commander of
19 the LeMay Center for Doctrine Development
20 and Education. He also currently serves
21 as the Vice Commander of Air University.

22 Most recently, this spring he

1 was nominated by President Obama and
2 confirmed by the Senate for promotion to
3 Lieutenant General and assignment as the
4 Air University Commander, and for the
5 first time, President of Air University.
6 And also, by the way, he's a graduate of
7 the SAASS program.

8 On his left is Ms. Mary Boies,
9 founding partner of Boies McInnis law
10 firm, and she is a treasured member of our
11 Board of Visitors.

12 And then to her left is Colonel
13 Tim Schultz, and he is the current -- oop.

14 They switched on me. What do they say?
15 No plan survives first contact, right?

16 And to her right, is Colonel Tim
17 Schultz, who is the current Commandant of
18 the School of Advanced Air and Space
19 Studies.

20 Air University offers programs
21 that are consistent with our mission for
22 professional military educational

1 professional continuing education and
2 advanced specialized education. We seek
3 to give credit where credit is due and
4 these programs rise to a level of degree
5 level.

6 And now I'd like to turn it over
7 to General Fadok.

8 GENERAL FADOK: Great. Thanks,
9 Dr. Murphy.

10 Mr. Chairman, committee members,
11 first of all, thank you for adjusting your
12 schedule on the fly. After the previous
13 session, we were concerned about making
14 our flights back home and we don't even
15 depart until Saturday.

16 No, we're actually pleased and
17 honored to appear before you this morning
18 as you prepare your recommendation to
19 Secretary Duncan regarding the Air
20 University's request for authority to
21 award a Doctor of Philosophy in Military
22 Strategy.

1 As Dr. Murphy mentioned, I am
2 Major General Dave Fadok, currently the
3 Vice Commander of Air University, and I am
4 here representing our boss, the Commander
5 of Air University, Lieutenant General
6 Allen Peck.

7 Unfortunately, due to a
8 scheduling conflict he was not able to be
9 here in person but he does send his
10 regards.

11 Mr. Chairman, we very much
12 enjoyed hosting you, Dr. Keiser, and Mr.
13 Mula this past spring on your visit to
14 Maxwell Air Force Base.

15 We are proud that this eyes-on
16 visit left a favorable impression of not
17 just the School of Advanced Air and Space
18 Studies, otherwise known by its acronym,
19 SAASS, but also we were very pleased that
20 you left with a favorable impression of
21 our proposal to allow a select few SAASS
22 graduates to pursue doctorate degrees

1 without, and this is a key point, without
2 jeopardizing progression in their
3 respective career fields.

4 I suspect two questions lie at
5 the heart of your deliberations today.
6 Why does the Air Force want this PhD, and
7 will the program be sustained if approved?

8
9 One glance at a recent House
10 Armed Services Committee report on
11 professional military education suggests
12 the answer to the first question. Our
13 Congressional oversight bodies highlight
14 the need for all four military services to
15 build more strategists. The
16 Doctorate of Philosophy in Military
17 Strategy is a key element in the Air Force
18 plan to develop critical thinkers who can
19 purposefully link ends, ways and means to
20 craft effective defense strategies in the
21 face of an uncertain security environment.

22

1 To answer the second question
2 about sustainment, I humbly note what Dr.
3 Edwards points out, I have been confirmed
4 by the Senate to serve as the next
5 commander and first president of the Air
6 University.

7 I have benefited tremendously
8 from the education that this institution
9 has provided me throughout my career
10 including as noted, a Masters Degree from
11 SAASS. I only wish this PhD program
12 existed when I graduated from that school.

13
14 If you choose to recommend
15 approval to Secretary Duncan, I can assure
16 you that I will do much more than just
17 sustain this program.

18 We collectively will continually
19 improve this remarkable opportunity for
20 our Air Force's most promising intellects
21 and leaders, our Air Force's future
22 strategists.

1 Thank you for permitting us the
2 opportunity to discuss our program with
3 you this morning.

4 MS. BOIES: Hello, I am Mary
5 Boies. I am a member of the Board of
6 Visitors and I am a lawyer in private
7 practice.

8 I'm on the board of directors of
9 the Council on Foreign Relations, a member
10 of the board of the MIT Center for
11 International Studies and the Dean's
12 Council of the Harvard Kennedy School, and
13 I speak in support of this application.

14 The Board of Visitors gave
15 unanimous approval to this application
16 being filed, but only after a very
17 rigorous and demanding review over the
18 course of many years. Our approval was
19 neither quick, easy nor assured. We are a
20 tough group.

21 This board meets twice a year
22 for three days, from Sunday afternoon

1 through Wednesday morning. It is a big
2 commitment. And the board
3 includes many college presidents, locally,
4 the President of the University of
5 Maryland, and professors such as the dean
6 of Computer Sciences at Purdue University.

7
8 You may wonder what I'm doing
9 there. Everybody needs a lawyer
10 apparently, or so they think.

11 Particularly the educators among
12 us felt that their professional
13 reputations were on the line in supporting
14 a program as serious as a PhD program.
15 There's a lot of expertise on the Board of
16 Visitors about PhD programs. They know
17 the very heavy and detailed academic
18 curriculum and standards, and also the
19 major burden of the capabilities,
20 facilities and administration that must be
21 in place for a PhD program.

22 We placed on the Air University

1 staff and leadership a heavy burden, to
2 persuade us that AU meets the highest
3 standards for receiving additional
4 doctoral degree granting authority.

5 I mention as an aside, this
6 would not be the Air University's first
7 authority to grant PhDs. The Air Force
8 Institute of Technology at Wright-
9 Patterson Air Force Base has that
10 authority at this time and has for many
11 years.

12 In the end, we were thoroughly
13 persuaded, one, of our country's serious
14 need for this degree granting authority.

15 One day the president is going
16 to need advice on how to deal with space
17 activity by a country whose intentions are
18 not entirely clear. And one place where
19 he will go for strategic as well as
20 operational advice will be the highest
21 levels of our military, and if it's a
22 space issue, certainly to the Air Force

1 whose focus includes that platform.

2 Second, we concluded with a
3 review that as fine as many civilian
4 academic institutions are, there really is
5 no substitute for the mix that you would
6 find at the Air University of civilian
7 faculty and military faculty, the mix of
8 the theory of strategy and warfare with
9 the actual experience of that as well as
10 with academic credentials.

11 Third, we concluded that it is
12 an understatement to say that there is
13 free and independent inquiry at Air
14 University. If you want to know what the
15 Air Force is doing wrong, go visit Air
16 University.

17 You'll learn why close air
18 support never works, why carpet bombing in
19 this instant is a terrible mistake, what
20 we did right and wrong in the Serbian air
21 operations. These folks are as
22 independent as it gets, and we concluded

1 that the facilities, the administration,
2 the library, the research, everything that
3 goes with a PhD program was more than
4 adequately fulfilled there.

5 And so I urge this fine
6 institution to grant the Air University's
7 application. Thank you.

8 COLONEL SCHULTZ: Thank you,
9 Chairman Staples, and the entire
10 committee. I appreciate your time and
11 flexibility this morning.

12 My name is Colonel Tim Schultz.

13 I have the pleasure of being the
14 Commandant and dean of the School of
15 Advanced Air and Space Studies, or SAASS,
16 and I'd just like to add a few shaping
17 comments here.

18 Two days ago, I spoke with one
19 of the two Army officers at our school.
20 He had just completed the final graduation
21 requirement, a two-hour oral examination
22 where he is basically in a conversation

1 about strategy with three of the SAASS
2 professors. So it's a one-on-three
3 situation, and he did very well.

4 And he emerged from that and he
5 summarized his entire year long experience
6 by saying sir, SAASS has taught me how to
7 think. It's broken down his
8 preconceived world view, his stovepipe
9 thinking which we all know is common in
10 mid career officers, they're technical and
11 tactical experts.

12 We bring them to SAASS and
13 liberalize their mind. We open their mind
14 to a broader perspective so they can think
15 critically and deeply to aid the common
16 defense.

17 And I think that took hold with
18 our Army officer as it does with our other
19 58 students that we have this year.

20 SAASS is indeed unique. We get
21 a mixture of students that you wouldn't
22 see in any nonfederal institution. We

1 have Air Force pilots and intelligence
2 officers and satellite operators, a few
3 international students, members from the
4 Army, and the Marine Corps this year and
5 the incoming class from the Navy, and we
6 put them together in a very interesting
7 mix.

8 Included in that mix is a
9 faculty of 20 personnel, all terminally
10 credentialed, specializing in history and
11 political science and international
12 relations and military strategy.

13 We basically have one PhD
14 faculty member for every three students,
15 so a 3:1 ratio which we leverage to I
16 believe excellent effect. Every student
17 gets a lot of personal attention
18 throughout the year whether they like it
19 or not.

20 When we combine that with a
21 curriculum that focuses on the theory of
22 military, of theory of warfare, theories

1 of politics and economics and society, and
2 test that in the laboratory of history and
3 then crucible of modern times, it creates
4 a unique experience for this unique and
5 highly gifted group of students.

6 When they leave SAASS, they all
7 automatically go to very carefully managed
8 positions in their respective service
9 where they can make a difference. They're
10 all strategy relevant positions. Some of
11 them go direct to command with follow-ons
12 to strategy relevant positions.

13 Right now we have senior SAASS
14 graduates in some very significant
15 positions of influence. Some of them as
16 General Fadok mentioned, will be the
17 future Commander and President of the Air
18 University, another is the three-star
19 general who is the Military Deputy
20 Director at the Central Intelligence
21 Agency.

22 Another is the U.S. Security

1 Coordinator for Israel and the Palestinian
2 Authority. Others work at the National
3 Security Council. Others work at the
4 Chief of Staff's Strategic Studies Group.

5 These are men and women who have access
6 to key decision makers.

7 And we want to provide our
8 graduates, those who are qualified, to go
9 on and achieve a doctoral level of
10 understanding in military strategy, and we
11 think they can go forward and have great
12 effect for our country. And with
13 that I thank you for your attention this
14 morning, much appreciated.

15 CHAIRMAN STAPLES: Thank you
16 very much. I just want to add a couple
17 comments, which is to say that I fully
18 support everything that Dr. Keiser
19 mentioned about our visit.

20 And I think critical for this
21 committee's review is that both the
22 program that you offer is unique and could

1 really only be offered in an environment
2 such as Air University.

3 And secondly, the students as
4 you mentioned -- and I will say I was not
5 as aware until I made the visit that for a
6 student of the leadership quality that
7 you're assigning to this program to take
8 time off to go get a PhD in a traditional
9 university is tantamount to leveling off
10 their advancement in the military.

11 And that's not likely to happen
12 among that particular group of students
13 because they are a group that is seeking
14 leadership within the military, so really
15 the only way to educate them at the
16 highest level is to provide a program like
17 this at an institution like Air
18 University.

19 And I think for our purposes we
20 make exceptions when we grant that
21 authority to military institutions, so I
22 think you meet all the criteria for that.

1

2 I think it was an incredibly
3 impressive program and I fully support our
4 recommendation and I just wanted to put
5 that on the record, because I think that's
6 a criteria that this committee has to take
7 into account. So thank you very much.

8 And Art, I don't know if you
9 have any further comments or motion.

10 MR. KEISER: Well, I'll make a
11 motion.

12 But just, you know, how much the
13 costs, because you have incredibly small
14 classes, incredible rigorous program.

15 I think if I remember correctly,
16 a foreign student, one of the students we
17 met was a Swedish officer, and I think
18 they charged the Swedish \$103,000, if I
19 remember correctly give or take a few
20 thousand dollars, but it's expensive to do
21 this.

22 But let me tell you, the value

1 is there no matter what the cost of it.
2 It was incredible.

3 So with that point, I'd like to
4 move that NACIQI recommend to the
5 Secretary that we approve Air University's
6 doctoral in strategic studies and at the
7 same time, and I can't read specifically
8 what's up there but I recommend that the
9 Secretary also request that the current
10 class be eligible to receive degrees, if
11 the degree granting authority is granted
12 and Congress may not have acted before
13 their graduation.

14 MR. ROTHKOPF: I'll second it.

15 MR. KEISER: Whatever's up
16 there, it's pretty close.

17 CHAIRMAN STAPLES: Moved and
18 seconded. Well, it's still being put up
19 there. Frank, did you want to make a
20 comment?

21 MR. WU: Yes, I wonder if we may
22 pose questions?

1 CHAIRMAN STAPLES: Absolutely,
2 go right ahead. Motion is pending.

3 MR. WU: So I have a question.
4 Prior to my service on this body, I had
5 the honor of serving on the Military
6 Leadership Diversity Commission which
7 submitted a report recently to Congress.
8 You may know about this. General Lester
9 Lyles was the chair of that body.

10 I was wondering what you thought
11 of that document and the proposals it
12 contained for ensuring diversity within
13 the Armed Forces.

14 GENERAL FADOK: Yes. The one
15 thing that I think folks have to
16 appreciate is that from our Air Force
17 perspective, diversity is much more than
18 just demographics. It really is a proper
19 mix of different knowledge bases,
20 experience levels and skill sets.

21 And I would very, very
22 confidently state that certainly within

1 the student body that attends the School
2 of Advanced Air and Space Studies, you
3 will find that diversity is almost Job One
4 in terms of the student body that we
5 select.

6 It is done by design because of
7 the fact that diversity does, in fact, add
8 a tremendous strength to the discussions
9 among the various attendees.

10 COLONEL SCHULZ: I should note
11 that SAASS is a great place to come to for
12 promising officers, and Dr. Keiser
13 mentioned one of our current students
14 earlier.

15 Her name is Major Lieutenant
16 Colonel-select Samantha Weeks. She was
17 the first solo pilot in the Air Force's
18 aerial demonstration team, a very capable
19 young officer who is going places. And
20 SAASS is an opportunity for her to get an
21 additional boost in the high orbit.

22 In the incoming class we have

1 our first African American female officer,
2 an intelligence officer named Major Marie
3 Smith, who I think SAASS will provide her
4 the opportunity, especially if she chooses
5 and if she's qualified to pursue the
6 doctorate in military strategy. What a
7 bright future she has as well. And those
8 are just two examples.

9 DR. MURPHY: Let me just add
10 that our Board of Visitors has focused on
11 SAASS for about the last well, almost 12
12 years.

13 Because SAASS was a relatively,
14 about 20 students at one point in time,
15 and they quite frankly were having a lot
16 of fighter pilots, which is a field that
17 is not terribly open to diversity, and so
18 what they did working with Air University,
19 working with the Department of the Air
20 Force and the Personnel Center, they
21 expanded SAASS in order to be able to have
22 more diversity, not just in more folks to

1 select from and more diversity of
2 backgrounds to select from.

3 And I think as Tim already
4 mentioned, that the mix there is always
5 getting better and always getting more in
6 the direction that I think that the
7 committee recommended.

8 MS. BOIES: I don't work there,
9 so I can speak very objectively. And I
10 will tell you that the will for diversity
11 is absolutely there.

12 It's difficult particularly at
13 the higher levels, because for many
14 decades the Air Force was made up of
15 flyboys, and those are the people who are
16 at the top right now. Not in every case,
17 but if you look at the numbers it is that
18 way.

19 The board, which is reappointed
20 every year, is very diverse. And the
21 younger people who are referred to, you
22 find great diversity and there's great

1 opportunity to bring in diversity.

2 It's tougher at the higher
3 levels, but I can tell you I see the will
4 and the activity every chance they get.

5 CHAIRMAN STAPLES: Earl, did you
6 have a question?

7 MR. LEWIS: I did have a
8 question. Since the proposal is a seek
9 authority to award a doctorate of
10 philosophy, I am correct to assume that a
11 dissertation is one of the products.

12 COLONEL SCHULTZ: Yes.

13 MR. LEWIS: Okay.

14 CHAIRMAN STAPLES: Any further
15 questions or comments? Now seeing none
16 and the motion is up there, I would ask
17 all those in favor to please indicate by
18 raising their hand. Okay, any opposed?
19 Motion carries. Thank you very much, and
20 thank you for coming.

21 MR. KEISER: Just one comment.
22 Anybody gets a chance to do it, you know,

1 try. That's a great experience to go out
2 on that visit.

3 MR. PEPICELLO: Mr. Chairman, so
4 as not to interrupt the proceedings here,
5 shortly I am going to excuse myself for a
6 time. I shall return.

7 CHAIRMAN STAPLES: Thank you,
8 Bill. Okay, we're going to proceed now to
9 the Transnational Association of Christian
10 Colleges and Schools accreditation
11 submission.

12 Transnational Association of Christian
13 Colleges and Schools, Accreditation
14 Commission

15 MS. WILLIAMS: Mr. Chair, I was
16 just going to recuse myself from the next
17 deliberation.

18 CHAIRMAN STAPLES: Thank you,
19 the record will note that.

20 MR. KIRWAN: Then advise that I
21 also need to --

22 CHAIRMAN STAPLES: Thank you.

1 The record will note that. Larry, I
2 recognize you for the introduction of this
3 topic.

4 MR. VANDERHOEF: Art and I will
5 carry this and I will start with the
6 introduction.

7 The Transnational Association of
8 Christian Colleges and Schools is an
9 institutional accreditor, and its current
10 scope of recognition is the accreditation
11 and preaccreditation, preaccreditation
12 meaning candidate status, of postsecondary
13 institutions that offer certificates,
14 diplomas and associate baccalaureate and
15 graduate degrees including institutions
16 that offer distance education.

17 It is requesting a
18 clarification, not a change in scope, but
19 just simply a clarification of its current
20 scope to specify that it accredits and
21 preaccredits Christian postsecondary
22 institutions.

1 The TRACS accredits or
2 preaccredits 54 institutions in 22 states.

3 TRACS accreditation provides a link to
4 Title IV funding for 35 of its
5 institutions and a link to Title III
6 funding for three of its historically
7 black colleges and universities.

8 TRACS received initial recognition in
9 July 1991 and has maintained continued
10 recognition since that time.

11 The agency just last appeared
12 before the NACIQI at the committee's
13 December 2004 meeting. Following that
14 meeting in 2005, the Secretary granted the
15 agency renewed accreditation for a period
16 of five years.

17 And Rachael will now carry on.

18 CHAIRMAN STAPLES: Welcome,
19 Rachael. Go ahead.

20 MS. SCHULTZ: Thank you. Good
21 morning. I'm Rachael Schultz and I will
22 be presenting information regarding the

1 petition submitted by the Transnational
2 Association of Christian Colleges and
3 Schools, or TRACS.

4 The staff recommendation to the
5 Senior Department Official is to continue
6 the agency's current recognition and
7 require a compliance report within 12
8 months on the issues identified in the
9 staff report.

10 This recommendation is based
11 upon the staff review of the agency's
12 petition and supporting documentation as
13 well as the observation of a site visit in
14 Fredericksburg, Virginia on April 26
15 through 28, 2011.

16 Our review of the agency's
17 petition revealed outstanding issues in
18 several areas of the criteria.

19 In particular in the area of
20 basic eligibility requirements, the agency
21 needs to provide documentation showing
22 acceptance by practitioners and employers

1 of the agency and its standards, policies
2 and procedures.

3 In the area of organizational
4 and administrative requirements, the
5 agency must demonstrate that it acts in
6 accordance with its own policies to elect
7 and seat additional commissioners and
8 provide evidence regarding the education
9 and expertise of its commissioners and
10 site visitors. It must also provide more
11 information regarding its finances.

12 In the area of required
13 standards and their application, the
14 agency must provide additional
15 documentation regarding student
16 achievement, site review information and
17 follow up and program level growth
18 monitoring. It must also provide
19 additional documentation regarding its
20 standards review process.

21 In the area of required
22 operating policies and procedures, the

1 agency must provide additional information
2 or documentation regarding substantive
3 changes, complaint policies and the
4 establishment of branch campuses.

5 Since many of these issues only
6 require the need for additional
7 documentation, and because we have
8 received no record of complaints or
9 concerns regarding this agency, we believe
10 that these issues will not place TRACS'
11 institutions, programs, students or the
12 financial aid they receive at risk and
13 that the agency can resolve the concerns
14 we have identified and demonstrate its
15 compliance in a written report in a years'
16 time.

17 Therefore, as I stated earlier
18 we are recommending to the Senior
19 Department Official that TRACS'
20 recognition be continued and that the
21 agency submit a compliance report in 12
22 months on the issues identified in the

1 staff report. Thank you.

2 CHAIRMAN STAPLES: Thank you.
3 Any questions for Rachael? Seeing none,
4 thank you. Oh yes, Art?

5 MR. KEISER: One of the things I
6 was not clear about was the composition of
7 the commission and the qualification of
8 members. Were the issues that
9 they just didn't fill the slots timely
10 enough or at the time of the visit, or is
11 it that some are unqualified? I wasn't
12 sure.

13 MS. SCHULTZ: They had
14 vacancies, and they will be meeting in
15 July and the new commissioners will be
16 seated then, but they had not seated the
17 new commissioners at the time that we were
18 finishing the report.

19 So it's on its way to being
20 fixed very shortly, but had to be
21 addressed in the report because they were
22 not seated yet.

1 MR. KEISER: And how long were
2 those vacancies open?

3 MS. SCHULTZ: Off the top of my
4 head, I don't remember.

5 CHAIRMAN STAPLES: Larry?

6 MR. VANDERHOEF: So I don't see
7 any reason not to use the standard
8 language that we have before us, and so I
9 move that the --

10 CHAIRMAN STAPLES: Larry, just
11 one second. I want to make sure we give
12 the agency a chance to come forward.

13 MR. VANDERHOEF: Sorry.

14 CHAIRMAN STAPLES: That's okay.
15 It's a good signal to them anyway. Why
16 don't we --

17 MS. STUDLEY: Well, we are
18 running behind.

19 CHAIRMAN STAPLES: Why don't we
20 at this point invite the agency
21 representatives to come forward?

22 MS. STUDLEY: Thank you.

1 CHAIRMAN STAPLES: And Larry,
2 since I did the same thing yesterday, I
3 really appreciate you doing that today.
4 Thank you.

5 CHAIRMAN STAPLES: Good morning.
6 Please proceed.

7 MR. FLANAGAN: Good morning, Mr.
8 Chairman. I'm Jim Flanagan. I'm the
9 chair of the commission.

10 I'd like to introduce our group
11 to you today. We're sort of men in blue,
12 very traditional here.

13 The gentleman on the end is
14 Barry Griffith. He comes to us from
15 Piedmont Baptist College after 15 years
16 there, and he is transitioning to his
17 position as Chief Financial Officer.

18 Barry and his wife began reading
19 the Book of Genesis when they got married,
20 got to the passage where it says "be
21 fruitful and multiply", and they have
22 seven children. So we're glad to have

1 Barry aboard here.

2 Benson Karania is president of
3 Beulah Heights University, just down the
4 highway from my school, and Benson, his
5 school primarily ministers to very wealthy
6 Pentecostals and Charismatics. We
7 minister to very poor Baptists. So,
8 Benson Karania.

9 Our new president, Dr. Paul
10 Boatner, is here and we'll be turning the
11 rest of the meeting over to him.

12 I'm Jim Flanagan, as I said,
13 Chairman. Thank you for having us today.

14

15 MR. BOATNER: You get stereo
16 here. After the first meeting today, I
17 was wondering whether I wanted to sit in
18 this chair.

19 Kind of reminded me of one of my
20 long time mentors, who when he was
21 appearing before a group said, I feel a
22 bit like a corpse at a funeral. I know I

1 have to be here but I shouldn't say
2 anything.

3 With that dud, let me move on
4 and say that we appreciate the opportunity
5 to present ourselves before you, and we
6 also appreciate the input that we received
7 from the Department staff, particularly
8 our representative, Rachael, and the
9 willingness of the staff to answer any
10 questions that we have had and to clarify
11 any issues and to give us direction on how
12 to address those issues. We realize
13 that we have a number of issues that have
14 been identified. I just want to take an
15 opportunity to focus on a couple of the
16 ones that have already been raised and
17 hopefully provide clarification. The
18 issue of our makeup of our commission, on
19 an annual basis one-third of our
20 commission turns over or is up for
21 reelection.

22 And in addition to that we had a

1 retirement and someone moved from one
2 institution to a non-TRACS institution.
3 And therefore we had not only the
4 commissioned positions, which were up for
5 reelection, but we also had some openings.

6
7 Our regular process is to send
8 out information regarding the openings and
9 solicit input, request information from
10 the people that we can use to determine
11 whether or not they meet the
12 qualifications of the various categories
13 of institutional representative or faculty
14 representative or public representative,
15 so that we can make certain that we we're
16 meeting our own regulations as well as
17 those of DOE.

18 That process took place, was
19 actually in place at the time that was
20 happening, during the period of time that
21 we were submitting our information to DOE.

22

1 We went through then, our
2 nominating committee of the commission met
3 and reviewed the candidates and vetted
4 them and the ballot was put together.

5 It's sent out then to all of our
6 member institutions for voting and that
7 process concluded a week ago. The normal
8 process is that the seating of the new
9 committee, of the new commission members
10 takes place on July 1.

11 I can say that as a result of
12 the elections that closed last week and
13 have now been certified, that we will come
14 into compliance on five of the remaining
15 regulations that were considered to be
16 outstanding and that in essence would be
17 all of those related to the commission
18 makeup.

19 Another issue that I think that
20 has been mentioned and I think that is of
21 concern is our finances.

22 I would like to begin by saying

1 that with three weeks left in the fiscal
2 year, we are projecting a \$55,000 surplus
3 for this year. That was based upon work
4 that we have done to make certain that
5 we've done a thorough review of our
6 finances.

7 That review included two major
8 actions which we took. The review was
9 done in the first part of 2010.

10 As a result of that, the budget
11 for this year included a five percent
12 increase in annual dues. We noted that we
13 needed to have -- that our income was
14 insufficient.

15 But the other part of it
16 included an extensive review of our
17 expenditures for employees, and we came to
18 the conclusion that we could be a much
19 more efficient institution by moving away
20 from having an extended number of part-
21 time employees and moving to a smaller
22 number of full-time employees.

1 So with those two
2 considerations, we were able to present a
3 budget for this year that has allowed us
4 to present a projected surplus at the end
5 of the year.

6 On the remaining issues, I think
7 that addresses about seven or eight of the
8 remaining, but the regulations, the
9 remainder of the regulations, Chair
10 Flanagan has appointed a working committee
11 of the commission who are working
12 currently with the staff to address the
13 remaining regulations. We have
14 already, have parts of a number of those
15 already in place. We've discovered that
16 the things that are taking more time are
17 those where we have to just simply get the
18 documentation of something that we have
19 been doing.

20 But that working committee will
21 be giving a report to our commission at
22 the November meeting. Our expectation

1 that the only thing that will remain after
2 that November meeting will be the
3 additional collection of the final
4 documentation, and we'll be working with
5 the staff of DOE as we proceed through
6 this process.

7 CHAIRMAN STAPLES: Thank you.
8 Any questions from members of the -- yes,
9 Art?

10 MR. KEISER: I'm glad to hear
11 that there have been changes made and
12 improvements of the financial condition,
13 but the audits that we have show a
14 significant decline of reserves in terms
15 of your cash to where you're now
16 significantly exposed if things changed,
17 with not a whole lot of reserves to
18 protect the institutions that are
19 accredited by you. And then in your
20 budget you went from \$457,000 to \$320,000,
21 which is almost a 25 percent decrease in
22 salary. And you're suggesting that you

1 did not have a decline in services to your
2 members.

3 MR. BOATNER: As we began to
4 analyze the employees and what the
5 different people were doing, we realized
6 that there was a lot that was being
7 actually lost in terms of service to our
8 institutions by not having individuals who
9 were in the office enough time to make
10 certain that things were getting done in a
11 timely manner or that we were getting back
12 to institutions. That was a part of our
13 consideration.

14 And there are some personnel
15 issues there that I can't go into, but the
16 end result is, is that the institutions
17 have been very pleased.

18 I think probably the best
19 evidence of that is that three years ago
20 we had about a total of about 90
21 institutions that we were working with.
22 Right now we are working with over 140

1 institutions.

2 I have one staff person who is
3 in Taiwan doing a reaffirmation visit. I
4 have someone else who just finished in
5 Germany doing a preliminary visit for a
6 possible branch campus for another
7 institution.

8 The feedback that we're getting
9 from the institutions at this time is that
10 they are very pleased with what they
11 consider to be an increase in the amount
12 of service that we're doing.

13 In terms of the actual number of
14 hours, when you have a lot of part-time
15 employees who are being paid good salaries
16 and all of the things that go along with
17 just the salary, when you condense that
18 into full-time employees what we've found
19 is that we've been able to save
20 considerably on employee costs, but the
21 input that we've gotten back is that our
22 services have actually improved.

