UNITED STATES DEPARTMENT OF EDUCATION

NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY

MEETING

THURSDAY
JUNE 9, 2011

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
FREDDERICO 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
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CHUCK MULA
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Joyce Jones

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Hulett H. Askew, Consultant on Legal Education

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Cameron Staples, Chairperson, NACIQI218
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Bryan J. Cook, Director, Center for Policy Analysis, American Council on Education
Christine Keller, Executive Director, Voluntary System of Accountability, Association of Public and Land-Grant Universities
Terry W. Hartle, Senior Vice President, Division of Government and Public Affairs, American Council on Education

Issue One: Regulatory Burden and Data Needs
Invited Guests
Mollie Ramsey Flounlacker, Associate Vice President for Federal Relations, Association of American Universities
David Rhodes, President, School of Visual Arts
Robert G. Templin, Jr., President, Northern Virginia Community College

Committee Discussion
P-R-O-C-E-E-D-I-N-G-S

(8:36 a.m.)

Welcome and Introductions

CHAIRMAN STAPLES:  Good morning.

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

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

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

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

MS. PHILLIPS:  Susan Phillips, Chair of the Policy Sub-committee, and
Provost and Vice-President for Academic Affairs at University at Albany, State University of New York.

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

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

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

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

MR. LEWIS: Earl Lewis, Provost Emory University.

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

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

MR. VANDERHOEF: I'm Larry
Vanderhoef. I'm Chancellor Emeritus at the University of California, Davis.

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

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

MS. STUDLEY: Jamienne Studley, President and CEO of Public Advocates in San Francisco.

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

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

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

MR. MCCLAY: Bill McClay, University of Tennessee.
CHAIRMAN STAPLES: Thank you and welcome everybody. Melissa do you have some opening comments?

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

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

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

I'd like to give an overview of the events for the meeting. Over the
course of the meeting the committee will be reviewing ten accrediting agencies and one federal institution, seeking degree granting authority.

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

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

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

With respect to the procedures the public may use to make oral comments,
there are sign-up forms at the table just outside the meeting room.

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

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

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

Also, concerning recusals, I'd like to remind the members that if you have any conflicts of interest that
require you to recuse yourself from the review of an agency, to please announce that you are recusing yourself before the primary reader's introduction of the agency, and to please leave the table at that time so as not to confuse anyone concerning your recusal.

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

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

We can only have a certain number of mikes open at one time, and also it affects the volume. The court reporter will let us know from time to time if he can't hear the proceedings.
Concerning administrative items, the restrooms are just to the left beyond the, as you exit the room, past the elevators.

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

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

CHAIRMAN STAPLES: Thank you very much, Melissa. If there are no other opening comments, we'll proceed with our
first item on the agenda which is the American Bar Association, Council of the Section of Legal Education and Admissions to the Bar, and I would recognize Anne Neal.

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

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

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

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

The council is both an institutional and programmatic accrediting agency. It currently accredits 199 legal education programs.
Other legal education programs accredited and approved by the agency, are free-standing law schools and maintain independent status as institutions of higher education with no affiliation with a college or university. These law schools may use the agency's accreditation to establish eligibility to participate in ATA programs.

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

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

On June 20, 2007, the Secretary continued the recognition for 18 months, extended recognition to include the Accreditation Committee of the Section of Legal Education and Admission to the Bar, and requested the agency to submit an
interim report as well as a renewal petition by December 5, 2007, for NACIQI to review at its June 2008 meeting.

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

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

However, I remind you, that the Higher Education Act provides a 12-month deadline for agencies that fail to comply
with the criteria for recognition to bring themselves into compliance.

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

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

Although, originally scheduled to appear for review at the June 2008 NACIQI meeting, the Department administratively postponed the agency to review several third-party comments, alleging substantive violations of the Secretary's criteria, and deferred the
On August 14, 2008, the Higher Education Opportunity Act amended the Higher Education Act, which disbanded existing NACIQI and revised many sections of the statute. Agencies with pending renewal petitions were scheduled for full review after the full membership of NACIQI had assembled.

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

CHAIRMAN STAPLES: Thank you very much. Joyce?

MS. JONES: Good morning, Mr. Chair and to the council members. My name is Joyce Jones, and I'm going to be presenting on behalf of the accreditation staff, a summary of the analysis and the recommendations made after our review of the American Bar Association's Council of
Legal Education and Admissions to the Bar, which I will be referring to as the council, or the ABA as appropriate.

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

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

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

At any rate, the accreditation committee involves review of continuing accreditation law schools, and our
recommendation also includes requiring the agency to submit a compliance report in 12 months on the issues identified in our staff report.

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

Our review of the agency's petition found that the agency needs to address a few outstanding issues involving standards such as job placement expectations, as well as the procedures for implementation, and procedures in policies involving administrative and organizational issues such as the record of the student complaints, their assessment of the impact of student loan
default rates in terms of how the agency reviews it, enforcement actions where it involves continuing monitoring of the law schools.

The revisions of several of the substantive change procedures that were omitted in their procedures, the operating procedures regarding third-party comments, and the review process, their complaint review procedures, and a teach-out plan protocol with established agency criteria in which it reviews and approves plans and agreements, the transfer of credit procedures and the notification procedures.

We believe that these issues will not place the accrediting institutions or programs, students or the financial aid community, or the financial aid that they receive at risk, and that the agency can resolve these concerns and demonstrate compliance in a written report.
in a year's time.

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

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

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

MS. STUDLEY: I have two questions for Joyce. My first question is, I thought I heard you at the end, to
say that there is a council meeting tomorrow at which, was it some or all of these remaining items will be addressed?

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

MS. STUDLEY: Okay.

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

MS. STUDLEY: Yes, you mentioned that the accreditation covers the first
degree in law?

MS. JONES: Yes.

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

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

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

MS. JONES: Beg your pardon?

MS. STUDLEY: If an institution offers those degrees and is institutionally accredited, then would
students in those programs be eligible for
Title IV?

MS. JONES: Yes.

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

MR. ROTHKOPF: Thank you, Joyce.

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

MS. JONES: There were issues in
the findings in 2006 related to particular
sections of the criteria. The new
findings are not related to the same criteria.

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

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

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

And also as was hinted in your question, we have followed the same process with the ABA as with the other
agencies who were affected by this hiatus in the lack of having a NACIQI for review. And that is, we have started the review of the petition based on a clean slate since we do have new criteria, new law that we are looking at. But in this case because there was this pending action, we did want to make sure there had been a crosswalk. Sally?

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

CHAIRMAN STAPLES: Are you
asking Kay that question?

MS. NEAL: Yes.

CHAIRMAN STAPLES: That's fine. Kay?

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

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

PARTICIPANT: The complaint.

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

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

MS. NEAL: Not at this point.

CHAIRMAN STAPLES: Arthur, are you finished?
MR. ROTHKOPF: Yes, thank you.

CHAIRMAN STAPLES: Okay, Art?

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

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

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

However, the agency is free in its accreditation of first degree programs to review and review the impact of the advanced degrees or the doctorate, or LLM or even in joint degree programs, where
they are required to look at that program and determine whether it will have an impact on the JD program.

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

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

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

The agency is always free, and that has always been the case, at least since I've done the reviews since 1996.
MS. GILCHER: Actually in every case of an agency coming for an expansion of scope, to have new degree levels included in its scope of recognition it would have had to have been accrediting at those levels prior to including in recognition. Now on this case they've just determined not to include it in their scope.

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

MS. JONES: The students who are in accredited institutions, that are not accredited by the ABA in a specialty in that area, have access to Federal Title IV at the graduate level, through the institutional accredited.
So therefore, those people in LLM programs will have access to Title IV.

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

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

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

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

MS. JONES: The accreditation
exists for those law school programs.

MS. NEAL: Yes.

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

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

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

CHAIRMAN STAPLES: Thank you. Brit?

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

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

CHAIRMAN STAPLES: Any further
questions? Yes, Sally?

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

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

PARTICIPANT: Kay.

CHAIRMAN STAPLES: Oh, I'm
sorry, Kay.
MS. GILCHER: I just wanted to correct myself. When in response to Anne's questions about the criteria that were cited both in the previous compliance report and this one, the section of the substantive change is a different paragraph of the criteria that were cited in the last time, so there is no overlap in the substantive change.

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

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

My name is Christine Durham. I'm currently the Chief Justice of the Supreme Court of Utah, and I am serving this year as chair of the Council on Legal
Education and Admissions to the Bar of the American Bar Association.

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

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

And then of course, I got to work on the council's work as an accreditor, and now here I am on this side
of the table yet again. It's been a wonderful learning experience.

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

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

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

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

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

As was mentioned, the council will be meeting tomorrow in Salt Lake City. We'll take care of changes to the internal operating procedures that have not already been dealt with, and we'll finalize changes to the rules that will then be approved presumably in August, so
that within a matter of weeks or months all of those changes, I think will be accomplished.

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

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

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

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

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

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

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

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

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

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

I want to assure this committee and the Department that we're fully cognizant of the comprehensive nature and importance of this process of our review process with you. We take it very
seriously and we view it as an opportunity to refine and improve our process.

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

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

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

But I thank you for your attention and I'll be responsive to any questions. Let me ask first whether, Bucky, you want to say a word?
MR. ASKEW: Thank you, Chief. We believe strongly on accountability all up and down in our system including our accountability to the Department of Education. By my count we are being cited for 17 matters of noncompliance. I think Ms. Neal mentioned that in her opening.

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

The Council has a process, as Christine mentioned, for standards or rules to address the new regulatory items and those should be finalized at least by the fall. There's a council meeting tomorrow and Saturday in Salt Lake City, in which a number of these items are
on the agenda for the council meeting, and then there are a few others that will be appearing on the August agenda. So we believe by September, many of the new regulations will be adopted as noted in the staff report to you.

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

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

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

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

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

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

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

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

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

We want to make sure that the Chiefs understand that we do not accredit LLM programs. So an applicant for admission who has a law degree from a non-ABA approved law school but has a LLM degree from an ABA approved law school, does not meet the requirements of having their JD degree from an ABA approved law school.
Now some states may decide to admit them anyway, but we want to make sure they don't make a mistake and think that the LLM is an accredited degree, because it's not. We've never sought recognition for the LLMs or SJDs or other advanced degrees, and we have no plans to seek recognition for those degrees. Thank you.

MS. DURHAM: Thank you very much.

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

MS. STUDLEY: I'd like to begin where I think we all begin, which is with student learning outcomes, and ask you to tell us a little bit more about your current thinking about student learning outcomes, the measures that you use, the goals for the accreditation process, not so much for the outcomes, but for what you aspire to do?
And just so that you can wrap it all together, I saw reference that you have in-process work on student learning outcomes right now going forward, as so much of higher education is thinking how to be more thoughtful about that.

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

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

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

But what we do have is a
comprehensive review process that began three years ago and has two years to go, comprehensive review of the standards.

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

MR. ASKEW: Thank you. We began the comprehensive review of our standards as required by your regulations and our bylaws in November of 2008. But prior to that a prior council chair, Chief Justice Ruth McGregor of Arizona, appointed a special committee in 2007, to look at the issue of outcome measures. That's the way it was described then.
Special committee worked for a year that involved legal educators, private practitioners, judges, and came up with a report to the council that recommended that we move in the direction of student learning outcomes, and that the council set in place a process to develop student learning outcomes.

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

That was the first item on the agenda for the comprehensive review. And I just received an email last night ironically from the chair of the subcommittee that's been developing student learning outcomes, President Steve
Bahls of Augustana College, saying that it's final as far as he's concerned.

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

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

We are in the middle of that process right now. The Standards Review Committee has, they're on their ninth draft of the Student Learning Outcome Standards, and our lingo, they're Standards 301 through Standards 305.
And, what the standards will do on student learning outcomes, is we're going to restructure the Standards on Curriculum and Program of Legal Education to require outcome measures and assessment of student learning, that'll be all four of those standards address that.

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

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

And, Standard 305 is going to require ongoing assessment of institutional effectiveness, both in terms of the student learning outcomes and the
And, then we are changing Standard 306 requirements regarding academic standards and achievement to adapt to the new student learning outcome requirements.

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

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

And there's a huge amount of
interest in this in the legal education community and where it's all going.

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

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

MS. STUDLEY: In terms of the current learning outcomes and the measurements that you use, bar passage, placement and grades, exams and other evaluative measures during law school, could you just talk to us about how you -- for every accreditor or every institution, it's a tough job to accomplish some consistency across them, but also to be respectful of institutional differences.
Could you speak to how that is currently done under those standards that the council applies now?

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

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

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

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

A school can comply with it in
two ways. One, by its first time bar
passage rate of its graduates, and
secondly, by its ultimate bar passage
rate, and there are two different formulas
for calculating that.

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

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

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

In terms of placement, we do annual questionnaires and collect placement data from every law school in the country, employment placement and salary data from every law school in the country.

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

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

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

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

Two narrative pages describing the program, describing the curriculum, the mission of the school, and then there
are two pages of data on every school.

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

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

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

So we do collect and publish as
a matter of consumer information, a lot of employment data and we are moving to collect even more, and more detailed information.

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

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

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

PARTICIPANT: Yes.

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

What surprises me, and I don't understand is, you have a reputation of being a very tough, very specific and, it's not the word difficult, but certainly
rigorous accrediting agency.

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

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

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

You're meeting tomorrow, the meetings today, why wasn't this done last
year or the year before? I mean the regs came out two years ago and they're still not in compliance, I don't understand that.

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

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

For instance, in 2006, we didn't have a 24-hour notice in our rule about announcing a decision of the council, a final decision of the council on the status of a law school. So we amended the rule after the 2006 round to add the 24-
hour requirement as we were required to do.

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

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

Under our process, as I was describing the standards review process
earlier for student learning outcomes, we do that for these changes required by HEA.

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

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

They will then want to see obviously how we implement them and to make sure we can demonstrate implementation. But we are certain that those changes, or the new standards and rules and ILPs will be compliant with the requirements of the Act.
MR. FREELING: If I could just add a little bit to that. First of all, again we do accept the recommendations of the staff.

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

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

But that's not the state licensing agency we're now told that we're supposed to be providing notice to. It is literally the state ability to operate in a specific jurisdiction, and we will of course going forward, notify those
agencies as well as the bar authorities of
the state.

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

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

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

CHAIRMAN STAPLES: Anne?

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

And certainly there is
documented in the record and in the
Secretary's statement, a continuing concern about the ABA's historical difficulty in addressing the various criteria.

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

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

The last time the bar passage rates were raised there's a question of consistent application and clarity. This
time it's been raised, a question of graduate placement over three years. And I appreciate you've outlined that you're providing us information in this report.

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

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

Also when reporting critical postgraduation employment information, law schools are not distinguishing between
graduates practicing law full time from those working part-time or in non legal fields.

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

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

MR. ASKEW: Let me address the student loan default rates first even though that was the second part of your question.
We do collect data through our annual questionnaires on student loan default rates. Since we're an institutional as well as programmatic accreditor, it's the 19 independent schools where we get the direct information on student loan default rates from them directly, rather than from the institution.

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

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

I think the issue for the staff
has been, do we then take those student
loan default rates and use them to assess
the program of legal education?

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

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

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

We do ask, require schools to
collect as I described earlier, collect
the employment data from their graduating students, and the salary data.

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

We're looking at ways to try and improve that or produce regional state-wide data that students, because the whole issue really is, students who are considering law school or matriculating to law school, do they have good information about what their employment prospects of the graduating class right before they came, what happened to them, and what may happen in terms of their employment three
years from now?

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

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

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

Therefore, that's why we've
asked the questionnaire committee to look at our questions and make sure that, should we be asking for additional more granular data about employment, and also our Standards Review Committee in terms of what we require schools to publish on their websites about employment.

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

And I guess, and along this line, I'm a little concerned. I know the ABA Journal just this month reports that only 68.4 percent of 2010 grads were able to land a job requiring bar passage, the lowest percentage since the legal career
professionals group began collecting statistics.

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

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

MR. ASKEW: Well we share your concern about student debt, employment, all of those issues. I may stand corrected, but I don't believe we were cited in '06 and '07 for student
achievement regarding placement, so I
don't think it's an issue that's been
pending for five years, up until this year
and where the citation was.

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

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

MS. NEAL: I have more
questions, but I'll share time with
others.
CHAIRMAN STAPLES: Okay, Arthur?

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

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

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

For example, are they required to put that on their website, and say, so that a perspective student who may or may not think of going to the ABA to find it, simply wants to go to the University of
Utah Law School, or Northwestern or what have you, to find that information? Do you require that information to be posted on their website or at least have a link to your information?

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

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

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

MR. FREELING: Well, sorry. Where we are with that is, that schools, we don't require that the same things that
are in our online version, which is a joint project with another entity, that all law school applicants are familiar with, The Law School Admissions Council, and in the 509 book.

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

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

Where we're still sort of having this tug, as you might imagine, this is a matter that law schools are, in this day of U.S. News, law schools, they'll fight
you over every inch about. But where
we're having this tug is, what and how to
do salary information.

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

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

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

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

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

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

But it seems to me that the data that should be available at least is bar
passage that they shouldn't have to go scout around.

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

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

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

So all I'm saying is I think it
ought to be out there and available as consumer information, that perspective students should have when they decide on a law school. And it shouldn't just be in something that they have to go to the ABA for, because a lot of people don't think about going to the ABA.

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

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

MR. ASKEW: Well, we do publish the bar passage data for every school and
schools publish it on their websites.

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

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

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

MS. NEAL: We heard yesterday from one accreditor that occasionally used an independent auditor to make certain that the information being reported was
I know again, that in writing to the President of the ABA, Senator Boxer has raised questions and the editor of U.S. News and World Report has raised questions about the information that law school deans are reporting, and asked deans to be more vigilant in their data reporting.

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

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

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

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

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

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

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

So, I was looking at two of your interpretations related to student faculty, or both quality teacher
effectiveness and student faculty ratio, wondering how you, for example "examine to
determine whether the size and duties of
the full-time faculty meet the standards."

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

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

And, if a school is doing fine on the outcome measures, how does that affect this, and vice versa? If a school is not doing as well as you'd like, or is
on a pathway that seems troubling, how do
you think about the faculty component of
it, in terms of determining whether they
meet the standards?

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

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

There will still be a live
client clinic required. There will be
ethics, professional responsibility
required to be taught. The standards
continue to have some of those things in there, and that's not, schools will continue to be required to have those in their curriculum going forward.

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

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

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

MR. FREELING: Well, I'll try. We look at faculty in a variety of ways. We look at course hours they have to
teach, committee assignments, what kind of work they have to do for the university and for the community, for example.

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

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

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

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

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

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

Our mantra is, "If you admit them, you must believe they can succeed and pass the bar." What are you doing to provide them with the tools to do that?
And so, now for example, with academic support, we require that, how are you assessing the quality and effectiveness of your academic support program? Is it working?

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

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

MS. STUDLEY: Well, the follow up is just on the, kind of the flip side.

If a school is performing very well
against the outcome measures that you use, are they, what room do they have to determine how to deliver that program? Are they freed up from the input measures, or the formula in terms of, say balance of number and type of faculty?

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

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

Now that said, having a low
student/faculty ratio is hardly, and I think most of us would think is, that's hardly a bad thing.

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

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

MS. STUDLEY: And, I will acknowledge, although this doesn't rise to a conflict, a perspective on this, which is that I have taught at three different accredited law schools, as a lecturer-in-law or as an adjunct, and never as a full time faculty member, so I've followed this with interest.
Just a couple quick items, and I understand I think, Ms. Neal does too, that we are running over the time scheduled for the ABA, and I'm hoping that given yesterday's pattern, that we will have some --

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

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

MR. FREELING: Let me clarify, it's an opportunity for a real life exposure, so that could be done by a live client clinic, or by an externship program. For example, with the Chief
Justice here. But, that is the opportunity.

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

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

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

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

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

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

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

And then the third, is a grant from the Fund for Justice in Education.
The 501(c)(3) arm of the ABA, there are no dues that go into that fund, and I think that would violate the regulations. It's an independent entity within the ABA structure. One of it's requirements is that it is Fund for Justice in Education on a 501(c)(3), that it fund educational activities.

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

What we do annually, and we had a good bit of staff interchange about this over the last couple of months, is we prepare our budget for the coming year. We know, pretty much, what we're going to collect in the way of fees from schools. It varies a little bit because sometimes
they're starting new programs or it will
go up a little bit.

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

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

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

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

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

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

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

And so, the staff and leadership is quite aware of the requirements of
separate and independent. Obviously the ABA leadership cares about legal education, you can see the President this year has been outspoken about his concern about student debt, about employment.

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

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

But I, certainly in my tenure on the Council, and in my three-quarters of a year now as Chair of the Council, I know of no instance in which the Council has accepted direction from the leadership of
the ABA, or felt itself pressured in any way to accept such direction.

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

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

MR. ASKEW: They are free to comment on the development of standards, just like any person is free to comment. We do not provide independent notice to the ABA or its leadership about where we are in standards. It's all on
our website, they're free to access it and make comments, as anybody else would.

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

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

So that every time we receive a recommendation, or we consider a new
standard, we will apply these goals, these criteria against what we're doing. That has been the mantra under which they've operated for the last two years, and it's served them very well.

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

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

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

MS. ROBERTS: Thank you Mr. Chairman.

CHAIRMAN STAPLES: Thank you.

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

CLEA represents more than 900 dues-paying faculty and more than 180 law schools and is an affiliated organization
of the Council. It's the nation's largest organization of law professors and has worked closely with the Council for almost 20 years to advance American legal education.

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

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

Despite our support for the ABA and our admiration of much of its work, however, CLEA does have some concerns about the Council's willingness to consult at important decision making points with the various constituencies in legal
I'm going to summarize those here. We urge DOE leader to evaluate and provide guidance regarding the extent of the ABA's good faith compliance with a letter, and in the spirit of the criteria for recognition, in connection with the current comprehensive review of the standards for law School accreditation.

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

Unfortunately, it appears that more often than not, views of the Council's affiliated organizations, and of other interested constituencies are not considered, or even referred to as the
Committee goes about its work.

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

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

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

This has been so alarming as to motivate more than 65 law faculties to pass formal resolutions in opposition to the proposal. Every other significant
group of faculty in legal education has also voiced opposition, including the ALS, SALT, All Wood, a group of law school deans of color, American Association of Law Libraries, AAUP, and a group of ALS past presidents.

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

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

CHAIRMAN STAPLES: I'm sorry to do this to you, but we've reached our
three minutes.

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

CHAIRMAN STAPLES: I'll give you 30 seconds.

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

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

Input is most meaningful at the developmental stage of comprehensive review, and when significant proposals are
being drafted.

But in the current process, too often the only input, those outside the ABA's formal structure, have been able to offer on important matters, have been limited to written comments on proposals that have been in development behind closed doors, without any involvement by concerned stakeholders.

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

The accrediting agency should step back and consider how proposed standards' revisions will work or fail to work together. The net impact on American legal education, of all the current proposals being considered by the Review Committee, has not yet been publicly
discussed at any level.

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

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

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

And, we hope that DOE will encourage the ABA to develop a more inclusive, transparent, and collaborative comprehensive review process that comports with the intent of the criteria. I
apologize for my fast speaking.

CHAIRMAN STAPLES: Thank you.

Any questions from members of the Committee? Anne?

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

MS. ROBERTS: That is essentially our position.

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

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

MS. ROBERTS: Roberts.

MS. STUDLEY: Roberts, I expect
would wait until you hear that, I might, just don't want to.

CHAIRMANS STAPLES: Might have further questions, okay, if you wouldn't remain waiting until after the, to the end?

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

CHAIRMANS STAPLES: Mr. Palm?

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

I'm going to deviate from my, oh and one point I'd like to make is that I wish that Christine Durham could remain the Chair well beyond her next two months. She's been a major change and an improvement, but not enough to change my
mind that the ABA should not be, sorry, the Council should not be reapproved. I'll try to just answer you, it'll be a little disorganized, because I'm trying to pick up on questions that were raised here. The first one, I think is on the question of public members. And, the public members from 2003 through 2009, they had one, the President of Cornepiac, who had an accredited law school in his University. And then, they nominated another president to serve on the Council, to be elected in 2009. I reported that to DOE, staff here intervened, and contacted the Section, and they did not withdraw his nomination and refused to find him not qualified, but then that President withdrew after he was elected. So, they have a clear, blatant violation and should be punished for this. They didn't get approval, obviously of
the staff or anybody, the secretary, and this went on for a total of seven years.

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

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

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

I think you should follow what the Justice Department has found, and say that this is not sufficient. If I could
have just two more points?

CHAIRMAN STAPLES: Go right ahead.

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

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

And the third thing, and the last thing really, is that there's no monitoring of compliance between the site
visits, between the sabbatical site visits.

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

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

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

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

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

I think the most cursory examination of the postings on the Section's website, of the work of the Standards Review Committee, would reflect the degree of publication, comment, it's true most of this is done in writing. We have people all over the country, who are very exercised, particularly about the discussion that's going on around security of position issues.
But, one of the things that the Council did two years ago, was to appoint a special subcommittee or task force on the educational continuum, which has as its Chair, a very well-respected clinical professor from NYU, and in fact its membership is dominated by clinical professors.

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

As I said, Bucky Askew will talk to you about chapter and verse, but the degree of publication of all the drafts, the opportunity for public comment, the
conduct, how many public hearings have we had now?

PARTICIPANT: On security-of-position?

MS. DURHAM: Right.

PARTICIPANT: Two.

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

When the Standards Review Committee completes its comprehensive review process, its proposals, of which none exist at the Council level yet, will come to the Council, the Council will discuss them, and then the Council will go through a process of publishing for comment, and putting out the information,
yet again to all of the Section's constituent organizations, and to the world at large.

