

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

VOLUME II

Thursday, December 17, 2015

8:35 a.m.

Hilton Old Town Alexandria
Grand Ballroom
1767 King Street
Alexandria, VA 22314

P A R T I C I P A N T S**COMMITTEE MEMBERS PRESENT:**

DR. SUSAN D. PHILLIPS, Chair

DR. KATHLEEN SULLIVAN ALIOTO

MR. SIMON BOEHME

MR. GEORGE HANK BROWN

DR. JILL DERBY

DR. ROBERTA (Bobbie) DERLIN

DR. JOHN ETCHEMENDY

DR. GEORGE FRENCH

DR. PAUL J. LeBLANC

MS. ANNE D. NEAL

MR. RICHARD F. O'DONNELL

DR. WILLIAM PEPICELLO

MR. ARTHUR J. ROTHKOPF

MR. CAMERON C. STAPLES

MR. RALPH WOLFF

MR. FRANK H. WU

DR. FEDERICO ZARAGOZA

COMMITTEE MEMBER NOT PRESENT:

DR. ARTHUR E. KEISER, Vice Chair

U.S. DEPARTMENT OF EDUCATION STAFF PRESENT:

DR. JENNIFER HONG, Executive Director, NACIQI

MR. HERMAN BOUNDS, Ed.S., Director, Accreditation
Group

MS. SALLY MORGAN, OGC

MS. DONNA MANGOLD, OGC

MS. ELIZABETH DAGGETT

DR. NICOLE HARRIS

MS. VALERIE LEFOR

MR. CHUCK MULA

MR. STEPHEN PORCELLI

DR. RACHAEL SHULTZ

MS. PATRICIA HOWES

MS. CATHY SHEFFIELD

MS. KAREN DUKE

CONTENTS

	<u>PAGE</u>
<u>Welcome and Introductions</u>	
Dr. Susan D. Phillips, Ph.D. NACIQI Chairperson	8
<u>Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges [ACCJC]</u>	
<u>[continued]</u>	
Action for Consideration: Compliance Report	11
NACIQI Primary Readers: Mr. Cameron C. Staples, J.D. Dr. Arthur E. Keiser, Ph.D. [not present]	
Department Staff: Ms. Elizabeth Daggett	
Representatives of the Agency: Dr. Barbara A. Beno, President, ACCJC Dr. Steven M. Kinsella, Chair, ACCJC Dr. Krista R. Johns, Vice President for Policy and Research, ACCJC Mr. Steven Y. Winnick, Attorney, Education Counsel LLC	
<u>Nurse Education, New York State Board of Regents [NYBRN]</u>	
Action for Consideration: Renewal of Recognition	99
NACIQI Primary Readers: Mr. Simon Boehme Dr. Roberta L. Derlin, Ph.D.	
Department Staff: Ms. Valerie Lefor	
Representatives of the Agency: Mr. William Murphy, Bureau Chief,	

Professional Education, Office of
 Professions, NYS Education Department
 Ms. Renee Gechedi, Associate in Nursing
 Education, Professional Education
 Program Review, Office of Professions,
 NYS Education Department

Northwest Commission on Colleges and
 Universities [NWCCU]

Action for Consideration:
 Compliance Report 121

NACIQI Primary Readers:
 Dr. Federico Zaragoza, Ph.D.
 Mr. Arthur J. Rothkopf, J.D.

Department Staff:
 Ms. Elizabeth Daggett

Representatives of the Agency:
 Dr. Sandra E. Elman, President, NWCCU
 Dr. Pamela Goad, Vice President, NWCCU
 General Thomas R. Case, Chancellor,
 University of Alaska Anchorage

Third Party Oral Commenters:
 Dr. Gregory Scholtz, American Association of
 University Professors
 Dr. David Delehanty, Professor of Biology,
 Idaho State University
 Dr. Mikle Ellis, Faculty Member, Idaho State
 University
 Dr. Philip Cole, Professor, Department
 of Physics, Idaho State University
 Dr. Jack Longmate, Adjunct/Part-time Instructor,
 Olympic College
 Dr. Jack Longmate for Dr. Keith Hoeller,
 Co-founder, Washington Part-Time Faculty
 Association, Faculty Member, Green River
 College

Association of Institutions of Jewish Studies
 [AIJS]

Action for Consideration:
 Application for Initial Recognition 247

NACIQI Primary Readers:
 Dr. John Etchemendy, Ph.D.

Dr. William Pepicello, Ph.D.

Department Staff:
Mr. Steve Porcelli

Representatives of the Agency:
Rabbi Moshe Zev Weisberg, AIJS
Mrs. Elisheva Kahan, AIJS
Rabbi Alex Lowinger, AIJS
Mrs. Naomi (Nechama) Landesman, AIJS
Dr. Leslie Klein, WITS
Dr. C. Cohen, AIJS
Mr. Sam Brown, Esq.

United States Air Force Institute of
Technology, Graduate School of Engineers
and Management [AFIT]

Action for Consideration:
Notification of Degree Modification 269

NACIQI Primary Readers:
Mr. Cameron C. Staples, J.D.
Dr. Arthur E. Keiser, Ph.D. [not present]

Department Staff:
Mr. Chuck Mula

Representative of the Agency:
Dr. Paul J. Wolf, Associate Dean for
Academic Affairs, Air Force Institute
of Technology, Graduate School of
Engineering and Management

Accreditation Commission for Education in
Nursing, Inc., [ACEN]

Action for Consideration:
Compliance Report 282

NACIQI Primary Readers:
Mr. Frank H. Wu, J.D.
Dr. Jill Derby, Ph.D.

Department Staff:
Mr. Chuck Mula

Representatives of the Agency:
Dr. Marilyn Brady, Ph.D., R.N., Dean of
Nursing, Trident Technical College/

Chair, ACEN Board of Commissioners
 Mr. Pat McKee, Managing Partner,
 McKee & Mitchell, LLC
 Dr. Marsal Stoll, Ed.D., M.S.N.,
 Chief Executive Officer, ACEN

Third Party Oral Commenters:
 Dr. Belle S. Wheelan, President, Southern
 Association of Colleges and Schools
 Commission on Colleges [SACSCOC]
 Dr. Beverly Malone, CEO, National League
 for Nursing

American Board of Funeral Service Education,
 Committee on Accreditation [ABFSE]

Action for Consideration:
 Renewal of Recognition 303

NACIQI Primary Readers:
 Mr. Simon Boehme
 Mr. Ralph Wolff, J.D.

Department Staff:
 Ms. Valerie Lefor

Representatives of the Agency:
 Mr. Robert C. Smith, III, Executive
 Director, ABFSE
 Ms. Venus R. Smith, Chairperson,
 Committee on Accreditation, ABFSE
 Mr. Eugene Ogrodnik, President, ABFSE
 Mr. Steven Spann, President, ABFSE
 Ms. Billie Watson Hughes, ABFSE

National Accrediting Commission on Career
 Arts and Sciences, Inc. [NACCAS]

Action for Consideration:
 Renewal of Recognition 325

NACIQI Primary Readers:
 Mr. Ralph Wolff, J.D.
 Ms. Anne D. Neal, J.D.

Department Staff:
 Dr. Rachael Shultz, Ed.D.

Representatives of the Agency:
 Dr. Anthony Mirando, D.C., Executive Director,

NACCAS

Mr. Darin Wallace, Director of
 Governmental Affairs and Legal, NACCAS
 Mr. Ray Testa, Chair, NACCAS Rerecognition
 Committee

Third Party Oral Commenters:

Ms. Deana Labriola, General Counsel,
 Park West Barber School
 accompanied by:

Ms. Devon Williams, Counsel for Park West
 Barber School and
 Mr. Tom McIntosh, Park West Barber School

Public Postsecondary Vocational Education
Puerto Rico State Agency for the Approval
of Public Postsecondary Vocational,
Technical Institutions, and Programs
 [PRHRDC]

Action for Consideration:
 Renewal of Recognition

376

NACIQI Primary Readers:
 Dr. Jill Derby, Ph.D.
 M. Richard F. O'Donnell

Department Staff:
 Dr. Rachael Shultz, Ed.D.

Representatives of the Agency:
 [None present]

Closing Remarks

380

Recess

380

- - -

PROCEEDINGS

CHAIRPERSON PHILLIPS: Good morning, and welcome to day two of the December NACIQI meeting. Some quick reintroductions as we continue our agenda from yesterday. I'm Susan Phillips, the Chair of NACIQI from the State University of New York at Albany.

I'm going to ask folks to go around the room. This time I'm going to start with Bill Pepicello to introduce himself and to go around.

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

MR. O'DONNELL: I'm Rick O'Donnell, CEO of Skills Fund.

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

DR. FRENCH: George French, President of Miles College.

DR. LeBLANC: Paul LeBlanc, President of Southern New Hampshire University.

DR. DERBY: Jill Derby, Senior Consultant with the Association of Governing Boards of

Universities and Colleges.

DR. ZARAGOZA: Federico Zaragoza, Vice Chancellor, Economic and Workforce Development, Alamo Colleges.

MR. BOUNDS: I'm Herman Bounds, the Director of the Department's Accreditation Group.

DR. HONG: Jennifer Hong, NACIQI Executive Director and Designated Federal Official.

MS. MORGAN: Sally Morgan with the Office of General Counsel at the Department, a non-Committee member.

MS. MANGOLD: Donna Mangold, Office of General Counsel.

MR. ROTHKOPF: Arthur Rothkopf, NACIQI member, President Emeritus, Lafayette College.

MR. STAPLES: Cam Staples, President of the New England Association of Schools and Colleges.

MR. BROWN: Hank Brown, an attorney with Brownstein Hyatt and Farber.

MR. BOUNDS: Bobbie Derlin, NACIQI member, formerly Associate Provost at New Mexico State.

DR. ETCHEMENDY: I'm John Etchemendy,
Provost at Stanford.

MR. BOEHME: Simon Boehme, former Mitchell
Scholar.