1 MR. KEISER: With \$320,000, how
2 many FTEs does that represent? That's a
3 small budget for payroll, including taxes.

4 MR. BOATNER: We have seven
5 full-time employees and two what we call
6 field representatives.

7 Those are people who, since
8 we're a national accrediting agency, we
9 have one person who works for us in the
10 Midwest and one that works for us in
11 California, so that we get quicker
12 response to those institutions that don't
13 have to travel all the way across country
14 on every visit that we need to make.

15 CHAIRMAN STAPLES: Any further
16 questions? Yes, Jamie?

17 MS. STUDLEY: What is Christian
18 postsecondary education, please?

19 MR. BOATNER: It's no different
20 than any other postsecondary education.
21 We have our standards that apply to what
22 would be a normal institutional

1 accreditation that are all the ones that
2 are in compliance with DOE regulations and
3 various -- meet national norms.

4 We're constantly benchmarking
5 against other accrediting agencies when
6 we're looking at trends that are going on,
7 like the increase in online education and
8 things along that line.

9 In addition to that we have what
10 we call foundational standards that define
11 what would be a Christian institution.

12 And so it's a plus to the normal
13 requirements for accreditation. It's not
14 a lesser thing, and nowhere in there do we
15 say that there's a different perspective.

16 It's a strong, a position that is strong.
17 They are objective standards.

18 And then addition to that we
19 have a separate section that defines what
20 is a Christian institution.

21 MS. STUDLEY: So just to be sure
22 I understood, the Christian refers to the

1 nature of the institution and not to the
2 nature of the education program or
3 content.

4 MR. BOATNER: Absolutely.
5 You're absolutely correct.

6 MS. STUDLEY: Okay, thank you.

7 CHAIRMAN STAPLES: Other
8 questions or comments? Larry?

9 MR. VANDERHOEF: I haven't
10 changed my mind, but I can't remember
11 where I left off exactly. So I'll start
12 over again.

13 CHAIRMAN STAPLES: Go right
14 ahead.

15 MR. VANDERHOEF: I believe that
16 the standard language that we can use if
17 there aren't any necessary changes will
18 work in this case and that reads as
19 follows. You see the first part of it up
20 on the board there.

21 I move that the NACIQI recommend
22 that the TRACS recognition be continued to

1 permit the agency an opportunity to within
2 a 12-month period, bring itself into
3 compliance with the criteria cited in the
4 staff report. And that it submit
5 for review within 30 days thereafter, a
6 compliance report demonstrating compliance
7 with the cited criteria and their
8 effective application.

9 Such continuation shall be
10 effective until the Department reaches a
11 final decision.

12 CHAIRMAN STAPLES: Is there a
13 second?

14 MR. ZARAGOZA: Second.

15 CHAIRMAN STAPLES: Been moved
16 and seconded. Any discussion? Art?

17 MR. KEISER: I just want the
18 staff to pay close attention to the
19 financial stability of this organization.

20

21 A \$320,000 budget for I think it
22 was seven plus two, which is nine

1 employees, it's pretty hard at least in my
2 area, south Florida.

3 And I know they're not located
4 in south Florida, but to hire that many
5 people of significant quality to be able
6 to carry out a highly sophisticated
7 function as accreditation with that budget
8 for that number of people and with a
9 declining reserve, they need to make some
10 significant financial decisions to bring
11 their house into order.

12 CHAIRMAN STAPLES: Thank you.
13 Any further comments? Seeing none, all in
14 favor of the resolution raise your hand.
15 Any opposed? Seeing none, it passes.

16 Thank you very much, and thank
17 you for coming.

18 MR. MCCLAY: Mr. Chairman, I
19 just want to for the record say I'll be
20 leaving now and returning.

21 CHAIRMAN STAPLES: Okay, thank
22 you. We will now proceed to the Council

1 on Occupational Education. Primary
2 readers are Earl Lewis and Anne Neal. Who
3 will be beginning that? Earl, go right
4 ahead.

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1 Council on Occupational Education

2 MR. LEWIS: I'll start. The
3 Council on Occupational Education or COE,
4 is a national institutional accreditor.

5 It's current scope of
6 recognition is for the accreditation and
7 preaccreditation, that is, candidacy
8 status, throughout the United States of
9 postsecondary occupational education
10 institutions offering nondegree and
11 applied associate degree programs in
12 specific career and technical education
13 fields including institutions that offer
14 programs via distance education.

15 COE was originally established
16 in 1968 as a committee of the Southern
17 Association of Colleges and Schools or
18 SACS. In 1971, the committee
19 became the Commission on Occupational
20 Educational Institutions.

21 In 1995, the agency formally
22 separated from SACS and adopted its

1 present name and began to accredit and
2 preaccredit institutions throughout the
3 United States.

4 COE currently accredits 389
5 institutions and 50 candidate institutions
6 in 31 states, the District of Columbia and
7 Puerto Rico.

8 The agency's accreditation
9 enables the institutions it accredits to
10 establish eligibility to participate in
11 Title IV programs and thus it must meet
12 the Secretary's separate and independent
13 requirements.

14 The former Secretary of
15 Education last granted COE a recognition
16 period of four years after deferring a
17 decision on the agency's recognition in
18 2005, due to outstanding issues concerning
19 the agency's review of institutions with
20 distance education, its monitoring process
21 and substantive review process and review
22 procedures.

1 The former Secretary issued her
2 decision letter in the fall of 2007,
3 stating that the agency has sufficiently
4 addressed those outstanding issues. It's
5 now before us petitioning to be renewed,
6 having its renewal of recognition.
7 Jennifer?

8 CHAIRMAN STAPLES: Thank you.
9 Please proceed, Jennifer.

10 MS. HONG-SILWANY: Okay. Good
11 morning, Mr. Chair and committee members.
12 I'm Jennifer Hong-Silwany, and I'll be
13 providing a summary of the staff
14 recommendation for the Council on
15 Occupational Education.

16 The staff recommendation to the
17 Senior Department Official is to continue
18 the agency's recognition, but require the
19 agency to come into compliance within 12
20 months and submit a compliance report that
21 demonstrates the agency's compliance with
22 the issues identified in the staff

1 analysis.

2 This recommendation is based on
3 our review of the agency's petition,
4 supporting documentation and an
5 observation of a decision making meeting
6 on February 13 through 15, 2011, in Baton
7 Rouge, Louisiana. The outstanding
8 issues in the staff analysis consists
9 primarily of the need for documentation
10 regarding the agency's application of
11 policies which were revised in accordance
12 with the draft staff analysis.

13 The agency must also address
14 more substantive concerns. For example,
15 by demonstrating implementation of its
16 revised student achievement standard,
17 implementation of its revised substantive
18 change procedures, documentation of its
19 systematic review of standards, revisions
20 to its teach-out policies and evidence of
21 its application of its teach-out
22 procedures.

1 The agency must also amend its
2 published materials to accurately reflect
3 its accreditation of distance education as
4 defined by the Department and provide a
5 thorough and reasonable explanation
6 consistent with its standards and in
7 accordance with Section 602.28(c) of the
8 regulations of why the action of another
9 accrediting agency does not preclude the
10 agency's grant of accreditation to an
11 institution.

12 Therefore, as I stated earlier
13 we are recommending to the Senior
14 Department Official to continue the
15 agency's recognition, but require the
16 agency to come into compliance within 12
17 months and submit a compliance report that
18 demonstrates the agency's compliance with
19 the issues identified in the staff
20 analysis. Thank you.

21 CHAIRMAN STAPLES: Thank you.
22 Any questions or comments? Okay, thank

1 you very much.

2 We'll invite the agency to come
3 forward. Good morning, and please proceed.

4 MS. HAWK: Well, I think it's
5 almost good afternoon, Mr. Chair, members
6 of the committee.

7 My name is Jody Hawk and I'm the
8 current chair of the Commission on
9 Occupational Education, referred to as the
10 COE. This is my third year serving as
11 chair of the commission and prior to this
12 position I was a commissioner with the
13 COE. I also am the President and CEO of
14 Texas Health Schools, located in Houston,
15 Texas.

16 My background includes over 25
17 years in the career educational sector and
18 I have served in various administrative
19 and academic positions.

20 I would like to thank our staff
21 analyst, Jennifer, for her time and her
22 help that she had provided to us

1 throughout this process, and the agency
2 will continue to work with her. And we
3 look forward to working with her to
4 resolve the remaining identified findings
5 to come into complete compliance with
6 federal regulations.

7 At this time I would like to
8 introduce other staff seated with me at
9 the table. To my far right is Ms. Cindy
10 Sheldon. She is the Associate Executive
11 Director. And Dr. Gary Puckett, President
12 and Executive Director of the Council on
13 Occupational Education. Thank you.

14 DR. PUCKETT: Thank you very
15 much, Mr. Chair, Mr. Vice Chair and
16 committee. And I'm assuming it would be
17 okay to expedite my remarks, and I think
18 you're probably trying to gain time.

19 But we are very appreciative of
20 the opportunity to come before you this
21 morning or this afternoon, and I also
22 would like to thank Jennifer. And I

1 actually wrote down four things that I
2 wanted to point out. One, we want
3 to thank her for her time, her patience
4 and her counsel. I know that we had at
5 least four conference calls, and I sense
6 nothing but the willingness to help us.

7 I was going to mention the
8 history but I think Dr. Lewis has already
9 mentioned the history of the organization.

10 I would like to just point out just a
11 little bit of, a minor thought on
12 philosophy.

13 About three years ago we adopted
14 core values which we'd never had before,
15 and one is trustworthiness.

16 And so we expect to respond and
17 to work with the staff in a spirit of
18 trustworthiness and we expect that from
19 our schools as well.

20 And I don't know if you know
21 this little bit of trivia, but in doing
22 that study of the core values, the word

1 "trustworthiness" comes from a Latin word
2 "credo", which from which we get our word
3 "accreditation".

4 And if you look at the word
5 "accreditation" it has the word "credit"
6 embedded. And it means the same thing as
7 a good credit, or a good credit score. So
8 we hope that all of our schools are
9 trustworthy and credible. Occasionally,
10 you know, that is not the case.

11 Also transparency was another
12 core value that we adopted. And just so
13 you know, we would be supportive of our
14 schools sharing the outcomes information
15 with the world and the population and the
16 community. Anything that's legal and
17 proper, we would certainly support that.
18 And one would be accountability. Another
19 core value that we adopted was
20 accountability.

21 COE has had a standard on what
22 we call CPL, completion, placement and

1 licensure, for at least 40 years. So
2 being an occupational accreditor, having
3 to be accountable for jobs and occupations
4 and trying to help create a taxpaying work
5 force is not a new thing to us. And so we
6 just wanted to point out a positive thing
7 or two. And related to
8 something Dr. Wu said yesterday, we had
9 already formed a chart here. Now I call
10 it a progressive chart and I don't think
11 you're privy to it, although I did send it
12 to Jennifer.

13 We took these issues and we
14 categorized them into what we call
15 substantial, just like you did yesterday.

16 And we believe that at least 12 of these
17 we've already developed a policy for and
18 have graduated those up to a point of
19 needing only documentation.

20 We realize we have two or three
21 areas that need work in the area of
22 student outcomes, and we fully support

1 that and see the need to do it as well as
2 the way we work with substantive changes.

3

4 So we have in our work plan
5 already thought through these and, in
6 fact, where we were divisioned in not
7 having policy, I think they've already
8 been adopted. So we don't see that that
9 would be a long drawn-out process.

10 And we do accept the analysis,
11 and we have no doubt that we can come in
12 compliance within 12 months and a majority
13 of them in much less time. And we would
14 agree to not delay the progress and to
15 move on with that, so we believe that we
16 can do that.

17 So I do believe I would like to
18 point out there's one other unique thing
19 about our agency that I think speaks well
20 for it. We have a good number of schools
21 we accredit that don't it for Title IV.

22 We have four peer groups of

1 institutions, and one large constituency
2 are the federal institutions. We have the
3 Navy and a lot of the Department of
4 Defense schools as well as Job Corps
5 centers that do it only for quality
6 assurance.

7 We have, as anticipating that
8 this might be asked, we have a \$2 million
9 budget, slightly over, with ten staff.
10 We're in our 40th year. In fact, this is
11 our celebratory year for 40 years of
12 service, which we expect to celebrate at
13 our annual meeting in Miami. So
14 again, thank you for the opportunity and
15 we'd be happy to address any questions or
16 thoughts.

17 CHAIRMAN STAPLES: Thank you.
18 Any members, how many have questions?
19 Yes, Arthur?

20 MR. ROTHKOPF: You mentioned
21 transparency, and I maybe would like to
22 probe a little bit more into that on

1 things like outcomes.

2 What is it that you, what kind
3 of information do you receive from your
4 accredited institutions on completion
5 rates, employment, nature of employment?

6 And even the question which kind
7 of came up earlier today of, is there
8 really a market for what these students
9 are studying for?

10 And I guess I'd be interested in
11 what information you receive and then by
12 that token, what information the
13 accredited institutions are required to
14 tell prospective students.

15 MR. PUCKETT: All right. I
16 would like to defer to Cindy. I could
17 answer the question, but I'm going to
18 defer to her because she works with this
19 day in and day out.

20 So this is Cindy Sheldon,
21 Associate Executive Director.

22 MS. SHELDON: Good afternoon,

1 everyone. The council for 40 years has
2 collected completion, placement and
3 licensure data at the program level.

4 We have used it differently than
5 the regulations demand for this year, but
6 completion rate for every occupation,
7 every credential awarded, placement rate -
8 - by the way, completers is the term that
9 we use, which includes both students who
10 leave and gain successful employment
11 related to the field of study as well as
12 graduates who leave with credentials from
13 those fields.

14 Placement in related fields and
15 licensure in a variety of areas, allied
16 health fields, cosmetology, arts and
17 sciences, FAA training, that requires
18 federal certification which we call
19 licensure.

20 And we collect statistical
21 information from year to year and apply
22 that at least in the past we have, to set

1 benchmarks for the following year. That
2 of course is a process that is changing.

3 That is one of our issues
4 mentioned here, student achievement. We
5 are looking at the data to examine how we
6 can effectively and efficiently apply it
7 at the program level, but program level
8 data is something we collect and always
9 have, sir.

10 MR. ROTHKOPF: But I guess my
11 question -- I appreciate that. What do
12 you do with it or I guess more directly,
13 what do the institutions do with it and do
14 they provide it on their websites or
15 otherwise to prospective students?

16 MS. SHELDON: Currently,
17 institutions that provide the data to us,
18 which is all of our members, many of them
19 do publish the rates on their websites.
20 Many states are now mandating that those
21 rates be published on their websites. The
22 council, however, does not require that.

1 We do require the submission of
2 the data and we do publish those rates,
3 our minimum benchmarks, which in the past
4 has set a minimum requirement, standard
5 deviation levels below, and steps to be
6 taken for institutions that fail to meet
7 those requirements or file one or more
8 deviations below is made available to the
9 public.

10 So the council at least in the
11 overall picture, we do provide the
12 statistical information we use to set the
13 benchmarks that all institutions must
14 meet.

15 And institutions then make the
16 decision on whether to publish that
17 information on their websites, and
18 sometimes that is mandated by state law.

19 MR. ROTHKOPF: And has the
20 council ever considered requiring that
21 information to be published by your
22 accredited institutions? MS. SHELDON:

1 It has been brought up in our committee
2 meetings that decide on changes for
3 policies and standards, and may be another
4 issue for this year's meeting which is in
5 August.

6 MR. ROTHKOPF: And just a
7 question, let's take a particular field.
8 A school which is engaged in teaching
9 cosmetology, how does a prospective
10 student know whether there are indeed job
11 openings in cosmetology in the particular
12 area in which he or she is seeking a
13 degree or work at one of your
14 institutions?

15 MS. SHELDON: Let me begin by
16 describing a little bit of our substantive
17 change process for adding new programs, or
18 adding a program to an institution.

19 Even applying for candidate
20 status with existing programs involves
21 demographic studies on the part of the
22 institution.

1 And also employer verification
2 that there are demand for jobs in the
3 area, and also salary information that may
4 help the institution set tuition rates,
5 that kind of thing. Many institutions
6 make that information available to their
7 students upon enrollment.

8 So institutions who use the data
9 to their advantage use it in ways to
10 market to their communities and use it to
11 improve their existing rates.

12 We do ask that institutions
13 share information with their faculty and
14 staff about completion, placement and
15 licensure in an effort to always improve
16 those rates and better the programs.

17 MR. ROTHKOPF: I guess maybe a
18 final question is following on from that.

19 Have you ever had a situation
20 where a particular program, their analysis
21 shows that there's not much demand. Will
22 they terminate the program?

1 Or will they continue to do it
2 because they can set their tuition, but
3 then the students end up without much
4 opportunity to find a job?

5 MS. SHELDON: Well, when that is
6 the case, sir, that will show up in their
7 placement statistics, and also completion
8 rate as well, many times.

9 When that happens, in the past
10 we have measured compliance on
11 institutional performance. Institutional
12 performance then drops, and once the
13 institution is triggered for failing to
14 meet minimum requirements and now going
15 forward at the program level, the
16 institution must demonstrate, submit a
17 compliance report, improvement plans.

18 Sometimes it rises to the level
19 if the performance is poor enough, to host
20 a focused review team, being placed on an
21 adverse status with our agency. In fact,
22 at our recent commission meeting we have

1 an institution that is going to be hosting
2 a focus team for job placement rate
3 verification.

4 So we do take those steps in
5 progression depending on, at least in the
6 past on how far below the mean the
7 institution's rate fell.

8 MR. ROTHKOPF: Thank you.

9 MR. PUCKETT: And let me add one
10 thing, we would be supportive of the
11 notion that information should be provided
12 in students trying to decide a career, and
13 is it a good one and is it, you know, cost
14 effective.

15 MR. ZARAGOZA: Do you all
16 require institutions to collect default
17 rates?

18 MS. SHELDON: Actually we do
19 collect that information, sir, from the
20 federal government and publish that in our
21 agenda books at each of our meetings so
22 that that is always considered.

1 We do require institutions that
2 are triggered on cohort default rates to
3 have a default plan. That has been a part
4 of our standards for 15 years.

5 MR. ZARAGOZA: Is notification
6 to the consumers also a part of that?

7 MS. SHELDON: No sir, it is not
8 currently in our criteria.

9 MR. ZARAGOZA: Thank you.

10 CHAIRMAN STAPLES: Susan?

11 MS. PHILLIPS: Just a question.

12 I was looking on your website at your
13 member institutions and saw some that I
14 recognize as secondary institutions rather
15 than postsecondary, the BOCES in New York.

16 Can you describe how they fit in to the
17 greater scheme of things?

18 MR. PUCKETT: Well, the BOCES
19 are a postsecondary institution that
20 really are not -- I believe in the state
21 of New York the approved accrediting
22 agency that most of them use is like the

1 National League of Nursing. And some
2 of these programs, some of the BOCES have
3 developed postsecondary programs in the
4 traditional occupations such as auto
5 technology and welding and other trades,
6 and would qualify as members of our agency
7 because of the postsecondary nature.

8 CHAIRMAN STAPLES: Anne?

9 MS. NEAL: Just to follow up on
10 Arthur's questions. Are you saying that
11 you do have a trigger vis-à-vis placement
12 rates?

13 MS. SHELDON: Yes ma'am. We do
14 have a trigger at least in the past, and
15 please keep in mind we are in the process
16 of reworking our system of addressing
17 benchmarks at the program level.

18 But in the past, our placement
19 rate -- and by the way, we also divided
20 our membership into peer groups, comparing
21 public institutions to public, private
22 institutions to private, and Job Corps

1 centers were in a grouping of their own.

2 But the average for the last
3 three years for completion is just a hair
4 above 72 percent, and this is based on
5 actual data we collect. This is based on
6 the 2010 data. A little above 81 percent
7 for placement and 93 percent for licensure
8 exam pass rates.

9 MS. NEAL: In our previous
10 discussion we were talking about debt
11 loads, and do you keep track of that as
12 well?

13 MS. SHELDON: Well, as far as
14 financial information goes we do track
15 that. We require institutions
16 to submit audited financial statements
17 each year, and measure financial stability
18 on four criteria, ratio of assets to
19 liabilities, contingent liabilities, a
20 lack of a net loss for the last two years.

21

22 So we do have triggers for

1 financial stability as well, but they are
2 separate from the placement and licensure
3 criteria.

4 MS. NEAL: And looking back at
5 your previous history, there were four
6 issues, institutions with distance ed,
7 monitoring substantive change, review and
8 review procedures.

9 And as I understand it you were
10 found compliant, but it appears that some
11 of those same concerns have come back
12 again. Can you address that, please?

13 MR. PUCKETT: Okay, in the
14 previous petition we tried to make the
15 case that we were experienced with
16 distance ed because we had been
17 accrediting a few distance programs, but
18 that was not received.

19 So that following year we went
20 through a rigorous process of developing a
21 distance education standard which was
22 subsequently approved.

1 The monitoring at the time, the
2 monitoring issue at the time had to do
3 with making sure that we followed
4 institutions that had rapid growth, and so
5 therefore we instituted two monitoring
6 statuses.

7 One was on the percentage of
8 growth of the program, of the institution
9 itself, the literal student population
10 growth as well as financial monitoring.

11 So that was put in place to make
12 sure that each and every -- that we had a
13 good explanation as to why a school might
14 double in size in a year's time.

15 I'm trying to think of the
16 related citations from the last and I
17 don't what the -- can you be specific?

18 MS. NEAL: Well, I wanted simply
19 to raise the concern as been raised
20 previously with accreditors which have a
21 continuing list of problems. If they
22 don't disappear, obviously that gives us

1 some concern that they're not properly
2 being addressed.

3 And obviously you were found in
4 compliance but as I say, these same
5 sections maybe not the same subsection,
6 but these same criteria have appeared
7 again in some of these findings.

8 MR. PUCKETT: Okay, I can give
9 you one example. You might see a citation
10 in this report about substantive changes
11 and you might have seen one before.

12 The method now, acceptable
13 method for doing substantive changes is
14 different, and therefore it may have
15 brought a different citation this time.

16 CHAIRMAN STAPLES: Any further
17 questions?

18 MR. LEWIS: Oh, one further
19 question. As part of distance education,
20 I wasn't clear from reading the various
21 materials. So do you actually look at
22 correspondence education as part of the

1 distance education modality?

2 MR. PUCKETT: Well, heretofore
3 we had considered correspondence to be a
4 part of distance. In fact, the current
5 financial aid guidelines merged them
6 together.

7 But under the new criteria it is
8 thought of as two specific. So we studied
9 the proposition and actually did a survey
10 of all the schools we accredit and we only
11 had one that did correspondence. And I
12 talked with them and they were thinking
13 about changing more to a distance
14 approach.

15 So we decided not to include the
16 correspondence in our scope, but those are
17 one of the less substantial issues.
18 Mainly it's an editorial.

19 I think the record citation has
20 to do with cleaning up the publications to
21 get all references out of it, but no, we
22 do plan to accredit correspondence

1 schools.

2 CHAIRMAN STAPLES: Any further
3 questions? Okay, seeing none, Earl, do
4 you have a motion?

5 MR. LEWIS: Sure. A motion. I
6 move that the NACIQI recommend that the
7 Council on Occupational Education's
8 recognition be continued to permit the
9 agency an opportunity to within a 12-month
10 period bring itself into compliance with
11 the criteria cited in the staff report.

12 And that it submit for review
13 within 30 days thereafter, a compliance
14 report demonstrating compliance with the
15 cited criteria and their effective
16 application. Such continuation shall be
17 effective until the Department reaches a
18 final decision.

19 CHAIRMAN STAPLES: Is there a
20 second?

21 MS. WILLIAMS: Second.

22 CHAIRMAN STAPLES: And moved and

1 seconded. Is there any comment or
2 question regarding the motion?

3 MS. NEAL: You've been hearing
4 us relay concerns as an undercurrent to
5 some of these recommendations. Many of
6 the criteria for which you've been cited
7 appear to be simply requiring
8 demonstration.

9 But there are a number of other
10 substantive ones there, so I simply want
11 to articulate a sublevel of concern as you
12 come back to us. Because there obviously
13 are quite a significant number of issues
14 raised and there have been some issues
15 raised in the past.

16 CHAIRMAN STAPLES: Any further
17 comments? Seeing none, all in favor of
18 the resolution, please raise your hand.
19 Any opposed? The motion carries. Thank
20 you very much.

21 MR. PUCKETT: Thank you so much.

22 CHAIRMAN STAPLES: Thank you.

1 And we'll now take a brief five-minute
2 break just to allow for the food to be
3 brought in for us to restart our meeting.

4 Please be back in five minutes. Thank
5 you.

6 (Whereupon, the above-entitled matter went
7 off the record at 12:21 p.m. and
8 back on the record at 12:37
9 p.m.)

10

1 Overview of the Committee Deliberations on
2 the
3 Reauthorization of the Higher Education
4 Act

5 CHAIRMAN STAPLES: Everybody in
6 the audience please take your seats, we're
7 about to restart our meeting. Thank you
8 very much for taking any conversations
9 that are remaining outside so we can hear
10 each other up here, and we welcome you to
11 this next portion of our agenda, which is
12 the Overview of the Committee
13 Deliberation.

14 That's what we'll do next, the
15 Overview of the Committee Deliberations on
16 the Reauthorization of the Higher
17 Education Act. I will give a few brief
18 comments and then recognize Susan
19 Phillips, who has done a tremendous job so
20 far and I know will continue to do that in
21 leading the committee's deliberations
22 around developing recommendations for the

1 Secretary regarding the Reauthorization of
2 Higher Education Act.

3 I will just say that as our
4 process has moved along we've began with a
5 very broad set of issues and questions in
6 February and I know that one of the things
7 we're hoping to do today, and Susan will
8 get into this in greater detail, is this
9 is our first opportunity, really, for the
10 full committee to weigh in on some of the
11 issues that we have before us.

12 And I think we want to take full
13 advantage of that and get a much better
14 sense of where this committee and its
15 members are interested in going with
16 respect to all the issues that have been
17 identified.

18 And I look forward to that. I
19 think this is going to be a very
20 significant part of our process. Our next
21 meeting will be for subcommittee after
22 this, in September. And then the full

1 committee again next December where we
2 hope to have a more refined list of
3 recommendations.

4 But, at this point in time I
5 would like to recognize Susan Phillips and
6 again thank her on my behalf, and I know
7 on behalf of others, for the enormous
8 amount of work she is doing to organize
9 this discussion and to bring it from a
10 very broad discussion eventually down to
11 more finite recommendations. And, Susan,
12 thank you for your work and take it away.

13 MS. PHILLIPS: Thank you, Cam.
14 This is indeed a very significant project
15 for the NACIQI. Let me first introduce
16 the subcommittee who has been working on
17 this project, besides myself.

18 The members are Cam Staples,
19 Arthur Rothkopf, Jamie Studley and Bill
20 Pepicello, Art Keiser, Brit Kirwan and
21 Daniel Klaich.

22 Some background on the path to

1 today, as you know we began in December
2 with a charge from the Assistant Secretary
3 Ochoa to provide advice to the Secretary
4 on the Reauthorization of the Higher
5 Education Act.

6 It is a very broad charge and a
7 very broad opportunity. And so we began
8 with a very broad net, inviting the
9 opportunity to learn about a variety of
10 dimensions and perspectives.

11 In this room, back in February,
12 we considered points from federal and
13 state interests from accreditors, from
14 presumed beneficiaries of quality in
15 higher education from accredited
16 institutions from the research from inside
17 and outside the box and inside and outside
18 the beltway.

19 This served as a launching point
20 for our discussion about the issues and
21 areas we saw as most important to consider
22 for refining and developing

1 recommendations. And you may even recall
2 our sticky-note exercise on the walls of
3 this room.

4 Those not present for that forum
5 were invited to weigh in later, and from
6 all of that the subcommittee culled
7 through it all to identify three broad
8 issues or areas in which we would focus.

9 I believe there is a handout in
10 the back of the room about those three
11 issues. Yes? No? Yes. And together
12 with a reference, as needed, for the other
13 areas that emerged from that February
14 forum.

15 Briefly the three issues that we
16 are choosing to focus on are regulatory
17 burden and data needs, which focuses on
18 the concerns about the regulatory burdens
19 on costs of accreditation to institutions,
20 students and taxpayers.

21 Also included are questions
22 about the nature and quality and quantity

1 of data gathering and reporting required
2 on the part of institutions and
3 accreditors.

4 Issue two concerns the Triad.
5 Focusing on the clarification of roles,
6 responsibilities and capacities of
7 federal, state and accreditor entities and
8 issues of accreditation and institutional
9 aid eligibility.

10 Also included here are questions
11 about the link between the institutional
12 aid eligibility and accreditation.

13 And issue number three.
14 Accreditors scope, alignment and
15 accountability focuses on those three
16 elements. Included are questions about
17 the sectors and scope of various
18 accrediting agencies, the alignment of
19 standards across accreditors and
20 accountability for accreditation
21 decisions.

22 For each of these issues we've

1 invited comment and speakers over the next
2 day and a half as we further develop our
3 thinking on the recommendations that we'd
4 like to develop.

