

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NATIONAL ADVISORY COMMITTEE ON
INSTITUTIONAL QUALITY AND INTEGRITY [NACIQI]

MEETING
VOLUME I

Thursday, June 6, 2013

9:06 a.m.

Hyatt Arlington Hotel
Senate Ballroom
1325 Wilson Boulevard
Arlington, Virginia 22209

P A R T I C I P A N T S

COMMITTEE MEMBERS PRESENT:

JAMIENNE S. STUDLEY, J.D., Chair
MR. ARTHUR J. ROTHKOPF, J.D., Vice Chair

DR. WILLIAM L. ARMSTRONG
DR. JILL DERBY
DR. GEORGE T. FRENCH
DR. ARTHUR E. KEISER
MS. ANNE D. NEAL, J.D.
MR. RICHARD F. O'DONNELL
DR. WILLIAM PEPICELLO
DR. SUSAN D. PHILLIPS
MR. CAMERON C. STAPLES, J.D.
DR. LARRY N. VANDERHOEF
MR. FRANK H. WU, J.D.
DR. FEDERICO ZARAGOZA

COMMITTEE MEMBERS ABSENT:

DR. WILLIAM "BRIT" E. KIRWAN
DR. EARL LEWIS
MR. BETER-ARON (ARON) SHIMELES
DR. CAROLYN WILLIAMS

U.S. DEPARTMENT OF EDUCATION STAFF PRESENT:

MS. CAROL GRIFFITHS, Executive Director, NACIQI
MS. KAY GILCHER, Director, Accreditation Division
MS. SALLY WANNER, General Attorney, Postsecondary
Division, OGC

MS. ELIZABETH DAGGETT
MS. KAREN DUKE
MR. HERMAN BOUNDS, Ed.S.
DR. JENNIFER HONG-SILWANY
MR. CHUCK MULA
MR. STEPHEN PORCELLI
MS. CATHLEEN SHEFFIELD
DR. RACHAEL SHULTZ
MS. PATRICIA HOWES
MS. KAREN AKINS

Mr. Solomon Oliver, Jr., United States
 District Judge
 Mr. Scott Norberg, Deputy Consultant, ABA
 Ms. Stephanie Giggetts, Assistant
 Consultant, ABA

National Association of Schools of Art
 and Design [NASAD]

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Action for Consideration:
 Petition for a Renewal of Recognition

NACIQI Primary Readers:
 Mr. Arthur Rothkopf
 Dr. Larry Vanderhoef

Department Staff:
 Mr. Chuck Mula

Representatives of the Agency:
 Ms. Karen P. Moynahan, Associate
 Director, NASAD
 Mr. Samuel Hope, Executive Director
 NASAD
 Mr. Richard Mann, Counsel, Keller
 and Heckman, LLP

New England Association of Schools and
 Colleges, Commission on Institutions of
 Higher Education [NEACIHE]

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Action for Consideration:
 Petition for a Renewal of Recognition

NACIQI Primary Readers:
 Dr. Arthur Keiser
 Mr. Frank Wu

Department Staff:
 Dr. Rachael Shultz

Representatives of the Agency:
 Dr. Barbara Brittingham
 President/Director, NEACIHE
 Dr. Patricia O'Brien
 Deputy Director, NEACIHE
 Dr. Jean Wyld, Vice President for Academic
 Affairs, Springfield College, and Chair
 NEACIHE

Third-Party Oral Comment:

Mr. Jay Stroud
 Past President/Board Chair
 New England Association of Schools
 and Colleges

North Central Association of Colleges
 and Schools, The Higher Learning
 Commission [NCAHLC]

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Action for Consideration:
 Petition for a Renewal of Recognition

NACIQI Primary Readers:
 Dr. George French
 Ms. Anne Neal

Department Staff:
 Ms. Elizabeth Daggett

Representatives of the Agency:
 Dr. Sylvia Manning, President, NCAHLC
 Ms. Karen Solinski, Vice President for
 Legal and Governmental Affairs, NCAHLC
 Dr. Gary Wheeler, President, Glen Oaks
 Community College, and Chair, NCAHLC

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Discussion with Dr. Martha J. Kanter
 Under Secretary, U.S. Department of
 Education

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Association of Advanced Rabbinical and
 Talmudic Schools [AARTS]

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Action for Consideration:
 Petition for a Renewal of Recognition

NACIQI Primary Readers:
 Dr. Susan Phillips
 Dr. William Pepicello

Department Staff:
 Mr. Steve Porcelli

Representatives of the Agency:
 Dr. Bernard Fryshman
 Executive Vice-President, AARTS
 Professor Keith Sharfman, Associate
 Director, AARTS
 Dr. Sheldon Epstein, Associate
 Director, AARTS

American Dental Association, Commission
 on Dental Accreditation [CODA]

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Action for Consideration:
 Renewal of Recognition Based on Review
 of a Compliance Report

NACIQI Primary Readers:
 Mr. Frank WU
 Dr. Arthur Keiser

Department Staff:
 Dr. Herman Bounds, Ed.S.

Representatives of the Agency:
 Dr. Sherin Tooks, Director, CODA
 Ms. Cathryn Albrecht, Senior Associate
 General Counsel, CODA
 Dr. Kent Knoernschild, Chair, CODA

Third Party Oral Comment:
 Dr. Denise Bowers, RDH, Ph.D.
 President Elect, American Dental
 Hygienists' Association
 Ms. Pamela J. Steinbach, RN, MS,
 Director, Education & Research,
 American Dental Hygienists' Association

Maryland Board of Nursing [MDBN]

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Action for Consideration:
 Renewal of Recognition Based on Review
 of a Compliance Report

NACIQI Primary Readers:
 Dr. Susan Phillips
 Mr. Frank WU

Department Staff:
 Dr. Herman Bounds, Ed.S.

Representatives of the Agency:

Dr. Pamela Ambush-Burris, DNP, RN, FRE
Director of Education and Licensure
MDBN

Dr. Patricia Kennedy, EdD, RN, Director
Education, Examination and Research
MDBN

Dr. Emmaline Woodson, DNP, RN, FRE
Deputy Director/Director of Advanced
Practice, MDBN

Closing Comments

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Recess

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P R O C E E D I N G S

CHAIRPERSON STUDLEY: Good morning and welcome. I'm Julienne Staley, the Chair of the National Advisory Committee on Institutional Quality and Integrity, known as NACIQI. Try saying that outside Washington.

I thank you all for being here. First, I thank the members of the NACIQI Committee whom you will meet in just a moment. I want to thank the staff of the Department who support our operations, both the Committee specifically and the accreditation operation more broadly. And I would especially like to thank all of you who represent the accrediting agencies and the public. Your interest in this work and in the quality and accessibility of higher education is crucially important, and we appreciate your thoughtfulness and commitment to this activity.

I was tempted to start our morning by saying that we're in a time of unprecedented change in higher education, but I think I've said that each of the other times we have met, and it is true

each time I say it, that it is even more intensely challenging, more fascinating, demanding questions, and more movement within the field in every location.

So we are in a critically important national pursuit and a critically important time, and I thank you for your attention to the work that we will be doing today.

This afternoon, we welcome Under Secretary of the Department of Education Martha Kanter. So we will have a chance to think in very broad ways looking at recent developments and looking with her into the future of this work. So I will save any other comments for that time and just get us into our business quickly.

The first thing we want to do is make sure that we greet each other and that you know who is here. You'll get a chance, as I say, to meet them, but we have two new Senate appointees to the Committee joining us for the first time at this meeting. They are Senator Armstrong and Rick O'Donnell, and we are very glad to have both of

you. Rick and Bill, it's wonderful that you are with us.

They are succeeding Dr. Wilfred McClay and Bruce Cole who have left the Committee. We've all said this individually, but I also want to extend a special re-welcome to Larry Vanderhoef who we're delighted to have you back with us and are glad to see you in such fine fiddle. So thank you very much.

With that, why don't we go around the table and do the introductions, starting, as is our practice, with Art Rothkopf?

MR. ROTHKOPF: I'm Arthur Rothkopf, Vice Chair, and among things in my prior life, I was President of Lafayette College for a dozen years.

DR. FRENCH: Good morning. I'm George French, President of Miles College in Birmingham, Alabama.

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

DR. ARMSTRONG: Good morning. I'm Bill Armstrong. Very happy to be a new member of this

Committee. I'm the President of Colorado Christian University in Lakewood, Colorado.

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

DR. KEISER: My name is Art Keiser. I'm Chancellor of Keiser University in Fort Lauderdale, Florida.

DR. VANDERHOEF: I'm Larry Vanderhoef, and I am happy to be back. I was formerly the Chancellor at University of California at Davis.

DR. DERBY: I'm Jill Derby, formerly the Chair of the Nevada Board of Regents and currently a Governance Consultant with the Association of Governing Boards.

DR. ZARAGOZA: Good morning. I'm Federico Zaragoza. I'm the Vice-Chancellor for Economic and Workforce Development for the Alamo Colleges in San Antonio, Texas.

DR. PHILLIPS: I'm Susan Phillips, Provost and Vice President for Academic Affairs at the University at Albany, State University of New York.

MR. STAPLES: I'm Cam Staples, President

of the New England Association of Schools and Colleges.

MR. O'DONNELL: I'm Rick O'Donnell, currently Chief Revenue Officer of the Fullbridge Program.

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

MS. WANNER: I'm Sally Wanner. I'm with the Office of General Counsel at the Department of Education. I'm not a Committee member.

MS. GILCHER: I'm Kay Gilcher. I'm the Director of the Accreditation Group at the Department of Education.

MS. GRIFFITHS: And I'm Carol Griffiths, Executive Director for NACIQI.

CHAIRPERSON STUDLEY: And I'm Julienne Staley. I'm President of Public Advocates in San Francisco, California.

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OVERVIEW OF MEETING AGENDA AND CONSENTAGENDA PROCEDURES

CHAIRPERSON STUDLEY: Let's dive into our agenda. My first task is to describe to you the Consent Agenda procedures. We're going to begin with the items on this morning's Consent Agenda. In this case, we introduce the items. We take any third-party comments if applicable. I can tell you that we don't expect any for the organizations currently here, but we provide that opportunity.

We give the Committee members a chance to let us know if they want to remove any agencies from the Consent Agenda, and then for any remaining items on the agenda, those are moved and seconded, and we take a vote on the Consent Agenda.

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CONSENT AGENDA

CHAIRPERSON STUDLEY: We have three accrediting agencies who are listed as of now on the Consent Agenda. Are there any third-party comments? Anyone here who wants to make third-party comments regarding the review of those agencies?

They are, again, just for the record, the Accreditation Commission for Acupuncture and Oriental Medicine, the Accrediting Council for Independent Colleges and Schools, and the American Psychological Association.

Seeing no one with the intent to make comments, the Committee Members, do any of you have comments or requests regarding any of these three agencies at this time?

DR. KEISER: I move we approve the Consent Agenda.

MR. ROTHKOPF: Second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Is there any discussion of the motion? All in favor, please say

aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Thank you very much.

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OVERVIEW: STANDARD REVIEW PROCEDURES

CHAIRPERSON STUDLEY: Now we will move on then to the Standard Review Procedures for the other agencies that we're going to be considering today and tomorrow morning.

That procedure, as you can see from your agenda, but I do this partly so that we have a full record in the transcript that we covered these items. Many of you are familiar with this process.

It begins with the introduction of the agency's petition by the primary Committee reader; a briefing by the Department staff who were responsible for that particular agency's reviews; remarks by the agency representatives; presentations by any third-party representatives who want to speak to the review of that agency; the agency's response to the third-party representatives' comments.

Then the Department has an opportunity to respond to the agency and the third-party comments. Having gone around, the Committee then discusses the agency. It may inquire of the agency

representatives or of the staff if it has any further questions that the Committee members want to pursue based on their own review. And then entertain a motion and act on that motion as to the agency.

Anything, Carol, that we--no.

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AMERICAN BAR ASSOCIATION [ABA]

CHAIRPERSON STUDLEY: With that, we will move to the first agency before us today, the American Bar Association. And I would ask the representatives to come up to the table here in just a moment. I apologize. I apologize. First one of the day. The staff member to come up, and I will call upon the primary readers, who are Mr. Rothkopf and Mr. Armstrong.

MR. WU: May I note I will recuse myself?

CHAIRPERSON STUDLEY: Thank you very much. Dean Wu is recusing himself.

MR. ROTHKOPF: And I will introduce the matter before us. The American Bar Association established the Section of Legal Education and Admissions to the Bar, its Council, in 1893, and the Council began to conduct accrediting activities in 1923.

The Council is both an institutional and a programmatic accrediting agency. The Council currently accredits 199 legal education programs. Of the legal education programs accredited or

approved by the agency, 19 are freestanding 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 Higher Education Act programs. Since the agency is a Title IV gatekeeper, it must meet the Department's separate and independent criteria or seek a waiver of those requirements.

Briefly, on its recognition history, the then Commissioner of Education--this was prior to the establishment of the Department--initially recognized the Council in 1952, which was the first wave of recognitions. The agency has been recognized continuously since that time.

The agency was last reviewed for continued recognition in 2011 when the Assistant Secretary issued a decision in July of 2011 that required the agency to come into compliance with several areas of the Secretary's criteria within 12 months and submit a compliance report 30 days thereafter

demonstrating the agency's compliance with the criteria cited in the decision letter.

The agency's compliance report is the subject of this analysis and this discussion today.

CHAIRPERSON STUDLEY: Jennifer.

DR. HONG-SILWANY: Good morning, Madam Chair and Committee members. My name is Jennifer Hong-Silwany, and I'll be providing a summary of the staff recommendation for the American Bar Association, Council on Accreditation Committee of the Section of Legal Education.

The staff recommendation to the Senior Department Official is to renew the agency's recognition for a period of three years.

This recommendation is based on our review of the agency's compliance report which addressed several areas of the Secretary's criteria that were previously found to be noncompliant.

The agency has demonstrated compliance with the issues identified in the previous staff analysis, and we are therefore recommending that the agency's recognition be renewed for a period of

three years.

Thank you.

CHAIRPERSON STUDLEY: Thank you very much. I would now ask the agency unless--does anyone have questions for Jennifer at this point?

MR. ROTHKOPF: Jennifer, the last review when we had--and I recall it well--was--of the ABA was in 2011, and they were to submit their materials within 12 months. We're now, and I'm not sure whether it was in the Spring Meeting or the Fall Meeting. Did they submit within the 12-month period or has there been some time lag involved here?

DR. HONG-SILWANY: They did submit within the 12 months, and they, if I recall, they had to come back to demonstrate a lot of evidence and change policies and demonstrate that they had applied those policies. So they have done significant work to show that, and they've provided plenty of evidence to show that their practices have changed in accord with their policies. So they have submitted timely to the Department.

MR. ROTHKOPF: Thank you.

CHAIRPERSON STUDLEY: Any other questions at this time? Thank you.

We will now ask the agency representatives to come forward. Thank you very much. Would you please introduce yourselves or your group?

MR. SYVERUD: I am Kent Syverud. I'm the Dean of the Law School at Washington University in St. Louis, where I've been for the last eight years, and before that was Dean at Vanderbilt Law School for eight years. And I'm currently the Chair of the Council of the Section of Legal Education of the American Bar Association.

I'm here with my colleagues, the Honorable Solomon Oliver, who is Chief United States District Judge for the Northern District of Ohio in Cleveland; with Barry Currier, who is the Managing Director of Accreditation and Legal Education for the ABA Section. It's a title that used to be "consultant." Barry is new in this role in the last year. And we also have two folks from Barry's office with us, and they are Scott Norberg, who is

the Deputy Consultant, or Deputy Managing Director, I guess; and Stephanie Giggetts, who is the Assistant. And Stephanie and Scott were the folks who played very significant roles in the last year and earlier in working very hard on this area.

I'm particularly proud we have 20 colleagues on the Council and 300 volunteers involved in the accreditation project for law schools, and we've been working very hard since the last time there was an appearance before NACIQI to make sure we are in compliance, and we're grateful to the staff, particularly to Jennifer Hong-Silwany, Kay Gilcher, and Carol Griffiths for their professionalism and responsiveness.

We look forward to being very responsive and timely in the future and working collaboratively with NACIQI, and we appreciate the positive report of the staff and certainly are open to any questions or comments you might have.

CHAIRPERSON STUDLEY: Let's start with the readers. Are there any questions that you have for the agency representatives? Thank you very much

for your presentation.

MR. ROTHKOPF: I did have a question. I see in the report that you have two triggers with regard to job placement rates through your monitoring process. One of them is if more than 15 percent of the graduates' employment is characterized as "unknown," and with 20 percent or more "unemployed/seeking," they have to provide a response, or there will be a site team sent.

It strikes me, and I'd be interested in your response to that, that in a time of difficulty of graduates of law schools getting employment in the legal profession that you're going to have a wide swath of institutions in this category.

What do you do when you, quote, "monitor" a law school because they meet either one or more of those triggers, and aren't there going to be a fair number of your accredited institutions who are going to be in this category?

MR. SYVERUD: I'll ask Barry to speak to it.

MR. ROTHKOPF: Can you speak up a little

bit? I'm having trouble hearing.

MR. SYVERUD: I'm sorry. I have a cold so I'll try and do better. Is that better?

MR. ROTHKOPF: Yes. Thank you.

MR. SYVERUD: Interim monitoring has been very important, and we have these triggers in a number of areas, but we've also had substantial experience with implementing it now, including in the placement area, and so we've through the Accreditation Committee been through a round of interim monitoring process. So I'll ask Barry to describe how that worked.

MR. CURRIER: Good morning. I may further pass the buck on down to Scott in just a second because he's been the person in our office with the primary responsibility for monitoring, the interim monitoring process, and making sure that it works effectively. So what we do is we go through a process when schools turn in their annual questionnaires to us of filtering them on a number of these triggers, as we call them, including employment.

We pull them out. We look at them. If they trip the employment triggers, then we contact each school by letter before we refer the matter to the Accreditation Committee. We ask them to respond to what their career services and outreach efforts are. We get the letter, and then that letter goes to the Accreditation Committee for its review.

I think it would be fair to say that the focus of our efforts is on making sure that these schools are complying with the standard that requires them to have a career services operation that serves the needs of their students, and it's certainly possible in these times that a school could have a highly effective career services office and yet not everybody is getting a job.

So our focus is more on the efforts, the organization, and the resources that schools are putting behind serving their graduates in getting first jobs, you know, as much as it is on the particular percentage that don't.

Now, the numbers aren't great, but if you

do add up all the different categories that we monitor, you know it may not be quite as many schools as you might suspect who, in fact, are not operating in compliance with these standards at the end of the day.

Scott, would you like to add anything?

Okay.

MR. ROTHKOPF: I guess I come back. I mean how many schools right now are not in compliance or have triggered the trigger?

MR. NORBERG: Yes. That I think I can help with. Since the time we filed our compliance report, we've done one more round of interim monitoring based on the annual questionnaires submitted by law schools in October of 2012, and there were about 15 schools that tripped one of those two employment triggers, and we have followed up in all of those cases with the law schools, letters from the Accreditation Committee asking those 15 out of approximately 200 schools that have triggered one or both of those flags to show compliance with the standards, in particular the

standard requiring an active and sufficient career services office.

MR. ROTHKOPF: And if a school after you send a letter and you presumably do a follow-up with that school, do you--and they have what you would regard as a satisfactory career services operation, but yet their rates of employment are not in accordance with what you'd like, do you do anything about it? Do you not? Do you recommend that they take fewer students? What's the response in a case like that?

MR. NORBERG: You know the standard is that they have a curriculum, a faculty, a career services operation, a skills curriculum, an academic support program that meets the minimum requirements of the standards.

As Barry suggested a couple of minutes ago, it may be that a school has excellent, meets the standards on all of those counts, but nevertheless the market does not have enough jobs to employ those graduates, but it's something that is beyond the scope of the standards to say that

they should or would have to accept fewer students.

MR. CURRIER: If I may, let me just come back to your question and answer it by saying what would happen if we found a school was not providing adequate career services. So I think what would happen from there is that the school would be issued what we call a Rule 13(a) letter, which says we have reason to believe you're not in compliance. Gives them one shot to then under sort of formal rule tell us what they're doing.

If that doesn't satisfy, and it's not us, it's the Accreditation Committee of the Council, then they would be put on Rule 13(b), which requires a show cause hearing to show why they're not operating or why they may be operating out of compliance with the standards and shouldn't be sanctioned, you know, including up to removal from the list of approved schools.

So what the trigger process does is, outside of the normal sabbatical site review process, give us an annual opportunity to assess whether a school is continuing to operate in

compliance with the standards, and then can set in motion the normal processes that we have in place for insisting that schools come into compliance or be sanctioned.

And Scott is correct. I mean you could assume a situation where a school admits highly qualified students. 100 percent--this is hypothetical--100 percent of them graduate, 100 percent of them pass the bar examination on their first try, and a number of them still don't get jobs because that's just the way the market is. The market will sort that out. We're not operating on the assumption that it's our job to control the number of people who go to school. It's our job to set standards that schools must meet, including this standard about providing appropriate assistance to students looking for jobs.

MR. ROTHKOPF: Could I just maybe follow up with one last question, and maybe two? Do you have any requirement--let's assume that hypothetical, that there's a school that's doing a great job of turning out highly qualified lawyers,

but, you know, 30 percent or them are not, or 40 percent of them, because of the economic conditions and what's going on in the legal profession, are not getting legal jobs which they seek. Do you have any process to urge or to say to the school that they need to disclose this to prospective students, that they need to put something on their Web site or other materials that says to someone who's now thinking about going to that law school, that their opportunities are not, may not be so robust?

MR. CURRIER: So under Standard 509, schools are required to disclose a lot of consumer information, including what we call the results of our employment questionnaire. So Scott can tell you the exact number of categories that we have, but I think the spreadsheet goes out to column, you know, double alphabetical letters with part-time, full-time, JD required, JD advantage, you know, it's a large number of categories.

Schools must post that, basically that spreadsheet, on their Web site, you know, soon

after we've sort of vetted the information. So all of that information is available.

In addition, under Standard 509, a school cannot disclose or release information that is not accurate. So if the school posts its data and then has somewhere else on its Web site as to how successful they are, you know, as we discover that, we will talk to them about how the narrative is inconsistent with the data.

So, yes, they do have to disclose that data and a lot of other data annually.

MR. SYVERUD: I just want to say we've spent a huge amount of time the last two years collecting more data and more detail normalizing the data, publishing it and publishing it early, and a lot of the reason for the extraordinary detailed attention to the placement data has been that we've worked very hard to get it and get it out quicker.

That's been in response to comment from the public and many sources, but it's a very different picture of data on placement that's

available today than two years ago.

CHAIRPERSON STUDLEY: Thank you very much, and thank you, Arthur, for asking a question that would have been my follow-up. I see that Larry has a question, and are there other Committee, just so I can gauge a sense. So Larry, Bill, Anne.

DR. VANDERHOEF: Do you have for-profit law schools that are among the 199 that you are looking at?

MR. SYVERUD: Yes.

DR. VANDERHOEF: Yes. How do their records compare to the not-for-profit?

MR. SYVERUD: Which records did you mean?

DR. VANDERHOEF: Just the record of accreditation.

MR. CURRIER: Yes, we have, I think it's-- is it five?

MR. SYVERUD: Five or six.

MR. CURRIER: Five or six for-profit schools, and their records are, you know, on a par with a number of the other schools. I mean you're all experienced higher ed people, and you know that

the ability of a school to gain traction is, in part, a function of the year in which the institution was founded.

And so the for-profit schools are new. Most of them are new. There is one that started as a California bar approved school a long time ago that is now accredited. So they're new, but they're competing fairly well in the marketplace, and their record with us is--there's nothing particularly noteworthy about it. Let's put it that way.

DR. VANDERHOEF: Thank you.

DR. ARMSTRONG: Good morning, Mr. Currier. I just have two or three questions that I'd like to ask. One is it's my understanding that under ABA standards, 80 percent of the classes or credit hours must be taught by full-time faculty. Do I have that right?

MR. CURRIER: No, that is not true. The standard--and, again, I fortunately have Scott and Stephanie with me. We're the standards mavens. I believe that the standard says substantially all of

the first year must be taught by full-time faculty and a majority of the courses, or student credit hours, either one, must be taught by full-time faculty.

DR. ARMSTRONG: Well, I stand corrected, but early this morning I went on the ABA Web site, and I will admit it was early, and I may have been sleepy, but I thought I read that not more than 20 percent of the courses could be taught by other than full-time faculty. Did I misunderstand what I read?

MR. NORBERG: I'd be interested to see what you are looking at, but Standard 4--

DR. ARMSTRONG: I was looking at Standard 402-1.

MR. NORBERG: Okay.

DR. ARMSTRONG: Interpretation 402.1.

MR. NORBERG: Uh-huh. Okay. I think I know where your confusion stems from. Standard 403(a) is the standard that says that the full-time faculty shall, as Barry suggested, teach the major portion of the law school's curriculum, including

substantially all of the first-year curriculum. So all the standard requires is that a majority of the curriculum be taught by full-time faculty members.

The interpretation that you are looking at concerns the computation of the student/faculty ratio, and for purposes of that computation, only 20 percent can be--it's a little complicated, but--

DR. ARMSTRONG: Well, I understand the distinction you're raising, and forgive me for being led astray, but it comes down to the same thing. The ABA is expressing a strong preference for classes being taught by full-time faculty members--a very strong preference actually.

MR. CURRIER: The standard expresses the point that more than 50 percent of the courses must be taught by full-time faculty. The student/faculty ratio is just simply to say that a school cannot lower its student/faculty ratio by adding a thousand adjuncts. You can have as many as you want, and every school--I believe it's correct to say every school in the--every approved law school has more than 20 percent.

DR. ARMSTRONG: But only 20 percent count.

MR. CURRIER: In the computation of the student/faculty ratio, which is basically a number that is a work of art and is designed to allow someone to compare one school against the other, and since every school exceeds the 20 percent at this moment in time--I believe that's correct--that becomes a meaningless number.

DR. ARMSTRONG: Okay. Well, very good. My next question may not be as relevant based on that explanation, but someone who is a practicing attorney or who has other significant outside interests cannot be considered to be a full-time faculty member for that purpose.

MR. CURRIER: That is correct. A full-time faculty member is defined as a person who devotes substantially all of his or her professional time to legal education. There are a number of full-time faculty members who do some outside work, and there are a number of lawyers who do a lot more than just a little bit of work at a law school, but to be a full-time faculty member,

you must devote substantially all of your professional endeavors to legal education.

DR. ARMSTRONG: I appreciate that, and then with respect to full-time faculty members, I believe I understand that the requirement for a full-time faculty member is that they be tenured or have some employment agreement that is comparable to tenure; is that correct?

MR. SYVERUD: Full-time faculty members do not require tenure.

MR. CURRIER: So there are a number of different employment security arrangements that are in place at law schools. Certainly tenure or tenure track is one. Another are contracts for periods of years. Another--

DR. ARMSTRONG: Five-year contracts?

MR. CURRIER: Five-year contracts, presumptively renewable, which as it turns out, given the way most universities work, is really a series of one-year, a series of five one-year contracts, and then there are others that have no security of employment.

DR. ARMSTRONG: Well, I don't want to be argumentative, but what I read was five-year contracts or tenure, and it seems to me that a five-year contract is essentially tenure by another name or very nearly so.

So my question, what I'm kind of leading up to on this, is that critics of the ABA accrediting process would argue that these requirements and others, which they would cite, add a layer of cost that in some cases they're outmoded. A great many institutions of higher education have quite high ratios of adjunct faculty and find that it enriches their program and lowers their costs.