**Western Association of Schools and Colleges,
Accrediting Commission for Community and
Junior Colleges [ACCJC]
[continued]**

CHAIRPERSON PHILLIPS: I would note that there are a number of members who remain recused for the current item on the table. We also have had a family emergency for Art Keiser, who is not going to be with us for the remainder of the meeting.

So with that, I want to take up where we left off in the meeting yesterday afternoon with the consideration of ACCJC. At this point, we have on our table the process of bringing the agency back to be able to respond to the third-party commenters. So I would ask the agency to join us at the table if you would.

As they get settled, I just want to remind everybody once again the parameters in consideration of this agency. With the last appearance, there was a series of actions that were taken of which two of which are currently under appeal with the Secretary. Those two issues are 602.13, acceptance of agency by others, and

602.15(a)(3), academic administrator representatives. Those issues because they are currently under appeal with the Secretary are not before us for deliberation, and so I would ask you to consider, to exclude consideration of those issues in your discussions and deliberations and obviously agency comments.

Welcome back. I hope you had a good night. I wanted to give you the opportunity to respond to third-party comments, and I expect that the Committee may have some questions for you as well.

MR. WINNICK: Good morning, Madam Chair, members of NACIQI, members of the Department, and others who are here today. I would like to--again, I'm Steve Winnick from Education Counsel, outside counsel to ACCJC. I would like to thank you, Madam Chair and other members of NACIQI for your effort at the beginning of the hearing yesterday and at several other points during third-party comments to constrain the hearing within the proper scope laid down by the Department. While that effort was not

completely successful, we appreciate your effort.

We're especially concerned that NACIQI got involved with witnesses for City College, in particular, the faculty collective bargaining union representative, in a rather lengthy discussion of options for replacing ACCJC, which likely will generate speculation in the press that NACIQI is considering options to replace ACCJC.

In a letter of September 30, 2015 to Steve Kinsella, under Secretary Ted Mitchell said, quote, "The Department does not take a position on which accrediting agency or agencies any institution of higher education selects"--unquote.

Neither the Department nor NACIQI has any proper role in addressing options to replace an accreditor, and even if that were not the case, this was not remotely an issue ripe for discussion at this time. Rather NACIQI's charge was to address ACCJC's compliance report for which Department staff raised only two relatively minor issues of compliance, for both of which President Beno proposed a constructive solution in the

hearing yesterday, and issues related to a change of scope regarding baccalaureate programs.

While I renew my objection and move to strike all of these discussions beyond the proper scope of the hearing, much of which morphed into a hearing about City College of San Francisco, which also is not a proper issue for NACIQI, much of the damage may have already been done. Possible stories in the press that NACIQI is deliberating replacement of ACCJC have real world consequences. They fuel further legal and press attacks on ACCJC by the California Federation of Teachers and advocates for City College, and they create extreme anxiety among ACCJC members, not to mention ACCJC's own staff, as well as speculation that can become a self-fulfilling prophecy.

Just as the August 2013 letter, which we discussed, from the Department improperly fueled litigation against ACCJC, NACIQI's deliberations on a matter not properly before it could have similar effects. I believe that Arthur Keiser first raised this issue in good faith as a way to say get real

to City College advocates who expressed the view that ACCJC must go, but NACIQI got pulled into, and we understand as a practical matter why that happened, it got pulled into a protracted discussion with a number of advocates about the options for replacing ACCJC--an inappropriate discussion.

Without waiving our objection to much of the testimony, we need to respond to a number of points raised.

DR. KINSELLA: Good morning. Once again, my name is Steve Kinsella, Chair of the ACCJC.

The statement read on behalf of California Community College Chancellor particularly calls for a response. First, we would remind NACIQI that the Chancellor's opposition to the expansion to scope is diametrically opposed to his expressed support for this expansion in a 2013 letter, which was submitted to NACIQI at that time.

His current opposition is, in fact, irrational. His office has approved specific community colleges that wish to offer a single

bachelor degree and has participated in joint training with ACCJC for approving these programs.

The very law that he pushed in order to establish the very pilot program would now be undercut by his opposition. If ACCJC cannot approve these programs within its scope, there will be no further opportunities for colleges to implement bachelor programs under the state's legislative pilot program even though the Chancellor's Office has approved these programs.

Second, the Chancellor's reversal of position and irrationality of that position underscores Art Keiser's question at yesterday's hearing "why now?" Why is the Chancellor seeking to limit ACCJC's approval of bachelor degree programs and perhaps replace ACCJC? The apparent answer is that ACCJC did not buckle to pressure from the Chancellor to reverse its decision to withdraw accreditation from City College.

In fact, the Chancellor's Office expressly threatened ACCJC that it would be eliminated as the accreditor for California community colleges if it

did not rescind its decision to withdraw accreditation from City College of San Francisco.

We have submitted letters to senior officials at the Department documenting those threats. Much of what you are hearing now related to California Community College Task Force, the vote of its Board of Governors, a state audit, and suggestions that there is a consensus that ACCJC must go, are all part of the concerted effort by the Chancellor's Office to make good on its threats, this, of course, improper politicalization of the accreditation function and a bold attempt to undermine the independence of an accrediting agency.

The Chancellor also stated that California community colleges have lost confidence in ACCJC. Another witness said there is a reason--excuse me--there is a consensus that ACCJC is an obstacle. And a third witness stated there is overwhelming disdain for ACCJC. These statements are nonsense.

The California State Auditor, commissioned to collect critique about ACCJC and accreditation,

reported in its 2014 survey that office conducted of California community colleges. The response rate to that survey that they conducted was quite high. 88 percent of California community college respondents indicated that findings and recommendations made by ACCJC for their college were reasonable.

Seven percent indicated that the level of sanction for their school was inconsistent with the recommendations the school received in the peer team report. And 84 percent opined that the expertise and quality of ACCJC's peer review process and peer site team--excuse me--peer site review team that evaluated their school were appropriate. Just stop for a minute and think about the extraordinarily high level of support by California community colleges for ACCJC reflected in the state survey--a state survey by an independent group that tried to conduct an audit.

That just occurred a year-and-a-half ago. How many organizations of any type can show that level of support from their own constituencies?

The high level of support for ACCJC is also evidenced by the widespread and continuous involvement of educators in our commission, its review and development of our standards, its site teams and training, other agency functions in carrying out its core function of peer review of community colleges.

However, the Chancellor's Office and other supporters of City College have deliberately worked to undermine the support for ACC through the press, through litigation, and in misleading task force reports and related actions. What NACIQI heard in large part yesterday was part of a concerted effort to manufacture discontent with ACCJC, an effort spearheaded by California Federation of Teachers, enjoined by the Chancellor's Office and City College stakeholders.

And the principal expressed reason for considering replacement of ACCJC as expressed by the Chancellor and other witnesses for City College yesterday is that ACCJC has issued sanctions against accredited schools for failing to meet

accreditation standards at a higher rate than other regional accreditors. That is an argument for looking the other way when institutions fail to meet accreditation standards, a position directly contrary to the efforts of the United States Department of Education and to an emerging national consensus to push accrediting agencies to pursue more rigorous enforcement to protect students and taxpayers.

Just as importantly, one, neither the Chancellor's Office, its task force, nor anyone else for that matter, except the audit survey I just described, has seriously analyzed the merits of any sanctions by ACCJC. The Chancellor's Task Force report, in particular, presents no analysis whatsoever of any sanction imposed by ACCJC and whether it was warranted, including those sanctions against City College of San Francisco.

And City College leaders at the time that sanctions were issued against the college acknowledged that the college had widespread deficiencies in meeting accreditation standards.

How I would ask can a judgment be made that an accrediting agency should face possible elimination without any analysis of its actions and whether they were justified or not?

Punishing ACCJC for the number of sanctions it issued is intellectually dishonest. Sanctions issued by ACCJC have successfully provided the priority and urgency for institutions to address deficiencies and resulted in much stronger institutions. Our institutions survived the recession, and that's not a small statement considering what we had to go through.

If NACIQI listens and bows to the arguments of the Chancellor and other witnesses adverse to ACCJC, it is fostering the demise of an independent accrediting function grounded in peer review and designed to protect students and Federal and state taxpayers who subsidize postsecondary education by pushing institutions to address their weaknesses.

It would be condoning improper state punishment of an accrediting agency for merely

doing the job that we are assigned to do. The state's effort is problematic, not only for us, but for any peer review process and any accreditor that might otherwise seek to accredit community colleges in California.

MR. WINNICK: NACIQI also heard yesterday serious mischaracterizations of the court action against ACCJC, including by the San Francisco City Attorney. In fact, the City Attorney lost his case against ACCJC. He sought an order from the court to overturn the withdrawal of accreditation and to enjoin ACCJC from acting on it.

But that order was not, in fact, issued by the judge in the case, and let me just quickly quote a couple things that the judge said in the case. He said--I should add what the court found alone was that there was one procedural irregularity because the commission added some findings of noncompliance to the multiple findings of noncompliance that came out of the team report, and City College had not had an opportunity to respond to those findings. So basically he

remanded the case back to ACCJC to look at those issues and determine if anything about those issues would justify a change in the decision of ACCJC to withdraw accreditation.

The judge said, quote, "If the commission determines that it would have made the same determination decision, the commission would proceed free of further restraint from this court. It will be observed that such a resolution leaves in the hands of the defendant"--meaning ACCJC--"the key to further restraint by the court." This is so, and it is unusual, but this is just another way of noting that ACCJC is entrusted and has always been entrusted to decide accreditation in its own discretion.