5 We're aware here that no one
6 issue in this area is unconnected to
7 several other issues. And that there's a
8 lot of complex territory, even in just
9 these three. Nonetheless we're going to
10 work to focus our attention on developing
11 our thinking about recommendations in
12 these three areas today and tomorrow.

13 Our goal for the end of Friday
14 is to have a good sense of the
15 recommendations we'd like to develop. And
16 to keep us on track I'm going to keep a
17 running tab on topics that, even though we
18 may not be able to include them in this
19 particular round of recommendations, we
20 maybe want to come back to them over time.

21 I do think it's safe to say that
22 this particular set of recommendations

1 won't be our last word as a NACIQI. A
2 couple of notes on our work today.

3 We've divided our time into
4 three segments. One today, two tomorrow.

5 One for each issue. We've invited a set
6 of speakers to start us off and we'll have
7 a chance to engage them in discussion
8 about each area.

9 Next we'll have the opportunity
10 to hear from those who would like to add
11 their comments from the public. And last,
12 we'll have an opportunity for discussion
13 amongst us about what we see as emerging
14 recommendations on this particular issue.

15 We'll begin that discussion,
16 that final discussion, by focusing a
17 couple of structures to our conversation.

18 First is to focus on what's working well
19 on this issue. What we'd want to keep as
20 well as what is getting better and what
21 we'd want to grow.

22 Then we'll consider what are the

1 opportunities for correction, for change,
2 for doing things differently. And from
3 there we'll consider what those two sets
4 of observations mean for recommendations
5 that we might want to make.

6 With that let me begin with
7 issue number one, regulatory burden and
8 data needs. Let me ask Melissa to
9 introduce our first guests.

10 Working Lunch: Training on Regulatory
11 Burden and Data Needs

12 MS. LEWIS: Thank you, Sue. If
13 the presenters would please come forward.

14 We've invited Bryan J. Cook, who's the
15 Director from Center for Policy Analysis,
16 American Council on Education.

17 His colleague, Terry W. Hartle,
18 Senior Vice President, Division of
19 Government and Public Affairs. Also from
20 the American Council on Education.

21 And Christine Keller, Executive
22 Director, Voluntary System of

1 Accountability, Association of Public and
2 Land Grant Universities.

3 And before you begin I'd also
4 like to note, for the audience's benefit,
5 that this morning I had indicated that we
6 would be accepting five applications for
7 public comments on each agency.

8 This is slightly different, for
9 each issue we'll be inviting up to ten
10 commenters per issue and we would
11 encourage you to provide input and support
12 as we review the three issues on the
13 agenda. Thank you.

14 CHAIRMAN STAPLES: Susan, if I
15 just might, in terms of timing, it's 12:45
16 or thereabouts, we're about half hour off
17 from our schedule. So this segment of the
18 agenda will go from 12:45 to about 2:00.
19 And I understand you've been invited to
20 speak for about 20 minutes each.

21 I'm recognizing this as just a
22 guidance for us so we have enough times

1 for questions thereafter. But we look
2 forward to your presentations.

3 MR. HARTLE: Thank you very
4 much, Mr. Chairman, I'll start. My
5 colleagues and I have looked at the list
6 of questions that you were kind enough to
7 share with us to give us some ideas of the
8 issues that you're interested in
9 discussing as part of this session.

10 And I think what we'll do is
11 offer some general comments at the start
12 about the broad issue that you've raised
13 for this panel and then hope to take up
14 the individual questions as part of the
15 discussion period.

16 I'd like to begin on behalf of
17 Bryan Cook and myself by making five
18 points. Point number one, accreditors
19 have a central role to play in determining
20 institutional eligibility to participate
21 in Federal Student Aid programs, but they
22 do not have the sole role to play.

1 Under the Higher Education Act,
2 both the states and the U.S. Department of
3 Education play an equally important role.

4 Indeed, we commonly refer to the Triad as
5 a way of underscoring federal, state and
6 accreditation responsibilities for
7 determining eligibility.

8 Now I note that you're going to
9 have a session on the Triad tomorrow.
10 It's easy and convenient to assign new
11 tasks and responsibilities to accreditors,
12 but in many cases they may not be the most
13 appropriate parties.

14 But it would not, for example,
15 be a good idea to ask accreditors to
16 determine compliance with Federal Student
17 Aid regulations because accreditors lack
18 the expertise and the knowledge to make
19 such judgments.

20 In addition, adding more
21 requirements to accreditors runs the risk
22 of diverting them from their central tasks

1 of institutional improvement and academic
2 quality.

3 So as you think about what
4 changes might be necessary in the Triad in
5 general and accreditation in particular, I
6 encourage you to think about the role that
7 the Department of Education and the states
8 have to play.

9 I think as we've recently
10 learned from the Department State
11 authorization regulations, at least the
12 states may not have been playing the role
13 in the Triad that the Government
14 envisions.

15 Second, the information that the
16 accreditors collect and the analysis that
17 they perform as part of their central
18 mission, again, institutional improvement
19 and academic quality, is by definition
20 focused on individual colleges and
21 universities. Or on specific programs at
22 individual colleges and universities.

1 And may not appropriate itself
2 or lend itself to easy comparison with
3 other institutions. Policy makers and the
4 media often want nationally comparable
5 data in order to draw comparisons.

6 But because accreditors examine
7 each institution according to specific
8 missions and goals, it can be difficult to
9 generalize across institution. It's not
10 to say it's impossible. But accreditation
11 is designed to permit careful evaluation
12 of individual institutions, according to
13 their role and mission as they define it.

14 If we want to maintain the
15 diversity that we celebrate as a defining
16 feature of American higher education, we
17 have to ensure that evaluations,
18 especially those focused on academic
19 considerations, are tailored to goals and
20 missions of the individual institution.

21 Third, Federal Government
22 already collects a fair amount of data

1 about institutions of higher education.
2 Some of this comes from the National
3 Center for Education Statistics through
4 IPEDS, Institution of Post Secondary
5 Education Data Survey, this is one year's
6 IPEDS.

7 It is 350 pages of surveys that
8 institutions are required to fill out.
9 This is not all the data the Department of
10 Education collects. Data such as the
11 campus crime statistics go through the
12 Office of Post Secondary Education. This
13 is simply the data collected by the
14 Department of Education through IPEDS.

15 That 350 pages, of course,
16 requires 350 pages of guidelines to fill
17 out the information. So as you think
18 about information that you think the
19 Department of Education might collect I
20 think it would also be very helpful and
21 desirable for you to think about what
22 information the Department of Education

1 doesn't need to collect.

2 Data costs, people have to fill
3 out the reports, people have to analyze
4 the reports. There's often a burden
5 associated with collecting information.
6 The more information we collect, the more
7 burdensome it becomes, the more costly it
8 becomes.

9 I'd also point out that for all
10 of the data the Federal Government
11 collects, the Federal Government really
12 doesn't get very much data related
13 educational outcomes. I think there are
14 five pieces of data that could reasonably,
15 not necessarily entirely accurately, but
16 reasonably referred to as outcome data.

17 The first are graduation rates.
18 We know that graduation rates are highly
19 inaccurate. The second are retention
20 rates. Retention rates are also highly
21 inaccurate, particularly for any student
22 who transfers from one institution to

1 another.

2 Third thing the Federal
3 Government collects is placement data.
4 This is inaccurate and it's often
5 collected on a scatter-shot basis. Fourth
6 thing, student loan defaults. Most people
7 wouldn't really regard this as outcome
8 data, but if we define this broadly the
9 Federal Government has treated it as
10 outcome data.

11 Ironically perhaps, student
12 loans defaults data tends to be very
13 accurate because we know when somebody
14 goes into default. But we've also learned
15 recently that schools have determined how
16 to manipulate student loan default data so
17 that they can change the results for their
18 school.

19 And finally, the last piece of
20 outcome data that I think the Federal
21 Government gets are the number of degrees
22 awarded. This is a relatively basic

1 statistics. It has the advantage of being
2 highly accurate, but it doesn't tell you
3 much about the individual institutions and
4 how they're doing with individual
5 students.

6 Not only do we have relatively
7 little data about outcomes, the rapid
8 changes in post secondary education
9 delivery systems and learning modalities
10 has greatly outpaced our ability to think
11 about how to keep track of student
12 enrollment, attendance and completion
13 patterns.

14 Fourth point I'd make is that
15 imposing new regulations or data
16 collections on institutions or accreditors
17 carries a cost. Partly it's a financial
18 cost associated with the time and effort
19 needed to collect and analyze the
20 information.

21 And partly it's opportunity
22 costs associated with other activities

1 that might not be doable as a result. I
2 think a good example of this are the
3 Department of Education's new requirement
4 that accreditors review institutional
5 credit hour policies using a specific
6 federal definition of credit hour.

7 According to the Department of
8 Education accreditors can use sampling to
9 assess an institutions compliance with the
10 federal definition.

11 One mid-size private university
12 that I'm familiar with has 5,550 courses.

13 If the regional accreditor analyzes just
14 ten percent of those courses at the
15 school, that'll mean 550 courses, and if
16 they spend 15 minutes determining that
17 each course is consistent with the credit
18 hour policy it will work out to 137 hours
19 for a single federal requirement.

20 This will require accreditors to
21 add staff, which will mean higher costs to
22 the schools, or it will require

1 accreditors spend less time on other
2 issues. There is no way around this.

3 Ironically in 1998 the Congress
4 decided, in statute, that accreditors
5 should not evaluate credit hour decisions
6 and removed that provision from the law.
7 In 2010 the Department of Education
8 decided to put that provision back into
9 regulation.

10 I might mention something where
11 NACIQI could be very helpful to
12 accreditors is that we have asked the
13 Department of Education for guidance on
14 what level of sampling will be required to
15 meet the regulation of the statute.

16 One senior Department of
17 Education official, when presented with
18 the above case, 5,500 courses, said it
19 would only be necessary to sample ten to
20 15 courses. And we'd appreciate knowing
21 from NACIQI if NACIQI believes that
22 sampling ten to 15 courses on a base of

1 5,500 would be satisfactory.

2 We have to start imposing or
3 applying that regulation on July 1st and
4 having guidance on what's acceptable from
5 the Department's point of view would be
6 most useful.

7 Finally, it's hard to imagine
8 any single outcome measure, or measures,
9 that will work equally well for all
10 institutions of higher education. It's
11 hard to imagine an indicator that will
12 work equally well for St. Johns College in
13 Annapolis, with its Great Books programs,
14 for the Julliard School in New York with
15 its many programs in fine arts
16 performance.

17 For Colorado Christian College
18 which includes inculcation in the values
19 of Christianity as part of its mission.
20 And Northern Virginia Community College,
21 which provides open access to a large
22 number of students, many of whom may not

1 be prepared academically or emotionally
2 for colleges.

3 Accreditation has served
4 American colleges and universities in our
5 society quite well for a very long period
6 of time. And it's benefitted us to have a
7 diverse array of institutions that are
8 evaluated on their own terms and
9 conditions, based on the mission of the
10 institution.

11 And I think any federal template
12 on these schools will inevitably and
13 fairly quickly homogenize higher
14 education. I'll stop there, thank you
15 very much.

16 CHAIRMAN STAPLES: Thank you.

17 MS. KELLER: Thank you. Good
18 afternoon. My colleague, Terry, has set
19 the stage with a broad overview of some of
20 the issues within the topic of regulatory
21 burden and data needs.

22 And what I want to do is focus

1 my comments more directly on student
2 learning outcomes measurement. And pick
3 up some of the themes that Terry and Bryan
4 have already referenced.

5 Because I think that all of us
6 can agree that the appropriate assessment
7 of student learning is a topic of utmost
8 importance for all of us.

9 As some of you may remember from
10 my remarks in February I manage the
11 Voluntary System of Accountability on
12 behalf of the Association of Public and
13 Land Grant Universities and the American
14 Association of State Colleges and
15 University. As well as our 320
16 participating public institutions.

17 Just as a brief recap, and to
18 give you some context for my remarks, the
19 VSA was created in 2007 through the joint
20 work of leaders from APLU, AASCU and our
21 member of colleges and universities.

22 The VSA effort has three primary

1 objectives. To provide a college search
2 tool for students, families and high
3 school counselors through the College
4 Portrait website. To provide a mechanism
5 for public institutions to demonstrate
6 accountability and transparency,
7 particularly in the areas of access, cost,
8 student progress and student outcomes.

9 And third, the VSA works to
10 support institutions in the measurement of
11 student learning outcomes through research
12 and by providing a forum for collaboration
13 and exchange.

14 So a very central component of
15 the VSA is the four year pilot project to
16 measure and report student learning
17 outcomes in a common and comparable way.
18 And it's from that experience that I want
19 to briefly share some key lessons that we
20 have learned. Some ongoing challenges and
21 some observations about the future of
22 learning outcomes assessment.

1 First, it's important to
2 recognize that there are three essential
3 elements, indiscrete elements, of student
4 learning outcomes assessment. And that's
5 measurement, reporting and use.

6 Second, it is important to
7 understand the different purposes for
8 collecting learning outcomes data. And
9 generally these reasons fall into two
10 broad categories. Formative assessment,
11 and this is usually tied to institutional
12 or program improvement, and summative
13 assessment which is typically used for
14 accountability.

15 Although there is significant
16 overlap between these two reasons for
17 gathering learning outcomes data the
18 purposes are very distinct. And each
19 purpose can, and should, inform the choice
20 of measurement, reporting and use of
21 assessment data.

22 So to illustrate these first two

1 points a primary purpose of reporting
2 student learning outcomes on the VSA
3 College Portrait is accountability and the
4 ability to compare across institutions.
5 So a more summative type of assessment.

6 So in terms of measurement, VSA
7 participating institutions use one of
8 three standard instruments and a common
9 methodology. The results are publicly
10 reported on the College Portrait. And the
11 results can be used by several different
12 audiences.

13 Students and families, for
14 selecting a college. State legislators
15 for accountability reporting. And
16 institutions for bench marking as compared
17 with peers.

18 Now if the VSA Institution would
19 like to use the results from one of these
20 standard instruments for more formative
21 purposes, for instance, to improve
22 learning in a particular program, the

1 institution will typically combine the
2 test results with other types of
3 assessment measures.

4 Such as student survey data,
5 electronic portfolio data, program review
6 results, et cetera. This allows the
7 institution to better understand and to
8 segregate the test results.

9 Then this combination of results
10 from the different measures can then be
11 reported and discussed across campuses to
12 determine appropriate interventions or
13 strategies to improve learning outcomes in
14 a particular program.

15 And this illustration points out
16 a third lesson that we have learned.
17 There are different levels of assessment.

18 Institution, discipline, program, course
19 level, just to name a few.

20 The VSA focuses on institution
21 level assessment, which is valuable for
22 summative accountability purposes.

1 Individual institutions also collect data
2 to document student learning, for
3 professional accreditation, through
4 program review and general education
5 evaluation.

6 And for assessment work to have
7 a meaningful effect outcomes data should
8 be collected across all these levels,
9 through a variety of methodology and
10 instruments and be combined to paint a
11 comprehensive picture.

12 A fourth lesson is that context
13 matters. Size of institution, age of
14 institutions, characteristics of the
15 students, institutional mission and
16 instructional delivery models are examples
17 of key factors for selecting the
18 appropriate combination of assessment
19 approaches.

20 Now the challenge that arrives
21 from all of these lessons is that the
22 effective assessment of student learning

1 is complex and multifaceted. A top-down
2 approach that imposes a one size fits all
3 instrument or method will be
4 counterproductive for both purposes of
5 student outcomes assessment.

6 Both the accurate documentation
7 of student learning for accountability and
8 the application of useful information to
9 enhance student learning and improve
10 institutional performance.

11 Another challenge is that
12 student learning assessment is an evolving
13 and dynamic field. Methodologies and
14 systems are struggling to keep pace with
15 increasing external demands for evidence,
16 new educational delivery models and
17 shifting student and institutional
18 characteristics.

19 The lessons and challenges
20 learned from our experiences with the VSA
21 lead me to the conclusion that regulation
22 or enforcement of common standards at the

1 federal level is a mistake. I am
2 convinced that the process must be owned
3 by the higher education community in
4 partnership with accreditors.

5 In this way flexibility is built
6 into the system and the system can evolve
7 as new methods and techniques are tested
8 and refined. It should not literally take
9 an act of Congress to implement new, more
10 innovative techniques.

11 And we have evidence that such a
12 flexible, voluntary system can work. Four
13 years ago the VSA was created in response
14 to the desire for more understandable and
15 transparent data. The project is now
16 getting ready to enter into its next phase
17 of development in light of the lessons
18 that I just described to you.

19 This fall we will evaluate the
20 effectiveness and the value of the VSA
21 approach to measuring and reporting
22 student learning outcomes for our various

1 target audiences, including accreditors,
2 institutions, policy makers and students
3 and families.

4 As we did at its inception we
5 will convene a group of assessment, data
6 and policy experts as well as senior
7 university leaders to review the
8 evaluation results, examine alternative
9 assessment models and make future
10 recommendations for the direction of the
11 project.

12 In the next year you will see a
13 new and improved version of the VSA in
14 response to the changing needs for
15 different types of accountability data.
16 And I should point out that the VSA is not
17 the only such model.

18 The American Association of
19 Community Colleges is working with their
20 member institutions to develop the
21 voluntary framework of accountability.
22 The project is currently in the pilot

1 stage and includes appropriate student
2 outcomes measures for the two year college
3 sector.

4 Institutions with adult and
5 online degree programs have developed the
6 Transparency by Design Program. It
7 includes the public reporting of student
8 learning outcomes at the program level.
9 Again, focusing on outcomes most
10 appropriate for its particular schools.

11 So I urge the committee to
12 support broader recognition within the
13 accreditation process of the contributions
14 of these accountability systems already in
15 place.

16 It is right and proper to more
17 broadly recognize the high level of
18 commitment by institutions participating
19 in these systems to greater transparency
20 and reporting outcomes and to improving
21 student learning on campus.

22 Thank you for the opportunity, I

1 look forward to your questions and further
2 discussion.

3 CHAIRMAN STAPLES: Thank you.
4 Mr. Cook.

5 MR. COOK: My comments were
6 provided by Mr. Hartle.

7 CHAIRMAN STAPLES: Okay. So
8 Susan would you care to, you want to start
9 with questions, or Arthur?

10 MS. PHILLIPS: Yes, I'd open it
11 to questions both from responding to the
12 questions that we sent you earlier and
13 also from our group.

14 MR. ROTHKOPF: Yes, thank you
15 all for being here. Let me start with the
16 premise that when taxpayers put \$150
17 billion out to support students in higher
18 education that there needs to be some
19 sense of accountability. And I would hope
20 that everyone agrees with that, if you
21 don't please say it.

22 There's also some evidence,

1 including a recent book by Professor Arum,
2 who appeared before us, and his colleague
3 that students are not learning very much.

4 Or not learning as much as we would hope.

5 And I appreciate the efforts that are
6 being made in the voluntary system.

7 Without saying, and I know we
8 hear about, you know, we can't have a
9 system that's one size fits all, because
10 no one wants one size fits all. But we
11 have sectors in higher education of the 33
12 or 34,000 institutions out there.
13 Everywhere from the research universities
14 that want to get out from under the
15 regionals and have a separate analysis
16 there, to community colleges to faith
17 based schools, to everyone else.

18 I guess I'd ask the question, if
19 you're prepared to accept the view that
20 yes, taxpayers need accountability here
21 is, the broad and maybe I'll put it to
22 you, Mr. Hartle, you represent all of

1 higher education.

2 That there needs to be a
3 concrete, specific effort to develop
4 sector based learning outcomes which will
5 give some assurance to taxpayers that
6 they're getting their money's worth for
7 the \$150 billion.

8 MR. HARTLE: I certainly support
9 your premise that with that much money
10 being provided accountability is
11 necessary, important and desirable.

12 I think that the question about
13 developing it for sectors is a little more
14 complicated than we might like. I will
15 think about private four-year colleges, a
16 sector you're familiar with as a way to
17 illustrate the point.

18 The standards that we might use
19 at a place like Lafayette would be,
20 perhaps, quite different than a place we
21 might use at a Christian college, where
22 inculcation of values of faith is a

1 central part of the institution's mission.

2 That simply wasn't part of what many
3 private liberal arts colleges do.

4 I could complicate it further by
5 pointing to places like St. Johns, which
6 emphatically does not make any promises
7 about jobs, indeed tells you don't come
8 here if you're looking for a job. An
9 unusual marketing strategy I might say.

10 And the Olin College of
11 Engineering in Massachusetts, which is
12 very emphatically focused on providing
13 jobs. I think the issue needs to be that
14 there should be an expectation that
15 individual institutions, or institutional
16 systems if you're talking say like the
17 University of Maryland system, will
18 develop their own accountability standards
19 and make those data widely available to
20 the public.

21 I brought along with me the
22 accountability report that the University

1 of Wisconsin system has developed for its
2 institutions. Sixteen standards,
3 everything from student enrollment
4 patterns and access to graduates and
5 completion. Also covers such things as
6 jobs, communities, resources, operational
7 efficiencies and collaborations.

8 So I think we can and should
9 expect individual institutions to do that
10 and I think many of them already are doing
11 it. Challenges, it very hard to
12 generalize from what, say, the University
13 of Wisconsin system might come up with
14 because their accountability report is
15 keyed to the state of Wisconsin.

16 And say what the University of
17 Maryland system might come up with because
18 they would, of necessity, should be and
19 would be keyed toward Maryland.

20 MR. ROTHKOPF: And I agree with
21 you that even, you know, within the
22 private non profit sector that there are

1 many different models there.

2 What has somewhat troubled me,
3 and be interested in your reaction to
4 this, that in efforts to kind of get more
5 disclosure about outcomes and more
6 disclosure about the results of
7 accreditation reports, which may disclose
8 in some cases some warts at a particular
9 institution that sector and I guess ACE
10 has really objected to making those
11 accreditation reports public.

12 And is that a position that you
13 think is the right one? Because if
14 someone wants to look at a website of a
15 public institution, like University of
16 Maryland, you can find an awful lot of
17 data there on outcomes. You may or may
18 not find it in the independent sector.

19 And that, to me, is a
20 troublesome thing and I guess I'd be
21 interested in your reaction to that.

22 MR. HARTLE: ACE has never been

1 asked, nor have we taken a position on,
2 public release of accountability reports.

3 My personal position is that it's fine.
4 Many accountability reports are already
5 publicly released.

6 I think for just about any
7 public college or university every
8 accreditation document is covered under
9 the state's Freedom of Information Act and
10 therefore public.

11 We watch the news media pretty
12 carefully and I never see any hard hitting
13 stories about an accreditation report
14 having been released on an institution.
15 Now that might be because accreditation
16 reports are long, often dull, often hard
17 to interpret.

18 But I think the record would
19 show that many accreditation reports are
20 already released and that, frankly, for
21 whatever reason they don't seem to make
22 that much of a difference.

1 I am aware that at least one of
2 the of the regional accrediting agencies
3 is considering a policy in which they will
4 make any of their actual reports public.

5 And I think all of the
6 accreditors are increasingly aware of the
7 desire for transparency and are moving in
8 that direction. But from my own personal
9 perspective I think what you have laid out
10 is fine.

11 CHAIRMAN STAPLES: Art, you're
12 next.

13 MR. KEISER: Welcome to this
14 group. I would agree with you also,
15 Terry, that the amount of data that's
16 collected is just extraordinary and it
17 comes from all different directions, it's
18 not just the Federal Government but from
19 state governments and, you know, we have
20 five full-time people doing nothing but
21 gathering and collecting data and sorting
22 it.

1 I'm interested though in the
2 concept of outcome assessment which, to
3 me, has always been a way of avoiding the
4 issue rather than dealing with the
5 assessment of outcomes we're doing without
6 an assessment which, as you said, is
7 reporting measurement and use or
8 measurement reporting use.

9 Now where does it say how well
10 do the students do which is effectiveness
11 of students. And do they accomplish the
12 tasks that they've set out for themselves.

13 And I think higher education as
14 a whole is missing what Congress is
15 sensing and feeling in that it's not about
16 data, it's about performance.

17 It's not about, you know,
18 institutions that can determine that they
19 can improve, that's great but why are they
20 bad. And what are the, you know, should
21 we be supporting institutions that don't
22 perform?

1 And how can a, you know, an
2 institution with a 12 percent or a 13
3 percent or a ten percent graduation rate,
4 or completion rate, you know, what's its
5 purpose?

6 And yet it has gone through an
7 outcome assessment process. So how do you
8 get an abridges disconnect between outcome
9 assessment and the assessment of outcomes?

10 MS. KELLER: A couple of
11 thoughts as everyone was talking. I think
12 sometimes that we get confounded in our
13 mind, and you've done a good job of laying
14 out the differences, is that the
15 implementation of standards and bench
16 marks and bright lines and whatever words
17 you want to use, and also the putting in
18 place of assessment processes on an
19 individual basis by institution.

20 When I was talking through, you
21 know, the different types and purposes of
22 assessment and the measurement and

1 reporting and use I didn't do that just as
2 an academic exercise.

3 In my thought process and some
4 of the things we've learned from the VSA,
5 I could see that as becoming a framework
6 for what would be required for
7 institutions.

8 So an institution would need to
9 have to have some sort of summative
10 assessment measure that is reported
11 publicly and they are held accountable
12 for.

13 But it's also necessary for an
14 institution to have some sort of formative
15 assessment that's appropriate to the
16 institution that is reported in an
17 appropriate way and is used to address
18 issues that are uncovered during the
19 assessment.

20 So to me that provides a
21 framework for looking at how an assessment
22 process or system, what are the key parts,

1 without necessarily trying to put
2 standards in place that, as Terry pointed
3 out, may be different for different types
4 of institutions.

5 MR. HARTLE: Art, let me add
6 that I agree with exactly what Christine
7 said, I think that low graduation rates
8 are a very bad thing. I think low
9 graduation rates out to be a great big
10 warning light that we ought to be looking.

11 I think any of the outcome
12 indicators that we do have suggest we
13 ought to be looking at an institution if
14 they have either high or low rates
15 depending on what would constitute bad.

16 But I think the problem we have
17 with graduation rates, as we all know, is
18 they're wildly inaccurate. If you
19 transfer you are a dropout forevermore.
20 You're never counted as a college
21 graduate. Forty percent of college
22 students and 40 percent of graduates

1 transfer, or don't graduate from the
2 institution they start from.

3 I sometimes tell people it's
4 very hard to think of things that
5 President Obama and Sarah Palin and John
6 Boehner have in common. One thing they do
7 have in common is they're all college
8 dropouts according to the Federal
9 Government. It's nice that the Department
10 of Education has given them some common
11 ground.

12 We might wish they had more.
13 But until we can get accurate data we have
14 to be very careful about saying that any
15 specific number by itself is meaningless.
16 Particularly for community colleges.

17 My daughter started at a
18 community college, spent two years there,
19 transferred to a four-year university from
20 which she graduated. She's a dropout from
21 the community college and she never
22 graduated from the university she

1 attended. And that's just a big problem.

2 The federal definition of
3 graduation rates was sort of modeled on
4 the mid 1980s and at that time it might
5 have been okay, but as post secondary
6 education has changed dramatically, with
7 the new learning modalities, new
8 institutions, it just doesn't work very
9 well anymore.

10 Nonetheless, I'd say that a low
11 graduation rate ought to be a warning sign
12 to somebody.

13 MR. KEISER: And that's exactly
14 my point, I think, I'm trying to make.
15 Probably not as clearly as I could, is
16 that we, the institutions, need to quickly
17 come to grips and rather than push the
18 ball or kick the can down the can down the
19 road. And I think this is what we're
20 wrestling with.

21 Is because accreditation has
22 become less than a stamp of approval.

1 Because when an institution and a public
2 community college in Chicago has less than
3 one out of ten students graduate, whether
4 there is multiple definitions of why they
5 didn't graduate, the public loses very
6 significant confidence in our ability, and
7 I speak as part of the community, our
8 ability to provide accountability for the
9 \$150 billion we're spending.

10 MR. HARTLE: I think you've made
11 an excellent point. A couple of quick
12 observations. One is the first point I
13 made that we don't necessarily have to
14 assume that getting to the point that you
15 have suggested is simply a matter for
16 accreditors.

17 There are other gatekeepers. A
18 community college in Chicago would be a
19 public institution in the State of
20 Illinois. The Department of Education has
21 emergency power authority to shut down any
22 institution of higher education overnight.

1 In the last five years regional
2 accreditors, who would deal with 3,000
3 institutions, have closed down more
4 schools than the U.S. Department of
5 Education, which deals with 7,000.

6 So I take your point.
7 Graduation rate is a federal indicator and
8 arguably if anybody ought to be looking at
9 graduation rates and saying does this make
10 sense, it's the Department of Education,
11 not simply expecting accreditors to take
12 on everything.