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

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

At the April meeting of the Standards Review Committee, we had a three hour open forum where anyone could come forward and speak on any issue they chose to. We had 19 people come and speak to the Standards Review Committee in that open forum.
Many of them spoke on the issue of security-of-position. The Committee is listening, the Committee is taking written comments. It took oral comments in this case. And so, but yet the subcommittee draft has not even been considered by the full committee yet. So, the attack now is on a draft that has not gone forward.

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

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

The reason we had nine drafts of the Student Learning Outcomes changes is because of the public comments. Because the committee was reviewing them, paying
very close attention to them, and adapting those standards, and there'll be better standards as a result, there is no doubt of that, so. Should I speak to Mr. Palm's comments?

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

MS. JONES: No sir.

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

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

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

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

The Committee is working on chapters. We have eight chapters in our standards, and it's doing a chapter-by-chapter review. Once it completes an individual chapter, it will send it to the Council for review, and the Council can either then take it forward to publish it
for Notice and Comment, or it can send it back to the Committee and say that we don't agree with some of these, we want you to keep working on them.

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

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

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

But, it's the Council's ultimate
responsibility to do this. And, to stop this process, restart it and try to build community collaboration after three years of work, is something yet that no one yet has suggested that we should do.

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

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

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

My question is, in looking at your standards, how these standards advance both those goals? For instance,
you have a requirement that a law school
shall not grant a student more than four
credit hours in any term, toward the JD
degree, in distance education.

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

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

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

You have a standard that a ratio
of 30:1 or more, presumptively indicates
that a law school does not comply with the
standards in terms of student/faculty
ratios.
And then again, we get to this issue of security-of-position, how are these very intrusive, if I may say, criteria in any way bearing on your assurance of educational quality, and protecting the tax-payer dollar?

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

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

In terms of the distance education requirement, that's a regulation that was adopted around 2001, 2002, there is already a recommendation from a committee that did, Technology and Information Services Committee of the
Section, to the Standards Review Committee, that the minimum number of hours permitted in distance education be increased. And that will be considered, and I can't predict the outcome, but I think the Standards Review Committee is very open to increasing the number of hours permitted in distance education. It's a learning process for us on distance education, and I think we're adapting as we're learning more about it.

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

That for a student to achieve the kind of quality education that we expect from an ABA approved law school, that a student shouldn't be taking 20 credit hours, or 24 credit hours in one semester in order to speed up a
graduation, and not be able to participate 
fully in the programs of the school, or 
take all the courses that are necessary to 
grade. It's just simply an educational 
judgment that was made.

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

There are also questions about 
the 84 month rule and whether a student 
should be able to continue their education 
over that extended period of time. But, 
they're simply judgments that were made as 
these standards were developed, about what 
is the best educational outcome for these 
particular students.
I heard you ask questions yesterday about cost versus benefit, and what are the costs to schools of the Accreditation Project, and do we have any way of knowing what the cost of schools are.

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

But, the government accountability office did a review of the costs of legal education in 2009, and specifically looked at the issue of, are the costs of an accreditation driving the increased cost in legal education. That report's available online, and they concluded that the cost of accreditation are not the driving factor of the increased costs in legal education. It's a number of other things that they identified, but it's not the cost of
accreditation.

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

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

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

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

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

Such continuation shall be effective. I think this is the right language, I'm positive because it's not sounding familiar. Karen, could you put
up what you've got as the standard language. Okay, everybody's telling me I'm right.

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

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

MR. KEISER: I second the Motion just to get going, but I'm very concerned. I served on an accrediting commission, and if a school came to me, or to our commission, with 17 concerns, then had a whole lot of time to consider, to analyze, to review, and then came back with 17 concerns, we would've taken a negative action.

It is concerning to me that the, especially lawyers, especially a group of lawyers, could not understand that reporting to the state licensing agency, in dealing with the law that's been in
effect since the '92 reauthorization, with
the Triad, and the Triad does not consist
of bar sub-bars, but consists of state
licensing agencies, or approval agencies
in the state, the feds and the accrediting
commissions, and I just don't understand
that, and it is very troubling.

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

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

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

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

MS. GILCHER: Yes, that is
correct. There were some with the same
criterion, but it was a different aspect
of that criterion.

CHAIRMAN STAPLES: Art and then
Anne?

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

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

It's not going to help to say, we're going to get it done, because then that accrediting commission will tell me that you are out of compliance, at which
point, they will take some kind of action, whether it be a warning, whether it be a probationary activity, or fail to grant.

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

These are not that complicated. And, if you have placement and you're required to have a benchmark, and you don't have a benchmark, something's wrong because you didn't follow the rules.

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

CHAIRMAN STAPLES: I think Anne had her hand up first Jim.
MS. NEAL: Well, and I appreciate the Motion, but I just want to signal that I will oppose, I will vote against it because I do not, for the reasons that Art is articulating, I do not have an expectation that they will meet these standards, given the history of continuing problems with the criteria.

CHAIRMAN STAPLES: Arthur?

MR. ROTHKOPF: I guess I share the concerns expressed just now. I'm really sort of searching and is there any way, short of this Motion, or anyone have any idea of how to express the deep concerns that we have with some alternative motion, and I don't have one to pull out of my hat, but I just ask if anyone can think of something that would reflect, I think the concerns that were expressed through a lot of the questioning that went on, and the points that both Art and Anne have reflected?
CHAIRMAN STAPLES: I don't know if there's, Larry do you have a suggestion, or a comment?

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

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

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

CHAIRMAN STAPLES: They will come back because we will need to make a
decision then.

MR. KIRWAN: Okay.

CHAIRMAN STAPLES: About whether they are renewed.

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

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

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

(Off-mic comment.)

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

CHAIRMAN STAPLES: I think we're
limited to 12 months now under the regulations, aren't we? Yes, Bill?

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

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

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

And, again I'm not sure exactly
how to do it, but to say that this is reflected in the discussion that took place in the meeting, that there's concern over the delay and the seeming lackadaisical quality of the response to past warnings, and we're really serious about it this time.

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

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

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

We ask accreditors to be
consistent in how they review institutions, and we flag that we have, ourselves the same responsibility to be consistent across accreditors. I hear the concerns of some of the Committee colleagues. I also hear the understandable, and I think all of us lawyers would respect it, the expectation that we set as lawyers, a model for following the rules, and understanding and interpreting the rules. So, but that is not written into the NACIQI expectations.

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

For the other accreditors, that the, in my view, the scope and scale of the concerns that have been raised here, about the Council are comparable only to
one other agency, as to which we did
express, in the record, saying that we had
serious concerns, and expected them to
return with a fully fledged Compliance
Report in a year.

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

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

CHAIRMAN STAPLES: Thank you.

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

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

We could get into the business of going down the list and stating all of the difficulties, but we do that, don't we? I mean, they've got the report and
they've got every single one of the things that have to be corrected. So, I don't see any problem with the Motion, and I don't see any difficulty with going ahead with it as it's stated.

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

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

I don't think there's any reason they should be surprised if a year from now, if they haven't satisfied all these requirements, that this Committee takes a very stern view of that. I think that's pretty apparent from this discussion.
Any further comment, questions?

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

Any opposed? The Motion carries, you have the vote recorded?

Thank you very much. We will take a short break, since we are slightly behind schedule, but I think we should take a 10 minute break and return. Thank you.

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

CHAIRMAN STAPLES: I thank you and welcome back. We are going to adjust our schedule a little bit. We obviously went over our time with our first review. However, some of our other reviews are likely to be a little shorter than the allotted time.

But based on some scheduling requirements, we are going to move to Air
University at this point and then we will go back to the Transnational Association of Christian Colleges and Schools and the Council on Occupational Education, in that order, with the expectation that we'll move expeditiously obviously allowing time as necessary.

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

MR. KEISER: Thank you, Cam.

This is a little different than what we normally do in this committee.

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

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

Air University first sought degree granting authority for its Associates in Applied Science degree from the Community College of the Air Force in 1976. Currently it offers eight programs of professional military education of
which four are degree programs authorized by the Congress of the United States.

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

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

The Test Pilot School falls under the command authority of the Air Force Materiel Command, whereas the Air University falls under the command
authority of the Air Force Education and Training Command.

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

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

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

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

The second is that the graduate program in question and/or the graduate
degrees proposed cannot be obtained in satisfactory terms to the facilities of existing nonfederal institutions of higher education.

Third, that the graduate program conducted by the applying agency meets the standards for the degree or degrees in question which are met by similar programs in nonfederal institutions of higher education. Four, that the administration of the graduate programs concerned is such that the faculty and students be free to conduct their research activities as objectively, as freely and in unbiased manner as found in other nonfederal institutions, and that the existence of an advisory committee of educators from regularly constituted institutions shall be regarded as some evidence of the safeguarding of the freedom of inquiry.

Accreditation by an appropriate
accrediting body, if such exists, shall be regarded as another safeguard.

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

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

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

These people, the faculty, were incredibly dedicated both military and nonmilitary. We had a chance to spend a
lot of time with them. They are incredibly academically prepared and they were extremely motivated to push the students through their program at an incredible pace and with incredible rigor.

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

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

So these are the summary of our recommendations. The team members reviewed the self-study of Air University School of Advanced Air Power and Space Studies, Doctor of Philosophy and Military
Strategy program and conducted a site visit to the institution. After meeting with the administrators, faculties and students, and reviewing additional materials on site, the site team is satisfied that the proposed terminal degree program meets the requirements of the federal policy governing the granting of academic degrees by federal agencies and institutions.

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

We also want to make it clear that it is our intent to recommend to the Secretary that the current class that is in the program be eligible to receive
their degrees if degree granting
authority, even though Congress may not be
able to act before the current class
graduates.

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

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

There's Chuck.

CHAIRMAN STAPLES: Come on up,
Chuck.

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

I briefly just want to emphasize
that the staff was there to verify the study and to provide technical guidance to the committee and that it was indeed a great pleasure visit the school.

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

DR. MURPHY: Mr. Chair, committee members, the last time that Air University appeared before this body as Dr. Keiser mentioned, was for the approval of the Flight Test Engineering degree Test Pilot School. And I'm pleased to report to you that this Saturday night for the third year in a row, we'll be awarding Flight Master of Science and Flight Test Engineering degrees out at Edwards Air Force Base to 24 graduates of that program, United States Air Force as well as Marine Corps, Navy and international students.
We would like to thank the staff, particularly Kay Gilcher, Melissa Lewis and Chuck Mula, for their help in bringing us along on this multiyear project to gain accreditation and approval of this degree.

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

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

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

Most recently, this spring he
was nominated by President Obama and confirmed by the Senate for promotion to Lieutenant General and assignment as the Air University Commander, and for the first time, President of Air University. And also, by the way, he's a graduate of the SAASS program.

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

And then to her left is Colonel Tim Schultz, and he is the current -- oop. They switched on me. What do they say? No plan survives first contact, right?

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

Air University offers programs that are consistent with our mission for professional military educational
professional continuing education and advanced specialized education. We seek to give credit where credit is due and these programs rise to a level of degree level.

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

GENERAL FADOK: Great. Thanks, Dr. Murphy.

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

No, we're actually pleased and honored to appear before you this morning as you prepare your recommendation to Secretary Duncan regarding the Air University's request for authority to award a Doctor of Philosophy in Military Strategy.
As Dr. Murphy mentioned, I am Major General Dave Fadok, currently the Vice Commander of Air University, and I am here representing our boss, the Commander of Air University, Lieutenant General Allen Peck.

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

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

We are proud that this eyes-on visit left a favorable impression of not just the School of Advanced Air and Space Studies, otherwise known by its acronym, SAASS, but also we were very pleased that you left with a favorable impression of our proposal to allow a select few SAASS graduates to pursue doctorate degrees
without, and this is a key point, without jeopardizing progression in their respective career fields.

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

One glance at a recent House Armed Services Committee report on professional military education suggests the answer to the first question. Our Congressional oversight bodies highlight the need for all four military services to build more strategists. The Doctorate of Philosophy in Military Strategy is a key element in the Air Force plan to develop critical thinkers who can purposefully link ends, ways and means to craft effective defense strategies in the face of an uncertain security environment.
To answer the second question about sustainment, I humbly note what Dr. Edwards points out, I have been confirmed by the Senate to serve as the next commander and first president of the Air University.

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

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

We collectively will continually improve this remarkable opportunity for our Air Force's most promising intellects and leaders, our Air Force's future strategists.
Thank you for permitting us the opportunity to discuss our program with you this morning.

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

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

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

This board meets twice a year for three days, from Sunday afternoon
through Wednesday morning. It is a big commitment. And the board includes many college presidents, locally, the President of the University of Maryland, and professors such as the dean of Computer Sciences at Purdue University.

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

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

We placed on the Air University
staff and leadership a heavy burden, to persuade us that AU meets the highest standards for receiving additional doctoral degree granting authority.

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

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

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

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

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

You'll learn why close air support never works, why carpet bombing in this instant is a terrible mistake, what we did right and wrong in the Serbian air operations. These folks are as independent as it gets, and we concluded
that the facilities, the administration, the library, the research, everything that goes with a PhD program was more than adequately fulfilled there.

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

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

My name is Colonel Tim Schultz. I have the pleasure of being the Commandant and dean of the School of Advanced Air and Space Studies, or SAASS, and I'd just like to add a few shaping comments here.

Two days ago, I spoke with one of the two Army officers at our school. He had just completed the final graduation requirement, a two-hour oral examination where he is basically in a conversation
about strategy with three of the SAASS professors. So it's a one-on-three situation, and he did very well.

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

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

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

SAASS is indeed unique. We get a mixture of students that you wouldn't see in any nonfederal institution. We
have Air Force pilots and intelligence
officers and satellite operators, a few
international students, members from the
Army, and the Marine Corps this year and
the incoming class from the Navy, and we
put them together in a very interesting
mix.

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

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

When we combine that with a
curriculum that focuses on the theory of
military, of theory of warfare, theories
of politics and economics and society, and test that in the laboratory of history and then crucible of modern times, it creates a unique experience for this unique and highly gifted group of students.

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

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

Another is the U.S. Security
Coordinator for Israel and the Palestinian Authority. Others work at the National Security Council. Others work at the Chief of Staff's Strategic Studies Group. These are men and women who have access to key decision makers.

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

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

And I think critical for this committee's review is that both the program that you offer is unique and could
really only be offered in an environment such as Air University.

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

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

And I think for our purposes we make exceptions when we grant that authority to military institutions, so I think you meet all the criteria for that.
I think it was an incredibly impressive program and I fully support our recommendation and I just wanted to put that on the record, because I think that's a criteria that this committee has to take into account. So thank you very much.

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

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

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

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

But let me tell you, the value
is there no matter what the cost of it.

It was incredible.

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

MR. ROTHKOPF: I'll second it.

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

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

comment?

MR. WU: Yes, I wonder if we may
pose questions?
CHAIRMAN STAPLES: Absolutely, go right ahead. Motion is pending.

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

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

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

And I would very, very confidently state that certainly within
the student body that attends the School of Advanced Air and Space Studies, you will find that diversity is almost Job One in terms of the student body that we select.

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

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

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

In the incoming class we have
our first African American female officer, an intelligence officer named Major Marie Smith, who I think SAASS will provide her the opportunity, especially if she chooses and if she's qualified to pursue the doctorate in military strategy. What a bright future she has as well. And those are just two examples.

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

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

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

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

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

The board, which is reappointed every year, is very diverse. And the younger people who are referred to, you find great diversity and there's great
opportunity to bring in diversity.

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

CHAIRMAN STAPLES: Earl, did you have a question?

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

COLONEL SCHULTZ: Yes.

MR. LEWIS: Okay.

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

MR. KEISER: Just one comment. Anybody gets a chance to do it, you know,
try. That's a great experience to go out on that visit.

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

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

Transnational Association of Christian Colleges and Schools, Accreditation Commission

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

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

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

CHAIRMAN STAPLES: Thank you.
The record will note that. Larry, I recognize you for the introduction of this topic.

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

The Transnational Association of Christian Colleges and Schools is an institutional accreditor, and its current scope of recognition is the accreditation and preaccreditation, meaning candidate status, of postsecondary institutions that offer certificates, diplomas and associate baccalaureate and graduate degrees including institutions that offer distance education.

It is requesting a clarification, not a change in scope, but just simply a clarification of its current scope to specify that it accredits and preaccredits Christian postsecondary institutions.
The TRACS accredits or preaccredits 54 institutions in 22 states. TRACS accreditation provides a link to Title IV funding for 35 of its institutions and a link to Title III funding for three of its historically black colleges and universities.

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

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

And Rachael will now carry on.

CHAIRMAN STAPLES: Welcome, Rachael. Go ahead.

MS. SCHULTZ: Thank you. Good morning. I'm Rachael Schultz and I will be presenting information regarding the
petition submitted by the Transnational
Association of Christian Colleges and
Schools, or TRACS.

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

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

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

In particular in the area of
basic eligibility requirements, the agency
needs to provide documentation showing
acceptance by practitioners and employers
of the agency and its standards, policies and procedures.

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

In the area of required standards and their application, the agency must provide additional documentation regarding student achievement, site review information and follow up and program level growth monitoring. It must also provide additional documentation regarding its standards review process.

In the area of required operating policies and procedures, the
agency must provide additional information or documentation regarding substantive changes, complaint policies and the establishment of branch campuses.

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

Therefore, as I stated earlier we are recommending to the Senior Department Official that TRACS' recognition be continued and that the agency submit a compliance report in 12 months on the issues identified in the
staff report. Thank you.

CHAIRMAN STAPLES: Thank you.

Any questions for Rachael? Seeing none, thank you. Oh yes, Art?

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

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

So it's on its way to being fixed very shortly, but had to be addressed in the report because they were not seated yet.
MR. KEISER: And how long were those vacancies open?

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

CHAIRMAN STAPLES: Larry?

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

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

MR. VANDERHOEF: Sorry.

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

MS. STUDLEY: Well, we are running behind.

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

MS. STUDLEY: Thank you.
CHAIRMAN STAPLES: And Larry, since I did the same thing yesterday, I really appreciate you doing that today. Thank you.

CHAIRMAN STAPLES: Good morning. Please proceed.

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

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

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

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

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

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

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

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

Kind of reminded me of one of my long time mentors, who when he was appearing before a group said, I feel a bit like a corpse at a funeral. I know I
have to be here but I shouldn't say anything.

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

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

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

That process took place, was actually in place at the time that was happening, during the period of time that we were submitting our information to DOE.
We went through then, our nominating committee of the commission met and reviewed the candidates and vetted them and the ballot was put together.

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

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

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

I would like to begin by saying
that with three weeks left in the fiscal year, we are projecting a $55,000 surplus for this year. That was based upon work that we have done to make certain that we've done a thorough review of our finances.

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

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

But the other part of it included an extensive review of our expenditures for employees, and we came to the conclusion that we could be a much more efficient institution by moving away from having an extended number of part-time employees and moving to a smaller number of full-time employees.
So with those two considerations, we were able to present a budget for this year that has allowed us to present a projected surplus at the end of the year.

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

But that working committee will be giving a report to our commission at the November meeting. Our expectation
that the only thing that will remain after that November meeting will be the additional collection of the final documentation, and we'll be working with the staff of DOE as we proceed through this process.

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

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

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

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

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

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

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

In terms of the actual number of hours, when you have a lot of part-time employees who are being paid good salaries and all of the things that go along with just the salary, when you condense that into full-time employees what we've found is that we've been able to save considerably on employee costs, but the input that we've gotten back is that our services have actually improved.
MR. KEISER: With $320,000, how many FTEs does that represent? That's a small budget for payroll, including taxes.

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

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

CHAIRMAN STAPLES: Any further questions? Yes, Jamie?

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

MR. BOATNER: It's no different than any other postsecondary education. We have our standards that apply to what would be a normal institutional
accreditation that are all the ones that are in compliance with DOE regulations and various -- meet national norms.

We're constantly benchmarking against other accrediting agencies when we're looking at trends that are going on, like the increase in online education and things along that line.

In addition to that we have what we call foundational standards that define what would be a Christian institution.

And so it's a plus to the normal requirements for accreditation. It's not a lesser thing, and nowhere in there do we say that there's a different perspective. It's a strong, a position that is strong. They are objective standards.

And then addition to that we have a separate section that defines what is a Christian institution.

MS. STUDLEY: So just to be sure I understood, the Christian refers to the
nature of the institution and not to the
nature of the education program or
content.

MR. BOATNER: Absolutely.

You're absolutely correct.

MS. STUDLEY: Okay, thank you.

CHAIRMAN STAPLES: Other

questions or comments? Larry?

MR. VANDERHOEF: I haven't
changed my mind, but I can't remember
where I left off exactly. So I'll start
over again.

CHAIRMAN STAPLES: Go right
ahead.

MR. VANDERHOEF: I believe that
the standard language that we can use if
there aren't any necessary changes will
work in this case and that reads as
follows. You see the first part of it up
on the board there.

I move that the NACIQI recommend
that the TRACS recognition be continued to
permit the agency an opportunity to within a 12-month period, bring itself into compliance with the criteria cited in the staff report. And that it submit for review within 30 days thereafter, a compliance report demonstrating compliance with the cited criteria and their effective application.

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

CHAIRMAN STAPLES: Is there a second?

MR. ZARAGOZA: Second.

CHAIRMAN STAPLES: Been moved and seconded. Any discussion? Art?

MR. KEISER: I just want the staff to pay close attention to the financial stability of this organization.

A $320,000 budget for I think it was seven plus two, which is nine
employees, it's pretty hard at least in my area, south Florida.

And I know they're not located in south Florida, but to hire that many people of significant quality to be able to carry out a highly sophisticated function as accreditation with that budget for that number of people and with a declining reserve, they need to make some significant financial decisions to bring their house into order.

CHAIRMAN STAPLES: Thank you. Any further comments? Seeing none, all in favor of the resolution raise your hand. Any opposed? Seeing none, it passes.

Thank you very much, and thank you for coming.

MR. MCCLAY: Mr. Chairman, I just want to for the record say I'll be leaving now and returning.

CHAIRMAN STAPLES: Okay, thank you. We will now proceed to the Council
on Occupational Education. Primary readers are Earl Lewis and Anne Neal. Who will be beginning that? Earl, go right ahead.
Council on Occupational Education

MR. LEWIS: I'll start. The Council on Occupational Education or COE, is a national institutional accreditor.

It's current scope of recognition is for the accreditation and preaccreditation, that is, candidacy status, throughout the United States of postsecondary occupational education institutions offering nondegree and applied associate degree programs in specific career and technical education fields including institutions that offer programs via distance education.

COE was originally established in 1968 as a committee of the Southern Association of Colleges and Schools or SACS. In 1971, the committee became the Commission on Occupational Educational Institutions.

In 1995, the agency formally separated from SACS and adopted its
present name and began to accredit and
preaccredit institutions throughout the
United States.

COE currently accredits 389
institutions and 50 candidate institutions
in 31 states, the District of Columbia and
Puerto Rico.

The agency's accreditation
enables the institutions it accredits to
establish eligibility to participate in
Title IV programs and thus it must meet
the Secretary's separate and independent
requirements.

The former Secretary of
Education last granted COE a recognition
period of four years after deferring a
decision on the agency's recognition in
2005, due to outstanding issues concerning
the agency's review of institutions with
distance education, its monitoring process
and substantive review process and review
procedures.
The former Secretary issued her decision letter in the fall of 2007, stating that the agency has sufficiently addressed those outstanding issues. It's now before us petitioning to be renewed, having its renewal of recognition. Jennifer?

CHAIRMAN STAPLES: Thank you. Please proceed, Jennifer.

MS. HONG-SILWANY: Okay. Good morning, Mr. Chair and committee members. I'm Jennifer Hong-Silwany, and I'll be providing a summary of the staff recommendation for the Council on Occupational Education.

The staff recommendation to the Senior Department Official is to continue the agency's recognition, but require the agency to come into compliance within 12 months and submit a compliance report that demonstrates the agency's compliance with the issues identified in the staff
This recommendation is based on our review of the agency's petition, supporting documentation and an observation of a decision making meeting on February 13 through 15, 2011, in Baton Rouge, Louisiana. The outstanding issues in the staff analysis consists primarily of the need for documentation regarding the agency's application of policies which were revised in accordance with the draft staff analysis.

The agency must also address more substantive concerns. For example, by demonstrating implementation of its revised student achievement standard, implementation of its revised substantive change procedures, documentation of its systematic review of standards, revisions to its teach-out policies and evidence of its application of its teach-out procedures.
The agency must also amend its published materials to accurately reflect its accreditation of distance education as defined by the Department and provide a thorough and reasonable explanation consistent with its standards and in accordance with Section 602.28(c) of the regulations of why the action of another accrediting agency does not preclude the agency's grant of accreditation to an institution.

Therefore, as I stated earlier we are recommending to the Senior Department Official to continue the agency's recognition, but require the agency to come into compliance within 12 months and submit a compliance report that demonstrates the agency's compliance with the issues identified in the staff analysis. Thank you.

CHAIRMAN STAPLES: Thank you.

Any questions or comments? Okay, thank
you very much.

We'll invite the agency to come forward. Good morning, and please proceed.

MS. HAWK: Well, I think it's almost good afternoon, Mr. Chair, members of the committee.

My name is Jody Hawk and I'm the current chair of the Commission on Occupational Education, referred to as the COE. This is my third year serving as chair of the commission and prior to this position I was a commissioner with the COE. I also am the President and CEO of Texas Health Schools, located in Houston, Texas.

My background includes over 25 years in the career educational sector and I have served in various administrative and academic positions.

I would like to thank our staff analyst, Jennifer, for her time and her help that she had provided to us
throughout this process, and the agency will continue to work with her. And we look forward to working with her to resolve the remaining identified findings to come into complete compliance with federal regulations.