City College opted for that regime when it joined ACCJC. In addition, there was discussion yesterday about a conflict of interest issue. That was an issue back in 2013 which was resolved. It related to the question of whether the appointment, not by President Beno, but by others at ACCJC, of President Beno's husband to a review team was an

appearance of a conflict of interest? The court ruled, and I'm quoting, "The people have not proven that the inclusion of President Beno's husband on the 2012 evaluation team created the appearance of a conflict of interest just because he was married to Beno, but all this is prologue. We must recall the issue. It is whether ACCJC's controls were adequate? The people"--meaning the City Attorney of San Francisco--"submit that the controls were inadequate because Crabtree was allowed to be on the team. Even if the people were right that Crabtree ought not to have been"--Crabtree being Barbara Beno's husband--"even if they were right that he ought not to have been on the team, and I have rejected that assumption, his presence on the team would not be sufficient to show the controls were inadequate. This series of speculative inferences for which there is no substantial evidence was presented at trial. It will not support even the more slender read of an appearance of a conflict. Although such appearance might exist where there is a potential for the personal

interests of an individual to clash with fiduciary duties, nothing suggests such a potential here."

Thank you.

DR. KINSELLA: I'd like to make a comment on the task force report also. The State Chancellor has been one of the parties manufacturing discontent about the ACCJC. The task force report was delivered in secret and released last August with no prior discussion with ACCJC about its contents and, indeed, without any of the colleges seeing the content.

And I'll remind you that I'm one of these California community college presidents that keeps being referred to as "this group that supports them." We never saw it.

The ACCJC invited the task force to meet with it at the soonest date the ACCJC could reasonably assemble, and that was on October 9, and the task force declined to meet with us. In the meantime, the State Chancellor pushed the report through his constituency group associations. You heard the Chancellor's representatives state that

the CEO board--that's ten people by the way--voted to endorse the report. However, the CEOs did not do so. We were never asked to vote. We were surveyed. They just got behind Brice Harris and took off.

You heard that the CIOs voted to endorse it. We are told by our own CIOs that the vote was taken with no advance preparation and discussion and without many CIOs even having seen the document. That is the CIOs have told us that it is not a legitimate vote. The Chancellor's representative also did not tell you that the Chief Financial Officers voted not to endorse the report, that the Chief Student Services Officers voted to remain neutral and not endorse the report. And the Association of California Community College Administrators--that's all the deans, the vice presidents, and everybody below them--voted not to endorse the report. I have told you that the report does not represent the views of my college and my governing board, and that my other CEOs have informed me that they have the same position.

The task force report may represent the views of the Chancellor's Office and some constituency groups that he works with, but it does not represent the views of each California public college members that are members of ACCJC. It is rather an attempt by the Chancellor's Office to usurp the normal communications between this commission and its member institutions and to set demands for the ACCJC without discussion that is central to the creation and promulgation of peer review.

DR. BENO: Committee members, thank you for hearing our rebuttal today. I'm Barbara Beno, and I'm President of the ACCJC, and I'd like to briefly just rebut some of the misinformation about our operations that was provided yesterday by third-party testimony, and I'll assure you that in our application for recognition in 2014, this material was also in our application, and it was judged to be meeting the criteria by NACIQI and by the staff.

But before I do that, I want to add just a

comment for Mr. Bounds and for Mr. Staples and for other members of NACIQI who wondered yesterday why ACCJC argued to express our concern about findings of noncompliance over matters we thought were really small and improvements, but not necessarily violations, not violations of the stated regulations.

The reason we're so concerned is that in the State of California under the court system and under Judge Karnow, Mr. Karnow has declared any violation of Federal regulations to be grounds for finding an unlawful act under the Business Code of the State of California.

So any violations that this Committee and the Department find create grounds for third parties to bring lawsuit against us for unlawful acts. So we've been very concerned about findings of violation, and that's why we argued that we would consider these to be improvement recommendations, and we hope that you would too.

All right. So let me start with election of commissioners. Some of the members speaking

yesterday spoke, some of the people speaking yesterday spoke about our election process falsely, and some of the members of NACIQI inquired about it. The procedure is outlined in our bylaws. It's very clear. The Commission is not self-replicating or self-selecting, as the speaker stated.

Commissioners are elected by the CEOs of member colleges, and by the way, the CEO of its member college is the party with whom we communicate and who gets a vote on numbers of things. At the January commission meeting each year, in the public session of our meeting, the commission vacancies are announced. Following the meeting, a public announcement goes out in writing to all colleges, including CEOs, ALOs, CIOs, all interested parties. So it's a very big mailing list.

The announcement identifies all the vacancies, and you realize the vacancies are by type of person--academic, California academic administrator, representatives as we've defined in our bylaws. The commission has a nominating

committee, and the nominating committee is selected--the nominating committee is selected by the executive committee of the commission. It is composed of four commissioners, none of whom can be officers of the commission, and four representatives of our member institutions.

And the nominating committee receives all of the nominations and self-nominations, and the subsequent application forms that prospective commissioners submit by a deadline that's in late March or early April. The nominating committee reviews all of those and selects a slate of candidates, that is names a prospective electee for each of the vacancies on the commission.

The slate is sent to the CEOs of our member institutions, and they have the opportunity to add to the ballot, add candidates to be in opposition to the slate candidate for any slot by having ten CEOs nominate the person. We have had people so selected to be on the ballot, and we've had people elected through that method in opposition to the slate candidate. Commissioner

Richard Mahon is one of those that was so elected.

Once the ballot is then formed with the slate names and the names nominated--we call them at-large nominations--the ballot goes to the CEOs of the member institutions for election. The CEOs are very aware of this process, and yesterday you heard a trustee speak about his perception of the process as he was told by his CEO. I just can't imagine that his CEO, who is an evaluator for us and is familiar with accreditation, would have been so confused if, indeed, that's what happened.

Okay. The election results are announced in June at the commission meeting, and they're announced in a public announcement that's distributed to our member institutions. So our commissioners are elected for three-year terms. They may be reelected. When they're reelected, they have to go on the ballot in the same method, and there can be candidates running against a commissioner who's up for a second term.

Okay. Dues and supplemental assessments to restore the reserves. Yesterday you heard some

comments about the fact that the commission, the notion that the commission asked folks to donate to a legal defense fund. That's simply silly and inaccurate. The commission receives all of its revenues from dues and fees from its member institutions. The commission maintains a reserve. When the commission developed the need to restore reserves depleted by its legal expenses, it decided to add a special assessment of a percentage of the dues to each college's annual dues statement.

And by doing a percentage of the dues, it meant that a college that had small dues because it had small enrollment paid five percent and ten percent of its dues, not a shared, not an evenly shared amount of money to restore the legal reserves. The commission budget committee and subsequently the commission decided to collect the special assessment as a special part of the dues. It goes out with the dues statement, and they sent a letter to the member institutions indicating that the special assessment was to restore the commission's reserves, the percentage of the dues

that it was, and promised that when the reserves were restored, that the special assessment would stop.

So they did that in the interest of transparency about why this charge was being made. The alternative was to just wrap it into the dues and have a big increase in the dues and not explain it. So they preferred the transparent approach.

DR. JOHNS: Barb. Just by way of context--sorry for interrupting--this is Krista Johns--but the amount--the average amount of the special assessment was approximately \$1,000 per institution so people are wondering what the amount is, and I just wanted to make sure that was out there.

DR. BENO: We collect the special assessment and pour it back into the reserves. So our accounting, our budgeting and accounting system, show that that money goes back to the reserves. So there's no question about where it goes. ACCJC is funded by its member institutions, and it has every right to restore its reserves to maintain its fiscal stability.

On another topic, fiscal monitoring, you heard yesterday that the ACCJC has some kind of secret sanction that it imposes when it does fiscal monitoring of institutions, and that again was simply inaccurate. As part of its obligations under the Federal regulations and to protect students from sudden and unplanned constrictions on college spending for programs or a collapse of the educational institution, ACCJC does annual fiscal monitoring of its members, collecting information that's also collected during the comprehensive review.

The factors we use, the items we collect information on, were decided upon by the ACCJC with its advisory fiscal review task force, which is composed of CFOs and CEOs from member institutions. The annual report form is sent to institutions, and they fill it out and submit it online each year. The staff of the commission review the annual report and use a composite index designed in accord with accounting standards, and I think somebody asked about that yesterday, with accounting

standards modified for some of the language and practice of public colleges because there's different terminology used in our California public colleges and different from Hawaii and different from our private colleges, to identify any colleges that might have multiple factors that cause potential concern for fiscal stability.

The rating system is used to identify whether colleges have any risk, and if they have risk, we ask them for follow-up information. Or if they have serious risk, they might be referred to the commission for follow-up. The commission could never take an action to sanction a college without asking for information that the commission reviewed.

So our staff follow-ups are simply to alert the colleges that we're watching and that we're a little concerned, and they should be too about some of their fiscal indicators.

The process that we have is much like the process that the other regional accreditors use, in fact, is modeled on Northwest and on New England,

who have a process not unsimilar to ours, and we created ours about five years ago when the fiscal conditions of colleges affected by the recession were becoming very obvious to us.

Okay. There was another comment made yesterday that the colleges have no opportunity to respond to team reports and recommendations, and that those are kind of forced on colleges, and that's simply not true, and our detailed due process for colleges receiving team reports has already been outlined in our application for recognition.

The perspective you heard is ignorant of the due process rights we provide. When a draft team report is prepared, the chair of the evaluation team sends the report to the college, and the college CEO is asked to correct errors of fact. He or she is asked not to distribute widely this draft report because once distributed, it can be sent to the press, for example, or sent to trustees as the final report when it, in fact, is still in draft form.

The CEO may submit correction of errors of fact and arguments to the team chair. The team chair then takes under advisement all of this information and decides which corrections that the team, that the college representative, the CEO, has recommended are appropriate given all that the team and the team chair know about the report and the facts on the ground.

Then the team chair finalizes the report. So that's the first step, but the colleges had a chance to respond. Then the college report when it's finalized by the team chair is sent to the commission, and the commission sends it to the college with a letter that says here's the report, the final report, that will be going to the commission. You are invited if you have any concerns about this report to write to the commission and submit any information you would like to send.

There is a deadline for that information to get to the commission into their agenda packets that get mailed to the commissioners. The letter

also says to the CEO you're invited to come to the commission meeting and address the commission on any aspect of this report of the visit. Please let us know if you're coming. And then college presidents are allowed to attend the closed session and address the commission about their college case.