Tenure, from what I can tell, is sort of a, well, it's a respected part of many institutions, but a declining part of institutions across the spectrum of higher education. What would you say to people who say that requirements like this add unnecessarily to the cost of legal education?

MR. SYVERUD: Well, I would say that

there's--boy, that's a great debate, including within the Council as the standards are being revised. We've seen several studies of the cost of law schools, including from the General Accountability Office, in terms of what portion of the cost comes from accreditation standards, and that study suggested to a substantial degree it was not for accreditation standards.

DR. ARMSTRONG: Would you speak a little more into the microphone?

MR. SYVERUD: Sure. I'm sorry. So--

DR. ARMSTRONG: On behalf of the hearing impaired, I thank you.

MR. SYVERUD: Yes, okay. I would not want to endanger the hearing impaired.

[Laughter.]

MR. SYVERUD: I'm just voice impaired today. I guess I'd say as a dean, particularly right now, there's nothing I pay more attention to than costs, and a large fraction of my costs are human resources and particularly faculty, and the large fraction of the faculty costs is in the full-

time faculty and in the tenured faculty.

So the question I have is if there were no requirement of tenure in my university, and my university has a tenure requirement, how would my cost structure change? And the answer is it would be less expensive. It would be easier to change my personnel more quickly in a downturn, and so it's hard not to say that's an element of cost.

Of course, there are strong benefits from a tenure system and from academic freedom, which I would speak to is a long history at my university that suggests that endangering it is a real problem. But I don't think anybody can disagree that it's part of the cost structure that we deal with--at least not fairly disagree.

DR. ARMSTRONG: May I change the subject slightly? One of the things that I specifically looked for on your Web site in the Standards had to do with standards for discrimination on the basis of race, religion, gender, and so on, and found kind of the standard statement, and then what I believed to be a carve out for religious

institutions, permitting them to discriminate on the basis of religion with respect to employment, and then some qualifying language following that that left me a little bit in doubt of whether or not effectively a religious institution could, in fact, require people who were faculty members or other employees of the law school to be of a particular faith.

In other words, if the Lutherans decided to start a law school--as far as I know, there is no Lutheran law school--or the Presbyterians or the Jews or whoever it is, whether or not as a part of their program, they could require a statement of faith and, in effect, say, someone who wishes to be a member of our faculty must be of our faith.

I thought that's what that exception meant, but just for the record, I wanted to be sure whether that was what it meant?

MR. SYVERUD: I'm going to have to have you address that.

MR. CURRIER: Yes. This was a front and center issue ten to 20 years ago, and in recent

years, it's been a non-issue, and, of course, there are many, many religiously affiliated law schools, I believe, including--I don't really know much about the organization of the Lutheran Church--but I believe Valparaiso is a Lutheran--

DR. ARMSTRONG: Nor do I actually.

MR. CURRIER: I think there are some law schools at universities that have a Lutheran history or affiliation.

DR. ARMSTRONG: Well, understand that, but my question is if I'm the Seventh-day Adventist Law School--

MR. CURRIER: Right.

DR. ARMSTRONG: --may I require as a condition of employment a statement of faith in which someone is required to be a member of the Seventh-day Adventist Church, or the Lutheran Church, or whatever it is, as a condition of employment?

MR. CURRIER: Right. We haven't had any issues about that, and so it's a little--I'm not trying to waffle. I just don't know what to say

beyond what the standards say. So if you think it's unclear, then perhaps it is.

DR. ARMSTRONG: Well, it is to me, but I started thinking about this particular issue about five o'clock this morning.

MR. CURRIER: Yes.

DR. ARMSTRONG: And you've been working with it for ten or 20 years so--

MR. CURRIER: Well, what I would say to you is that I think under the standards--

DR. ARMSTRONG: My question is may a law school impose such a requirement on employees and prospective employees?

MR. CURRIER: And what I'm going to say is just based upon no particular case. My answer to that would be--and, Scott, you can correct me--and, again, it's not my answer that matters because it's the Accreditation Committee that ends up voting on a case-by-case basis--that a university could insist on a faculty member adhering to a statement of faith, but perhaps--I don't know--perhaps if that said, and you have to be an enrolled member of

a particular faith rather than agreeing to abide by the principles of that faith, that that would not be acceptable. But I don't know that. And no school has ever been denied accreditation or put on probation or suspended for anything of that sort.

DR. ARMSTRONG: I think that's a very useful distinction, and just to recap it, statement of faith, okay/open question with respect to membership in a particular church.

MR. CURRIER: That's what I would--

DR. ARMSTRONG: Could we pursue that another time? I think that is a lively question and likely to become more of a central question.

MR. CURRIER: And, again, I must say that we are the administrative group that supports the accreditation process, but the decisions are made by the Council and the Accreditation Committee, and the answer to that question could only be divined unless it's clearly expressed in the standard by a decision of that Committee, and there has been no decision, yea or nay, on that particular point in my memory.

DR. ARMSTRONG: I appreciate that clarification. I was just trying to understand what the standard says.

And, then, finally, one philosophical question, the American Bar Association adopts and maintains policy positions on a wide variety of legislative and public policy issues, and many of which are very controversial--Medicaid, same sex marriage, abortion, gun control, Social Security, I don't know what all. It's a very long list.

MR. CURRIER: Neither do we.

DR. ARMSTRONG: Well, here's a two-part question in closing. One is philosophically, is it consistent with the role of an impartial accrediting agency to be in a position of forceful advocacy on a wide range of the most controversial issues in American life, number one, and, number two, if a law school for some reason or another had positions strongly divergent from those of the American Bar Association, would it make it difficult or impossible for them to gain and retain accreditation?

MR. SYVERUD: First of all, I think it's important to say that the regulations that govern accrediting agencies say that a professional body, a professional trade association like the ABA, if it's going to have an accreditation function, has to be very careful to make sure the accreditation function is separate and independent of the trade association, and we have been very zealous in making sure that separate and independentness exists, and so, in particular, regardless of the beliefs of particular Council members on particular issues, I think the Council, which is composed of many distinguished judges, lawyers, and minority of academics, would rise as one were the trade association to try to use the accreditation project to get law schools to comply with particular positions taken by the ABA on public issues.

DR. ARMSTRONG: I want to just be sure I got that. Your answer is that they would not be, it would not be permissible--

MR. SYVERUD: Right.

DR. ARMSTRONG: --for them to use that

kind of influence.

MR. SYVERUD: Yes. And basically our job is to enforce the standards and the standards that we have published and promulgated with interpretations, and to do that consistently over time, to a wide array of very diverse law schools, and there are very diverse law schools, including on many issues. So I think I've answered both parts of your question.

DR. ARMSTRONG: I think you did, too. I'm reassured by that, and actually I'm glad to have a record of that, that just because the ABA has a position on a particular issue does not mean that an accredited school would be required to hew that line or face a penalty or face some disadvantage?

MR. SYVERUD: That's correct. What was relevant is what's in the standards themselves, not other ABA policies or procedures, and--

DR. ARMSTRONG: Thank you very much.
Thank you, Mr. Syverud.

MR. SYVERUD: And the ABA has been supportive of that. The ABA leadership understands

that, and we talk about it regularly.

MR. CURRIER: I think it's important for the record to note that even though we call it the shorthand ABA, the actual group that you recognize is the Council of the Section of Legal Education and Admissions to the Bar of the ABA and the Accreditation Committee. It is not the ABA.

DR. ARMSTRONG: Well, I appreciate that, but you also think--

MR. CURRIER: And it just doesn't make a good acronym.

DR. ARMSTRONG: --, I think, would recognize that the ABA is quite different than most accrediting agencies in that respect. Most accrediting agencies don't take public policy positions on a wide variety of highly controversial issues, and I'm satisfied with the explanation you've given me, but I think that's an important distinction to make.

MR. CURRIER: In many respects, the ABA is actually an advocate in our process for certain issues. There are groups within the ABA that would

like the standards to say something different, just like you might, and they might come to our standards process and put in their two cents' worth, but it's the Council that makes the decisions.

DR. ARMSTRONG: Thank you, Madam Chair.

CHAIRPERSON STUDLEY: Thank you.

We have some other questioners, but I think this discussion about separate and independent is important. There is a very powerful strand in our requirements for separate and independent, and while you are right that the ABA takes positions, as I look at the list of entities who have accreditors in their field or who have to establish that separate and independent requirement, they are not unique.

There are others that take very strong positions across the board. It's our job to make sure that they are completely independent of the accreditation decisions, and that the structures, budgets and other relationships are--and the decisions made by the agencies--are, in fact,

separate in that way.

I have Anne Neal as wanting to ask a question. Is there anyone else who has--from the Committee--who has a question or comment? You can think about it while Anne asks her. Anne.

Thank you.

MS. NEAL: Good morning. Just quickly, I too wanted to second the concern that many of these criteria do add to costs, and it's not at all clear to me, for instance, when you insist that a law student can only have a certain amount of outside employment, how that goes to the issue of quality, which is ultimately what I have to determine, whether or not the ABA is a guarantor of educational quality?

And I know when your predecessor was here, we talked a lot about some of these standards, and I understood that you all were definitely aware that you were considering these. You knew that they lent themselves to cost and might not directly bear on quality, but what I'm hearing is there haven't really been any changes since 2011 to these

standards regarding outside employment, distance education, majority education required to be by full-time faculty who are deemed to be on the tenure track. These have not changed.

MR. SYVERUD: Ms. Neal, I think the first two, there are proposed standards now to change those first two, if I'm not mistaken. Is that-- that is to remove the restriction on the number of hours of outside employment for students during school and to increase the number of hours of credit for distance education.

MS. NEAL: When will those come up for consideration?

MR. SYVERUD: Well, they've been put out for public comment, I believe, is that correct?

MR. CURRIER: Not quite yet. So the standards review process is the process that doesn't seem to want to die, but the Standards Review Committee is working hard. Those are chapter three of the Standards. A number of the chapters have been put out for notice and comment. That one still needs to go to the Council and be

put out.

The distance learning proposal right now will increase the number of units allowed and will remove the restriction on no more than four in any one semester so that will open it up considerably, and may I say, as somebody who is an advocate for distance learning, that the main problem there is there's no pressure yet on the Council to expand that because law schools are slow to move into that area.

So right now there's plenty of room in the standards for schools to do more distance learning should they choose to do so.

And on the work hours, I'm not, I'd have to go back to the Standards Review Web site. I don't know for sure that that one has been, that the Standards Review Committee is proposing that that be changed. So you may be correct on that.

MR. SYVERUD: But the specific question, gee, when is all this going to get done is one we've been--Judge Oliver and I have been asking often. I expect that in our August meeting. We

have a meeting that starts tomorrow--that's one of the topics of discussion. At our August meeting we expect to report out some of the chapters.

MR. CURRIER: Yes.

MR. SYVERUD: And move fairly quickly to get it all done in the coming year.

MS. NEAL: We've been chatting with you all since, I think, 2007, off and on, and I have found over the years that pressure from outside bodies about these kinds of things help move progress along. So I worry if we let you go and you're not here every year, that these standards will continue to float in the ether as they have a tendency to do.

Let me ask one more question because we just approved on our Consent Agenda the Accrediting Council for Independent Colleges and Schools, which looks at a lot of business schools, and I know we've been concerned about and I know not we alone, but members of Congress and members of the Senate have been deeply concerned about placement rates, what Arthur was talking about a little bit earlier,

and the ACICS is now moving into regular independent verification by third-party auditors of placement data, and I wondered if you all did that or if you were considering doing something along those lines so that the consumer could be assured that the data that you're collecting is, in fact, accurate and worthy of students' consideration?

MR. SYVERUD: So we've been very focused on accuracy of data and have sanctioned schools very substantially for submitting inaccurate data, and Scott Norberg, among others, has been working on this precise issue. I don't know if you're ready to say where we are.

MR. NORBERG: Actually, at the Council meeting tomorrow, the staff will present a recommendation to the Council to select a firm that will design the protocol for our auditing employment data. It's unlikely that we would be able to start auditing with the class of 2013 data, the immediately coming graduating class, but we would hope that in the following year, we actually would have the protocol in place and would be doing

random audits subject to the Council's consideration and approval at this meeting.

MR. SYVERUD: Can I just add, we've funded the effort to go into auditing with the sanctions imposed on schools for presenting false data.

CHAIRPERSON STUDLEY: Art has a question. I have a question when the rest of you are done. Is there anyone else who would like to, who has any questions. Art.

DR. KEISER: Actually I have a question of the staff. I'm very sensitive to costs because I have to deal with it all the time, and we have so many different accrediting agencies pushing us, but is that the purview of this Committee because we do not have a standard that speaks to this issue?

I think it's nice that we talk about it, but it should not color our decision because we don't have any standards that relate to that an agency should be mindful of costs or anything like that. We're looking at academic quality, and that tends to be a real balance between cost and quality.

So is it is our role to be in that discussion other than the philosophical aspects of it?

MS. GILCHER: You're correct that at this point there are no requirements in terms of that and so that is outside the purview of this Committee.

CHAIRPERSON STUDLEY: Thank you.

My question is a little bit different. The initial primary reader's comment was that there are 199 law schools currently accredited. Only 19 of them are schools for which your accreditation is their gateway to Title IV participation. So 180 schools seek ABA accreditation for--or Council on ABA accreditation even though they are not required to do so for Title IV purposes.

Could you explain the relationship of your accreditation to State bar requirements, and the simple version is why do people seek that anyway when they don't need it for this gatekeeper function, subjecting themselves to the standards for education quality that you manage?

MR. SYVERUD: So our body both accredits and approves law schools, and the approval part is accepted by all the States. Graduation from an ABA-accredited law school is qualifying a student to sit for the bar in that State. And so schools are eager to have ABA approval so their graduates can sit for the bar in any State they desire to do so.

If they do not have ABA approval and there are non-ABA-approved law schools, the students can typically sit for the bar only by arrangement in the State where the school is located, and even a student who then passes the bar may need to wait many years before being able to move that practice to another State.

CHAIRPERSON STUDLEY: Thank you.

Can you briefly tell us then how the States are involved or the judiciary of the States are involved in your standards setting? Since we are but a small part of the audience or in a sense the driver--

MR. SYVERUD: So we work very hard to keep

the bar authorities. Our Section is called Legal Education and Admissions to the Bar. The Council and the Accreditation Committee always have representatives of the bar authorities on them and the States Chief Justices of the State Supreme Courts who oversee those bar authorities.

And they have extensive input into our process at every stage, the standards, the accreditation process. Often members of bar authorities participate in accreditation teams and visits. Did I cover that pretty well?

MR. CURRIER: Yes, you did. And I think one of our jobs is to maintain good relationships with the law schools, with the State bars, with the State judiciary, with the bar admissions processes, so we regularly attend the Council of Chief Justices meetings to keep those connections alive.

We have a very along list, as I'm sure most accrediting agencies do, of people to whom we send announcements about standards and seek their input. So every State bar president, some of even the local bar presidents, all the courts, you know,

all the presidents of universities that have law schools. I mean we seek and solicit comment very, very broadly, and, in fact, as I'm sure other accrediting agencies experience, we often only hear from a small group of people who are particularly excited about one standard or two.

We would love to get more input from all of those bodies, but we do try to maintain those relationships at a high level, involve those people in our process, as Dean Syverud had said.

CHAIRPERSON STUDLEY: Art.

MR. ROTHKOPF: Yeah. I'll just maybe follow up on a question that Art Keiser had about what the role is of the accreditor.

I might ask the staff is there anything in the standards that requires the agency to ensure that the information that's put out by the institution that's been accredited, that it's accurate, or--I have always a great concern, whether it be employment data or admissions data or materials submitted to U.S. News and others--is accurate, and indeed I happen to believe it ought

to be third-party and maybe outside accountant approved so that we know that the public is getting it?

But I guess is there anything in the rules that says that the ABA or any other accrediting agency needs to ensure that data put out by the accredited institutions is accurate data?

CHAIRPERSON STUDLEY: So, Art, I always love when a question has both of our colleagues pick up the regulatory volumes we know so well.

[Laughter.]

CHAIRPERSON STUDLEY: Kay or Sally?

MS. GILCHER: We don't have a specific requirement in that regard. There is a requirement that the institutional program accurately display its accreditation status and that in revealing any information about what happened in accreditation, that that be true and accurate.

There is a standard regarding catalogs and advertising and all that. We are precluded from regulating in the standards area. So that is something that some of the agencies certainly do

look at under both that standard and under standards of institutional integrity.

CHAIRPERSON STUDLEY: I was going to say under the institutional integrity, there are regulations regarding what would be misleading information, and this is a subject that came up when we thought about our recommendations for HEA because we, Anne and I, had some extensive suggestions.

Did you want to add something, Sally?

MS. WANNER: I think we would certainly look at the accuracy of information as being covered by the requirement for standards that Kay cited, and if an agency did not--tolerated inaccurate information, we would think that it was not in compliance with the general commonly accepted practice among accrediting agencies, and we would probably decide that they were not effectively applying the standards required by the regulations.

CHAIRPERSON STUDLEY: Okay. I have just one clarification, and then Art Keiser has a

question, and then Art Rothkopf, the primary reader, has told me that he prepared to make a motion unless there's further questioning.

So I don't want to put words in your mouth, but I can't think of a better way to phrase the question, is it true that at the same time that you have the responsibility--have sought the responsibility to, as a Federal accreditation agency, to meet the minimum Federal requirements, that--at least the minimum Federal requirements that we establish--that you simultaneously meet, have to do your best to meet the State court requirements to satisfy them to allow graduates of the schools you accredit to sit for the bar? That you, as a peer organization, are serving both of those objectives within your system?

Maybe you think about it in a different way.

MR. CURRIER: Yeah. No, I think that's a good question, and I would answer it by saying that most State bar admissions rules, which set up educational requirements and character and fitness

requirements and other requirements in the educational requirements area, they just simply say you must be a graduate of a law school that's on the list of law schools approved by the Council.

So they don't have a lot of standards of their own. They just simply incorporate ours by reference, and so our job is to make sure that we don't get too far ahead or behind with where the State bar processes are. So we would like the States to be uniform so that the degree is transportable.

That also is a cost-lowering mechanism actually in a variety of ways. So the answer to your question is we have to maintain those relationships, but it's not so much that they list standards that we then have to meet. They just rely on our standards.

CHAIRPERSON STUDLEY: As long as they are satisfied with them.

MR. CURRIER: Right.

CHAIRPERSON STUDLEY: Right. That's what I mean about the balance.

MR. CURRIER: Right.

CHAIRPERSON STUDLEY: Art and then Art Rothkopf.

DR. KEISER: I'll pass.

CHAIRPERSON STUDLEY: He's ready for you to make a motion. He's passing.

MR. ROTHKOPF: Oh, okay. Yes, I'd like to make a motion that NACIQI recommend that the Council's recognition be renewed for three years.

CHAIRPERSON STUDLEY: Do I hear a second?

MR. STAPLES: Second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Okay. Cam and somebody over here. Any discussion of the motion? All in favor? Art?

DR. KEISER: Is three years our maximum?

MS. GILCHER: Because they have to be reviewed every five years, and they came up in 2011, the first, then what remains in that period is three years.

DR. KEISER: So that would be the maximum.

CHAIRPERSON STUDLEY: Any other questions?

All in favor please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Any opposed?

[No response.]

CHAIRPERSON STUDLEY: Abstaining?

[No response.]

CHAIRPERSON STUDLEY: Thank you very much.

Thank you very much. We appreciate your being here.

MR. CURRIER: Thank you.

CHAIRPERSON STUDLEY: There are a set of questions that we invite accreditors, accrediting agencies to comment on. Given the time and the fact that you didn't volunteer them, we'd take them now, but you could also convey them to us informally at some other point. And as Anne said, you probably had an opportunity recently to do that.

So we appreciate your being here and thank you very much. And thank you, Art, for reading and moving forward. Thank you.

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NATIONAL ASSOCIATION OF SCHOOLS OF ART
AND DESIGN [NASAD]

CHAIRPERSON STUDLEY: The next agency to come before us is the National Association of Schools of Art and Design.

Luck of the draw has it that the primary readers are Art Rothkopf again and Larry Vanderhoef. Let me give people a second to reorganize since Frank is rejoining us, and if the staff representative Chuck Mula would like to come up to the table. Let me just give people a moment.

Okay. Let's move forward with NASAD, and let's hear from whichever of you Committee members is going to kick this off. Is it your turn again, Art?

MR. ROTHKOPF: Yeah, I think I drew the short straw on both.

CHAIRPERSON STUDLEY: Well, we knew that you'd set a high standard.

[Laughter.]

MR. ROTHKOPF: Well, I'll be very quiet the rest of the time.

Let me give you some background on NASAD. The National Association of Schools of Art and Design, Commission on Accreditation, is both a programmatic and an institutional accreditor. Principal purpose of the agency is accrediting freestanding institutions and art design units that offer degree-granting and non-degree-granting programs and the accreditation of programs within institutions accredited by a nationally recognized regional accreditor.

However, only its freestanding schools may use accreditation to establish eligibility to participate in Title IV. The agency accredits 23 institutions in 13 States and the District of Columbia where the accreditation by the Council of Accreditation of NASAD may enable them to participate in Title IV.

The agency is presently the gatekeeper for those 23 institutions. It's seeking its continued waiver of the Secretary's separate and independent requirements, and that's a subject you'll be hearing a good deal about.

The NASAD Council on Accreditation was granted initial recognition in 1966 and has been periodically reviewed for renewal of recognition since that time. The last full review was at the NACIQI's meeting in fall of 2007. The agency was granted renewal of its recognition for a period of five years, and its scope of recognition was expanded to include distance education.

The agency does not wish to have correspondence education included in its scope of recognition.

CHAIRPERSON STUDLEY: Chuck.

MR. MULA: Good morning, Madam Chair and members of the Committee. For the record, my name is Chuck Mula, and I will be presenting a summary of the staff analysis of the petition for continued recognition of the Commission on Accreditation of the National Association of Schools of Art and Design.

Some of the information that you will hear will be repeated--

MR. ROTHKOPF: Could you speak up a little

bit, Chuck? I'm having trouble hearing you.

MR. MULA: Some of the information that you hear will be repeated. I'm sorry, but we feel it's necessary to make sure that it gets put out there.

The National Association of Schools of Art and Design, NASAD, is a membership organization, and a requirement for institutional membership in the organization is that their institutions be accredited by the Commission on Accreditation, or COA.

The staff recommendation to the Senior Department Official for the COA is to continue the agency's recognition and to require it to come into compliance within 12 months by submitting a compliance report that demonstrates the agency's compliance with the issues identified in the staff analysis.

Again, the agency has been receiving periodic renewals since the agency's initial recognition in 1966.

Its principal purpose, again, is the

accreditation of freestanding institutions of art and design units that offer degree-granting and non-degree-granting programs and the accreditation of art and design programs within institutions already accredited by nationally recognized regional accreditors.

This is important because the agency currently accredits 23 freestanding institutions in the United States, and the accreditation by COA allows these institutions to participate in the U.S. Department of Education's Federal financial funding program, Title IV.

Now, as Title IV gatekeepers, the agency must meet the Secretary's separate and independent requirements. They were, at your last meeting in 2007, their last meeting for recognition, given a waiver for this separate and independent requirement. Agencies are required to apply for this waiver every time they come up for renewal of recognition.

My recommendation is based on a review of the agency's petition, the supporting

documentation, and observation of a decision-making meeting and meetings also with the agency staff.

We found the agency substantially in compliance with the Criteria for Recognition. However, it still needs to provide adequate documentation of some amended policies and application process in the evaluation team composition, site review process, and monitoring and enforcement of standards, policies and procedures.

The Department is also concerned that the Board of Directors of the National Association of Schools of Arts and Design, not the Commission, is a policymaking body for accreditation.

The Secretary's separate and independent requirements include those they must meet in order to be granted a waiver. It requires the associated membership in an organization to play no role in making policy decisions about accreditation.

The agency in order to meet this requirement is required to revise its policies to ensure that the Board of Directors of the

Association plays no role in making policy decisions of the agency's accreditation function, as required by (d)(2) of the Section 602.14 of the Criteria.

The agency's staff has met and in regular contact with the Department in order to receive guidance on the Secretary's separate and independent requirements and has committed to review and the evaluation of the agency's policies in order to comply with the section's requirements.

The Department appreciates the agency's efforts and looks forward to working with them to resolve this matter.

As I mentioned earlier, the staff recommendation to the Senior Department Official for the COA is that the agency recognition be continued and that the agency is required to come into compliance within 12 months by submitting a compliance report that demonstrates the agency's compliance with the issues identified in the staff analysis.

Thank you, Madam Chair. That concludes my

presentation. Representatives of the agency are here today, and I will be happy to answer any questions you may have.

CHAIRPERSON STUDLEY: Do members of the Committee have any questions for Chuck at this point? You'll have another opportunity later.

Okay. Let's hear from the agency representatives.

Thank you very much, Chuck, for that summary.

Good morning. Thank you for joining us. Please introduce yourselves to us. Thank you.

MR. HOPE: Good morning. I'm Sam Hope, the Executive Director of NASAD.

MS. MOYNAHAN: I'm Karen Moynahan, the Associate Director of the National Association of Schools of Art and Design.

MR. MANN: And I'm Richard Mann. I'm Counsel to the NASAD.

CHAIRPERSON STUDLEY: Thank you.

You're welcome to make any comments that you'd like at this stage.

MR. HOPE: Thank you, Madam Chair, and thank you to the members of the Committee for the time that you--

MR. ROTHKOPF: Could you speak up a little bit? Get closer to the mic.

MR. HOPE: How's that?

MR. ROTHKOPF: Better.

MR. HOPE: Thank you. Thank you, Madam Chair, and our thanks to the members of the Committee for the time that you give to work with the accreditation process, and we also thank Chuck Mula for his analysis. It's always helpful to go through an outside review and see how your procedures and how particularly what you're saying communicates to others.

We appreciate the analysis. We appreciate the recommendation for continued recognition, and we appreciate the continuing offer of time to look at the issues being raised by the staff, and we will take advantage of that offer and look forward to being back with you next year, either in writing or in person, as you wish.

Thank you.

CHAIRPERSON STUDLEY: Thank you.

Committee members, do we have any questions for the agency representatives? I'll let the primary readers have first chance if they want. Larry or Arthur? Cam?

MR. STAPLES: Thank you, Madam Chair.

Just one question about the section of the report--

CHAIRPERSON STUDLEY: Could you speak up?

MR. STAPLES: One question about the Section 602 on student support services, and it's a note in the staff analysis around the lack of any career services that are reflected in both your self-studies and your visiting team reports, and I reviewed the excerpted reports that you provided, and it's unclear to me whether this is something that you agree with that you're not compliant with the section or whether it's the staff statement that you're not compliant, that you believe you are?

I mean I can't get that from the analysis.

So it isn't reflected in any of the documents you gave. So it looks like you're out of compliance, but I would like to hear what you have to say about it.

MR. HOPE: Thank you.

The staff analysis indicates that we have this for the institutions clearly stated, for the institutions for which we are gatekeepers. In the main body of the standards, we do have a statement on advisement and counseling and so on for all institutions.

So we will look at this. We understand, in this case, how the analysis came to be what it was, and we can make our standards clearer with respect to career, specifically career counseling. I believe the membership in the Association will go along with that. I don't see why they wouldn't because functionally we do it, but we can understand how a reader would not see that clearly because it's not explicitly stated in terms of career counseling. It's just counseling.

But that seems to be an easy fix. So we

understand the approach that the staff has taken to this.