At this time I would like to introduce other staff seated with me at the table. To my far right is Ms. Cindy Sheldon. She is the Associate Executive Director. And Dr. Gary Puckett, President and Executive Director of the Council on Occupational Education. Thank you.

DR. PUCKETT: Thank you very much, Mr. Chair, Mr. Vice Chair and committee. And I'm assuming it would be okay to expedite my remarks, and I think you're probably trying to gain time.

But we are very appreciative of the opportunity to come before you this morning or this afternoon, and I also would like to thank Jennifer. And I
actually wrote down four things that I wanted to point out. One, we want to thank her for her time, her patience and her counsel. I know that we had at least four conference calls, and I sense nothing but the willingness to help us.

I was going to mention the history but I think Dr. Lewis has already mentioned the history of the organization.

I would like to just point out just a little bit of, a minor thought on philosophy.

About three years ago we adopted core values which we'd never had before, and one is trustworthiness.

And so we expect to respond and to work with the staff in a spirit of trustworthiness and we expect that from our schools as well.

And I don't know if you know this little bit of trivia, but in doing that study of the core values, the word
"trustworthiness" comes from a Latin word "credo", which from which we get our word "accreditation".

And if you look at the word "accreditation" it has the word "credit" embedded. And it means the same thing as a good credit, or a good credit score. So we hope that all of our schools are trustworthy and credible. Occasionally, you know, that is not the case.

Also transparency was another core value that we adopted. And just so you know, we would be supportive of our schools sharing the outcomes information with the world and the population and the community. Anything that's legal and proper, we would certainly support that. And one would be accountability. Another core value that we adopted was accountability.

COE has had a standard on what we call CPL, completion, placement and
licensure, for at least 40 years. So being an occupational accreditor, having to be accountable for jobs and occupations and trying to help create a taxpaying work force is not a new thing to us. And so we just wanted to point out a positive thing or two. And related to something Dr. Wu said yesterday, we had already formed a chart here. Now I call it a progressive chart and I don't think you're privy to it, although I did send it to Jennifer.

We took these issues and we categorized them into what we call substantial, just like you did yesterday. And we believe that at least 12 of these we've already developed a policy for and have graduated those up to a point of needing only documentation.

We realize we have two or three areas that need work in the area of student outcomes, and we fully support
that and see the need to do it as well as
the way we work with substantive changes.

So we have in our work plan
already thought through these and, in
fact, where we were divisioned in not
having policy, I think they've already
been adopted. So we don't see that that
would be a long drawn-out process.

And we do accept the analysis,
and we have no doubt that we can come in
compliance within 12 months and a majority
of them in much less time. And we would
agree to not delay the progress and to
move on with that, so we believe that we
can do that.

So I do believe I would like to
point out there's one other unique thing
about our agency that I think speaks well
for it. We have a good number of schools
we accredit that don't it for Title IV.

We have four peer groups of
institutions, and one large constituency are the federal institutions. We have the Navy and a lot of the Department of Defense schools as well as Job Corps centers that do it only for quality assurance.

We have, as anticipating that this might be asked, we have a $2 million budget, slightly over, with ten staff. We're in our 40th year. In fact, this is our celebratory year for 40 years of service, which we expect to celebrate at our annual meeting in Miami. So again, thank you for the opportunity and we'd be happy to address any questions or thoughts.

CHAIRMAN STAPLES: Thank you. Any members, how many have questions? Yes, Arthur?

MR. ROTHKOPF: You mentioned transparency, and I maybe would like to probe a little bit more into that on
things like outcomes.

What is it that you, what kind of information do you receive from your accredited institutions on completion rates, employment, nature of employment?

And even the question which kind of came up earlier today of, is there really a market for what these students are studying for?

And I guess I'd be interested in what information you receive and then by that token, what information the accredited institutions are required to tell prospective students.

MR. PUCKETT: All right. I would like to defer to Cindy. I could answer the question, but I'm going to defer to her because she works with this day in and day out.

So this is Cindy Sheldon, Associate Executive Director.

MS. SHELDON: Good afternoon,
everyone. The council for 40 years has
collected completion, placement and
licensure data at the program level.

We have used it differently than
the regulations demand for this year, but
completion rate for every occupation,
every credential awarded, placement rate -
- by the way, completers is the term that
we use, which includes both students who
leave and gain successful employment
related to the field of study as well as
graduates who leave with credentials from
those fields.

Placement in related fields and
licensure in a variety or areas, allied
health fields, cosmetology, arts and
sciences, FAA training, that requires
federal certification which we call
licensure.

And we collect statistical
information from year to year and apply
that at least in the past we have, to set
benchmarks for the following year. That of course is a process that is changing.

That is one of our issues mentioned here, student achievement. We are looking at the data to examine how we can effectively and efficiently apply it at the program level, but program level data is something we collect and always have, sir.

MR. ROTHKOPF: But I guess my question -- I appreciate that. What do you do with it or I guess more directly, what do the institutions do with it and do they provide it on their websites or otherwise to prospective students?

MS. SHELDON: Currently, institutions that provide the data to us, which is all of our members, many of them do publish the rates on their websites. Many states are now mandating that those rates be published on their websites. The council, however, does not require that.
We do require the submission of the data and we do publish those rates, our minimum benchmarks, which in the past has set a minimum requirement, standard deviation levels below, and steps to be taken for institutions that fail to meet those requirements or file one or more deviations below is made available to the public.

So the council at least in the overall picture, we do provide the statistical information we use to set the benchmarks that all institutions must meet.

And institutions then make the decision on whether to publish that information on their websites, and sometimes that is mandated by state law.

MR. ROTHKOPP: And has the council ever considered requiring that information to be published by your accredited institutions? MS. SHELDON:
It has been brought up in our committee meetings that decide on changes for policies and standards, and may be another issue for this year's meeting which is in August.

MR. ROTHKOPF: And just a question, let's take a particular field. A school which is engaged in teaching cosmetology, how does a prospective student know whether there are indeed job openings in cosmetology in the particular area in which he or she is seeking a degree or work at one of your institutions?

MS. SHELDON: Let me begin by describing a little bit of our substantive change process for adding new programs, or adding a program to an institution.

Even applying for candidate status with existing programs involves demographic studies on the part of the institution.
And also employer verification that there are demand for jobs in the area, and also salary information that may help the institution set tuition rates, that kind of thing. Many institutions make that information available to their students upon enrollment.

So institutions who use the data to their advantage use it in ways to market to their communities and use it to improve their existing rates.

We do ask that institutions share information with their faculty and staff about completion, placement and licensure in an effort to always improve those rates and better the programs.

MR. ROTHKOPF: I guess maybe a final question is following on from that.

Have you ever had a situation where a particular program, their analysis shows that there's not much demand. Will they terminate the program?
Or will they continue to do it because they can set their tuition, but then the students end up without much opportunity to find a job?

MS. SHELDON: Well, when that is the case, sir, that will show up in their placement statistics, and also completion rate as well, many times.

When that happens, in the past we have measured compliance on institutional performance. Institutional performance then drops, and once the institution is triggered for failing to meet minimum requirements and now going forward at the program level, the institution must demonstrate, submit a compliance report, improvement plans.

Sometimes it rises to the level if the performance is poor enough, to host a focused review team, being placed on an adverse status with our agency. In fact, at our recent commission meeting we have
an institution that is going to be hosting
a focus team for job placement rate
verification.

So we do take those steps in
progression depending on, at least in the
past on how far below the mean the
institution's rate fell.

MR. ROTHKOPF: Thank you.

MR. PUCKETT: And let me add one
thing, we would be supportive of the
notion that information should be provided
in students trying to decide a career, and
is it a good one and is it, you know, cost
effective.

MR. ZARAGOZA: Do you all
require institutions to collect default
rates?

MS. SHELDON: Actually we do
collect that information, sir, from the
federal government and publish that in our
agenda books at each of our meetings so
that that is always considered.
We do require institutions that are triggered on cohort default rates to have a default plan. That has been a part of our standards for 15 years.

MR. ZARAGOZA: Is notification to the consumers also a part of that?

MS. SHELDON: No sir, it is not currently in our criteria.

MR. ZARAGOZA: Thank you.

CHAIRMAN STAPLES: Susan?

MS. PHILLIPS: Just a question. I was looking on your website at your member institutions and saw some that I recognize as secondary institutions rather than postsecondary, the BOCES in New York. Can you describe how they fit in to the greater scheme of things?

MR. PUCKETT: Well, the BOCES are a postsecondary institution that really are not -- I believe in the state of New York the approved accrediting agency that most of them use is like the
National League of Nursing. And some of these programs, some of the BOCES have developed postsecondary programs in the traditional occupations such as auto technology and welding and other trades, and would qualify as members of our agency because of the postsecondary nature.

CHAIRMAN STAPLES: Anne?

MS. NEAL: Just to follow up on Arthur's questions. Are you saying that you do have a trigger vis-à-vis placement rates?

MS. SHELDON: Yes ma'am. We do have a trigger at least in the past, and please keep in mind we are in the process of reworking our system of addressing benchmarks at the program level.

But in the past, our placement rate -- and by the way, we also divided our membership into peer groups, comparing public institutions to public, private institutions to private, and Job Corps
centers were in a grouping of their own.

But the average for the last three years for completion is just a hair above 72 percent, and this is based on actual data we collect. This is based on the 2010 data. A little above 81 percent for placement and 93 percent for licensure exam pass rates.

MS. NEAL: In our previous discussion we were talking about debt loads, and do you keep track of that as well?

MS. SHELDON: Well, as far as financial information goes we do track that. We require institutions to submit audited financial statements each year, and measure financial stability on four criteria, ratio of assets to liabilities, contingent liabilities, a lack of a net loss for the last two years.

So we do have triggers for
financial stability as well, but they are separate from the placement and licensure criteria.

MS. NEAL: And looking back at your previous history, there were four issues, institutions with distance ed, monitoring substantive change, review and review procedures.

And as I understand it you were found compliant, but it appears that some of those same concerns have come back again. Can you address that, please?

MR. PUCKETT: Okay, in the previous petition we tried to make the case that we were experienced with distance ed because we had been accrediting a few distance programs, but that was not received.

So that following year we went through a rigorous process of developing a distance education standard which was subsequently approved.
The monitoring at the time, the monitoring issue at the time had to do with making sure that we followed institutions that had rapid growth, and so therefore we instituted two monitoring statuses.

One was on the percentage of growth of the program, of the institution itself, the literal student population growth as well as financial monitoring.

So that was put in place to make sure that each and every -- that we had a good explanation as to why a school might double in size in a year's time.

I'm trying to think of the related citations from the last and I don't what the -- can you be specific?

MS. NEAL: Well, I wanted simply to raise the concern as been raised previously with accreditors which have a continuing list of problems. If they don't disappear, obviously that gives us
some concern that they're not properly being addressed.

And obviously you were found in compliance but as I say, these same sections maybe not the same subsection, but these same criteria have appeared again in some of these findings.

MR. PUCKETT: Okay, I can give you one example. You might see a citation in this report about substantive changes and you might have seen one before.

The method now, acceptable method for doing substantive changes is different, and therefore it may have brought a different citation this time.

CHAIRMAN STAPLES: Any further questions?

MR. LEWIS: Oh, one further question. As part of distance education, I wasn't clear from reading the various materials. So do you actually look at correspondence education as part of the
distance education modality?

MR. PUCKETT: Well, heretofore we had considered correspondence to be a part of distance. In fact, the current financial aid guidelines merged them together.

But under the new criteria it is thought of as two specific. So we studied the proposition and actually did a survey of all the schools we accredit and we only had one that did correspondence. And I talked with them and they were thinking about changing more to a distance approach.

So we decided not to include the correspondence in our scope, but those are one of the less substantial issues. Mainly it's an editorial.

I think the record citation has to do with cleaning up the publications to get all references out of it, but no, we do plan to accredit correspondence
schools.

CHAIRMAN STAPLES: Any further questions? Okay, seeing none, Earl, do you have a motion?

MR. LEWIS: Sure. A motion. I move that the NACIQI recommend that the Council on Occupational Education's recognition be continued to permit the agency an opportunity to within a 12-month period bring itself into compliance with the criteria cited in the staff report.

And that it submit for review within 30 days thereafter, a compliance report demonstrating compliance with the cited criteria and their effective application. Such continuation shall be effective until the Department reaches a final decision.

CHAIRMAN STAPLES: Is there a second?

MS. WILLIAMS: Second.

CHAIRMAN STAPLES: And moved and
seconded. Is there any comment or question regarding the motion?

MS. NEAL: You've been hearing us relay concerns as an undercurrent to some of these recommendations. Many of the criteria for which you've been cited appear to be simply requiring demonstration.

But there are a number of other substantive ones there, so I simply want to articulate a sublevel of concern as you come back to us. Because there obviously are quite a significant number of issues raised and there have been some issues raised in the past.

CHAIRMAN STAPLES: Any further comments? Seeing none, all in favor of the resolution, please raise your hand. Any opposed? The motion carries. Thank you very much.

MR. PUCKETT: Thank you so much.

CHAIRMAN STAPLES: Thank you.
And we'll now take a brief five-minute break just to allow for the food to be brought in for us to restart our meeting. Please be back in five minutes. Thank you.

(Whereupon, the above-entitled matter went off the record at 12:21 p.m. and back on the record at 12:37 p.m.)
Overview of the Committee Deliberations on the Reauthorization of the Higher Education Act

CHAIRMAN STAPLES: Everybody in the audience please take your seats, we're about to restart our meeting. Thank you very much for taking any conversations that are remaining outside so we can hear each other up here, and we welcome you to this next portion of our agenda, which is the Overview of the Committee Deliberation.

That's what we'll do next, the Overview of the Committee Deliberations on the Reauthorization of the Higher Education Act. I will give a few brief comments and then recognize Susan Phillips, who has done a tremendous job so far and I know will continue to do that in leading the committee's deliberations around developing recommendations for the
Secretary regarding the Reauthorization of Higher Education Act.

I will just say that as our process has moved along we've began with a very broad set of issues and questions in February and I know that one of the things we're hoping to do today, and Susan will get into this in greater detail, is this is our first opportunity, really, for the full committee to weigh in on some of the issues that we have before us.

And I think we want to take full advantage of that and get a much better sense of where this committee and its members are interested in going with respect to all the issues that have been identified.

And I look forward to that. I think this is going to be a very significant part of our process. Our next meeting will be for subcommittee after this, in September. And then the full
committee again next December where we hope to have a more refined list of recommendations.

But, at this point in time I would like to recognize Susan Phillips and again thank her on my behalf, and I know on behalf of others, for the enormous amount of work she is doing to organize this discussion and to bring it from a very broad discussion eventually down to more finite recommendations. And, Susan, thank you for your work and take it away.

MS. PHILLIPS: Thank you, Cam. This is indeed a very significant project for the NACIQI. Let me first introduce the subcommittee who has been working on this project, besides myself.

The members are Cam Staples, Arthur Rothkopf, Jamie Studley and Bill Pepicello, Art Keiser, Brit Kirwan and Daniel Klaich.

Some background on the path to
today, as you know we began in December
with a charge from the Assistant Secretary
Ochoa to provide advice to the Secretary
on the Reauthorization of the Higher
Education Act.

It is a very broad charge and a
very broad opportunity. And so we began
with a very broad net, inviting the
opportunity to learn about a variety of
dimensions and perspectives.

In this room, back in February,
we considered points from federal and
state interests from accreditors, from
presumed beneficiaries of quality in
higher education from accredited
institutions from the research from inside
and outside the box and inside and outside
the beltway.

This served as a launching point
for our discussion about the issues and
areas we saw as most important to consider
for refining and developing
recommendations. And you may even recall our sticky-note exercise on the walls of this room.

Those not present for that forum were invited to weigh in later, and from all of that the subcommittee culled through it all to identify three broad issues or areas in which we would focus.

I believe there is a handout in the back of the room about those three issues. Yes? No? Yes. And together with a reference, as needed, for the other areas that emerged from that February forum.

Briefly the three issues that we are choosing to focus on are regulatory burden and data needs, which focuses on the concerns about the regulatory burdens on costs of accreditation to institutions, students and taxpayers.

Also included are questions about the nature and quality and quantity
of data gathering and reporting required on the part of institutions and accreditors.

Issue two concerns the Triad. Focusing on the clarification of roles, responsibilities and capacities of federal, state and accreditor entities and issues of accreditation and institutional aid eligibility.

Also included here are questions about the link between the institutional aid eligibility and accreditation.

And issue number three. Accreditors scope, alignment and accountability focuses on those three elements. Included are questions about the sectors and scope of various accrediting agencies, the alignment of standards across accreditors and accountability for accreditation decisions.

For each of these issues we've
invited comment and speakers over the next day and a half as we further develop our thinking on the recommendations that we'd like to develop.

We're aware here that no one issue in this area is unconnected to several other issues. And that there's a lot of complex territory, even in just these three. Nonetheless we're going to work to focus our attention on developing our thinking about recommendations in these three areas today and tomorrow.

Our goal for the end of Friday is to have a good sense of the recommendations we'd like to develop. And to keep us on track I'm going to keep a running tab on topics that, even though we may not be able to include them in this particular round of recommendations, we maybe want to come back to them over time.

I do think it's safe to say that this particular set of recommendations
won't be our last word as a NACIQI. A couple of notes on our work today.

We've divided our time into three segments. One today, two tomorrow. One for each issue. We've invited a set of speakers to start us off and we'll have a chance to engage them in discussion about each area.

Next we'll have the opportunity to hear from those who would like to add their comments from the public. And last, we'll have an opportunity for discussion amongst us about what we see as emerging recommendations on this particular issue.

We'll begin that discussion, that final discussion, by focusing a couple of structures to our conversation. First is to focus on what's working well on this issue. What we'd want to keep as well as what is getting better and what we'd want to grow.

Then we'll consider what are the
opportunities for correction, for change, for doing things differently. And from there we'll consider what those two sets of observations mean for recommendations that we might want to make.

With that let me begin with issue number one, regulatory burden and data needs. Let me ask Melissa to introduce our first guests.

Working Lunch: Training on Regulatory Burden and Data Needs

MS. LEWIS: Thank you, Sue. If the presenters would please come forward. We've invited Bryan J. Cook, who's the Director from Center for Policy Analysis, American Council on Education.

His colleague, Terry W. Hartle, Senior Vice President, Division of Government and Public Affairs. Also from the American Council on Education.

And Christine Keller, Executive Director, Voluntary System of
Accountability, Association of Public and Land Grant Universities.

And before you begin I'd also like to note, for the audience's benefit, that this morning I had indicated that we would be accepting five applications for public comments on each agency.

This is slightly different, for each issue we'll be inviting up to ten commenters per issue and we would encourage you to provide input and support as we review the three issues on the agenda. Thank you.

CHAIRMAN STAPLES: Susan, if I just might, in terms of timing, it's 12:45 or thereabouts, we're about half hour off from our schedule. So this segment of the agenda will go from 12:45 to about 2:00. And I understand you've been invited to speak for about 20 minutes each.

I'm recognizing this as just a guidance for us so we have enough times
for questions thereafter. But we look forward to your presentations.

MR. HARTLE: Thank you very much, Mr. Chairman, I'll start. My colleagues and I have looked at the list of questions that you were kind enough to share with us to give us some ideas of the issues that you're interested in discussing as part of this session.

And I think what we'll do is offer some general comments at the start about the broad issue that you've raised for this panel and then hope to take up the individual questions as part of the discussion period.

I'd like to begin on behalf of Bryan Cook and myself by making five points. Point number one, accreditors have a central role to play in determining institutional eligibility to participate in Federal Student Aid programs, but they do not have the sole role to play.
Under the Higher Education Act, both the states and the U.S. Department of Education play an equally important role. Indeed, we commonly refer to the Triad as a way of underscoring federal, state and accreditation responsibilities for determining eligibility.

Now I note that you're going to have a session on the Triad tomorrow. It's easy and convenient to assign new tasks and responsibilities to accreditors, but in many cases they may not be the most appropriate parties.

But it would not, for example, be a good idea to ask accreditors to determine compliance with Federal Student Aid regulations because accreditors lack the expertise and the knowledge to make such judgments.

In addition, adding more requirements to accreditors runs the risk of diverting them from their central tasks
of institutional improvement and academic quality.

So as you think about what changes might be necessary in the Triad in general and accreditation in particular, I encourage you to think about the role that the Department of Education and the states have to play.

I think as we've recently learned from the Department State authorization regulations, at least the states may not have been playing the role in the Triad that the Government envisions.

Second, the information that the accreditors collect and the analysis that they perform as part of their central mission, again, institutional improvement and academic quality, is by definition focused on individual colleges and universities. Or on specific programs at individual colleges and universities.
And may not appropriate itself or lend itself to easy comparison with other institutions. Policy makers and the media often want nationally comparable data in order to draw comparisons.

But because accreditors examine each institution according to specific missions and goals, it can be difficult to generalize across institution. It's not to say it's impossible. But accreditation is designed to permit careful evaluation of individual institutions, according to their role and mission as they define it.

If we want to maintain the diversity that we celebrate as a defining feature of American higher education, we have to ensure that evaluations, especially those focused on academic considerations, are tailored to goals and missions of the individual institution.

Third, Federal Government already collects a fair amount of data
about institutions of higher education. Some of this comes from the National Center for Education Statistics through IPEDS, Institution of Post Secondary Education Data Survey, this is one year's IPEDS.

It is 350 pages of surveys that institutions are required to fill out. This is not all the data the Department of Education collects. Data such as the campus crime statistics go through the Office of Post Secondary Education. This is simply the data collected by the Department of Education through IPEDS.

That 350 pages, of course, requires 350 pages of guidelines to fill out the information. So as you think about information that you think the Department of Education might collect I think it would also be very helpful and desirable for you to think about what information the Department of Education
doesn't need to collect.

Data costs, people have to fill out the reports, people have to analyze the reports. There's often a burden associated with collecting information. The more information we collect, the more burdensome it becomes, the more costly it becomes.

I'd also point out that for all of the data the Federal Government collects, the Federal Government really doesn't get very much date related educational outcomes. I think there are five pieces of data that could reasonably, not necessarily entirely accurately, but reasonably referred to as outcome data.

The first are gradation rates. We know that graduation rates are highly inaccurate. The second are retention rates. Retention rates are also highly inaccurate, particularly for any student who transfers from one institution to
another.

Third thing the Federal Government collects is placement data. This is inaccurate and it's often collected on a scatter-shot basis. Fourth thing, student loan defaults. Most people wouldn't really regard this as outcome data, but if we define this broadly the Federal Government has treated it as outcome data.

Ironically perhaps, student loans defaults data tends to be very accurate because we know when somebody goes into default. But we've also learned recently that schools have determined how to manipulate student loan default data so that they can change the results for their school.

And finally, the last piece of outcome data that I think the Federal Government gets are the number of degrees awarded. This is a relatively basic
statistics. It has the advantage of being highly accurate, but it doesn't tell you much about the individual institutions and how they're doing with individual students.

Not only do we have relatively little data about outcomes, the rapid changes in post secondary education delivery systems and learning modalities has greatly outpaced our ability to think about how to keep track of student enrollment, attendance and completion patterns.

Fourth point I'd make is that imposing new regulations or data collections on institutions or accreditors carries a cost. Partly it's a financial cost associated with the time and effort needed to collect and analyze the information.

And partly it's opportunity costs associated with other activities
that might not be doable as a result. I think a good example of this are the Department of Education's new requirement that accreditors review institutional credit hour policies using a specific federal definition of credit hour.

According to the Department of Education accreditors can use sampling to assess an institution's compliance with the federal definition.

One mid-size private university that I'm familiar with has 5,550 courses. If the regional accreditor analyzes just ten percent of those courses at the school, that'll mean 550 courses, and if they spend 15 minutes determining that each course is consistent with the credit hour policy it will work out to 137 hours for a single federal requirement.

This will require accreditors to add staff, which will mean higher costs to the schools, or it will require
accreditors spend less time on other issues. There is no way around this.

Ironically in 1998 the Congress decided, in statute, that accreditors should not evaluate credit hour decisions and removed that provision from the law. In 2010 the Department of Education decided to put that provision back into regulation.

I might mention something where NACIQI could be very helpful to accreditors is that we have asked the Department of Education for guidance on what level of sampling will be required to meet the regulation of the statute.

One senior Department of Education official, when presented with the above case, 5,500 courses, said it would only be necessary to sample ten to 15 courses. And we'd appreciate knowing from NACIQI if NACIQI believes that sampling ten to 15 courses on a base of
5,500 would be satisfactory.

We have to start imposing or applying that regulation on July 1st and having guidance on what's acceptable from the Department's point of view would be most useful.

Finally, it's hard to imagine any single outcome measure, or measures, that will work equally well for all institutions of higher education. It's hard to imagine an indicator that will work equally well for St. Johns College in Annapolis, with its Great Books programs, for the Julliard School in New York with its many programs in fine arts performance.

For Colorado Christian College which includes inculcation in the values of Christianity as part of its mission. And Northern Virginia Community College, which provides open access to a large number of students, many of whom may not
be prepared academically or emotionally for colleges.

Accreditation has served American colleges and universities in our society quite well for a very long period of time. And it's benefitted us to have a diverse array of institutions that are evaluated on their own terms and conditions, based on the mission of the institution.

And I think any federal template on these schools will inevitably and fairly quickly homogenize higher education. I'll stop there, thank you very much.

CHAIRMAN STAPLES: Thank you.

MS. KELLER: Thank you. Good afternoon. My colleague, Terry, has set the stage with a broad overview of some of the issues within the topic of regulatory burden and data needs.

And what I want to do is focus
my comments more directly on student learning outcomes measurement. And pick up some of the themes that Terry and Bryan have already referenced. Because I think that all of us can agree that the appropriate assessment of student learning is a topic of utmost importance for all of us.