13 MR. WU: I have two questions,
14 but there's a little preface. And the
15 preface is, I wonder if everything that we
16 do is in some sense, at least for some
17 segments of higher ed, overshadowed by an
18 entire system that's not a governmental
19 system but there's no oversight on, and
20 that's rankings.

21 Specifically U.S. News ranking.

22 So I wanted to ask you about your view on

1 that since it all involves data. Let me
2 just set the stage for this.

3 There's been a lot of publicity
4 recently about law schools, and about law
5 schools gaming the numbers. Specifically,
6 whether or not law schools misrepresent
7 employment data. How many graduates are
8 employed, what they make, that sort of
9 thing.

10 And the premise of the press
11 coverage is typically that law schools are
12 luring people into law schools and that's
13 why they want to boost all these numbers.

14 They hire their own students, they just
15 outright lie and so on and so forth.

16 I have a different hypothesis.
17 I don't think that most law schools, even
18 the ones that are willing to cross the
19 line and do things, that most of us would
20 agree are just wrong, I don't think
21 they're doing it to attract students. The
22 reason I say that is almost every law

1 school is highly selective.

2 They could easily fill every
3 single seat. What they're doing is
4 they're trying to attract more highly
5 credentialed students. So they don't just
6 want to fill the seats, they want to rise
7 in the rankings. Because there is a
8 tremendous amount of pressure.

9 There are studies that show for
10 legal employers the number one determinate
11 of starting salary for law school
12 graduates is where they went to law school
13 and its rank. Not their rank in the class
14 at that school.

15 For perspective students the
16 number one factor in determining where
17 they will go is rank, there's studies that
18 show that. Financial aid is number two,
19 but rank is number one.

20 So rankings are this driving
21 force that is causing a lot of
22 manipulation and distortion with the data

1 that is gathered. So my two questions
2 are.

3 First, what's your view? How do
4 U.S. New ranking affect the process of
5 data collection, data reporting, data
6 accuracy, all this data? Reams and reams
7 of data that are being generated. Most of
8 which is used not only for purposes of
9 determining is the school, is it one that
10 should be accredited, but also goes into
11 rankings.

12 Second question is, how should
13 we, as a body, think, if at all, about
14 rankings? And it may just be it's beyond
15 our purview and we just shrug and say it's
16 out there.

17 MR. HARTLE: Well rankings have
18 been around, as you know, for 20 or 25
19 years. They've always been somewhat
20 controversial within the higher education
21 community. They're just a fact of life,
22 they're not going to go anywhere, they

1 sell a lot magazines for people.

2 Is this a matter that this
3 particular body ought to concern itself
4 with? In my judgment no. I think you
5 guys work longer and harder than just
6 about any federal advisory body I've ever
7 seen.

8 And I think just doing what you
9 have to do, the in-depth review of the
10 accreditation reviews, takes so much time
11 and energy that you probably should stick
12 to the knitting and focus on what you're
13 assigned to do.

14 I think you're absolutely right
15 about law schools and rank being the thing
16 that drives them. In fact we brought a
17 young man from our office who's interning
18 with us this summer who's a law student
19 because you were going to be looking at
20 the ABA this morning.

21 And I think that whatever
22 indicators get set up some institutions

1 will find a way to try and manipulate. I
2 hope it's a small number but I don't know.

3 I can't tell you about the calculation of
4 placement rates because I don't know what
5 the definition is that the law school
6 community uses to define things.

7 I too read the article in the
8 New York Times and was horrified. There
9 is simply no excuse for providing that
10 sort of data if you're actively misleading
11 your students. There's no justification
12 for it at all.

13 In terms of the rankings,
14 ironically, I think much of that data is
15 reasonably accurate and comparable.
16 Because about 20 years ago a U.S. New and
17 World Report was sort of first but then
18 lots of other people got into the business
19 and there were so many requests coming
20 into institutions that the institutions
21 actually sat down with the guide book
22 publishers, in fact, I think they did at

1 Lafayette College, and agreed on how they
2 would define many of the terms and
3 statistics that show up in the guide
4 books.

5 So, in fact, that's not to say
6 that some schools don't manipulate them,
7 but at least they're starting with a
8 common definition. And again, that's
9 something that the higher education
10 community, thanks to Dr. Rothkopf, took
11 the lead on.

12 MS. KELLER: And just a little
13 more information, Terry's exactly right,
14 it's called the common data set, and in
15 fact I sit on that advisory board and it's
16 very closely watched by the Association
17 for Institutional Research. And it also
18 is the basis for much of the data we
19 report on the College Portrait.

20 MR. ROTHKOPF: If I could just -
21 -Terry's right in that we did hold a
22 conference and get everyone to agree to a

1 common data set. It was the second piece,
2 which actually I urged in a couple of
3 articles which I think were still useful,
4 and that was that I think some of the data
5 submitted that doesn't go to the Federal
6 Government is manipulated I think it ought
7 to be audited by the outside auditor for
8 the institution.

9 Things like admissions rates,
10 faculty, I mean alumni giving and others I
11 think are often not accurately done. I
12 think it ought to be a lot better on that
13 data on that stuff that doesn't go to the
14 Federal Government if outside auditors
15 actually were required to look at it.

16 CHAIRMAN STAPLES: Thank you.
17 Any more questions?

18 MR. WU: Just one quick comment
19 on all this. I think some of it does fall
20 within our purview to the extent that
21 institutions are cheating, I think you're
22 right.

1 It is not, I think, beyond what
2 we do in overseeing their accrediting
3 authorities to ask is there an audit
4 function. You know, how do we know that
5 any of this data is any good? A lot of
6 this is just the honor system and the
7 incentives are just so strong.

8 In some cases not to cheat, you
9 know, you can get really close to the line
10 without cheating, but doing things
11 including collectively, so just a norm
12 arises where all the schools are not quite
13 cheating but they're all doing more or
14 less the same thing that we might be
15 troubled by.

16 It think some of that would, at
17 least arguably, fall within our purview
18 when we ask accreditors what they're doing
19 in terms of the reliability of the data
20 that they get.

21 CHAIRMAN STAPLES: Brit, you're
22 next. And then Ann.

1 MR. KIRWAN: I had three
2 relatively quick questions. First one is
3 that at some point I was told that one way
4 of getting around this graduation rate
5 issue, which you have explained very well,
6 is to use the National Clearinghouse data,
7 which apparently you can track students
8 from day of entry in one school to
9 graduation from another.

10 So I just wondered if that would
11 be a useful replacement or a more
12 effective way to measure graduation rates?

13 The second question, Terry, is
14 you mentioned how much data we collect
15 through IPEDS but only, I think, six items
16 related to outcomes and none of them very
17 meaningful in your mind. And I just
18 wondered, did you have any ideas about
19 what would be some meaningful outcomes
20 data that the Federal Government might
21 collect?

22 And then, third, I think you

1 make a very persuasive comment, in my
2 mind, about the impossibility, or
3 impracticality, of having sort of uniform
4 outcomes assessment because of the great
5 diversity of our institutions and I think
6 I really get that point. But I'm just
7 wondering if any of you have thoughts on
8 the following question.

9 Should there be some entity that
10 determines whether, you know, you don't
11 have uniform assessments but, you know, is
12 there a threshold level of institutional
13 performance or learning outcomes that
14 would prevent them from getting federal
15 financial aid?

16 In other words could the
17 standard be so low, even though there's
18 not a uniform standard, could the standard
19 be so low that you would not be eligible
20 for financial aid? And should someone be
21 in the position to determine that?

22 MR. COOK: Well I would first

1 respond to the possibility of
2 clearinghouses being one of the vehicles
3 for this information. As you know one of
4 the things with the Clearinghouse is that
5 participation is voluntary so they
6 certainly don't have information on all
7 colleges and universities. But the other
8 issue is that --

9 MR. KIRWAN: But don't they have
10 it on something like 70 or 80 or 90
11 percent of the students? A very high
12 percentage I thought, but I could be
13 wrong.

14 MR. COOK: They do the numbers a
15 bit, or the way in which it's presented is
16 a bit misleading. They have 70 percent of
17 the enrollment of the institutions for
18 whom, for the reintegrated degree-granting
19 institutions.

20 The larger issue is the fact
21 that until recently they did not capture a
22 degree seeking status. So they

1 essentially would be looking at anyone who
2 entered post secondary education and
3 whether or not that individual got a
4 degree and whether or not they were
5 seeking a degree.

6 That is one of the benefits of
7 IPEDS that at least it's limited to degree
8 seeking students so that you don't
9 conflate those students who are just
10 enrolled for a class or some other sort of
11 exponential learning with those who are
12 actually seeking a degree.

13 MR. KIRWAN: Just to clarify
14 that point. Let's say somebody enters as
15 a full-time freshman at the University of
16 Maryland. How does anybody know that
17 student really wants a degree?

18 How do you know that student is
19 degree seeking? I mean he or she may be
20 just going to have a freshman year
21 experience.

22 MR. COOK: Well and that gets to

1 a larger issue with the IPEDS data, which
2 on the one hand, and someone had raised
3 the issue of the possibility of gaming or
4 providing incorrect information. At least
5 in terms of IPEDS that information is very
6 much audited.

7 So the extent to which
8 institutions can provide misleading
9 information is somewhat limited. Now on
10 the other side there's a lot of leeway in
11 how you interpret the way in which the
12 data has to be presented.

13 And so, to your example, the way
14 one institution would define a degree
15 seeking student could be different than
16 the way another institution defines it.

17 There are specific guidelines of
18 how you determine that, but they're broad
19 enough that institutions could have their
20 own sort of nuance interpretation and thus
21 making what appears to be comparable data
22 not in fact entirely comparable.

1 And that gets to the larger
2 issue of trying to standardize any sort of
3 data. Whenever you try to reach that
4 level of comparability you're always going
5 to have enough of a difference that it
6 makes it very hard to interpret the
7 outcomes of a particular institution and
8 compare them to another institution.

9 So I think that's I think the point
10 that Terry raised earlier is a key one,
11 that because of the diversity of
12 institutions that we have and the fact
13 that the accreditation process takes place
14 at the institutional level, that's where
15 you're going to get the most accurate
16 assessment of exactly what institutions
17 are doing.

18 The minute you try to broaden
19 that, and again we're not saying that it
20 necessarily shouldn't be done, but the
21 minute you try to broaden that, even
22 within what appear to be similar types of

1 institutions within a particular sector,
2 you start to raise the possibility of
3 comparability diminishing.

4 MR. HARTLE: Based on research
5 that's been done that Bryan indicated,
6 federal graduation statistics are for full
7 time, first time, degree seeking students.

8 If somebody enrolls at the University of
9 Maryland full time, first time, we assume
10 they're a degree seeking student, even if
11 they're not.

12 The advantage of the National
13 Clearinghouse is it allows us to follow
14 students who transfer. The disadvantage
15 of the Clearinghouse is that until a year
16 ago they didn't ask students if they were
17 seeking a degree.

18 We, with the help of the
19 Clearinghouse, actually analyzed data from
20 some identical institutions to look at
21 their federal graduation rate and their
22 Clearinghouse graduation rate.

1 Their Clearinghouse graduation
2 rate was a couple of percentage points
3 higher, but not as high as it probably
4 would have been had we been able to focus
5 on people who really were trying to get a
6 degree.

7 So we know from data research
8 we've done using the federal graduation
9 rate and the National Longitudinal Studies
10 that if we could follow students once they
11 transfer then most students, once they
12 transfer, that most institutions would
13 have a graduation rate somewhere between
14 seven and 15 percentage points higher.

15 Sometimes it'd even be higher
16 than 15 percentage points sometimes, of
17 course, it would be lower if they don't
18 have many transfers. So that's sort of
19 the extent to which we think federal
20 graduation rates probably understate the
21 job that institutions are doing with
22 graduates.

1 Is there a level at which things
2 are so bad that somebody should be
3 ineligible for Federal Student Aid? Yes,
4 especially if we know that we've got
5 accurate data to make a decision.

6 The Department of Education says
7 if your default rate is above a certain
8 threshold, actually Congress says, it's
9 above a certain threshold you're out of
10 the Federal Student Aid programs.

11 Department of Education now says
12 if your student loan repayment rate is
13 below a certain percentage, you're out of
14 the Federal Student Loan programs.

15 I think with respect to
16 graduation rates the problem with it is
17 that we know that they are inaccurate but
18 I think a low graduation rate ought to be
19 a big red flag for either the Department
20 of Education or the states to be asking
21 some very hard questions about. Yes?

22 MR. KIRWAN: Yes, just one and

1 I'll stop. You mentioned the high default
2 rate would put you out of the -- I'm only
3 actually asking about academic standards.

4 Should there be a judgment made by some
5 entity or some, so that the academic
6 standards are just insufficient to warrant
7 Federal financial aid?

8 MR. HARTLE: Yes. And now let
9 me complicate it. Accreditors do this now
10 and that's part of what accreditors are
11 there for is to determine to whether or
12 not the institution meets basic threshold
13 academic standards.

14 The second thing is, and this is
15 why I keep backing away from graduation
16 rates, is because we know graduation rates
17 are so inaccurate.

18 What I think we have now with
19 the modest amount of outcome data, loosely
20 defined, that the Federal Government
21 collects the best thing we are probably
22 going to be able to do that, given the

1 inaccuracies of it, is use it as a big
2 warning light.

3 And at which point someone
4 probably ought to be asking some very hard
5 questions about what is happening at that
6 institution and why. We can argue the
7 states ought to do it for public
8 institutions and indeed I suspect if it
9 was something in the University of
10 Maryland's system you'd be doing it.

11 We could argue the Department of
12 Education ought to be doing it because
13 they are the ones that collect the
14 graduation rate data, it goes to the
15 Office of Student Financial Assistance,
16 they're the ones that keep it.

17 And you could argue that
18 accreditors ought to be doing it, if it's
19 a very low graduation rate below a certain
20 threshold. So, yes, I think at some point
21 there are some educational institutions
22 that none of us would want to send our

1 kids to. And we shouldn't let anybody
2 else's kids go there either.

3 CHAIRMAN STAPLES: Anne, you're
4 next. And then Earl.

5 MS. NEAL: Lot's of good stuff
6 going on here. I want to just pick up on
7 various threads. Let's talk a little bit
8 more about IPEDS since we've got the
9 Education Department folks here.

10 Obviously there's a lot of
11 dissatisfaction with the way IPEDS works.
12 It's not always timely, it's hard to
13 access, the definitions aren't great so
14 it's hard to tell who's transferring.

15 You're saying that the National
16 Clearinghouse has actually got some better
17 ways of assessing transfer. Why can't
18 IPEDS develop or adopt those same kinds of
19 standards?

20 And correct me if I'm wrong, but
21 don't you have to belong or pay money in
22 order to access the National

1 Clearinghouse?

2 I mean if we have a Federal
3 IPEDS database why can't it be a good one,
4 timely and accessible so that all this
5 data can actually be used in an effective
6 way?

7 MR. HARTLE: The National
8 Clearinghouse was originally created about
9 15 years ago as a way of tracking
10 students, institutions tracking students,
11 for purposes of Student Financial Aid
12 eligibility.

13 There are annual and cumulative
14 limits in terms of how much Federal
15 Financial Aid you can get and without the
16 National Clearinghouse institutions had no
17 way of keeping track.

18 So the Clearinghouse was created
19 by State guaranty agencies and
20 institutions as a way of providing
21 information across institutions. So that
22 if Bryan enrolled in my school I could go

1 into the Clearinghouse and see what his
2 student aid eligibility was in terms of
3 money he's borrowed, Pell Grants he's
4 received and so on.

5 The reason that that can't work
6 at the federal level is because the
7 National Student Clearinghouse is a unit
8 record database. Individuals are put in
9 that database by a unique student
10 identifier, I think Social Security
11 number.

12 The Federal Government is
13 explicitly prohibited, Department of
14 Education is explicitly prohibited by law
15 from creating a student unit record
16 database because of privacy concerns.

17 Congress put that provision in
18 place in 2008. This is an issue that's
19 been widely debated within the higher
20 education community, the policy analytic
21 community and it's very much a trade-off
22 between much more accurate data and the

1 fact that if you have a database with 20
2 million students in it it will very
3 quickly be used for other purposes.

4 MS. NEAL: Are you saying that
5 the transfer cannot be tracked except
6 through a student unit record?

7 MR. HARTLE: No, because -- Well
8 you can't track individual students
9 without a unit record system. You might,
10 through the National Longitudinal study,
11 be able to get some basic estimates about
12 the percentage of students who transfer
13 but you wouldn't get any information from
14 a National Longitudinal Study about
15 individual institutions. That's how we
16 know the percentage of students who
17 transfer.

18 MS. NEAL: But is there
19 something that IPEDS could do tomorrow
20 that would improve the situation? No?

21 MR. COOK: Certainly not
22 tomorrow. And as someone who participates

1 regularly in the technical review panels
2 for IPEDS this is a conversation that has
3 come up numerous times. Everyone is well
4 aware of the issues with graduation rates
5 and the population of students that they
6 don't account for.

7 But the reality is there is no
8 easy solution. And any solution
9 inevitably would certainly require
10 significantly increased burden to
11 institutions.

12 Because primarily from a
13 transfer perspective, in order to be able
14 to account for those students you have to
15 track them down and find out did they in
16 fact transfer or did they drop out.

17 At the two year level, because
18 most students to transfer are attempting
19 to transfer credits, you know what
20 students are transferring. But at a four
21 year institution if the student just stops
22 coming, and never requests a transcript or

1 credits to be transferred, you have no
2 idea what happened to them.

3 So unless the institutions are
4 going to go out and seek what happened to
5 those students the ability to do that is
6 very difficult, as Terry said, without
7 some sort of unit record system.

8 One of the other issues that
9 inevitably comes up whenever we have these
10 conversations in the technical review
11 panels, which is a little less of an issue
12 than the ability to track students, is who
13 ultimately then gets credit?

14 So if a student has attended
15 four different institutions and graduates
16 from the fourth, do all four institutions
17 get some sort of credit or just the one
18 that they finally obtained a degree from?

19 So there are a lot of little
20 complexities that, you know, that occur
21 when you try to do this. But it's not
22 anything that has completely been

1 disregarded.

2 The conversation continually
3 comes up and people are making efforts to
4 figure out a better way to measure this
5 type of information. But it's not one
6 that's very easy to come up with a
7 solution for.

8 MS. NEAL: So we're faced then
9 with what Terry has suggested, that if you
10 see low graduation rates knowing that it's
11 a faulty data you still have to say this
12 is something that should make us be
13 worried?

14 MR. COOK: Yes, I think that
15 certainly a level, I mean given what Terry
16 said, that when you look at the
17 longitudinal data you see it usually about
18 anywhere between a eight to 12 percentage
19 point bump for graduation rates.

20 So you know, if you see an
21 institution that has a 35 percent
22 graduation rate, even with a bump, it's

1 probably not going to be that great. So
2 now there are certainly contextual reasons
3 why it could be that low. But something
4 that low, I think, as Terry alluded to,
5 does send up a flag that you should be a
6 bit concerned.

7 MS. NEAL: Yes, I asked, and
8 this will relate a little bit to our
9 discussion of the U.S. News ratings. Why
10 is it that U.S. News gets up-to-date
11 tuition for it's rating and IPEDS remains
12 a year behind?

13 MR. COOK: There are a couple of
14 reasons. The first of which, and College
15 Board is another example of an
16 organization that gets up-to-date
17 information, but it's because of the way
18 in which they survey, and essentially they
19 survey the information and are able to
20 sort of turn it around.

21 As most of you know regarding
22 the process of disseminating information

1 through the Federal Government there are a
2 lot of little loop holes and things that
3 you have to go through before you can
4 release the information.

5 And one of the things that is a
6 part of NCES they're a very statistically
7 rigorous organization and so they collect
8 the information in a timely manner, but
9 the auditing process before they are able
10 to then release the information does take
11 some time.

12 And that's why there's the lag.
13 That's one of the questions that I
14 received a lot of time from individuals,
15 why is there such a lag. And it's because
16 of the data cleaning process.

17 And that's something that most
18 likely will never change, IPEDS will
19 always have about a year and a half lag
20 between when the information is collected
21 and when the information is actually
22 released because of the level of accuracy

1 that is contained in the data itself.

2 MS. NEAL: But why wouldn't it
3 be a more effective system than to have
4 the institutions supply the information at
5 the same time as its supplying it to the
6 College Board or U.S. News and have it
7 certify and be, at that time, that it is
8 providing correct information, much as we
9 do with SEC.

10 And then if, in fact, they've
11 lied you could go after them later on, but
12 at least you would have that information
13 in a time needed time frame.

14 MR. COOK: Well part of the
15 challenge is that College Board, as well
16 as those who participate in the common
17 data set, is not the entire population of
18 colleges and universities that IPEDS is
19 dealing. IPEDS is dealing with all 66 --

20 MS. NEAL: No, but I'm not
21 talking about just College Board, we could
22 have every institution that currently

1 provides information to IPEDS and they
2 could do it.

3 And they could self-certify that
4 they've provided accurate information and
5 if they prove too and then you could go
6 after them, as they do in the SEC, if
7 people wrongly certify then you could go
8 after them and say that you've lied and
9 have misrepresented to the public. Why
10 not --

11 MR. COOK: Well the other issue
12 is that when the data is collected, for
13 example for College Board, it's often
14 preliminary data. And they say that, it's
15 preliminary data.

16 And because the Department
17 information ends up on College Navigator I
18 don't know that we would necessarily want,
19 particularly as it relates to tuition,
20 preliminary tuition going up on College
21 Navigator for students that ultimately
22 ends up changing.

1 Because sometimes tuitions are
2 not set until a point by which it's too
3 late to give up in the timely manner.

4 MS. NEAL: Well it seems to me
5 where there's a will there's a way. But
6 we can have that debate another time.
7 Let's talk about the rating again a little
8 bit as well. I mean I know lots of people
9 do blame the rating for perverting certain
10 things.

11 And I'd like your reaction to
12 this. It seems to me in a way the ratings
13 have emerged, in large part in, response
14 to the failure of accreditation and the
15 higher education sector to provide data to
16 the consumer on which it can make
17 decisions.

18 And while it is largely input
19 based and people may be submitting
20 information that's not accurate, doesn't
21 it underscore a craving on the part of the
22 consumer to have information, much as the

1 VSA is now providing, and that it's then
2 really up to the institutions to supply
3 information as it would like to see it
4 supplied.

5 So that if it's not happy with
6 U.S. News and thinks that its wrongly
7 focusing on various criteria, the
8 institution has the ability to counteract
9 that as the value added information it
10 would like to supply, but in fact there
11 hadn't been any.

12 MS. KELLER: I think there are
13 couple of things kind of hidden within
14 that. I think that the, first of all the
15 data behind U.S. News, as we've talked
16 about at length, is common information
17 that institution gather all the time.

18 And that information is used in
19 INPEDS, it's used for the ranking, it's
20 also used for guide books and recruitment
21 materials by the institution.

22 So I think it's a little bit of

1 an exaggeration to say that the
2 institutions don't that data, don't use
3 this data, don't try to communicate that
4 data to the public.

5 I think that what U.S. News and
6 World Report has is the platform to
7 provide that information to a public in
8 the way that our public institutions, or
9 all of our institutions, really don't
10 have. They have the magazine, they have
11 the resources, they have the website to do
12 that.

13 And they also do another thing
14 that I think, for better or for worse,
15 that those of us in the higher education
16 community don't like very much, and that
17 is they boil it down to a single number.

18 They boil down all of our work,
19 all of the complexity of our institutions
20 to one number, to one ranking, in a list.

21 And I don't know, is that good, is that
22 bad?

1 Those of us who try to provide
2 alternatives like the VSA say that's not
3 what we want. We want to provide the
4 information to consumers and let them
5 rank.

6 So they can pick up whatever is
7 important and rank the institutions based
8 on that. U.S. News does it for the
9 consumers.

10 So it's kind of that tension
11 between, you know, the consumers want
12 something easy and simple and I think what
13 we offer is not often easy and simple as
14 one number.

15 MS. NEAL: So in just following
16 up on that. What if institutions then,
17 given your desire, and using the VSA as a
18 model, why not have a situation where
19 institutions supply certain baseline data,
20 accurate data, to the consumer to look at?

21 Graduation rates, however you
22 want to come up with the standard. But

1 graduation rates, retention rates, you
2 could do student achievement. For
3 instance you could pick a particular, just
4 as do in VSA, it's not necessarily one
5 metric but any metric, but the school has
6 a metric and it shows what it's finding in
7 those metrics.

8 Why not have just a voluntary
9 data system by colleges and universities
10 that is uniform, that's self certified and
11 audited and let the consumer then decide
12 rather than having this vast apparatus and
13 federal intervention that we have now.

14 MS. KELLER: I guess I would
15 argue that a lot of that information is in
16 College Navigator for consumers. I think
17 that there's data there. The challenge is
18 communicating it in the way that the
19 consumers want. What platform do we use
20 to get that information out there?

21 The VSA is one way but of course
22 we're a non for profit entity so we don't

1 have the marketing skills and tools to get
2 it out there. The Department of Ed and
3 NCES has done an amazing job with College
4 Navigator in the changes they've made over
5 the past I would say three or four years
6 to try to make it more consumer friendly.

7 I think this is something we've
8 been struggling with for a very, very long
9 time. We have all this data, but how do
10 we get it in front of the consumers to
11 allow them to make an informed choice.

12 And even more so if we got it
13 out there, would they use that data to
14 make a choice. Or would the choices be
15 based on other factors. And that's a
16 whole other conversation.

17 CHAIRMAN STAPLES: We've got a
18 couple more questioners, I'd like to make
19 sure we get that time in. I know I have
20 Earl and I have Jamie and Kaye. If
21 anybody else, I have a question myself, so
22 why don't we go to Earl.

1 MR. LEWIS: Just a quick follow-
2 up to both the comments to date and in
3 this last set of questions. Given the
4 institutional diversity in American high
5 education, 4,200 or so institutions of
6 higher education, and given the things
7 that you've all said, especially the flaws
8 in sort of some aspects of the current
9 data collection system and let alone how
10 you go about interpreting them.

11 Let me ask you a much harder
12 question then, which is if you were forced
13 to come up with three, five, ten
14 categories where it would be important for
15 us to sort that information available to a
16 broader public, what would those three,
17 five or ten categories look like?

18 MS. KELLER: We did a little of
19 this when we did the background for the
20 VSA, we tried to come up with a more
21 limited set. And as background to make
22 those decisions we did have student focus

1 groups. We worked with the other higher
2 education associations to do that.

3 And some of the information that
4 students and parents told us they wanted
5 were finance data. So tuition, fees,
6 financial aid available. That was very
7 important. They also wanted information
8 on kind of the characteristics of the
9 student body.

10 So if I go to this institution
11 will there be students like me, is a very
12 important piece. They also wanted to know
13 information about location, is it the
14 right distance from home, whether that be
15 down the street or 1,000 miles away.

16 They were also interested in
17 outcome information, particularly job
18 placement rates. What will I be able to
19 do with this particular degree. So those
20 are some of the things that we saw and
21 that we chose to put some of those within
22 the College Portfolio.

1 MR. HARTLE: I think any of us
2 who have talked to 17 or 18 year old about
3 why they want to go to what particular
4 college realizes how hard it is to distill
5 this down to a small number of items.

6 But I think consistent with what
7 Christine said, you'd want some
8 information about the characteristics of
9 institutions you'd want some information
10 about financing, cost, student aid and so
11 on. And you'd want some information about
12 institutionally specific information about
13 outcomes.

14 CHAIRMAN STAPLES: Jamie. Are
15 you done, Earl? You're done. Okay.
16 Jamie and then Kay.

17 MS. STUDLEY: I'm reminded of a
18 colleague of mine who every time we need
19 to buy something that costs more than a
20 few dollars says to me, "Remember, we
21 can't have good, fast and cheap." And I
22 hear a lot of this as being similar to the

1 desire to have good, fast and cheap.

2 What do I mean by that? When
3 you think about data the Feds are held to
4 an unbelievably high standard of accuracy
5 and precision and pay a huge price if they
6 ever get the numbers wrong.

7 So in the desire for accuracy
8 and precision, which I'm sure you would
9 applaud, it becomes hard to have speedy
10 and non-burdensome as well. Somewhere
11 there'll be a question in my comments, or
12 Terry, Bryan and Christine will intuit a
13 question they can answer, but I'm trying
14 to see some of these strands and good
15 questions that people have raised.

16 So one is how to get the data to
17 do all those things at the same time. We
18 heard Bryan talk about the balance
19 question between, and Terry, unit records
20 and privacy. We want both, but somebody,
21 Congress made a decision in this case that
22 one over the other is more important

1 because they made a risk assessment.

2 So speaking of risk assessments,
3 Brit had a great idea about thresholds and
4 trying to have some either threshold or
5 maybe threshold for a trigger or a flag,
6 if this then somebody else should look
7 more closely. And that takes me to a
8 balance we've got between a peer driven
9 system and third party driven decisions.