MR. STAPLES: Do you understand that it's a requirement that would apply to all institutions that you accredit, not just those that are accredited for Title IV purposes?

MR. HOPE: Yes.

MR. STAPLES: And so you understand that application, but it just hasn't been reflected in any of your documentations so far?

MR. HOPE: It's encompassed under the word "counseling," but we don't refer specifically in the standards section that it applies to all institutions. We don't refer specifically to career counseling, and so given this analysis, it seems incumbent upon us to go back and fix that.

MR. STAPLES: It also, though, just to be clear, it may be included, but it doesn't look like in any of the self-studies or visiting team reports that you provided, it was actually addressed either. So it's not just, if it's implicit, it's not clear I think for the institutions since they

don't seem to address it. I mean is that your understanding?

And I guess I'm just wanting to understand you're going to make it more explicitly part of that so they'll understand that that's something they have to, have to report on.

MR. HOPE: That's correct.

MR. STAPLES: Okay. All right. Thank you.

CHAIRPERSON STUDLEY: Anne.

MS. NEAL: Just to follow up on that. I mean I understand that you're going to be modifying it according to the staff's recommendation, but as I read it, it appeared to say to you that even though you're here for Title IV purposes, that the staff felt that it was going to be more hortatory in terms of the overall coverage of your standards over and beyond the Title IV, which I quite frankly wondered if that were appropriate?

And I hear you that you're not going to disagree, but did you have any concern that the staff in its effort to have you expand this was

overstepping its bounds?

MR. HOPE: Well, Ms. Neal, that is a policy question that is I think before the whole higher education establishment and the Department as we look forward to the Higher Education Reauthorization. There is a lack of clarity, I think, in the law and--personally, in the law and, therefore, in the regulations about this distinction when agencies are in the position that ours are in, where they have a Title IV responsibility for some institutions but not others.

So you're opening a line of inquiry here that is a policy issue, and I'd be happy to discuss it upon that basis in another forum, but I don't think this is the place to talk about it.

Thank you.

CHAIRPERSON STUDLEY: Any other questions or comments?

MR. ROTHKOPF: If I might, to what extent are your students pursuing, to the extent you know, careers in art and design, and to what extent of

the students really interested in it are taking these courses for their personal advancement and just self-fulfillment? And as a part of that, to kind of the question of achievement, to what extent do your schools for those who want to pursue this as a career, do they track positions obtained or not obtained in their chosen fields?

MR. HOPE: I think most institutions that we work with are if not--some are highly selective, and all are selective in the students that they admit, and some are highly not just selective but highly competitive, and so one of our standards is that institutions have to make an assessment about the ability of the student to succeed in the program before they're admitted.

Therefore, there is a tremendous interest not only at the graduation point and after, but at the entry point, about the prospects that a student will have for being professionally qualified in these fields, fields of art and design.

So institutions do track and now with the advent of new technologies, there are systems that

are being developed to track alumni, and what is being found is that most alumni from art and design schools, and indeed other art schools, are employed, and a good many of the graduates of our schools are employed in the field right after graduation.

So I think, yes, the answer to your question is, yes, people are tracking these things, and, of course, they do so partly because of their own interests in showing the alumni achievements of their own institution.

MR. ROTHKOPF: I guess as a follow up to that, to what extent do you as an accrediting body sort of review or see how these schools are doing or determining the accuracy of what information they may be putting in their promotional materials, Web site, et cetera, to be sure that what they're doing and what they're saying is accurate with regard to employment within the art and design world?

MR. HOPE: We have a specific standard under publications and Web sites that is very

strict about justifying and proving with evidence any statement that is made linking graduation from the school to employment, and we look at that very carefully because that is an obvious area where students could be misled. So it's explicit.

CHAIRPERSON STUDLEY: Any other questions from the Committee? Larry, and then I'll just signal I have a question when you're all done. Larry.

DR. VANDERHOEF: I wonder if you could just chat a bit more about the staff's recommendation regarding separate and independent, the waiver? Do you have any response to staff's recommendation on the waiver?

MR. HOPE: Our response is at this time we need to study it. We need to take the invitation of the staff to pursue this further and understand it better, exactly what, what is required in current, today, on this issue because we're a little bit perplexed that we have done this review a number of times and had exactly the same procedures, the same approach, and the law has not

changed, the regulation has not changed, but there's a different interpretation.

And we understand some aspects of it and understand philosophically where this is coming from and what the purpose is because we were part of the community when the law was written, but we just need to understand it better, and we'd prefer to do that and then come back with an answer.

DR. VANDERHOEF: This isn't the normal way we work, and, Madam Chair, you may want to put this off, but I'm wondering if, see if Chuck Mula could comment a bit more on this?

CHAIRPERSON STUDLEY: We definitely have an opportunity to hear, to ask him questions. In fact, if you're willing, perhaps you could join us--I'm just looking for Chuck. Oh, sorry. Maybe you can just come up to the table and the mics so that we can do this if we need a back and forth rather than having people jump up and down.

Larry, do you have a question for Chuck? Or just to follow up on--

DR. VANDERHOEF: No, I think just to

follow up.

CHAIRPERSON STUDLEY: Okay.

MR. MULA: I'm inviting Kay and Sally to jump in if I misspeak here so please.

This separate and independent issue has been going on recently--for the last four or five years has become a very important part of our deliberations and a part of our oversight of the Title IV function, and it's being refined basically because of the common practice of the agencies and the interest of the Committee and the public and the commissions of these accrediting associations, of these associations, the accrediting commissions, and their rights that they have to manage their own function as required by our criteria.

So it's a living process at the moment. We're trying to get everybody we can on the same page since the 2008 Higher Education Amendments, and we're working with all the agencies to do that. We have quite a number of agencies that experience issues with the Department on the separate and independent requirements.

I always refer to it as the "big dragon in the basement." But that's basically what it is, and the agency has, in the past, received its waiver for this requirement based on the analysis that was done then, but their documents are living documents also, and some of the processes that their board has done to get, to organize and manage the operation of the whole organization has--what we are concerned about--kind of like stepped over the line a little bit.

This is not a very serious condition this agency is in. It does have to have some revisions made or make some decisions, but the agency has always cooperated with the Department on all of its--anything that we've asked them to do. So if Sally or Kay would like to say something about that, I'd like them to talk.

MS. GILCHER: I think Chuck did a very good job. Very specifically, the waiver language, which is a little less onerous than the separate and independent requirements, still does say that the related, associated, or affiliated trade or

membership organization plays no role in making or ratifying either the accrediting or policy decisions.

And in this case, there is a separate policy body, which is the Association level, that makes policy decisions for accreditation, and in our reading of that, it's difficult to see that there's much wiggle room there.

CHAIRPERSON STUDLEY: Any other questions? I want to compliment you on an extremely readable set of criteria. That doesn't come easily, and it was refreshing. I noted in one case, but I think there were others, but I selected one, where you said, used the phrase "normally the areas of emphasis," and then you went on to talk about the percentages of course work that would be reflected in the minor or in an area of concentration.

And I, as we struggle with good regulating and not being too prescriptive but not being too vague either, I just wonder if you could talk a bit about how you apply a concept like that? Normally, we would expect to see this going on in the

institutions, but that suggests that there's a further conversation if somebody doesn't follow that practice.

If you could just speak briefly to how that works out because as we all struggle to think about how to make sure that accreditation meets its standards or that as you regulate institutions, how we can find that balance. I thought there might be something instructive in how you have used that. And I see you nodding so your thoughts would be helpful.

MR. HOPE: Our approach to this has been to make a distinction in the standards among requirements of "normalies," if you will, things that are normally present when the requirements are met but don't necessarily have to be. There are other ways to fulfill the function. And guidelines and recommendations, which are not standards, but which are based on compilations of good practice and so on. We've come to this ourselves because it's the nature of the arts, in a way, to be structured that way.

There are some things that have to be, and then there's a lot of--it's a framework within which creativity takes place. So it's natural to our field to do this, but also many years ago in response to concerns of the higher education community about accreditors mixing the difference between what was a good idea or what might work with what was absolutely required.

And so we've tried to make that distinction, and as you pointed out, "normally" means that you usually in order to fulfill something, the following--whatever follows is present. I hope that answers your question.

CHAIRPERSON STUDLEY: It does and it definitely helps that that word is used with intentionality, and that is useful.

Did you want to add something?

MS. MOYNAHAN: Please. But there's another aspect or an additional aspect of this. "Normally" indicates an amount of course work, a percentage. Our percentages aren't standards, but what they're aligned with are competency-based

language or expectations of what the students should learn. So normally a student should have ten percent, and that in a way opens the conversation, but from there, what the evaluators and what the Commission will do is to look and see what body of knowledge that ten percent is representing.

And so an institution could exceed that, not likely it would fall beneath that, but within that, those competencies have to be met, and so what we want to do is we want to hook those percentage benchmarks very closely aligned with or closely align them with the competency-based standards, what students have to learn. And if you look in the handbook, you'll see a great depth in that area.

CHAIRPERSON STUDLEY: So if a school achieves the competencies but does it on a different pathway or different balance, curricular balance, but they're getting to where you want them to be, then they would have that flexibility to do that?

MS. MOYNAHAN: They could find a pathway through based upon their mission. There is some latitude to let them do that, and most times what the institutions will do is exceed those benchmarks, exceed those percentage benchmarks.

CHAIRPERSON STUDLEY: Okay. Thank you very much.

Any other questions? Would the primary readers like to make a motion?

MR. ROTHKOPF: Yeah. Madam Chair, I'd like to move that NACIQI recommend that the NASAD 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 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.

CHAIRPERSON STUDLEY: Do I hear a second?

DR. VANDERHOEF: Second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Thank you, Larry.
Any discussion of the motion? All in
favor please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Opposed?

[No response.]

CHAIRPERSON STUDLEY: Thank you very much.
We appreciate your appearing, and thank you, Chuck.

MR. HOPE: Thank you.

CHAIRPERSON STUDLEY: In order to stay on
track, we're going to shorten the break a little
bit. Would you please take a quick one, and we
will resume in exactly ten minutes?

Thank you.

[Whereupon, a short break was taken.]

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NEW ENGLAND ASSOCIATION OF SCHOOLS AND COLLEGES,
COMMISSION ON INSTITUTIONS OF HIGHER EDUCATION
[NEACIHE]

CHAIRPERSON STUDLEY: We're going to begin consideration of the New England Association of Schools and Colleges, Commission on Institutions of Higher Education. I believe we have a recusal.

MR. STAPLES: Yes. Thank you, Madam Chair. I will recuse myself in this matter.

MR. ROTHKOPF: I should say.

CHAIRPERSON STUDLEY: Yes, pretty vivid.

[Laughter.]

CHAIRPERSON STUDLEY: Thank you very much, Cam. We will have a third-party comment. I'm mentioning that now. I'll just say procedurally we take indications of desire to make third-party comments up until the time that we begin that agency's presentation. So I know that we will have one comment on this agency.

The primary readers here are Frank Wu and Art Keiser. Which of you will be presenting? Art. Thank you very much.

DR. KEISER: Frank has deferred to me. The New England Association of Schools and Colleges, Commission on Institutions of Higher Education, is a regional accreditor that currently accredits 232 institutions in the six States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

The agency's accreditation is used by 229 of those institutions in the region to establish eligibility to participate in Title IV financial aid programs.

The agency is recognized for accreditation and preaccreditation of institutions of higher education that award bachelor's, master's and/or doctoral and associate-degree granting institutions in those States that include degrees in liberal arts or general studies among their offerings, including the accreditation of programs offered via distance learning.

The Commission has been on the list of-- the Secretary's list of recognized accrediting agencies since 1952. That should begin the

process. I'll turn it over to our staff.

DR. SHULTZ: Good morning. I am Rachael Shultz, and I will be presenting information regarding the petition submitted by the New England Association of Schools and Colleges, Commission on Institutions of Higher Education, or CIHE.

As was noted in the introduction, the CIHE's current recognition extends to the Board of Trustees of the Association, jointly with the Commission, for decisions involving preaccreditation, initial accreditation, and adverse actions.

The agency has requested a revision of this part of its current scope. However, the requested revision does not accurately reflect the agency's structure and decision-making bodies. The agency therefore needs to modify its requested scope to remove references to the joint decision-making authority of the Board of Trustees and the Commission for appeals.

Our review of the agency's petition revealed issues in two areas. One area of concern

is related to the CIHE's independence. One issue has already been noted regarding the agency's requested change of scope. In addition to that issue, the agency is also asked to provide additional information and documentation establishing that it operates separately and independently of the Association's Board of Trustees, to demonstrate that it has both budget and staffing autonomy, and to clarify in its policies what entity is responsible for selecting appeals panel pool members.

A second area of concern is related to the agency's procedures for the approval of additional locations. The agency is requested to revise its policies to address the establishment of representative samples of additional locations for review during focused on-site visits.

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 Commission meeting in Boston in April 2013.

There are CIHE representatives here today, and we will be happy to respond to the Committee's questions. Thank you.

CHAIRPERSON STUDLEY: Thank you very much.

Are there any questions for Rachael at this time? In that case, let's hear from the representatives of the agency. After you take your seats, would you please introduce yourselves? And we look forward to hearing your comments.

DR. BRITTINGHAM: Thank you and good morning.

I'm Barbara Brittingham. I'm President and Director of the Commission on Institutions of Higher Education for the New England Association of Schools and Colleges.

DR. WYLD: I'm Jean Wyld, Chair of the Commission on Institutions of Higher Education.

DR. O'BRIEN: I'm Pat O'Brien, Deputy Director of the Commission on Institutions of Higher Education.

DR. BRITTINGHAM: We also have here with us in the room three additional staff members, Paula Harbecke, Carol Anderson, and Betsy Coldewey, who also worked very hard on this petition.

We want to thank NACIQI for this opportunity to be here and to talk with you. We want to thank Rachael Shultz for her careful review of our petition and our response and her careful observations of our meeting. In our office, we know her as "Eagle Eye" Shultz. She is a very careful reader, I assure you.

We also want to thank Kay Gilcher and Carol Griffiths and Sally Wanner for their guidance and interpretation of the regulations and requirements.

This Commission understands that the Federal government is currently spending \$150 billion a year to support financial aid for students, and it takes its responsibilities as a

recognized reliable authority on the quality of education very seriously.

This review was thorough, and it was exacting, and we accept the findings of the staff as conveyed in their report to the Senior Department Official.

The process of preparing our petition and responding to the preliminary feedback has made us a tidier agency, ensuring that our policies are in line with our practices and with Federal regulations, and the success to date in ensuring the Commission meets the Department's separate and independent requirement is making us a stronger agency, and for both of these we are grateful.

Clearly, this was the "most difficult challenge" and the "thorniest issue" in response to your questions of this recognition process.

The Commission is a constituent element of the New England Association of Schools and Colleges, founded in 1885, and it's arguably the oldest quality assurance agency in the world. It's fair to say that the Federal requirements for

separate and independent, while understood and welcomed by the Commission, have been considered somewhat disruptive by our parent association.

The final staff report identified four issues or problems. The fourth issue, 602.22(c)(2) has to do with establishing that representative sample of additional locations for review during focused on-site evaluations. This was an editorial oversight on our part, and that matter has already been fixed.

The other three have to do with ensuring that the Commission acts as an agency "separate and independent" from NEASAC. While we've made significant progress on this matter during the course of the review, the Commission accepts that there is more work to be done, and Jean Wyld will address these matters.

DR. WYLD: Thank you very much, and thank you on behalf of the Commission. I truly appreciate the opportunity to speak with you briefly today. I want to assure you the Committee, the Commission takes its Federal responsibilities

very seriously. The Commission serves both its members and the public and believes it can maintain that critical balance.

With respect to 602.12, we do agree with the staff report that the final sentence of what we had originally submitted as a proposal scope statement should be removed. The trustees of the New England Association of Schools and Colleges do not have a role in the appeal of adverse actions or in any other accreditation decision made by the Commission.

We note that 602.14(a) is primarily addressed for us through 602.14(b), and the Commission has several matters to address in that area. Some are underway. Others will require continued work, which we are committed to do.

First, it is the Commission through its staff that selects members of any appeals panel from the appeals panel pool. The Commission and its staff have the expertise to select the panel that will provide a fair appeal to an institution, as knowledgeable peers, free from any conflict of

interest--either real or perceived. The trustees do not have that same expertise. So we are committed to amending this policy.

Second, regarding dues collection, we have already established dues for the 2013-2014 year for the first time, and the invoices are being sent now from the Commission itself to accredited and candidate institutions. So we are addressing that issue.

Third, with regard to the "one time payment" by the Commission to the Association, the staff is correct, that the payment was made voluntarily. The Commission recognizes that the "separate and independent" nature of the Commission going forward represents a significant change for our Association, particularly in matters of budgeting.

And the one-time payment was an act of goodwill and good faith by the Commission to assist the Association with that transition. The fact that it is a one-time payment, however, does signal that the Commission understands that Federal

requirement and does not anticipate further payments of this sort.

Fourth, we appreciate that the staff report has challenged the Commission to think more carefully about the separate and independent requirement in several additional ways. We recognize that there's still work to be done and appreciate the opportunity to have the additional time to meet this requirement.

We plan to start this work at our Commission retreat next week, and we will focus on identifying the ways in which the autonomy of the Commission may be maintained to ensure that we can serve as a reliable authority on the quality of higher education.

Finally, we also agree that the MOU should state that it will remain in effect through the period of Federal recognition next granted, and that was the intention of the Commission and the Association.

Finally, I would say that the Commission, speaking on behalf of my fellow Commissioners, the

Commission wants you to know that we are committed to doing what is necessary to come into compliance with Federal requirements. That is our intent. We will work very hard at that. We appreciate the opportunity you are providing us to make that happen, and I would be remiss if I didn't thank our wonderful Commission staff both in the front of the table and the back for the extraordinary work and dedication they've shown to this process.

Thank you.

CHAIRPERSON STUDLEY: Okay. I see Frank Wu and Art Keiser. Anyone else at this time? Okay.

DR. KEISER: Thank you. That was an excellent--thank you for joining us today, but that was an excellent response. It answered probably all my questions except one. Going forward, what do you see the relationship between the Commission and the Association?

DR. BRITTINGHAM: You will have a third-party testimony from the Association so you will have the opportunity to ask that question, the

mirror of that if you like.

We hope it's a collegial relationship. This Association has been around for a very long time, and I've been affiliated with it in one way or another, first as a volunteer and now as a staff member, since the mid-'80s. So I have real affection for it, and I am hopeful that we can work out a relationship so that we meet the Federal requirements as a Commission and can work programmatically with the Association on matters of mutual interest.

DR. KEISER: The second question, are you going--one of the things that I don't think you address would be the issue of whose staff are you? Who do you work for? Do you work for the Association or do you work for the Commission? Certainly, the staff, not necessarily the, obviously the volunteers are the volunteers. But currently my understanding is the employment is with the Association, not with the Commission.

Is that an issue that will be addressed?

DR. BRITTINGHAM: Yes. Yes.

CHAIRPERSON STUDLEY: Frank.

MR. WU: I have a question for you, and just a question that I'm curious of with everyone who is dealing with a few issues that they have to fix, and I wanted to pose this to you because you've been so positive about how you want to fix these things.

My question is for you, in general, how long does it take? And that's not a hostile question. It's just a neutral question because my sense is some things that need to get fixed get fixed by staff. That is by full-time professionals. Other things sometimes have to go before some other type of body that may consist of volunteers, may meet only twice a year, let's say.

And so I'm just trying to get a sense in terms of our timing, when we offer people "x" amount of time, a year or 18 months, what's an appropriate cycle? How much time is needed to fix things because even if you to fix them, it may take time?

DR. BRITTINGHAM: That's a great question.

There are three kinds of fixes that we've done. One is editorial and that we have an example here.

The second is the kind of fix where the Commission does a preliminary reading of a policy change or a new policy or a new, something significantly that's going to affect the membership, and so there may be a preliminary discussion to figure out what seems like the right path, a preliminary reading. It goes to the membership for comments. The comments come back to the Commission. The Commission takes an action.

Our Commission meets four times a year, and also has a retreat session where if absolutely need be, they can deal with things.

The third kind of thing that we deal with is the separate and independent issue with the Association, and frankly that's taken longer than we had hoped it would.

DR. WYLD: May I add?

DR. BRITTINGHAM: Yes.

DR. WYLD: And I would only add that the time factor is also of interest to us, and in this

recent year, we have taken the action of creating an Executive Committee of the Commission itself with the notion that the Executive Committee can work between those four meetings, and has, in fact, been an assignment which we thought at first was going to be a rather gentle assignment and getting a call only when needed, and we've realized now that we are really meeting on a monthly basis to stay in touch with each other and talk about these issues and be prepared to respond quickly, if needed.

MR. WU: Just a quick observation. So I would distinguish with the agencies that come before us between those who either, on the one hand, don't want to change or don't understand what's needed and, on the other hand, agencies such as this one that understand there is a change that should be made and are working on it.

And my observation is only that we should be mindful of the cycles it takes whenever we allocate more time. I just generally have a concern that we tend to do a one-size-fits-all, you

get one year. Sometimes it's less time; sometimes it's more time that's needed. Just an observation.

CHAIRPERSON STUDLEY: Frank, I think that's something where it might be worth hearing from Kay because some of that has to do with the agency cycles, but some is driven by other factors.

MR. WU: Right.

CHAIRPERSON STUDLEY: So just so people understand how we, what latitude we have and where the source of those schedules comes from.

MS. GILCHER: Okay. First of all, we don't, we cannot give an agency more than 12 months to come into compliance. That's statutory. But secondly, after every meeting, I do send a memorandum out to every agency that has a compliance report, and I offer them the opportunity to come up earlier should they wish to.

Now, I have to make a decision based on workload and that response on whether or not we can accommodate them coming up earlier. We do have one more or examples of that at this meeting where they came up earlier. The dental folks, I think.

MR. WU: Quick thought on that. So given that 12 months is the maximum, the other thing that we could do, and I think we're headed that way with some of the changes we'll talk about today, is to make the session at 12 months much less onerous if it's clear they're making progress. Just a thought about that. I mean if there's a way to manage that within the rules.

CHAIRPERSON STUDLEY: Don't we put some of those on the Consent Calendar if it's clear and the staff report suggests that we should at least offer the Committee that option. So thank you.

So I see Anne, Art. Anyone else at this time? And Arthur for starters. Thank you. Anne.

MS. NEAL: Just to respond to Frank, I mean I would not want to have a climate where you have to agree, and then you get shorter timeframes. I mean there may be some bodies that don't agree and have legitimate arguments. So I don't want to privilege people who are craven or who want to just simply agree. So I understand your purpose, but I'm not sure what the actual consequences would be.

I want to thank you all for being here, and I just want to pursue two very simple things. Obviously, you are a regional accreditor. Am I correct in understanding that you also accredit internationally?

DR. BRITTINGHAM: We do. The Commission does accredit a small number of American secondary institutions abroad.

MS. NEAL: And one of the questions that came before us obviously in your petition is voluntary membership, which I find to be an interesting concept. Am I correct in understanding that if I am a school and I want to have student financial aid, I have to be accredited?

DR. BRITTINGHAM: You have to be accredited, but you wouldn't necessarily have to be accredited by the New England Association, and there are some. There are a few degree-granting institutions in New England that are not accredited, a small number, and there are some that have other arrangements. There's a small number that are accredited by other accreditors.

MS. NEAL: But if I'm in your region, for the most part, do I have a choice to go to North Central or a choice to go to WASC?

DR. BRITTINGHAM: That's correct. You don't have a choice to go to another region without moving.

MS. NEAL: So there is not much voluntary in there.

DR. BRITTINGHAM: There is some.

MS. NEAL: Okay.

CHAIRPERSON STUDLEY: Art Keiser.

DR. KEISER: In thinking of Frank's issue and concern on time, what concerned me when looking at this is that if I'm not mistaken, the separate and independent statute was promulgated in the '92 Reauthorization. So it's surprising to me that we're still talking about separate and equal for agencies when this has been a long process to get here to this time at this point.

MS. GILCHER: The agency in its petition requested a change in the relationship between the Board of Trustees and the Commission on

Institutions of Higher Education. Previously, both entities were recognized. Therefore, the separate and independent was viewed differently than it is when you're seeking to be separate and independent, which is what they're seeking in this petition.

CHAIRPERSON STUDLEY: Arthur Rothkopf.

MR. ROTHKOPF: Thank you very much for appearing today and for a very good presentation.

A question that's not really covered by the petition before us, but it relates to the question of how, what kind of public reports may be given about accrediting actions, and I would note, and I think I've got this right, that at least one of the other regionals has taken a step in the direction of making in some form or another--I don't want to characterize it more than that--of making the report of the site report public, and obviously the action of the Commission, and I just was curious as to what, if any, thought New England has given to that, and what your views are on that?

DR. BRITTINGHAM: Since I've known the Commission, it has talked about this issue three

times at some length, and it thinks about what it is that the public wants to know, and that, some of that comes from the Accrediting Commission, but most of it will come from the institution itself.

Reading an eight-year-old accreditation action for an institution is not going to be very informative to the public so it is the institution's responsibility primarily to keep the public up to date, and the Commission has one of its 11 standards is on public disclosure, and it addresses this at some length.

That said, the Commission has been making more information public, and one example is that a few years ago, one of the institutions, independent institutions, was purchased by a for-profit corporation, and there were lots of questions about how was the Commission looking after that, and because the Commission didn't make that information public, it was frankly a bit uncomfortable not to be able to say what the Commission was doing, which was, in fact, I think, a very good job of looking after that.

So the Commission in return came up with what it calls the Program of Special Monitoring, which bundled some of the monitoring mechanisms that it had used in such cases and made it public that this is what the Commission does so that the public understands the monitoring that goes on.

Also, we worked with institutions to, in one case, make a public statement where it was clear that the Commission was paying additional attention, shall we say, to one of the member institutions, and there were questions. We were getting phone calls, and with the institution we came up with a public statement that was on our Web site and on their Web site. So we do try to be responsive to that.

I think the Commission's concern about making everything public is that this process is not an inspection process. It depends almost entirely on the candor of the institution, and the Commission is leery of doing anything that would compromise the institution's willingness to be candid in its own processes.

MR. ROTHKOPF: But if I just might follow up, you say, well, and quite rightly, an eight-year-old report isn't terribly useful, but what about a report within the last two months, three months, six months, or a year, which while the institution may be continued its accreditation, some significant concerns may be out there. I mean wouldn't a prospective student want to know about that in some form or another?

If the student was thinking about going to a public institution, that information I think would probably be required under State law. I'm not sure about every State, but I think, in general, they would be.

But this really applies to private institutions, and isn't this something that the prospective student should know about?

DR. BRITTINGHAM: If the Commission has determined that the institution doesn't meet one or more of the 11 standards and is on probation, there is a public statement about what the problem is.

I think Jean wanted to add something. Did

you want to add?

DR. WYLD: Yeah, I agree with that.

Speaking in support of what Barbara was saying, the Commission has discussed this at great length, and as Barbara pointed out, we are, to our understanding, the only regional that has a separate standard on public disclosure that requires an institution to make very specific information available to the public, and I believe in the orientation and the self-study workshop for our institutions, this is referred to the "Gladys" standard or something.

DR. BRITTINGHAM: Aunt Miriam. "Aunt Miriam" standard.

DR. WYLD: Aunt Miriam. What are the questions that Aunt Miriam would want to be able to answer as she's advising--

DR. BRITTINGHAM: Her niece and nephew.