This is the case for any kind of report. I know some commissions only have college presidents come if there's a show cause or a pending adverse action. Any college report we're reviewing, the president may come and address the commission. So we provide a lot of due process.

If the college president convinces the commission that the team has made an error in its report, that there's evidence that was available to the team at the time that the team wrote, the commission changes the report. Or it strikes a recommendation or a finding of the team from the report, and the cover letter after the commission acts that goes back to the college says here is a revised or an edited team report the commission has

taken action to, and it might be to discount this finding or discount this recommendation.

So there's ample due process for the college CEOs. So those were the points I wanted to be able to address. Krista.

DR. JOHNS: A lot of the concern or the comments about the commission doing something to a team report once the team is done is based on the thought that there isn't--the commission is out to kind of be more punitive than teams want to be in terms of evaluating colleges. Last year, we decided, look, let's just study this. Let's look at all of the actions of the commission over the past five years, covering all of the reviews that were done, which actually covered all of the member institutions. And in that, we noted that in 50 percent of the time, there is actually no change between what the team has found item by item, suggestion by suggestion.

In the other 50 percent, there were changes, mostly minor, but oddly in almost exactly 50 percent, or 25, half of those, so 25 percent of

all decisions, the ACCJC commission softens the suggestion or the recommendations of the team, and 25 percent of the time the suggestion becomes tougher in the sense of adding a recommendation or changing something. And so there is definitely the action of the commission in making an independent decision, which is required by regulations, but it is not the case that colleges, that team reports are ignored.

And, in fact, when the changes are made based upon the team report whether to be softer or harder, it's always based upon the facts that are presented in the team report and maybe characterized or interpreted differently than the commission itself would do, or in the context of the additional information provided by the commission, to the commission by the college, there's some information that might have been misinterpreted. So that might be helpful to add.

DR. BENO: So we're going to conclude our remarks. You've been remarkably patient, and I know it's been a long discussion of our case. I'd

just like to conclude with a couple of sentences, and they are at a time when graduates must be prepared for a highly competitive global workplace and when many in government question the accountability and quality of many postsecondary institutions and the rigor of accrediting agencies.

We believe the efforts of the Chancellor's Office and other parties against ACCJC are ill-advised both as a matter of substance and as irresponsible educational message. As both a legal and policy matter, we hope that NACIQI will address only the issues that were up for review here and consider seriously our willingness to make the changes that I discussed yesterday and fully meet all of the compliance regulations that are before you today. So thank you so much for hearing us and for your patience, and we'll take any questions you may have.

CHAIRPERSON PHILLIPS: Thank you very much. Committee member questions for the agency at this point? Federico.

DR. ZARAGOZA: Yeah, I'd like some

clarification. Yesterday--and I'm speaking to staff recommendations. Yesterday, one of you testified that unless the expansion of scope was authorized, that there were four community colleges in the pilot that were at risk. I'm understanding now that you're amenable to the staff recommendation. How do you reconcile the initial step? Are the community colleges still at risk?

DR. BENO: So we are amenable to the staff recommendation, and we could draft a policy and pass it at our January commission meeting, which is the first week of January, putting--if our staff analyst will just be able to talk with us on the phone--putting the elements from our substantive change review process and rubric into a policy called policy on accreditation of baccalaureate degrees.

The issue that places the four colleges at risk is that the staff proposal to limit the commission from approving any more colleges through substantive change for the compliance period, which

I think is a year, would mean that the three colleges that were deferred because their information was incomplete and the one college that was planning to submit its proposal to our February or March meeting--we're confused about when the meeting is--but would not have a chance to seek approval until after our next hearing, and typically you take about a year-and-a-half because a year is really a year from February when the letter comes out from the Secretary--so they would miss the opportunity to begin their program, having it approved by us in the fall of '17, which is the legislative deadline set for these pilot programs.

CHAIRPERSON PHILLIPS: I have Arthur, Cam and Jill.

MR. ROTHKOPF: Yeah, I'd just like to understand the status of the City College of San Francisco. Is it accredited by you, and how did all that come about with the litigation? And I gather there may have been some action by the Department that permitted that to happen even though your view was that at least they were in a

position to lose their accreditation. Explain to me where it stands right now and how it got there.

DR. BENO: Thank you for the question. I'd be glad to. Our commission voted to terminate the accreditation of City College of San Francisco at its June 2013 meeting after the college had been on show cause for a year and had not progressed more than a tiny bit toward meeting the standards and dealing with the deficiencies identified in 2012.

The college then immediately sought a review and an appeal of our decision, so of course when a college appeals, their status of termination is withheld, and they remain on the last status they were on which was for them show cause status. For our commission, show cause is a status lower than probation, if you will, if you think of a ranking.

During the year that it took for a review and an appeal, there was great pressure from the Department of Education with a senior official making statements to the press in the spring of

2014 that the commission could extend time for good cause. The commission received calls from Department officials saying do you want to come in and talk to us about this? But litigation had already been filed. There was litigation filed against the commission in August of 2013.

I will add that that litigation was based on the August 2013 letter, which said that, and I think our attorney covered it yesterday, that, you know, we were instructed by the staff even though they didn't have the authority to instruct us at that point. But there was another finding in the 2013 action letter by the staff, and that was that ACCJC had failed to terminate the accreditation of City College of San Francisco timely and was therefore out of compliance with the two-year rule.

In the December 2013 NACIQI meeting, this Committee found us out of compliance with the two-year rule over that presentation of the City College of San Francisco case. Now that factually was because City College had been found noncompliant six years earlier. So, but, so that

was one of the pressures on our commission in the spring of '14, your finding we were out of compliance, but the other pressure was despite the review and appeal process, City College was not coming forward with evidence that the commission had made a poor decision, nor was it coming forward with evidence that it had really now met the standards.

So we, our leadership,--that was Krista, myself and Steve Winnick--with the commission's approval, flew to Washington to have a meeting with the Department, and we discussed the political situation. I would say it was a political situation. Our commission proposed a new status which was a restoration status. If you were to look at our policies, you can see it can be granted to an institution that has been--whose accreditation has been withdrawn, but who was not given--Krista, help me here--the full two years permitted by law for good cause extension.

So it was a real quirky customized design to create a status for San Francisco City College.

The Department officials agreed that this would be a possible way to proceed. We had a process for City College to apply for restoration, and it involved first meeting the eligibility requirements with a written report and then undergoing a review.

They underwent a review. They applied in July of '14 for restoration status. They applied after the appeal hearing was done, and there was no advancement of their case through their appeal because they did not present evidence that they had met the standards. And, you know, an appeal is defined as in a specific way, and we followed our procedures.

So they applied for restoration. In the fall of '14, we sent an evaluation team, and the purpose of the team was to do--I'm going to call it more like an audit-like review of the college--to provide feedback to the college on every standard it met or did not meet as of fall '14. And that report was reviewed by the commission in January, and the commission's decision had to be based on the belief that the college could in two years,

because restoration is a two-year status, could come into compliance within two years. That is by--am I correct--yeah--by fall of '16.

The commission granted that, and the report sits as a baseline for the college. How did it look in '14 according to the commission, if you will? For the college, it's a starting point. What's left to do? There were more than 30 standards the college didn't meet at that time. So that's how they got into restoration. It's a two-year period. They'll be reviewed in fall of '16, and the commission will consider them in fall of '17, and the Department was flexible and gracious in helping us come up with this idea.

DR. JOHNS: May I just add one--

MR. ROTHKOPF: If I may follow up, and I guess I'm asking for what your knowledge is of this, I was told, and maybe it's been in the press, that one of the reasons that the Department was encouraging you to take a further look at this was because of political pressure from the Congress. Is that, to the best of your knowledge, is that

true?

DR. BENO: Yes, to the best of my knowledge, it is.

DR. JOHNS: If I can also say, though, that with the pressures, as you can imagine, the commission was not a group of--they're volunteer individuals who are giving of themselves to this effort. There was no desire to be under the heat more than necessary. On the other hand, there was an ethical obligation to hold firm to the commitment to follow processes that were in place.

I wanted to let you know that we have indications from the college that they're making good progress in coming into compliance with the standards. In 2014, there were about just under three dozen areas--some significant--where the college was as yet not in compliance with standards, but they have been embarking on great effort and are reporting that they are hoping to make that deadline.

MR. ROTHKOPF: Yeah, and I think that's fine if they meet your standards. That's fine. I

guess I'd just have to express my own personal concern that the Congress, members of Congress, got involved in this, in a process that I do not believe should be politically driven, but apparently there was politics involved in that aspect of it, and it concerns me greatly. Thank you.

CHAIRPERSON PHILLIPS: Cam.

MR. STAPLES: Thank you. You mentioned that you would be able to address some of the findings in the staff report or recommendations in the staff report, in January. I wanted to know if you felt you could address all of the recommendations within six months?

DR. BENO: Yes, I think we can.

MR. STAPLES: Okay. Thank you.

DR. BENO: Thank you.

CHAIRPERSON PHILLIPS: Jill.

DR. DERBY: Well, this is a very general question, and it comes from sitting through the testimony yesterday afternoon, and obviously there has been a lot of collateral damage to the actions

you took. And I wonder if looking back, there are any ways in terms of your practices and processes that you might have handled differently?

DR. BENO: Let me address the collateral damage idea, and I wasn't going to address this, but I think it's important to do so. You heard a lot of testimony that the sanction has harmed CCSF's enrollment. CCSF has made a number of decisions to align its expenditures with its revenues, and those decisions are not ours. Those are the efforts of the college to comply with the requirement to be fiscally stable and responsible.

They have made a number of changes to their offerings at off-campus sites, and in part, it's because two of the sites were found to be, as the team predicted, were found to be unsafe facilities for the college, and they had to close those sites, and I believe one of them is being sold off and another one is being reconstructed. It was a very old facility with I think it was '30s era infrastructure.