10 A peer system has a strong
11 history, it's got advantages for
12 knowledge. And for the ability to make
13 those distinctions between type and style
14 of education, goals, institutional
15 setting. And yet the closer we get the
16 harder it is to say to your peers, who
17 have often become your friends, I'm sorry
18 this just isn't good enough.

19 It may be easier for a new
20 entrant than somebody already in the field
21 who seems a part of it and you want to
22 kick them. So we have who makes which

1 decisions questions and who can build on
2 those strengths better.

3 And I'm fascinated, and we are
4 struggling a lot with regulation and
5 consumer information. How much can be
6 accomplished by regulation hard lines,
7 bright lines, clear standards that can be
8 applied consistently to people. What can
9 be handled by consumer information?

10 And let me add one more that
11 nobody has used because it is terrifying
12 in a conversation like this. And that's
13 discretion. In order to be consistent and
14 accurate and seem to be fair and not
15 playing favorites, we often deny
16 ourselves, systemically and this is an
17 everybody problem, the kind of discretion
18 that would allow us to say, you're right,
19 these two places have the same number but
20 they mean different things because of
21 who's coming or how long they've been
22 doing it or the rate of change of this

1 problem.

2 And yet to try and write
3 regulatory standards accreditation
4 standards that incorporate all of what can
5 be in human discretion becomes impossible,
6 or takes so long, or is so burdensome to
7 report about that we can't do it.

8 But we have other reasons that
9 we're not allowed in a federal process to
10 exercise more than the tiniest bit of
11 discretion because of our views about the
12 role and predictability of the Federal
13 Government, the dangers of discretion.

14 And that way lies this
15 incredibly tight circle of, we deny
16 ourselves all sorts of choices by under
17 funding, not trusting, not allowing
18 discretion, having multiple players, all
19 of whom have to be satisfied.

20 With 6,000 institutions that
21 are, every one of them will tell you why
22 it is special and shouldn't be measured

1 the way the others are. And if you try
2 and get out of that box and say well let's
3 just give people information and make it a
4 consumer based choice.

5 Sandy Baum, just yesterday, was
6 testifying once again about the limits of
7 the market and the difficulty of making
8 these judgments. I can tell if a
9 hamburger tastes good but I'm not very
10 good at knowing whether it's contaminated
11 with E. coli.

12 I can tell whether the campus
13 feels congenial, but I can't even evaluate
14 the net price let alone what's going on in
15 the English department or the graphic
16 design program. So of that maybe you
17 could talk to whether there's a little
18 room for discretion.

19 Whether the peer process has
20 great strengths but certain limits that
21 would help you know where you would put
22 some of the functions that might not fit

1 with peers, and any other piece of that
2 that intrigues.

3 MR. HARTLE: Let me just say, if
4 you eat a hamburger with E. coli there's
5 an outcome measure that will point that
6 out to you. You actually will know that
7 pretty quickly there.

8 I think accreditation and peer
9 review is designed to accommodate
10 discretion. That's the very nature of the
11 accreditation is it provides a discretion
12 to the peer review team to look at an
13 institution in its entirety and to make
14 judgments about whether or not they're
15 going a good job or a less than good job.

16 The challenge is that federal
17 policy, not simply NACIQI or accreditation
18 policy, but federal policy has wrung
19 discretion out of the process and we
20 increasingly go to a very detailed set of
21 standards that you want accreditors to
22 meet and to apply to every institution

1 that they do.

2 This is natural given the stakes
3 that are involved. But what we're
4 systematically doing is taking discretion
5 out of the process. I'll give you an
6 example in something I spoke about in my
7 remarks. I've mentioned that as of July
8 1st accreditors have to review and approve
9 institutional policies with respect to
10 award of credit hours.

11 Department of Education has said
12 creditors can use sampling to determine
13 whether or not the institution is doing
14 this appropriately. My guess is that
15 before very long the NACIQI will tell the
16 accreditors what they mean by sampling in
17 very specific terms, as opposed to
18 allowing the accreditors the discretion to
19 figure it out for themselves.

20 And so I think that all the
21 elements of wanting more data, more
22 accuracy, more outcome information, are

1 ringing discretion out of the process in
2 ways that's not helpful to institutions or
3 to accrediting agencies.

4 And it might be that if you had
5 a series of flags or of markers that you
6 would use as a basis for looking more
7 carefully at specific institutions you
8 could permit more discretion for some
9 institutions.

10 In the same way I think some of
11 the very highly selective academically
12 superb institutions that feel that they're
13 over regulated by accreditors, would be a
14 little better off if accreditors felt they
15 had more discretion to design separate and
16 unique approaches for such institutions.

17 But again I think if an
18 accrediting agency came before NACIQI and
19 said, okay for the top five percent of our
20 institutions we're going to do a pretty
21 once over lightly, we're going to have an
22 expedited accreditation process. That

1 would get a great deal of attention as
2 probably being something that was going to
3 be a bad idea.

4 MS. STUDLEY: Brief comment
5 about the discretion and your reference to
6 academically superb institutions. One
7 thing that's good about consistency and
8 predictable standards, and that
9 distinguishes from U.S. News, is that
10 you're not operating by reputation.

11 So I would say one difference
12 that I think is appropriately not our
13 business or the Department's business, is
14 that one reason that U.S. News rankings
15 are attractive is that they include
16 reputation information, which have a
17 street value. A common sensical desire
18 for the public to know.

19 But not our business in
20 appraising whether an institution meets
21 our standards or not. And the comment
22 that you made, in a way, reminds us why we

1 don't want too much discretion. Because I
2 think there are many institutions whose
3 reputation is strong who may not be
4 leaders in student outcome assessments or
5 in some of the kinds of thing, and
6 Christina's nodding, without naming names.

7 And there is something nice
8 about a system that does not make those
9 judgments, it doesn't do this in a blinded
10 review fashion. They have to go see the
11 actual school, but that too much
12 discretion would go the other way and risk
13 reifying existing expectations about who's
14 good and who's not.

15 And we wouldn't find the leaders
16 and the people that should be admired by
17 their peers for what they're doing in a
18 continuous improvement way if we stuck to
19 what we thought we already knew. And
20 that, I think, is a good thing about the
21 accreditation system that we have.

22 MR. HARTLE: Well just to follow

1 up on your point and a flip side to Brit's
2 point about is there at level at which
3 things are really so bad that we simply
4 say no. Is there a level above which
5 things are so good that we simply say yes?

6 You know, if a accreditor were
7 to come to you and to say, okay, any of
8 our institutions that have a graduation
9 rate that they can document, a graduation
10 rate above 85 percent, a placement rate
11 above 85 percent, we're just going to
12 check off.

13 Would NACIQI accept that? I
14 don't know. But if you're willing to say
15 below some level is automatically a
16 problem it seems to me above some other
17 statistical level ought to automatically
18 be okay.

19 MS. STUDLEY: I don't know what
20 NACIQI will decide. I can tell you some
21 people over a beer were talking about
22 that. And as the person who guided the

1 process that led to the Department's fully
2 passed financial responsibility, clearly
3 fail financial responsibility and a gray
4 area for further analysis.

5 I think it's well worth thinking
6 about that strategy.

7 CHAIRMAN STAPLES: Kay, for our
8 last question.

9 MS. GILCHER: Mine's just a
10 technical question. In terms of the
11 Clearinghouse data, you said there is some
12 sort of protected identity for a student
13 at the unit record level. Have there
14 been significant issues with privacy
15 violations given that particular way of
16 doing things?

17 MR. COOK: There have not.
18 Because ultimately the institutions
19 control and own the data. So the extent
20 to which the Clearinghouse can disclose
21 any of that information is dependent on
22 whether or not the institution gives them

1 permission.

2 But there has not been any sort
3 of issues related to the actual use of
4 identifiers at the Clearinghouse.

5 MS. GILCHER: Okay. And I'm not
6 a data person so how would that be
7 different from, I understand the
8 Department of Education would control the
9 data if we had it at the unit record
10 level.

11 But if there's that sort of
12 separation of the unit record from the
13 name of the student, I mean, they were
14 talking about doing kind of a bar code and
15 the record would be completely separate
16 from the identity of the student. Is that
17 a similar thing that happens in --

18 MR. HARTLE: Probably not
19 because there'll always be a key that will
20 enable you to go back and find the
21 individual student. When Congress was
22 thinking about whether or not to permit

1 the creation of a the unit record system
2 the decision was essentially that as soon
3 as it's there people will want to use it
4 for other purposes, even purposes that we
5 can't think about right now because we're
6 not that clever.

7 The most likely one was that if
8 a unit record system is available lists
9 every college age male in America somebody
10 will very quickly want to use it to
11 determine if they've registered for the
12 Selective Service.

13 And that's just the sort of
14 thing that I think led Congress to say,
15 wait a minute we're not ready to give the
16 Federal Government this sort of authority
17 to create such a database because we don't
18 know where it will stop.

19 MR. COOK: And we've seen a bit
20 of that, you know, sort of the concerns
21 raised at the state level where you do see
22 the emergence of state data systems based

1 on some sort of student identifier that
2 have been linked with things that you
3 would never imagine them being linked to.

4 There was an example given at a
5 presentation a few years ago of a state in
6 the south where they actually, one of the
7 data elements linked to the identifier was
8 teen pregnancies. So whether or not a
9 student had been pregnant.

10 So that's just an example of the
11 kinds of concerns that were raised in
12 going down this path. And as Terry said,
13 things that would want to be linked to
14 that that we can't even imagine right now.

15 CHAIRMAN STAPLES: Thank you
16 very much. Really appreciate your
17 appearance before us, presentations and
18 answering our questions. And I'm sure
19 we'll have a continuing dialogue with
20 you.

21 MS. PHILLIPS: So to whet our
22 appetites that's our first course of a

1 multi-course banquet. Our next set of
2 commenters, we just have about a half an
3 hour with before we move to public
4 comment.

5 Can I ask Melissa to introduce
6 the next set of guests?

7

1 Issue One: Regulatory Burden and Data
2 Needs

3 MS. LEWIS: You may. And as of
4 now we have no public commenters
5 registered. I'd be happy to introduce
6 them to answer your question.

7 Would Molly Ramsey Flounlacker,
8 who is the Associate Vice President for
9 Federal Relations Association of American
10 Universities. David Rhodes, President of
11 the School of Visual Arts. And Robert G.
12 Templin, Jr., President of the Northern
13 Virginia Community College.

14 Please come forward to the
15 presenters table. Thank you, and welcome.

16 CHAIRMAN STAPLES: Good
17 afternoon. Feel free to proceed in
18 whatever order you would like.

19 MS. FLOUNLACKER: Well thank
20 you, Chairman Staples, and it's good to be
21 here. The Association of American
22 Universities very much appreciates the

1 opportunity to provide additional input to
2 NACIQI today.

3 As stated in AU's written
4 comments submitted in February the system
5 of regional accreditation has played a
6 critical role for more than a century,
7 providing a basic quality assurance to
8 students and their families, the public
9 and the broader public.

10 It reflects a fundamental
11 responsibility for all institutions to
12 demonstrate the ability to provide a
13 quality education in return for Federal
14 Student Aid.

15 While this largely non-
16 Governmental process of peer review has
17 historically been controlled and managed
18 by institutions, as the Federal Student
19 Aid budget has grown, so has federal
20 involvement in the process.

21 With such a diverse higher
22 education system many have concluded that

1 the accreditation process is not
2 effectively meeting its core functions of
3 assuring basic compliance for the purposes
4 of Federal Student Aid eligibility and
5 effectively facilitating quality
6 improvements through accreditations, peer
7 review evaluation process.

8 For the purposes of today's
9 panel I'll focus my comments on issue one,
10 regulatory burden and data needs,
11 recognizing that all of the issues on the
12 agenda for this meeting are interrelated
13 and must be addressed if we are to improve
14 our overall system of accreditation.

15 In particular, it will be
16 critical to clarify the role of the
17 Federal Government and NACIQI in
18 establishing institutional accountability
19 for the use of federal funds, and in
20 contrast the role of accreditors in
21 carrying out the necessary judgments about
22 academic quality, a complimentary but

1 quite distinct role to that of NACIQI.

2 My comments are designed to
3 provide the committee with a snapshot of
4 the concerns that AAU is hearing from its
5 members as well as begin to outline steps
6 that NACIQI might take to address these
7 concerns.

8 As higher education institutions
9 are operating in a highly regulated
10 economy, we the higher education community
11 and the Administration have placed a high
12 priority on reducing regulatory burden
13 across the board.

14 But make no mistake, the burdens
15 associated with the accreditation process
16 are real and not just a by product of this
17 over regulated environment. Our informal
18 survey of institutions shows that
19 accreditation reviews have led to many
20 positive development.

21 But in the last decade these
22 reviews have become increasingly onerous,

1 time consuming for senior administrators
2 and faculty and expensive. With, on
3 average, costs for major research
4 universities beginning at \$1 million for
5 the first year of a three to six year
6 process, at a time when institutional
7 resources are either flat or declining.

8 It's our understanding that
9 several individual institutions have
10 provided you with specific details on
11 direct costs in dollars and faculty time.

12 AAU believes that it's very important to
13 avoid drifting into a system in which the
14 cost of data collection and reporting
15 requirements outstrip their benefits.

16 As a result of the increased
17 regulatory and data burdens we now see an
18 increasing cost/benefit disparity that
19 calls into question whether the current
20 accreditation system is sustainable, much
21 less effective.

22 Regional accreditors are clearly

1 caught in the middle. They're forced to
2 constantly revise their procedures to
3 handle the new demands from Department in
4 the form of regulations and guidance,
5 often translating into more bureaucratic
6 layers of reporting and prescriptive
7 demands for specific outcome measures.

8 As a casualty of these demands
9 many institutions report that faculty
10 participation on a site visit team has
11 become unappealing. This trend is very
12 troubling. To work effectively the system
13 must rely on a site visit team comprising
14 the necessary balance of qualified faculty
15 and administrators from peer institutions.

16 But an increasing number of
17 institutions are reporting that this, in
18 fact, is not the case. NACIQI should take
19 a comprehensive look at what is currently
20 being asked of accrediting agencies and
21 institutions of all sectors they accredit
22 with the goal of developing models of

1 evaluation and accreditation review that
2 simultaneously decrease the burden imposed
3 on institutions while meeting
4 accountability goals.

5 It is there, for example, a more
6 nuanced approach, a tiered approach to re-
7 accreditation review that would meet the
8 external demands of accreditors and reduce
9 demands on institutions. Particularly
10 those that have demonstrated success.

11 Related to regulatory burden is
12 the assessment of student learning
13 outcomes and the definition of
14 institutional continuous improvement in
15 meeting set student learning outcomes.

16 It's increasingly clear that
17 there's been a shift from the assessment
18 of inputs to the evaluation of outputs
19 which can be a step in the right direction
20 of strengthening the culture of learning
21 assessment.

22 But while the Federal Government

1 is prohibited from regulating on student
2 achievement standards, in practice, many
3 institutions are being required to conform
4 to a common set of standards were
5 encouraged to use general, value added
6 assessment instruments, such as the
7 Collegiate Learning Assessment.

8 The CLA is a relatively new
9 instrument though and needs more
10 refinement to effectively demonstrate its
11 reliability and validity. Even then these
12 instruments don't necessarily work for all
13 institutions. And in their current
14 formulation will not necessarily advance
15 the goal of improving student outcomes.

16 In general, establishing a
17 baseline set of data for all institutions
18 is unlikely to be workable or effective
19 and we should be careful not to make
20 qualitative judgments based on
21 quantitative information alone.

22 NACIQI should explore ways in

1 which the Federal Government can achieve
2 greater accountability, not through
3 prescriptive Government established
4 learning outcome measure, but by basing
5 eligibility and other capacity in
6 financial considerations.

7 These measures should, if
8 properly designed and implemented, curb
9 fraud and abuse. At the same time
10 regional accreditors should work with
11 institutions to develop meaningful
12 assessment tools that evaluate student
13 achievement according to their own mission
14 and student body.

15 Perhaps developing standards
16 that are relevant to sectors of
17 institutions rather than applying
18 standards across very different
19 institutions. Many institutions are, in
20 fact, very open and interested in thinking
21 through a range of new measures to gauge
22 student achievement.

1 Such as higher graduation rates,
2 alumni surveys of greater satisfaction
3 over time, among others. And please be
4 clear in that AAU is not, at this point,
5 recommending a new set of standards, but
6 asserting that institutions are very open
7 to a discussion about what standards make
8 the most sense to the them within their
9 sector.

10 As we wrestle with identifying
11 the most appropriate set of data we need
12 to remind ourselves that the U.S. Higher
13 Education System is based on diverse
14 institutions being able to manage their
15 own academic programs, while also
16 maintaining credibility with their funders
17 and the public.

18 This system should allow for
19 different treatments of institutions with
20 different missions and varying levels of
21 quality. Effectively weeding out those
22 that do not meet basic fiscal and

1 operational thresholds and work with
2 others to improve their academic programs.

3 In conclusion, it is
4 increasingly clear that applying a one
5 size fits all set of standards, data
6 requirements and review procedures,
7 regardless of type, size and mission of an
8 institution is not an effective model for
9 accreditation.

10 We must work to reduce
11 regulatory burden and reassess the call
12 for adoption of metrics that purport to
13 quantify student learning outcomes in ways
14 that are not meaningful or may be
15 inconsistent with the educational mission
16 of a college or university.

17 Again, AAU greatly appreciates
18 the opportunity to provide input and very
19 much looks forward to ongoing discussions.

20 Thank you.

21 CHAIRMAN STAPLES: Thank you.

22 MR. RHODES: Mr. Chairman,

1 members of the committee, good afternoon
2 and thank you for the invitation to appear
3 before you today. Although I'm not
4 exactly sure who I'm supposed to thank for
5 that invitation.

6 I've been President of the
7 School of Visual Arts for almost 33 years.

8 I was the Middle States Commissioner from
9 2003 to 2007. I was asked to rejoin the
10 commission in 2010, although I'm a
11 commissioner I do not represent the
12 commission today.

13 I'm also Vice Chairman the
14 Regents Advisory Council on Institutional
15 Accreditation and have served in that
16 capacity for nine years. However, I do
17 not represent the Regents nor the New York
18 State Department of Education today.

19 In my career I've been on 12
20 visits for MSCHE, 11 as team chair. Four
21 visits for NASAD, once as team chair. Two
22 visits for WASC, and served as team chair

1 a recent MICD readiness visit this past
2 November.

3 I trust the members of the
4 committee are familiar with President
5 Tilghman's letter to Provost Phillips of
6 January 14th, 2011. I think it best to
7 begin my remarks by quoting briefly from
8 President Tilghman's letter.

9 "As the members of this sub-
10 committee and full committee consider ways
11 that the accreditation process can be used
12 to improve the overall quality of the
13 education available to post secondary
14 students I urge them to do adopt a do no
15 harm approach to a sector of our society
16 that contributes so significantly to
17 American competitiveness."

18 Without putting to fine a point
19 on the issue, President Tilghman was
20 concerned that an emphasis on collecting
21 data on student learning outcomes had
22 distorted the accreditation process and

1 not for the better.

2 Implicitly she seems to be
3 asking the committee to reconsider the
4 emphasis it has apparently placed on the
5 development of learning outcomes
6 assessment methodology that is exemplified
7 in Questions 8 and 14 of the questions
8 forwarded to the panel this last week.

9 And I believe President Tilghman
10 has identified a serious problem. To
11 quote my former colleague on the
12 commission, Daniel Chen who is the chair
13 of the Department of Sociology at the
14 Hamilton College, the problems with
15 learning outcomes assessment is, "There is
16 no zero order correlation of assessment
17 programs with the market success of the
18 college."

19 So it is not clear why we should
20 be doing the kind of assessment we should
21 be engaged in rather than the sorts of
22 assessment President Tilghman suggests

1 would be more valuable for Princeton and I
2 would argue would be more valuable for all
3 institutions.

4 In my 33 years as president of
5 VSA I've received visitors from MSCHE on
6 four occasions, visitors from NASAD on
7 five occasions, the AATA twice FITA, which
8 is now CIDA, three times. As I think it
9 is evident the majority of visits to SVA
10 are not from my institutional credit,
11 MSCHE, but from my programmatic
12 accreditors, and the costs follow the
13 number of visits.

14 I think, therefore, from my
15 experience the bulk of SVA's accreditation
16 costs are self inflicted. So with respect
17 to cost and efficiencies SVA has chosen
18 its additional burdens, and appropriately
19 so, as have most institutions with
20 programs that lead to licensure or
21 certification.

22 So it does not appear to me this

1 excessive cost should be overly concerning
2 to NACIQI. I would hope that we're all
3 mindful that the integrity of financial
4 aid programs is the responsibility of the
5 Triad, voluntary accreditation that
6 ensures program quality, state
7 authorization that is far more varied in
8 its rigor than any of the institutional
9 accreditors.

10 And the department that has the
11 ultimate responsibility for ensuring the
12 truly bad actors, those who are paying
13 commission to recruiters and financial aid
14 officers, those who are falsifying data
15 and altering student records, those are
16 deceiving students with false promises,
17 are ousted from program participation.

18 What is of concern to me is that
19 lately the Triad seems to have ignored and
20 many of the responsibilities that belong
21 other members of the Triad are devolving
22 onto institutional accreditors. As the

1 premise of Question 12 seems to imply.

2 But this premise is not correct.

3 An accreditor is recognized by the
4 Secretary because it is a reliable
5 authority regarding the quality of
6 education and training provided the
7 institutional program it accredits.

8 Finally, you've asked about
9 data, I have two remarks. The first is
10 obvious, too much data is collected.
11 There is a simple standard that should be
12 used to decide what data should be
13 collected. First question to be answered
14 is why is the data being asked for at all?

15 And second and more importantly,
16 what will be done with the data when it's
17 received? How will it be used in
18 actionable ways? If there is not plan to
19 use the data in important and truly
20 informative ways, the presumption should
21 be that the data request is unnecessary
22 and therefore burdensome.

1 With that said, there is a
2 rather glaring omission in the data we as
3 institutions are asked to provide. We are
4 asked to provide retention and graduation
5 data for full time, first time freshmen,
6 exclusively.

7 It is as if part-time students
8 and transfer students do not matter even
9 though they are ever increasing share of
10 students most colleges and universities
11 enroll.

12 If there's one data set that all
13 institutions should be asked to collect,
14 and publish, it is the retention and
15 graduation rates of all the students,
16 first time and transfer, full time and
17 part time, who matriculate at our
18 institutions. Thank you. I'll try to
19 answer your questions as best as I can.

20 MR. TEMPLIN: Good afternoon.
21 My name is Bob Templin, I'm the President
22 of Northern Virginia Community College.

1 Welcome to my service area.

2 NOVA, as we're known, have six
3 campuses and this academic year we'll
4 enroll about 78,000 students. My students
5 come from 190 different nationalities and
6 territories. We're a minority majority
7 school.

8 I want to thank you first of all
9 for focusing attention on this issue of
10 the burdens and costs of accreditation.
11 All too often oversight bodies are
12 insufficiently sensitive to the cost and
13 data requirement imposed through various
14 reporting requirements.

15 In some cases information
16 provided by us is not used sufficiently to
17 really justify the expense. Today I have
18 seven quick points that I'd like to make
19 to you from an institutional perspective.

20 I don't represent an association, but
21 just as an individual institution.

22 First, I believe that the cost

1 of accreditation, while significant, are
2 worth the expense. In our own case, in
3 Northern Virginia Community College, is at
4 the midpoint of its reaffirmation process
5 right now. We've submitted our materials,
6 we're waiting for the team to arrive.

7 And though this is an expensive
8 process I'm one of those presidents that
9 feels that the accreditation process is a
10 value to our institution. And I feel that
11 it's worth the money that we spend.

12 Given that an institution only
13 goes through reaffirmation of
14 accreditation every seven to ten years,
15 depending on which region you're in, the
16 resources required on an annual basis to
17 come into compliance and actually do the
18 self study and compliance certification,
19 while significant, if it's done
20 appropriately over a seven to ten year
21 period is quite manageable and quite
22 reasonable.

1 In our regional accreditation
2 process, which is the Southern Association
3 of Colleges and Schools, we've streamlined
4 the process significantly and we've moved
5 from kind of an input focused standards
6 where we had 450 requirements and we've
7 moved now to a set of principles that
8 guide institutions that have 75 standards.

9 And it's much improved for the
10 institutions. The burdensome nature of it
11 has been significantly adjusted. But even
12 within that process, increasingly because
13 of the requirements desired by the
14 Department of Education for the Southern
15 Association, has created some onerous
16 reporting requirements that I'll talk
17 about in a moment.

18 My second point as an
19 institution is that I applaud and would
20 encourage both the Department of Education
21 and our accreditors to continue the
22 discussion and the focus on outcomes. I

1 know it's very controversial, I know it's
2 very complicated.

3 But at the end of the day that
4 is what our institutions need to
5 articulate what we're about and whether or
6 not we're achieving it. And the fact that
7 it's difficult and sometimes expensive
8 really shouldn't dissuade us from that
9 purpose.

10 And my third point is that in
11 many places community college officials
12 feel that accreditors are imposing a heavy
13 hand when it comes to this issue of
14 student learning outcomes. But I believe
15 that we have to be accountable for
16 assessment and that the accountability
17 needs to come through accreditation.

18 We, as you've heard today, I
19 joining
20 others, resist the efforts to overly
21 standardize these matters. When it
22 becomes reductionist and bureaucratic we

1 lose sight of what our original intention
2 is. I think there has to be a great deal
3 of flexibility in this area.

4 Fourth, with regard to the issue
5 of tracking employment for career and
6 technical programs, and this is
7 controversial with community colleges too,
8 I think we have no choice but to make that
9 assessment of that outcome.

10 To track those outcomes and to
11 reveal those to the public to the best of
12 our ability. It is expensive and time
13 consuming but I do believe that we have to
14 do it.

15 I don't believe that we know how
16 to do that completely yet. But I think we
17 are on a journey. Your work and your
18 discussion helps push us in that direction
19 and I urge you to continue.

20 My fifth point is that, as has
21 been already mentioned, wherever possible
22 we should have our data sets be compatible

1 for both Department's review and for our
2 regional accreditation review, wherever
3 that is possible.

4 And we have to have a discussion
5 on clarifying data sets where we're not
6 talking about outcomes of the minority of
7 our students, but open the discussion to
8 the majority. We used to call them non-
9 traditional students. They're not non-
10 traditional, they're the majority of the
11 students.

12 When are we going to focus the
13 higher education model on the majority of
14 our students rather than a subset of 18 to
15 21 year olds who are engaged in first
16 time, full time higher education activity.

17 Even the notion of transfer that
18 we've discussed today is a complicated
19 one, even more so than has been already
20 mentioned. Northern Virginia Community
21 College provides transfer students to
22 universities in Virginia than any other

1 institution, but we receive more transfer
2 students than any other institution in the
3 commonwealth of Virginia also. And it's
4 very difficult to understand which way the
5 transfer is happening sometimes.

6 Sixth, the accreditation
7 processes should be sufficiently flexible
8 to require different levels of data
9 gathering and reporting. And it seems
10 that I'm hearing that theme here today,
11 and from an institutional perspective it
12 makes great sense.

13 Outstanding institutions that
14 have been able to demonstrate positive
15 outcomes should not have the data
16 reporting burden that an institution that
17 time after time after time is indicating
18 that it has these flags that you're
19 talking about.

20 Those flags should be an
21 indicator that more needs to be reported,
22 more work needs to be done by those

1 institutions. And I say that coming from
2 a community college that does not have a
3 high graduation rate.

4 Those institutions that are
5 among community colleges that are at the
6 bottom of that group we need to look at
7 them more closely than those who are
8 demonstrating greater success.

9 There is, finally, the common
10 perception by institutions that the
11 accreditation process is being micro
12 managed by the Department of Education.
13 We believe that the guiding set of
14 standards that should be used by the
15 Department are those that our outlined in
16 Section 496 of the Higher Education Act.

17 These criteria are the product
18 of discussions, debate and refinement and
19 remain of intense interest to the academic
20 community. The regulatory apparatus built
21 around these standards should be limited.

22 And agencies seeking recognition

1 should have the responsibility, and the
2 flexibility, to prove to the Secretary
3 that they meet these criteria rather than
4 the Secretary having an elaborate set of
5 very specific criteria.

6 I'll give you an example of how
7 this has created an onerous burden upon
8 institutions and just give one specific
9 example and it deals with the issue of
10 substantive change. As a community
11 college one of our attributes is that we
12 have to be responsive and very flexible.

13 And yes because of the new
14 reporting requirements if we're going to
15 go to an off campus location to work with
16 an employee to deliver a program, I have
17 to six months notice and I have to file a
18 very thick report with regard to what our
19 intentionality is.