DR. WYLD: --her niece or nephew. It would obviously have to be--it includes average student debt. It includes graduation rates, retention rates. It is really very explicit, and

that is a standard and a requirement for all of our institutions. So while our public members, and we have many of our public members are required to disclose everything as a matter of public record, we are also, I think, feeling that we are being extremely assertive with our members about the level of detail that they should be making public.

That is not the specific letter, correspondence from the Commission necessarily, but it does include a pretty rich, a rich array of data that is available to our public.

Each of our visiting teams, as they look at an institution during the self-study process has a member that's assigned to look at the public disclosure work of the institution and comment on that quite specifically.

So we understand that we represent the public in this very strongly and hope that at this point that that's an accurate characterization of how we feel that we are working to meet that goal.

MR. ROTHKOPF: Thank you.

CHAIRPERSON STUDLEY: Anne.

MS. NEAL: If I can put my "Aunt Miriam" hat on for just a second, vis-a-vis you all, I think you've heard often that there is a certain disembodied nature to the review of these pages that we receive.

Could you tell me, one, I know the universe of schools that you accredit, could you tell me since the last time you appeared how many you've closed, how many you've sanctioned, under what criteria you've sanctioned them, and what happened?

DR. BRITTINGHAM: I don't have the tabulation here. We haven't closed any institutions. The Commission did terminate accreditation from an institution. Then because that resulted in no more Title IV money, the institution did close. So that was one.

There are now two institutions on probation, and I think in the last five-and-a-half years, I am guessing maybe five.

MS. NEAL: As Aunt Miriam, can I find that on your Web site?

DR. BRITTINGHAM: You can find it on the Web site when they are on probation.

MS. NEAL: But otherwise I wouldn't know to look--

DR. BRITTINGHAM: If they are off probation, then they do meet the standard, and it would not be on the Web site. The Commission has seen, I would say, a couple of remarkable turnarounds through good fortune, hard work, and some luck.

MS. NEAL: And we often see with particularly some of the for-profit accreditors a certain trigger or a certain floor which will then be not in compliance. Do you all have a floor below which you will not deem the institution to be in compliance in terms of any standards?

DR. BRITTINGHAM: There are no bright lines. There are some triggers through reporting mechanisms such as the financial responsibility ratio and some other triggers--rapid growth that caused the Commission to look at things, but there are not bright lines.

The Commission for about 25 years has had a committee called the Annual Report on Finance and Enrollment, which has the rather unattractively pronounced acronym, ARFE, that looks at institutions that are financially fragile, and it's a group of senior financial officers from the member institutions.

They review the audit. They review enrollment data. Usually these two problems go together, at least in New England. And spend quite bit of time doing that. So there is a close monitoring, and they from time to time have talked about should they use any of these multiple financial ratios that are out there, and their conclusion as experts is that they would rather look at each of these institutions and not be driven by the ratios, to consider the ratios, to do their own ratios, but not have a bright line driven by that.

MS. NEAL: So if I'm Aunt Miriam, and I see that you have accredited an institution, I will not know by that that it might have a 40 percent

six-year graduation rate. It might have a 90 percent six-year graduation rate. Both of those could be accredited and both of those would have your stamp of approval, but I would not, as Aunt Miriam, be able to tell the difference?

DR. BRITTINGHAM: There are certainly a lot of Web sites out there now that give graduation rates, and that information is pretty easily available and on the institution's own Web site.

Right. The Commission is concerned about retention and graduation rates and also recognizes the limitations of the only required retention and graduate rates, the IPEDS rates, for first-time, full-time students, so is hosting next week a meeting of 120 people representing all the community colleges in New England and several four-year institutions with lots of part-time students, and we have the research expert from the National Student Clearinghouse coming to see what institutions are doing now looking at retention and graduation of part-time and online and transfer students, learning more about what they can get

from the National Student Clearinghouse.

For about five years, the Commission has had on its data forms the invitation and encouragement to report retention and graduation rates beyond IPEDS, and we want to see what's going on out there, and is there sufficient consensus there that the Commission should be expecting certain additional measures? So we do continue to look at that.

CHAIRPERSON STUDLEY: That's a very active conversation about what data can support the kinds of important judgments that people are making.

Are there any other Committee members who have questions? While you think about it, I have one, seeing none. The measures of student success are relatively new in your standards, and I simply invite you to help us understand what the process of incorporating and applying those has been because they're a real step forward, but they are a change in the environment.

DR. BRITTINGHAM: Right. Thank you.

The Commission's standards underwent what

we call a mid-course revision in 2011, and it picked up on those ways to measure student success, and I'm just going to give you a small reading from the Standards, which is under the Planning and Evaluation Standard, which says based on verifiable information, the institution understands what its students have gained as a result of their education and has useful evidence about the success of its recent graduates.

This information is used for planning and resource allocation and to inform the public about the institution, including Aunt Miriam. And so when we talk with institutions about the standards, we tell them that standards revision is coming up. This is where things are headed, and to encourage that we have had these data forms and also in 2011 revised the process for the fifth year interim report to include a major emphasis on retention, graduation, measures of student success. Of this 2.7 that I just read to you, what have students gained as a result.

And two or three rounds of those have come

in so far, and they are, I have to say, very encouraging. Clearly, institutions are farther ahead on this than they were five years ago. They take it seriously not only because the Commission takes it seriously, but because you take it seriously. The public takes it seriously, and institutions increasingly need to be able to tell Aunt Miriam when she shows up what is it my kid is going to get out of this because it's a lot of money, and we're pinning not only our money but our hopes on the success of our student here.

CHAIRPERSON STUDLEY: Anyone else? Are there any other comments from the Committee for the agency or the staff? Would the primary readers like to advance a motion? Oh, I apologize. Carol told me every way she possibly could. We have a third-party comment before we get to that.

Could we please invite the commenter to the table? Thank you. We may have a question for you in a moment, but thank you very much.

The third-party commenter is Jay Stroud.

MR. STROUD: Thank you, Madam Chairman,

and I'd like to thank the Commission for entertaining my comments.

My name is Jay Stroud, and I am the immediate past President, which means Board Chairman, of the New England Association of Schools and Colleges, and because so many of the questions in the report concern the relationship between the Commission on Institutions of Higher Education and the Board of Trustees, we thought it was important at least for a member of the Board to come and speak before you, and my primary message is simply that we feel we are all very much on the same page, and as the Board of Trustees, we are committed to helping and working together with the Commission to meet all the necessary standards.

So I just wanted to assure the Committee of that point. I have a couple of other comments that I would like to make because I think they are relevant to what happens here. In addition to my role as Board Chairman, I'm also recently retired after 24 years as headmaster at Tabor Academy, which is a boarding and day secondary school in

Marion, Massachusetts, and I appreciate your hearing my remarks about this.

So I bring two perspectives to this discussion. First, as the past President of the Association, I am charged to speak on behalf of our total membership, which is 2,000 schools, colleges and universities, both in New England and abroad. We do accredit about 200 secondary schools in about 90 different countries, I believe.

And also as a secondary school headmaster, I am keenly aware of the influence on education, which is exercised by the four Commissions that comprise the Association, and particularly by the leadership of the Commission on Institutions of Higher Education.

It is fair to say that in matters of accreditation in both the establishment of standards and the exercise of self-reflection and peer review, the secondary and elementary schools are significantly affected by the work of CIHE. As college and university education is the next step for many, we would wish almost all, of our

students, what happens at the Commission level is truly what happens at the secondary and elementary level.

Accreditation by the New England Association remains a significant goal and a crucial achievement for hundreds of elementary and secondary schools, both in New England and abroad. The New England Association recently celebrated its 125th anniversary, and as Barbara mentioned, is the oldest school and college accrediting association in the country, and is a significant force for school improvement.

For almost half of that history, the Association has enjoyed Federal recognition as an accrediting body, and there is no doubt that that recognition, so crucial to the welfare of the colleges and universities, is by extension highly important to the secondary and elementary schools.

As you may imagine, with hundreds of schools and colleges involved, the Association might be seen as somewhat conservative in its approach to change. But the truth is the New

England Association has been a vibrant coalition and is dynamic in its own evolution. It is in this context that on behalf of the membership, I am particularly appreciative of the work of the staff of the Department of Education and of CIHE who have worked closely together for many months to ensure that CIHE meets or will meet all the requirements for separate and independent accreditation.

The process required us to ask of ourselves truly significant questions about our organization and, as Barbara mentioned, we believe on the Board of Trustees, they serve to strengthen our commitment to meeting the standards of the Department.

And I believe the Department also has been particularly understanding, as I have observed it--and surely I am observing from a distance--as CIHE and NEASC have worked together to create a Memorandum of Understanding, amend bylaws, and particularly to establish a separate identify from the Board of Trustees.

In a large and complex association, this

process has taken some time; therefore, I am also here to express the appreciation of the trustees of the Association for the Department's recommendation to continue recognition of the Association with 12 months to resolve remaining details to bring CIHE into unquestioned compliance.

The staff has been respectful of the history and of the complexity of the organization. That recognition is crucial to CIHE and the colleges and universities it accredits, and while their influence is not directly within the purview of NACIQI or the Department, I simply wanted to add in conclusion that its effects are felt by all of our membership.

The work of the Department and of NEASAC and the CIHE staff affects thousands of educational institutions and most importantly the younger and older people whom they serve.

CHAIRPERSON STUDLEY: Thank you very much. We appreciate your comments.

Are there any questions from the Committee for Mr. Stroud? We appreciate that perspective on

this--

MR. STROUD: Thank you very much.

CHAIRPERSON STUDLEY: --transition and on the role of the Association overall. Thank you very much.

With that, then I invite a motion from Art Keiser.

DR. KEISER: I move that the NACIQI recommend that the New England Association of Schools and Colleges, Commission on Institutions of Higher Education, 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.

Further, that the NACIQI recommend that the Assistant Secretary not revise the accrediting agency's scope of recognition as requested by the

agency.

MR. WU: And I will second that.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Is there any discussion of the motion?

MS. GILCHER: The reason I'm looking a little puzzled is that--and maybe Sally can help me on this one--we're kind of in a hiatus because the structure has changed so keeping the current scope is a little strange because the Board of Trustees actually is not playing the role in making decisions on accreditation as it does under the current scope.

The revised scope that was requested by the agency, both the agency and we determined wasn't quite right, and so we have recommended a revised revised scope, which is what, in our staff recommendation, that we are going with for the next 12-month period.

But this is sort of something that's tangled, and maybe Sally has some advice on it.

MS. WANNER: Was the motion different than

what you all recommended? It was. Okay. No.

CHAIRPERSON STUDLEY: Carol, we need to figure this out. We believe that the motion was the one that was suggested by staff to accommodate those, but--

MS. GRIFFITHS: No, it wasn't.

CHAIRPERSON STUDLEY: No. Carol, go ahead. Okay.

MS. GRIFFITHS: No. The recommendation that you see on the screen there, I understood from what I heard the agency say at the table, and that's why I understood Art to have made this recommendation, was that the agency said they rescinded the requested scope of recognition.

Did I not understand that that's what you said, that you did not want the requested scope of recognition as you initially submitted it?

CHAIRPERSON STUDLEY: Barbara, please come up.

DR. BRITTINGHAM: We are accepting the staff recommendation, which is what we requested minus the last sentence. Is that right, Kay?

That's what you recommended; right? We're accepting the staff recommendation for the change. So it isn't--it wouldn't be what it is now. It would be what we requested minus the sentence that referred to the trustees.

MS. GRIFFITHS: I understand what you're saying now, and if NACIQI chooses to deliberate in the session and make that recommendation based on the discussions here, that there would be no way for anyone to predetermine that, for NACIQI to predetermine that. So it would be up to whomever makes the motion to amend or correct their motion should they choose to do that.

DR. KEISER: I'm not sure I understand because I made the motion because of the fact the staff identified that the original request was not accurate based on the documentation presented. So therefore the request of the staff seems appropriate because at least they'd be in one place because right now if they pull, they're out of compliance with their current scope. So I think either way, we're back to the same place.

CHAIRPERSON STUDLEY: As the seconder, Frank, what's your--

MR. WU: Yeah, I just have a question. What difference does it make if we do it this way, and then they follow the course of action that they're proposing? I'm just not following what consequence there is to that?

DR. KEISER: Or the other way.

MS. GRIFFITHS: I guess for me, if I understand it right, should the NACIQI put forth a recommendation to revise, to not accept the agency's scope, yes, they could come back in in their compliance report with a scope of recognition of their choosing to be reviewed.

If the NACIQI wishes to amend its motion and vote on the recommendation of the staff, as the staff and as the agency requested during the conversation here this morning, then that recommendation of NACIQI could go forward to the decision-making person who would then perhaps accept that portion of the recommendation and change the scope at this time rather than waiting

for a year to do it. And maybe in terms of expediency, you may want to consider that.

MR. WU: It--

DR. KEISER: I'm sorry. Frank.

MR. WU: So I'm generally in favor of making things more efficient and clearer, but I'm reluctant for us to take action on something where we don't know exactly what it is that we're voting on. I'd rather it come back so we can see it.

DR. KEISER: I agree with Frank. I agree with Frank. The issues were not, you know, it's not a big issue. I mean it will get solved. But the concerns that the staff had, at least in reading the material very closely, was that the bylaws were inaccurate, and there were legal issues that had to be dealt with, at least from a documentation standpoint, and until we see that documentation, I mean it's not, you know, well, we're, I'm from Missouri, I guess. I need to see the documentation.

And, again, they were extraordinarily cooperative and professional in presenting what

they're going to do, but until it's done, I think I'd be uncomfortable in right now changing the scope. They're under--they have to fix it first.

CHAIRPERSON STUDLEY: Let's hear from the agency.

DR. BRITTINGHAM: I think there are two parts to separate and independent. One has to do with decision-making, and the other has to do with budget and operational autonomy, and the decision-making part, which is reflected in the scope, that's done. It was--and I apologize again. We made a terrible error. We submitted the wrong copy of the bylaws with the original petition, and it didn't reflect changes that had already been made.

But in terms of decision-making, as reflected in the scope statement, that's fixed, and I think that's why--Kay can respond--but I think that's why the Department's recommendation was to remove the last sentence from what was submitted. Is that correct, Kay?

DR. WYLD: And I think it was specifically to remove the Board of Trustees of the Association

from the scope of recognition and make it crystal clear that the recognized entity is the Commission on Institutions of Higher Education, a change that has already been adopted by the trustees of the Association and the change in their bylaws.

So we were accepting the recommendation of the staff on the scope statement because we felt that that reflected the reality of what had been passed.

CHAIRPERSON STUDLEY: Art.

DR. KEISER: Have we received the copies of the revised bylaws?

DR. WYLD: Yes.

DR. KEISER: It hadn't, in the reports that we received today, it had not been received at that point.

MS. GILCHER: That was submitted with the response.

CHAIRPERSON STUDLEY: I have a question about how different options we could vote on would affect your actions going forward because you're conducting reviews during the course of the coming

year. Have you already switched to the new decision-making process?

DR. BRITTINGHAM: Yes.

DR. WYLD: Yes.

CHAIRPERSON STUDLEY: Fully documented-- I'm trying to ask Art's question--and does the staff feel that those changes are fully documented to the point that you think they're ready to implement the decision-making steps?

I know we don't want to approve something that we can't see, but we also don't want to go backward and have them operate under a wrong system. Yes.

DR. KEISER: I don't, again, I'm reading the staff recommendation, and apparently the staff recommendation changed this morning so I don't know, you know, I'm a little confused. So does staff not want the recommendation they presented to us?

MS. GILCHER: We do want the recommendation. Well, you know, we are making our recommendation. Our recommendation is, as I am

speaking about it, I don't think it's different from what is written.

It's a little bit confusing because the scope, the scopes are very hard to sort of parse out, but it is true that the intent of the revised revised scope is to remove the Board of Trustees from any decision-making. The way that things are currently set up, the Board of Trustees does not have a role in making decisions on appeals, which is what the initial revised scope would have stated. But--okay--that's--

CHAIRPERSON STUDLEY: Does this language accomplish what the staff wants and what the agency is seeking? Let's start with that, and then-- Frank?

MR. WU: Well, couldn't we just add a sentence or clause here to compromise? As I understand, the two considerations are, on the one hand, this body, in my view, shouldn't approve of things that are forthcoming without it--or recommend approval of things. And I'm in particular, worried about the precedent that would

set. You know, we trust these folks, but then the next agency will come along, and who knows. So I'm reluctant to approve of something or recommend approval without seeing it, on the one hand.

But on the other hand, they've already made half the change, and we want them to be able to continue doing their business, so couldn't we just add at the end of the first paragraph where it says "Such continuation shall be effective until the Department reaches final decision," the following: "Such continuation shall be effective until the Department reaches a final decision, and such continuation shall encompass the decision-making procedure"--"changes to the decision-making procedure described at the NACIQI meeting"? Or something like that?

I mean the language could be cleaned up, but what I'm trying to say is isn't there a way we can say they can keep making decisions, and they can keep making them under this revised decision-making procedure, but that doesn't commit us to preapproving of the rest of the changes that are

forthcoming? Would that fix it?

CHAIRPERSON STUDLEY: Well, one second. Let's hear from Sally and the agency.

MS. WANNER: I would suggest, I mean there are two things. Number one, the agency has been cited for separate and independent, and they're being given a continuation rather than a renewal. So that point is made, that they are not yet in compliance.

On the other point, as far as the scope, the scope should reflect their revised decision-making process, which, as I understand, is in place because that's how we're going to determine if the accreditation they're granting is recognized.

I would suggest that you simply copy what is in the--as the staff recommendation, which actually sets out the modified scope. That way there would be no uncertainty about it, and what the staff recommendation says is modify the agency's scope of recognition to remove the references to the Board of Trustees and to joint decision-making.

The modified scope would read: The accreditation and preaccreditation candidacy status of institutions of higher education--then it lists all their States--that award bachelor's, master's, and/or doctoral degrees and associate degree-granting institutions in those States, that include degrees in liberal arts or general studies among their offerings, including the accreditations of programs offered via distance education within these institutions. Continue the agency's recognition and require the agency to come into compliance within 12 months and submit a compliance report that demonstrates the agency's compliance with the issues cited in the staff report.

That would be what I would do.

DR. KEISER: And I would remove--

CHAIRPERSON STUDLEY: Could we just hear from the agency? They had something they wanted to say.

DR. WYLD: Yes, just very briefly, to reassure you, the Board of Trustees have already removed themselves through the change in their

bylaws that they have already accomplished. Our concern is the existing motion would put them back in and would require us to go back and now rediscuss whether the bylaws were in compliance with the scope of recognition that you provide to us. So you've caught us in a difficult situation here where we have moved forward and already taken an action that it would feel as if we had moved backward.

CHAIRPERSON STUDLEY: Art.

DR. KEISER: Yeah, I'd like to remove my initial motion and substitute it for the motion that Sally just made.

MR. WU: I'm fine with that.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Okay. Is there any discussion of the motion? Is the motion clear enough? Is that up there now?

MS. WANNER: Change issues identified to--

MR. WU: So that doesn't commit us in any way to having preapproved anything that hasn't come in front of us? It will come back in front of us

in 12 months.

MS. WANNER: And then you need the additional paragraph about continue--

MS. NEAL: I have a clarification as to why the scope and the separate and independent aren't so integrally related that we can't act on the one and--we can't not act on one and act on the other?

MS. GILCHER: I think we are acting on one, but not on the other. That is they've not--they're still out of compliance with the separate and independent, but--and that is because of issues having to do with budget and autonomy of staff and things like that. But they are in compliance with the portions that have to do with what the decision-making process is. And that's what's reflected in the scope.

MR. WU: Why don't we just say what you just said, which is nice and crisp, and add that?

CHAIRPERSON STUDLEY: Frank, do you have language for that or are you asking Kay to try to restate it, and where would you put it in the

motion? I'm only going through this so that we, since this is complicated and different from others that we--

MR. WU: So the paragraph that starts "Modify," at the end of that paragraph, exactly what Kay just said. So specifically--and then you distinguish between the two things. We can just have it read back from the transcript. Just plug that right in.

CHAIRPERSON STUDLEY: Well, since it is in the transcript and in the discussion, is it important to you for it to be in the motion?

MR. WU: No, it's not. I just wanted to commend Kay for framing it very nicely, and in honor of that, we could put it right in there, but that's fine.

CHAIRPERSON STUDLEY: If that's okay with you, we're close to having a motion made and seconded, and if people are comfortable voting on what's before you, I would call the question if I'm allowed to do that.

Any additional discussion by the Committee

members of the motion? Otherwise, all in favor, please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Any opposed?

[No response.]

CHAIRPERSON STUDLEY: Thank you. We do have, and we hope--would you wait just a moment--we do have a set of questions that we ask agencies to comment on, if you'd like.

I will remind people what they are. We do them after we vote on the agency's petition that's before us because we don't want these answers to be part of our consideration on the yes/no question.

But before you do that so that you don't feel squeezed and others know what to expect, especially the agency that comes after you, let me just explain what we're going to do with regard to time.

Out of respect for Under Secretary Kanter and her schedule, we are going to keep 1:15 as a fixed point. When we finish with this agency, we will begin with the agency that comes after it, the

North Central Association, Higher Learning Commission.

If we have not concluded by 12:15, which is very possible--I don't want the Committee members to feel rushed or the agency to feel rushed or unfairly dealt with--we will pause in that proceeding so that we can take a lunch break that gives you and the staff and the court reporter a decent time break so that we can reconvene at 1:15, and then we will pick back up if we have not completed Higher Learning Commission with them at 2:15 and proceed through our afternoon's work.

So I think with a little sense that we are not needing to operate in haste, I invite you to comment on the three questions I'll summarize so that everybody has them for later in the meeting, but you also have the option if you would like to comment in writing later or informally by talking with us.

And they are the most significant issue or two your agency has faced since the last review, the one or two thorniest challenges, and do you

believe your agency has some lesson or experience that you would like to share with us and with other agencies?

I was a little inconsistent this morning, in part, because of the link of one of the proceedings, and one agency seemed to be signaling that they would like to do it off line, but I will be more consistent now, and give you that opportunity.

DR. BRITTINGHAM: We really appreciate the invitation to do that, and we appreciate all the time and attention you've given us, so we're going to send you something off line.

CHAIRPERSON STUDLEY: Thank you.
Appreciate that very much.

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NORTH CENTRAL ASSOCIATION OF COLLEGES AND
SCHOOLS, THE HIGHER LEARNING COMMISSION

[NCAHLC]

CHAIRPERSON STUDLEY: Okay. So to recap, we will now move to the North Central Association of Colleges and Schools, the Higher Learning Commission, and to our primary readers, George French and Anne Neal, and in case anybody didn't catch it, we will go till about ten after, and if we have not concluded, and I don't want to put any pressure on people--I assume we will not--I ask the agency's indulgence if we could split that proceeding.

It may be that we are just getting rolling, and that we'll come back at 1:15. So--

DR. ARMSTRONG: And Madam Chair, I will recuse myself.

CHAIRPERSON STUDLEY: Thank you very much, Senator.

DR. PEPICELLO: As will I.

CHAIRPERSON STUDLEY: And Dr. Pepicello. Thank you. Thank you.

Counsel reminds me to ask you that you not talk about--and this is for the Committee members--that you not talk about the agency that's before us during the break. Just hold your discussion of the merits of the agency consideration for us to bring back to the group.

I think people understand and will respect that. And I apologize for the split, but I think it will help us move along. Let's at least do the primary readers' presentation and the agency staff comments, and we'll see where that takes us.

George, are you up?

DR. FRENCH: I am.

CHAIRPERSON STUDLEY: Thank you.

DR. FRENCH: Thank you, Madam Chair.

The North Central Association of Colleges and Schools, Higher Learning Commission, an organization established in 1895. They come before us today with a petition for continued recognition as well as a revision of scope.

This organization is responsible for the accreditation and preaccreditation of degree-

granting institutions of higher education in 19 different states with over 1,000 higher degree-granting institutions.

Initial recognition was in 1952, and they last came before this body last fall--no, I'm sorry--the last full review was December of 2007.

Staff has identified 11 areas where the agency did not meet the Criteria for Recognition, and we have the staff representative here before us today.

CHAIRPERSON STUDLEY: Thank you.

Elizabeth.

MS. DAGGETT: Good morning, Madam Chair and members of the Committee. My name is Elizabeth Daggett, and I am providing a summary of the review of the petition for re-recognition for the agency.

The staff recommendation to the Senior Department Official for this agency is to continue the agency's current recognition, revise the agency's scope as requested, and require a compliance report in 12 months on issues identified in the staff report.

This recommendation is based on our review of the agency's petition and its supporting documentation as well as the observation of a meeting of the agency's board in November of 2012.

Our review of the agency's petition found that the agency is substantially in compliance with the Criteria for Recognition. However, there are some outstanding issues that the agency needs to address. In brief, the outstanding issues require demonstration of implementation of new standards and policies which were effective January of 2013.

We believe that the agency can provide satisfactory documentation and demonstrate its compliance in a written report in a year's time.

Therefore, as I stated earlier, the staff is recommending to the Senior Department Official to continue the agency's current recognition and revise the agency scope as requested and require a compliance report in 12 months on the issues identified in the staff report.

Thank you.

CHAIRPERSON STUDLEY: Thank you.

Do Committee members have any questions for the staff?

DR. FRENCH: Madam Chair, a very simple question. Does the revised scope enhance the authority to include correspondence education?

MS. DAGGETT: It does only in so much as when their scope was put into effect during the last full review. Distance education--there wasn't a differentiation between distance education and correspondence education. So that was considered that it encompassed correspondence education.

During our review of a full review of a petition, we would now look at those two as distinct and different, and so we would require to have to have, if they wanted to include that as part of their scope, we would require to have that specifically reviewed and specifically included within the scope since it's now considered a separate definition.

DR. FRENCH: So let me be clear. Let me make sure I'm understanding. The current scope does not specifically identify correspondence

education. It does specifically identify distance education, and we want to make sure that we delineate the two specifically?

MS. DAGGETT: Right. We want to make sure we include both of them because their previous scope was under the definition--

DR. FRENCH: Distance.

MS. DAGGETT: We just said distance education, which included correspondence education. There is now a specific definition of correspondence education that's now separate from that so in order to include both of them, we have to specifically include them within the scope.

DR. FRENCH: Correct. Thank you.

CHAIRPERSON STUDLEY: Any other questions for staff?

DR. FRENCH: Oh, I'm sorry, Madam Chair. I would go to the Anne Neal position that she always asks about what have been the major activities of the Commission? Have there been any schools that have been dropped from accreditation, and if so, how many?

MS. DAGGETT: I think that that might be a question better answered by the agency representatives. So I wouldn't try to answer that in their space.

DR. FRENCH: Okay.

CHAIRPERSON STUDLEY: Dr. Manning and the team from HLC, I'm going to give you a choice. Would you like to make your presentation now before the break?

DR. MANNING: Yes.

CHAIRPERSON STUDLEY: Okay. Okay. Thank you. Thank you. Please introduce yourselves.

DR. MANNING: Thank you.

Good morning. I'm Sylvia Manning, and I'm President of The Higher Learning Commission of the North Central Association. On my left is Gary Wheeler, President of Glen Oaks Community College in Michigan and the Chair of our Board of Trustees, and on my right, Karen Solinski, our Vice President for Legal and Governmental Affairs.

Thank you for this opportunity. I do recognize the problem of the timing. I do want to

add that not anticipating this delay, President Wheeler will have a plane to catch at three o'clock, and therefore will not be coming back, but I hope we can at least hear his voice in this beginning.

CHAIRPERSON STUDLEY: Let's see how it goes.

DR. MANNING: Okay.