They've made a number of changes to a

number of things they've done to try to provide a more structured curriculum and course schedule to help students get through. But they also commissioned in 2012 a demographic study that was published. It was by a man named Mr. Voorhees of the Voorhees Group, and it showed that between that time, 2010, actually, and 2030, that San Francisco City College would have a steadily declining population of college-going people, and it included both the traditional age and the older students.

Since then, San Francisco has undergone a tremendous transformation, very rapid transformation, of population due to the booming high tech, and so if you look in the press, you'll see a lot of articles decrying the pushing out of working and middle class people as the younger techies move in and drive up the price of rental housing and purchased housing.

So there are a number of factors working there. The booming economy also pulls more students away from community college--and that's true at lots of colleges--and into the workforce

when there are jobs, and where there are not jobs, people go back to college. So there are a number of factors there, and I think that the comments that the commission action directly caused all those, caused the changes in enrollment, I think those are simplistic, and there's much more going on in San Francisco.

To your question, would we do something differently, actually we're looking at a practice change we'll be discussing at the commission this year, and it's got some pluses and minuses, but I'll be, and Steve and I, our chair and I, will be recommending that the commission consider when it finds a college out of compliance with anything, providing 18 months for the college to comply even if we're anxious about the fact that they've fallen out of compliance with these same things in the past and had seemingly resolved them in any kind of follow-up or mid-term report. 18 months followed by a review, at which time there would be six months left in the two-year rule, and then at that time imposing the requirements of six months

compliance or show cause, and we're thinking of doing that for every condition because we've heard a lot of stuff about consistency, and the commission has been trying to customize its response to the conditions at the college. If it's something small and the college could respond quickly, we say six months, and they do it.

But if it's complex, we might give them more. If it's really bad for students, we might give them a short time. But the commission customizing its time given to the conditions at the college and a judgment about what's safe for students and what--all of that leads to all this question about consistency in our actions, and so one response is to be always consistent, and the down side of that is, of course, we have to develop a procedure for saying and when we won't give that much time, you know, what are the risk factors that would cause us to say no, you can't have 18 months, and, you know, academic dishonesty is clearly on that list.

But I think we'd have to come up with some

measures, like fiscal stability, for example. Sometimes a college can be right on the cusp, and other times, you know, another cycle of the business cycle could pull it out. So that's the discussion we're going to have about coming up with just a standard time no matter what the noncompliance and see if we can get the commission to a point where they feel comfortable with that. They have felt that they've really worked hard to have a response time that fits the case and clearly that's misunderstood and perhaps isn't the effective approach.

So that's what we're going to take up, and it is directly responding to your question, and it's what we've been pondering as we go through the listening sessions where we're hearing from our members their perceptions.

DR. DERBY: Thank you.

DR. KINSELLA: I'd like to add just a couple of comments if I may. It would have been very easy for us to just roll over and say, okay, fine, just give them their accreditation; let's

just be done with it. But not one of us could do that. Out of 134 standards, the college wasn't complying with 50. I mean that's a long way off. That's not even close. But what it comes down to is, as a commissioner--and I'm the longest-serving commissioner now--I've been on it six years; I was the vice chair when all of this started to happen--how do we encourage that college to comply? How do we get them to comply? How do we help them embrace the desire to comply?

That's the piece that we're missing. A college has to accept responsibility for its own future, its own decisions, and the consequences of its own decisions. That's not what you see. That's our problem. Well, my opening comments were the three-legged stool comment: the Department; accrediting agencies; state agencies and others.

The State of California had a responsibility. We didn't other than to comply and enforce our standards, which we did. The state had the responsibility to address the problems at one of the 113 colleges, and they took a different

approach. They tried the political approach, and unfortunately that's the way it goes. But the commissioners each time the issues came up, we have to examine the facts.

This isn't a political process for us, and I'll say as a retired Marine and served the country for 23 years, fought for the country, I was really encouraged by the first comment that I heard that the rule of law is important. Absolutely it is. That's why I fought for this country; that's why other retired military members did the same thing. That's the only thing that distinguishes our country from the rest of the world. Once these procedures are in place, we have to follow them, and we did because they were approved by the Department.

That was the only choice we had. Could we ignore noncompliance? Not one of us lacks integrity to a stage where we would be able to say we'll just give them a pass. That's not what we're about. It's difficult. I would like to say the educators from California, including, and

especially, City College of San Francisco, some of the absolute best educators in the state, probably in the nation.

My college has borrowed things from their college as well, especially a Pathway program from non-credit to credit to take our immigrants into our mainstream academic programs. All wonderful things. Has nothing to do with this decision. They have some work to do. They need to do it. And they haven't. And we haven't had any other way to communicate that other than the processes that have been established, and that's what we're trying to honor. Thank you.

CHAIRPERSON PHILLIPS: Thank you. I have Anne.

MS. NEAL: Thank you for your comments. Just two questions, one to follow up, and one just a more philosophical question as we look at your request for an extension of scope. Mission creep is a big issue in higher education. I'm wondering if you would discuss the consequences of your expansion in scope in terms of exactly advancing

and promoting mission creep on the part of community colleges? And then my second question will relate to the commission.

DR. KINSELLA: Regarding the mission creep, I'm not sure if I've got exactly everything regarding this, but in our particular area--I'm in a rural area--I'm at the southern end of Silicon Valley in an agricultural belt--we lack trained nurses. We can pump out as many as we can, but we only offer it at the associate degree level. One area of critical importance are these professional degrees. A professional degree in nursing is critical now.

We don't have the ability to offer that. The CSUs don't have the capacity to handle it. What other educational institutions are out there? That's why it became an issue in California. It's been an issue in other places. It was an issue in Northern Marianas. It was an issue in American Samoa. Those degrees are offered through the community colleges because in those locations, that's the appropriate way to do it.

We could not support a full bachelor degree, two dozen degrees, bachelor degrees. That's not the focus that we have, and that's not the need that exists in our state.

MS. NEAL: And let me ask you about the commission composition, which you referred to earlier. As I'm looking at your bylaws, am I correct in understanding that it's composed of 19 members? It's elected by the CEOs of the schools, and that the positions are allocated essentially by role--academics, administrators, secondary schools, WASC, Pacific Island, affiliates, public, and, as I say, academics. As best I can tell, there is no designated slot for anyone who is a trustee, and since we talked a lot about your governance standard, I'm just curious, am I understanding this bylaw correctly?

It's conceivable maybe some trustee might appear, but as best I can tell, it says a public member cannot be a trustee because if he or she is a member of the governing board. So I'm getting back to that trustee's question about no trustee is

on your commission.

DR. BENO: We have public members who are former trustees. The Department's definition of a public member, which we learned--actually during the time I've been in this job, we learned that what we thought of public members, which were in our case elected trustees, public, that they didn't fit the requirement for public members. I think we learned that in our 2003 review or '2 review because a public member is defined by the Department regulations as a person not affiliated with an institution, any member institution.

So we made our public members of our commission, who were at that time included trustees who are actively trustees, we made them into public members. But we do have former trustees sitting on our commission in public member slots. They're just not currently trustees. And one name that comes to mind right away is Mr. Charles Meng.

MS. NEAL: So it's possible, but it's dictated by the bylaw?

DR. BENO: Yeah.

CHAIRPERSON PHILLIPS: Any final comments or questions for the Committee? Yes, George.

DR. FRENCH: Thank you. Good morning. Just one question. The state audit that was conducted concluded that there was a lack of transparency and that schools appeared to be treated inconsistently. Could you speak to that?

DR. KINSELLA: I'd like to speak to that as a licensed CPA in California and have been for 25 years. Audit standards require that you have the professional expertise to conduct the audit. They did not have the professional expertise. They don't know anything about accreditation other than what they can pick up in a short conversation. So that's what they did. They could not conduct an audit on ACCJC because we're a non-profit organization.

When we got hauled in in front of two state senators, we were told we were arrogant and dismissive, and then they explained the nexus between, well, California colleges pay you money; therefore, that's public money. That's the nexus

we're going to use to get the California legislative audit committee to conduct an audit, and that's what they directed, and that's what they did.

So then we argued, wait, you have to have some expertise and knowledge to conduct this audit. This isn't a regular financial audit. It's an operational audit. It's a performance-based audit on regulations of which we understood the Department staff was the experts in that area.

So we challenged that, and they didn't talk to us. Well, they talked to some folks in the Department staff or commission staff to give them information, but they could not conduct an audit of us, and they didn't. So they audited around us. They talked to two colleges that were on show cause, and then they brought City--

DR. JOHNS: And two others.

DR. KINSELLA: And two others.

DR. JOHNS: One was City.

DR. KINSELLA: And one was added and City College of San Francisco. So if you want to create

as much discontent as possible, talk to the people that we have to say I'm sorry, but you must meet our standards in the next 12 months, do it any way you need to, do it any way you have to with your mission and your community and your organization and your governing board, but you have to meet the standards. That bothers people.

DR. BENO: So in--

DR. FRENCH: I guess my concern is that my background reading would indicate that the agency self-admits that there's room for improvement, but over the last two days, I've not heard that from you all. It seems like you all have everything under control. You're doing things perfectly, but it appears before you came that you were holding the public sessions, you were seeking comments, you were extending the period for disciplinary action, but the presentation here, I just don't hear where you all are saying there's room for improvement.

DR. KINSELLA: We've made a number of changes since this all started including the ones that Barbara described. I described a few of them.

Those changes were made. We do want to see what those changes are to see what the effect is before we make additional changes.

We've been open to them, and we did them voluntarily, including creation of restoration status. That took a fair amount of work on our part. We could have just pushed back. But we've been trying to help the college, and I've made comments at a statewide chief executive officer that the 19 commissioners could not advise the college, but every other member in our commission can and should help them. So we have processes, sure, we're stuck on those, and we have to work our way through that, but there's never been any doubt in our mind, we make changes as necessary to serve our members.