20 That program might be over
21 before -- in order to respond to the needs
22 of the employer the program could be over

1 before I've even heard back from the
2 Southern Association of Colleges and
3 Schools. In the last year and a half
4 we've done 23 of these reports and my job
5 is to be responsive to the changing needs
6 of the community.

7 Twenty-three reports and I can
8 tell you it is a paper chase, it has made
9 no outcome difference with regard to the
10 quality that we do or with regard to the
11 standards and accountability of the
12 institution. But it has created a very
13 thick file. Thank you very much.

14 CHAIRMAN STAPLES: Thank you
15 very much. We don't have much time
16 allotted for questions but I certainly
17 will allow a few and I just ask that if
18 members have questions make them pointed
19 and relatively brief. Anybody have a
20 question? Arthur?

21 MR. ROTHKOPF: Let me pose a
22 thesis to you as to why all this is come

1 about and I'd be interested in your
2 reaction to it. I think there's probably
3 general agreement that the accreditors do
4 a fine job on their traditional role of
5 continuous improvement.

6 Self studies that go on I think
7 you'll find, at least historically, and
8 let's leave aside recent times as the
9 burdens have gotten greater, they've done
10 a very good job of helping institutions
11 look at some of their problems, get help
12 as to what challenges exist and, in some
13 cases, where there are real problems start
14 dealing with those.

15 But I would pose the thesis that
16 the difficulties that we're now seeing is
17 coming about because of the gatekeeper
18 role. Which really came later than the
19 origination of most of the organizations
20 which go back into the 19th Century. Now
21 they're gatekeepers.

22 And the gatekeepers, again, for

1 \$150 billion of taxpayer money in what
2 really amounts to entitlements. They're
3 officially entitlements but they're as
4 much of an entitlement as Medicare and
5 Social Security in many ways.

6 And that's where the burden is
7 coming from, I mean at least that's the
8 thesis I put to you. That because of all
9 the money the Congress puts burdens on the
10 Department of Education and then those
11 burdens get pushed onto the accrediting
12 agencies who'd just as soon probably not
13 have them, and then they get pushed down
14 to you.

15 One, do you believe based on
16 your own experience that that's the case?

17 And if so should this organization
18 consider, or should we consider,
19 separating the gatekeeping role from the
20 accreditation role?

21 MS. FLOUNLACKER: Well I think
22 there's actually a lot of merit to the

1 thesis that you outlined and certainly the
2 blurring of the gatekeeping
3 responsibilities has been an issue that
4 we've all been discussing.

5 I think it really goes back to
6 the fundamental purpose of the Federal
7 Government and NACIQI with respect to
8 student aid accountability and looking at
9 the fiscal eligibility decisions. And so
10 just speaking with respect to what I've
11 been hearing from my membership is, is
12 there a way to strengthen the fiscal
13 criteria that the Federal Government
14 relies upon in making their eligibility
15 decision.

16 With respect to looking at
17 capacity, financial considerations,
18 whether that's resource, adequacy,
19 obviously student loans is already very
20 much in the mix.

21 But can these criteria be
22 strengthened. Then, more importantly

1 perhaps, can there be a better or stronger
2 mechanism for the Department to enforce
3 these mechanisms.

4 You know, these are obviously
5 just posing questions and the more
6 difficult part is really coming up with
7 what the new metrics might look like.

8 But I think it's really
9 important to separate, again, the role of
10 NACIQI with that of the regional creditors
11 who are supposed to be, and a large extent
12 do a very good job of working with peer
13 reviewers in the academic quality and
14 continuous improvement aspect of the
15 accreditation process.

16 Having said that, a footnote
17 about the continuous improvement piece
18 here is that I think there has been
19 concern with some institutions and that
20 increasingly, because of the pressures
21 from the Department with respect to very
22 specific outcome measures, there's been

1 more pressure for institutions to define
2 continuous improvement according to very
3 narrow, quantifiable standards versus what
4 has been historically a more nuanced
5 institutional mission specific goal.

6 MR. ROTHKOPF: Any other
7 thoughts?

8 MR. TEMPLIN: Well I would
9 actually go back to Brit's point about
10 there's a point in the academic community
11 where peer institutions, in effect, have
12 the obligation to indicate that a member
13 of that community is no longer meeting
14 their expectations.

15 And that should be a definite
16 trigger to any funding source that brings
17 into question the academic integrity and
18 quality of the program.

19 I think that's an appropriate
20 thing for accreditation to do and I think
21 it's an appropriate thing for the Federal
22 Government to take note of.

1 So in that respect I do think
2 that it plays a role, and should, in the
3 gatekeeper function. I think it's an
4 appropriate function and an appropriate
5 expectation of the Federal Government to
6 have regional accreditation.

7 The question is how much farther
8 beyond is the responsibility of the
9 regional accreditor versus the
10 responsibility of the Federal Government
11 itself and state government, as the
12 regulator? And I think you've asked a key
13 questions, I think accreditors should be a
14 part of the process.

15 The question is should they have
16 that much responsibility for what you're
17 talking about. Because in jeopardy is the
18 process of peer review and continuous
19 improvement if we move too far to the
20 other direction.

21 If it becomes a regulatory arm
22 of the Federal Government, and that's it's

1 primary function to the institution, then
2 it's going to lose it's effectiveness as
3 an institution helps with continuous
4 improvement.

5 And perhaps even the function of
6 identifying a member of the academic
7 community who doesn't meet the
8 expectations of the academic community.

9 CHAIRMAN STAPLES: Any further
10 comments or questions? Jamie.

11 MS. STUDLEY: I thank Dr.
12 Templin for a wonderful example. It's
13 really valuable to have a very crisp
14 example like the substantive change
15 example you gave us. I've got a quick
16 question for President Rhodes.

17 Why do you schools seek
18 programmatic accreditation, which you
19 described as voluntary and a nice way of
20 putting it.

21 MR. RHODES: Well it's quasi-
22 voluntary, in the case of one of the

1 accreditors, I'm an independent college of
2 art, all of the other independent colleges
3 of art have NASAD accreditation and it
4 gives me entree to a group of like peers
5 in an organization called AICAD,
6 Association of Independent Colleges of Art
7 and Design.

8 We do a kind of wonderful data
9 exchange amongst ourselves. And so in
10 order to be part of that group I have to
11 go through that process. I think it's
12 worthwhile.

13 With respect to the AATA, the
14 American Art Therapy Association, there's
15 a benefit to my students to have that,
16 which is they are allowed to sit for
17 licensure with half the amount of practice
18 time that's available.

19 CIDA, which is interior design,
20 open again as a value to some students, it
21 opens scholarship opportunities where
22 there are foundations that will only give

1 monies to CIDA accreditation.

2 And RATE isn't voluntary, it was
3 mandated by the State of New York that
4 they either do RATE -- any teacher ed
5 program in the State of New York either
6 have RATE accreditation NEASC or TEAC,
7 who are now merging anyway so we're going
8 that route. But it's a requirement under
9 state regulation.

10 MS. STUDLEY: Both you and AAU
11 seem to describe student learning outcomes
12 in much more narrow and quantifiable terms
13 than I expect to hear them talked about.

14 And I think that there's been
15 less imagination about what this might be.

16 That the, in some initial resistance in
17 some sectors of higher education to any
18 discussion of outcomes beyond the
19 individual faculty members or possibly
20 departments evaluation of learning.

21 The field was filled by
22 quantifiable ones, it may be a good

1 conversation to be had at a time when
2 we're not under time pressure about how we
3 should be thinking about student learning
4 outcomes and accreditors.

5 But when you talk about student
6 learning outcomes could you give me the
7 brief answer about what you think
8 populates that universe. Because you're
9 very clear about the view that you aren't
10 thrilled with them, you think they are
11 causing bad things to happen.

12 I think this could be one of
13 those places where different people
14 imagine different things when they hear
15 student learning outcomes and that that's
16 part of the translation that we want to be
17 doing in our policy conversation.

18 MS. FLOUNLACKER: I'll start. I
19 think it's really important to be clear
20 that we absolutely are in favor of student
21 outcomes. And continuing to work with
22 regional accreditors and peer reviewers

1 and outlining a set of standards that make
2 sense for an individual institution
3 according to their mission, so that's very
4 important to state from the start.

5 And I think what's happening is
6 that institutions are reacting to
7 pressures and news standards and
8 regulations that are being put in place by
9 the accreditors that are defining student
10 outcomes in different ways and so it's not
11 the institutions that are now defining
12 outcomes in quantifiable ways.

13 It's pressures from outside
14 entities doing so and not necessarily in
15 consultation with the institution itself
16 versus a more decentralized approach
17 perhaps many institutions have whetted to
18 that really allows for a deeper assessment
19 perhaps of some of the very complex set of
20 skills with respect to critical thinking,
21 analytical reasoning, et cetera, et
22 cetera.

1 So I don't know if that's
2 helpful. But I think it's very important
3 to say we're absolutely in favor of
4 student outcomes. It's a question of who
5 defines them and how are they measured
6 with respect to their reliability and
7 validity.

8 And many would say that they're
9 not being defined and measured in a way
10 that is for the better good of all of us.

11 Want to add anything?

12 MR. RHODES: What I would be
13 concerned about is something that a former
14 colleague of mine did when he left another
15 institution. Which was he tried to
16 satisfy his accreditor, he tried to make a
17 numerical scale for creativity and a whole
18 set of other things.

19 The concern is, you put it very
20 well, discretion. My students work is
21 reviewed generally every semester by not
22 just the faculty member who's rendering

1 the grade by the faculty at large, the
2 typical portfolio review.

3 The student work is sitting up
4 on the website for any perspective student
5 to look at and if it isn't good enough I'm
6 going to see a shortfall in the next
7 incoming class so that it's out there for
8 all to see. But what I'm concerned is
9 that I'm going to have to reduce my
10 judgments, or better, my faculties
11 judgments or even outside evaluators
12 judgments, most of the programs I have
13 have a thesis review and they're usually
14 outside evaluators.

15 Have those reduced to some kind
16 of number and that concerns me because I
17 don't think that, at least the stuff I do,
18 is reducible to that and the best example
19 I can give you of it is, I have a
20 department chair who has decided that he's
21 going to grade portfolios on a scale of
22 one to ten, except he uses ten plus, plus,

1 plus, plus, plus and so forth.

2 So he's undermined his own
3 system, which is okay, it's his system and
4 it allows him to give awards as
5 appropriate based upon the quality of the
6 student work. But the judgment is
7 essentially one of discretion rather than
8 one that's arrived at by formula.

9 And it also allows us, in some
10 measure, to measure gains over a
11 substantial period of time because we keep
12 work from year to year to year, and we
13 also require students to keep work from
14 year to year so that they can see, the
15 most important thing actually, is they can
16 see that they've actually gotten better at
17 what it is they came to do over time.

18 The best thing that ever
19 happened to me as an undergraduate was a
20 week before graduation a faculty member in
21 my freshman writing seminar gave me my
22 last freshman paper, that was really

1 embarrassing, but a great lesson.

2 CHAIRMAN STAPLES: Thank you.
3 I think we're out of time. In fact we're
4 actually after time, I hope you all
5 understand, members of the committee,
6 we're trying to stay on track for our
7 committee discussions.

8 I want to thank you very much
9 for your time and your presentations, I
10 sincerely appreciate it. We'll take a
11 short break and then we'll begin our
12 committee discussions.

13 (Whereupon, the meeting went off
14 the record at 2:47 p.m. and went
15 back on the record at 3:07 p.m.)

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1 Committee Discussion

2 CHAIRMAN STAPLES: Okay, now we
3 proceed to the committee discussion on our
4 agenda. And I think what I'd like to do
5 is I'll be happy just to manage in terms
6 of coordinating the hand raising and
7 discussion part of it.

8 But Sue Phillips is really
9 running what we're doing and helping us
10 get to hopefully a consensus on where we
11 want to go next. And so I'll let her sort
12 of summarize where you'd like to go and
13 how you'd like the discussion to proceed.

14 MS. PHILLIPS: Thank you, Cam.
15 I'll begin by saying that I'm not
16 automatically assuming that consensus will
17 be achieved.

18 I realize there are at least 15
19 different people and 35 different opinions
20 around the table so far, so we'll just see
21 where we go with that.

22 The way that we've structured

1 this to make it somewhat manageable is to
2 take each of the three issues for the
3 moment separately, realizing that
4 ultimately they're not separate.

5 We've reserved a bit of time at
6 the end of each set of discussions to be
7 able to bring our thoughts together as a
8 committee and to be able to discuss sort
9 of where we see things now and where we
10 see that we might want to go.

11 So for the next how ever many
12 minutes, I wanted to focus on where we
13 think we are relative to the question of
14 regulatory burden and data needs, this set
15 of issues that we've been focusing on just
16 for the last hour or so.

17 In talking this over with some
18 folks, it seems like a very smart idea to
19 begin our conversation by getting a fix on
20 what we think is working well that we want
21 to keep, what we think is getting better
22 that we'd want to keep growing before we

1 start talking about what we want to
2 change.

3 So what I'd like to do is open
4 for discussion first the question of what,
5 with regard to the question of regulatory
6 burden and data needs, what do you think
7 is working well that we'd want to keep?
8 What do you think is getting better that
9 we want to grow?

10 And keep your notes about what
11 you want to change because that's going to
12 be the next thing up.

13 I wanted to give everybody an
14 opportunity to speak, get a feel for where
15 we are as a group before we then move on
16 to what we would do differently. And I
17 hear Brit.

18 MR. KIRWAN: Before we start the
19 discussion on the first topic perhaps you
20 or Cam could remind me of what the end
21 product is going to be.

22 What do we hope to have at the

1 end of this process? Is it a set of
2 recommendations that we're going to change
3 potentially the accreditation process?

4 MS. PHILLIPS: Well, first of
5 all, it is up to us to decide what it is
6 that we want to offer.

7 Broadly framed, the Secretary
8 offered us the opportunity to offer him
9 advice about what should be changed in the
10 Higher Ed Act, so that's pretty broad.

11 There was some discussion early
12 on about whether it absolutely had to be
13 constrained to accreditation, and we
14 didn't hear any actual constraint on that,
15 but I think many of us took that as a
16 constraint, sort of the corral in which we
17 should be working.

18 Part of what we conclude as a
19 written document in December, which is our
20 target date -- but let me just put a pause
21 in that.

22 I don't believe that December

1 will be the end of our conversations about
2 what could be better, and there may well
3 be time after that for us to carry on
4 additional conversations.

5 But to get to the product time
6 that they've asked us for we need to have
7 a written document by December.

8 That document might include,
9 Dear Secretary, things are going great.
10 It might include Dear Secretary, please
11 blow it up and start over in these ways.

12 It might include something in
13 between or it might include places where
14 we think that there are places where he or
15 we should study more to be able to be more
16 coherent and thoughtful about what we
17 think should happen.

18 So part of what that looks like
19 when we get to that point will be shaped
20 by this discussion now, by the discussion
21 that we have tomorrow. We'll have two
22 more of these as well as a summative one

1 for all three issues.

2 And then as we try to sleep on
3 it, pull it together, see what it looks
4 like, we may have further thoughts about
5 that.

6 MR. KIRWAN: Thank you.

7 MS. PHILLIPS: Yes, absolutely.

8 CHAIRMAN STAPLES: I want to add
9 just briefly to that because I don't know,
10 Brit, if you heard our discussion about
11 this before. We have a September meeting
12 of the subcommittee, and the subcommittee
13 is hoping to draft up what they think this
14 committee wants to focus on regarding
15 policy recommendations.

16 And I think that to this point
17 there hasn't been a broad engagement of
18 every member of this committee in this
19 subject, at least not enough I don't think
20 to inform the subcommittee about where the
21 direction is that we want to go.

22 So I'm hopeful that today

1 everyone will take the opportunity to say
2 as explicit or as specifically as you'd
3 like, or as generally as you'd like what
4 you think we ought to be doing in terms of
5 recommendations, what you think the most
6 significant issues are, where you think
7 our recommendations ought to focus.
8 Because I think out of that, subcommittee
9 will try to find that package of
10 recommendations to bring back to us.

11 MS. PHILLIPS: So with that in
12 mind, other questions about this? So the
13 task at hand is, what is working well with
14 respect to regulatory burden and data
15 needs?

16 What do we want to keep? What's
17 getting better? What would we want to
18 keep growing?

19 MR. WU: I was going to suggest
20 it may be difficult to address this in the
21 abstract. That is, I think it's not an
22 all or nothing proposition.

1 It's highly likely that any of
2 us and a consensus of us would look and
3 would find some parts of the data
4 gathering objectionable and others not.
5 We may all be calibrated differently.

6 But I'm going to guess that
7 probably for most of us it's not just a
8 blanket all or nothing. So that's my
9 suggestion about how we think this
10 through.

11 That is, in the abstract is less
12 productive probably than if we try to
13 break it down into smaller, more concrete
14 pieces.

15 But from the two panels that we
16 heard, I just wanted to sum up what I
17 thought were four different concerns that
18 were raised. They were different sets of
19 concerns.

20 The first is, what are the
21 standards? Are they measuring things that
22 are measurable? Are they measuring what

1 they claim to measure? Are they measuring
2 accurately?

3 So the first is just is this
4 particular thing, student learning
5 outcomes let's say, is it quantifiable?
6 Has it been quantified properly here, it's
7 been quantified in a way that would meet
8 social science centers?

9 So that's the first big piece,
10 just what substantively are the standards.

11 But the second is separate from the
12 substance --

13 MR. VANDERHOEF: Excuse me, how
14 does that fit in to what we're doing well?

15 MR. WU: Well, I thought the
16 presentations we heard were, in particular
17 the data gathering and whether the data
18 gathering is what we're doing well.

19 MR. VANDERHOEF: All right.

20 MR. WU: So if the standards
21 aren't measuring something that's useful
22 to measure then we're not doing it well,

1 right? Or if they're
2 measuring, if they purport to measure
3 something but those particular standards
4 don't actually measure it properly then
5 we're not doing it well, right? But
6 the second, I'm just trying to sum up what
7 I heard from the two panels just to try to
8 group it to help me think this through.
9 It may or may not be useful to the body.

10 Second though, is much of this
11 was about the cost benefit analysis so it
12 may be some things do measure. They
13 measure what they purport to measure.
14 They measure them well. They're useful,
15 but they're just too onerous a burden for
16 us to want to do it.

17 You know, there are a lot of
18 pieces of data we'd like to have if we
19 could have, but we assess and decide it's
20 just not worth getting that piece of data.

21

22 It just takes too much person

1 power, too much financial outlay. So that
2 was the second thing, what's the cost
3 benefit.

4 The third though that several of
5 the people raised is, who develops the
6 standard?

7 So they found particularly
8 objectionable not necessarily the
9 substantive standards nor their utility,
10 but whether it had this quality of being
11 imposed by the federal government, imposed
12 by NACIQI or imposed by the accreditors
13 versus somehow organically coming from
14 peers.

15 But the fourth theme that ran
16 through this was also diversity and
17 flexibility, the notion that it doesn't
18 work well to have one size fits all
19 standards. That is, there are
20 different types of institutions. And
21 beyond different types of institutions
22 there was a strand of all, not all, but of

1 several of the presentations that had to
2 do with some institutions at, for lack of
3 a better way to put it, at the high end
4 let's say that are so consistently good
5 that to impose upon them the same
6 standards being imposed upon others is
7 especially a societal waste.

8 So that's how I group the four
9 different areas of comments as I heard
10 them.

11 MR. PEPICELLO: Yes, if I can
12 follow on that because I think this does
13 fit, Susan, is what we're doing well is
14 gathering data, all kinds of it,
15 everywhere, for purposes that, any purpose
16 you want.

17 And I think what Frank is honing
18 in on is the other piece of that. I mean
19 it goes hand in hand.

20 We're doing this well but the
21 way to make it better is to look at the
22 four things that maybe that Frank has put

1 out there.

2 To say what we need to do is
3 organize that better, put it into a
4 structure that is flexible going forward.

5 Because I didn't hear anybody, no one
6 said we don't collect data well. They all
7 said we collect too much of it and don't
8 know what to do with it perhaps.

9 MS. STUDLEY: Anne said we
10 collected a little slowly and we're not as
11 sure about its reliability as we'd like.

12 MR. ROTHKOPF: But the other
13 point though is perhaps --

14 CHAIRMAN STAPLES: Let me ask a
15 question.

16 Do you want me to actually try
17 to manage this or do you want to just
18 chime in?

19 I'm okay with just chiming in, I just
20 wanted to make sure I understand the
21 ground rules, because I've got eight
22 people with hands up and others jumping

1 in.

2 How about we just have a
3 conversation? I won't try to manage this
4 discussion.

5 MR. ROTHKOPF: Yes, I was just
6 going to say I thought perhaps the most
7 important piece of data we don't get, I
8 mean Brit raised it in kind of this
9 conversation about graduation rates, and
10 we don't get graduation rates in the way
11 that is useful. We get an awful lot
12 of stuff and rules that are imposed by the
13 Department because of what Congress has
14 done and rule making and all.

15 And the problem is this privacy
16 issue. I happen to believe that it's
17 important to get this information and I
18 personally would recommend that Congress
19 get rid of that privacy rule and say you
20 can have a -- and there's got to be a way
21 under our system.

22 You know, if American Express

1 can do it then I think the federal
2 government can do it. The IRS can do it.

3 I think we can do it here.

4 That we ought to have a unit
5 record system on students and follow them
6 along so that we know we don't -- so that
7 ACE can't say oh gee, we can't do it.

8 Well, we can't do it because
9 we've said we've imposed a requirement
10 that we can't overcome. I think we should
11 have a unit record system.

12 And I think if that's the case
13 then we could focus on completion rates
14 which is perhaps the most important. I
15 don't know that it's the most important,
16 but I think it's a very important piece of
17 information that we don't get, and we get
18 perhaps a lot of other information which
19 is less useful.

20 MR. KIRWAN: Could I have a real
21 quick, just to this very point you're
22 addressing because I resonate to it.

1 You know, there is this federal
2 program called Race to the Top. And I
3 don't know, 48 states, or no, 40 states
4 applied for Race to the Top.

5 Now one thing you had to commit
6 to if you were going to be an applicant
7 for Race to the Top that you would have a
8 longitudinal data system that could track
9 students from preschool into the work
10 force. You couldn't apply unless you
11 committed to that.

12 So we've got 40 states out there
13 that have committed to, and this is a
14 federal program, so the federal government
15 has created a program that requires a unit
16 record.

17 And we're participating in that
18 in Maryland, so I'm a little lost to
19 understand why somehow in one area the
20 federal government is willing to bless a
21 unit record system and now here in another
22 domain we're not going to use a unit

1 record. So I'm just basically supporting
2 what you're saying, Art.

3 CHAIRMAN STAPLES: It's not
4 mandated though. You don't have to apply
5 for Race to the Top Fund, right?

6 MR. KIRWAN: Well, that's true.
7 That's true. But 40 states did and the
8 federal government put the program in
9 play.

10 CHAIRMAN STAPLES: No, I
11 understand that.

12 MR. KEISER: But part of our
13 problem is looking at things that we
14 really should be looking at, which is I
15 think Arthur brings up correctly, versus
16 those things we are doing, because there
17 was a problem in the past and there was a
18 knee-jerk reaction. We created a
19 regulation or a statute.

20 And if you look through those
21 decisions we made today on many of the,
22 well, the little items, they were a teach-

1 out issue or they were substantive issue
2 based on a small group of problems that
3 occurred in the past but are now uniformly
4 enforced.

5 And they've become incredibly
6 burdensome as regulations pile on top of
7 each other and then start competing with
8 each other.

9 And frankly, I think the funny
10 part is that the Obama administration is
11 out there in the public talking about
12 let's get rid of the bad regulation and
13 they're piling on tremendous amount of
14 regulation in education.

15 I mean just the credit hour is
16 going to be a nightmare, an absolute
17 nightmare. Misrepresentation, absolute
18 nightmare to enforce.

19 But that's not my -- you know,
20 and that's the political problem we need
21 to be looking at.

22 And hopefully if we start

1 talking about what are suggestions, we
2 might want to compile all the regulations,
3 those that really are not that beneficial
4 in a true sense, and somehow, someday move
5 those to a different place and a different
6 set of oversights.

7 CHAIRMAN STAPLES: One of the
8 thoughts that I have about the data that I
9 keep coming back to and I was thinking
10 about it today.

11 I'm still not sure I know
12 exactly what data we want to collect for
13 what purpose. And by that I mean Arthur's
14 comment, \$150 billion, what exactly do we
15 want to know for the allocation of that
16 money? What does the federal government
17 need to know just for that purpose?

18 Forget about all the other ways
19 we collect data for student outcomes and
20 measuring educational quality. Is
21 educational quality relevant to that or is
22 that about more some sort of fiscal

1 stability?

2 And is it a much smaller set of
3 issues that we're really trying to get at
4 to track that money?

5 Are we really trying to say that
6 we need to create a whole new measure for
7 measuring the quality of educational
8 systems for that purpose? In other words,
9 what data for what purpose?

10 And for me it seems it's hard to
11 know who should do those things until
12 you've defined what it is you want and for
13 what purpose.

14 MR. KEISER: The problem becomes
15 the one-size-fits-all mentality. And I
16 think our speakers really made that
17 awfully clear. Community college
18 enrolls a different kind of student than
19 this, you know, a law school and the state
20 university system of California.
21 Different problem, different set of
22 standards, different set of students.

1 And what happens is, and that's the
2 real problem of all the regulatory
3 pressures, it's hard to write rules for
4 diverse groups. And it's hard to write
5 multiple rules because then they become
6 unfair.

7 I mean is it fair for an MIT,
8 which is ultimately one of the best
9 schools in the world, to follow the same
10 standards as the small school, a Mom and
11 Pop school in southern Alabama with 40
12 students?

13 It's no, but it's not fair not
14 to and that's the problem that we face.
15 And in the country we live in, fairness is
16 important and it creates all kinds of
17 challenges.

18 MR. LEWIS: One of the realities
19 coming out of all of this, and it may be
20 at a certain level of irony, is that in
21 the presentations today we come to also
22 realize that really we're not talking

1 about a system but we're in some ways
2 talking about an ecosystem, and where
3 there are indeed those kinds of
4 distinctions between the MITs and the
5 small institution in Alabama.

6 And it may be forcing us to come
7 with the realization that fairness and
8 equity aren't the same thing and common
9 sense is even something a little
10 different.

11 And that if we have to regress
12 to a mean, that mean may be common sense
13 and that what we're coming back to is
14 trying to figure out then, what really
15 goes to the heart of ensuring the
16 integrity of the higher education
17 ecosystem in the United States with all of
18 this diversity?

19 MR. KIRWAN: I'd like to
20 associate myself with that comment. I
21 thought it was right on the money, yes.

22 But just one comment about data.

1 You know, I don't know if it's accurate
2 or not, but as a starting point about
3 collecting data I was very taken in
4 Shirley Tilghman's letter where she said
5 that really the basic purpose of
6 accreditation is two-fold.

7 One is to ensure the
8 institutions are eligible for financial
9 aid. The second is to encourage
10 institutional self-improvement. Now
11 I don't know if that's the official
12 doctrine or not but that makes a lot of
13 sense to me, that those two components.

14 So therefore it seems to me that
15 when we talk about data we ought to talk
16 about categories of data aligned with
17 those two functions.

18 We would collect certain kinds
19 of data if we wanted to measure
20 eligibility for financial aid. And you
21 would collect different kinds of data if
22 you were trying encourage self-

1 improvement.

2 And if we could maybe sort of
3 categorize the purposes of the data in
4 some understandable way, that might help
5 us then to find what data elements we
6 actually need.

7 MR. ROTHKOPF: If I may pick up
8 on that a couple points. One, I think
9 President Tilghman -- and she'll be here
10 tomorrow to further elaborate on the
11 points that she made in her letter, and
12 then there's a subsequent letter from her
13 provost.

14 I think they had a very bad
15 review by the middle states and I think
16 that's what's kind of triggered all this.

17

18 But I think there are two points
19 that follow up on you, Brit. Number one,
20 I think the idea of looking at sectors
21 makes sense.

22 And we have a system that's 100,

1 150 years old, it's kind of developed over
2 time, particularly the regionals. And
3 they're trying to do one-size-fits-all, in
4 part because that's what's coming from the
5 top. That's what's coming in the
6 gatekeeper role. And so I think the
7 idea of looking at sectors makes a lot of
8 sense. It's not going to be easy.

9 I agree with Art that it's got
10 the fairness issue, but even if -- and I
11 use another analogy from K-12.

12 Secretary Duncan on K-12 in
13 looking at No Child Left Behind is trying
14 to create sectors, not in the Race to the
15 Top but in other pieces of it.

16 There's the five percent who are
17 in trouble, they have the turnaround
18 schools, then there are the ones you're
19 not going to look at and then there are
20 the ones in the middle. So I think that's
21 one.

22 And the point I raise right at

1 the end, I must say if we step back and
2 look at the gatekeeper function that we've
3 given to these accrediting bodies

4 I think it has helped to screw
5 up their role of self-improvement. I
6 think somehow these two don't belong.
7 They really don't feel comfortable with
8 it.