CHAIRPERSON STUDLEY: I don't want to, I shouldn't prejudge.

DR. MANNING: I want to thank the Committee for the work that you do. We have for decades now been dealing with the sometimes delicate balance of both seeking the betterment of the institutions who are our members and fulfilling our obligations, our deep moral obligations, in fact, to students. Sometimes those two needs come into at least apparent conflict, and it is certainly the work of people like you who do this only in service to the public good that helps us maintain the appropriate balance and approaches.

I also want to thank the staff for a very

thorough analysis, and we are very pleased with the outcome, and we are very pleased with the work of Elizabeth Daggett.

We have 11 findings of noncompliance. That looks like a large number, but, in fact, they are all variations on the same thing, and that thing is something of a time quake in which we have been trapped. That is to say our petition was filed on January 4, I believe it was, of 2013. We had discussed some time ago with the staff the problem that on January 4th of 2013, a new set of criteria were coming into effect, and so the choices were to evaluate us on the old criteria, which would be history on the same day that we submitted our petition, or to evaluate us on the new criteria for which we could not produce documentary evidence of the application of those criteria.

I think the staff guided us to the only rational choice at that point, which was to work with the new criteria in the recognition as we expected that we would not be able to document the

application of those criteria specifically. That is the case with ten of the 11 noncompliance findings, and the 11th is very similar. It is a new policy requirement. It has to do with requiring institutions not only to make public their transfer policies, but also to make public the existence of articulation agreements. That, too, is very recent. It is a change that we made to come into compliance with the expectations of the recognition standards, but we have not had the time to demonstrate the application.

I believe that when we do have that documentation in hand, and we submit it, we are very pleased with our new criteria, and I believe that when we show them in action, the Department and this Committee will be as well.

DR. WHEELER: Good morning. I just wanted to add my voice on behalf of The Higher Learning Commission Board and the institutions we represent that we believe that the new criteria will provide, and is providing, increased clarification and better direction and guidance as we proceed.

It's also been true that the comments that we have solicited in the process of not only the development of the new criteria, but in its implementation process, have given us confidence that this is the direction that we should have gone in, and that it's going to provide an improved process.

CHAIRPERSON STUDLEY: Thank you very much.

It would be helpful if Committee members who know that you have questions now identify that for me. George, I'm assuming you have a follow-up question.

DR. FRENCH: What?

CHAIRPERSON STUDLEY: The question that you asked the staff.

DR. FRENCH: Oh, right. Right.

CHAIRPERSON STUDLEY: Okay.

DR. FRENCH: And you wanted me to do that when?

CHAIRPERSON STUDLEY: You can ask the agency whenever you like.

DR. FRENCH: Great.

CHAIRPERSON STUDLEY: I'm just asking others, whether people know that they have comments? Anne. You're not precluded once we get started, but--George.

DR. FRENCH: Thank you. Thank you, Madam Chair. Thank you, Dr. Manning, for the explanation.

Also, on the ten basically recommendations, I think you all took the correct course of action, followed the staff's excellent recommendation, and I should have made that qualification when I noted that there were 11 because I really think that's really a misnomer.

But I was wondering what the actions have been as far as has anyone within--have any schools lost accreditation? Have there been a lot of sanctions of institutions of higher learning?

DR. MANNING: Of course the moment I heard that question being asked of NEASAC, I sat there saying why didn't we bring the data, but it's not possible to do that, and so I'm speaking off of a whispered attempt at recollection between Karen and

myself as we were changing chairs here.

I believe that we have withdrawn accreditation in recent memory from four institutions. One institution was quick enough to withdraw from us before we could withdraw from them. There is good reason for an institution to do that, especially if the institution is also accredited by a national or specialized accreditor and therefore can retain access to Title IV funds.

Oh, actually, I know we forgot one. It's five. It's five and one. I just remembered the one that we missed.

In addition, there are other things that happen. For example, there was an institution that applied for us for a change of control. It was going to be acquired by another entity. We denied the change of control, and, then, frankly, somewhat to our surprise, the institution immediately declared bankruptcy and closed.

So it is arguable that we closed that institution although we maintain that, no, all we did was deny a change of control or deny the

extension of accreditation under the circumstances of that change of control.

At any one time, we probably have maybe eight, ten institutions on some level of sanction. That would be either notice, which is a warning; probation, which says you're out of compliance, and you have a maximum of two years to fix it; or show cause, which as we use it asks the institution to show cause why its accreditation should not be withdrawn.

DR. FRENCH: Thank you.

CHAIRPERSON STUDLEY: Anne.

MS. NEAL: Welcome.

I want to follow up just looking a bit at your new standards, and obviously we'll be able to see their application when you come back to us. But in my role of attempting to ensure that you're a guarantor of quality and that you have consistent applications, I just wanted to look a bit at a few of these standards and ask you in terms of what it is you look for and how you ensure consistent applications, starting with the actions and

decisions reflecting and understanding that its educational role serves the public and thus entails a public obligation.

I'm just curious in that context. I'm looking at some of your schools. Some of them have six-year graduation rates that are below 30 percent. Is there some floor where the graduation rates would be so low that you would deem that no longer in the public interest, for the public good, to continue to give Federal financial aid?

DR. MANNING: I'm not sure we would use that particular criterion, and I think we would probably go after simply the quality of the education provided in those instances.

We don't have specific floors. Given the diversity of our institutions and the particular circumstances, it would be very difficult to do that. Frankly, I could name lots of institutions for which I could say that a 75 percent graduation rate would be very good. If the University of Chicago had a 75 percent graduation rate, it would be a disgrace. So we do that.

But what we are doing, and this is new, and this may not have been very obvious, which is we are now starting in our annual analysis of the data that institutions provide to us every year, one of the factors that we are looking at is not graduation rate per se because we want to avoid the time constant problem in that equation, we look more simply at the ratio of enrollment-to-degrees-awarded, and then we look to see where the outliers are.

And then we don't say to the institution this is the ratio you must have. We say to the institution this ratio is very poor. Given this poor ratio, can you demonstrate to us that you are still offering a quality education? And that is the way we approach it. We similarly look, by the way, if there is a sudden increase or decrease in the numbers of degrees awarded, and remember that a low graduation rate raises a lot of questions, particularly, I think about the way an institution cares for its students.

The quality of the education may be fine,

but the institution is oblivious or indifferent to the circumstances of the students and hasn't adapted to enable the students to learn. It is also true that you can have a very high graduation rate and be offering very poor education, and we need to watch both sides of that.

MS. NEAL: So pursuing that a bit more, as I look at your other core components, one of the things that you are focusing on is that institutions act with integrity and that their conduct is ethical and responsible. Certainly a wonderful standard. So I guess my question is in pursuit of advancing those goals, do you insist that your institutions show you grade distribution and grade inflation? Do you have them address faculty ghost writing? Do they address whether or not they have speech codes?

What kinds of questions are you asking and what assurance are you getting that these institutions are engaging in ethical practices other than that they say they are?

DR. MANNING: Yeah. And those are, at

least the first two, it may be that we've had something about speech codes some time, but it's not within my memory, which is fairly short, not because of my age but because I've only been with the Commission for five years.

But on other issues like quality and grade distributions, yes, there is an institution at the moment that is on probation, and a significant portion of the evidence which led us to conclude that there was a serious lack of quality and a significant segment of their offerings was based, in fact, upon things that included grade distribution.

So we do look at it. We don't look at it for a thousand institutions every time we look at them, but where we see a sign of a problem, where we have a concern, that is certainly something that we would look at.

MS. NEAL: What would that be? That concern about grade inflation?

DR. MANNING: The issue would be--again, you could have a class in which every student got

an A, and that's because the teacher taught well, the students worked hard, they all deserved an A. I don't, we don't attempt to have any concepts of grading on a curve.

You can also have a class in which every student got an A because if they signed their name to a piece of paper and handed it in, they got an A. That's why, in fact, what we want to do is use sophisticated peer reviewers who can bring informed academic judgment to bear and be able to distinguish those kinds of circumstances when they look at specific case.

MS. NEAL: Let me ask one further question in terms of courses and programs are current and reflect performance appropriate to the degree. Again, how do you determine that a math class, for instance, at the college level is, in fact, a math class that expects collegiate level skills and is not simply fractions and multiplication and subtraction?

DR. MANNING: Again, we rely there on a certain kind of spot checking. So things can slip.

We do not send in a body. We would need a hundred reviewers, at least, to look at a large complex institution discipline by discipline. At least it's my belief that you needed an expert in the discipline.

Now, I can also tell that fractions isn't college level math, but get beyond calculus, and I'm useless. So I need a mathematician to look, particularly if you want to know what's graduate level mathematics, and I simply need--I have the same problem with almost anything except Victorian literature.

But we will look at that, and our reviewers will dive into the areas where they have a specific expertise, and if we have any other reason to believe that there isn't quality being offered in a specific area, we will go and find a reviewer who has that expertise, and we've done that very specifically. We've had worries about nursing programs. We make sure that we send in at that point with a team somebody who has that specific expertise. That is somebody from that

discipline.

CHAIRPERSON STUDLEY: Any other questions from the Committee members? Mr. O'Donnell.

MR. O'DONNELL: Hi. Thank you for being here.

I want to follow up a little bit on Anne's comments about she was talking about dropout rates. My question is about enrollment practices and going back to institutions having--your standard of institutions having ethical practices, and do you look at institutions who are enrolling students with significant indicators that they're likely not to complete and drop out, and yet are taking Title IV funding?

And I've heard people in the press refer to that as "predatory enrollment practices," both by public institutions, non-profit institutions, private institutions, and for-profit. But I'm curious if you have any standards or actually look at the enrollment practices and the likelihood of students not completing yet taking Title IV funding?

DR. MANNING: You know the problem with that is one person's predatory enrollment is another person's giving someone a second chance or even a third chance, and we have institutions that are dedicated to serving students who come from frankly abysmal high school systems or come from socioeconomic circumstances that put them in a situation where you can in a statistical way predict failure.

When I was chancellor of an institution, I knew exactly what we could do. We could have done wonders to our retention rate by cutting off the bottom ten percent on the ACT scores, but somewhere in that ten percent, there were students who were going to make it and who had the right to make it.

So our standard is a little different. Our standard says when you admit students, do you test them, do you assess their ability, and do you provide adequate academic support services to allow those students to succeed?

So if an institution does that and gives the student the support and every chance, it is

still the case that a significant number of those students will not make it, and a lot of them will not make it not because they don't have the intellectual ability but because they have life circumstances that are simply against them.

But if the institution is doing a reasonable or better than reasonable, because we really want better than reasonable, job of serving the needs of those students, is analyzing the needs of those students from the get-go, then we are supportive of that. If they are not, then that is a serious issue for us.

CHAIRPERSON STUDLEY: Any other Committee questions? Would you like to make a motion, one of you?

DR. FRENCH: Madam Chair, I move that the NACIQI recommend that the agency, the North Central Association of Colleges and Schools, The Higher Learning Commission, 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.

CHAIRPERSON STUDLEY: Do I hear a second?

MS. NEAL: Second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Thank you.

Why don't you pose the question?

MS. GRIFFITHS: Okay. Before we leave the motion, you may want to look at what the agency's requested, a revision to its scope of recognition.

DR. FRENCH: I further move--I further move, Madam Chair, that the NACIQI recommend that the--this is an expansion of scope; correct?

CHAIRPERSON STUDLEY: It's a revision of scope.

DR. FRENCH: Okay. I further move, Madam Chair, that the NACIQI recommend that the Assistant Secretary revise the accrediting agency's scope of recognition as requested.

CHAIRPERSON STUDLEY: Anne, do you still second that revised motion?

MS. NEAL: Yes.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: And this was with regard to the correspondence and distance category?

DR. FRENCH: Right. Thank you.

CHAIRPERSON STUDLEY: Do any members of the Committee want to discuss the motion? In the absence of questions, all in favor of the motion please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Any opposed?

[No response.]

CHAIRPERSON STUDLEY: Thank you. Thank you very much. We appreciate it, and we did manage to stay precisely to our schedule. Thank you. I'm glad we didn't have to disrupt your day.

DR. MANNING: And on the questions, we will be happy to write to you.

CHAIRPERSON STUDLEY: Would you like to speak to the questions?

DR. MANNING: No.

CHAIRPERSON STUDLEY: Or if you will be here today and would like to come back later, we'd be happy to do that. It's totally your choice.

DR. MANNING: Well, I'll be here this afternoon. If you run out of things to do, I'll be happy to. Otherwise, we will write to you.

[Laughter.]

CHAIRPERSON STUDLEY: Okay. I'll chat with you.

Thank you very much. I understand that there are some restaurants nearby if we want to spread out. We will reconvene at 1:15 with Under Secretary Kanter as our guest. Thank you.

[Whereupon, at 12:18 p.m., the Advisory Committee recessed, to reconvene at 1:15 p.m., this same day.]

A F T E R N O O N S E S S I O N

[1:15 p.m.]

CHAIRPERSON STUDLEY: I appreciate those of you who managed to get back here in time, but because of the slow lunch lines at some of the places closest, I'm going to give people just a few minutes so that we can be respectful of the Under Secretary. So we're going to pause for just a few minutes, but we will start shortly. Thank you.

[Pause.]

CHAIRPERSON STUDLEY: Good afternoon. Thank you very much for your patience. I'm glad to see you here. I'm glad you appreciate this very special opportunity that we have today to meet with the Under Secretary of the U.S. Department of Education Martha Kanter.

Martha was nominated to this position on April 29, 2009, and as Under Secretary of Education, she oversees policies, programs and activities related to the full scope of the higher education initiative: postsecondary education quality; Federal student aid; adult and career-

technical education; and the six White House Initiatives.

She is most proud, and she is genuinely and deservedly proud, of the fact that during her first two years as Under Secretary, the successful implementation of the Direct Student Lending Program resulted in a 50 percent increase in Pell grant recipients across the country.

She is deeply committed along with this administration to quality, value, affordability and the completion agenda, and has a number of exciting things that she'd like to talk with us about today, and I do mean with. She is interested in speaking with the Committee members and also having a conversation with those of you who carry such important responsibility as accreditors, as volunteers within the accrediting system, and as people who are here because you care about effective postsecondary education in terms of opportunity, access, and the country's future.

Very briefly, she has served as Chancellor of Foothill-De Anza Community College, an enormous

community college district, serving more than 45,000 students with a \$400 million budget, and very, very important in the Bay Area.

She previously served in many other vantage points: at San Jose City College; California Community Colleges Chancellor's Office; and as a teacher for students with learning disabilities early in her career.

She holds degrees from Brandeis, Harvard and the University of San Francisco, but more important she is a true believer in education as a pathway to opportunity and a wonderful supporter of the work of the diversity of higher education.

I think you will hear her both support and challenge accreditation, and we on the Committee know that she has been a very thoughtful listener to our work. She helped kick off our initiative in this reconstituted NACIQI, and we look forward to a continued and effective partnership with her and the rest of the Department and with all of you working in accreditation.

I'm pleased and proud that she has chosen

to spend a good chunk of time and really share some very serious thoughts with us about how we can move forward. So with that, Martha Kanter.

[Applause.]

DR. KANTER: Thank you. Thank you, everyone. It's a privilege to be here. I want to thank everyone on the Committee and all of you in the audience for what you do. I'm a veteran accreditor. I have chaired many, many committees in my career, and I may not know the answer to every single question you might have, but I know the depth of the work that you do both on the Committee and all of the responsibilities that many of you have whether you're at a campus or whether you are an accrediting agency.

So I just want to thank you for that at the beginning and really emphasize, I think, our challenge, which is to understand the diversity of everyone in the room, and the diversity of interests that all of the stakeholders have in what I would call the vision collectively that we have to work on to create a 21st century vision and

action plan for how we assure quality and how we can get many, many more students educated to the levels that we all would want and hope for to make our country the nation that I think all of us individually believe that it can be.

And so I think if I look back over my 40 years in education and my short four years in the administration--this is actually my second term in government. I was a census taker for the U.S. Census--

[Laughter.]

DR. KANTER: --right after high school, and so I got to have the doors shut in my face for walking around different parts of Boston trying to get people to fill out the form. So I have only been in government for four years, and it's been an amazing education.

And I think the legacy that any administration can give to the nation is to have all of our institutions, whether it's a K-12 school, whether it's public or private or for-profit, you name it, to be the best that we can

make those institutions for the students of this country.

So that's why I see your work as so critically important. It really is the future of the nation, and when we look across the pipeline of who's getting educated and who's not, it's very worrisome. So I think I share a lot of the concerns that you all share.

And so I have prepared some remarks. I think I can talk about where I see things going, and we'll have time for questions from the Committee first and then from members of the audience, and if I can't answer them, I do want to recognize Kay Gilcher and Sally Wanner and Carol, the team that you work with as Committee members every time you have a meeting. They are fantastic people and have lots of deep experience in the mechanics of what we have all created as a voluntary system of accreditation, as the Federal role in what we do in recognizing accreditors, and the roles that all of the different stakeholders play in that whole process.

So I think you wrote a remarkable report. I think it's a foundation to use going forward, and it really is about the 21st century. It really is about the time we have together to make this kind of a difference.

So you did a comprehensive report. We read it. I read it again this last couple of weeks, and you did fulfill the charge that Secretary Duncan asked of you, which was to help us understand from your diverse perspectives the framework for really addressing the issues around quality, and you heard the President talk about value and affordability, and there have been many, many discussions.

If you read in today's Inside Higher Education, you'll read an article about competency-based instruction, and some of the history there, which was very informative. And so we're all struggling with how do we prepare ourselves and our students for this next iteration of educational development and educational infrastructure and educational quality assurance.

So that you examined in the report the current system of recognition. I just want to thank all of you for those contributions. Accreditation. You tackled student aid eligibility. You looked at very, very different aspects of this, and I loved even in the introduction, and I'm not going to repeat it you, but the confusion that you talked about and the overlap and something that I feel very committed to do--I use the word a lot--simplification and transparency.

And when I look back over the 40 years I've been in education, and I look at the complexity in implementing any system that is going to talk about or do anything to make quality improvements, we have a system that is complex and has different stakeholders as I said at the beginning.

And so one of the goals is can we take some steps to simplify? And to do that we have to understand what it is, and we have to be much more transparent about the pros and cons, about the

content of what is, and really move forward with recommendations that all of you could come forward with so that the Secretary and I and other people in the Department, at the State level, at the institutional level, and at the student and family, at the consumer level can understand the "what is," so they can take advantage of the very best ways to go for themselves and their institutions and their States and hopefully all of us as a nation.

So what I've prepared is some practical considerations that really at first talk about how we got here, and then I'll talk about where we are, where we're going, and then open it for questions. So I'll talk probably for about ten or 15 minutes, and then we'll have time for conversation.

So let's just think about the fact that in 1944--take us back that long--it was five years before I was born--the GI Bill allowed veterans to use their educational benefits virtually anywhere, and a lot of the veterans enrolled in institutions, but came away from those institutions without the education that they went to get, and as a result,

accreditation, accredited status was used as a criterion back in the 1940s to identify institutions that students could attend, using funds from the second GI Bill in 1952.

And while there are some well-founded concerns about the variations in the quality that are offered today in accredited institutions just like there in the '90s, in the '80s, in the '70s, and all the way back to 1944, it's clear that the voluntary system that we're all a part of has allowed us to over those years, if you think back, 1944, and today we're in 2013, we have had iterations of quality assurance that have both deepened our understanding and have explained better the whole panorama about student learning and success and completion.

You heard the President talk about college completion, you know, a month after he was put into office. He talked about the North Star, the 2020 goal being could we increase by 50 percent the number of college graduates in this nation?

So every president has talked about

education. Every president has done some remarkable things, but it's also the case that we really haven't tackled the issue of quality in the way that I think and I hope all of you agree needs to be tackled for the 21st century success of our institutions and hopefully our students.

So we have, you know, in the Department of Education, we have a principle, "students first." And that's what we think about. Then we think about institutions, communities, all the pieces, accrediting commissions, accreditors, everything that makes that up, but when you go back to what's best for students, that is really what drives me and we hope all of you.

So the Federal government is not positioned, and tell me if you disagree, but we're not positioned to make fine-grained determinations about academic quality. We don't think the Federal government that can do that, and we have a Senator here and others on the Commission. If you don't agree, would love to hear that.

But we do have the responsibility and the

charge to work within the distributed system that we have, and to encourage this conversation, a very rich conversation, that will lead to recommendations, further amplification of the report that you did, more fine-grained detail about options that we would have as a nation to move forward to really create what I would call the 21st century of quality assurance.

We've got a responsibility to improve postsecondary learning and success. You'll see all kinds of things in the proposals that every administration has made over the years, and you'll see our proposal for Race to the Top focused on States. You'll see another proposal called First in the World, you know, to build on some of the successes of the FIPSE program that I think is now almost in its 40th year. And the kinds of things where you want to really understand institutional performance and what's working and how can we tackle problems today that we had 40 years ago, problems of remediation, problems of under-preparation, problems of not enough graduates,

problems of too many dropouts, all those kinds of problems.

So you play a vital role in all of that, and there's also a significant role for State governments, and we have to really understand what their role is, and sort of everything I do has four buckets and three columns, and my four buckets are access, affordability, quality, and completion-- remember, I'm the postsecondary woman. And my three columns are can we do things administratively that are good for the country, that are good for the students, for the institutions? Do we need regulations? Can we revise regulations? Are they okay? What can we do there?

And do we need statutory changes? And all of you know that in 2014, Congress will start on the discussion of the Reauthorization of the Higher Education Act that was put to bed in 1008 in the last reauthorization, and to build on that success and learn from that so that we can put forward a framework for reauthorization that really is built upon a lot of the conversations you have not only

here in NACIQI but in many stakeholder groups across the country.

And I should make a note. You can't imagine how many visitors we have from around the world, and one of the questions when those visitors come, what is your quality assurance system like? Can you help us? And so how would you answer that question? What would you say is working and what would you say hasn't worked as well?

So you play a vital role in that. States have a responsibility. You know you'll see all the angst about State authorization. It's a good example of what do we do when education is being delivered across States, and I was a teacher, I had reciprocity from Boston to Massachusetts, from Boston to California, and they agreed on the reciprocity, and I went through the process, and I got myself qualified to teach high school in California. This was back in the--I don't even want to say how long ago it was. But can we look at the principles to allow good quality education to be delivered to anyone in this country who needs

it?

And I've been in a lot of conversations about technology, and it's always about, you know, what's the newest software program and the analytics and all the things that will deliver a high quality experience for students, and people often don't say, but then I usually say but what about the third of the country that isn't wired? What about those people? And how can we get everyone into this new age with the tools that will best work for everyone, you know, play a big role at the State level, at the Federal level, and in the communities for consumer protection?

That is going to be a very important role of NACIQI, and you've got a lot of recommendations that look at ways that can we make it simpler to resolve complaints before they become formal complaints? Can we do the right things? Can we investigate? You know this all happens at the State level and at the Federal level.

We've got the dramatic growth of online programs. We've got all the work on State

reauthorization. And it's really the strength, and I think you said it really well in your report, the triad. You know, who is part of that triad of accreditors and the State and Federal levels that can work together, each carrying out their own responsibilities but learn from one another and avoid duplication and really simplify processes so people understand what they're getting, what they can apply for, what they're coming out of the educational experiences that they're going to need with, and how does that document best practices and strategies for us to move forward with?

So let me say that one small thing we're doing, and I think you've received a letter from us--the Committee members--and we also sent the letter to accreditors this week. We're going to improve the current system of recognition. We're going to focus the process of our agency review process for agencies who want to renew their recognition that are fully compliant with the criteria. We're going to select from among the 93 criteria that all of you have on the Committee, at

least, you know, slugged through and really trying to focus on a limited number in more depth.

And we think this is just a first step. I always call, you know, when we produced the College Scorecard last February, you know, I always call it a 1.0 version. Think of this as a 1.0 version for those of you that do have access to technology. Those of you that don't, think of it as the first draft.

So this is our first effort to be responsive to some of the recommendations we saw in your report, Julianne, to make the process, and I'll quote, "less intrusive," you asked us, "less prescriptive, less costly, and less granular while maintaining the essential quality controls of gatekeeping."

And that's your recommendation Number 12. So I want to tell you that we do read these reports, and this is one action we're taking to be responsive.

So Kay and her team are going to give you a lot more detail about the plans, but we want to

reduce the 93 down to 25 or so, and we also have to say that this process, you know, in the process, we don't think information, more information is always going to give us a better process. It's more targeted information, more useful information, better information that will yield the kinds of results that we want to really do the job of quality assurance.

So we think we'll have more relevant information. We think obviously these reviews will provide more sufficient depth and substantially reduce burden, not only on accreditors and on NACIQI, but also on the Federal government. So the good news is that there will be less burden, and you'll have to tell us if there is after you go through this for awhile.

And we think it will be a better process for evaluating accrediting agencies, and it's going to give us an experience base. If you're read anything over the last four years, we're using the word "evidence-based" a lot, you know, learning from what we have, continuous improvement, but we

need to have an experience base that is going to then allow us to propose further statutory changes who knows when.

But that is the goal, to try to reduce a lot of the input-oriented pieces to get better outcomes, to get higher quality. That's the goal. But we do have to say that when they have to use--I think you would tell me, Kay and Sally and Carol, that we may have to use some of the other criteria at some point. It depends, you know, because you know the complexity of the process, but, in general, we're going to go, the goal is to go from 93 to about 25, and maybe that's not far enough, and we'll look forward to your comments on that after we have some experience with this.

So let me talk about encouraging a broader conversation with you and what this administration would like to see. We want to implement and continuing to use the word "shared responsibility." And I think you've talked about that when you talk about triad, the triad.

You know, earlier this year, the President

called on Congress. You saw this in the State of the Union and then you saw it in the budget, and I'll explicitly tell you that the President asked us to look at adding value and affordability measures to the current accreditation system or to set up an alternative to accreditation that provides a path for new providers to be able to access student financial aid based on--underscore--rigorous performance standards.

That's a pretty tall order, and so we need a lot of thought leadership, a lot of public conversation, a lot of idea generation, to get to doing that well.

So we are eager to engage with you in that conversation. As I said, there are lots of diverse interests. The quick fix won't do it. We have to have a deep fix here, some deep thinking about this, and we think the time is perfect for this because starting in 2014, as I said, we'll be able to engage in discussions about the Higher Education Reauthorization and really move forward in that vein.

So we're welcoming those conversations, and I'll be at some. I should introduce some-- David Soo. Dr. Soo--you just might want to wave your hand--works with me in the Department. And Roger Nozaki from Brown. He's here up on sabbatical, and we really encourage a lot of very bright people to help us think through with you and with the States and with the consumers and with all of our institutions what is the best way to go.

We released the College Scorecard, as I said. You saw that I'm sure. We again call that a 1.0 version. We'll be issuing new versions going forward, and while we have some of the world's best institutions, as you all know, we also have some of the ones that are substandard.

And so we've got outcomes that we want you to help us think about that are going to really focus on how we can give students the chance of graduating with a very high proportion of opportunity. So I've even been in speeches and in meetings where I say is it good enough to have a ten percent graduation rate or a five percent

graduation rate?

And what do you get if you're one out of ten or one out of 20 who gets through, and what don't you get, and who gets through and who doesn't, and can we worry about every student who enrolls and make sure that all students have the opportunity to work hard, get access to great quality faculty, get high quality curricula and have the best outcomes that we want for the country?

So this is really vital. We see it as essential, as you said in your report, to the nation's economy. I always talk about to the nation's civic life. It really is what is this going to mean for us? And we've got to tackle both the great schools. We've got to learn from schools that are doing really well, graduating students who can perform well in the community, who can get those jobs, who can move the country forward, have great ideas, are great workers and technicians, all of that, but we've also got to worry about too many students getting lost in the dust of education.