DR. FRENCH: So the last point I would make, Madam Chair, on what you just said about helping and the commission, was it true that one of the commissioners publicly stated that this, this agency has become more of a compliance agency more than willing to help? One of the commissioners.

DR. KINSELLA: I haven't heard that. I don't know where that's--

DR. BENO: We have not heard that at a commission meeting, but people who are commissioners can make statements. There was a dialogue when the commission--the commission held three listening sessions this fall, and I think those weren't an official meeting where the commission is doing policy work, and I think there was a dialogue, and I think a commissioner may have said we've become more compliance oriented. I will just add that you are part of what drives us to be compliance oriented, you know, the focus on complying with regulations and then complying with standards.

There's a line that a commission has to walk between becoming an advisor and a consultant and telling colleges how to fix things and just telling them fix them, and we try to stay away from the how. Our peer evaluation teams might give some how advice, but we try not to do that. We as a staff are not experts in everything a college does,

but we also don't want to be the entity that says do it this way, and then we'll judge you on whether you've done what we've said.

Some colleges would like us to just tell them what to do, and we ask them to, as Steve mentioned, we ask their peers to help them. We tell them here's a model college, call this college, they've done this, but we won't tell them just what to do unless it's just what the standard means, and they're having trouble understanding that.

DR. FRENCH: Well, for the record, I would just say that I can agree with you. I think it was November 15 of last month, it was an editorial board, Los Angeles Times, where the quote was, but to me it was kind of inconsistent. It seems to me that these agencies are supposed to be about compliance and not prescriptive in what should occur at the institutions so I just wanted to get clarity on that. Thank you, Madam Chair.

CHAIRPERSON PHILLIPS: Rick.

MR. O'DONNELL: Mr. Winnick, I just want

to make sure I heard yesterday correctly. It's your belief that you all are in compliance with everything the Department has asked, and so that the staff report that says you're out of compliance, you all believe you're in compliance even though you're willing to do these things because you don't believe they're required by regulation. Is that--am I characterizing accurately what you said yesterday?

MR. WINNICK: I think that's correct. We've acknowledged that there was one staff meeting of the substantive change committee that was observed by the cognizant staff person from the Department that was problematic. But our view is that was simply an initial meeting. We agree it was not, it was not a great meeting. It was the first step in the process. There were subsequent steps to ensure rigor and to ensure that the right decision was made.

Subject to that thought, yes, I think we are in compliance. We're prepared, I think, to commit to working closely with the Department staff

to get all of these changes made, but we don't think that's because they're compelled by noncompliance. I think they're all in the nature of making sure that these things are clearer, that we improve the processes, and I think both this Committee and the Department have full authority not to make a finding of noncompliance but instead to insist on a commitment, which we're giving, to get this done.

As President Beno said, we could get this done--most of the things can get done in January, but certainly within six months, we can make these changes.

DR. BENO: I'd just like to add that I agree with the staff finding that the committee was chaotic. I personally and professionally agree with it. We have replaced the staff member serving that committee. We have had a long discussion with the chair of that committee, which you'll recall was a new chair, and we have had discussions in the executive committee about using protocols that that committee must use until all the members learn the

ropes. One of the issues was there were people new to the commission and new to the committee who were, I'm going to say, wandering around in the gap between state regs, which some of them know because they're in the state system, and accreditation requirements and standards and criteria.

So I think that I want, I do want you to know that that committee gets a reboot, and it's already started.

CHAIRPERSON PHILLIPS: Committee members, any further questions for the agency? Paul.

DR. LeBLANC: Thank you. I'm going to violate my longstanding principle of when you're attending your first meeting, you should shut up and listen and learn. But could you clarify for me--I, like George, I was doing some background reading last night--you mentioned the numerous items of noncompliance, most of those related to governance and financial management. Were there key noncompliance issues related to quality around student achievement?

DR. BENO: At San Francisco City College?

DR. LeBLANC: Yes, sorry.

DR. BENO: Yes. Yes, there were, and one of the major things was, just so you know, we require colleges to have an ongoing program review using student achievement data and outcomes, and that the programs analyze and make improvement plans, and they had not engaged in a program review process, data driven across the whole program.

They had sites, because they have multiple sites, where there were wholly inadequate student support services that could help these students, and the sites were often in ethnic and economic communities, but those services were absent so students were floundering. They took classes at that site, but they didn't have the support needed to move on to the rest of the college, if you will, and the Chancellor's Office data on their success rates has to do with the students taking transfer, or, sorry, credit programs, and Krista, you can probably address this, but the "N" for that data is about 5,000 of their students, and at the time there were more than their current 32,000.

And our standards require them to look at the student achievement of all the students. So the students in other programs, in basic skills, the students who came in for CTE, et cetera. So we found large gaps in the work that they had to do, should have been doing to assess outcomes, large gaps in data. So they couldn't prove they had successful student outcomes for a larger chunk of their total student enrollment. So, yes, there were academic issues.

DR. JOHNS: Just on the data quickly, as a couple of examples, at the time that they had about 90,000 students, the number of students that they were using for their statistical, which was the entire cohort they had defined, was at no point more than 3,000 students, and so even there, the statistics were better than some places. But in other words, our standards should apply to all students.

Looking deeper into the database from the State Chancellor's Office, we also saw that one of their--the big programs they have, which is a non-

credit program trying to move students into college level courses, the ability of students to do that over, to move from that program into college-bearing classes in six years was four percent. And so I'm just throwing those out. There were issues there where comparison against other colleges doesn't give the whole picture. It really is one where we're saying please look at the standards and use the data to improve your practices.

DR. BENO: One last comment. In 2013, at the commission's hearing on this college, the Chancellor, Dr. Thelma Scott-Skillman, came to the commission meeting and described the sites that I mentioned that lacked support services and lacked coherent curriculum, in her terms, she called them "ghettoized," where the students she feared would be kept there and never advance beyond those sites and the classes that happened to be offered at those sites. And that was a chief concern of hers, to make changes to those sites' curriculum and also to the support services available so that students would, if they went to their more local site of the

City College of San Francisco, have a chance to move into the more I'm going to call it mainstream community college education, which is a big variety of things in the mainstream.

CHAIRPERSON PHILLIPS: Committee members, last call? Okay. Thank you for joining us.

Our next step in this review process is to ask the Department staff to return to have the opportunity to respond to the agency and to the third-party comments. And we will also have an opportunity to speak to the staff. Welcome back.

MS. DAGGETT: Thank you. Good morning, Madam Chair, members of the Committee. After hearing all the testimony, and everything that's been said up until this point, I just have a few things that I'd like to add for the record before I'm open for any questions you might have.

First, I am happy to hear from Dr. Beno and the others representing the agency that they are willing to make the changes discussed in order to come into compliance with the areas noted in the staff report, and I would do my best to work with

them to be able to meet that.

I do think that based on Mr. Staple's question regarding whether they could come into compliance in six months, I think for the three areas for which we have made the recommendation for a good cause extension, I do think that would be possible. I think that those are changes that could be made within a six-month time period.

I'm unsure about the issues related to the expansion of scope and the baccalaureate degree about whether or not those changes could be made within a six-month time frame.

As for their assertion that perhaps these could be reviewed as items of improvement versus noncompliance issues, I'm not sure the Department has any leeway to have anything in between that. So I would defer to Sally and the legal whether that is legally available, but I'm pretty sure we don't. We have either they're in compliance or not in compliance.

Finally, the one thing I wanted to bring up is it was brought up multiple times that they

were not provided notice of a couple of different issues. I will say that there was notice provided regarding the possibility of imposing a limitation on the agency within the draft staff analysis. I do have a copy of that. I believe it is available to you, online though.

And I did want to bring up also that we did provide information regarding the fact that those areas related to baccalaureate degrees that were not included, their standards or other overall policy. That was included in the report back from, the final report in 2013. It was also included in the draft staff report that we provided in October, and obviously it was included in the final. So I feel that there was not any kind of opportunity of notice issue with any of those areas.

Finally, I wanted to discuss a little bit about the limitation of what programs it would affect. Obviously, they've talked about the 15 California pilot programs, baccalaureate degree programs, and it would affect any of those that were not accredited by the time of the senior

Department official letter to be, if they were to agree, were to be issued. So they did talk about how there are 11 that are already approved, there are three that they were getting follow-up information, and they said that there would be, I think, a January meeting. It is possible that one of those would be affected.

I also want to point out that there are no students yet in any of those programs. They are required to start by fall of 2017 based on the testimony you've heard. So at this point, there are not any students that would be affected by Title IV funding, even on a prospective basis. Any future programs I anticipate would start after that time. So if the agency wanted to avail itself of the process of coming back before the Department and the NACIQI to request expansion of scope, again, once they have addressed the issues in the staff report, they could do so, and it may not affect some of those other programs they've talked about.

Finally, I just wanted to point out one

other thing, that the last example that Mr. Kinsella brought up was about nursing programs. And my understanding is that they actually, the law has strictly prohibited the community colleges from being able to go into the nursing field, that the CSUs are continuing to do that. So all of the baccalaureate programs, none of them are in nursing.

So they talked about the need for the baccalaureate degree, and that was the specific example provided. That, actually, that need would not be addressed by this program. And other than that, I'm open to any questions you might have and happy to assist.

CHAIRPERSON PHILLIPS: Thank you, Elizabeth. Questions for staff? Herman.

MR. BOUNDS: One thing I wanted to address, of course, I don't have any questions for Elizabeth because I'm not a Committee member.

MS. DAGGETT: I was about to say--

MR. BOUNDS: No.

[Laughter.]

MR. BOUNDS: As Sally says, "not a Committee member." I just wanted to bring up one thing. There's been talk yesterday about the August 13, 2013 California Federation of Teachers complaint decision letter as a major piece of documentation for finding the agency out of compliance back in 2013 regarding not providing a detailed written report explaining deficiencies. I just wanted to make clear that that was part of the documentation--that was part of the documentation, but that was not the sole documentation provided at that time.