As some of you may remember from my remarks in February I manage the Voluntary System of Accountability on behalf of the Association of Public and Land Grant Universities and the American Association of State Colleges and University. As well as our participating public institutions. Just as a brief recap, and to give you some context for my remarks, the VSA was created in 2007 through the joint work of leaders from APLU, AASCU and our member of colleges and universities.

The VSA effort has three primary
objectives. To provide a college search tool for students, families and high school counselors through the College Portrait website. To provide a mechanism for public institutions to demonstrate accountability and transparency, particularly in the areas of access, cost, student progress and student outcomes.

And third, the VSA works to support institutions in the measurement of student learning outcomes through research and by providing a forum for collaboration and exchange.

So a very central component of the VSA is the four year pilot project to measure and report student learning outcomes in a common and comparable way. And it's from that experience that I want to briefly share some key lessons that we have learned. Some ongoing challenges and some observations about the future of learning outcomes assessment.
First, it's important to recognize that there are three essential elements, indiscrete elements, of student learning outcomes assessment. And that's measurement, reporting and use.

Second, it is important to understand the different purposes for collecting learning outcomes data. And generally these reasons fall into two broad categories. Formative assessment, and this is usually tied to institutional or program improvement, and summative assessment which is typically used for accountability.

Although there is significant overlap between these two reasons for gathering learning outcomes data the purposes are very distinct. And each purpose can, and should, inform the choice of measurement, reporting and use of assessment data.

So to illustrate these first two
points a primary purpose of reporting student learning outcomes on the VSA College Portrait is accountability and the ability to compare across institutions. So a more summative type of assessment.

So in terms of measurement, VSA participating institutions use one of three standard instruments and a common methodology. The results are publicly reported on the College Portrait. And the results can be used by several different audiences.

Students and families, for selecting a college. State legislators for accountability reporting. And institutions for bench marking as compared with peers.

Now if the VSA Institution would like to use the results from one of these standard instruments for more formative purposes, for instance, to improve learning in a particular program, the
Institution will typically combine the test results with other types of assessment measures. Such as student survey data, electronic portfolio data, program review results, et cetera. This allows the institution to better understand and to segregate the test results. Then this combination of results from the different measures can then be reported and discussed across campuses to determine appropriate interventions or strategies to improve learning outcomes in a particular program.

And this illustration points out a third lesson that we have learned. There are different levels of assessment. Institution, discipline, program, course level, just to name a few.

The VSA focuses on institution level assessment, which is valuable for summative accountability purposes.
Individual institutions also collect data to document student learning, for professional accreditation, through program review and general education evaluation.

And for assessment work to have a meaningful effect outcomes data should be collected across all these levels, through a variety of methodology and instruments and be combined to paint a comprehensive picture.

A fourth lesson is that context matters. Size of institution, age of institutions, characteristics of the students, institutional mission and instructional delivery models are examples of key factors for selecting the appropriate combination of assessment approaches.

Now the challenge that arrives from all of these lessons is that the effective assessment of student learning
is complex and multifaceted. A top-down approach that imposes a one size fits all instrument or method will be counterproductive for both purposes of student outcomes assessment.

Both the accurate documentation of student learning for accountability and the application of useful information to enhance student learning and improve institutional performance.

Another challenge is that student learning assessment is an evolving and dynamic field. Methodologies and systems are struggling to keep pace with increasing external demands for evidence, new educational delivery models and shifting student and institutional characteristics.

The lessons and challenges learned from our experiences with the VSA lead me to the conclusion that regulation or enforcement of common standards at the
federal level is a mistake. I am convinced that the process must be owned by the higher education community in partnership with accreditors.

In this way flexibility is built into the system and the system can evolve as new methods and techniques are tested and refined. It should not literally take an act of Congress to implement new, more innovative techniques.

And we have evidence that such a flexible, voluntary system can work. Four years ago the VSA was created in response to the desire for more understandable and transparent data. The project is now getting ready to enter into its next phase of development in light of the lessons that I just described to you.

This fall we will evaluate the effectiveness and the value of the VSA approach to measuring and reporting student learning outcomes for our various
target audiences, including accreditors, institutions, policy makers and students and families.

As we did at its inception we will convene a group of assessment, data and policy experts as well as senior university leaders to review the evaluation results, examine alternative assessment models and make future recommendations for the direction of the project.

In the next year you will see a new and improved version of the VSA in response to the changing needs for different types of accountability data. And I should point out that the VSA is not the only such model.

The American Association of Community Colleges is working with their member institutions to develop the voluntary framework of accountability. The project is currently in the pilot
stage and includes appropriate student outcomes measures for the two year college sector.

Institutions with adult and online degree programs have developed the Transparency by Design Program. It includes the public reporting of student learning outcomes at the program level. Again, focusing on outcomes most appropriate for its particular schools.

So I urge the committee to support broader recognition within the accreditation process of the contributions of these accountability systems already in place.

It is right and proper to more broadly recognize the high level of commitment by institutions participating in these systems to greater transparency and reporting outcomes and to improving student learning on campus.

Thank you for the opportunity, I
look forward to your questions and further discussion.

CHAIRMAN STAPLES: Thank you.

Mr. Cook.

MR. COOK: My comments were provided by Mr. Hartle.

CHAIRMAN STAPLES: Okay. So Susan would you care to, you want to start with questions, or Arthur?

MS. PHILLIPS: Yes, I'd open it to questions both from responding to the questions that we sent you earlier and also from our group.

MR. ROTHKOPF: Yes, thank you all for being here. Let me start with the premise that when taxpayers put $150 billion out to support students in higher education that there needs to be some sense of accountability. And I would hope that everyone agrees with that, if you don't please say it.

There's also some evidence,
including a recent book by Professor Arum, who appeared before us, and his colleague that students are not learning very much. Or not learning as much as we would hope. And I appreciate the efforts that are being made in the voluntary system.

Without saying, and I know we hear about, you know, we can't have a system that's one size fits all, because no one wants one size fits all. But we have sectors in higher education of the 33 or 34,000 institutions out there. Everywhere from the research universities that want to get out from under the regionals and have a separate analysis there, to community colleges to faith based schools, to everyone else.

I guess I'd ask the question, if you're prepared to accept the view that yes, taxpayers need accountability here is, the broad and maybe I'll put it to you, Mr. Hartle, you represent all of
higher education.

That there needs to be a concrete, specific effort to develop sector based learning outcomes which will give some assurance to taxpayers that they're getting their money's worth for the $150 billion.

MR. HARTLE: I certainly support your premise that with that much money being provided accountability is necessary, important and desirable.

I think that the question about developing it for sectors is a little more complicated than we might like. I will think about private four-year colleges, a sector you're familiar with as a way to illustrate the point.

The standards that we might use at a place like Lafayette would be, perhaps, quite different than a place we might use at a Christian college, where inculcation of values of faith is a
central part of the institution's mission. That simply wasn't part of what many private liberal arts colleges do.

I could complicate it further by pointing to places like St. Johns, which emphatically does not make any promises about jobs, indeed tells you don't come here if you're looking for a job. An unusual marketing strategy I might say.

And the Olin College of Engineering in Massachusetts, which is very emphatically focused on providing jobs. I think the issue needs to be that there should be an expectation that individual institutions, or institutional systems if you're talking say like the University of Maryland system, will develop their own accountability standards and make those data widely available to the public.

I brought along with me the accountability report that the University
of Wisconsin system has developed for its
institutions. Sixteen standards, everything from student enrollment
patterns and access to graduates and
completion. Also covers such things as
jobs, communities, resources, operational
efficiencies and collaborations.

So I think we can and should
expect individual institutions to do that
and I think many of them already are doing
it. Challenges, it very hard to
generalize from what, say, the University
of Wisconsin system might come up with
because their accountability report is
keyed to the state of Wisconsin.

And say what the University of
Maryland system might come up with because
they would, of necessity, should be and
would be keyed toward Maryland.

MR. ROTHKOPF: And I agree with
you that even, you know, within the
private non profit sector that there are
many different models there.

What has somewhat troubled me, and be interested in your reaction to this, that in efforts to kind of get more disclosure about outcomes and more disclosure about the results of accreditation reports, which may disclose in some cases some warts at a particular institution that sector and I guess ACE has really objected to making those accreditation reports public.

And is that a position that you think is the right one? Because if someone wants to look at a website of a public institution, like University of Maryland, you can find an awful lot of data there on outcomes. You may or may not find it in the independent sector.

And that, to me, is a troublesome thing and I guess I'd be interested in your reaction to that.

MR. HARTLE: ACE has never been
asked, nor have we taken a position on, public release of accountability reports. My personal position is that it's fine. Many accountability reports are already publicly released.

I think for just about any public college or university every accreditation document is covered under the state's Freedom of Information Act and therefore public.

We watch the news media pretty carefully and I never see any hard hitting stories about an accreditation report having been released on an institution. Now that might be because accreditation reports are long, often dull, often hard to interpret.

But I think the record would show that many accreditation reports are already released and that, frankly, for whatever reason they don't seem to make that much of a difference.
I am aware that at least one of the regional accrediting agencies is considering a policy in which they will make any of their actual reports public.

And I think all of the accreditors are increasingly aware of the desire for transparency and are moving in that direction. But from my own personal perspective I think what you have laid out is fine.

CHAIRMAN STAPLES: Art, you're next.

MR. KEISER: Welcome to this group. I would agree with you also, Terry, that the amount of data that's collected is just extraordinary and it comes from all different directions, it's not just the Federal Government but from state governments and, you know, we have five full-time people doing nothing but gathering and collecting data and sorting it.
I'm interested though in the concept of outcome assessment which, to me, has always been a way of avoiding the issue rather than dealing with the assessment of outcomes we're doing without an assessment which, as you said, is reporting measurement and use or measurement reporting use.

Now where does it say how well do the students do which is effectiveness of students. And do they accomplish the tasks that they've set out for themselves.

And I think higher education as a whole is missing what Congress is sensing and feeling in that it's not about data, it's about performance.

It's not about, you know, institutions that can determine that they can improve, that's great but why are they bad. And what are the, you know, should we be supporting institutions that don't perform?
And how can a, you know, an institution with a 12 percent or a 13 percent or a ten percent graduation rate, or completion rate, you know, what's its purpose?

And yet it has gone through an outcome assessment process. So how do you get an abridges disconnect between outcome assessment and the assessment of outcomes?

MS. KELLER: A couple of thoughts as everyone was talking. I think sometimes that we get confounded in our mind, and you've done a good job of laying out the differences, is that the implementation of standards and bench marks and bright lines and whatever words you want to use, and also the putting in place of assessment processes on an individual basis by institution.

When I was talking through, you know, the different types and purposes of assessment and the measurement and
reporting and use I didn't do that just as an academic exercise.

In my thought process and some of the things we've learned from the VSA, I could see that as becoming a framework for what would be required for institutions.

So an institution would need to have to have some sort of summative assessment measure that is reported publicly and they are held accountable for.

But it's also necessary for an institution to have some sort of formative assessment that's appropriate to the institution that is reported in an appropriate way and is used to address issues that are uncovered during the assessment.

So to me that provides a framework for looking at how an assessment process or system, what are the key parts,
without necessarily trying to put standards in place that, as Terry pointed out, may be different for different types of institutions.

MR. HARTLE: Art, let me add that I agree with exactly what Christine said, I think that low graduation rates are a very bad thing. I think low graduation rates out to be a great big warning light that we ought to be looking. I think any of the outcome indicators that we do have suggest we ought to be looking at an institution if they have either high or low rates depending on what would constitute bad.

But I think the problem we have with graduation rates, as we all know, is they're wildly inaccurate. If you transfer you are a dropout forevermore. You're never counted as a college graduate. Forty percent of college students and 40 percent of graduates
It's very hard to think of things that President Obama and Sarah Palin and John Boehner have in common. One thing they do have in common is they're all college dropouts according to the Federal Government. It's nice that the Department of Education has given them some common ground.

We might wish they had more. But until we can get accurate data we have to be very careful about saying that any specific number by itself is meaningless. Particularly for community colleges.

My daughter started at a community college, spent two years there, transferred to a four-year university from which she graduated. She's a dropout from the community college and she never graduated from the university she
attended. And that's just a big problem.

The federal definition of graduation rates was sort of modeled on the mid 1980s and at that time it might have been okay, but as post secondary education has changed dramatically, with the new learning modalities, new institutions, it just doesn't work very well anymore.

Nonetheless, I'd say that a low graduation rate ought to be a warning sign to somebody.

MR. KEISER: And that's exactly my point, I think, I'm trying to make. Probably not as clearly as I could, is that we, the institutions, need to quickly come to grips and rather than push the ball or kick the can down the road. And I think this is what we're wrestling with.

Is because accreditation has become less than a stamp of approval.
Because when an institution and a public community college in Chicago has less than one out of ten students graduate, whether there is multiple definitions of why they didn't graduate, the public loses very significant confidence in our ability, and I speak as part of the community, our ability to provide accountability for the $150 billion we're spending.

MR. HARTLE: I think you've made an excellent point. A couple of quick observations. One is the first point I made that we don't necessarily have to assume that getting to the point that you have suggested is simply a matter for accreditors.

There are other gatekeepers. A community college in Chicago would be a public institution in the State of Illinois. The Department of Education has emergency power authority to shut down any institution of higher education overnight.
In the last five years regional accreditors, who would deal with 3,000 institutions, have closed down more schools than the U.S. Department of Education, which deals with 7,000.

So I take your point. Graduation rate is a federal indicator and arguably if anybody ought to be looking at graduation rates and saying does this make sense, it's the Department of Education, not simply expecting accreditors to take on everything.

MR. WU: I have two questions, but there's a little preface. And the preface is, I wonder if everything that we do is in some sense, at least for some segments of higher ed, overshadowed by an entire system that's not a governmental system but there's no oversight on, and that's rankings.

Specifically U.S. News ranking.

So I wanted to ask you about your view on
that since it all involves data. Let me just set the stage for this.

There's been a lot of publicity recently about law schools, and about law schools gaming the numbers. Specifically, whether or not law schools misrepresent employment data. How many graduates are employed, what they make, that sort of thing.

And the premise of the press coverage is typically that law schools are luring people into law schools and that's why they want to boost all these numbers. They hire their own students, they just outright lie and so on and so forth.

I have a different hypothesis. I don't think that most law schools, even the ones that are willing to cross the line and do things, that most of us would agree are just wrong, I don't think they're doing it to attract students. The reason I say that is almost every law
school is highly selective. They could easily fill every single seat. What they're doing is they're trying to attract more highly credentialed students. So they don't just want to fill the seats, they want to rise in the rankings. Because there is a tremendous amount of pressure.

There are studies that show for legal employers the number one determinate of starting salary for law school graduates is where they went to law school and its rank. Not their rank in the class at that school.

For perspective students the number one factor in determining where they will go is rank, there's studies that show that. Financial aid is number two, but rank is number one.

So rankings are this driving force that is causing a lot of manipulation and distortion with the data
that is gathered. So my two questions are.

First, what's your view? How do U.S. New ranking affect the process of data collection, data reporting, data accuracy, all this data? Reams and reams of data that are being generated. Most of which is used not only for purposes of determining is the school, is it one that should be accredited, but also goes into rankings.

Second question is, how should we, as a body, think, if at all, about rankings? And it may just be it's beyond our purview and we just shrug and say it's out there.

MR. HARTLE: Well rankings have been around, as you know, for 20 or 25 years. They've always been somewhat controversial within the higher education community. They're just a fact of life, they're not going to go anywhere, they
sell a lot magazines for people.

Is this a matter that this particular body ought to concern itself with? In my judgment no. I think you guys work longer and harder than just about any federal advisory body I've ever seen.

And I think just doing what you have to do, the in-depth review of the accreditation reviews, takes so much time and energy that you probably should stick to the knitting and focus on what you're assigned to do.

I think you're absolutely right about law schools and rank being the thing that drives them. In fact we brought a young man from our office who's interning with us this summer who's a law student because you were going to be looking at the ABA this morning.

And I think that whatever indicators get set up some institutions
will find a way to try and manipulate. I hope it's a small number but I don't know. I can't tell you about the calculation of placement rates because I don't know what the definition is that the law school community uses to define things.

I too read the article in the New York Times and was horrified. There is simply no excuse for providing that sort of data if you're actively misleading your students. There's no justification for it at all.

In terms of the rankings, ironically, I think much of that data is reasonably accurate and comparable. Because about 20 years ago a U.S. New and World Report was sort of first but then lots of other people got into the business and there were so many requests coming into institutions that the institutions actually sat down with the guide book publishers, in fact, I think they did at
Lafayette College, and agreed on how they would define many of the terms and statistics that show up in the guide books.

So, in fact, that's not to say that some schools don't manipulate them, but at least they're starting with a common definition. And again, that's something that the higher education community, thanks to Dr. Rothkopf, took the lead on.

MS. KELLER: And just a little more information, Terry's exactly right, it's called the common data set, and in fact I sit on that advisory board and it's very closely watched by the Association for Institutional Research. And it also is the basis for much of the data we report on the College Portrait.

MR. ROTHKOPF: If I could just - Terry's right in that we did hold a conference and get everyone to agree to a
common data set. It was the second piece, which actually I urged in a couple of articles which I think were still useful, and that was that I think some of the data submitted that doesn't go to the Federal Government is manipulated I think it ought to be audited by the outside auditor for the institution.

Things like admissions rates, faculty, I mean alumni giving and others I think are often not accurately done. I think it ought to be a lot better on that data on that stuff that doesn't go to the Federal Government if outside auditors actually were required to look at it.

CHAIRMAN STAPLES: Thank you. Any more questions?

MR. WU: Just one quick comment on all this. I think some of it does fall within our purview to the extent that institutions are cheating, I think you're right.
It is not, I think, beyond what we do in overseeing their accrediting authorities to ask is there an audit function. You know, how do we know that any of this data is any good? A lot of this is just the honor system and the incentives are just so strong.

In some cases not to cheat, you know, you can get really close to the line without cheating, but doing things including collectively, so just a norm arises where all the schools are not quite cheating but they're all doing more or less the same thing that we might be troubled by.

It think some of that would, at least arguably, fall within our purview when we ask accreditors what they're doing in terms of the reliability of the data that they get.

CHAIRMAN STAPLES: Brit, you're next. And then Ann.
MR. KIRWAN: I had three relatively quick questions. First one is that at some point I was told that one way of getting around this graduation rate issue, which you have explained very well, is to use the National Clearinghouse data, which apparently you can track students from day of entry in one school to graduation from another.

So I just wondered if that would be a useful replacement or a more effective way to measure graduation rates?

The second question, Terry, is you mentioned how much data we collect through IPEDS but only, I think, six items related to outcomes and none of them very meaningful in your mind. And I just wondered, did you have any ideas about what would be some meaningful outcomes data that the Federal Government might collect?

And then, third, I think you
make a very persuasive comment, in my mind, about the impossibility, or impracticality, of having sort of uniform outcomes assessment because of the great diversity of our institutions and I think I really get that point. But I'm just wondering if any of you have thoughts on the following question.

Should there be some entity that determines whether, you know, you don't have uniform assessments but, you know, is there a threshold level of institutional performance or learning outcomes that would prevent them from getting federal financial aid?

In other words could the standard be so low, even though there's not a uniform standard, could the standard be so low that you would not be eligible for financial aid? And should someone be in the position to determine that?

MR. COOK: Well I would first
respond to the possibility of clearinghouses being one of the vehicles for this information. As you know one of the things with the Clearinghouse is that participation is voluntary so they certainly don't have information on all colleges and universities. But the other issue is that --

MR. KIRWAN: But don't they have it on something like 70 or 80 or 90 percent of the students? A very high percentage I thought, but I could be wrong.

MR. COOK: They do the numbers a bit, or the way in which it's presented is a bit misleading. They have 70 percent of the enrollment of the institutions for whom, for the reintegrated degree-granting institutions.

The larger issue is the fact that until recently they did not capture a degree seeking status. So they
essentially would be looking at anyone who entered post secondary education and whether or not that individual got a degree and whether or not they were seeking a degree.

That is one of the benefits of IPEDS that at least it's limited to degree seeking students so that you don't conflate those students who are just enrolled for a class or some other sort of exponential learning with those who are actually seeking a degree.

MR. KIRWAN: Just to clarify that point. Let's say somebody enters as a full-time freshman at the University of Maryland. How does anybody know that student really wants a degree?

How do you know that student is degree seeking? I mean he or she may be just going to have a freshman year experience.

MR. COOK: Well and that gets to
a larger issue with the IPEDS data, which
on the one hand, and someone had raised
the issue of the possibility of gaming or
providing incorrect information. At least
in terms of IPEDS that information is very
much audited.

So the extent to which
institutions can provide misleading
information is somewhat limited. Now on
the other side there's a lot of leeway in
how you interpret the way in which the
data has to be presented.

And so, to your example, the way
one institution would define a degree
seeking student could be different than
the way another institution defines it.

There are specific guidelines of
how you determine that, but they're broad
enough that institutions could have their
own sort of nuance interpretation and thus
making what appears to be comparable data
not in fact entirely comparable.
And that gets to the larger issue of trying to standardize any sort of data. Whenever you try to reach that level of comparability you're always going to have enough of a difference that it makes it very hard to interpret the outcomes of a particular institution and compare them to another institution.

So I that's I think the point that Terry raised earlier is a key one, that because of the diversity of institutions that we have and the fact that the accreditation process takes place at the institutional level, that's where you're going to get the most accurate assessment of exactly what institutions are doing.

The minute you try to broaden that, and again we're not saying that it necessarily shouldn't be done, but the minute you try to broaden that, even within what appear to be similar types of
institutions within a particular sector, you start to raise the possibility of comparability diminishing.

MR. HARTLE: Based on research that's been done that Bryan indicated, federal graduation statistics are for full time, first time, degree seeking students. If somebody enrolls at the University of Maryland full time, first time, we assume they're a degree seeking student, even if they're not.

The advantage of the National Clearinghouse is it allows us to follow students who transfer. The disadvantage of the Clearinghouse is that until a year ago they didn't ask students if they were seeking a degree.

We, with the help of the Clearinghouse, actually analyzed data from some identical institutions to look at their federal graduation rate and their Clearinghouse graduation rate.
Their Clearinghouse graduation rate was a couple of percentage points higher, but not as high as it probably would have been had we been able to focus on people who really were trying to get a degree.

So we know from data research we've done using the federal graduation rate and the National Longitudinal Studies that if we could follow students once they transfer then most students, once they transfer, that most institutions would have a graduation rate somewhere between seven and 15 percentage points higher.

Sometimes it'd even be higher than 15 percentage points sometimes, of course, it would be lower if they don't have many transfers. So that's sort of the extent to which we think federal graduation rates probably understate the job that institutions are doing with graduates.
Is there a level at which things are so bad that somebody should be ineligible for Federal Student Aid? Yes, especially if we know that we've got accurate data to make a decision.

The Department of Education says if your default rate is above a certain threshold, actually Congress says, it's above a certain threshold you're out of the Federal Student Aid programs.

Department of Education now says if your student loan repayment rate is below a certain percentage, you're out of the Federal Student Loan programs.

I think with respect to graduation rates the problem with it is that we know that they are inaccurate but I think a low graduation rate ought to be a big red flag for either the Department of Education or the states to be asking some very hard questions about. Yes?

MR. KIRWAN: Yes, just one and
I'll stop. You mentioned the high default rate would put you out of the -- I'm only actually asking about academic standards. Should there be a judgment made by some entity or some, so that the academic standards are just insufficient to warrant Federal financial aid?

MR. HARTLE: Yes. And now let me complicate it. Accreditors do this now and that's part of what accreditors are there for is to determine to whether or not the institution meets basic threshold academic standards.

The second thing is, and this is why I keep backing away from graduation rates, is because we know graduation rates are so inaccurate.

What I think we have now with the modest amount of outcome data, loosely defined, that the Federal Government collects the best thing we are probably going to be able to do that, given the
inaccuracies of it, is use it as a big
warning light.

And at which point someone
probably ought to be asking some very hard
questions about what is happening at that
institution and why. We can argue the
states ought to do it for public
institutions and indeed I suspect if it
was something in the University of
Maryland's system you'd be doing it.

We could argue the Department of
Education ought to be doing it because
they are the ones that collect the
graduation rate data, it goes to the
Office of Student Financial Assistance,
they're the ones that keep it.

And you could argue that
accreditors ought to be doing it, if it's
a very low graduation rate below a certain
threshold. So, yes, I think at some point
there are some educational institutions
that none of us would want to send our
kids to. And we shouldn't let anybody else's kids go there either.

CHAIRMAN STAPLES: Anne, you're next. And then Earl.

MS. NEAL: Lot's of good stuff going on here. I want to just pick up on various threads. Let's talk a little bit more about IPEDS since we've got the Education Department folks here.

Obviously there's a lot of dissatisfaction with the way IPEDS works. It's not always timely, it's hard to access, the definitions aren't great so it's hard to tell who's transferring.

You're saying that the National Clearinghouse has actually got some better ways of assessing transfer. Why can't IPEDS develop or adopt those same kinds of standards?

And correct me if I'm wrong, but don't you have to belong or pay money in order to access the National
Clearinghouse?

I mean if we have a Federal IPEDS database why can't it be a good one, timely and accessible so that all this data can actually be used in an effective way?

MR. HARTLE: The National Clearinghouse was originally created about 15 years ago as a way of tracking students, institutions tracking students, for purposes of Student Financial Aid eligibility.

There are annual and cumulative limits in terms of how much Federal Financial Aid you can get and without the National Clearinghouse institutions had no way of keeping track.

So the Clearinghouse was created by State guaranty agencies and institutions as a way of providing information across institutions. So that if Bryan enrolled in my school I could go
into the Clearinghouse and see what his student aid eligibility was in terms of money he's borrowed, Pell Grants he's received and so on.