So we want you to help us figure out how do we create the kind of system for the 21st century that's going to give us that standard of excellence that we all want and we know how hard it is?

You know, I know in the community college that I ran, you know, two-thirds of the students entered not being prepared, and I've been studying ways that risk factors and all ways that you look at institutions and you can account for the wealth of the standard that students bring to the educational enterprise, and then look through the accreditation eyes and other means. Are those institutions delivering the best that they can for the students?

And I do think the Federal government can do a lot more with States and with our institutions to do a better job of identifying where it's working really well. Sometimes we focus just on compliance and we haven't done as good a job, I think, historically, in learning from the best and figuring out, you know if it costs more, let's make

the case that it's going to cost more for students that never got the chance in high school because they didn't have a good curriculum or they didn't have whatever they had. So I think we've got to do a lot on there.

The President has asked us in the Department to focus on value and affordability. Can we define value as high quality at an affordable cost? And that whole question of affordability is a tough one. Every single question is tough that you all deal with. And how can we help to assure that we achieve it at the State level, at the Federal level, at the community level, at the accreditor agency review level, at all of those different levels, that oftentimes aren't working together or are siloed and have some opportunity to learn from each other.

So we'd like you to help us define and measure these terms, terms of quality. Is quality different than value? Is value different than affordability? Or is there overlap? And I think you talked about the overlap in your report.

And in ways, and I think this is really tough, that preserve the diversity of our institutions. One size does not fit all. I say that pretty much everywhere I go. A community college is not a training center, is not a research university. So we have tremendous--is not a State university. Public and private. We have tremendous diversity. So it is really, really hard to architect regulations and statutes and other mechanisms that are going to work for all, not just some, and advantage some and disadvantage others.

So that really is the charge.

We want to give you as much data as we can. We collect a significant amount of information. I think the Scorecard was our first effort to put data out in some way, but I think those are very blunt metrics, frankly, and we can do a lot better job as we go forward and would love your thoughts on that.

Methods for transparency. How should we be thinking about that? As part of our transparency effort, we're going to make the data

more easily available to NACIQI. That's one of the charges that we have going forward. We also want to make it available to our States, to members of the public, and to accrediting agencies. So we will do our best to work with you to take the data systems that we have. I think you've seen the announcement that we'll be adding transfer and part-time students to our database.

What do I worry about? I want to know, you know, how Pell grant students are doing? Are they graduating? Are they getting degrees and certificates? How do people do when they leave higher education and go into the workforce, go into their communities? Are we preparing the civic life of the community well?

So there are lots of different qualitative and quantitative measures, and the government has to be very careful about going forward. So we do have blunt metrics, but we do have an effort to at least with adding part-time and part-time students to the database and transfer students, we will have an IPEDS that will be richer, and we will be

sharing that information with you.

The other thing I think I'll close with is just a few words about innovation. Every time you open the paper you're reading about MOOCs; right? Who doesn't know--anybody does not know what a MOOC is? Okay. So I think it's a great, a great opportunity for us to look at the change that higher education is facing and to figure out with quality assurance how can the methodologies that we've used, the great schools that are educating large numbers and small numbers of students, can we learn from them? Can we learn from the research folks, the research that folks are doing, how best to use new level, new ways of delivery? And I think the MOOCs offer that new way of delivery.

They offer a new panorama for us to think about. The distance learning people I met with said why do you think MOOCs are new? And I said, well, they're probably not new, but the fact that you've got 100,000 students in a class versus 50 is pretty new, or 300, I think, that was the number of students in my biology class when I was a freshman.

So I think that's new, and I think the analytics are new, and the information and the transparency efforts are new. And our own sophistication about qualitative and quantitative metrics are new because we didn't have access to the information that we have today 25, 30 years ago.

So I think we have to be open to innovative efforts. I think we have to tackle a system of quality assurance that is going to really take a look at all of these different pieces, and to our end, and we move forward with Southern New Hampshire University, and now we're moving forward with Capella and others, to look at competency-based education, and please read the history that's in that Inside Higher Education article. It really took me back quite a way.

So we've got institutions, and you're not surprised, and I look back over 40 years, institutions are innovating all the time. So we want to encourage innovation, but we want to make sure that in the innovation, students are learning,

and they're learning well enough to be able to access life as a citizen in this country that will help our country become stronger than it is today.

We have a First in the World Fund that you may have seen in the budget proposal for 2014. It's a \$260 million fund. It would be a fund--some of you remember FIPSE, and money got taken out of FIPSE a couple years ago. It's a very different fund. It's focused on can we look at productivity? Can we look at innovation? Can we look at evidence and outcomes? And can we ask institutions to come forward with proposals that could be enhanced with public or private or public-public or private-private partnerships that will help us get to the best in those strategies, to help us really tackle value and affordability in a research paradigm?

And so the focus of that fund really and the vision for that is student learning outcomes. It is to document the best of the best. And so we want to encourage institutions and stakeholders to identify the kinds of solutions that are really going to make a difference, but also build an

evidence base for the country, build an evidence base for our students, for our institutions, and I know coming from where I came from, it was very hard to adopt somebody else's strategy. You wanted to do it yourself. You want to make it your own, and we understand that.

But there are a lot of simple things that we can do to dramatically help more students succeed, and I really think it's our responsibility as accreditors, as a Committee, as the Federal government, as a State government, to get to those strategies that really do make a difference.

We've also outlined a competition within that First in the World to look at validation systems. You know, in the past, we funded curriculum development. If you look at Carol Twigg's remarkable work over all those years, course redesign, you know, Brit Kirwan is one of the leaders in course redesign, how do you take a big university, look at redesigning courses so you can really increase retention and persistence in the first few years?

And so part of what we thought about was could we design some competition, use some competitive funding to look at validation systems? You know, how do we validate quality? How do we know what it looks like? And we'll have very, very diverse proposals coming in if we get this funded.

But that's the idea. Can we get a methodology for validation that could be explicit, that people could understand and move forward with?

Looking at things like Pay for Success. You know, there's just so much research out there now that needs to be tested and formalized. And so much potential to customize and personalize learning experiences that we really think this is the time to do it, and to really answer the questions, what can students do, what are they learning, and how to help us use the Federal funding to get at that in a very systemic way.

Let me end with a couple of final comments. I talked about President Obama's 2020 goal, you know, can we increase by 50 percent the proportion of college graduates in this country?

Who would disagree with that kind of goal, especially when you read all the reports from every, pretty much all the reports saying that two-thirds, three-quarters of jobs in this country are going to require more than a high school diploma, and right now actually we're at the highest--we're graduating--78 percent of students have a high school diploma.

Is that good news? Well, it's better than 75. It's better than 40 percent or 50 percent, you know 50 years ago. But we're trying to push 80 to 90 percent graduation rate from high school, and it's the same for college. We have to get better at getting more students graduating, and if you look at every one in the country in all of higher education together, we got about 58 percent graduation rate. If you add ten percent to that for part-time and transfer, or even 15 percent, we're not at 80 percent. We're not at 90 percent.

So that really should be our goal. And that's what we hope to do with all of the stakeholders. So help us with the issue of

quality. Help us with the definition of value and affordability. Help us take the recommendations that you did through this Committee and move forward on those, and help us inform the reauthorization of the Higher Education Act, as a starting point in 2014, and help us look at these 1.0 versions and tell us how we can do better together, not separately. The Federal government should not be in a silo by itself.

And so let me close my remarks by just again thanking all of you for what you do, and looking forward to more conversations. Don't know how the Committee wants to move forward, what your plans are for the next year, year or two or three, but we really do deeply value all the work and all the effort you're putting into being here, not only today but all of the meetings and off-line meetings that you've had to go through all these reports, and hopefully we've done a little bit, made a little step forward to simplify.

So I'm going to stop there, turn this back to Julienne, and happy to take any questions or

comments from the Committee.

[Laughter.]

CHAIRPERSON STUDLEY: Thank you so much for that very thoughtful review of the challenges, the progress, and the questions yet to come. The one thing I think I can say for sure is that NACIQI would like to be, continue to be part of that conversation that you're talking about.

We learn at a very detailed level about all of the implications of accreditation and all the implications the other choices have for accreditation. So we are both interested and hope we can be helpful.

We said we would take questions or comments first from members of the Committee. So I'd be interested in anyone who would like to follow up or either ask something of Martha or build on something that she said or offer solutions to some of those programs that she's outlined.

DR. KANTER: Great idea.

CHAIRPERSON STUDLEY: Anyone? Let's start with the Committee first. Arthur likes to be

first.

MR. ROTHKOPF: I don't have to be first.
No one else is raising his or her hand.

CHAIRPERSON STUDLEY: Okay.

MR. ROTHKOPF: I think we all share the goals that you set forth, Martha. I think they're very, very essential, everything from access to affordability to completion, I think these are the goals of all of us.

I worry a good deal, and I think it's reflected in the alternative report that some of us supported, and it was actually almost 40 percent of the voting members on a bipartisan basis supported a quite different vision, and in part, and it was that gatekeeping no longer be the function of the accrediting bodies, and that we suggested some other options there.

But one of the concerns, and if you could address, is accreditors are either publicly or privately constantly resisting being agents of the Federal government. They hate it. They want to be doing this; it's a voluntary system. It started in

1893 as a voluntary system, and the idea that the Federal government is imposing rules on them and requirements on them I think grates them quite a bit, and you see that in the material which either accreditors or the higher education community puts out.

How do we--are we willing to look at sort of system that doesn't require them to be agents of the government or really takes a totally alternative look at this, which is more technological? Our alternative would call for lots of information out there to let students and their parents make decisions on their own. The accreditors could still issue their reports and do things, but it would no longer be the gatekeeping.

But how we do this without putting further burdens or onus on the accreditors, which frankly they don't seem to like?

DR. KANTER: So, you know, I think just even offering to look at your review as a Committee of accrediting agencies, and looking at the 93 areas and drilling down to 25 and trying to get

more targeted around the big question of value, and the big questions of quality assurance, and balance that with the fact that the Federal government not only has the responsibility to say this is the U.S. system of American higher education, and we have these standards, but we don't have national standards.

We have regional standards. We have national standards that each accreditor has-- accrediting agency has. Standards that institutions must meet, and we have 7,200 institutions of higher education. So we have tremendous diversity, and the Federal government also has the responsibility for issuing \$175 billion in grants and loans, and so how do we balance that fiscal responsibility to assure fiscal integrity with our responsibility, I think, as part of the triad, to assure academic integrity, the integrity of career-technical education?

You know certainly I think you've seen the high school redesign proposals in the President's Budget and the longstanding conversations about the

Reauthorization of the Workforce Investment Act. I didn't go into any of those things, but all of that is a part of what we call American postsecondary education.

So our thought is can we take an innovation fund or a series of experimental design opportunities to get at how to create the pathways that everyone is coming to us asking about? You know, what would an alternative system be? And how could we validate the outcomes? How could we validate quality? How could we define quality? How should we define it knowing that the Federal government is not the agent to do the fine-grained definition, but can we create systems for validation that could assure us that the taxpayer dollars are going to be well spent, that the institutions are delivering the kinds of outcomes that we all would like to see for our kids or our spouses or anybody else in our families and friends?

And that's why we've tackled some of that in this proposal. So I don't know whether it will

be helpful, Art, to have a conversation about the elements of why we even came forward with a proposal like that, but respecting the diversity of interests here. We don't have a one-size-fits-all answer.

And certainly with the Higher Ed Reauthorization, Congress will do what Congress will do, and they have the authority to come in and change things. We'd like those changes to be thought through. We'd like to do the best we can, learning from all of you and from all of the stakeholders about moving forward.

So I'm not sure it's an answer you wanted. It's not really a great answer. You know if I could wave a magic wand, you know, I certainly have all kinds of ideas in mind, but everybody at this table has just equally as valid ideas, and I think the challenge for all of us is to put them all together and see what we can come up with. And would love you to uncouple what we've proposed and really see what are the pros and cons of moving in that direction; moving in some other direction?

So I do think it's about the development of options that we could then move forward and sift through and decide what is best for the nation.

CHAIRPERSON STUDLEY: Well, it's appropriate then that a former State legislator has the next question. Cam.

[Laughter.]

MR. STAPLES: And my question sort of ties into that former State legislator. I wondered, Martha, you might, I'm sure you are aware about how we struggled with the question of the triad in the sense that how this Federal government engages the States or how, as you said, as States are heavily invested in their own public institutions in terms of their engagement in measuring accountability through their funding and through other sources, and I think one of the things we struggled with is Federal government's role is limited in how much it can do without effectively partnering with all the States, and yet we weren't sure what, how that partnering was possible.

And I guess I just wonder if this is

something you've given thought to since there's a burden to be shared and there are a lot of very good, very solid State institutions out there that have their own stake in measuring quality and assuring high quality?

So I guess has that been something the Department has considered, and do you have any thoughts on that?

DR. KANTER: Yeah. You know I think the two big things that we've considered today that you could see in the 2014 budget proposals, and you saw them in 2013, for those of you that drill down into budgets, are the First in the World proposal. If you drill down into the details of that, and we'd be happy to share that with Julienne and get all of you any more information that we can.

But the other part of it was proposing a Race to the Top for Postsecondary Education that's focused on affordability and value. You know we used the word--I think we used "access" and "completion" in the design of that. So you don't want to compromise access. Access to higher

education is essential.

We've got too many students that just don't know. I mean David Coleman from the College Board was telling me they have 40,000 people that actually students that took AP courses that didn't go to college. I mean there's just all kinds of-- you ask pretty much any group that is studying higher education and the transition from the workplace to college or the transition from high school to college or the transition from raising a family back to college or for the first time to college, you know, a tremendous, tremendous focus on access needs to be maintained, and in my view, but also we've got to do a better job with completion.

And we think the partnership between the Federal government, States and institutions, you know, we have a three-legged stool in our office, and so we always thought of the triad as the Federal government, States, and institutions. You know, your triad is accreditors, States and the Federal government.

But our Race to the Top concept, just step back from K-12 Race to the Top, and just think about if you were to design something that will be an incentive for States to have a great higher education, postsecondary education plan in place that's going to look at workforce training, as well as traditional academic. That it's going to work on how are we going to educate the teachers we're going to need in this country in addition to the computer scientists, whatever, a broad, broad good plan.

How can you take into account all the certifications that so many of the agencies here represent, you know, that students are meeting those certification requirements and we're really preparing the workforce that this country is going to need and can we have in the short term an opt in?

You know, States that want to participate, should they have the opportunity, much like an institutional competition? That was sort of our design, can't do anything one-size-fits-all.

There's going to be a lot of diversity in different States, but can the Federal government be a catalyst for States to move on the quality agenda in a meaningful way?

Doing the planning, getting legislatures like those you were a part of, to actually come together around a couple of things? Can they build on the plans they have? I think in the last look, we had something like 35 States had postsecondary education plans. Maybe it's a little higher right now.

But every State, we'd like to see every State with a pre-K through 20 plan. Every State should have integrated systems. Every State should be talking to the institutions that are in that State and in other States who are going to inform the best of the best that we can do as a country.

So that really is, you know, happy to come back and drill down into Race to the Top and sort of the fundamental principles and why we were proposing that--underscore--and I said this in my other remarks--to build an evidence base.

You know how do States enter into the quality conversation and what is their proper role and what is their role in compliance in relationship to the Federal government? What is their role in quality assurance? I think we would have different models because States are at different stages, and we've certainly seen that in the K-12 Race to the Top. We've got some States that are way ahead in graduation rates from high school and other States that are building that system. So we need to acknowledge that States are at different places like institutions.

CHAIRPERSON STUDLEY: Frank Wu and Rick O'Donnell from the Committee would each like to say something, and then we will take some questions or comments from the audience.

Okay.

MR. WU: I just wanted to say thanks for the changes to how we will do things, and I wonder if you could speak a little more to that? What is NACIQI's role in this vision? How do we add value and do something useful for the Department and for

everyone gathered here?

DR. KANTER: Yeah. I mean I would say you're already playing a critical role in doing those focus, you know, having the focused program reviews come here and deciding the quality and worth of our regional and national accreditors.

You play a huge role in that. You also, in my view, play a policy role. You have proposed the recommendations you did, the minority report that you had, that's tremendously valuable for us in terms of policy advice from a very diverse Committee. You're already convened by the House and the Senate and the Secretary. I mean what could be better for us than have you be a model of the kind of interaction that we're hoping to really model with States, with the Federal government, and with the diversity of institutions.

So in that I see the policy role being something that you could undertake and think about as a Committee. How could you add value to the Higher Education Reauthorization? How could you build on the ideas that are here in the report you

gave us? We're certainly reading the report, certainly have come up with this way forward, as I said, as 1.0 version, but looking forward to more conversation and more work from NACIQI.

I know some of you, you have a big commitment to be on this Committee, and it is very important to us. So I hope that helps, Frank, with a little bit.

MR. O'DONNELL: Martha, thank you for being here today, and I've heard you talk about a three-legged stool and the Committee's report, a triad, but it strikes me that maybe one of the most important components of this has been locked out of those, and that is students, and that should we think of a square or a chair?

I was the State Higher ED Chief in Colorado when we redid all of our education funding, and we were putting in place a voucher, and we had huge debates about what criteria, if any, should be in place for students to receive State funding? Should they have been required to complete a four-year college preparatory

curriculum? Should they be required--how long should they get the funding?

And so my question is have you and the administration thought about in terms of the \$172 billion of Federal funding, should there be underwriting standards for loans that students should meet? Should it be Pell grants have requirements beyond income that students should have to meet because it seems to me that whether we're asking institutions or accrediting bodies to tackle issues around completion, student success, dropout rates, a lot of that flows to the fact that students may not be prepared for college.

We could blame the K-12 system or whoever, and while access is still extremely important, my question is, is there, are we asking institutions whether they be accreditors or colleges to do things that really we should be asking the students to take some personal responsibility for?

DR. KANTER: Yeah, I think just thinking about this research that came out of MDRC--they're a research think tank--they did a multi-year study

of pay for performance and Pell grants. And one of their findings, they did it in a bunch of community colleges, and they found that if students got a multiple distribution of a grant, that they wouldn't spend it in that first month. That the behavior, the spending behavior was better because they had a better system in place for the students that were in this study.

It's one study, not a whole lot of research. But it's starting to build an evidence base of some possibilities, and I'm not recommending this. It wouldn't be my role. It is my role--I really see it--is to understand as much research as we can and build an evidence base that will result in changes that Congress ultimately would want to make with the President. So we want to put forward proposals that are going to be helpful to move the needle on the outcomes, and that's really the goal.

So can we look at the research? I just looked at 20 different studies that were funded on redesigning Federal student aid. There's

tremendous amount of studies coming out now. Are some of them well researched? Yeah. Are others not? Yeah. So would love the think tanks and the research community to come forward and say what is the best of the best in all this research to be able to have a path forward so that we could tackle better outcomes?

I really see the Federal role as being focused on students first and better outcomes for all, and then building the evidence base to say we should do this, this and this. Should we experiment in a short-term phase, but, you know, people like me now have a very long view. I didn't have a long view before I came into this position four years ago. I think this kind of thing takes four to eight to 12 years to really execute.

We're seeing that in the K-12 conversations. So we've got to be really smart, but, yeah, all those things we can do a better job. I've been reading a lot of research about effort. How do you get students engaged? And what's the institutional responsibility? What if there is no

family?

It was amazing to me when you drill down into the fact that we've got more students in college today, we had 100 percent increase in students from families earning \$10,000 or less. But when you look at the support for those students and what they may need in terms of financial literacy help--I was at the University of Wisconsin-Milwaukee. They've just put in a financial literacy component for all freshmen. What they were finding was that the students weren't coming in with understanding what kind of a loan they were taking, what the grants would do for them, or even in the second or third year, reapplying for the resources they had.

We see it with veterans. Underutilization of benefits. We've got a million veterans coming back. We need to educate a million teachers. We've got a tremendous responsibility in this. So would love to get some help thinking about how do we amalgamate the research? How do we get those meta-analyses? How do work with the Institute for

Education Sciences and the research universities and the think tanks to say these are the things we could do in a way that people will have the diversity of opportunity to implement? And that's very hard. But look forward to that.

CHAIRPERSON STUDLEY: Anne Neal had a question or comment, and then I know that you have a hard stop in no more than ten minutes, and I would really like to honor our invitation to the audience. Anne.

MS. NEAL: I'll go very quickly. I want to say thank you for your passion and your energy. I'm very excited by your promise that there will be more data made more available to NACIQI.

If I may just put in two immediate requests because we talked about it a little bit today. I think it's been a frustration to know what university accreditors have--what actions have they taken; under what sections have they taken them; have they closed schools; have they not closed schools?

That would be immensely helpful I think in

having the big picture for those of us so that we could see accreditors are doing.

I'd also love if it could be more transparent. I know you all determine financial stability and have an acid test on the financial aspect of these schools, and periodically there's a list of these in The Chronicle. I'd love to know, to have a standard list, what are these schools? Are they closed down? What happens to them after they're put on the list?

I think that could be immensely helpful because I know a number of us, and it was reflected in the minority report, feel that in the course of the regime of accreditation, we have tests like the National Assessment of Adult Literacy or Academically Adrift, which would certainly suggest that during this regime, quality has not been improving.

In fact, there are some major quality challenges, and I think in order to assess the success of the existing system, having this evidence-based data would be immensely helpful.

DR. KANTER: So I will say I will go back with Kay and her team. We'll get a letter back to Julienne about what we have and what we don't have. And I think to convene a future conversation with you about what kinds of things do you really want, and is it feasible for the Federal government to get them? Are we invading privacy or not? Is it public information or not? Is it available data that we can make better use of like we're trying to do with the Scorecard effort?

Or is it not available and why? Because I think just that transparency around the kinds of questions you have will be very important to moving forward.

CHAIRPERSON STUDLEY: In our report, one of the things that we touched on that we want to follow up about is understanding the universe of institutions and programs approved by each accreditor. That is information that the Department has. I think the first item that you described might be more challenging as well. It's not necessarily maintained.

Can I see some hands of who in the audience is interested in--Bernie? Briefly since I'd like to see if anyone else has to chance to.

DR. FRYSHMAN: Thank you very much for your comments.

I was very encouraged by the culture of experimentation that you were talking about. We've made many, many mistakes in the past, and the accreditors and schools have suffered. For example, in this quantitative measurements of learning, I hope that in the future, we will be very, very careful to look at structured experimentations to scientific standards, not just research proposals or research efforts, but real experimentation, pilot programs before actions actually take place and are imposed on American education.

I would also suggest respectfully that the conversation be broadened. As valuable as NACIQI group is, and the report was, it seems to me that there is a great big resource out there of at least two million faculty members and tens of millions of

students, as was mentioned earlier, who should be invited to be part of a structured conversation.

I thank you very much for your comments.

DR. KANTER: Yeah. We do look forward to structured conversations with many, many stakeholders, and that will be faculty and that will be institutional leaders. That will be public and private sector representatives. That will be places like Chambers and organizations that have a stake. Everyone in this country should hopefully have a stake in American higher education because it is so essential to our future.

And I do ask for thought leadership in building the evidence base. That is really a challenge for us, and so why haven't we tackled the number of underprepared students in this country? Are there things that we already know from the research that we should be doing to get more students ready at the college level so that they can succeed in American higher education?

I mean there are questions that are going to involve K-12 and community partners and look

forward to very broad but deep conversations about these issues so appreciate this.

I also know that it's hard to do anything, and you can research things forever, and so we also want to move forward with the things that we feel confident we can do, and so I will say you can study things forever, and I have tons of reports like everybody in this audience, of well-documented, scientifically-based studies that never got the light of day.

So I do think we have to balance with the best of what we can learn with moving forward because we're leaving too many people behind and we can't afford that as a country.

DR. FRYSHMAN: Thank you.

CHAIRPERSON STUDLEY: Are there other comments or questions?

DR. ZLOTLOW: Hi. I'm Susan Zlotlow. I always follow Bernie. My question is there is a piece that for me is missing, and a lot of that is--there are a number of us in the room who are specialized and professional accreditors. And we

really focus on the graduate level, and I haven't really heard anything about graduate education, and there has been a history in the last couple of years of even cutting out loans for students in graduate education.

And so I don't know if it's a systematic view of first we're going to look at K through 12, then two-year, then four-year, but right now there are a number of graduate students with increasing debt who are interested in serving the broader society who are having problems doing that, and, again, I didn't hear anything about those of us who are specialized and professional accreditors.

DR. KANTER: Yeah. Hopefully, my remarks about all--I think there are 70 national accreditors and seven regional accreditors, maybe there is 71. Six--I thought we had--eight--eight. What's the answer? Multiple commissions.

DR. ZLOTLOW: It depends how you count.

DR. KANTER: Okay.

[Laughter.]

DR. KANTER: I've always said seven. So

that's between six and eight. But when we talk about cradle to career, and I always had an "s" to "career" because I know we're training students for five to ten jobs in a lifetime, and they're going to have to come back and get different degrees and different levels of training throughout their lifetime. So the graduate programs are critically important, and the national accreditors of graduate programs play a huge role for us in this whole panoply of accreditors.

And so when I talk about the diversity of accreditors and the diversity of institutions, and all the way up and down the ladder, Arne Duncan and I, we're thinking about the entire pre-K through 20, and beyond, because people are going to have to continue to get advanced degrees.

And so even in our metrics, and I do think we need to think about this, actually completing a program of graduate study should be a relevant outcome for an undergraduate education, as well as getting a second or third or fourth job. So I do want to engage with the graduate programs, look

forward to working with the accreditors and the accrediting agencies and the door is open and welcome that conversation.

CHAIRPERSON STUDLEY: I know that we could continue and I also know that we will continue this conversation and the Department's thinking about all three of those levels that Martha talked about, from the administrative improvements that can build on this important focused review work, that Kay and the staff have led and brought forward to us, to the regulatory and statutory changes.

So my task now is simply to thank you, Martha, for being with us, but more important to thank you for your incredible devotion to students and for keeping students first. I can't imagine anybody better to be doing this work of integration and bringing your imagination, your passion, your wisdom, and your pragmatism to the job of integrating values, big ideas, and real people into good sense. So thank you very much.

DR. KANTER: Thank you very much. Thank you.

[Applause.]

CHAIRPERSON STUDLEY: We will have a little bit of chair shifting. We will let the Under Secretary and her staff go, but we will pick up in just about two minutes. Do not go far, but feel free to stretch your legs.

[Whereupon, a short break was taken.]

ASSOCIATION OF ADVANCED RABBINICAL AND
TALMUDIC SCHOOLS [AARTS]

CHAIRPERSON STUDLEY: Would you please take your seats? We're going to reconvene. Thank you very much.

We are now on to our next organization, the Association of Advanced Rabbinical and Talmudic Schools, and the primary readers for this are Susan Phillips and Bill Pepicello, and Susan, are you doing this?

DR. PHILLIPS: Yes.

CHAIRPERSON STUDLEY: Thank you.

DR. PHILLIPS: Okay. So the Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission, also known as AARTS, accredits advanced rabbinical and Talmudic institutions that grant postsecondary degrees such as baccalaureate, master's, doctorate, first rabbinic and first Talmudic degrees.

71 institutions are currently accredited or preaccredited. The agency's recognition enables its institutions to establish eligibility to

receive Federal student assistance funding under Title IV. The agency serves as the Title IV gatekeeper for almost all of the institutions it accredits. Consequently, the agency must meet the Secretary's separate and independent requirements.