I pulled up the 2013 report, and the report clearly says that of the site visit reports and the commission decision letters, those two documents did not clearly identify deficiencies in the institution's compliance with the agency standards. I just wanted to make that clear. That CFT letter was not the only piece of documentation that was used back at that time to make that determination.

CHAIRPERSON PHILLIPS: Any final questions

for staff? Yes, Rick.

MR. O'DONNELL: Well, I have questions on the motion because I want to understand what it does so this may not be the time to discuss it, but it's really the staff recommendation. So--

CHAIRPERSON PHILLIPS: So we don't quite have a motion yet, but that's the next step.

MR. O'DONNELL: Well, I do have a question then on the staff recommendation.

CHAIRPERSON PHILLIPS: Great. This would be a good time to ask it.

MR. O'DONNELL: Okay. Thanks. I just want to understand what the current recognition of ACCJC is. Were they granted an expansion of scope to do baccalaureate programs already or not?

MS. DAGGETT: They were granted an expansion of scope in January of 2014 based on the senior Department official signing off on the scope that you see under where it says "current scope." And that does included that they were allowed to-- they were allowed to review and approve one baccalaureate degree at each college that they

accredit via the substantive change process, and that was the limitation.

MR. O'DONNELL: So your current staff recommendation where it says--

CHAIRPERSON PHILLIPS: Mic.

MR. O'DONNELL: Sorry--where your current recommendation says Department staff also recommends a limitation of ACCJC's current recognition for accreditation, what's the limitation being--is that a new limitation?

MS. DAGGETT: Yes.

MR. O'DONNELL: And what is that?

MS. DAGGETT: They cannot, they cannot approve, they cannot accredit any additional baccalaureate degrees via that process. So they're limited to only the two that were part of the original request, and then now they have approved 11 via the California College Pilot Program. They have three that are filing follow-up reports, which, you know, depending on commission action, I would assume would probably be accredited prior to the senior Department official letter coming out,

and so it would just affect one potential program that would not be approved within that time frame.

And so that would be, you know, 16 or 17 programs total.

MR. O'DONNELL: So this basically stops or rolls back the expansion they were granted by the Department and by the senior official recently--

MS. DAGGETT: Yes.

MR. O'DONNELL: --for the--okay. That's all I wanted to know. Thank you.

CHAIRPERSON PHILLIPS: Any final questions for staff? Okay. Thank you for joining us. It's now our opportunity to consider a motion to start, and then we'll have some discussion.

May we have a motion?

MR. STAPLES: Good morning, Madam Chair. I would like to make the motion that has been drafted by the staff with one change, and that change is that the motion would include a recommendation that the compliance report come back within six months rather than 12 months, and if I could speak to the motion and my thinking behind

it?

CHAIRPERSON PHILLIPS: Let's get a second first.

DR. DERLIN: I'll second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Okay. We've got a second. Discussion.

MR. STAPLES: We've heard an awful lot in the last day, and I think one of the things that has become clear is there's not a really perfect response by NACIQI to the issues that have been raised, but I think that, on balance, at least in my opinion, the staff report is very comprehensive, and it points out some issues that I think are significant, particularly the issues around consistency in decision-making at 602.18 and due process, and I heard a lot yesterday around those two concerns that were raised by the people that testified.

I do have a concern, and George mentioned this earlier, concern being that it's been two years, and there was a fairly conscious decision

not to comply with the issues that have been pointed out in the staff report. They're fairly straightforward, and there was a sense still even as of today that they weren't, the commission didn't really accept that they were out of compliance. And the concern I have is that what we are doing is a fairly extraordinary step. This additional good cause extension is fairly extraordinary.

I have asked the staff, and, Sally, correct me if I'm wrong, there's no particular standards around good cause, and often there are in situations. There's no particular standards in the regulations anyway that say good cause shall be permitted for the following purposes. So it's really up to our discretion, and the Department's discretion, and I would think one of those would be either the impossibility of completing it on time or some sort of late-breaking information that caused them to be unable in two years to come into compliance.

I don't see any of those situations

present. I see a resistance to making these changes and a failure to acknowledge their significance. That said, I think there are a lot of good reasons to try to provide a short window of time for the agency to come into compliance.

Personally I think those two violations that I said are very significant. I think that the lack of transparency in the decision-making process or consistency and the failure to delineate deficiencies that have extreme consequences for institutions when they may not understand what a deficiency is or a noncompliance issue versus an improvement issue, it can result in a significant action taken against that institution. So I consider those to be very significant.

And the failure to follow due process in the same respect I think is something that the Department staff very accurately pointed out as a major deficiency. And so I think they do need to be addressed. I'm comfortable, and the reason I recommend six months is that we know 12 months means 24 months, and in terms of our own

deliberations, and I think the issues are important enough. I think the time line is, there's obviously a lot of intense interest in trying to resolve these issues. I think it's in the agency's best interest to get it done quickly and, if at all possible, to have it come before NACIQI next December, and I realize that puts a little pressure on the staff if the report comes in in August or whatever six months would be from the January letter, but I think this is the right resolution.

And I think for us to give another opportunity for them to come into compliance given the complexity of what would happen if we were to recommend their lack of recognition by the Department, I think this is the prudent path, and so anyway that's what I, those are my reasons for supporting it, and I hope that you will do the same.

CHAIRPERSON PHILLIPS: Thank you.

Discussion? Questions, comments? Bill.

DR. PEPICELLO: Thank you. Yeah, I would support Cam's motion. My reasons are several,

which I'd like to go through. I mean, and they're more philosophical perhaps than mechanical. As we've listened to a lot of testimony the last day and a half, filled with both facts and emotions, first as an administrator, I tend to recognize that there are two kinds of issues in this kind of a situation. They are, first, systems issues, and then there are people issues.

And it seems to me that whether we're looking at the agency or whether we're looking at City College, there is a history of viable infrastructure on both sides, which tells me that there are systems that have worked for a long time successfully, and so that led me to ask then what, where would the issues lie, and for those of you who don't know, my training is as a linguist, and I was interested yesterday to listen to the words that were used to characterize both sides.

The words that were used included "vindictive," "reckless," "punitive," "toxic," and "corrupt." Those are not words that characterize systems, and so I have to assume that there is good

deal of personnel involvement, and I'm not saying, I'm not laying this issue on any person because clearly if we have two systems that have worked, and there's now a high level of emotion and energy there, people have to be involved.

So given that, with my linguistics background, it leads me to believe that what we heard yesterday is due in some measure to a failure to communicate, and I further think that's the case in that the remarks we heard both yesterday and especially this morning were in large part clarifying things that were confusing to people. They were talking about misinterpretations, miscommunications, and I think that in this case, the onus lies on all parties involved to clarify and to clear those channels of communication.

And for that reason, to go back to something we talked about yesterday, I think it makes perfect sense to assume that this is fixable. There would be no reason to support a disbandment, if you would, of the agency when clearly there's structure there that can be worked with, and so for

that reason, without babbling on, I would like to support this motion strongly.

CHAIRPERSON PHILLIPS: Rick.

MR. O'DONNELL: I agree with much of what Cam said about the motion, that these are important issues in the compliance report. I also agree that the agency has had two years to fix them. They haven't. It appears to me they don't even agree that they're out of compliance, and that to me raises questions about, you know, they say they may fix them, but they don't even agree that they're really a problem from a regulatory compliance legal point of view.

And I fail--and I also agree that there doesn't seem to be what one would traditionally call good cause reasons, you know, extraneous reasons, late-breaking news, and I, you know, I, prudence may say that one should support the motion, but I think one of the reasons people wouldn't support the motion is fear of the unknown, that there's consequences if this agency's recognition didn't continue, and I believe that

while that's, you know, that could be disruptive in some areas, that that process would play out over a period of time, and that students and institutions ultimately wouldn't be harmed because other accrediting options could become available for institutions that still need access to Title IV, so I'm not going to support the motion for those reasons.

CHAIRPERSON PHILLIPS: Arthur.

MR. ROTHKOPF: Yeah, I'm trying to make sense of this pretty tangled web that we're facing here. I mean I don't know, and I'm not sure as to why they're not in compliance at this point, but one thing that still puzzles me is why when appeals were filed, I guess on two issues, and no decision has come out of the Department, and it's been a year or two that nothing has happened. We don't know why nothing has happened, and I think that could, that, in my mind, contributes to the peculiar atmosphere that we face here.

I mean maybe if those decisions had been rendered, that would have led the agency to say,

okay, this is where we stand, and now we're going to go ahead and solve the problem or solve the problems that exist or deal with the problems and come into full compliance.

I'm in support of Cam's motion because I think it's a practical way of dealing with it. Six months may turn into a year. I hope a year from now we don't have the same conversation and lengthy discussions that we had this year and then the last time this came up. I believe some of the points made were the same points that were made two years ago.

In some way, I have a feeling, I'll refer to what Secretary Duncan said a few weeks ago, which is accreditors are supposed to be people kind of guarding the rigor and high quality of educational institutions, but accreditors don't bark. Well, I think this is an agency that did bark. Whether they did it the right way or not, whether they communicated well or not, but they took their responsibilities seriously, and so I do commend that.

I don't know all the details of what happened. I know generally that, obviously from these discussions, as to what they think were the facts. So I would commend the group and again express a concern about the fact that political influences from the Congress played into what has ultimately been done, and that particularly bothers me because this body, which is actually representative of both the administration and both houses of Congress, we have done I think in the last four years that I've served on it kept political influences out. And I don't like the idea that in reaching decisions and keeping institutions alive or not alive, that politics apparently has entered into it.

I do not think that's a good thing, and maybe it's inevitable in the system that we have, but I think it's unfortunate. Anyway it's a series of thoughts. At the end of the day, I believe that Cam's motion is one that I can support. Thank you.

CHAIRPERSON PHILLIPS: Anne.

MS. NEAL: Well, I certainly would agree

with my colleagues that this is a very, very, very difficult issue, and back in 2013 when this group was before us, I voted against their certification at that time on the basis that I could not conclude that they were a reliable guarantor of educational quality, and largely because it seemed that they were so focused on governance and management, that they were not adequately focused on educational quality, that while those were mentioned, that they tended often to be inferior to the issues on governance.