The reason that that can't work at the federal level is because the National Student Clearinghouse is a unit record database. Individuals are put in that database by a unique student identifier, I think Social Security number.

The Federal Government is explicitly prohibited, Department of Education is explicitly prohibited by law from creating a student unit record database because of privacy concerns.

Congress put that provision in place in 2008. This is an issue that's been widely debated within the higher education community, the policy analytic community and it's very much a trade-off between much more accurate data and the
fact that if you have a database with 20
million students in it it will very
quickly be used for other purposes.

MS. NEAL: Are you saying that
the transfer cannot be tracked except
through a student unit record?

MR. HARTLE: No, because -- Well
you can't track individual students
without a unit record system. You might,
through the National Longitudinal study,
be able to get some basic estimates about
the percentage of students who transfer
but you wouldn't get any information from
a National Longitudinal Study about
individual institutions. That's how we
know the percentage of students who
transfer.

MS. NEAL: But is there
something that IPEDS could do tomorrow
that would improve the situation? No?

MR. COOK: Certainly not
tomorrow. And as someone who participates
regularly in the technical review panels for IPEDS this is a conversation that has come up numerous times. Everyone is well aware of the issues with graduation rates and the population of students that they don't account for.

But the reality is there is no easy solution. And any solution inevitably would certainly require significantly increased burden to institutions.

Because primarily from a transfer perspective, in order to be able to account for those students you have to track them down and find out did they in fact transfer or did they drop out.

At the two year level, because most students to transfer are attempting to transfer credits, you know what students are transferring. But at a four year institution if the student just stops coming, and never requests a transcript or
credits to be transferred, you have no
idea what happened to them.

So unless the institutions are
going to go out and seek what happened to
those students the ability to do that is
very difficult, as Terry said, without
some sort of unit record system.

One of the other issues that
inevitably comes up whenever we have these
conversations in the technical review
panels, which is a little less of an issue
than the ability to track students, is who
ultimately then gets credit?

So if a student has attended
four different institutions and graduates
from the fourth, do all four institutions
get some sort of credit or just the one
that they finally obtained a degree from?

So there are a lot of little
complexities that, you know, that occur
when you try to do this. But it's not
anything that has completely been
disregarded. The conversation continually comes up and people are making efforts to figure out a better way to measure this type of information. But it's not one that's very easy to come up with a solution for.

MS. NEAL: So we're faced then with what Terry has suggested, that if you see low graduation rates knowing that it's a faulty data you still have to say this is something that should make us be worried?

MR. COOK: Yes, I think that certainly a level, I mean given what Terry said, that when you look at the longitudinal data you see it usually about anywhere between a eight to 12 percentage point bump for graduation rates.

So you know, if you see an institution that has a 35 percent graduation rate, even with a bump, it's
probably not going to be that great. So
now there are certainly contextual reasons
why it could be that low. But something
that low, I think, as Terry alluded to,
does send up a flag that you should be a
bit concerned.

MS. NEAL: Yes, I asked, and
this will relate a little bit to our
discussion of the U.S. News ratings. Why
is it that U.S. News gets up-to-date
tuition for its rating and IPEDS remains
a year behind?

MR. COOK: There are a couple of
reasons. The first of which, and College
Board is another example of an
organization that gets up-to-date
information, but it's because of the way
in which they survey, and essentially they
survey the information and are able to
sort of turn it around.

As most of you know regarding
the process of disseminating information
through the Federal Government there are a lot of little loop holes and things that you have to go through before you can release the information.

And one of the things that is a part of NCES they're a very statistically rigorous organization and so they collect the information in a timely manner, but the auditing process before they are able to then release the information does take some time.

And that's why there's the lag. That's one of the questions that I received a lot of time from individuals, why is there such a lag. And it's because of the data cleaning process.

And that's something that most likely will never change, IPEDS will always have about a year and a half lag between when the information is collected and when the information is actually released because of the level of accuracy.
that is contained in the data itself.

MS. NEAL: But why wouldn't it be a more effective system than to have the institutions supply the information at the same time as its supplying it to the College Board or U.S. News and have it certify and be, at that time, that it is providing correct information, much as we do with SEC.

And then if, in fact, they've lied you could go after them later on, but at least you would have that information in a time needed time frame.

MR. COOK: Well part of the challenge is that College Board, as well as those who participate in the common data set, is not the entire population of colleges and universities that IPEDS is dealing. IPEDS is dealing with all 66 --

MS. NEAL: No, but I'm not talking about just College Board, we could have every institution that currently
provides information to IPEDS and they could do it.

And they could self-certify that they've provided accurate information and if they prove too and then you could go after them, as they do in the SEC, if people wrongly certify then you could go after them and say that you've lied and have misrepresented to the public. Why not --

MR. COOK: Well the other issue is that when the data is collected, for example for College Board, it's often preliminary data. And they say that, it's preliminary data.

And because the Department information ends up on College Navigator I don't know that we would necessarily want, particularly as it relates to tuition, preliminary tuition going up on College Navigator for students that ultimately ends up changing.
Because sometimes tuitions are not set until a point by which it's too late to give up in the timely manner.

MS. NEAL: Well it seems to me where there's a will there's a way. But we can have that debate another time. Let's talk about the rating again a little bit as well. I mean I know lots of people do blame the rating for perverting certain things.

And I'd like your reaction to this. It seems to me in a way the ratings have emerged, in large part in, response to the failure of accreditation and the higher education sector to provide data to the consumer on which it can make decisions.

And while it is largely input based and people may be submitting information that's not accurate, doesn't it underscore a craving on the part of the consumer to have information, much as the
VSA is now providing, and that it's then really up to the institutions to supply information as it would like to see it supplied.

So that if it's not happy with U.S. News and thinks that its wrongly focusing on various criteria, the institution has the ability to counteract that as the value added information it would like to supply, but in fact there hadn't been any.

MS. KELLER: I think there are couple of things kind of hidden within that. I think that the, first of all the data behind U.S. News, as we've talked about at length, is common information that institution gather all the time.

And that information is used in INPEDS, it's used for the ranking, it's also used for guide books and recruitment materials by the institution.

So I think it's a little bit of
an exaggeration to say that the institutions don't that data, don't use this data, don't try to communicate that data to the public.

I think that what U.S. News and World Report has is the platform to provide that information to a public in the way that our public institutions, or all of our institutions, really don't have. They have the magazine, they have the resources, they have the website to do that.

And they also do another thing that I think, for better or for worse, that those of us in the higher education community don't like very much, and that is they boil it down to a single number.

They boil down all of our work, all of the complexity of our institutions to one number, to one ranking, in a list. And I don't know, is that good, is that bad?
Those of us who try to provide alternatives like the VSA say that's not what we want. We want to provide the information to consumers and let them rank. So they can pick up whatever is important and rank the institutions based on that. U.S. News does it for the consumers.

So it's kind of that tension between, you know, the consumers want something easy and simple and I think what we offer is not often easy and simple as one number.

MS. NEAL: So in just following up on that. What if institutions then, given your desire, and using the VSA as a model, why not have a situation where institutions supply certain baseline data, accurate data, to the consumer to look at?

Graduation rates, however you want to come up with the standard. But
graduation rates, retention rates, you could do student achievement. For instance you could pick a particular, just as do in VSA, it's not necessarily one metric but any metric, but the school has a metric and it shows what it's finding in those metrics.

Why not have just a voluntary data system by colleges and universities that is uniform, that's self certified and audited and let the consumer then decide rather than having this vast apparatus and federal intervention that we have now.

MS. KELLER: I guess I would argue that a lot of that information is in College Navigator for consumers. I think that there's data there. The challenge is communicating it in the way that the consumers want. What platform do we use to get that information out there?

The VSA is one way but of course we're a non for profit entity so we don't
have the marketing skills and tools to get it out there. The Department of Ed and NCES has done an amazing job with College Navigator in the changes they've made over the past I would say three or four years to try to make it more consumer friendly.

I think this is something we've been struggling with for a very, very long time. We have all this data, but how do we get it in front of the consumers to allow them to make an informed choice.

And even more so if we got it out there, would they use that data to make a choice. Or would the choices be based on other factors. And that's a whole other conversation.

CHAIRMAN STAPLES: We've got a couple more questioners, I'd like to make sure we get that time in. I know I have Earl and I have Jamie and Kaye. If anybody else, I have a question myself, so why don't we go to Earl.
MR. LEWIS: Just a quick follow-up to both the comments to date and in this last set of questions. Given the institutional diversity in American higher education, 4,200 or so institutions of higher education, and given the things that you've all said, especially the flaws in sort of some aspects of the current data collection system and let alone how you go about interpreting them.

Let me ask you a much harder question then, which is if you were forced to come up with three, five, ten categories where it would be important for us to sort that information available to a broader public, what would those three, five or ten categories look like?

MS. KELLER: We did a little of this when we did the background for the VSA, we tried to come up with a more limited set. And as background to make those decisions we did have student focus
groups. We worked with the other higher education associations to do that.

And some of the information that students and parents told us they wanted were finance data. So tuition, fees, financial aid available. That was very important. They also wanted information on kind of the characteristics of the student body.

So if I go to this institution will there be students like me, is a very important piece. They also wanted to know information about location, is it the right distance from home, whether that be down the street or 1,000 miles away.

They were also interested in outcome information, particularly job placement rates. What will I be able to do with this particular degree. So those are some of the things that we saw and that we chose to put some of those within the College Portfolio.
MR. HARTLE: I think any of us who have talked to 17 or 18 year old about why they want to go to what particular college realizes how hard it is to distill this down to a small number of items.

But I think consistent with what Christine said, you'd want some information about the characteristics of institutions you'd want some information about financing, cost, student aid and so on. And you'd want some information about institutionally specific information about outcomes.


MS. STUDLEY: I'm reminded of a colleague of mine who every time we need to buy something that costs more than a few dollars says to me, "Remember, we can't have good, fast and cheap." And I hear a lot of this as being similar to the
desire to have good, fast and cheap.

What do I mean by that? When you think about data the Feds are held to an unbelievably high standard of accuracy and precision and pay a huge price if they ever get the numbers wrong.

So in the desire for accuracy and precision, which I'm sure you would applaud, it becomes hard to have speedy and non-burdensome as well. Somewhere there'll be a question in my comments, or Terry, Bryan and Christine will intuit a question they can answer, but I'm trying to see some of these strands and good questions that people have raised. So one is how to get the data to do all those things at the same time. We heard Bryan talk about the balance question between, and Terry, unit records and privacy. We want both, but somebody, Congress made a decision in this case that one over the other is more important
because they made a risk assessment.

So speaking of risk assessments, Brit had a great idea about thresholds and trying to have some either threshold or maybe threshold for a trigger or a flag, if this then somebody else should look more closely. And that takes me to a balance we've got between a peer driven system and third party driven decisions.

A peer system has a strong history, it's got advantages for knowledge. And for the ability to make those distinctions between type and style of education, goals, institutional setting. And yet the closer we get the harder it is to say to your peers, who have often become your friends, I'm sorry this just isn't good enough.

It may be easier for a new entrant than somebody already in the field who seems a part of it and you want to kick them. So we have who makes which
decisions questions and who can build on those strengths better. And I'm fascinated, and we are struggling a lot with regulation and consumer information. How much can be accomplished by regulation hard lines, bright lines, clear standards that can be applied consistently to people. What can be handled by consumer information? And let me add one more that nobody has used because it is terrifying in a conversation like this. And that's discretion. In order to be consistent and accurate and seem to be fair and not playing favorites, we often deny ourselves, systemically and this is an everybody problem, the kind of discretion that would allow us to say, you're right, these two places have the same number but they mean different things because of who's coming or how long they've been doing it or the rate of change of this
problem.

And yet to try and write regulatory standards accreditation standards that incorporate all of what can be in human discretion becomes impossible, or takes so long, or is so burdensome to report about that we can't do it.

But we have other reasons that we're not allowed in a federal process to exercise more than the tiniest bit of discretion because of our views about the role and predictability of the Federal Government, the dangers of discretion.

And that way lies this incredibly tight circle of, we deny ourselves all sorts of choices by under funding, not trusting, not allowing discretion, having multiple players, all of whom have to be satisfied.

With 6,000 institutions that are, every one of them will tell you why it is special and shouldn't be measured
the way the others are. And if you try and get out of that box and say well let's just give people information and make it a consumer based choice.

Sandy Baum, just yesterday, was testifying once again about the limits of the market and the difficulty of making these judgments. I can tell if a hamburger tastes good but I'm not very good at knowing whether it's contaminated with E. coli.

I can tell whether the campus feels congenial, but I can't even evaluate the net price let alone what's going on in the English department or the graphic design program. So of that maybe you could talk to whether there's a little room for discretion.

Whether the peer process has great strengths but certain limits that would help you know where you would put some of the functions that might not fit
with peers, and any other piece of that
that intrigues.

MR. HARTLE: Let me just say, if
you eat a hamburger with E. coli there's
an outcome measure that will point that
out to you. You actually will know that
pretty quickly there.

I think accreditation and peer
review is designed to accommodate
discretion. That's the very nature of the
accreditation is it provides a discretion
to the peer review team to look at an
institution in its entirety and to make
judgments about whether or not they're
going a good job or a less than good job.

The challenge is that federal
policy, not simply NACIQI or accreditation
policy, but federal policy has wrung
discretion out of the process and we
increasingly go to a very detailed set of
standards that you want accreditors to
meet and to apply to every institution
that they do.

This is natural given the stakes that are involved. But what we're systematically doing is taking discretion out of the process. I'll give you and example in something I spoke about my remarks. I've mentioned that as of July 1st accreditors have to review and approve institutional policies with respect to award of credit hours.

Department of Education has said creditors can use sampling to determine whether or not the institution is doing this appropriately. My guess is that before very long the NACIQI will tell the accreditors what they mean by sampling in very specific terms, as opposed to allowing the accreditors the discretion to figure it out for themselves.

And so I think that all the elements of wanting more data, more accuracy, more outcome information, are
ringing discretion out of the process in ways that's not helpful to institutions or to accrediting agencies.

And it might be that if you had a series of flags or of markers that you would use as a basis for looking more carefully at specific institutions you could permit more discretion for some institutions.

In the same way I think some of the very highly selective academically superb institutions that feel that they're over regulated by accreditors, would be a little better off if accreditors felt they had more discretion to design separate and unique approaches for such institutions.

But again I think if an accrediting agency came before NACIQI and said, okay for the top five percent of our institutions we're going to do a pretty once over lightly, we're going to have an expedited accreditation process. That
would get a great deal of attention as
probably being something that was going to
be a bad idea.

MS. STUDLEY: Brief comment
about the discretion and your reference to
academically superb institutions. One
thing that's good about consistency and
predictable standards, and that
distinguishes from U.S. News, is that
you're not operating by reputation.

So I would say one difference
that I think is appropriately not our
business or the Department's business, is
that one reason that U.S. News rankings
are attractive is that they include
reputation information, which have a
street value. A common sensical desire
for the public to know.

But not our business in
appraising whether an institution meets
our standards or not. And the comment
that you made, in a way, reminds us why we
don't want too much discretion. Because I think there are many institutions whose reputation is strong who may not be leaders in student outcome assessments or in some of the kinds of thing, and Christina's nodding, without naming names.

And there is something nice about a system that does not make those judgments, it doesn't do this in a blinded review fashion. They have to go see the actual school, but that too much discretion would go the other way and risk reifying existing expectations about who's good and who's not.

And we wouldn't find the leaders and the people that should be admired by their peers for what they're doing in a continuous improvement way if we stuck to what we thought we already knew. And that, I think, is a good thing about the accreditation system that we have.

MR. HARTLE: Well just to follow
up on your point and a flip side to Brit's point about is there at level at which things are really so bad that we simply say no. Is there a level above which things are so good that we simply say yes?

You know, if a accreditor were to come to you and to say, okay, any of our institutions that have a graduation rate that they can document, a graduation rate above 85 percent, a placement rate above 85 percent, we're just going to check off.

Would NACIQI accept that? I don't know. But if you're willing to say below some level is automatically a problem it seems to me above some other statistical level ought to automatically be okay.

MS. STUDLEY: I don't know what NACIQI will decide. I can tell you some people over a beer were talking about that. And as the person who guided the
process that led to the Department's fully
passed financial responsibility, clearly
fail financial responsibility and a gray
area for further analysis.

    I think it's well worth thinking
about that strategy.

CHAIRMAN STAPLES: Kay, for our
last question.

MS. GILCHER: Mine's just a
technical question. In terms of the
Clearinghouse data, you said there is some
sort of protected identity for a student
at the unit record level. Have there
been significant issues with privacy
violations given that particular way of
doing things?

MR. COOK: There have not.
Because ultimately the institutions
control and own the data. So the extent
to which the Clearinghouse can disclose
any of that information is dependent on
whether or not the institution gives them
permission.

But there has not been any sort of issues related to the actual use of identifiers at the Clearinghouse.

MS. GILCHER: Okay. And I'm not a data person so how would that be different from, I understand the Department of Education would control the data if we had it at the unit record level.

But if there's that sort of separation of the unit record from the name of the student, I mean, they were talking about doing kind of a bar code and the record would be completely separate from the identity of the student. Is that a similar thing that happens in --

MR. HARTLE: Probably not because there'll always be a key that will enable you to go back and find the individual student. When Congress was thinking about whether or not to permit
the creation of a unit record system. The decision was essentially that as soon as it's there people will want to use it for other purposes, even purposes that we can't think about right now because we're not that clever.

The most likely one was that if a unit record system is available lists every college age male in America somebody will very quickly want to use it to determine if they've registered for the Selective Service.

And that's just the sort of thing that I think led Congress to say, wait a minute we're not ready to give the Federal Government this sort of authority to create such a database because we don't know where it will stop.

MR. COOK: And we've seen a bit of that, you know, sort of the concerns raised at the state level where you do see the emergence of state data systems based
on some sort of student identifier that
have been linked with things that you
would never imagine them being linked to.

There was an example given at a
presentation a few years ago of a state in
the south where they actually, one of the
data elements linked to the identifier was
teen pregnancies. So whether or not a
student had been pregnant.

So that's just an example of the
kinds of concerns that were raised in
going down this path. And as Terry said,
things that would want to be linked to
that that we can't even imagine right now.

CHAIRMAN STAPLES: Thank you
very much. Really appreciate your
appearance before us, presentations and
answering our questions. And I'm sure
we'll have a continuing dialogue with
you.

MS. PHILLIPS: So to whet our
appetites that's our first course of a
multi-course banquet. Our next set of commenters, we just have about a half an hour with before we move to public comment.

Can I ask Melissa to introduce the next set of guests?
Issue One: Regulatory Burden and Data Needs

MS. LEWIS: You may. And as of now we have no public commenters registered. I'd be happy to introduce them to answer your question.

Would Molly Ramsey Flounlacker, who is the Associate Vice President for Federal Relations Association of American Universities. David Rhodes, President of the School of Visual Arts. And Robert G. Templin, Jr., President of the Northern Virginia Community College.

Please come forward to the presenters table. Thank you, and welcome.

CHAIRMAN STAPLES: Good afternoon. Feel free to proceed in whatever order you would like.

MS. FLOUNLACKER: Well thank you, Chairman Staples, and it's good to be here. The Association of American Universities very much appreciates the
opportunity to provide additional input to
NACIQI today.

As stated in AU's written
comments submitted in February the system
of regional accreditation has played a
critical role for more than a century,
providing a basic quality assurance to
students and their families, the public
and the broader public.

It reflects a fundamental
responsibility for all institutions to
demonstrate the ability to provide a
quality education in return for Federal
Student Aid.

While this largely non-
Governmental process of peer review has
historically been controlled and managed
by institutions, as the Federal Student
Aid budget has grown, so has federal
involvement in the process.

With such a diverse higher
education system many have concluded that
the accreditation process is not effectively meeting its core functions of assuring basic compliance for the purposes of Federal Student Aid eligibility and effectively facilitating quality improvements through accreditations, peer review evaluation process.

For the purposes of today's panel I'll focus my comments on issue one, regulatory burden and data needs, recognizing that all of the issues on the agenda for this meeting are interrelated and must be addressed if we are to improve our overall system of accreditation.

In particular, it will be critical to clarify the role of the Federal Government and NACIQI in establishing institutional accountability for the use of federal funds, and in contrast the role of accreditors in carrying out the necessary judgments about academic quality, a complimentary but
quite distinct role to that of NACIQI.

My comments are designed to provide the committee with a snapshot of the concerns that AAU is hearing from its members as well as begin to outline steps that NACIQI might take to address these concerns.

As higher education institutions are operating in a highly regulated economy, we the higher education community and the Administration have placed a high priority on reducing regulatory burden across the board.

But make no mistake, the burdens associated with the accreditation process are real and not just a by product of this over regulated environment. Our informal survey of institutions shows that accreditation reviews have led to many positive development.

But in the last decade these reviews have become increasingly onerous,
time consuming for senior administrators and faculty and expensive. With, on average, costs for major research universities beginning at $1 million for the first year of a three to six year process, at a time when institutional resources are either flat or declining.

It's our understanding that several individual institutions have provided you with specific details on direct costs in dollars and faculty time. AAU believes that it's very important to avoid drifting into a system in which the cost of data collection and reporting requirements outstrip their benefits.

As a result of the increased regulatory and data burdens we now see an increasing cost/benefit disparity that calls into question whether the current accreditation system is sustainable, much less effective.

Regional accreditors are clearly
caught in the middle. They're forced to
constantly revise their procedures to
handle the new demands from Department in
the form of regulations and guidance,
often translating into more bureaucratic
layers of reporting and prescriptive
demands for specific outcome measures.

As a casualty of these demands
many institutions report that faculty
participation on a site visit team has
become unappealing. This trend is very
troubling. To work effectively the system
must rely on a site visit team comprising
the necessary balance of qualified faculty
and administrators from peer institutions.

But an increasing number of
institutions are reporting that this, in
fact, is not the case. NACIQI should take
a comprehensive look at what is currently
being asked of accrediting agencies and
institutions of all sectors they accredit
with the goal of developing models of
evaluation and accreditation review that simultaneously decrease the burden imposed on institutions while meeting accountability goals.

It is there, for example, a more nuanced approach, a tiered approach to re-accreditation review that would meet the external demands of accreditors and reduce demands on institutions. Particularly those that have demonstrated success.

Related to regulatory burden is the assessment of student learning outcomes and the definition of institutional continuous improvement in meeting set student learning outcomes.

It's increasingly clear that there's been a shift from the assessment of inputs to the evaluation of outputs which can be a step in the right direction of strengthening the culture of learning assessment.

But while the Federal Government
is prohibited from regulating on student achievement standards, in practice, many institutions are being required to conform to a common set of standards were encouraged to use general, value added assessment instruments, such as the Collegiate Learning Assessment.

The CLA is a relatively new instrument though and needs more refinement to effectively demonstrate its reliability and validity. Even then these instruments don't necessarily work for all institutions. And in their current formulation will not necessarily advance the goal of improving student outcomes.

In general, establishing a baseline set of data for all institutions is unlikely to be workable or effective and we should be careful not to make qualitative judgments based on quantitative information alone.

NACIQI should explore ways in
which the Federal Government can achieve
greater accountability, not through
prescriptive Government established
learning outcome measure, but by basing
eligibility and other capacity in
financial considerations.

These measures should, if
properly designed and implemented, curb
fraud and abuse. At the same time
regional accreditors should work with
institutions to develop meaningful
assessment tools that evaluate student
achievement according to their own mission
and student body.

Perhaps developing standards
that are relevant to sectors of
institutions rather than applying
standards across very different
institutions. Many institutions are, in
fact, very open and interested in thinking
through a range of new measures to gauge
student achievement.
Such as higher graduation rates, alumni surveys of greater satisfaction over time, among others. And please be clear in that AAU is not, at this point, recommending a new set of standards, but asserting that institutions are very open to a discussion about what standards make the most sense to the them within their sector.

As we wrestle with identifying the most appropriate set of data we need to remind ourselves that the U.S. Higher Education System is based on diverse institutions being able to manage their own academic programs, while also maintaining credibility with their funders and the public.

This system should allow for different treatments of institutions with different missions and varying levels of quality. Effectively weeding out those that do not meet basic fiscal and
operational thresholds and work with others to improve their academic programs.

In conclusion, it is increasingly clear that applying a one size fits all set of standards, data requirements and review procedures, regardless of type, size and mission of an institution is not an effective model for accreditation.

We must work to reduce regulatory burden and reassess the call for adoption of metrics that purport to quantify student learning outcomes in ways that are not meaningful or may be inconsistent with the educational mission of a college or university.

Again, AAU greatly appreciates the opportunity to provide input and very much looks forward to ongoing discussions.

Thank you.

CHAIRMAN STAPLES: Thank you.

MR. RHODES: Mr. Chairman,
members of the committee, good afternoon
and thank you for the invitation to appear
before you today. Although I'm not
exactly sure who I'm supposed to thank for
that invitation.

I've been President of the
School of Visual Arts for almost 33 years.
I was the Middle States Commissioner from
2003 to 2007. I was asked to rejoin the
commission in 2010, although I'm a
commissioner I do not represent the
commission today.

I'm also Vice Chairman the
Regents Advisory Council on Institutional
Accreditation and have served in that
capacity for nine years. However, I do
not represent the Regents nor the New York
State Department of Education today.

In my career I've been on 12
visits for MSCHE, 11 as team chair. Four
visits for NASAD, once as team chair. Two
visits for WASC, and served as team chair
a recent MICD readiness visit this past November.

I trust the members of the committee are familiar with President Tilghman's letter to Provost Phillips of January 14th, 2011. I think it best to begin my remarks by quoting briefly from President Tilghman's letter.