Its recognition history. It is a national institutional accreditor. The scope of recognition is for the accreditation and preaccreditation of advanced rabbinical and Talmudic schools. It was first added to the list of nationally recognized accreditation agencies in 1974, and since that time, the Secretary has periodically reviewed the agency and has granted continued recognition.

The last full review of AARTS took place at the May 2007 meeting of NACIQI. After that review, the Secretary renewed the agency's recognition for five years and requested a report on the agency compliance with four criteria. That report was subsequently accepted by the Secretary.

In conjunction with the current review of the agency's petition and supporting documentation, Department staff observed an on-site evaluation

conducted by the agency in Far Rockaway, New York, in January 2013, and the Department has received no third-party comments in connection with the agency's petition for continued recognition.

CHAIRPERSON STUDLEY: Thank you very much.

Would you, please, Steve, give us the staff report? Thank you.

MR. PORCELLI: Good afternoon. I am Steve Porcelli of the Department's Accreditation staff.

The staff recommendation to the Senior Department Official regarding the Association of Advanced Rabbinical and Talmudic Schools, or AARTS, is to continue the agency's current recognition and 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 report.

The staff recommendation is based on our review of the agency's petition, supporting documentation, and observation of an AARTS on-site evaluation.

Our review of the agency's petition found

that AARTS is substantially in compliance with the Criteria for Recognition. However, there are a few issues that the agency needs to address.

In summary, AARTS needs to examine its policies and/or practices to ensure that its institutions have a reasonable period of time to respond; that enforcement actions consistently fall within the maximum timelines; and that extensions for good cause are explained; that substantive change reviews are thoroughly documented; that the agency's processing of appeals meets all requirements; and last, that the public is notified within 24 hours of final adverse decisions.

Therefore, as stated earlier, we are recommending that the Senior Department Official continue the agency's current recognition and 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 report.

And there are representatives of the agency here today, and I'd be happy to answer your

questions.

Thank you.

CHAIRPERSON STUDLEY: Thank you very much.
Susan.

DR. PHILLIPS: A question that I would pose to you as the staff analyst on this case is a 60,000 foot one, and that is are you worried about the quality of education that is going on in the institutions that are recognized by this agency?

MR. PORCELLI: No, not at all. No.

DR. PHILLIPS: Thank you.

CHAIRPERSON STUDLEY: Does anyone else have any questions for Steve at this point? Thank you.

Then let's hear from the agency representatives, and we'll take it from there.

DR. FRYSHMAN: Thank you.

My name is Bernard Fryshman. I'm the Executive Vice President of the Association of the Advanced Rabbinical and Talmudic Schools Accrediting Association. With me is my Associate Director, Dr. Professor Keith Sharfman.

I'll be brief. I think the report and the findings were fair, incisive, and helpful. We are prepared to make the accommodations and the modifications necessary to remain in full compliance, and we appreciate the year that we'll been getting to do so.

Thank you.

CHAIRPERSON STUDLEY: Well, that was certainly to the point.

[Laughter.]

CHAIRPERSON STUDLEY: Thank you very much.

Any Committee members have questions for the agency representatives? Susan.

DR. PHILLIPS: My sense is that this is an instance where if we were to fast-forward to the expedited 25 criterion review, you would have sped forward to the top of the class. As we are in the 93 criterion review stage, what I wanted is to comment in looking at the analysis and looking at the evidence that there are all of perhaps seven, maybe eight--

DR. FRYSHMAN: Seven.

DR. PHILLIPS: --seven things that need to be done. Four of them are things that require just another piece of paper, and three of them entail a discussion with your accreditation community.

Taken together, it sizes up to a 92 percent pass rate, if you take all of the items, and I wanted to compliment you on having achieved an outstanding score.

DR. FRYSHMAN: Thank you.

[Laughter.]

DR. FRYSHMAN: I'm not saying a word.

CHAIRPERSON STUDLEY: It's lovely to see us enjoying our accreditation review process. Any other questions?

DR. PHILLIPS: I would advance a motion that the NACIQI recommend that the AARTS recognition be continued to permit the agency an opportunity to within 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.

DR. FRENCH: Second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Okay. The first second I heard was George. I know the notekeepers try and distinguish that. The motion has been made and seconded. Is there any discussion among Committee members about the motion before you?

All in favor please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Opposed?

[No response.]

CHAIRPERSON STUDLEY: Thank you very much. We appreciate it.

Before you go--

DR. FRYSHMAN: Yes.

CHAIRPERSON STUDLEY: --the three questions. I know it's usually four, but three questions. If you have any interest in sharing any thoughts with us now, we would welcome them, and if

not, we'd be happy to take them in another time.

DR. FRYSHMAN: I'll write to you.

CHAIRPERSON STUDLEY: Thank you very much.

DR. FRYSHMAN: Thank you.

CHAIRPERSON STUDLEY: Appreciate it.

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AMERICAN DENTAL ASSOCIATION,
COMMISSION ON DENTAL ACCREDITATION [CODA]

CHAIRPERSON STUDLEY: Let's keep rolling and not take a break right at this time. The next agency before us is the American Dental Association, Committee on Dental Accreditation.

MR. WU: So let me pull out my notes here. This is a programmatic accreditor, hence not subject to the separate and independent proviso.

They were last here in June 2012. There is no change in scope. They accredit predoctoral dental education programs that lead to the D.D.S. or D.M.D., advanced dental education, and allied dental programs, and there are 1,450 programs they accredit in 21 areas. This affects P-H-S-A eligibility. That's the Federal Public Health Service Act. So even though it doesn't affect Title IV, it does affect eligibility for participation in P-H-S-A.

I would bring to your attention just one issue that was raised. It didn't seem to me that there were significant issues, but one that I'm

sure we'll hear a little bit more on, there was a third-party that submitted written comments. That is the A-D-H-A, the American Dental Hygienists' Association, which believes that this organization is too heavily controlled by dentists and not representative enough of dental hygienists, and therefore favors dentists in decision-making to the detriment of dental hygienists.

Staff has indicated that consideration of the issue of how commissioners are appointed is beyond the scope of NACIQI's work, and I don't have any reason to doubt that understanding. So although this was raised, it appears to be beyond our charge.

CHAIRPERSON STUDLEY: Dr. Bounds, would you like to make the staff report?

DR. BOUNDS: Yes.

CHAIRPERSON STUDLEY: Thank you.

DR. BOUNDS: Yes. Good afternoon, Madam Chair and Committee members. My name is Herman Bounds, and I will be providing a brief summary of the compliance report for the Commission on Dental

Accreditation, or CODA.

The staff recommendation to the Senior Department Official is to renew the agency's recognition for a period of four years. The recommendation is based on our review of CODA's compliance report and supporting documentation.

The agency has addressed each of the three compliance issues. There was a third-party comment, as acknowledged, and a brief summary has basically already been given. So this then concludes my presentation. And I think agency officials are here today.

CHAIRPERSON STUDLEY: Do any Committee members have any questions for the staff at this point? Thank you very much. Appreciate it.

Would the staff representatives for CODA please come forward and introduce yourselves? You may begin.

DR. KNOERNSCHILD: Good afternoon. I'm Kent Knoernschild. I am the Chair for the Commission on Dental Accreditation.

DR. TOOKS: Sherin Tooks, Director of the

Commission on Dental Accreditation.

MS. ALBRECHT: And Cathryn Albrecht, CODA Legal Liaison.

CHAIRPERSON STUDLEY: Thank you.

DR. KNOERNSCHILD: I'd like to thank you for the opportunity to appear before the Committee regarding the ongoing recognition of the Commission on Dental Accreditation. Thank you also for the thorough review and thorough analysis of the documentation we submitted for evaluation.

As was said a moment ago, CODA appeared before NACIQI last June. And the three standards that at that time you indicated needed further attention had already been addressed by CODA at that time. We described then how the Committee was moving--excuse me--how the Commission was moving into compliance.

So we are now before you, again ahead of schedule, as our documentation submission deadline is actually August 2013. So thank you for the opportunity to be before you today in an expeditious way.

This is one example of how the Commission and its volunteers take the accreditation process very seriously to facilitate ongoing learning, ongoing program assessment, ongoing student achievement, and quality improvement.

There are 1,453 dental and allied dental programs that represent 20 specific special interest areas. So obviously the decisions we're making and the decisions that you're helping us to are supporting the public in a very broad way.

So thank you for your support and thank you for the review process, and we'd be happy to answer any questions you might have.

CHAIRPERSON STUDLEY: Thank you.

Committee members, do you have questions for this agency? I guess I'd like to ask my by now standard question about the application of student learning outcome measures. Just what was challenging for you in this and what was most effective, as you did it in these most recent years and cycles? Thank you.

DR. KNOERNSCHILD: We're all in some way

able to discuss that in some detail. I can tell you that every program has their own outcome measures that we look at specifically for a student learning and achievement level, and obviously there are program measures that are looked at upon a larger institutional level, and each of those things are based upon assuring in the long run that by individual achievements by academic year and by achievements throughout the entire program, ongoing improvement of that program can be made.

So depending upon the program--as I mentioned a moment ago, there are 20 different areas in which we're accrediting--and depending upon the program, those outcome measures may be different in the more specific sense, but they're all met for improvement.

DR. TOOKS: If I could add to that that as part of the response report that you have before you, we actually took the input from staff to heart. Our site visitors, while on site, were looking at these sorts of data to assess student achievement and programmatic review, and we thought

that we had good documentation in our site visit reports, but we've actually enhanced training of our site visitors and also incorporated additional content areas in the report forms that they complete to just ensure that they more accurately and in a more detailed fashion provide that information to the programs, and then the programs receive that in their site visit reports.

And it's a way that we can historically track that information as well. So we felt that we were doing it, but we certainly have enhanced that process, both through the information that we ask of the programs in their own analysis as well as through the site visitors conducting the review and more clearly delineating those key factors in their report.

CHAIRPERSON STUDLEY: Jill.

DR. DERBY: I understand from Frank that the composition of your Commission isn't a part of our purview, but I'm curious in your site visits if you have, for instance, visiting dental hygiene programs, if you have dental hygienists that are

part of those site visits and the other allied professional visits as well?

DR. TOOKS: Absolutely.

DR. KNOERNSCHILD: Yes.

DR. TOOKS: In each of our site visit team compositions, it is truly a peer-review process. We have dental hygienists attending--dental hygiene site visitors. We have prosthodontists attending--prosthodontic site visitors. In areas where we're combining the review of multiple programs in one site visit, we will have appropriate representation of each of those disciplines as the reviewer.

DR. DERBY: Thank you.

CHAIRPERSON STUDLEY: Anne.

MS. NEAL: To follow up on that, it appears that the hygienists have a particular desire to have greater representation because my sense is that they fear that various programs are being privileged over theirs given the composition.

Is there a particular reason you're opposed to increasing the number of dental hygienists on your Commission?

DR. KNOERNSCHILD: The composition of the Committee is really based upon expertise. We're drawing from expertise from all of those areas to come to conclusions that benefit everyone, and each of the areas from which there are special interests, if you will, all have individual and equal say in what those kinds of things might be.

So it's been the composition. It's been a part of our policy and procedures, and it's worked very well for us, and that's why we've continued to do that.

DR. TOOKS: I would add to that, if we could, that we currently have a 30-member Commission. It's rather large, and we do have one representative from each discipline of dentistry. This was reviewed by our Quality Assurance and Strategic Planning Committee, and they had quite a rigorous discussion on this as did the Commission when that quality assurance report was submitted to them, and they believed that the way that the Commission currently operates, it's working well, and dental hygiene has not been discriminated

against in any way with regard to Commission activity.

In fact, the Commission just recently allowed the Dental Hygiene Review Committee, the subcommittee, to add two additional content experts which now takes the number of content experts above the number of other individuals such as dentists and public members.

So their requests are being considered, and in that particular case, with the addition of another Commissioner, the same might be true for dental assisting as well as graduate general dentistry that also have the same number of programs accredited, and the Commission just believed at this present time that the work of the Commission is being accomplished, and that everybody has a fair and equal voice.

CHAIRPERSON STUDLEY: We do have two third-party, two representatives of a third-party that would like to speak, and that may be helpful to the conversation that you've teed up. Are there any questions at this time for the agency

representatives on other than the dental hygienist comments that Frank started us off with? We'll have the opportunity to ask those kinds of questions as well in a moment.

If you wouldn't mind stepping aside so that we can hear from Dr. Bowers and Ms. Steinbach from the American Dental Hygienists' Association.

Thank you very much.

Thank you. If you would introduce yourselves, and we appreciate your participation.

DR. BOWERS: Good afternoon, Madam Chair and members of the Committee. My name is Denise Bowers.

MS. STEINBACH: Good afternoon. My name is Pam Steinbach. I'm the Director of Education and Research for the American Dental Hygienist Association.

DR. BOWERS: I'm a licensed dental hygienist and Dental Hygiene Program Director at Rhodes State College. I have a Ph.D. in higher education, and in 19 days I will be installed as President of the American Dental Hygienists'

Association. But who's counting; right?

[Laughter.]

DR. BOWERS: On behalf of ADHA, thank you for the opportunity to provide oral comments related to the petition for renewal of recognition by the American Dental Association Commission on Dental Accreditation.

The ADHA has long been concerned that the integrity of the CODA decision and policymaking activities have been compromised by overt influence of affiliated dental organizations. In fact, ADHA submitted formal requests to the Commission in 1984 and again in 2007 requesting an increase in dental hygiene representation. Both of those requests were denied.

With the proliferation of dental hygiene education programs and programs preparing alternative workforce providers, we are strongly recommending an increase in dental hygiene representation to CODA in an effort to ensure fair representation of the dental hygiene educational programs and to improve the integrity of the

accreditation decision-making processes.

Dental hygiene is one of the few professions that are regulated by another profession and simultaneously employed and salaried by that same profession. The situation inherently creates concerns from a political as well as an economic standpoint.

A conflict of interest seems apparent given the financial control that dentists have over dental hygienists whom they typically employ.

Last year, the ADHA submitted a letter to CODA asking the Commission on Dental Accreditation to increase the number of ADHA's appointed dental hygienists to the Commission. We believe that the current representation of the accredited dental hygiene programs by one ADHA-appointed commissioner on the 30-member Commission does not adequately depict a fair and balanced representation of the 335 accredited dental hygiene programs, especially when these programs make up nearly 23 percent of the total volume of CODA-accredited dental and allied dental programs.

The Commission referred ADHA's request to its Standing Committee on Quality Assurance and Strategic Planning. During its January 25, 2013 meeting, the Committee did conclude that the allied dental disciplines were well represented on the Commission. Thus, the Committee recommended that the Commission not add additional allied dental education commissioners to CODA.

The Committee also noted that any change or revisions and amendments to membership on the Board of Commissioners would require review and approval by the ADA House of Delegates.

According to the United States Department of Education's Procedures and Criteria for Recognition of Accrediting Agencies, each accreditation agency must have policies and procedures in place to ensure that the organization makes objective decisions. These decisions must be based on reliable information that accords procedural due process to the accredited programs and does not exhibit partiality or behavior that leads to potential improprieties that impugn the

integrity of the accrediting process.

It is our understanding that the ADA House of Delegates has the final approval for any restructuring proposal regarding representation on the CODA governing body. This provides further evidence of bias and undue influence of the dental membership organization.

Another example demonstrating CODA's limitations on the advancement of dental hygiene education is their recent decision to develop draft accreditation standards for a non-dental-hygiene-based dental therapy track but not to draft accreditation standards for dental-hygiene-based dental therapy track despite the fact that both standards were requested.

ADHA and the dental hygiene profession believe that accreditation standards need to be developed to accurately reflect all dental and dental-related programs, practice and laws.

The ADHA and its members appreciate the complexity and value of the accreditation process and its importance to education. However, the

conditions that surround the structure and processes of the current CODA policymaking body and the minimal input that the dental hygiene profession has into decisions that directly impact accreditation policy and ultimately the opportunity for advancement of the dental hygiene profession raises concerns for the profession.

ADHA is the largest national organization representing the professional interests of more than 150,000 licensed dental hygienists across the country. In order to become licensed, a dental hygienist, an individual must graduate from an accredited dental hygiene education program and successfully complete a national written and a State or regional board exam.

Dental hygienists are primary care providers of oral health services and are licensed in each of the 50 States. Hygienists are committed to improving the nation's oral health, a fundamental part of overall health and general well-being.

Thank you so much for the opportunity to

share ADHA's commitment to increasing quality oral health care.

CHAIRPERSON STUDLEY: Thank you very much.

I have one quick technical question. You said that the dental hygiene programs are 23 percent of the total volume of CODA accredited programs.

DR. BOWERS: Correct.

CHAIRPERSON STUDLEY: Is that by programs or enrollment in the schools? So about a quarter of the programs they review are hygiene programs, dental hygiene programs?

DR. BOWERS: 335 out of I believe 1,440 or so are dental hygiene programs.

CHAIRPERSON STUDLEY: Okay. Art Keiser is up first, and Larry and Rick and Frank.

DR. KEISER: Well, first, you're suggesting that the integrity of the process is in question?

DR. BOWERS: Correct. Because of--

DR. KEISER: And are there examples where the integrity of the accrediting actions have

demonstrated that the institutions being accredited are not of quality?

DR. BOWERS: No, I don't think our issue is with the accreditation process per se. The accreditation standards and process that dental hygiene programs go through is fine. It's the decisions that are made regarding things like, the latest thing was dental hygiene diagnosis, dental hygiene treatment planning.

DR. KEISER: That's a more of a political process, not based on accreditation actions; is that accurate then?

MS. STEINBACH: Yeah. I would say it's more of a concern about the decision-making at the Commission governing body level, not the institutional.

DR. KEISER: So why do the hygienists stay under the CODA umbrella, where in the allied health areas, radiography, all the others, have created their own commissions that effectively represent their professions? Why do you stay under the CODA umbrella.

DR. BOWERS: We always have.

MS. STEINBACH: Well, the dental hygiene accreditation program has historically been in association with the ADA. That is certainly something that the American Dental Hygienists Association has looked at. One of the challenges with respect to that is that currently 41 State licensing acts require that it be a CODA-accredited dental hygiene program in order for the dental hygienists to become licensed.

So it's a State licensure challenge with respect to changing 41 State licenses if we were to try to go to an alternate accrediting program, establish a new accreditation program, et cetera.

DR. KEISER: But from a standpoint of coming to us and telling us that the process doesn't have integrity, if we were to take that, we would then suggest that the Commission would lose its recognition, which would then lose all the recognition for the hygienist schools, at which point you'd be in a bigger problem than--if we follow through what you suggest we should do. Is

that your intention?

DR. BOWERS: No, I think our intention is to bring the fact and the issue to the forefront. It's not the accreditation process per se because we've done a survey of the dental hygiene program directors across the nation, and the majority of them don't have a problem with the accreditation process, with CODA's process.

It's the lack of dental hygiene input on the decisions that are made that affect the dental hygiene profession.

DR. KEISER: That's what I figured, but what you're dealing with here is I think you may be at the wrong place because what you're doing is using a nuclear weapon to attack a political problem. We have a standard that the commissions must act with integrity. That's a very critical standard that we have.

If you're suggesting that the Commission does not act with integrity, that potentially would affect their recognition, which would affect the recognition of all the hygienist schools, all the

dental assistant schools, all the dental technology schools, and is that what you want to do?

DR. BOWERS: No, that is not our intent.

DR. KEISER: Okay. Thank you.

CHAIRPERSON STUDLEY: Larry and then Frank.

DR. VANDERHOEF: Well, this may be answered, but I'm going to make the assumption that it is your strong feeling that there is proactive unfair treatment that's going on, proactive and unfair. And I don't see the incentive. What's the incentive? Why would somebody do that? I mean we've just heard good reason why that would be a stupid behavior, and why do you think that somebody would do that?

DR. BOWERS: That's a good question. We--

DR. VANDERHOEF: But you do?

DR. BOWERS: There have been over the years decisions, as I alluded to, that have been made that affect the dental hygiene profession, but the dental hygiene profession has minimal or little means of preventing it. And we think it's

primarily due to the lack of representation. When you have one appointed dental hygiene commissioner to a 30-member board, and it goes the same for the dental assistants as well as the dental lab technicians. They each have one commissioner.

So when decisions are before the Commission that affect the dental hygiene profession, our input is not generally considered, and decisions are made that dramatically affect the dental hygiene education curriculum and the dental hygiene profession that we have very little, if any, say in.

CHAIRPERSON STUDLEY: Frank.

MR. WU: This isn't so much a question as a comment or question to all of us as NACIQI members. I think the changes to how we do business are really good because they eliminate some of the focus on details that don't seem to be related to the quality of higher education. So that's half the issue.

The other half, I think, is there are issues that we would like to talk about that aren't

actually technically in any of the authorizing language that constitutes this body or the regs.

So I'm going to make a comment that will seem contradictory and that's why it's a question. Which of these two views is appropriate? I go back and forth. On the one hand, third-party commentators sometimes come before us and raise different issues, not this particular third-party commentator, but others, about a school that they have in mind or once or twice someone has come and there's an issue related to a specific student that they wanted to present.

So, on the one hand, I think to myself, gee, I wish I could step out of this role and go and offer this person advice and counsel. You're just in the wrong place. You're barking up the wrong tree. This is not the group of people to talk to about the issue that you have.

On the other hand, I am open to this sort of colloquy that we're having here in this instance. I think it's appropriate for us at least to listen to the third-party commentator, to ask

questions, to engage the issue, perhaps even to ask whether or not this agency could or should do something a little different, and to ask the agency officials some questions.

The reason I think it's appropriate is because otherwise there would be no place for these issues to be raised. So I pose a question to the NACIQI members, which is what do we think is appropriate conduct and perhaps also to the Department of ED folks who do this on a daily basis, and if we stray, which we do from time to time, not just here but there are questions that are asked in various agencies that maybe exceed the most narrow reading of our charge.

And then an observation about this particular third-party comment. Like many of the commentators who come before us, I think there's a whole lot of stuff not related directly to accreditation in the background that may be at play here that clearly are outside the scope of our work such as the relationship of dentists to dental hygienists, et cetera. And so sometimes third-

party commentators come to us because they find a particular way to express their concern about a much bigger, more abstract set of issues, and that is to try to influence the accrediting authority of a body.

So it's a question for us. What do we do when these third-party issues arise that may be next to but aren't directly inside our jurisdiction?

CHAIRPERSON STUDLEY: Federico, Arthur, Anne.

DR. ZARAGOZA: Before I get to Frank's point, though, I had a couple of questions. Obviously, there has been a framework established, but I am also concerned that there are the appropriate processes within the organization, and so I'm going to ask you, is there a grievance process? Have you--what have you done internally within the organization to address some of the points that you're bringing before this body?

DR. BOWERS: Well, like I alluded to in my testimony, we have spoken directly with the

Commission and requested more representation of dental hygienists on the Commission. We've now done that three times, and we've presented reasons for those requests, and all three of those have been denied.

I know they alluded to the dental--

DR. ZARAGOZA: Help me understand that a little bit better. Did you petition it through an administrative route? Was it part of an organizational grievance process? Help me just understand what's in place already within the organization that you've utilized to address the issue, or was this basically, you know, basically an administrative request to the administration as opposed to--

MS. STEINBACH: Yes, right. That's correct. Letters written to the Director of CODA.

DR. BOWERS: From ADHA.

DR. ZARAGOZA: Are there other remedies within CODA?

DR. BOWERS: Not that I know of.

MS. STEINBACH: Not that I know of. I

would ask CODA regarding that. Other than, you know, what the latest example was that it was referred.

DR. ZARAGOZA: It was the third time. I would like to do just that.

CHAIRPERSON STUDLEY: Art.

DR. KEISER: I think I'd like to address Frank's question. I think I'm probably one of the more senior members on the Committee. We have dealt with similar situations, the most prominent, of course, are the chiropractic groups that every time, every five years, we get an earful of the differences between the two political structures within chiropractic education and practice.

So there are times we become that sounding board, and it's appropriate because that's what our requirement is, to listen, but we do need to follow our policies, and again we should not be putting in our own personal questions or concerns other than as it relates to the standards, in my mind. I think that's our charge.

MS. NEAL: Well, I'm inclined to feel that

it is an appropriate forum for this kind of consideration, and I want to ask, go back and ask you a question again because I think in all due deference to Arthur, I mean his suggestion basically was that CODA is too big to fail. You certainly don't mean to deny Federal financial aid to hygienists, and I'm sure that's not what you want to do.

DR. BOWERS: Right.

MS. NEAL: But what I want to ask is are you suggesting that the failure to listen to the dental hygienists who, for instance, as you've said, have wanted to see a dental hygiene track dental therapy program, but have had that denied. Do you feel that your inability to be heard, if you will, is compromising the standards and thereby compromising the ability of the accreditor to be a guarantor of educational quality in the field?

MS. STEINBACH: I think that our concern is not necessarily, and again it goes with the feedback that we have gotten when we have surveyed our educators, the dental hygiene educators who are

members, the program directors, they're not, they have no concern with the quality of the standards. The review process, as Dr. Tooks had indicated, is done by a peer review group that does include dental hygienists. So it is not--what our members are telling us is it's not the process.

The accreditation process is sound. They do, however, have a strong opinion that we don't have enough dental hygienists, given the number of dental hygiene programs, at the Commission table when they're making policy decisions.

The Dental Hygiene Review Committee does have dental hygienists. They did just increase. We were very grateful that we have an increased number on the Dental Hygiene Review Committee. But that is the Review Committee. When Review Committee recommendations come to the full Board, they may or may not be followed up on. I mean there have been examples in the past where dental hygiene, for example, wanted to keep a certain thing in the standards, and it was taken out.

So, again, it's at the Commission

governing body level. It is not the process. It's not questioning the integrity or the quality of the education programs.

CHAIRPERSON STUDLEY: Cam.

MR. STAPLES: Could you describe again what the, aside from wanting to be present, could you give some examples again of what is compromised in the process by virtue of the lack of participation at that Commission level? Because, as you said, the review committees have your participation. I'm trying to get my head around I think our only role is whether or not there is something that is compromised in the way those programs are reviewed, and I haven't heard that sufficiently yet.

So could you tell us what is it specifically that would be different or that you are complaining about by virtue of the lack of membership on your Commission?

MS. STEINBACH: Again, it is input into decisions that ultimately affect standards, new standards. The most recent example was the dental

therapy draft standards that are not based on a dental hygiene program when the existing programs are dental hygiene based.

So the perception of the profession is that it's limiting advancing the scope and the role of the dental hygienist.

DR. BOWERS: For instance, Minnesota right now has a dual-track model. They have the non-dental-hygiene-based therapy model and they have the dental-hygiene based. Well, currently, CODA has drafted accreditation standards for the non-dental-hygiene-based model, and Minnesota has requested both standards so that they can move forward with having two accredited programs.

Well, the dental-hygiene-based accreditation standards have not been drafted. So that was one issue. We talked about the dental hygiene diagnosis which is something that is done in every dental office. It has been done in every--it's in Dr. Wilkins "bible" of dental hygiene education, and it's taught--it has been taught in every dental hygiene curriculum. It's just

something that dental hygienists do.

And the Commission decided no, we don't want dental hygienists to be able to do a dental hygiene diagnosis. So with only one representative on the Commission, the arguments that we were making were pretty much insignificant when you have one hygienist on a 30-member Board.

MR. STAPLES: It seems to me some of those issues are scope of practice issues that are State licensure issues and not accreditation issues, and I understand your concern, and it's unfortunate that statutes in 41 States specify one accreditor. I think that's probably not the way it should be drafted at the State level.