9 They like it because it keeps
10 them occupied and employed, but I think
11 the truth is these are two very, very
12 different activities.

13 CHAIRMAN STAPLES: Just a point
14 on topics, we have tomorrow just to focus
15 as well as we have The Triad, and Scope,
16 Alignment and Accountability and we have
17 discussion periods after each of those.

18 So if we can talk mostly today
19 about regulatory burden. I know they all
20 overlap and intersect.

21 But I just want to mention that
22 so you don't feel you need to discuss all

1 of that right now. Those are on
2 tomorrow's agenda.

3 MS. PHILLIPS: So just to be the
4 taskmaster for the moment, I want to come
5 back to the question of, what are we doing
6 well? What's happening well?

7 So we know that we are
8 collecting data well maybe, and are we
9 regulating well? Are there other things
10 that we're doing well or that is getting
11 better that we might want to consider?

12 I know that you'll get off topic
13 again so not to worry. I'm just nudging
14 you back on track for a minute.

15 MS. NEAL: I want to get back to
16 the question, the two-part question that
17 everyone's been talking about, ensuring
18 the integrity of the federal dollar and
19 self-improvement.

20 So are we collecting data that
21 helps us ensure the integrity of the
22 federal dollar and the integrity of the

1 higher education system? I don't know.

2 I think Jamie mentioned a
3 tripartite system of sort of yes finance,
4 no finance and in between.

5 It seems to me, is there some
6 basic financial data that we can determine
7 that would ensure the integrity of the
8 federal dollars which is a key
9 responsibility?

10 Then getting to the self-
11 improvement and following up on Arthur's
12 point, it seems to me the self-improvement
13 was a voluntary accrediting system at the
14 very beginning.

15 And we took that and we made it
16 gatekeepers so that the data is now that
17 collecting is imposed on the institutions.

18

19 I mean if you look at Shirley
20 Tilghman, she's saying there are two
21 costs. There are the costs of just
22 collecting and responding and there are

1 the costs of having accreditors intrude on
2 the institutional autonomy and basically
3 second guessing or supplanting their
4 judgment as to what needs to be done with
5 the institutional judgment. So it
6 seems to me you've got two different
7 datasets, the ensuring the integrity of
8 federal dollars and then you've got the
9 data which will actually advance self-
10 improvement.

11 And I think if you take away the
12 gatekeeper role so that it is no longer a
13 mandated, powerful if agent of the federal
14 government but is in fact, simply acting
15 as someone facilitating self-improvement
16 then the data that will be helpful will
17 flow in a voluntary system, I would
18 suggest.

19 MS. GILCHER: I would just like
20 to point out something that I've learned
21 over the last number of years working in
22 the federal government after having worked

1 in higher education for many years.

2 I've discovered that the diverse
3 system that we have is extraordinarily
4 diverse.

5 And that the notion of sort of
6 financial viability being the only way
7 that you would determine whether or not an
8 institution would participate in federal
9 student aid does not guarantee that those
10 monies are going to institutions that are
11 doing anything that has any quality
12 involved in it.

13 Because you could have an
14 institution survive and be financially
15 viable and be doing an extraordinary
16 disservice to the students who come in
17 there.

18 So the accrediting role has been
19 one of looking at some baseline of
20 academic performance. And I just would
21 hate -- I just want to put that out there.

22 MS. NEAL: But I'll dispute

1 that, because I think if we look at the
2 academically adrift study, which shows
3 that of accredited institutions 45 percent
4 of the students are not having any
5 cognitive gain in the first two years,
6 obviously whatever has been this academic
7 mission, we're not fulfilling it.

8 So I think we're asking, what is
9 working, and I'm suggesting that this
10 academic quality guarantee is not working.

11 MS. STUDLEY: I think there's
12 something that connects what both of you
13 are saying.

14 I think there's a time
15 difference of whether on the ground it's
16 working or not, but I think you'd be in
17 agreement that you couldn't conduct
18 successful, responsible eligibility or
19 gatekeeping if you only looked at the
20 financial stability of an organization.

21 I could set up something
22 tomorrow that might be fiscally sound,

1 housed in an attractive building and
2 capable of continuing to churn something,
3 but not to produce quality education.

4 You may think some people have
5 slipped through the existing system, but I
6 hear you saying the same thing that Kay
7 is, that you wouldn't just look at the
8 Department's current responsibility to do
9 financial and say there's nothing about
10 content.

11 It may not be done right now,
12 different people may have different views
13 about that, but doesn't there need to be
14 something in the gatekeeping that says,
15 and there is a program worth the federal
16 government allowing its dollars to be
17 spent on, let alone your time and the
18 individual's time and money?

19 MS. NEAL: Yes, and I appreciate
20 that because I think you're right.

21 I think the piece that I would
22 think, having heard about the voluntary

1 system of accountability, is some sort of
2 consumer information that institutions
3 would make available on key factors.

4 And then if they wanted the
5 self-improvement system they could employ
6 an accreditor to help them improve
7 themselves.

8 MS. STUDLEY: I think the
9 possibility of separating or separating
10 more than they are or having a minimum
11 standard that then is given to the
12 Department or whoever's doing gatekeeping
13 could then, and it might not be the
14 Department, there are other ways you could
15 get to it that are separate from the
16 voluntary peer self-improvement, that
17 could then take the task of, could be told
18 who's close to the line and do the more
19 rigorous or the five percent or the
20 troubled school in a nearing bankruptcy
21 kind of, but not financial, academic
22 bankruptcy, and make that kind of

1 judgment. I'd like to try and answer
2 Susan's question if only so that she can
3 populate her, what's happening well.

4 This isn't data specific so I'm
5 going to answer it as to the system. I
6 think accreditation currently brings
7 together leaders in each field of
8 education and training to set goals and
9 expectations, consider student interests
10 and deal with new issues. They have had
11 to deal with a lot of new issues.

12 People have made a good point
13 that we keep, you know, when there are new
14 expectations, whether for evaluating
15 education performance or avoiding serious
16 problems or coping with new methods of
17 delivery like distance education, that
18 although it seems slow by some clocks, in
19 fact there is a responsiveness and a
20 desire to let students have access and
21 quality.

22 And good people in a lot of

1 different fields, and we see the
2 representatives, half of them are doing it
3 like we are as volunteers, who are putting
4 their minds to the job of trying to get
5 this right.

6 And I think that when we think
7 about what are the good things going on,
8 that we shouldn't lose sight of both the
9 talent and the commitment to try and do it
10 well.

11 MS. PHILLIPS: I'm going to add
12 one of my own to that list of what we're
13 doing well or what is working well, not us
14 necessarily, and that is bringing to
15 educators' attention the product of what
16 they do.

17 For many years accreditation was
18 simply the inputs. And a consideration of
19 the inputs, it was a good thing if you had
20 X number of volumes in the library and so
21 forth. And the focus, however
22 jarring it has been to the educational

1 community of thinking about what the
2 output is, what the product is and whether
3 you call the product loan default rates
4 or standardized learning outcomes or
5 critical thinking or employed people, pick
6 your outcome measure.

7 Those are all good things for an
8 institution to be thinking about. What is
9 it that I'm trying to accomplish here?
10 And I think the accreditation system has
11 done that well.

12 Let me get to the not so well
13 part. I'll add some more points about
14 that, but for bringing to our educational
15 world a thought about "and then what."
16 For our educational efforts that question
17 of "and then what," is definitely on the
18 table in all educational institutions.

19 MR. VANDERHOEF: This might be
20 too practical out on the ground, but in
21 follow up to what Susan just said, one of
22 the first things that I bet we all noticed

1 when we first got involved with this group
2 is the number of, for example, problems
3 that were raised in the case of each
4 institution.

5 And the more we got to know the
6 staffer, the more I got to know the staff
7 and the same thing applied in other
8 accreditation groups with which I've been
9 involved.

10 You realize that they are very,
11 very good people, but they have rules by
12 which they have to operate and they have
13 to bring forward particular kinds of data.

14

15 And the fact is that it doesn't
16 really help us a great deal in making our
17 decisions.

18 Look at how many have we really
19 changed? They've come to fall to us with
20 particular recommendations and we haven't
21 changed them all that much.

22 So my point is we've got very

1 good mechanisms for gathering data, I just
2 think we're gathering the wrong data.

3 And I would think that it's not
4 very satisfying, as a matter of fact, to
5 the people that have to gather it in the
6 first place.

7 And so I think what we do well
8 is get the information to the table. But
9 the follow up is what don't we do well
10 with that data, and is I don't think we're
11 using it well.

12 I don't think we're applying it
13 to the things that we really believe are
14 important in accreditation.

15 But I want to put the emphasis
16 on the fact that I think we've got the
17 mechanisms that we need to gather the
18 information.

19 Again I'm trying to make sure
20 that we get on the table the things that
21 we are doing well.

22 MR. ROTHKOPF: Is there

1 something -- a point Larry made and sort
2 of thinking this, this is just thinking
3 out loud, but much of higher education is
4 devoted to training people to do a
5 particular job whether it's a career
6 college, whether it's a law school,
7 whether it's a medical school.

8 And there I think the kinds of
9 data you want are really, how well is the
10 institution preparing someone to perform
11 that particular function, whatever that
12 job is if you will very career oriented,
13 and it could be a cosmetologist or it
14 could be a surgeon.

15 But, you know, and then there
16 are tests and license insurers and
17 completion rates and other data which sort
18 of show well, gee, they're really doing a
19 pretty good job of training people.

20 On the other hand, there are
21 some institutions let's say a liberal arts
22 institution whether it's part of a

1 university or a college, where really it's
2 very much harder to determine what the
3 results are.

4 I mean you could say there ought
5 to be some baseline of knowledge perhaps,
6 but it's a harder thing to do. And what
7 I'm really saying is I think for some
8 institutions it isn't so hard to tell. I
9 think you could define some data with some
10 others.

11 Obviously, the most extreme case
12 is the St. John's College in Annapolis
13 which just, you know, basically 300 or 400
14 students studying great books. It's a
15 great thing, but how do you measure that
16 other than they know what they came for
17 and they're going to read these great
18 books? And that may be the right --
19 that's their mission and that's fine.

20 But I think there are just
21 different kinds of things you've got here
22 and it may be in different ways in which

1 you can measure what people are doing.

2 I don't know, rambling a little,
3 but I think I was trying to get at it.

4 MS. PHILLIPS: So let me unleash
5 the other part. What do we consider are
6 the opportunities for correction, for
7 change, for doing things differently?

8 MS. STUDLEY: Let me start with
9 one that's easy to say and tortured to try
10 to implement.

11 If the different players who
12 gather data or the different systems
13 within those players could cooperate to a
14 larger degree and rely on common data
15 reports, it would probably be helpful to
16 the entities who have to provide that
17 data.

18 I say that knowing that having
19 actually literally worked that through in
20 the Department on a number of issues, you
21 find that there are different statutory
22 definitions, regulatory definitions,

1 practical definitions, different purposes
2 for which it's collected, different time
3 frames, different levels of reliability
4 and so forth.

5 But if we could make headway
6 even not to the ideal, or report to people
7 that there is not much to be gained by
8 that enterprise, there would either be
9 value in doing it or clarity that it had
10 been reviewed and that there were genuine
11 reasons that it could not be more
12 symmetrical.

13 CHAIRMAN STAPLES: Just a
14 question, Jamie, about the data. Are you
15 talking about from all actors? Like are
16 you talking about for an institution let's
17 just say the data they provide to every
18 external entity that wants it, state,
19 federal, accreditor?

20 I mean are we talking about, or
21 are we just talking about the federal
22 government as a data collector?

1 MS. STUDLEY: I think that the
2 payoff would be greatest if we could say,
3 what do you have to provide for the
4 multiple purposes of the Department and
5 for the institutional and program
6 accreditors?

7 I think I hadn't realized until
8 today how many institutions might have
9 reasons for quite as many different
10 programmatic reviews. Even of different
11 program reviewers of the same program and
12 an institutional reviewer, that was sort
13 of a lightbulb. So I would try and get
14 the multiple accreditors and the
15 Department.

16 And, you know, if Bob Morse from
17 U.S. News would sit down at the table and
18 rely on the same placement data it would
19 save people.

20 It's hard enough to get
21 consumers to understand the complex
22 choices and comparabilities they've

1 already got, but when they see a different
2 number in two different places then it's
3 even harder to ask them to make sense of
4 their choices.

5 And states, those states that
6 elect to actually play a part.

7 MR. KEISER: It's not only data
8 collection, it's just the process.

9 In my institution we'll have six
10 different accrediting commissions in
11 different campuses this week.

12 I mean that is, you know, if
13 there is a way to encourage accreditors to
14 work together, I mean when NSAC sends out
15 a team that has 8, 10, 12 people, add a
16 couple of more programmatic accreditors,
17 it enhances the whole value of the
18 process, because not only does the
19 institutional accreditor get the
20 opportunity to look at the programs which
21 they wouldn't normally do.

22 I mean right now the cost of

1 accreditation is extraordinary. It is not
2 just a few dollars.

3 And if one of the issues or one
4 of the goals is to drive down the cost of
5 education, from an institutional
6 standpoint accreditation is an extremely
7 expensive process.

8 Worthwhile, I don't disagree,
9 but if there is a way to use NACIQI to
10 streamline so there's a single data
11 element that we all need and we can
12 encourage visitations with each other that
13 could streamline the process, it would
14 save money, save the institutions dollars,
15 which ultimately save the students
16 tuition.

17 MS. PHILLIPS: I want to
18 underscore what Art was saying as well.

19 You saw in the comments that
20 institutional accreditation for some of
21 the universities that wrote in, was in
22 excess of a million dollars a year.

1 That's just for one accreditor. That's
2 for the institutional accreditor.

3 Every one of those institutions,
4 mine too, has over a dozen that come
5 throughout. It is hugely expensive.

6 It is worthwhile to take a
7 period of self-study, absolutely, but it
8 is also extremely expensive to do.
9 Anybody who's in an institution will say
10 that.

11 MR. VANDERHOEF: And Arthur, I
12 think it was just one of the
13 representatives there that said it was
14 worthwhile. I think there are others that
15 say it's just not.

16 MS. PHILLIPS: Not worthwhile.

17 MR. KEISER: I think it is. It
18 certainly helps my institution.

19 But one other thing is every
20 different accrediting agency is a
21 different period of accreditation.

22 My SACS, we have a ten-year

1 grant, but then they have a five-year
2 midterm review. Then we have, NLN is
3 eight, ABHES is five, I mean so every
4 one's different and we're all in different
5 cycles. And it's like it takes a full
6 time scheduler just to keep it in.

7 My SACS review about four years
8 ago, we had 43,000 documents we provided.

9 I mean it's a huge endeavor that most
10 people do not understand the nature and
11 the complexity of what we are requiring of
12 our institutions. A good part of it
13 doesn't really lead to quality of
14 education.

15 MS. PHILLIPS: I'll add on to
16 that. Again being both on the giving and
17 receiving side of accreditation myself, we
18 used to say in the accreditation world I
19 worked in that accreditation's voluntary,
20 as voluntary as breathing.

21 And indeed it is. Even when you
22 don't have Title IV funds riding on it you

1 have opportunities for students.

2 You have levers to keep your
3 institution on its cutting edge. You have
4 professional expectations. There is
5 almost nothing voluntary about the
6 breathing that is engaged in accreditation
7 processes.

8 And so it isn't as though you
9 can just back away from the cost or the
10 activity. It is part of the educational
11 expense, time and money. It has to be.

12 I would wonder if an institution
13 that wasn't going for accreditation was,
14 in fact, breathing if it wasn't engaged in
15 that kind of external review process
16 completely independent of the Title IV,
17 which adds yet another element to it.

18 So when there is a process which
19 imposes additional data or data of
20 questionable value into this self-study
21 review analysis process, when that one
22 more data element is added in because, as

1 I've heard here there was a misuse of that
2 data or a problem associated with that
3 awhile back in some other institution, all
4 of a sudden your institution which was
5 breathing along fine, now has to carry the
6 rocks of the institutions that have not
7 been doing so fine.

8 Huge, huge burden and adds to
9 the cost for the student, adds to the cost
10 for the entire institution in a time when
11 cost is on everybody's mind.

12 MR. WU: So how do we get from
13 this to actual recommendations? Because
14 it seems that at the highest level there
15 are some things that have been said here
16 that no one has objected to.

17 So here's some things that I've
18 noted that nobody has objected to that
19 seem to be agreed upon and it's a start.
20 But it's so vague that it's not clear how
21 you get from this to something more useful
22 that we could put forward to the world.

1 So costs are too high. Not all
2 the data that we gather is worthwhile.
3 Some additional data might actually be
4 worth adding to allow for tracking of
5 individual students, and it's important to
6 allow flexibility.

7 Would I be right in thinking
8 that those four -- I've tried to frame
9 those statements in the most plain
10 vanilla, most innocuous way possible.
11 Would those attract a consensus?

12 MR. LEWIS: Clarification, so
13 cost of accreditation itself is too high
14 or --

15 MR. WU: Yes, the costs, maybe
16 eliminate the word "too". The costs of
17 accreditation are very high.

18 So I don't see anyone saying
19 that those statements are outrageous,
20 right? So maybe that's a way to help push
21 forward to some recommendation, because
22 then beyond at that level of generality it

1 seems you have to look at specific types
2 of data, right?

3 CHAIRMAN STAPLES: It seems like
4 the questions ultimately get down to what
5 would we recommend is done about it.

6 Maybe what you're saying is, is
7 there a consensus around what the issues
8 are, problems are?

9 But ultimately we want to have
10 recommendations that address, you know,
11 how do you reduce a burden if there is a
12 burden? How do you reduce the cost if the
13 cost is too high?

14 I think that's where we're
15 hopefully going to get at the end of this
16 process is, what are the problems and then
17 what are the possible ways to address
18 them?

19 MR. WU: So let me frame it as
20 three problems. One, too expensive, two,
21 data not quite right, and three, too
22 rigid. Those are the problems it seems to

1 me, we and the speakers have identified.

2 MR. ROTHKOPF: Did the "too
3 rigid", Frank, go to the question of what
4 kinds of requirements do you impose on
5 different kinds of institutions? In other
6 words, a more flexible program for dealing
7 with different types of institutions.

8 I'm not quite sure how you do
9 that and how we get from here to there,
10 but I think that's an important feature.

11 MR. WU: Exactly. I just stole
12 what you said and tried to make it a
13 bumper sticker.

14 MR. PEPICELLO: Yes, I think
15 those two things go together, the data and
16 the flexibility. Because I mean a
17 solution, I mean just going in the
18 direction of a solution is there might be
19 some baseline set of data that is
20 applicable. It is one-size-fits-all.

21 And I don't have any idea of whether
22 that's right or wrong or what that set of

1 data would look like.

2 But it might then be the case
3 that if there is a baseline set we could
4 identify, then all those other things that
5 are out there that don't apply to
6 everybody may be the element of
7 flexibility.

8 Where on top of the baseline
9 there's a set of other data that apply to
10 you and your law school that don't apply
11 to me at all or a small liberal arts
12 college, but there are other pieces of
13 data that we gather that would that would
14 round out, so that flexibility.

15 MR. VANDERHOEF: I really like
16 the fact, Frank, that you're wanting to
17 give some direction and focus here, but I
18 wonder if it isn't a little too early to
19 come up with a recommendations, because
20 the recommendations are going to steer us.

21 Maybe we don't want to be steered just
22 yet. Maybe there's some more conversation

1 that has to go on.

2 MS. GILCHER: I just want to ask
3 the question of when you're using the term
4 "data" are you being very narrowly using
5 that term, that is, basically numbers that
6 are getting reported? Or is it more
7 broadly data on the, you know, the kinds
8 of things that go into self-studies and
9 things like that?

10 MR. WU: I would use it more
11 broadly even, data that's not
12 quantitative. To produce a self-
13 study takes a lot of person hours, so even
14 if it's just narrative and even if it's
15 just at a simple mechanical level, just
16 bundling all the stuff together.

17 And you might think it's easier
18 now that all of it's on a flash drive.
19 It's no easier, just at the simple
20 clerical level it is a huge task.

21 MR. ROTHKOPF: Of course we
22 understand that the regulatory burden on

1 institutions, and we've got a lot of
2 different kinds of institutions around the
3 table, are not just coming out of
4 accreditation. They're coming out of
5 every part of the federal and state
6 government.

7 I mean it's just a tremendous
8 financial issue that comes about because
9 of reports that have to be filed and the
10 whole range of things depending on what
11 kind of institution you have.

12 The governments impose rightly,
13 in some cases validly, some cases not,
14 lots of requirements. It doesn't mean
15 that these shouldn't be addressed but this
16 is just a part of the regulatory burden.

17 MR. KEISER: It's also the
18 accrediting commissions, which are made up
19 of peers, have created their own
20 standards, some of which are very complex
21 and require a lot of work.

22 I mean everybody's involved in

1 this not just the government passing down
2 information.

3 I think in the accrediting
4 cycle, the governmental requirements are
5 relatively small in the self-study and in
6 the standards. There's a section, but
7 most of it is still kind of peer driven
8 and it's a complex process.

9 I'm not suggesting it isn't, but
10 if there's ways to streamline where we can
11 encourage the commissions to work together
12 with the programmatic commissions where we
13 can create some kind of unified calendar
14 of accreditation actions, I mean I think
15 it would help all the institutions, would
16 help NASIQI, because we'd all be moving on
17 a more of similar type of menu versus just
18 the diversity of the accrediting agencies
19 you work with.

20 MR. KIRWAN: I wanted just to be
21 clear. There's two categories of data
22 that come into this conversation I think.

1

2 One is what accreditors are
3 asking of institutions and what NASIQI is
4 asking of the accreditors in order to give
5 them approval.

6 So which are we talking about at
7 this moment? Both? Or are we talking
8 about the data that accreditors are asking
9 of institutions?

10 CHAIRMAN STAPLES: I think we're
11 talking about both. I mean I think both
12 are being discussed here.

13 MR. KIRWAN: Okay, so on the one
14 category of what accreditors are asking of
15 institutions, I'll go back to something I
16 said a few moments ago.

17 Do we have agreement trying to
18 get to the threshold that Frank was
19 addressing? Do we have agreement that
20 basically we're collecting data for two
21 defined purposes? One is to determine
22 eligibility for financial aid, and two for

1 institutional self-improvement.

2 Are those the two purposes for
3 which we are collecting data or are there
4 other purposes? I mean if we don't answer
5 that question I don't know how we can have
6 a serious conversation about what data we
7 get.

8 MR. VANDERHOEF: I don't know
9 how far this can go, but that in fact,
10 begs another question that hasn't been
11 raised yet. It was suggested by
12 some of our letter writers that we really
13 shouldn't be trying to apply the same set
14 of criteria to all of these different
15 varied institutions that we deal with.
16 That there should sectors. That
17 there should be different, that we should
18 -- I think Shirley said this but she
19 wasn't the only one. That we shouldn't,
20 we just simply shouldn't have the same
21 rules for different organizations.

22 I think that follows right on

1 what you are saying, that because if we
2 are going to start to think differently
3 about the data that's collected for one
4 purpose versus the other, we also have to
5 start subdividing.

6 Do we really want to collect the
7 same data for a Princeton as we are
8 gathering for, well, I'm not going to be
9 specific, but other institutions that we
10 are looking at? And the answer's probably
11 no. We should be collecting differently.

12 MR. KIRWAN: I couldn't agree
13 with Larry more. In a way to me that is
14 the threshold question, but unfortunately
15 isn't that a question for tomorrow's
16 discussion? I'd almost prefer to answer
17 that question first. Are we willing to go
18 down the row of kind of having a tiered
19 system of accreditation?

20 And then that would drive a
21 whole different conversation on data. But
22 if we're restricting it today to just the

1 data collection, I think we need to answer
2 the question that I posed.

3 CHAIRMAN STAPLES: I think you
4 also -- implicit in that I think, maybe
5 it's not implicit from what you're
6 thinking, that the question of what's our
7 role? I mean I always try to remember who
8 are we and what's our role?

9 And is it our role to focus on
10 what the government, as NASIQI, an
11 advisory committee to the federal
12 government, is it more our role to focus
13 on what the federal government is
14 contributing to the regulatory burden? Or
15 is it our role to tell accreditors what
16 they collect? I mean in what function do
17 we want to serve?

18 And I think that's part of the
19 question about what the data is. Do we
20 want to offer a template for
21 standardizing? Do we want to have 3000
22 teenagers run into our room right now?

1 And I think that's sort of
2 implicit in your question is, you know,
3 what is it that we can do?

4 And if we're trying to
5 standardize data from the top all the way
6 down to the bottom, is that something --
7 you know, that's an ambitious reach. And
8 maybe we can do that but that's an
9 ambitious goal.

10 MS. PHILLIPS: I would add into
11 that my sense in observing how
12 accreditors' agencies respond to our
13 queries and to the queries of the
14 Department.

15 And the Department is only
16 asking the questions that the statute and
17 regulations are asking, that ultimately
18 what happens to an institution is that
19 there is this statute and/or regulation
20 which poses a need for data point X.

21 The Department asks the agencies
22 about it. The agencies ask their

1 institutions about it and we come in and
2 verify that that has happened.

3 So without being an intentional
4 actor in this process, between the
5 regulation and statute and the institution
6 are these two, three, I'll call it
7 relatively innocent perpetrators of data
8 collection needs, simply because there is
9 an action.

10 So that data point, I mean I
11 don't think that the Department asks
12 anything that the regs don't require. And
13 I don't think that the accreditors then
14 ask the institutions anything that is not
15 required. So I think there's a train here
16 that I don't know that you can separate
17 that piece.

18 One other perspective, just to
19 come back for a moment a quick recap, just
20 to remind people of what we thought was
21 working well.

22 We had thought that what was

1 working well was we were doing a very good
2 job of collecting a lot of hmm-mm data,
3 I'm leaving the adjective out of that,
4 that what was also working well was that
5 the system was bringing together leaders
6 to consider and respond to new issues.

7 And that what was working well
8 was a focus on what the product of the
9 educational enterprise was. That's a
10 really big compression of what you've
11 said.

12 But in effect, what we've said
13 is that one of the things that is working
14 well is aggregating attention on thinking
15 about what educational enterprise is
16 doing. That's a good thing.

17 Almost all of the things that
18 we've talked about that are challenges and
19 opportunities, are ways in which that
20 juxtaposition of financial aid and self-
21 improvement as goals mess that up.

22 So the minute that you have both

1 of those goals in the question of be
2 thoughtful, bring people together, think
3 about what you're doing and gather data,
4 the question becomes what data are you
5 gathering? How much does it cost? Is it
6 enough? Is it the right data, and are you
7 gathering it too rigidly?

8 So if I capture both what Brit
9 and Frank were saying, my sense is that
10 there is a concurrence on the "where are
11 the problems side" is that there is a
12 juxtaposition problem of those two
13 missions, the financial aid, financial
14 eligibility and self-improvement.

15 And that if we were going to fix
16 something we'd fix the expense, the
17 correct data, do we have the correct data
18 and the rigidity. I didn't quite say that
19 right but you captured the message.

20 Without saying what the solution
21 is, it's helpful to get a fix on whether
22 or not we agree that that's the problem.

1 MR. WU: May I add one other
2 potential problem, not --

3 CHAIRMAN STAPLES: Earl had his
4 light on.

5 MR. WU: -- oh, I'm sorry.

6 MR. LEWIS: Yes, matter of fact,
7 I was going to say certainly there's a
8 general perception to Susan's last
9 question, that when you look at the
10 regulatory environment over a period of
11 time, that the standards and the additions
12 to the standard that's been as accretive
13 process and that we've added on. And so
14 the question becomes then, is there some
15 kind of mechanism along the way to not
16 only add but also to subtract, divide sort
17 of and remove as part of any
18 reauthorization?

19 Because certainly in certain
20 areas of the country, as NASIQI's sort of
21 interpretation gets passed down to the
22 regional bodies, there become these sort

1 of interesting artifacts of a certain
2 time, like how many books do you have in
3 your library? I mean books in your
4 library in a digital age has a different
5 meaning and has a different weight than it
6 did 15, 20 years ago. And in fact, at
7 some point that would become a complete
8 anachronism, because the access to vast
9 amounts of libraries will become on a
10 subscription basis.

11 We're moving there, but there's
12 ways in which as we go from each
13 generation, we haven't necessarily at
14 least that's a perception was asked then
15 to the additional regulatory sort of
16 burden and the perceptions that indeed
17 there are additional costs, because you're
18 both answering old questions and new
19 questions at the same time.

20 And whether that's real or not,
21 there's a sort of real heavy perception
22 out there in the higher ed community, and

1 is one of the ways in which other people
2 talk about then, what is the burden? How
3 do we understand it? What should be
4 changed as we go forward?