"As the members of this sub-committee and full committee consider ways that the accreditation process can be used to improve the overall quality of the education available to post secondary students I urge them to do adopt a do no harm approach to a sector of our society that contributes so significantly to American competitiveness."

Without putting to fine a point on the issue, President Tilghman was concerned that an emphasis on collecting data on student learning outcomes had distorted the accreditation process and
not for the better.

Implicitly she seems to be asking the committee to reconsider the emphasis it has apparently placed on the development of learning outcomes assessment methodology that is exemplified in Questions 8 and 14 of the questions forwarded to the panel this last week.

And I believe President Tilghman has identified a serious problem. To quote my former colleague on the commission, Daniel Chen who is the chair of the Department of Sociology at the Hamilton College, the problems with learning outcomes assessment is, "There is no zero order correlation of assessment programs with the market success of the college."

So it is not clear why we should be doing the kind of assessment we should be engaged in rather than the sorts of assessment President Tilghman suggests
would be more valuable for Princeton and I would argue would be more valuable for all institutions.

In my 33 years as president of VSA I've received visitors from MSCHE on four occasions, visitors from NASAD on five occasions, the AATA twice FITA, which is now CIDA, three times. As I think it is evident the majority of visits to SVA are not from my institutional credit, MSCHE, but from my programmatic accreditors, and the costs follow the number of visits.

I think, therefore, from my experience the bulk of SVA's accreditation costs are self inflicted. So with respect to cost and efficiencies SVA has chosen its additional burdens, and appropriately so, as have most institutions with programs that lead to licensure or certification.

So it does not appear to me this
excessive cost should be overly concerning to NACIQI. I would hope that we're all mindful that the integrity of financial aid programs if the responsibility of the Triad, voluntary accreditation that ensures program quality, state authorization that is far more varied in its rigor than any of the institutional accreditors.

And the department that has the ultimate responsibility for ensuring the truly bad actors, those who are paying commission to recruiters and financial aid officers, those who are falsifying data and altering student records, those are deceiving students with false promises, are ousted from program participation.

What is of concern to me is that lately the Triad seems to have ignored and many of the responsibilities that belong other members of the Triad are devolving onto institutional accreditors. As the
premise of Question 12 seems to imply. But this premise is not correct. An accreditor is recognized by the Secretary because it is a reliable authority regarding the quality of education and training provided the institutional program it accredits.

Finally, you've asked about data, I have two remarks. The first is obvious, too much data is collected. There is a simple standard that should be used to decide what data should be collected. First question to be answered is why is the data being asked for at all? And second and more importantly, what will be done with the data when it's received? How will it be used in actionable ways? If there is not plan to use the data in important and truly informative ways, the presumption should be that the data request is unnecessary and therefore burdensome.
With that said, there is a rather glaring omission in the data we as institutions are asked to provide. We are asked to provide retention and graduation data for full time, first time freshmen, exclusively.

It is as if part-time students and transfer students do not matter even though they are ever increasing share of students most colleges and universities enroll.

If there's one data set that all institutions should be asked to collect, and publish, it is the retention and graduation rates of all the students, first time and transfer, full time and part time, who matriculate at our institutions. Thank you. I'll try to answer your questions as best as I can.

MR. TEMPLIN: Good afternoon. My name is Bob Templin, I'm the President of Northern Virginia Community College.
Welcome to my service area.

NOVA, as we're known, have six campuses and this academic year we'll enroll about 78,000 students. My students come from 190 different nationalities and territories. We're a minority majority school.

I want to thank you first of all for focusing attention on this issue of the burdens and costs of accreditation. All too often oversight bodies are insufficiently sensitive to the cost and data requirement imposed through various reporting requirements.

In some cases information provided by us is not used sufficiently to really justify the expense. Today I have seven quick points that I'd like to make to you from an institutional perspective. I don't represent an association, but just as an individual institution.

First, I believe that the cost
of accreditation, while significant, are worth the expense. In our own case, in Northern Virginia Community College, is at the midpoint of its reaffirmation process right now. We've submitted our materials, we're waiting for the team to arrive.

And though this is an expensive process I'm one of those presidents that feels that the accreditation process is a value to our institution. And I feel that it's worth the money that we spend.

Given that an institution only goes through reaffirmation of accreditation every seven to ten years, depending on which region you're in, the resources required on an annual basis to come into compliance and actually do the self study and compliance certification, while significant, if it's done appropriately over a seven to ten year period is quite manageable and quite reasonable.
In our regional accreditation process, which is the Southern Association of Colleges and Schools, we've streamlined the process significantly and we've moved from kind of an input focused standards where we had 450 requirements and we've moved now to a set of principles that guide institutions that have 75 standards.

And it's much improved for the institutions. The burdensome nature of it has been significantly adjusted. But even within that process, increasingly because of the requirements desired by the Department of Education for the Southern Association, has created some onerous reporting requirements that I'll talk about in a moment.

My second point as an institution is that I applaud and would encourage both the Department of Education and our accreditors to continue the discussion and the focus on outcomes. I
know it's very controversial, I know it's very complicated.

But at the end of the day that is what our institutions need to articulate what we're about and whether or not we're achieving it. And the fact that it's difficult and sometimes expensive really shouldn't dissuade us from that purpose.

And my third point is that in many places community college officials feel that accreditors are imposing a heavy hand when it comes to this issue of student learning outcomes. But I believe that we have to be accountable for assessment and that the accountability needs to come through accreditation.

We, as you've heard today, I joining others, resist the efforts to overly standardize these matters. When it becomes reductionist and bureaucratic we
lose sight of what our original intention is. I think there has to be a great deal of flexibility in this area.

Fourth, with regard to the issue of tracking employment for career and technical programs, and this is controversial with community colleges too, I think we have no choice but to make that assessment of that outcome.

To track those outcomes and to reveal those to the public to the best of our ability. It is expensive and time consuming but I do believe that we have to do it.

I don't believe that we know how to do that completely yet. But I think we are on a journey. Your work and your discussion helps push us in that direction and I urge you to continue.

My fifth point is that, as has been already mentioned, wherever possible we should have our data sets be compatible
for both Department's review and for our regional accreditation review, wherever that is possible.

And we have to have a discussion on clarifying data sets where we're not talking about outcomes of the minority of our students, but open the discussion to the majority. We used to call them non-traditional students. They're not non-traditional, they're the majority of the students.

When are we going to focus the higher education model on the majority of our students rather than a subset of 18 to 21 year olds who are engaged in first time, full time higher education activity.

Even the notion of transfer that we've discussed today is a complicated one, even more so than has been already mentioned. Northern Virginia Community College provides transfer students to universities in Virginia than any other
institution, but we receive more transfer students than any other institution in the commonwealth of Virginia also. And it's very difficult to understand which way the transfer is happening sometimes.

Sixth, the accreditation processes should be sufficiently flexible to require different levels of data gathering and reporting. And it seems that I'm hearing that theme here today, and from an institutional perspective it makes great sense.

Outstanding institutions that have been able to demonstrate positive outcomes should not have the data reporting burden that an institution that time after time after time is indicating that it has these flags that you're talking about.

Those flags should be an indicator that more needs to be reported, more work needs to be done by those
institutions. And I say that coming from a community college that does not have a high graduation rate.

Those institutions that are among community colleges that are at the bottom of that group we need to look at them more closely than those who are demonstrating greater success.

There is, finally, the common perception by institutions that the accreditation process is being micro managed by the Department of Education. We believe that the guiding set of standards that should be used by the Department are those that our outlined in Section 496 of the Higher Education Act.

These criteria are the product of discussions, debate and refinement and remain of intense interest to the academic community. The regulatory apparatus built around these standards should be limited.

And agencies seeking recognition
should have the responsibility, and the flexibility, to prove to the Secretary that they meet these criteria rather than the Secretary having an elaborate set of very specific criteria.

I'll give you an example of how this has created an onerous burden upon institutions and just give one specific example and it deals with the issue of substantive change. As a community college one of our attributes is that we have to be responsive and very flexible.

And yes because of the new reporting requirements if we're going to go to an off campus location to work with an employee to deliver a program, I have to six months notice and I have to file a very thick report with regard to what our intentionality is.

That program might be over before -- in order to respond to the needs of the employer the program could be over
before I've even heard back from the Southern Association of Colleges and Schools. In the last year and a half we've done 23 of these reports and my job is to be responsive to the changing needs of the community.

Twenty-three reports and I can tell you it is a paper chase, it has made no outcome difference with regard to the quality that we do or with regard to the standards and accountability of the institution. But it has created a very thick file. Thank you very much.

CHAIRMAN STAPLES: Thank you very much. We don't have much time allotted for questions but I certainly will allow a few and I just ask that if members have questions make them pointed and relatively brief. Anybody have a question? Arthur?

MR. ROTHKOPF: Let me pose a thesis to you as to why all this is come
about and I'd be interested in your reaction to it. I think there's probably general agreement that the accreditors do a fine job on their traditional role of continuous improvement.

Self studies that go on I think you'll find, at least historically, and let's leave aside recent times as the burdens have gotten greater, they've done a very good job of helping institutions look at some of their problems, get help as to what challenges exist and, in some cases, where there are real problems start dealing with those.

But I would pose the thesis that the difficulties that we're now seeing is coming about because of the gatekeeper role. Which really came later than the origination of most of the organizations which go back into the 19th Century. Now they're gatekeepers.

And the gatekeepers, again, for
$150 billion of taxpayer money in what really amounts to entitlements. They're officially entitlements but they're as much of an entitlement as Medicare and Social Security in many ways.

And that's where the burden is coming from, I mean at least that's the thesis I put to you. That because of all the money the Congress puts burdens on the Department of Education and then those burdens get pushed onto the accrediting agencies who'd just as soon probably not have them, and then they get pushed down to you.

One, do you believe based on your own experience that that's the case? And if so should this organization consider, or should we consider, separating the gatekeeping role from the accreditation role?

MS. FLOUNLACKER: Well I think there's actually a lot of merit to the
thesis that you outlined and certainly the blurring of the gatekeeping responsibilities has been an issue that we've all been discussing.

I think it really goes back to the fundamental purpose of the Federal Government and NACIQI with respect to student aid accountability and looking at the fiscal eligibility decisions. And so just speaking with respect to what I've been hearing from my membership is, is there a way to strengthen the fiscal criteria that the Federal Government relies upon in making their eligibility decision.

With respect to looking at capacity, financial considerations, whether that's resource, adequacy, obviously student loans is already very much in the mix.

But can these criteria be strengthened. Then, more importantly
perhaps, can there be a better or stronger mechanism for the Department to enforce these mechanisms.

You know, these are obviously just posing questions and the more difficult part is really coming up with what the new metrics might look like.

But I think it's really important to separate, again, the role of NACIQI with that of the regional creditors who are supposed to be, and a large extent do a very good job of working with peer reviewers in the academic quality and continuous improvement aspect of the accreditation process.

Having said that, a footnote about the continuous improvement piece here is that I think there has been concern with some institutions and that increasingly, because of the pressures from the Department with respect to very specific outcome measures, there's been
more pressure for institutions to define continuous improvement according to very narrow, quantifiable standards versus what has been historically a more nuanced institutional mission specific goal.

MR. ROTHKOPF: Any other thoughts?

MR. TEMPLIN: Well I would actually go back to Brit's point about there's a point in the academic community where peer institutions, in effect, have the obligation to indicate that a member of that community is no longer meeting their expectations.

And that should be a definite trigger to any funding source that brings into question the academic integrity and quality of the program.

I think that's an appropriate thing for accreditation to do and I think it's an appropriate thing for the Federal Government to take note of.
So in that respect I do think that it plays a role, and should, in the gatekeeper function. I think it's an appropriate function and an appropriate expectation of the Federal Government to have regional accreditation.

The question is how much farther beyond is the responsibility of the regional accreditor versus the responsibility of the Federal Government itself and state government, as the regulator? And I think you've asked a key questions, I think accreditors should be a part of the process.

The question is should they have that much responsibility for what you're talking about. Because in jeopardy is the process of peer review and continuous improvement if we move too far to the other direction.

If it becomes a regulatory arm of the Federal Government, and that's it's
primary function to the institution, then
it's going to lose it's effectiveness as
an institution helps with continuous
improvement.

And perhaps even the function of
identifying a member of the academic
community who doesn't meet the
expectations of the academic community.

CHAIRMAN STAPLES: Any further
comments or questions? Jamie.

MS. STUDLEY: I thank Dr. Templin for a wonderful example. It's
really valuable to have a very crisp
example like the substantive change
element you gave us. I've got a quick
question for President Rhodes.

Why do you schools seek
programmatic accreditation, which you
described as voluntary and a nice way of
putting it.

MR. RHODES: Well it's quasi-
voluntary, in the case of one of the
accreditors, I'm an independent college of
tart, all of the other independent colleges
of art have NASAD accreditation and it
gives me entree to a group of like peers
in an organization called AICAD,
Association of Independent Colleges of Art
and Design.

We do a kind of wonderful data
exchange amongst ourselves. And so in
order to be part of that group I have to
go through that process. I think it's
worthwhile.

With respect to the AATA, the
American Art Therapy Association, there's
a benefit to my students to have that,
which is they are allowed to sit for
licensure with half the amount of practice
time that's available.

CIDA, which is interior design,
open again as a value to some students, it
opens scholarship opportunities where
there are foundations that will only give
monies to CIDA accreditation.

And RATE isn't voluntary, it was mandated by the State of New York that they either do RATE -- any teacher ed program in the State of New York either have RATE accreditation NEASC or TEAC, who are now merging anyway so we're going that route. But it's a requirement under state regulation.

MS. STUDLEY: Both you and AAU seem to describe student learning outcomes in much more narrow and quantifiable terms than I expect to hear them talked about.

And I think that there's been less imagination about what this might be. That the, in some initial resistance in some sectors of higher education to any discussion of outcomes beyond the individual faculty members or possibly departments evaluation of learning.

The field was filled by quantifiable ones, it may be a good
conversation to be had at a time when we're not under time pressure about how we should be thinking about student learning outcomes and accreditors.

But when you talk about student learning outcomes could you give me the brief answer about what you think populates that universe. Because you're very clear about the view that you aren't thrilled with them, you think they are causing bad things to happen.

I think this could be one of those places where different people imagine different things when they hear student learning outcomes and that that's part of the translation that we want to be doing in our policy conversation.

MS. FLOUNLACKER: I'll start. I think it's really important to be clear that we absolutely are in favor of student outcomes. And continuing to work with regional accreditors and peer reviewers
and outlining a set of standards that make
sense for an individual institution
according to their mission, so that's very
important to state from the start.

And I think what's happening is
that institutions are reacting to
pressures and news standards and
regulations that are being put in place by
the accreditors that are defining student
outcomes in different ways and so it's not
the institutions that are now defining
outcomes in quantifiable ways.

It's pressures from outside
entities doing so and not necessarily in
consultation with the institution itself
versus a more decentralized approach
perhaps many institutions have whetted to
that really allows for a deeper assessment
perhaps of some of the very complex set of
skills with respect to critical thinking,
analytical reasoning, et cetera, et
cetera.
So I don't know if that's helpful. But I think it's very important to say we're absolutely in favor of student outcomes. It's a question of who defines them and how are they measured with respect to their reliability and validity.

And many would say that they're not being defined and measured in a way that is for the better good of all of us.

Want to add anything?

MR. RHODES: What I would be concerned about is something that a former colleague of mine did when he left another institution. Which was he tried to satisfy his accreditor, he tried to make a numerical scale for creativity and a whole set of other things.

The concern is, you put it very well, discretion. My students work is reviewed generally every semester by not just the faculty member who's rendering
the grade by the faculty at large, the
typical portfolio review.

The student work is sitting up
on the website for any perspective student
to look at and if it isn't good enough I'm
going to see a shortfall in the next
incoming class so that it's out there for
all to see. But what I'm concerned is
that I'm going to have to reduce my
judgments, or better, my faculties
judgments or even outside evaluators
judgments, most of the programs I have
have a thesis review and they're usually
outside evaluators.

Have those reduced to some kind
of number and that concerns me because I
don't think that, at least the stuff I do,
is reducible to that and the best example
I can give you of it is, I have a
department chair who has decided that he's
going to grade portfolios on a scale of
one to ten, except he uses ten plus, plus,
plus, plus, plus and so forth.

So he's undermined his own system, which is okay, it's his system and it allows him to give awards as appropriate based upon the quality of the student work. But the judgment is essentially one of discretion rather than one that's arrived at by formula.

And it also allows us, in some measure, to measure gains over a substantial period of time because we keep work from year to year to year, and we also require students to keep work from year to year so that they can see, the most important thing actually, is they can see that they've actually gotten better at what it is they came to do over time.

The best thing that ever happened to me as an undergraduate was a week before graduation a faculty member in my freshman writing seminar gave me my last freshman paper, that was really
embarrassing, but a great lesson.

CHAIRMAN STAPLES: Thank you.

I think we're out of time. In fact we're actually after time, I hope you all understand, members of the committee, we're trying to stay on track for our committee discussions.

I want to thank you very much for your time and your presentations, I sincerely appreciate it. We'll take a short break and then we'll begin our committee discussions.

(Whereupon, the meeting went off the record at 2:47 p.m. and went back on the record at 3:07 p.m.)
Committee Discussion

CHAIRMAN STAPLES: Okay, now we proceed to the committee discussion on our agenda. And I think what I'd like to do is I'll be happy just to manage in terms of coordinating the hand raising and discussion part of it.

But Sue Phillips is really running what we're doing and helping us get to hopefully a consensus on where we want to go next. And so I'll let her sort of summarize where you'd like to go and how you'd like the discussion to proceed.

MS. PHILLIPS: Thank you, Cam. I'll begin by saying that I'm not automatically assuming that consensus will be achieved.

I realize there are at least 15 different people and 35 different opinions around the table so far, so we'll just see where we go with that.

The way that we've structured
this to make it somewhat manageable is to take each of the three issues for the moment separately, realizing that ultimately they're not separate.

We've reserved a bit of time at the end of each set of discussions to be able to bring our thoughts together as a committee and to be able to discuss sort of where we see things now and where we see that we might want to go.

So for the next how ever many minutes, I wanted to focus on where we think we are relative to the question of regulatory burden and data needs, this set of issues that we've been focusing on just for the last hour or so.

In talking this over with some folks, it seems like a very smart idea to begin our conversation by getting a fix on what we think is working well that we want to keep, what we think is getting better that we'd want to keep growing before we
start talking about what we want to change.

So what I'd like to do is open for discussion first the question of what, with regard to the question of regulatory burden and data needs, what do you think is working well that we'd want to keep? What do you think is getting better that we want to grow?

And keep your notes about what you want to change because that's going to be the next thing up.

I wanted to give everybody an opportunity to speak, get a feel for where we are as a group before we then move on to what we would do differently. And I hear Brit.

MR. KIRWAN: Before we start the discussion on the first topic perhaps you or Cam could remind me of what the end product is going to be.

What do we hope to have at the
end of this process? Is it a set of recommendations that we're going to change potentially the accreditation process?

MS. PHILLIPS: Well, first of all, it is up to us to decide what it is that we want to offer.

Broadly framed, the Secretary offered us the opportunity to offer him advice about what should be changed in the Higher Ed Act, so that's pretty broad.

There was some discussion early on about whether it absolutely had to be constrained to accreditation, and we didn't hear any actual constraint on that, but I think many of us took that as a constraint, sort of the corral in which we should be working.

Part of what we conclude as a written document in December, which is our target date -- but let me just put a pause in that.

I don't believe that December
will be the end of our conversations about what could be better, and there may well be time after that for us to carry on additional conversations.

But to get to the product time that they've asked us for we need to have a written document by December.

That document might include, Dear Secretary, things are going great. It might include Dear Secretary, please blow it up and start over in these ways.

It might include something in between or it might include places where we think that there are places where he or we should study more to be able to be more coherent and thoughtful about what we think should happen.

So part of what that looks like when we get to that point will be shaped by this discussion now, by the discussion that we have tomorrow. We'll have two more of these as well as a summative one
for all three issues.

And then as we try to sleep on it, pull it together, see what it looks like, we may have further thoughts about that.

MR. KIRWAN: Thank you.

MS. PHILLIPS: Yes, absolutely.

CHAIRMAN STAPLES: I want to add just briefly to that because I don't know, Brit, if you heard our discussion about this before. We have a September meeting of the subcommittee, and the subcommittee is hoping to draft up what they think this committee wants to focus on regarding policy recommendations.

And I think that to this point there hasn't been a broad engagement of every member of this committee in this subject, at least not enough I don't think to inform the subcommittee about where the direction is that we want to go.

So I'm hopeful that today
everyone will take the opportunity to say as explicit or as specifically as you'd like, or as generally as you'd like what you think we ought to be doing in terms of recommendations, what you think the most significant issues are, where you think our recommendations ought to focus. Because I think out of that, subcommittee will try to find that package of recommendations to bring back to us.

MS. PHILLIPS: So with that in mind, other questions about this? So the task at hand is, what is working well with respect to regulatory burden and data needs?

What do we want to keep? What's getting better? What would we want to keep growing?

MR. WU: I was going to suggest it may be difficult to address this in the abstract. That is, I think it's not an all or nothing proposition.
It's highly likely that any of us and a consensus of us would look and would find some parts of the data gathering objectionable and others not. We may all be calibrated differently.

But I'm going to guess that probably for most of us it's not just a blanket all or nothing. So that's my suggestion about how we think this through.

That is, in the abstract is less productive probably than if we try to break it down into smaller, more concrete pieces.

But from the two panels that we heard, I just wanted to sum up what I thought were four different concerns that were raised. They were different sets of concerns.

The first is, what are the standards? Are they measuring things that are measurable? Are they measuring what
they claim to measure? Are they measuring accurately?

So the first is just is this particular thing, student learning outcomes let's say, is it quantifiable? Has it been quantified properly here, it's been quantified in a way that would meet social science centers?

So that's the first big piece, just what substantively are the standards. But the second is separate from the substance --

MR. VANDERHOEF: Excuse me, how does that fit in to what we're doing well?

MR. WU: Well, I thought the presentations we heard were, in particular the data gathering and whether the data gathering is what we're doing well.

MR. VANDERHOEF: All right.

MR. WU: So if the standards aren't measuring something that's useful to measure then we're not doing it well,
right? Or if they're measuring, if they purport to measure something but those particular standards don't actually measure it properly then we're not doing it well, right? But the second, I'm just trying to sum up what I heard from the two panels just to try to group it to help me think this through. It may or may not be useful to the body.

Second though, is much of this was about the cost benefit analysis so it may be some things do measure. They measure what they purport to measure. They measure them well. They're useful, but they're just too onerous a burden for us to want to do it.

You know, there are a lot of pieces of data we'd like to have if we could have, but we assess and decide it's just not worth getting that piece of data.

It just takes too much person
power, too much financial outlay. So that was the second thing, what's the cost benefit.

The third though that several of the people raised is, who develops the standard?

So they found particularly objectionable not necessarily the substantive standards nor their utility, but whether it had this quality of being imposed by the federal government, imposed by NACIQI or imposed by the accreditors versus somehow organically coming from peers.

But the fourth theme that ran through this was also diversity and flexibility, the notion that it doesn't work well to have one size fits all standards. That is, there are different types of institutions. And beyond different types of institutions there was a strand of all, not all, but of
several of the presentations that had to do with some institutions at, for lack of a better way to put it, at the high end let's say that are so consistently good that to impose upon them the same standards being imposed upon others is especially a societal waste.

So that's how I group the four different areas of comments as I heard them.

MR. PEPICELLO: Yes, if I can follow on that because I think this does fit, Susan, is what we're doing well is gathering data, all kinds of it, everywhere, for purposes that, any purpose you want.

And I think what Frank is honing in on is the other piece of that. I mean it goes hand in hand.

We're doing this well but the way to make it better is to look at the four things that maybe that Frank has put
out there.

To say what we need to do is organize that better, put it into a structure that is flexible going forward. Because I didn't hear anybody, no one said we don't collect data well. They all said we collect too much of it and don't know what to do with it perhaps.

MS. STUDLEY: Anne said we collected a little slowly and we're not as sure about its reliability as we'd like.

MR. ROTHKOPF: But the other point though is perhaps --

CHAIRMAN STAPLES: Let me ask a question.

Do you want me to actually try to manage this or do you want to just chime in?

I'm okay with just chiming in, I just wanted to make sure I understand the ground rules, because I've got eight people with hands up and others jumping
How about we just have a conversation? I won't try to manage this discussion.

MR. ROTHKOPF: Yes, I was just going to say I thought perhaps the most important piece of data we don't get, I mean Brit raised it in kind of this conversation about graduation rates, and we don't get graduation rates in the way that is useful. We get an awful lot of stuff and rules that are imposed by the Department because of what Congress has done and rule making and all.

And the problem is this privacy issue. I happen to believe that it's important to get this information and I personally would recommend that Congress get rid of that privacy rule and say you can have a -- and there's got to be a way under our system.

You know, if American Express
can do it then I think the federal
government can do it. The IRS can do it.
I think we can do it here.

That we ought to have a unit
record system on students and follow them
along so that we know we don't -- so that
ACE can't say oh gee, we can't do it.

Well, we can't do it because
we've said we've imposed a requirement
that we can't overcome. I think we should
have a unit record system.

And I think if that's the case
then we could focus on completion rates
which is perhaps the most important. I
don't know that it's the most important,
but I think it's a very important piece of
information that we don't get, and we get
perhaps a lot of other information which
is less useful.

MR. KIRWAN: Could I have a real
quick, just to this very point you're
addressing because I resonate to it.
You know, there is this federal program called Race to the Top. And I don't know, 48 states, or no, 40 states applied for Race to the Top.

Now one thing you had to commit to if you were going to be an applicant for Race to the Top that you would have a longitudinal data system that could track students from preschool into the workforce. You couldn't apply unless you committed to that.