But I don't see that as our, as our place, to be honest. I think I agree with Art. I think that's--scope of practice issues are State issues and licensure issues, and that's really the right location for that discussion.

DR. BOWERS: Thank you.

CHAIRPERSON STUDLEY: I have Susan and Frank. Is there anyone else who would like to

speak to this?

DR. PHILLIPS: I just want to follow up on what Cam was saying and make sure I understand it. The concern that you're expressing is the construction of accreditation standards so what does and doesn't get taught, what counts as quality. Are those the things you're concerned, or is it more what dental hygienists are being permitted to do in their practice?

DR. BOWERS: No, it's what is and is not permitted in dental hygiene education, in the programs themselves. We used to, part of the accreditation standards used to say that dental hygiene programs should demonstrate that graduates are competent in dental hygiene diagnosis, treatment planning, evaluation, the whole gamut.

Well, the Commission decided to remove the part of the standard that relates to dental hygiene diagnosis and dental hygiene treatment planning. So that really isn't a scope of practice. It's an accreditation standard that then the dental hygiene programs had to go back and revise their curriculum

to take out the dental hygiene diagnosis and to take out the dental hygiene treatment planning so we were in compliance with the accreditation standards.

DR. PHILLIPS: You couldn't teach it anyway?

DR. BOWERS: No. Not as dental hygiene diagnosis and dental hygiene treatment planning. And as a program director, that was my job to make sure that those--

DR. PHILLIPS: Were gone.

DR. BOWERS: --were gone.

DR. PHILLIPS: So it was a--it is both a scope of practice and an accreditation issue.

DR. BOWERS: Correct.

DR. PHILLIPS: You won't be educated to function in that way?

DR. BOWERS: Correct.

DR. PHILLIPS: Right.

CHAIRPERSON STUDLEY: Frank.

MR. WU: I just wanted to see if I could summarize and bring together these different

threads. So in 80 percent of the jurisdictions, because of the way you enter the profession, there is only one accreditor that can do this work. That's why dental hygienist programs can't go find, at least in most States, some other agency, and it's why they can't create their own agency.

DR. BOWERS: Correct.

MR. WU: Is that right? Okay. And--

CHAIRPERSON STUDLEY: Without a law change.

MR. WU: That's right. Without a law change. So the alternative would be for the dental hygienists to launch an effort in 41 States, get the law changed, and then create their own agency, which explains why they're here because presumably it's easier to attempt this at the Federal level in front of one body than in front of 41 different bodies.

The only catch is we likely don't have any authority to do anything that would bring about the result that you would wish for because there are a variety of ways you can produce the result, and one

route is to produce it by launching campaigns in 41 States. Then it's not just about what dental hygienists can do once they're out in the world.

What you're saying is because an organization that accredits has very few dental hygienists, they're not sympathetic to you, and therefore they will regulate the curriculum and what is authorized to be taught as dental hygienists' work in a way that precludes you from developing the skills so that you could have a wider range of practice. Is that right?

DR. BOWERS: Yes.

MR. WU: You're saying yes; right?

DR. BOWERS: That's correct.

MS. STEINBACH: Exactly.

MR. WU: Okay. So I just want to make sure I understood that. I am not unsympathetic, but I'll just offer my comment. Regrettably, though I believe it was worth having this conversation, I don't think that's anything that this body can do anything about. So that's just my thought.

CHAIRPERSON STUDLEY: Federico and then I have a quick question.

DR. ZARAGOZA: I just want somebody to address the question that I had, which is are there procedures within the organization that address issues like this, including either a grievance or-- I mean what would the mechanism be that was used to address this internally?

CHAIRPERSON STUDLEY: After we finish our questions for these representatives, the agency will come back, and that would be a perfect question to ask the question and, if you want, the staff of NACIQI.

DR. ZARAGOZA: Thank you, Madam Chair.

CHAIRPERSON STUDLEY: Okay. I have a question for you to clarify, and then it's for Kay and Sally or Steve. Did you say that the Commission membership changes have to be approved by the ADA House of Delegates?

DR. BOWERS: Correct.

CHAIRPERSON STUDLEY: So my question for the Accreditation Staff is whether that is a

separate and independent issue or do you understand the facts to be different or is that a standard, a procedure that is acceptable?

MS. GILCHER: They are not subject to the separate and independent requirements because they are not a Title IV gatekeeper, and they're programmatic.

CHAIRPERSON STUDLEY: Thank you. I knew there must be a reason I found that a flag and no one else did, but I didn't know how to ask it. Thank you very much. I appreciate it. Thank you very much for your comments.

Would the agency representatives please come back?

DR. BOWERS: Thank you.

CHAIRPERSON STUDLEY: I think we have some questions for you. Best wishes in your term.

DR. BOWERS: Thank you.

CHAIRPERSON STUDLEY: You're welcome.

Federico, would you like to ask the first question?

DR. ZARAGOZA: Madam Chair, I just want to

understand whether you have procedures internally to deal with the kinds of concerns that have been posed to this group?

DR. TOOKS: We do. First, I ought to inform you as a disclaimer that I actually happen to be a dental hygienist myself with a doctorate in education. And from the Commission perspective, we take this very seriously, in particular with regard to the integrity issue.

As was mentioned, ADHA did present letters to the Commission on differing occasions requesting that an addition be made to the Dental Hygiene Review Committee. Those letters went through the same due process that any other request goes through. It went to the appropriate committee within the Commission, and then ultimately those recommendations were submitted to the Commission as a whole.

The Commission discussed the issues, made determinations, believed in each instance that the current structure satisfied the needs and workload of the Commission, and, in fact, an instance

couldn't be pointed out to you as to where a deficiency would have fallen. So therefore the Commission decided that it was not appropriate to increase the number of dental hygiene commissioners at that time.

As I mentioned, last year, the Commission did increase the number of Review Committee members in dental hygiene, and that was based on a request made by the Dental Hygiene Review Committee related to workforce needs and the workload, rather, of that particular committee, and so that request was reviewed, and it was honored.

CHAIRPERSON STUDLEY: Are there any other questions? I see Jill, Anne. Let's start there. Jill.

DR. DERBY: No. Just quickly, and I don't know that you've spoken specifically to this, but given that 23 percent of the programs that the Commission accredits are dental hygiene programs, did you not weigh that into your consideration of not adding another hygienist to the Commission?

DR. KNOERNSCHILD: There are, again, as I

mentioned previously, there are 20 different special interest groups, all of whom have similar representation. The other situation that's quite similar to this is that there are several other of those groups who have the same numbers of programs that hygiene has.

Dental assisting goes. Advanced general dentistry does. And those programs have similar representations with larger bodies for Review Committee work exactly like hygiene does.

DR. TOOKS: And I might just add to that that the Commission has never in its history based its composition on the number of programs it accredits, and it has satisfied the criteria of this organization in years past, and we believe we continue to satisfy that criteria.

CHAIRPERSON STUDLEY: Anne.

MS. NEAL: Can you tell me why you all chose not to pursue a dental-hygiene-based dental therapy program?

DR. TOOKS: Thank you for the question. It's sort of long story, but I think it merits

discussion at this point. I'll start from the beginning where we received four different communications from groups in Minnesota. They were from the Metropolitan State University, the University of Minnesota School of Dentistry, the Minnesota Board of Dentistry, and the Minnesota Dental Association, related to accrediting dental therapy programs.

At that time, the Commission did not have any criteria for accrediting new areas of allied dental education. So based on their initial requests, CODA decided it needed to develop criteria.

CODA developed those criteria, sent them back out to the community, and then waited for someone to make a formal request based on those specific criteria to develop accreditation standards. Only one of those groups submitted that request, and that was the University of Minnesota, and they made a specific request to accredit a baccalaureate level dental therapy program.

A task force was put together to assess

dental therapy and various State law and legislation. That committee put together a set of standards that they wanted to receive comments on, bearing in mind that this is an initial set of accreditation standards, and there would likely be comment from all different venues and perspectives.

They did base that set of standards on the non-dental-hygiene track because they believed that the criteria within those standards were such that they were actually practicing or they would be taught to a level that a dentist is taught in some instances.

Some of the procedures covered in those educational programs are procedures that predoctoral dental students learn in their training, but bearing in mind that there are different tracks being circulated out there in the legislature and in various States, they did ask the question as to whether or not a dental hygiene track should also be considered, and we're actually currently accepting comment on that.

The door has not closed on a potential

dental hygiene track. But this particular committee, and the Commission concurred with that decision, the committee decided that they wanted to start with the baccalaureate level track. And I would just add that it's still yet to be decided whether this is an allied profession under dental hygiene's purview or whether this is a separate and distinct dental profession equivalent to assisting hygiene and laboratory technology, or possibly under the predoctoral area. We're still waiting on feedback and the development of those standards for the Commission to make that decision.

DR. KNOERNSCHILD: We are looking for input from all the communities of interest, as we do for all of the standards when things are being revised in the same way, and they are not in the point of consideration for implementation because there are criteria still yet to be fulfilled to ensure that we can move forward in that way at some point, and there was at no point a decision to exclude.

There is always a decision to include and

consider. That has not been a part of our discussions whatsoever.

DR. TOOKS: I would also add that at the Commission meeting where this set of standards was being discussed for circulation, the task force had initially suggested to the Commission that an open hearing for comment, for public comment, be conducted at the American Dental Association annual session.

The dental hygiene commissioner requested that open hearing also be conducted at the dental hygiene meeting, and therefore we are conducting-- the Commission felt that there was value in that and decided to put its financial resources into conducting that open hearing at the ADHA meeting as well.

CHAIRPERSON STUDLEY: Any other questions from Committee members? Are there any questions for staff, and does staff want to comment on any of the comments made by the agency or third-party representatives? No. Okay.

In that case, do I hear a motion?

MR. WU: I'll make the standard motion.

CHAIRPERSON STUDLEY: Okay. It's being posted. Is there a second for the motion? Wake up. There's one more to go and a break.

[Laughter.]

DR. KEISER: Second.

CHAIRPERSON STUDLEY: Motion has been made by Frank, seconded by Art Keiser. Is that the full motion? Are there any Committee member comments or discussion on the motion before you?

All in favor, please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Any opposed?

[No response.]

CHAIRPERSON STUDLEY: The motion carries. Thank you very much. Appreciate it.

DR. TOOKS: Thank you.

DR. KNOERNSCHILD: Thank you.

CHAIRPERSON STUDLEY: We have one more agency to go, but I think we've been sitting for a bit of time, so we're going to take a--oh, I apologize. Thank you. George is going to help me.

Dr. Knoernschild--did I come close? I apologize.

DR. KNOERNSCHILD: Yes.

CHAIRPERSON STUDLEY: I forgot to ask if you wanted to--it sounds like you don't want to comment on those broader questions right now.

DR. KNOERNSCHILD: Well, we'll submit them to you.

CHAIRPERSON STUDLEY: You may or you can submit them afterwards. Thank you very much.

DR. KNOERNSCHILD: Thank you.

CHAIRPERSON STUDLEY: We will take a ten-minute break and reconvene for the presentation from the Maryland Board of Nursing.

Thank you.

[Whereupon, a short break was taken.]

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CHAIRPERSON STUDLEY: We're missing some of our Committee members even of our reduced band. So I'm just awaiting--right--Bill and Bill left, but Cam and Frank are still in our midst.

[Pause.]

CHAIRPERSON STUDLEY: Okay. We are returning, and the order of activities right now will be Art Keiser has asked to say something. I want to explain that a couple of people who were here with us have left--Committee members. Bill Armstrong and Bill Pepicello.

I believe Larry is just behind Art. He is here. Okay. Art, and then I have an announcement to make, and then we will move to the Maryland Board of Nursing.

DR. KEISER: Just a comment. We tend to forget about how important it is what we do, and last winter I happened to be involved with an agency that's not recognized by us, that has--it's an allied health agency, and a school in our area closed down, and because that particular agency did not have teach-out regulations or processes, it

ended up that 400 students in a particular allied health modality were left out on the street.

And it's really--we don't realize sometimes these little minutia details that we get into, they do have significant impact on students, and try not to lose sight of that when we go through this every time, that it's important what we do. So that's all I just wanted to say.

CHAIRPERSON STUDLEY: Thank you.

I think that's a useful reminder, especially on a long day where people are providing the very service that you're describing, that there is many reasons that what we do is important.

I'm going to make a short announcement about NACIQI member terms. I'll do this again tomorrow in case there's a different representation of people here.

But as you'll hear in a moment, this will be broadly disseminated through a Federal Register notice. What I want to describe is the process for filling the NACIQI Committee membership positions that will expire September 30, 2013.

As those of you at the table know, and many of the rest of you, the Committee is composed of 18 members, of whom six are appointed by the Secretary of Education, six by the Speaker of the U.S. House of Representatives, three from the Minority Leader of the U.S., and three nominated by the Majority Leader of the U.S. House of Representatives.

And in the case of the Senate, six members, again, appointed by the President pro tempore, three from the majority, three from the minority side.

The terms of the initial members of the Committee were staggered. At the outset, the Secretary's appointments were for three years, that's the term that ends September 2013; the House appointments were for four years, ending September 2014; and the Senate appointments for six, ending September 2016.

Going forward, except for vacancies and the terms of offers for initial members, all terms will be six years. This was one of those

implementation steps to assure that there was some cycling through. Given that the Secretary's six appointments, including the student member, are expiring in September 30, in the next few weeks, the Secretary will publish in the Federal Register a notice soliciting nominations for the six positions. That is a requirement of this process.

The Federal Register notice will describe the process and it's pretty simple. A cover letter providing the reasons for either nominating or self-nominating an individual to NACIQI, contact information, and a copy of the individual's resume.

The timeline for submission will take into account the desire to have appointees seated for any Committee work that may come up in the fall and in time for the December meeting. But it also needs to reflect that their attention during the summer, especially on campuses, or in organizations that are not at full strength during the summer, need some time to respond to these nominations and suggestions.

Education associations and student

organizations will be notified of the nomination process. Any of us are not only free but indeed invited to distribute this widely to anyone you think might know of candidates who would have an interest in and be effective members of the Committee.

You may self-nominate, as I said. That includes the current appointees who may wish to continue their work on the Committee. We hope for both skill and continuity's sake that there will be people who want to do that, and you may nominate yourselves or others may put your name forward.

The selections will be made by the Secretary and the Department on the basis of individual expertise, integrity, impartiality and independence, and good judgment, technical qualifications and experience, professional standing and demonstrated knowledge in the field of accreditation and administration in higher education.

You don't have to have all of them although the integrity would be a good one for

every candidate to have.

[Laughter.]

CHAIRPERSON STUDLEY: And the good judgment. The Secretary will then take into account balance among, for example, different sectors of higher education and training, different kinds of institutions, will be certain to nominate a person who is a student at the time of appointment, and other interests which may include members of the public who are less directly knowledgeable but bring other skills to bear.

Again, those are for six-year terms. I encourage the current members of the Commission to think seriously about and to be willing to put your names forward again, and I invite all of us, all of you, to think about candidates whom you think would be good additions to our conversation and effort.

Frank.

MR. WU: Just to be clear, for the current members, we must be nominated, and that includes self-nomination. We will not automatically be nominated. So if we fail to do that, we're gone.

CHAIRPERSON STUDLEY: Correct. We will not fail to find you.

Any other questions? Anything we should add about the nomination process? No. Okay.

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MARYLAND BOARD OF NURSING [MDBN]

CHAIRPERSON STUDLEY: With that, the primary readers for the Maryland Board of Nursing agency are Susan Phillips and Frank Wu. Looks like Susan is going to--oh.

MR. WU: Oh, I'm sorry. I'm glad Susan is taking this one.

[Laughter.]

CHAIRPERSON STUDLEY: Yes, I caught her eye. She caught mine.

DR. PHILLIPS: Thank you, Madam Chairman.

CHAIRPERSON STUDLEY: Thank you.

DR. PHILLIPS: The Maryland Board of Nursing is a State agency for the approval of nurse education. The agency currently has approved 23 registered nursing programs. Of the total number of approved nursing programs, nursing education programs, 16 programs are not accredited by either of the two recognized national nursing accreditation agencies. Therefore, Secretarial recognition of the Maryland Board of Nursing is necessary to provide professional and financial

resources not otherwise available to some students who pursue professional training in Maryland schools of nursing.

The recognition history includes the Secretary initially recognizing the Maryland Board of Nursing as an agency for the approval of nurse education in 1985 and has renewed the agency's recognition continuously since that time.

The National Advisory Committee for Institutional Quality and Integrity reviewed the Nursing Board at its December 2011 meeting. NACIQI and staff both recommended, and the Senior Department Official concurred, that the agency's recognition be continued, and that it be required to come into compliance with the cited criteria within 12 months and submit a compliance report addressing the compliance concerns.

That compliance report is the subject of the current review.

CHAIRPERSON STUDLEY: Herman.

DR. BOUNDS: Again, good morning, Madam Chair and Committee members. For the record, my

name is Herman Bounds, and I will be providing a brief summary of the compliance report for the Maryland Board of Nursing.

The staff recommendation to the Senior Department Official is to grant the agency an extension of its recognition for good cause for a period of six months and require the agency to submit a compliance report demonstrating its compliance with the cited criteria within 30 days of expiration of the six-month period, with reconsideration of the recognition status thereafter, including review of the compliance report and appearance by the agency at a NACIQI meeting to be designated by the Department.

This recommendation is based on our review of the agency's compliance report and supporting documentation. The extension for good cause would allow the agency additional time to further amend its 2012 annual report document and attain Board approval and demonstrate the effective application of its policy.

In addition, a loss of recognition would

affect those 16 nurse education programs in the State of Maryland which are not accredited by the Commission on Collegiate Nursing Education or the Accreditation Commission for Education in Nursing.

The Secretary's recognition of the Maryland Board of Nursing is required for those programs to attain professional and financial resources through Title VIII of the Public Health Services Act.

The outstanding issues in the report are: the agency needs to provide evidence that it requires nurse programs to include in their annual reports course descriptions and information regarding contractual agreements--excuse me--arrangements and to provide documentation of its review and assessment of this information.

The agency needs to provide documentation that would evidence its collection and assessment of audited fiscal reports that include income statements and expenditures, at least every two years.

The revised 2012 annual report does

require submission of a copy of audited fiscal budget and, if adopted, would meet the reporting portion of the criterion.

Again, we believe that the agency can resolve the concerns we have identified and demonstrate its compliance within the extension period.

Therefore, as I stated earlier, we are recommending to the Senior Department Official to grant the agency an extension of its recognition for good cause, for a period of six months, and require the agency to submit a compliance report demonstrating its compliance with the cited criteria within 30 days of the expiration of the six-month period with reconsideration of recognition status thereafter, including review of the compliance report and appearance by the agency at a NACIQI meeting to be designated by the Department.

Thank you.

CHAIRPERSON STUDLEY: Thank you very much.

Do we have any questions for the staff?

Susan.

DR. PHILLIPS: As the analyst for this agency, do you have any concerns about the quality of education in the programs that they're recognizing?

DR. BOUNDS: No, I do not.

DR. PHILLIPS: Thank you.

CHAIRPERSON STUDLEY: Any other questions?

Thank you very much.

We'll hear from the agency representatives. Please come to the table and we welcome your introductions.

DR. WOODSON: Good afternoon, everyone. My name is Dr. Emmaline Woodson. I'm the Deputy Director of the Maryland Board of Nursing. And with me--

DR. AMBUSH-BURRIS: Good afternoon. I'm Dr. Pamela Ambush-Burris, Director of Education and Licensure.

DR. KENNEDY: Good afternoon. I'm Dr. Patricia Kennedy, Director of Education, Examination and Research.

CHAIRPERSON STUDLEY: Thank you.

DR. WOODSON: We would like to thank, first, Mr. Bounds, for working with us tirelessly over the last several months, assisting us to come into compliance with the requirements of the agency. And we would also like to thank the agency for hearing us this afternoon.

We do have a plan to--we have identified the deficits that we have, and we have a plan to come into compliance within the designated time that's been given us, if you vote on that, within the next six months.

And what we'd like to do is to advise you that we have revised our annual report requirements for all of the schools so that we will have information that's been requested by the Committee. And that is the course descriptions, audited budget, the refund policy, the contractual contracts with employees will all be a part of the annual report.

This report document will be presented to our board for final approval at its June meeting.

It will then be distributed to the deans and directors by the end of July with the September report date to come back to the board. That will give us sufficient time to complete the required documentation for the Committee.

CHAIRPERSON STUDLEY: Are there any questions for the representatives of this agency? Give us a moment. I see--

MS. NEAL: One quick question. Something that has come up in the past--obviously, you're a State agency so did you find that sometimes you felt like you were between a rock and a hard place in terms of the kinds of conditions that were being imposed on you which didn't quite apply to a State agency versus a membership accrediting body?

DR. AMBUSH-BURRIS: The simple answer to your question is, yes, we did, but we understand that the Department of Education accreditation is really important for our students in the State of Maryland, and we want to be in compliance with them.

MS. GILCHER: Just for the record, I would

like to point out that the nursing regulations are different from the Title IV regulations, I mean for the accrediting agency regulations that you've been most often working with, just to make that clear.

CHAIRPERSON STUDLEY: Ready for a motion?

DR. PHILLIPS: If I could make a motion?

CHAIRPERSON STUDLEY: Yes.

DR. PHILLIPS: I move that the NACIQI recommend that the Maryland Board of Nursing be granted an extension of its recognition for good cause for a period of six months and require the agency to submit a compliance report demonstrating its compliance with the criteria cited in the staff report within 30 days after the expiration of the six-month period, with consideration of the recognition status thereafter, including review of the compliance report and appearance by the agency at a NACIQI meeting to be designated by the Department.

MR. WU: I second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: Any questions or

discussion from the Committee members on the motion? All in favor, please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Opposed?

[No response.]

CHAIRPERSON STUDLEY: I'll close by asking you if you would like to make any comments on the questions about challenges or improvements you've made or suggestions for other agencies?

If you don't want to make those now, you have the option of sending us a letter afterward.

DR. WOODSON: We would prefer the letter.

CHAIRPERSON STUDLEY: Okay. Thank you very much.

DR. WOODSON: Thank you.

CHAIRPERSON STUDLEY: We appreciate it.

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CHAIRPERSON STUDLEY: I appreciate--Susan?

DR. PHILLIPS: Is there any option of taking--

CHAIRPERSON STUDLEY: Accelerating other agencies?

DR. PHILLIPS: Right. Since we have an extra one tomorrow that we had not anticipated.

CHAIRPERSON STUDLEY: Carol, are any agency representatives here tomorrow who are, to whom it would not be an injustice to ask them to accelerate? And staff members prepared to go forward?

MS. GRIFFITHS: Well, the concern with trying to do that over a second day is that this meeting and the rules for holding the meeting is to enable the public to make comments, and that the direction in the Federal Register notice is where they sign up the day of the meeting for which the agency is scheduled for review.

And so we run into the problem going across days of not having provided the public the opportunity to sign up for those.

CHAIRPERSON STUDLEY: Okay. We have talked in the past about indicating that the last item on the agenda might accelerate or to give some fluidity. On some occasions, we have not been able to do that because there wasn't an agency that could accommodate the request to speed up. It's a good and fair question. We thought that some of this afternoon's might involve different amounts of time. That's why we proceeded as we did.

But I think, unfortunately, Carol is right, that we can't proceed now given the nature of the notice, but that we will seek to allow a little more of a rolling schedule so that we can bring some forward for tomorrow.

DR. PHILLIPS: Just a clarification. I wasn't aware that theological schools were actually going to even be on the agenda. They were on the Consent Agenda up until two days ago today. So I--

CHAIRPERSON STUDLEY: And I know that they were here earlier today. But it's your--

DR. PHILLIPS: But they weren't--

CHAIRPERSON STUDLEY: --guidance that

because the public didn't have notice that we should not.

DR. PHILLIPS: But the public wouldn't have had notice that they would be on either day, they would have been on today earlier.

CHAIRPERSON STUDLEY: I understand your point.

DR. PHILLIPS: Yeah.

CHAIRPERSON STUDLEY: Carol.

MS. GRIFFITHS: Are you speaking of TRACS or of ATS?

DR. PHILLIPS: ATS.

MS. GRIFFITHS: ATS. There is going to be a public comment on ATS. So we need to have ATS tomorrow.

DR. PHILLIPS: I'm just having a question about the timing of when all of this gets settled since it was a new thing to me to see it on the agenda for tomorrow when I walked in today. So I don't know when that was announced, and when the public would have known that they needed to be here tomorrow rather than today or whatever.

CHAIRPERSON STUDLEY: I think this one is a little complicated. And--

DR. KEISER: We would have had the opportunity to pull it off the Consent Agenda the same day. So that's, I think that's what's going to create a problem with the Consent Agenda, in that they can be up to the last second not scheduled.

And I talked to Carol. I will be leaving before that meeting because I have a plane flight to catch. So I just want to make sure we have a quorum.

DR. FRENCH: Madam Chair, that was my-- similar to what Susan was saying. I think if we put in place--I think we really need to put in place something because what I've noticed on that second day so many people have to leave, and we're going to start not having quorums, and we're going to have people that have flown here from different places, and we won't be able to take action.

CHAIRPERSON STUDLEY: One question I'm asking is--I don't know whether this will make a

substantial difference in the morning. I don't, unless we huddle for a moment and think that we can accelerate one of the agencies. I'm hearing some concerns about that. Would people be willing to start a little bit earlier, and do we think that the agencies could be here a little bit earlier in the morning? I'm sure they leave some amount of window.

I don't know if CAHME is here now. The notice was--

MS. WANNER: I believe the time is set in the notice.

CHAIRPERSON STUDLEY: Notice. Okay. We will start at 9 a.m. absolutely sharp I can tell you that. It sounds like we can't vary it by going any earlier.

DR. FRENCH: Madam Chair, the other question for legal counsel would be--I think I know the answer--but just to make sure, is the quorum seriatim or is the quorum at the beginning of the day, or do we have to have it per vote?

MS. WANNER: The quorum is for each

agency. Yeah, I mean if people leave during the discussion, that's one thing, but they have to be here at the beginning of the discussion of each agency.

MR. ROTHKOPF: Another question.

CHAIRPERSON STUDLEY: Art.

MR. ROTHKOPF: Another question, sort of unrelated to all this. Have we got a date for a December meeting, or is that something we're going to talk about tomorrow?

CHAIRPERSON STUDLEY: There's a calendar in your materials. I think Carol was going to mention this. There's a calendar in the back of I think the left-hand pocket of the materials with a calendar asking you to indicate your availability for the ever delightful month of December, when you would least mind having a meeting of NACIQI.

And would you like to collect those tomorrow from the people here, and Carol will get the others from people who are not here, and we'll then set the date as quickly as we can.

MR. ROTHKOPF: Got it. Sorry.

CHAIRPERSON STUDLEY: Right near the travel reimbursement form. I think she thought you'd notice it there. I apologize to disappoint you by not being able to use the remaining time today. This is an inexact science.

But I appreciate that and will entertain a motion to adjourn for the day.

DR. FRENCH: So moved.

MS. NEAL: Second.

[Motion made and seconded.]

CHAIRPERSON STUDLEY: I'm going to count that as a moved and seconded by President French and Ms. Neal. All in favor, please say aye.

[Chorus of ayes.]

CHAIRPERSON STUDLEY: Opposed?

[No response.]

CHAIRPERSON STUDLEY: Thank you. I'm sure technology will give us ways to use this time.

[Whereupon, at 4:20 p.m., the NACIQI meeting recessed, to reconvene at 9:00 a.m., Friday, June 7, 2013.]