5 MS. PHILLIPS: I'm going to add
6 a different twist on that as well.

7 What was at one point a useful
8 guidance for self-study for an
9 institution, tell us what it is that you
10 want to achieve and then tell us how well
11 you are achieving it, has become I'll call
12 it a calcified definition of, you must
13 achieve X. You must have an improving
14 score on the CLA, or whatever outcome is
15 flatfootedly applied.

16 And even though what was
17 originally I'll call it an honorable
18 question for an institution to ask
19 themselves, now the way in which it is
20 asked is calcified. That's a little too
21 strong a statement.

22 MR. WU: May I offer something

1 that wasn't mentioned by any of the
2 panels?

3 But I think as long as we're
4 looking at potential problem areas, I
5 think one problem is we, NASIQI, are
6 probably a bewildering entity for the
7 agencies who come before us.

8 I was thinking about some of the
9 preliminary comments that many of the
10 agencies made. And from their perspective
11 we're a group of 18 people of diverse
12 viewpoints. Some of these agencies
13 haven't come before us since 2004, so it's
14 been seven or eight years. And a
15 staff report has been prepared and they
16 come in front of us and are peppered with
17 questions, many of them hostile. They get
18 a few minutes to respond and then they're
19 sent away.

20 So perhaps something that is
21 happening here is the agencies go away
22 cautious because we could potentially do

1 things that would threaten their business,
2 and even though they're nonprofits they
3 don't want to go out of business.

4 So some of the ways in which
5 they behave may not be mandated by us or
6 by any statute or reg but they want to be
7 extra careful. And so they react in a
8 particularly cautious bureaucratic way
9 which isn't beneficial.

10 So I wonder if something about
11 the way we operate may be puzzling. I
12 mean if I were one of the agencies I would
13 find this whole thing bizarre, to be
14 summoned every few years to a hotel
15 conference room in front of this body that
16 has authorities that are not clear unless
17 you're a lawyer.

18 And even if you're a lawyer
19 you'd be hard pressed to explain what
20 exactly is the authority of this entity.
21 And then to make this report and to go
22 through all this it would have to be just

1 a bizarre experience for them.

2 So I wonder if that's something
3 we might want to do something about just
4 to be principled and good and humane.

5 You know, government should
6 operate in a way that's sort of
7 comprehensible to the people who appear
8 before it.

9 MR. PEPICELLO: Well, you know,
10 I think I partially agree, but I think I
11 disagree with some of that.

12 It may be frustrating for them
13 but I wouldn't think it's bewildering.
14 Because I think by the time they get here
15 they have a pretty good idea of what's
16 going on.

17 Now they might not like it from
18 a regulatory point of view but when I read
19 all the materials before I get here, and I
20 made this comment yesterday, I think they
21 ought to know exactly what's going to go
22 on when they get here.

1 MR. VANDERHOEF: Yes, I think
2 you really touched on something.

3 I don't know if it's going to
4 fit into our deliberations here, but
5 oftentimes groups like ours, and this
6 applies to the accreditation groups as
7 well at all levels, they take all of the
8 kindly comments that come from the
9 institution very seriously.

10 And I think that's a mistake,
11 because the institutions have everything
12 to gain by saying what the panels like to
13 hear, and very seldom are they willing to
14 take the chance to say, you know, this is
15 really stupid. You're going down a road
16 that doesn't make any sense at all. It
17 happens all the time.

18 And I think the groups like ours
19 and like ones I've been on before, take
20 those comments much too seriously.

21 They actually begin to thinking
22 they're wonderful and that's because

1 they're being told it rather regularly.

2 The visit really helped us. We
3 really benefited by the visit. It's going
4 to make a big wonderful new institution,
5 you know, all that stuff.

6 MS. STUDLEY: I want to go back
7 to Earl's point which I thought was very
8 accurate. That things become embedded or
9 entrenched and it's hard to clear them
10 out. And it's true of
11 something concrete like books in the
12 library or seats in the library, yet
13 another fascinating enterprise now with
14 everybody with, you know, one of those on
15 the bed or the park bench with their, an
16 outsource of research information.

17 But it really plays out in more
18 subtle but really burdensome ways on the
19 input and the outcomes related to student
20 learning, because we constructed a whole
21 set of theories that say well, if you have
22 faculty, how many faculty with what kind

1 of degree, organized in what kinds of
2 ways, sitting in what sorts of buildings?

3 And then you put students near them.

4 If you just get all that
5 together and we come and it looks to us
6 like a school, it's probably eligible for
7 Title IV funds.

8 And as we're asking people to
9 switch to, "and so what happens, how have
10 people developed over time, what's the
11 problem solving ability of these people,
12 can I look at a portfolio and see that you
13 gave people competencies they didn't have
14 to a level that's appropriate for this
15 program," we haven't yet made enough of
16 that -- or are some of the instruments
17 that are blunt, blunt but adequate to the
18 task?

19 So maybe there is something to
20 be said that Princeton shouldn't be judged
21 on graduation rate and default rate.

22 But if they're -- and hundreds

1 of other schools are fine on those, maybe
2 that or that plus what? Or plus what and
3 what, would be enough to say that's good
4 enough. That's not telling us the
5 educational quality, it's telling us that
6 they can participate in this program.

7 Anyway we haven't -- we have a
8 frayed belt and suspenders, and we haven't
9 yet said we can get rid of the belt,
10 because we're not positive because we're
11 just getting used to suspenders.

12 And so we have both of them and
13 the attendant burdens of them. Nothing
14 personal to the suspender wearer.

15 (Off microphone comments)

16 MS. STUDLEY: Well, but you're
17 contemporary. You've moved onto the
18 suspenders on my analogy, so you're cool.

19

20 And this could be something
21 where we can accelerate the transition.
22 Or if we gave people more confidence in

1 the new systems or there were some
2 incentives or payoffs or clarity, then
3 they could clear out the -- that's
4 something of what we were hinting at with,
5 for example, the ABA.

6 It's the only one I've seen that
7 has a student/faculty ratio at issue.
8 Maybe I just haven't read others as
9 carefully, but do I care about the ratio?

10 Do I care about what level these faculty
11 are?

12 I'm looking at -- and certainly
13 the Justice Department told them years
14 ago, you don't care what they're paid.
15 What you care about is what people learn
16 through the experience of being in this
17 institution.

18 So the system is built largely
19 on sticks with the carrot of Title IV
20 eligibility.

21 And I wonder if there are other
22 ways that we can create carrots by saying

1 as we've talked about, data burden
2 reduction or timing advantages or length
3 of independence assuming certain kinds of
4 reports, all of which might help people
5 gravitate toward what we think are really
6 the valuable measures, while giving back
7 the things that would let them concentrate
8 on core mission.

9 MR. KEISER: I really agree with
10 that. That's one of the things, that
11 we've just built these layers.

12 And layers and layers and layers
13 based upon problems or issues in the past,
14 and they all begin to -- we try to make
15 sense out of them, sometimes they don't.

16 And it affects other certain
17 institutions differently than others, you
18 know, it's not an even distribution of
19 pain. It has a process.

20 And it may be to our advantage
21 that we sit down and analyze why we're
22 doing what we're doing, and take each one

1 of the standards that we have and say does
2 this make any sense to the concept of
3 educational quality or does it make any
4 sense as it relates to protecting the
5 public or what would be the best measure
6 to do those things?

7 So that might be the direction
8 we go.

9 MS. STUDLEY: You know, we talk
10 about sector and we talk about the
11 institutional type and mission.

12 There's also a difference in the
13 degree of federal, on the gatekeeper side,
14 the scale of federal funds that are
15 invested in or at risk at different
16 institutions.

17 So there's more money on the
18 line at MIT than there is at the 40-person
19 school in Alabama and that could be a
20 reason for saying they do different
21 things.

22 But there are a lot more

1 students at NOVA and Keiser and Phoenix
2 than there are at either MIT or the little
3 school in Alabama. And as we think
4 about the appropriate slices that may be
5 one question to ask ourselves.

6 There is one way in which I
7 think I, not disagree with you, Art, but
8 am more sympathetic to where some of these
9 rules came from.

10 It is true that Congress and the
11 Department regulate to solve problems.
12 That often feels like closing the barn
13 door after the horse is out, but sometimes
14 there are a lot of horses. And if you
15 don't close the barn door there's going to
16 be a continuing problem. So which ones
17 are still real, which ones are still
18 present.

19 You know, I thought the example
20 of the six-month pre-notification of a
21 program offered at an employer by an
22 institution that probably could

1 demonstrate once that it has the ability
2 to design specialized programs to deliver
3 them probably anywhere on the planet,
4 should not have to do that if they're
5 choosing to drive five miles to be where
6 the students are.

7 But I can imagine where that
8 came from and that there was a genuine
9 problem and we would have to do what
10 you're talking about, just deconstruct
11 what still addresses something that needs
12 to be done and what's timed out.

13 DR. KEISER: I agree with you
14 100 percent. I've been through a lot of
15 these wars where there was a mess that had
16 to be cleaned up, and the mess was cleaned
17 up but we still have the infrastructure
18 that was left. You know the problem
19 is gone because the whole world is changed
20 since that time. And it's like the number
21 of books in a library at a time that made
22 a whole lot of sense and today it doesn't

1 make as much sense. And we need to
2 address those type of things, but there
3 might be where we might spend our time.

4 And I like the concept that were
5 used, deconstruction, to rebuild and come
6 up with something that makes some sense.

7 MS. STUDLEY: Just a quick
8 story. After five years as the Department
9 of Education's deregulatory czar, I mean
10 literally, I'd meet people in the hall and
11 that's oh, you're the deregulator, I went
12 to be a college president.

13 And one of the things that I
14 skimmed was the student manual, the
15 residence life manual, which was not a
16 smart thing to do. And it was more
17 burdensome, more specific than the
18 Department of regulations I had read.

19 But in the same way you could read it
20 and say a-ha, I can see that there was
21 once a fight between a residence hall
22 assistant and a kid who owned a snake.

1 And the kid with the snake said,
2 where does it say that I can't have a
3 snake in the dorm and where do you get the
4 authority to tell me I have to get rid of
5 it?

6 So there was a rule about
7 residence hall assistants and snakes in
8 the dormitories. And sometimes we can see
9 those in our rules, but if there are still
10 snakes in the dormitories we still have to
11 have a way to deal with it. But I think
12 we can ask ourselves those questions.

13 MS. NEAL: I think you're
14 absolutely pointing your finger to the
15 kinds of regulatory burdens that diminish
16 diversity rather than enhancing them,
17 because they take away the judgment from
18 the institution.

19 And so I think that absolutely
20 is an area of concern and it diminishes
21 innovation and changing within the
22 institution.

1 And my sense is though, that if
2 it were a voluntary system then you would
3 not have that same imposition and, in
4 fact, the accreditors would develop in
5 conjunction with their members the kinds
6 of criteria that would help them do what
7 they like to do and self-improve.

8 MS. STUDLEY: Let me ask, if the
9 accreditation side system were totally for
10 the purpose of self-improvement and
11 voluntary peer activity, how would the
12 Department do other than say, this is an
13 acceptable balance sheet or this is a
14 physical and financial entity that has
15 "school" in its name, when there's a lot
16 of distrust of the Department making the
17 educational judgment that the program is
18 adequate for Title IV funds.

19 So if eligibility is a floor
20 that you have to get over and self-
21 improvement is a process, there's a place
22 where they cross. How would the, and

1 this may be tomorrow's question, but how
2 would you get enough information from
3 either the accreditor process or from
4 something that the public would let the
5 Department do to say, and there is program
6 content adequate for, or program results,
7 educational outcomes sufficient to spend
8 Title IV money?

9 MR. KEISER: That's a great
10 question. My concern though is what we do
11 is we create a rule for all. And then
12 based on the outliers or the one or two
13 that are the problematic, the problem
14 makers and we generalize.

15 And that's where we get
16 ourselves into trouble in that the
17 accreditors that are coming before us,
18 this is my fourth year, every one of them,
19 at least I haven't met one that has been
20 what I'd say ineffective or not doing what
21 they say they're doing. I mean these
22 people are caring people.

1 The programmatic, you know,
2 they'd die for their own particular
3 profession and their field. The regionals
4 are incredibly interested in quality of
5 education.

6 The nationals are really trying
7 hard to make sure that the quality and the
8 integrity is in there. I've not met one.

9 And one or two that we've let go, but for
10 the most part they comply.

11 Now the fact that they have the
12 regulation does not prevent a rogue entity
13 from doing something stupid or being a bad
14 player.

15 And, you know, we can't regulate
16 for the least common denominator. If we
17 do, we'll end up with the least common
18 denominator and that's the problem that I,
19 you know, the dilemma we face and I'm not
20 sure I know the answer to.

21 MS. NEAL: But don't we have the
22 least common denominator now?

1 MR. KEISER: Well that's part of
2 the problem. We're not really looking for
3 institutional quality or educational
4 quality, we're looking for educational
5 accountability. And so the standards get
6 watered down so everybody can meet the
7 bar.

8 MS. NEAL: And I think to your
9 question, Jamie, that you have the
10 gatekeepers for the financial aspect,
11 which responds to Congress which is giving
12 us the federal student aid.

13 You have the self-improvement
14 role which is really one that's
15 institutionally driven, and then you have
16 the public piece it seems to me.

17 And that may get us back then to
18 the discussion that we were starting to
19 have with that second panel about some
20 common dataset that the public would
21 benefit from learning from institutions.

22 It wouldn't cover everything in

1 the world. It could be enhanced by, if
2 you had a robust system of accreditation
3 it seems to me maybe you could have a gold
4 standard, a double gold standard and
5 triple gold standard. Then that
6 actually is of value to the consumer
7 because it means something, which I'm not
8 sure now given the blunt instrument that
9 accreditation is that we have.

10 So you could have some basic
11 consumer information and then a robust
12 accreditation system that offers a Good
13 Housekeeping Seal of Approval that
14 actually means something.

15 MS. STUDLEY: Would you make
16 that Good Housekeeping seal, I mean I'm
17 perfectly intrigued by the idea of more
18 information more available, but would that
19 be part of a private voluntary peer
20 system or would it be part of a federal
21 analysis and rating?

22 MS. NEAL: I would envision it

1 potentially as being an agreed upon set of
2 data but not an agreed upon floor. In
3 other words, there -- or you could have
4 floors.

5 We've talked about some things
6 that are so low that it's unacceptable and
7 that you could have something that's so
8 unacceptable, but then you could also just
9 simply provide data on key measures and at
10 a certain point let the consumer then
11 decide.

12 MR. VANDERHOEF: And that would
13 be Title IV eligibility if you pass that
14 bar? And you would separate off the first
15 --

16 MS. NEAL: You'd separate off
17 the self-improvement and you'd have those
18 two pieces.

19 MS. PHILLIPS: So Title IV and
20 consumer information would be the same
21 basic dataset.

22 MS. NEAL: And you would want

1 independent audit or something. I think
2 you definitely would want to ensure that
3 the institution is providing valid,
4 reliable data. That panel talked a
5 little bit about tuition fees, financial
6 aid, demographics, job placement rates,
7 institutionally specific outcomes, or
8 something along those lines that would --

9 MS. STUDLEY: Maybe this would
10 help me understand your suggestion. If I
11 said I have an idea for a new school that
12 would teach people, fill in the blank,
13 haven't decided yet, what do I need to do
14 to allow students to get PELL grants and
15 federal loans to go to my school? What in
16 your scenario would the answer to that be?

17 MS. NEAL: Well, you have the
18 existing acid test, which that's what I
19 call it but I'm not sure what the
20 Department refers to. And if you then
21 looked at --

22 MS. STUDLEY: You mean A-C-I-D or

1 A-S-S-E-T?

2 MS. NEAL: A-C-I-D.

3 MS. STUDLEY: The financial
4 responsibility standard?

5 MS. NEAL: Yes. You'd have that
6 baseline or you could come up with a
7 different one if you wanted.

8 And then you could have
9 information on default rates, something
10 along those lines. Because I think at the
11 end, those do have a bearing on the
12 quality of the program.

13 If, in fact, kids are defaulting
14 and they're not able to pay off their
15 loans, that is a reflection on whether or
16 not the program is working. You'd have to
17 figure out what that is.

18 MR. KEISER: Under the current
19 process, for a new school to operate it is
20 very difficult. First of all, you have to
21 apply for a state licensure which is the
22 primary -- what?

1 (Off microphone comments)

2 MR. KEISER: I'd never talk
3 about California. You guys are just -- I
4 can't deal with that one. I'm not there
5 for good reasons.

6 But you have to apply for state
7 licensure and before you can even start
8 and usually that requires for you to
9 engage in a lease prior to starting. So
10 you have to have capital.

11 You have to have a financial
12 statement that you're not going to have it
13 audited, because most of these people are
14 new COs that just start out.

15 Before you can become eligible
16 to apply for accreditation you have to be
17 in existence at least two years, two
18 calendar years from the date that you
19 start your class. From that date usually
20 it takes a year to get through the
21 accrediting process if you're lucky.

22 And then another well, I'd

1 daresay six months, but I think it's
2 closer to a year, to get Title IV funding.

3

4 So an institution has to survive
5 for almost four years, three and a half
6 years, prior to ever receiving a single
7 PELL dollar or making a student eligible
8 for a loan.

9 In addition, in order to meet
10 the financial requirements of the Feds you
11 have to have two years of audited
12 statements and they have to be
13 demonstrating an asset ratio test at least
14 one, because it's before -- you can't do a
15 composite score yet, but an asset ratio
16 test. Otherwise, you have to post a
17 letter of credit which many new schools
18 can't do.

19 So in Florida there are 860
20 licensed schools. There are only 220
21 accredited schools. People don't realize
22 that most of the schools that are out

1 there are not accredited.

2 I don't know if that was any
3 help to you, Anne, but it is very
4 difficult.

5 MS. STUDLEY: My question's
6 really hard to answer because I'm trying
7 to get at the program performance side of
8 it and what you would use for the
9 gatekeeping element. And it's hard with
10 the idea of a new school as opposed to, if
11 I were in existence consider me
12 participating, but I were declining, at
13 what point would you, maybe that's a
14 better way. You know, stays out of the
15 complexities of the start up situation.

16 What if I'm shrinking and
17 declining in whatever ways? When would
18 and on what basis would somebody say you
19 know what, as an institute you are no
20 longer eligible. You have slipped below.

21 What the minimum I would have to show on
22 the academic side, let's assume we

1 understand what the financial is.

2 Maybe that's an easier way to ask the
3 question. Is it just, it doesn't really
4 matter if you just publish your default
5 rates, you publish your graduation rate
6 and tell your story.

7 And if people come then they can
8 use PELL grants at your school and if they
9 don't come then you're goose is cooked and
10 you'll fold eventually.

11 MS. NEAL: I think it gets back
12 then to the bigger question in terms of
13 how do we protect the public interest?

14 And the way it currently is set
15 up is that we have accreditors to certify
16 educational quality. I guess what I'm
17 submitting is that could we not protect
18 the public interest by having some
19 baseline financial stability guidelines
20 that have to be met and some assurance
21 that it's not going to a fly-by-night
22 organization? So a fairly low bar but I

1 think that's where we are now.

2 And then allow institutions then
3 to get gold, platinum or silver through an
4 accrediting process, because right now the
5 accreditors for the most part close down
6 schools because of financial concerns, not
7 because of educational quality.

8 And so I think looking at what
9 is potentially the most cost effective way
10 of protecting the public interest perhaps
11 we want to focus more of our attention on
12 some limited standards as opposed to the
13 broader one.

14 CHAIRMAN STAPLES: Can I just
15 for one second run this through, just take
16 a check if we're still sufficiently
17 covering the ground you want to cover
18 today, because some of the issues I think
19 morphed into tomorrow's discussion.

20 And also there's some members of
21 the committee who have not spoken. I
22 don't know if that's just you're not

1 choosing to weigh in or if you haven't
2 felt the opportunity to weigh in.

3 So I want to make sure we just
4 take a step here for a second and maybe,
5 Susan, you can remind us of what we're on
6 and see if there are other members of the
7 committee who want to offer an opinion.

8 MS. PHILLIPS: I'd like to
9 suggest that we have maybe about another
10 five minutes of wherever people want to
11 go. And I would encourage voices that
12 haven't weighed in to do so.

13 And then I want to just sort of
14 capture where we are right now. We'll
15 just put a set of parenthesis around it
16 and pick up again tomorrow when we'll have
17 meal courses four, five and six in our
18 moving banquet.

19 CHAIRMAN STAPLES: And an
20 opportunity to connect them all I think at
21 the end of the day, right, so some of
22 things that do intersect.

1 Anybody who has not had a chance
2 to weigh in on this topic who would like
3 to?

4 MS. WILLIAMS: My points have
5 been sufficiently discussed and I think I
6 have nodded concurrence, if I have not
7 said it, with those that have gone forth
8 on the table and they've always been
9 included in the summary, so I'm fine.

10 MR. ZARAGOZA: I'm also good
11 with the discussion. I've heard pretty
12 much of it.

13 PARTICIPANT: Okay, thank you.

14 MR. SHIMELES: I guess I'm a
15 little bit confused about where exactly
16 we're headed, because it seems to me like
17 we're stuck in a cycle of we need to set a
18 baseline and we can't set a baseline.

19 Like we need to maintain the
20 ability of institutions to address the
21 specific needs of its students and we need
22 to have some sort of accountability for

1 Title IV funding.

2 So I'm just a little bit
3 confused about how we're progressing, and
4 this isn't to denigrate what anyone's
5 saying, but I'm just a little bit at a
6 loss.

7 CHAIRMAN STAPLES: Maybe this is
8 a good point for Susan to try to sum up
9 where she thinks we are.

10 MS. PHILLIPS: Yes, let me take
11 a shot at it and folks can modify as you
12 hear what I'm going to describe.

13 First, let me agree with and
14 concur with the ambiguity of where we are.

15 It is --

16 MR. SHIMELES: That wasn't a
17 calling you out, I was just a little
18 confused.

19 MS. PHILLIPS: Yes. No, no. It
20 is a very frustrating and expectable part
21 of this stage of a discussion of the
22 diverse views of 15 different people. So

1 bear with us, we'll get there.

2 The second is, I want to just go
3 back again. I framed this conversation to
4 begin with what we thought was working
5 well, just to remind us not to throw out
6 whatever baby there is with the bath water
7 that we have in mind.

8 And to repeat that again, again
9 this is a very quick version of it. What
10 we have said that we're doing well now is
11 collecting -- we, a broader accreditation
12 accountability system, are collecting data
13 mostly very well. We're working well to
14 bring leaders together to consider new
15 issues and respond to them.

16 And we're good at bringing a
17 focus on what a product is for educational
18 enterprise. The places where we have
19 talked about areas for opportunities for
20 change, correction and for doing things
21 differently, I'm going to give you a list.

22 And these are going to become known I'm

1 sure by shorthand by the time we're done
2 with this.

3 First we've talked about needing
4 to separate where the possible data is
5 needed for eligibility, that baseline
6 notion, and what's needed for self-
7 improvement, to consider those two
8 questions separately even knowing that
9 they coincide.

10 Second is to shed some
11 regulatory requirements maybe for some
12 people at some time for some total,
13 whatever, consider what is the right
14 dataset for each circumstance. And
15 I'll call this the snakes in the
16 dormitories issue to deconstruct what
17 issues truly are at risk for different
18 entities. That we don't need to regulate
19 the behavior of snakes in places where
20 there aren't even dormitories.

21 So far again what we do well is
22 bring together a focus on what the

1 outcomes of our educational process are to
2 collect data about it and to bring a focus
3 on responding to new dimensions.

4 And in the process of doing all
5 of those things well, we also need to
6 deconstruct what has now accreted in terms
7 of our regulations, to separate
8 eligibility and self-improvement data
9 needs to shed some regulatory requirements
10 and to consider what the right set of data
11 is for each.

12 I just put a set of parentheses
13 around that, those things that are
14 missing, wrongly stated, that you'd want
15 to add into the picture. I'm keeping it
16 about 30,000 feet right now, but we'll see
17 if I captured what you heard that doesn't
18 --

19 MR. ROTHKOPF: I guess the one
20 thing, and maybe it's implicit in there is
21 that at least from my standpoint, the
22 question of how we get really accurate

1 graduation rates.

2 I'm prepared to say, and others
3 may agree or not agree, that we ought to
4 get rid of any barriers that are in the
5 law that prevent us from getting that data
6 because it's critical.

7 And every time you kind of push
8 at least the first panel, they say well,
9 the data's not accurate. We can't use it.

10 Well, it's not accurate because we have
11 this I guess statutory impediment.

12 A unit record system, I think
13 it's something that we should -- I
14 actually served on a commission a few
15 years ago that recommended it and it
16 didn't go anywhere, but prepare to
17 recommend it again.

18 MR. PEPICELLO: Following on
19 that I think there's sort of a coil area
20 and that is to ask, is that a right
21 measure? Is graduation one of the right
22 sets of data we should be looking at?

1 Is that an indication of quality
2 or is it an indication of something else
3 or is it, you know, should it be as
4 central as it is? I mean I just think
5 that question is begged.

6 And the other thing that I might
7 say, Susan, is I wouldn't want to
8 characterize if we were going to look at
9 tiered accreditation that some institutes
10 would shed regulatory burden. I think we
11 look at a sliding scale as opposed to
12 saying that some people get a hall pass.

13 MS. STUDLEY: I would just like
14 to agree with Bill about graduation rates.
15 They're one of the few things that we can
16 count, however difficult, but since it's
17 in the control of the institution whether
18 it hands people a certificate or a
19 diploma, its utility at least has to be
20 very contextualized or connected to other
21 kinds of things.

22 MS. PHILLIPS: I just added a

1 note here to say to add into our proposed
2 solutions a question about what is the
3 right data. I think that as a generic
4 question is not something that we're --

5 MR. ROTHKOPF: I'm not
6 suggesting that it's the only one, but I
7 think it's part of a picture. I mean we
8 certainly look at it at the high school
9 level.

10 We get all worried because
11 graduation rates are too low and actually
12 the states have now gotten together I
13 think to decide, the governors, as to a
14 common definition of what's a graduation
15 rate. So I think it's an important
16 question.

17 I agree with you, it's not the
18 most important question and it doesn't go
19 to quality. I think in some ways the
20 quality question is answered by job
21 placement, which is a much more ephemeral
22 thing because placement could be something

1 that's a good placement, a bad placement,
2 it may be outside of the field. It may be
3 at the minimum wage for something that
4 shouldn't be at the minimum.

5 I mean I think there are a lot
6 of questions here, but I think we can't
7 begin to answer whether some of these
8 programs are being useful if people are
9 not completing them and they don't have
10 jobs and yet they have a big debt burden.

11 MS. PHILLIPS: There are
12 additions, deletions, editing, Frank.

13 MR. WU: One just quick comment
14 about data in general. It's that after we
15 set a certain, or after an agency sets a
16 certain standard everyone will eventually
17 learn how to game it.

18 Not just by cheating, which
19 isn't the real problem, it's the sort of
20 collective not quite cheating that
21 presents an entire sector more favorably
22 than it should.

1 Law schools are just one
2 example. Everyone is doing it and it's
3 not just in this area.

4 You know, when airlines had to
5 start publishing on-time rates, what
6 happened was all flights became slightly
7 longer. I don't know if any of you were
8 flying around that time period, but if
9 there was a regular flight you took, it
10 suddenly got 15 minutes longer in the
11 official printed schedule so that the on-
12 time rate would go way up.

13 So every one of these numbers
14 can be gamed. And so there's a sort of a
15 metapoint about data, there has to be some
16 audit or some system that ensures that the
17 data that's being reported is what it
18 purports to be, because it often just
19 isn't.

20 MR. ZARAGOZA: If I could just
21 touch a little bit on the graduation rate
22 for community colleges. The gorilla in

1 the room is the whole transfer rates and
2 how that's being evaluated in this
3 context, so I just wanted to throw that
4 into the mix.

5 CHAIRMAN STAPLES: Is that it
6 for now do you think, Susan, for today's
7 exercise?

8 MS. PHILLIPS: Okay. So for now
9 we put a semicolon into this structure
10 that we're creating, to be continued.
11 Many conversations, very thoughtful, lots
12 of ideas. Many things yet to
13 traverse in the next day on our next two
14 topics. We'll put together again over the
15 course of this, opportunities to consider
16 further to think about what it is that
17 we've heard said to see it in print as we
18 go along, to see how it looks in the light
19 of day.

20 So for now enjoy your evening
21 conversations and we'll go from there.

22 PARTICIPANT: See everybody

1 tomorrow at 8:30.

2 Melissa, do you have anything
3 you want to note?

4 MS. LEWIS: Yes. I'd like to
5 thank Brit and Carolyn for coming. We're
6 going to miss you tomorrow. And I'd like
7 to congratulate Carolyn on her retirement.

8 She's leaving us to go to her retirement
9 party tomorrow.

10 (Whereupon, the above-entitled
11 matter went off the record at 4:48 p.m.)

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