So we've got 40 states out there that have committed to, and this is a federal program, so the federal government has created a program that requires a unit record.

And we're participating in that in Maryland, so I'm a little lost to understand why somehow in one area the federal government is willing to bless a unit record system and now here in another domain we're not going to use a unit
record. So I'm just basically supporting what you're saying, Art.

CHAIRMAN STAPLES: It's not mandated though. You don't have to apply for Race to the Top Fund, right?

MR. KIRWAN: Well, that's true. That's true. But 40 states did and the federal government put the program in play.

CHAIRMAN STAPLES: No, I understand that.

MR. KEISER: But part of our problem is looking at things that we really should be looking at, which is I think Arthur brings up correctly, versus those things we are doing, because there was a problem in the past and there was a knee-jerk reaction. We created a regulation or a statute.

And if you look through those decisions we made today on many of the, well, the little items, they were a teach-
out issue or they were substantive issue
based on a small group of problems that
occurred in the past but are now uniformly
enforced.

And they've become incredibly
burdensome as regulations pile on top of
each other and then start competing with
each other.

And frankly, I think the funny
part is that the Obama administration is
out there in the public talking about
let's get rid of the bad regulation and
they're piling on tremendous amount of
regulation in education.

I mean just the credit hour is
going to be a nightmare, an absolute
nightmare. Misrepresentation, absolute
nightmare to enforce.

But that's not my -- you know,
and that's the political problem we need
to be looking at.

And hopefully if we start
talking about what are suggestions, we might want to compile all the regulations, those that really are not that beneficial in a true sense, and somehow, someway move those to a different place and a different set of oversights.

CHAIRMAN STAPLES: One of the thoughts that I have about the data that I keep coming back to and I was thinking about it today.

I'm still not sure I know exactly what data we want to collect for what purpose. And by that I mean Arthur's comment, $150 billion, what exactly do we want to know for the allocation of that money? What does the federal government need to know just for that purpose?

Forget about all the other ways we collect data for student outcomes and measuring educational quality. Is educational quality relevant to that or is that about more some sort of fiscal
stability?

And is it a much smaller set of issues that we're really trying to get at to track that money?

Are we really trying to say that we need to create a whole new measure for measuring the quality of educational systems for that purpose? In other words, what data for what purpose?

And for me it seems it's hard to know who should do those things until you've defined what it is you want and for what purpose.

MR. KEISER: The problem becomes the one-size-fits-all mentality. And I think our speakers really made that awfully clear. Community college enrolls a different kind of student than this, you know, a law school and the state university system of California. Different problem, different set of standards, different set of students.
And what happens is, and that's the real problem of all the regulatory pressures, it's hard to write rules for diverse groups. And it's hard to write multiple rules because then they become unfair.

I mean is it fair for an MIT, which is ultimately one of the best schools in the world, to follow the same standards as the small school, a Mom and Pop school in southern Alabama with 40 students?

It's no, but it's not fair not to and that's the problem that we face. And in the country we live in, fairness is important and it creates all kinds of challenges.

MR. LEWIS: One of the realities coming out of all of this, and it may be at a certain level of irony, is that in the presentations today we come to also realize that really we're not talking
about a system but we're in some ways talking about an ecosystem, and where there are indeed those kinds of distinctions between the MITs and the small institution in Alabama. And it may be forcing us to come with the realization that fairness and equity aren't the same thing and common sense is even something a little different. And that if we have to regress to a mean, that mean may be common sense and that what we're coming back to is trying to figure out then, what really goes to the heart of ensuring the integrity of the higher education ecosystem in the United States with all of this diversity?

MR. KIRWAN: I'd like to associate myself with that comment. I thought it was right on the money, yes. But just one comment about data.
You know, I don't know if it's accurate or not, but as a starting point about collecting data I was very taken in Shirley Tilghman's letter where she said that really the basic purpose of accreditation is two-fold.

One is to ensure the institutions are eligible for financial aid. The second is to encourage institutional self-improvement. Now I don't know if that's the official doctrine or not but that makes a lot of sense to me, that those two components.

So therefore it seems to me that when we talk about data we ought to talk about categories of data aligned with those two functions.

We would collect certain kinds of data if we wanted to measure eligibility for financial aid. And you would collect different kinds of data if you were trying encourage self-
improvement.

And if we could maybe sort of categorize the purposes of the data in some understandable way, that might help us then to find what data elements we actually need.

MR. ROTHKOPF: If I may pick up on that a couple points. One, I think President Tilghman -- and she'll be here tomorrow to further elaborate on the points that she made in her letter, and then there's a subsequent letter from her provost.

I think they had a very bad review by the middle states and I think that's what's kind of triggered all this.

But I think there are two points that follow up on you, Brit. Number one, I think the idea of looking at sectors makes sense.

And we have a system that's 100,
150 years old, it's kind of developed over time, particularly the regionals. And they're trying to do one-size-fits-all, in part because that's what's coming from the top. That's what's coming in the gatekeeper role. And so I think the idea of looking at sectors makes a lot of sense. It's not going to be easy.

I agree with Art that it's got the fairness issue, but even if -- and I use another analogy from K-12.

Secretary Duncan on K-12 in looking at No Child Left Behind is trying to create sectors, not in the Race to the Top but in other pieces of it.

There's the five percent who are in trouble, they have the turnaround schools, then there are the ones you're not going to look at and then there are the ones in the middle. So I think that's one.

And the point I raise right at
the end, I must say if we step back and look at the gatekeeper function that we've given to these accrediting bodies I think it has helped to screw up their role of self-improvement. I think somehow these two don't belong. They really don't feel comfortable with it.

They like it because it keeps them occupied and employed, but I think the truth is these are two very, very different activities.

CHAIRMAN STAPLES: Just a point on topics, we have tomorrow just to focus as well as we have The Triad, and Scope, Alignment and Accountability and we have discussion periods after each of those.

So if we can talk mostly today about regulatory burden. I know they all overlap and intersect.

But I just want to mention that so you don't feel you need to discuss all
of that right now. Those are on tomorrow's agenda.

MS. PHILLIPS: So just to be the taskmaster for the moment, I want to come back to the question of, what are we doing well? What's happening well?

So we know that we are collecting data well maybe, and are we regulating well? Are there other things that we're doing well or that is getting better that we might want to consider?

I know that you'll get off topic again so not to worry. I'm just nudging you back on track for a minute.

MS. NEAL: I want to get back to the question, the two-part question that everyone's been talking about, ensuring the integrity of the federal dollar and self-improvement.

So are we collecting data that helps us ensure the integrity of the federal dollar and the integrity of the
higher education system? I don't know. I think Jamie mentioned a tripartite system of sort of yes finance, no finance and in between.

It seems to me, is there some basic financial data that we can determine that would ensure the integrity of the federal dollars which is a key responsibility?

Then getting to the self-improvement and following up on Arthur's point, it seems to me the self-improvement was a voluntary accrediting system at the very beginning.

And we took that and we made it gatekeepers so that the data is now that collecting is imposed on the institutions.

I mean if you look at Shirley Tilghman, she's saying there are two costs. There are the costs of just collecting and responding and there are
the costs of having accreditors intrude on
the institutional autonomy and basically
second guessing or supplanting their
judgment as to what needs to be done with
the institutional judgment. So it
seems to me you've got two different
datasets, the ensuring the integrity of
federal dollars and then you've got the
data which will actually advance self-

And I think if you take away the
gatekeeper role so that it is no longer a
mandated, powerful if agent of the federal
government but is in fact, simply acting
as someone facilitating self-improvement
then the data that will be helpful will
flow in a voluntary system, I would
suggest.

MS. GILCHER: I would just like
to point out something that I've learned
over the last number of years working in
the federal government after having worked
in higher education for many years.

I've discovered that the diverse system that we have is extraordinarily diverse.

And that the notion of sort of financial viability being the only way that you would determine whether or not an institution would participate in federal student aid does not guarantee that those monies are going to institutions that are doing anything that has any quality involved in it.

Because you could have an institution survive and be financially viable and be doing an extraordinary disservice to the students who come in there.

So the accrediting role has been one of looking at some baseline of academic performance. And I just would hate -- I just want to put that out there.

MS. NEAL: But I'll dispute
that, because I think if we look at the academically adrift study, which shows that of accredited institutions 45 percent of the students are not having any cognitive gain in the first two years, obviously whatever has been this academic mission, we're not fulfilling it.

So I think we're asking, what is working, and I'm suggesting that this academic quality guarantee is not working.

MS. STUDLEY: I think there's something that connects what both of you are saying.

I think there's a time difference of whether on the ground it's working or not, but I think you'd be in agreement that you couldn't conduct successful, responsible eligibility or gatekeeping if you only looked at the financial stability of an organization.

I could set up something tomorrow that might be fiscally sound,
housed in an attractive building and capable of continuing to churn something, but not to produce quality education.

You may think some people have slipped through the existing system, but I hear you saying the same thing that Kay is, that you wouldn't just look at the Department's current responsibility to do financial and say there's nothing about content.

It may not be done right now, different people may have different views about that, but doesn't there need to be something in the gatekeeping that says, and there is a program worth the federal government allowing its dollars to be spent on, let alone your time and the individual's time and money?

MS. NEAL: Yes, and I appreciate that because I think you're right.

I think the piece that I would think, having heard about the voluntary
system of accountability, is some sort of consumer information that institutions would make available on key factors.

And then if they wanted the self-improvement system they could employ an accreditor to help them improve themselves.

MS. STUDLEY: I think the possibility of separating or separating more than they are or having a minimum standard that then is given to the Department or whoever's doing gatekeeping could then, and it might not be the Department, there are other ways you could get to it that are separate from the voluntary peer self-improvement, that could then take the task of, could be told who's close to the line and do the more rigorous or the five percent or the troubled school in a nearing bankruptcy kind of, but not financial, academic bankruptcy, and make that kind of
judgment. I'd like to try and answer Susan's question if only so that she can populate her, what's happening well.

This isn't data specific so I'm going to answer it as to the system. I think accreditation currently brings together leaders in each field of education and training to set goals and expectations, consider student interests and deal with new issues. They have had to deal with a lot of new issues.

People have made a good point that we keep, you know, when there are new expectations, whether for evaluating education performance or avoiding serious problems or coping with new methods of delivery like distance education, that although it seems slow by some clocks, in fact there is a responsiveness and a desire to let students have access and quality.

And good people in a lot of
different fields, and we see the representatives, half of them are doing it like we are as volunteers, who are putting their minds to the job of trying to get this right.

And I think that when we think about what are the good things going on, that we shouldn't lose sight of both the talent and the commitment to try and do it well.

MS. PHILLIPS: I'm going to add one of my own to that list of what we're doing well or what is working well, not us necessarily, and that is bringing to educators' attention the product of what they do.

For many years accreditation was simply the inputs. And a consideration of the inputs, it was a good thing if you had X number of volumes in the library and so forth. And the focus, however jarring it has been to the educational
community of thinking about what the output is, what the product is and whether you call the product loan default rates or standardized learning outcomes or critical thinking or employed people, pick your outcome measure.

Those are all good things for an institution to be thinking about. What is it that I'm trying to accomplish here? And I think the accreditation system has done that well.

Let me get to the not so well part. I'll add some more points about that, but for bringing to our educational world a thought about "and then what." For our educational efforts that question of "and then what," is definitely on the table in all educational institutions.

MR. VANDERHOEF: This might be too practical out on the ground, but in follow up to what Susan just said, one of the first things that I bet we all noticed
when we first got involved with this group is the number of, for example, problems that were raised in the case of each institution.

And the more we got to know the staffer, the more I got to know the staff and the same thing applied in other accreditation groups with which I've been involved.

You realize that they are very, very good people, but they have rules by which they have to operate and they have to bring forward particular kinds of data.

And the fact is that it doesn't really help us a great deal in making our decisions.

Look at how many have we really changed? They've come to fall to us with particular recommendations and we haven't changed them all that much.

So my point is we've got very
good mechanisms for gathering data, I just think we're gathering the wrong data.

And I would think that it's not very satisfying, as a matter of fact, to the people that have to gather it in the first place.

And so I think what we do well is get the information to the table. But the follow up is what don't we do well with that data, and is I don't think we're using it well.

I don't think we're applying it to the things that we really believe are important in accreditation.

But I want to put the emphasis on the fact that I think we've got the mechanisms that we need to gather the information.

Again I'm trying to make sure that we get on the table the things that we are doing well.

MR. ROTHKOPF: Is there
something -- a point Larry made and sort of thinking this, this is just thinking out loud, but much of higher education is devoted to training people to do a particular job whether it's a career college, whether it's a law school, whether it's a medical school.

And there I think the kinds of data you want are really, how well is the institution preparing someone to perform that particular function, whatever that job is if you will very career oriented, and it could be a cosmetologist or it could be a surgeon.

But, you know, and then there are tests and license insurers and completion rates and other data which sort of show well, gee, they're really doing a pretty good job of training people.

On the other hand, there are some institutions let's say a liberal arts institution whether it's part of a
university or a college, where really it's very much harder to determine what the results are.

I mean you could say there ought to be some baseline of knowledge perhaps, but it's a harder thing to do. And what I'm really saying is I think for some institutions it isn't so hard to tell. I think you could define some data with some others.

Obviously, the most extreme case is the St. John's College in Annapolis which just, you know, basically 300 or 400 students studying great books. It's a great thing, but how do you measure that other than they know what they came for and they're going to read these great books? And that may be the right -- that's their mission and that's fine.

But I think there are just different kinds of things you've got here and it may be in different ways in which
you can measure what people are doing.

    I don't know, rambling a little,
but I think I was trying to get at it.

MS. PHILLIPS: So let me unleash
the other part. What do we consider are
the opportunities for correction, for
change, for doing things differently?

MS. STUDLEY: Let me start with
one that's easy to say and tortured to try
to implement.

    If the different players who
gather data or the different systems
within those players could cooperate to a
larger degree and rely on common data
reports, it would probably be helpful to
the entities who have to provide that
data.

    I say that knowing that having
actually literally worked that through in
the Department on a number of issues, you
find that there are different statutory
definitions, regulatory definitions,
practical definitions, different purposes for which it's collected, different time frames, different levels of reliability and so forth.

But if we could make headway even not to the ideal, or report to people that there is not much to be gained by that enterprise, there would either be value in doing it or clarity that it had been reviewed and that there were genuine reasons that it could not be more symmetrical.

CHAIRMAN STAPLES: Just a question, Jamie, about the data. Are you talking about from all actors? Like are you talking about for an institution let's just say the data they provide to every external entity that wants it, state, federal, accreditor?

I mean are we talking about, or are we just talking about the federal government as a data collector?
MS. STUDLEY: I think that the payoff would be greatest if we could say, what do you have to provide for the multiple purposes of the Department and for the institutional and program accreditors?

I think I hadn't realized until today how many institutions might have reasons for quite as many different programmatic reviews. Even of different program reviewers of the same program and an institutional reviewer, that was sort of a lightbulb. So I would try and get the multiple accreditors and the Department.

And, you know, if Bob Morse from U.S. News would sit down at the table and rely on the same placement data it would save people.

It's hard enough to get consumers to understand the complex choices and comparabilities they've
already got, but when they see a different number in two different places then it's even harder to ask them to make sense of their choices.

And states, those states that elect to actually play a part.

MR. KEISER: It's not only data collection, it's just the process.

In my institution we'll have six different accrediting commissions in different campuses this week.

I mean that is, you know, if there is a way to encourage accreditors to work together, I mean when NSAC sends out a team that has 8, 10, 12 people, add a couple of more programmatic accreditors, it enhances the whole value of the process, because not only does the institutional accreditor get the opportunity to look at the programs which they wouldn't normally do.

I mean right now the cost of
accreditation is extraordinary. It is not just a few dollars.

And if one of the issues or one of the goals is to drive down the cost of education, from an institutional standpoint accreditation is an extremely expensive process.

Worthwhile, I don't disagree, but if there is a way to use NACIQI to streamline so there's a single data element that we all need and we can encourage visitations with each other that could streamline the process, it would save money, save the institutions dollars, which ultimately save the students tuition.

MS. PHILLIPS: I want to underscore what Art was saying as well. You saw in the comments that institutional accreditation for some of the universities that wrote in, was in excess of a million dollars a year.
That's just for one accreditor. That's for the institutional accreditor.

Every one of those institutions, mine too, has over a dozen that come throughout. It is hugely expensive.

It is worthwhile to take a period of self-study, absolutely, but it is also extremely expensive to do. Anybody who's in an institution will say that.

MR. VANDERHOEF: And Arthur, I think it was just one of the representatives there that said it was worthwhile. I think there are others that say it's just not.

MS. PHILLIPS: Not worthwhile.

MR. KEISER: I think it is. It certainly helps my institution.

But one other thing is every different accrediting agency is a different period of accreditation.

My SACS, we have a ten-year
grant, but then they have a five-year midterm review. Then we have, NLN is eight, ABHES is five, I mean so every one's different and we're all in different cycles. And it's like it takes a full time scheduler just to keep it in.

My SACS review about four years ago, we had 43,000 documents we provided. I mean it's a huge endeavor that most people do not understand the nature and the complexity of what we are requiring of our institutions. A good part of it doesn't really lead to quality of education.

MS. PHILLIPS: I'll add on to that. Again being both on the giving and receiving side of accreditation myself, we used to say in the accreditation world I worked in that accreditation's voluntary, as voluntary as breathing.

And indeed it is. Even when you don't have Title IV funds riding on it you
have opportunities for students.

You have levers to keep your institution on its cutting edge. You have professional expectations. There is almost nothing voluntary about the breathing that is engaged in accreditation processes.

And so it isn't as though you can just back away from the cost or the activity. It is part of the educational expense, time and money. It has to be.

I would wonder if an institution that wasn't going for accreditation was, in fact, breathing if it wasn't engaged in that kind of external review process completely independent of the Title IV, which adds yet another element to it.

So when there is a process which imposes additional data or data of questionable value into this self-study review analysis process, when that one more data element is added in because, as
I've heard here there was a misuse of that data or a problem associated with that awhile back in some other institution, all of a sudden your institution which was breathing along fine, now has to carry the rocks of the institutions that have not been doing so fine.

Huge, huge burden and adds to the cost for the student, adds to the cost for the entire institution in a time when cost is on everybody's mind.

MR. WU: So how do we get from this to actual recommendations? Because it seems that at the highest level there are some things that have been said here that no one has objected to.

So here's some things that I've noted that nobody has objected to that seem to be agreed upon and it's a start. But it's so vague that it's not clear how you get from this to something more useful that we could put forward to the world.
So costs are too high. Not all the data that we gather is worthwhile. Some additional data might actually be worth adding to allow for tracking of individual students, and it's important to allow flexibility.

Would I be right in thinking that those four -- I've tried to frame those statements in the most plain vanilla, most innocuous way possible. Would those attract a consensus?

MR. LEWIS: Clarification, so cost of accreditation itself is too high or --

MR. WU: Yes, the costs, maybe eliminate the word "too". The costs of accreditation are very high.

So I don't see anyone saying that those statements are outrageous, right? So maybe that's a way to help push forward to some recommendation, because then beyond at that level of generality it
seems you have to look at specific types of data, right?

CHAIRMAN STAPLES: It seems like the questions ultimately get down to what would we recommend is done about it.

Maybe what you're saying is, is there a consensus around what the issues are, problems are?

But ultimately we want to have recommendations that address, you know, how do you reduce a burden if there is a burden? How do you reduce the cost if the cost is too high?

I think that's where we're hopefully going to get at the end of this process is, what are the problems and then what are the possible ways to address them?

MR. WU: So let me frame it as three problems. One, too expensive, two, data not quite right, and three, too rigid. Those are the problems it seems to
me, we and the speakers have identified.

MR. ROTHKOPF: Did the "too rigid", Frank, go to the question of what kinds of requirements do you impose on different kinds of institutions? In other words, a more flexible program for dealing with different types of institutions.

I'm not quite sure how you do that and how we get from here to there, but I think that's an important feature.

MR. WU: Exactly. I just stole what you said and tried to make it a bumper sticker.

MR. PEPICELLO: Yes, I think those two things go together, the data and the flexibility. Because I mean a solution, I mean just going in the direction of a solution is there might be some baseline set of data that is applicable. It is one-size-fits-all.

And I don't have any idea of whether that's right or wrong or what that set of
data would look like.

But it might then be the case that if there is a baseline set we could identify, then all those other things that are out there that don't apply to everybody may be the element of flexibility.

Where on top of the baseline there's a set of other data that apply to you and your law school that don't apply to me at all or a small liberal arts college, but there are other pieces of data that we gather that would that would round out, so that flexibility.

MR. VANDERHOEF: I really like the fact, Frank, that you're wanting to give some direction and focus here, but I wonder if it isn't a little too early to come up with a recommendations, because the recommendations are going to steer us. Maybe we don't want to be steered just yet. Maybe there's some more conversation
that has to go on.

MS. GILCHER: I just want to ask the question of when you're using the term "data" are you being very narrowly using that term, that is, basically numbers that are getting reported? Or is it more broadly data on the, you know, the kinds of things that go into self-studies and things like that?

MR. WU: I would use it more broadly even, data that's not quantitative. To produce a self-study takes a lot of person hours, so even if it's just narrative and even if it's just at a simple mechanical level, just bundling all the stuff together.

And you might think it's easier now that all of it's on a flash drive. It's no easier, just at the simple clerical level it is a huge task.

MR. ROTHKOPF: Of course we understand that the regulatory burden on
institutions, and we've got a lot of different kinds of institutions around the table, are not just coming out of accreditation. They're coming out of every part of the federal and state government.

I mean it's just a tremendous financial issue that comes about because of reports that have to be filed and the whole range of things depending on what kind of institution you have.

The governments impose rightly, in some cases validly, some cases not, lots of requirements. It doesn't mean that these shouldn't be addressed but this is just a part of the regulatory burden.

MR. KEISER: It's also the accrediting commissions, which are made up of peers, have created their own standards, some of which are very complex and require a lot of work.

I mean everybody's involved in
this not just the government passing down information.

I think in the accrediting cycle, the governmental requirements are relatively small in the self-study and in the standards. There's a section, but most of it is still kind of peer driven and it's a complex process.

I'm not suggesting it isn't, but if there's ways to streamline where we can encourage the commissions to work together with the programmatic commissions where we can create some kind of unified calendar of accreditation actions, I mean I think it would help all the institutions, would help NASIQI, because we'd all be moving on a more of similar type of menu versus just the diversity of the accrediting agencies you work with.

MR. KIRWAN: I wanted just to be clear. There's two categories of data that come into this conversation I think.
One is what accreditors are asking of institutions and what NASIQI is asking of the accreditors in order to give them approval.

So which are we talking about at this moment? Both? Or are we talking about the data that accreditors are asking of institutions?

CHAIRMAN STAPLES: I think we're talking about both. I mean I think both are being discussed here.

MR. KIRWAN: Okay, so on the one category of what accreditors are asking of institutions, I'll go back to something I said a few moments ago.

Do we have agreement trying to get to the threshold that Frank was addressing? Do we have agreement that basically we're collecting data for two defined purposes? One is to determine eligibility for financial aid, and two for
institutional self-improvement.

Are those the two purposes for which we are collecting data or are there other purposes? I mean if we don't answer that question I don't know how we can have a serious conversation about what data we get.

MR. VANDERHOEF: I don't know how far this can go, but that in fact, begs another question that hasn't been raised yet. It was suggested by some of our letter writers that we really shouldn't be trying to apply the same set of criteria to all of these different varied institutions that we deal with. That there should sectors. That there should be different, that we should -- I think Shirley said this but she wasn't the only one. That we shouldn't, we just simply shouldn't have the same rules for different organizations.

I think that follows right on
what you are saying, that because if we are going to start to think differently about the data that's collected for one purpose versus the other, we also have to start subdividing.

Do we really want to collect the same data for a Princeton as we are gathering for, well, I'm not going to be specific, but other institutions that we are looking at? And the answer's probably no. We should be collecting differently.

MR. KIRWAN: I couldn't agree with Larry more. In a way to me that is the threshold question, but unfortunately isn't that a question for tomorrow's discussion? I'd almost prefer to answer that question first. Are we willing to go down the row of kind of having a tiered system of accreditation?

And then that would drive a whole different conversation on data. But if we're restricting it today to just the
data collection, I think we need to answer
the question that I posed.

CHAIRMAN STAPLES: I think you
also -- implicit in that I think, maybe
it's not implicit from what you're
thinking, that the question of what's our
role? I mean I always try to remember who
are we and what's our role?

And is it our role to focus on
what the government, as NASIQI, an
advisory committee to the federal
government, is it more our role to focus
on what the federal government is
contributing to the regulatory burden? Or
is it our role to tell accreditors what
they collect? I mean in what function do
we want to serve?

And I think that's part of the
question about what the data is. Do we
want to offer a template for
standardizing? Do we want to have 3000
teenagers run into our room right now?
And I think that's sort of implicit in your question is, you know, what is it that we can do? And if we're trying to standardize data from the top all the way down to the bottom, is that something -- you know, that's an ambitious reach. And maybe we can do that but that's an ambitious goal.

MS. PHILLIPS: I would add into that my sense in observing how accreditors' agencies respond to our queries and to the queries of the Department.

And the Department is only asking the questions that the statute and regulations are asking, that ultimately what happens to an institution is that there is this statute and/or regulation which poses a need for data point X.

The Department asks the agencies about it. The agencies ask their
institutions about it and we come in and verify that that has happened.

So without being an intentional actor in this process, between the regulation and statute and the institution are these two, three, I'll call it relatively innocent perpetrators of data collection needs, simply because there is an action.

So that data point, I mean I don't think that the Department asks anything that the regs don't require. And I don't think that the accreditors then ask the institutions anything that is not required. So I think there's a train here that I don't know that you can separate that piece.

One other perspective, just to come back for a moment a quick recap, just to remind people of what we thought was working well.

We had thought that what was
working well was we were doing a very good job of collecting a lot of hmm-mm data, I'm leaving the adjective out of that, that what was also working well was that the system was bringing together leaders to consider and respond to new issues.

And that what was working well was a focus on what the product of the educational enterprise was. That's a really big compression of what you've said.

But in effect, what we've said is that one of the things that is working well is aggregating attention on thinking about what educational enterprise is doing. That's a good thing.

Almost all of the things that we've talked about that are challenges and opportunities, are ways in which that juxtaposition of financial aid and self-improvement as goals mess that up.

So the minute that you have both
of those goals in the question of be thoughtful, bring people together, think about what you're doing and gather data, the question becomes what data are you gathering? How much does it cost? Is it enough? Is it the right data, and are you gathering it too rigidly?

So if I capture both what Brit and Frank were saying, my sense is that there is a concurrence on the "where are the problems side" is that there is a juxtaposition problem of those two missions, the financial aid, financial eligibility and self-improvement.

And that if we were going to fix something we'd fix the expense, the correct data, do we have the correct data and the rigidity. I didn't quite say that right but you captured the message.

Without saying what the solution is, it's helpful to get a fix on whether or not we agree that that's the problem.
MR. WU: May I add one other potential problem, not --

CHAIRMAN STAPLES: Earl had his light on.

MR. WU: -- oh, I'm sorry.

MR. LEWIS: Yes, matter of fact, I was going to say certainly there's a general perception to Susan's last question, that when you look at the regulatory environment over a period of time, that the standards and the additions to the standard that's been as accretive process and that we've added on. And so the question becomes then, is there some kind of mechanism along the way to not only add but also to subtract, divide sort of and remove as part of any reauthorization?

Because certainly in certain areas of the country, as NASIQI's sort of interpretation gets passed down to the regional bodies, there become these sort
of interesting artifacts of a certain time, like how many books do you have in your library? I mean books in your library in a digital age has a different meaning and has a different weight than it did 15, 20 years ago. And in fact, at some point that would become a complete anachronism, because the access to vast amounts of libraries will become on a subscription basis.

We're moving there, but there's ways in which as we go from each generation, we haven't necessarily at least that's a perception was asked then to the additional regulatory sort of burden and the perceptions that indeed there are additional costs, because you're both answering old questions and new questions at the same time.

And whether that's real or not, there's a sort of real heavy perception out there in the higher ed community, and
is one of the ways in which other people talk about then, what is the burden? How do we understand it? What should be changed as we go forward?

MS. PHILLIPS: I'm going to add a different twist on that as well. What was at one point a useful guidance for self-study for an institution, tell us what it is that you want to achieve and then tell us how well you are achieving it, has become I'll call it a calcified definition of, you must achieve X. You must have an improving score on the CLA, or whatever outcome is flatfootedly applied.

And even though what was originally I'll call it an honorable question for an institution to ask themselves, now the way in which it is asked is calcified. That's a little too strong a statement.

MR. WU: May I offer something
that wasn't mentioned by any of the panels?

But I think as long as we're looking at potential problem areas, I think one problem is we, NASIQI, are probably a bewildering entity for the agencies who come before us.

I was thinking about some of the preliminary comments that many of the agencies made. And from their perspective we're a group of 18 people of diverse viewpoints. Some of these agencies haven't come before us since 2004, so it's been seven or eight years. And a staff report has been prepared and they come in front of us and are peppered with questions, many of them hostile. They get a few minutes to respond and then they're sent away.

So perhaps something that is happening here is the agencies go away cautious because we could potentially do
things that would threaten their business, and even though they're nonprofits they don't want to go out of business.

So some of the ways in which they behave may not be mandated by us or by any statute or reg but they want to be extra careful. And so they react in a particularly cautious bureaucratic way which isn't beneficial.

So I wonder if something about the way we operate may be puzzling. I mean if I were one of the agencies I would find this whole thing bizarre, to be summoned every few years to a hotel conference room in front of this body that has authorities that are not clear unless you're a lawyer.

And even if you're a lawyer you'd be hard pressed to explain what exactly is the authority of this entity. And then to make this report and to go through all this it would have to be just
a bizarre experience for them.

So I wonder if that's something we might want to do something about just to be principled and good and humane.

You know, government should operate in a way that's sort of comprehensible to the people who appear before it.

MR. PEPICELLO: Well, you know, I think I partially agree, but I think I disagree with some of that.

It may be frustrating for them but I wouldn't think it's bewildering. Because I think by the time they get here they have a pretty good idea of what's going on.

Now they might not like it from a regulatory point of view but when I read all the materials before I get here, and I made this comment yesterday, I think they ought to know exactly what's going to go on when they get here.
MR. VANDERHOEF: Yes, I think you really touched on something.
I don't know if it's going to fit into our deliberations here, but oftentimes groups like ours, and this applies to the accreditation groups as well at all levels, they take all of the kindly comments that come from the institution very seriously.

And I think that's a mistake, because the institutions have everything to gain by saying what the panels like to hear, and very seldom are they willing to take the chance to say, you know, this is really stupid. You're going down a road that doesn't make any sense at all. It happens all the time.

And I think the groups like ours and like ones I've been on before, take those comments much too seriously.

They actually begin to thinking they're wonderful and that's because
they're being told it rather regularly.

The visit really helped us. We really benefited by the visit. It's going to make a big wonderful new institution, you know, all that stuff.

MS. STUDLEY: I want to go back to Earl's point which I thought was very accurate. That things become embedded or entrenched and it's hard to clear them out. And it's true of something concrete like books in the library or seats in the library, yet another fascinating enterprise now with everybody with, you know, one of those on the bed or the park bench with their, an outsource of research information.

But it really plays out in more subtle but really burdensome ways on the input and the outcomes related to student learning, because we constructed a whole set of theories that say well, if you have faculty, how many faculty with what kind
of degree, organized in what kinds of ways, sitting in what sorts of buildings? And then you put students near them. If you just get all that together and we come and it looks to us like a school, it's probably eligible for Title IV funds.

And as we're asking people to switch to, "and so what happens, how have people developed over time, what's the problem solving ability of these people, can I look at a portfolio and see that you gave people competencies they didn't have to a level that's appropriate for this program," we haven't yet made enough of that -- or are some of the instruments that are blunt, blunt but adequate to the task?

So maybe there is something to be said that Princeton shouldn't be judged on graduation rate and default rate.

But if they're -- and hundreds
of other schools are fine on those, maybe
that or that plus what? Or plus what and
what, would be enough to say that's good
enough. That's not telling us the
educational quality, it's telling us that
they can participate in this program.

Anyway we haven't -- we have a
frayed belt and suspenders, and we haven't
yet said we can get rid of the belt,
because we're not positive because we're
just getting used to suspenders.

And so we have both of them and
the attendant burdens of them. Nothing
personal to the suspender wearer.

(Off microphone comments)

MS. STUDLEY: Well, but you're
contemporary. You've moved onto the
suspenders on my analogy, so you're cool.

And this could be something
where we can accelerate the transition.

Or if we gave people more confidence in
the new systems or there were some incentives or payoffs or clarity, then they could clear out the -- that's something of what we were hinting at with, for example, the ABA.

It's the only one I've seen that has a student/faculty ratio at issue. Maybe I just haven't read others as carefully, but do I care about the ratio? Do I care about what level these faculty are?

I'm looking at -- and certainly the Justice Department told them years ago, you don't care what they're paid. What you care about is what people learn through the experience of being in this institution.

So the system is built largely on sticks with the carrot of Title IV eligibility.

And I wonder if there are other ways that we can create carrots by saying
as we've talked about, data burden reduction or timing advantages or length of independence assuming certain kinds of reports, all of which might help people gravitate toward what we think are really the valuable measures, while giving back the things that would let them concentrate on core mission.

MR. KEISER: I really agree with that. That's one of the things, that we've just built these layers.

And layers and layers and layers based upon problems or issues in the past, and they all begin to -- we try to make sense out of them, sometimes they don't.

And it affects other certain institutions differently than others, you know, it's not an even distribution of pain. It has a process.

And it may be to our advantage that we sit down and analyze why we're doing what we're doing, and take each one
of the standards that we have and say does this make any sense to the concept of educational quality or does it make any sense as it relates to protecting the public or what would be the best measure to do those things?

So that might be the direction we go.

MS. STUDLEY: You know, we talk about sector and we talk about the institutional type and mission.

There's also a difference in the degree of federal, on the gatekeeper side, the scale of federal funds that are invested in or at risk at different institutions.

So there's more money on the line at MIT than there is at the 40-person school in Alabama and that could be a reason for saying they do different things.

But there are a lot more
students at NOVA and Keiser and Phoenix than there are at either MIT or the little school in Alabama. And as we think about the appropriate slices that may be one question to ask ourselves.

There is one way in which I think I, not disagree with you, Art, but am more sympathetic to where some of these rules came from.

It is true that Congress and the Department regulate to solve problems. That often feels like closing the barn door after the horse is out, but sometimes there are a lot of horses. And if you don't close the barn door there's going to be a continuing problem. So which ones are still real, which ones are still present.

You know, I thought the example of the six-month pre-notification of a program offered at an employer by an institution that probably could
demonstrate once that it has the ability
to design specialized programs to deliver
them probably anywhere on the planet,
should not have to do that if they're
choosing to drive five miles to be where
the students are.

But I can imagine where that
came from and that there was a genuine
problem and we would have to do what
you're talking about, just deconstruct
what still addresses something that needs
to be done and what's timed out.

DR. KEISER: I agree with you
100 percent. I've been through a lot of
these wars where there was a mess that had
to be cleaned up, and the mess was cleaned
up but we still have the infrastructure
that was left. You know the problem
is gone because the whole world is changed
since that time. And it's like the number
of books in a library at a time that made
a whole lot of sense and today it doesn't
make as much sense. And we need to address those type of things, but there might be where we might spend our time.

And I like the concept that were used, deconstruction, to rebuild and come up with something that makes some sense.

MS. STUDLEY: Just a quick story. After five years as the Department of Education's deregulatory czar, I mean literally, I'd meet people in the hall and that's oh, you're the deregulator, I went to be a college president.

And one of the things that I skimmed was the student manual, the residence life manual, which was not a smart thing to do. And it was more burdensome, more specific than the Department of regulations I had read.

But in the same way you could read it and say a-ha, I can see that there was once a fight between a residence hall assistant and a kid who owned a snake.
And the kid with the snake said, where does it say that I can't have a snake in the dorm and where do you get the authority to tell me I have to get rid of it?

So there was a rule about residence hall assistants and snakes in the dormitories. And sometimes we can see those in our rules, but if there are still snakes in the dormitories we still have to have a way to deal with it. But I think we can ask ourselves those questions.

MS. NEAL: I think you're absolutely pointing your finger to the kinds of regulatory burdens that diminish diversity rather than enhancing them, because they take away the judgment from the institution.

And so I think that absolutely is an area of concern and it diminishes innovation and changing within the institution.
And my sense is though, that if it were a voluntary system then you would not have that same imposition and, in fact, the accreditors would develop in conjunction with their members the kinds of criteria that would help them do what they like to do and self-improve.

MS. STUDLEY: Let me ask, if the accreditation side system were totally for the purpose of self-improvement and voluntary peer activity, how would the Department do other than say, this is an acceptable balance sheet or this is a physical and financial entity that has "school" in its name, when there's a lot of distrust of the Department making the educational judgment that the program is adequate for Title IV funds.

So if eligibility is a floor that you have to get over and self-improvement is a process, there's a place where they cross. How would the, and
this may be tomorrow's question, but how
would you get enough information from
either the accreditor process or from
something that the public would let the
Department do to say, and there is program
content adequate for, or program results,
educational outcomes sufficient to spend
Title IV money?

MR. KEISER: That's a great
question. My concern though is what we do
is we create a rule for all. And then
based on the outliers or the one or two
that are the problematic, the problem
makers and we generalize.

And that's where we get
ourselves into trouble in that the
accreditors that are coming before us,
this is my fourth year, every one of them,
at least I haven't met one that has been
what I'd say ineffective or not doing what
they say they're doing. I mean these
people are caring people.
The programmatic, you know, they'd die for their own particular profession and their field. The regionals are incredibly interested in quality of education.

The nationals are really trying hard to make sure that the quality and the integrity is in there. I've not met one. And one or two that we've let go, but for the most part they comply.

Now the fact that they have the regulation does not prevent a rogue entity from doing something stupid or being a bad player.

And, you know, we can't regulate for the least common denominator. If we do, we'll end up with the least common denominator and that's the problem that I, you know, the dilemma we face and I'm not sure I know the answer to.

MS. NEAL: But don't we have the least common denominator now?
MR. KEISER: Well that's part of the problem. We're not really looking for institutional quality or educational quality, we're looking for educational accountability. And so the standards get watered down so everybody can meet the bar.

MS. NEAL: And I think to your question, Jamie, that you have the gatekeepers for the financial aspect, which responds to Congress which is giving us the federal student aid.

You have the self-improvement role which is really one that's institutionally driven, and then you have the public piece it seems to me.

And that may get us back then to the discussion that we were starting to have with that second panel about some common dataset that the public would benefit from learning from institutions.

It wouldn't cover everything in
the world. It could be enhanced by, if you had a robust system of accreditation it seems to me maybe you could have a gold standard, a double gold standard and triple gold standard. Then that actually is of value to the consumer because it means something, which I'm not sure now given the blunt instrument that accreditation is that we have.

So you could have some basic consumer information and then a robust accreditation system that offers a Good Housekeeping Seal of Approval that actually means something.

MS. STUDLEY: Would you make that Good Housekeeping seal, I mean I'm perfectly intrigued by the idea of more information more available, but would that be part of a private voluntary peer system or would it be part of a federal analysis and rating?

MS. NEAL: I would envision it
potentially as being an agreed upon set of
data but not an agreed upon floor. In
other words, there -- or you could have
floors.

We've talked about some things
that are so low that it's unacceptable and
that you could have something that's so
unacceptable, but then you could also just
simply provide data on key measures and at
a certain point let the consumer then
decide.

MR. VANDERHOEF: And that would
be Title IV eligibility if you pass that
bar? And you would separate off the first
--

MS. NEAL: You'd separate off
the self-improvement and you'd have those
two pieces.

MS. PHILLIPS: So Title IV and
consumer information would be the same
basic dataset.

MS. NEAL: And you would want
independent audit or something. I think you definitely would want to ensure that the institution is providing valid, reliable data. That panel talked a little bit about tuition fees, financial aid, demographics, job placement rates, institutionally specific outcomes, or something along those lines that would --

MS. STUDLEY: Maybe this would help me understand your suggestion. If I said I have an idea for a new school that would teach people, fill in the blank, haven't decided yet, what do I need to do to allow students to get PELL grants and federal loans to go to my school? What in your scenario would the answer to that be?

MS. NEAL: Well, you have the existing acid test, which that's what I call it but I'm not sure what the Department refers to. And if you then looked at --

MS. STUDLEY: You mean A-C-I-D or
MS. NEAL: A-C-I-D.

MS. STUDLEY: The financial responsibility standard?

MS. NEAL: Yes. You'd have that baseline or you could come up with a different one if you wanted.

And then you could have information on default rates, something along those lines. Because I think at the end, those do have a bearing on the quality of the program.

If, in fact, kids are defaulting and they're not able to pay off their loans, that is a reflection on whether or not the program is working. You'd have to figure out what that is.

MR. KEISER: Under the current process, for a new school to operate it is very difficult. First of all, you have to apply for a state licensure which is the primary -- what?
(Off microphone comments)

MR. KEISER: I'd never talk about California. You guys are just -- I can't deal with that one. I'm not there for good reasons.

But you have to apply for state licensure and before you can even start and usually that requires for you to engage in a lease prior to starting. So you have to have capital.

You have to have a financial statement that you're not going to have it audited, because most of these people are new COs that just start out.

Before you can become eligible to apply for accreditation you have to be in existence at least two years, two calendar years from the date that you start your class. From that date usually it takes a year to get through the accrediting process if you're lucky.

And then another well, I'd
daresay six months, but I think it's closer to a year, to get Title IV funding.

So an institution has to survive for almost four years, three and a half years, prior to ever receiving a single PELL dollar or making a student eligible for a loan.

In addition, in order to meet the financial requirements of the Feds you have to have two years of audited statements and they have to be demonstrating an asset ratio test at least one, because it's before -- you can't do a composite score yet, but an asset ratio test. Otherwise, you have to post a letter of credit which many new schools can't do.

So in Florida there are 860 licensed schools. There are only 220 accredited schools. People don't realize that most of the schools that are out
there are not accredited.

I don't know if that was any help to you, Anne, but it is very difficult.

MS. STUDLEY: My question's really hard to answer because I'm trying to get at the program performance side of it and what you would use for the gatekeeping element. And it's hard with the idea of a new school as opposed to, if I were in existence consider me participating, but I were declining, at what point would you, maybe that's a better way. You know, stays out of the complexities of the start up situation.

What if I'm shrinking and declining in whatever ways? When would and on what basis would somebody say you know what, as an institute you are no longer eligible. You have slipped below. What the minimum I would have to show on the academic side, let's assume we
understand what the financial is.

Maybe that's an easier way to ask the question. Is it just, it doesn't really matter if you just publish your default rates, you publish your graduation rate and tell your story.

And if people come then they can use PELL grants at your school and if they don't come then you're goose is cooked and you'll fold eventually.

MS. NEAL: I think it gets back then to the bigger question in terms of how do we protect the public interest?

And the way it currently is set up is that we have accreditors to certify educational quality. I guess what I'm submitting is that could we not protect the public interest by having some baseline financial stability guidelines that have to be met and some assurance that it's not going to a fly-by-night organization? So a fairly low bar but I
think that's where we are now. And then allow institutions then
to get gold, platinum or silver through an
accrediting process, because right now the
accreditors for the most part close down
schools because of financial concerns, not
because of educational quality.

And so I think looking at what
is potentially the most cost effective way
of protecting the public interest perhaps
we want to focus more of our attention on
some limited standards as opposed to the
broader one.

CHAIRMAN STAPLES: Can I just
for one second run this through, just take
a check if we're still sufficiently
covering the ground you want to cover
today, because some of the issues I think
morphed into tomorrow's discussion.

And also there's some members of
the committee who have not spoken. I
don't know if that's just you're not
choosing to weigh in or if you haven't felt the opportunity to weigh in.

So I want to make sure we just take a step here for a second and maybe, Susan, you can remind us of what we're on and see if there are other members of the committee who want to offer an opinion.

MS. PHILLIPS: I'd like to suggest that we have maybe about another five minutes of wherever people want to go. And I would encourage voices that haven't weighed in to do so.

And then I want to just sort of capture where we are right now. We'll just put a set of parenthesis around it and pick up again tomorrow when we'll have meal courses four, five and six in our moving banquet.

CHAIRMAN STAPLES: And an opportunity to connect them all I think at the end of the day, right, so some of things that do intersect.
Anybody who has not had a chance to weigh in on this topic who would like to?

MS. WILLIAMS: My points have been sufficiently discussed and I think I have nodded concurrence, if I have not said it, with those that have gone forth on the table and they've always been included in the summary, so I'm fine.

MR. ZARAGOZA: I'm also good with the discussion. I've heard pretty much of it.

PARTICIPANT: Okay, thank you.

MR. SHIMELES: I guess I'm a little bit confused about where exactly we're headed, because it seems to me like we're stuck in a cycle of we need to set a baseline and we can't set a baseline. Like we need to maintain the ability of institutions to address the specific needs of its students and we need to have some sort of accountability for
Title IV funding.

So I'm just a little bit confused about how we're progressing, and this isn't to denigrate what anyone's saying, but I'm just a little bit at a loss.

CHAIRMAN STAPLES: Maybe this is a good point for Susan to try to sum up where she thinks we are.

MS. PHILLIPS: Yes, let me take a shot at it and folks can modify as you hear what I'm going to describe.

First, let me agree with and concur with the ambiguity of where we are. It is --

MR. SHIMELES: That wasn't a calling you out, I was just a little confused.

MS. PHILLIPS: Yes. No, no. It is a very frustrating and expectable part of this stage of a discussion of the diverse views of 15 different people. So
bear with us, we'll get there.

The second is, I want to just go back again. I framed this conversation to begin with what we thought was working well, just to remind us not to throw out whatever baby there is with the bath water that we have in mind.

And to repeat that again, again this is a very quick version of it. What we have said that we're doing well now is collecting -- we, a broader accreditation accountability system, are collecting data mostly very well. We're working well to bring leaders together to consider new issues and respond to them.

And we're good at bringing a focus on what a product is for educational enterprise. The places where we have talked about areas for opportunities for change, correction and for doing things differently, I'm going to give you a list. And these are going to become known I'm
sure by shorthand by the time we're done with this.

First we've talked about needing to separate where the possible data is needed for eligibility, that baseline notion, and what's needed for self-improvement, to consider those two questions separately even knowing that they coincide.

Second is to shed some regulatory requirements maybe for some people at some time for some total, whatever, consider what is the right dataset for each circumstance. And I'll call this the snakes in the dormitories issue to deconstruct what issues truly are at risk for different entities. That we don't need to regulate the behavior of snakes in places where there aren't even dormitories.

So far again what we do well is bring together a focus on what the
outcomes of our educational process are to collect data about it and to bring a focus on responding to new dimensions.

And in the process of doing all of those things well, we also need to deconstruct what has now accreted in terms of our regulations, to separate eligibility and self-improvement data needs to shed some regulatory requirements and to consider what the right set of data is for each.

I just put a set of parentheses around that, those things that are missing, wrongly stated, that you'd want to add into the picture. I'm keeping it about 30,000 feet right now, but we'll see if I captured what you heard that doesn't --

MR. ROTHKOPF: I guess the one thing, and maybe it's implicit in there is that at least from my standpoint, the question of how we get really accurate
graduation rates.

I'm prepared to say, and others may agree or not agree, that we ought to get rid of any barriers that are in the law that prevent us from getting that data because it's critical.

And every time you kind of push at least the first panel, they say well, the data's not accurate. We can't use it. Well, it's not accurate because we have this I guess statutory impediment.

A unit record system, I think it's something that we should -- I actually served on a commission a few years ago that recommended it and it didn't go anywhere, but prepare to recommend it again.

MR. PEPICELLO: Following on that I think there's sort of a coil area and that is to ask, is that a right measure? Is graduation one of the right sets of data we should be looking at?
Is that an indication of quality or is it an indication of something else or is it, you know, should it be as central as it is? I mean I just think that question is begged.

And the other thing that I might say, Susan, is I wouldn't want to characterize if we were going to look at tiered accreditation that some institutes would shed regulatory burden. I think we look at a sliding scale as opposed to saying that some people get a hall pass.

MS. STUDLEY: I would just like to agree with Bill about graduation rates. They're one of the few things that we can count, however difficult, but since it's in the control of the institution whether it hands people a certificate or a diploma, its utility at least has to be very contextualized or connected to other kinds of things.

MS. PHILLIPS: I just added a
note here to say to add into our proposed solutions a question about what is the right data. I think that as a generic question is not something that we're --

MR. ROTHKOPF: I'm not suggesting that it's the only one, but I think it's part of a picture. I mean we certainly look at it at the high school level.

We get all worried because graduation rates are too low and actually the states have now gotten together I think to decide, the governors, as to a common definition of what's a graduation rate. So I think it's an important question.

I agree with you, it's not the most important question and it doesn't go to quality. I think in some ways the quality question is answered by job placement, which is a much more ephemeral thing because placement could be something
that's a good placement, a bad placement, it may be outside of the field. It may be at the minimum wage for something that shouldn't be at the minimum.

    I mean I think there are a lot of questions here, but I think we can't begin to answer whether some of these programs are being useful if people are not completing them and they don't have jobs and yet they have a big debt burden.

    MS. PHILLIPS: There are additions, deletions, editing, Frank.

    MR. WU: One just quick comment about data in general. It's that after we set a certain, or after an agency sets a certain standard everyone will eventually learn how to game it.

    Not just by cheating, which isn't the real problem, it's the sort of collective not quite cheating that presents an entire sector more favorably than it should.
Law schools are just one example. Everyone is doing it and it's not just in this area.

You know, when airlines had to start publishing on-time rates, what happened was all flights became slightly longer. I don't know if any of you were flying around that time period, but if there was a regular flight you took, it suddenly got 15 minutes longer in the official printed schedule so that the on-time rate would go way up.

So every one of these numbers can be gamed. And so there's a sort of a metapoint about data, there has to be some audit or some system that ensures that the data that's being reported is what it purports to be, because it often just isn't.

MR. ZARAGOZA: If I could just touch a little bit on the graduation rate for community colleges. The gorilla in
the room is the whole transfer rates and how that's being evaluated in this context, so I just wanted to throw that into the mix.

CHAIRMAN STAPLES: Is that it for now do you think, Susan, for today's exercise?

MS. PHILLIPS: Okay. So for now we put a semicolon into this structure that we're creating, to be continued. Many conversations, very thoughtful, lots of ideas. Many things yet to traverse in the next day on our next two topics. We'll put together again over the course of this, opportunities to consider further to think about what it is that we've heard said to see it in print as we go along, to see how it looks in the light of day.

So for now enjoy your evening conversations and we'll go from there.

PARTICIPANT: See everybody
tomorrow at 8:30.

Melissa, do you have anything you want to note?

MS. LEWIS: Yes. I'd like to thank Brit and Carolyn for coming. We're going to miss you tomorrow. And I'd like to congratulate Carolyn on her retirement. She's leaving us to go to her retirement party tomorrow.

(Whereupon, the above-entitled matter went off the record at 4:48 p.m.)