And I certainly have continued to hear that refrain in the course of the last day or so, and I think I have concerns about, continuing concerns about that, continuing concerns about how it has played into the inconsistency, the lack of clarity, and the due process concerns that staff has raised. And as Rick has said, we're being asked to extend for due cause, which I think is, again, an exceptional request, and I find this very difficult, but I will vote against the motion for two reasons.

I continue to believe that they cannot come into compliance in a way that will assure that they are reliable guarantors of educational quality, and, quite frankly, in the absence of a decision by the DOE on appeal, I think the better part of action is for me to vote against their certification even as a way of saying I don't have all the information, but it would not be right to extend them without that, and perhaps that will put pressure on the Department to address the appeal.

I guess I've got to say in the same breath in a statement over and above that, that I really sympathize with this accrediting body because it's clear that California has got dueling bodies, a whole range of folks attempting to be accountable, weak boards, strong faculty senates, strong unions. It's a political stew unlike anything I've ever seen and, as Arthur has said, and we've seen Congress get involved. I mean it's just, this is far more than just looking at the accreditation criteria.

And I believe that the accrediting body

has honestly attempted to try to get into this whole issue, but ultimately I don't believe it is appropriate for an unelected body of largely administrators and faculty to be essentially second-guessing the legal and statutory authority of trustees, and I come away from this discussion and this range of issues just profoundly concerned that the existing system that we have does not work, that having both enforcer and peer review together does not work, that this system allows political intrusion, and that many of the proposals that we've made here within NACIQI in terms of simplification and reporting of real data and objective information that is transparent and can be understood by the public and by us would be a far better system than this very obscure and easily influenced process.

So I will be opposing.

CHAIRPERSON PHILLIPS: Other comments or discussion?

MR. ROTHKOPF: I move the question.

DR. LeBLANC: Second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Question has been moved. I'm going to ask for a show of hands on this. Those in favor of the motion as presented?

MR. ROTHKOPF: In favor of the motion?

CHAIRPERSON PHILLIPS: In favor of the motion.

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[Show of hands.]

CHAIRPERSON PHILLIPS: We have three opposed. The motion passes. Thank you all. Very difficult decision. I think that captures much of the discussion.

- - -

CHAIRPERSON PHILLIPS: We will stand adjourned for 15 minutes. When we come back, we're going to ask for the Nurse Education, renewal recognition, the New York State Board of Regents. We are going to shuffle our agenda a little bit after that to make sure that we've got time in process, and so let me ask to see you back here at 10:30.

[Whereupon, a short break was taken.]

CHAIRPERSON PHILLIPS: We'd like to resume our meeting. Good morning. If I could ask you to resume your seats. Okay. At this point, as we resume our meeting, I wanted to give a quick update, the first of many, I'm sure, on our schedule for the day. As you might gather, we're going to need to juggle some things in order to accommodate different travel needs. So we've set for this part of our agenda moving to the Nurse Education, renewal recognition for New York State Board of Regents.

We'll then move to Northwest. At that point, I'm going to sort of see where we are in

terms of the day and set the process for who will be on when, roughly when in the afternoon. So bear with us as we try to navigate a new time table.

**NURSE EDUCATION, NEW YORK STATE BOARD
OF REGENTS [NYBRN]**

CHAIRPERSON PHILLIPS: So with that, the next agency that we are reviewing is Nurse Education, a renewal recognition petition from the New York State Board of Regents. Our process begins with the primary readers introducing the petition. I believe that is Bobbie Derlin and Simon Boehme. So whichever of you is on.

MR. BOEHME: Great. The New York State Board of Regents was first recognized by the Secretary in 1969. The Regents have received periodic renewals of recognition since that time. The agency's last determination for rerecognition was in the fall of 2011.

The Assistant Secretary's decision letter dated January 28, 2014 renewed the agency's recognition for a period of two years. The agency submitted a petition for rerecognition on June 4, 2015, and the agency's rerecognition petition is the subject of today.

CHAIRPERSON PHILLIPS: Thank you very much. Department staff briefing. This is Valerie

Lefor. Welcome.

MS. LEFOR: Thank you. Good morning, Madam Chair and members of the Committee. For the record, my name is Valerie Lefor, and I will now summarize the analysis for the New York State Board of Regents Nursing Education.

The recommendation to the senior Department official is to continue the agency's current recognition and require the agency to come into compliance within 12 months and to submit a compliance report 30 days after the 12-month period that demonstrates the agency's compliance with the issues I'm about to mention.

This recommendation is based on the review of the agency's petition, supporting documentation, and a site visit attended with the agency in October 2015. The agency has not had any complaints or third-party comments submitted to the Department since its last review.

Based on this information presented in the petition, there is one remaining issue, and this is regarding the agency's recruitment and advertising

standards. The agency has provided documentation that includes a handbook for standard policies and procedures that does include those specific to advertising and recruitment related to nursing programs in the state.

In addition to the handbook, the agency has also issued longstanding memorandums that provide a copy of the code of ethics for advertising and recruiting students in degree-granting institutions.

However, what remains unclear is the application of these policies and the review of each institution or program related to those policies. The agency should submit documentation that shows how they review for compliance and monitoring of these topics.

As a result of this concern, Department staff is recommending to the senior Department official to continue the agency's current recognition and require the agency to come into compliance within 12 months and to submit a compliance report 30 days after the 12-month period

that identifies the agency's compliance with this issue identified.

All other items are compliant with the Secretary's Criteria for Recognition. I will be happy to take any questions that you have, and please know that there are representatives here from the agency. Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Any questions for staff at this point? Wonderful. We'd invite the agency to join us.

MR. MURPHY: Thank you, Madam Chair, members of the Committee. I'd first like to reintroduce ourselves. My name is William Murphy. I am Bureau Chief for Professional Education for New York State Education Department, and I'm here with Renee Gecsed, who is our Nursing Review Associate. And I'd like, first, I'd like to thank Department staff and the Committee and the primary readers for all the effort they've put into this.

I'd like to really offer testimony that the Department staff has done a very rigorous review. They made sure that they fairly gave us

the assessment. We were able to respond to it in a fair manner. They came to a site visit that was very representative of how we do our reviews, and there is the one remaining deficiency.

I'd like to give a very quick context before I jump into the regulation that is of concern here. We in New York State are very different from any other state in the country, and we have, we have what we consider--

[Laughter.]

MR. MURPHY: We have what we consider honestly the most unified approach to professional and higher education in the country. And I'll give you the review of that. You will not find another state in the country that decided many years ago to put all of the licensed professions, the Title VIII, what we call Title VIII licensed professions, underneath the umbrella of the Board of Regents in the New York State Education Department.

So the result of that is that my office, which reviews professional ed programs for pharmacy, medicine, dentistry, nursing,

chiropractic, CPAs, et cetera, we also have, we're down the hall from the higher ed unit, and we're down the hall from the professional boards. So that any time something changes in regulation or any update in a scope of practice happens, we right away start to consider how this needs to get to the schools that are training professionals in the professions.

They even have professional ed regulations right in regulation alongside all the higher ed regulations so that it says right in regulation you need to have the depth and breadth of what is required in a particular licensed profession within your curriculum. You may see this in piecemeal fashion in some other states. You might see the Department of Health, Department of State, oversee certain professions. In ours, it is under one umbrella so that we can make sure that from kindergarten through 12th grade through college through vocational education, it's all done in a seamless fashion, and it's all done through the same pipeline.

And we also use obviously our same system of peer review to ensure that we have a very good checks and balances system in place. We have advisory committees. We are very close to all the associations. We're very close and work alongside the accreditation bodies within the professions, and we feel that the system that we have in place really from day one when a school wants to open, we have all of the checks and balances in place to ensure that those students are going to be enrolled in a program and end up with what they need to get started in their profession.

So this brings me to the regulation that is in question. We have, we've documented in our petition all of these standards that are appropriate and we tie them closely to, as Ms. Lefor noted, we tie them closely to the documents that the schools need to fill out. They're self-studies; they're annual reports. They need to do a very extensive annual report that we review that speaks to many different outcomes and student enrollment and admission standards, and in our site

visit report, we literally cite the standard that has to do with you need to have all publications that are very clear for admissions, for retention, for tuition.

You need to have publications that are clearly established and on your website or given to the students. All of these are required in regulation, and we make sure that we put them into the documentation. I will say that I do know that sometimes you can give too much information as part of an accreditation study. So what we did was we tried to explicate further, and we put in a memo because, as you know, especially in this day and age, when you mention the term "ethical standards," it can be a loaded term.

But I think the sum and substance of what we're trying to get at here, and the standard, what it cites is make sure that the schools are very clear in their ethical standards when it comes to recruitment and advertisement. And at the heart of that is you want to make sure that you do not have just a bunch of sales staff that are out there

trying to enroll people in programs that they are not ready for and they do not have the background to get into those programs, and we do that from day one.

We make sure that if they're going to advertise, it needs to be accurate. We have a regulation in place that we cited again in our petition that states you do not even begin to recruit and enroll until you have all approvals from our department. That is a regulation.

In 1980, they created that memo with the group of higher ed stakeholders because, at the time, somebody requested that we want even further granular detail of how you feel a school should be measured according to its ethical guidelines. And really the memo just gets into further detail on recruitment and advertisement. So, again, I feel, I just would like to respectfully assert that I feel that we do meet that regulation.

However, if indeed the Department staff and the commission feel that it needs to be I suppose more explicit, we can work I think pretty

quickly to remedy that and get it incorporated into our site visit report, which is what the Department staff I believe is citing. So with that, I'm happy to take any questions. Thank you.

CHAIRPERSON PHILLIPS: Thank you.
Committee member questions for the agency?
Kathleen.

DR. SULLIVAN ALIOTO: Good morning. When you talk about these ethical standards, do you question the institutions about their student loan default rates?

MR. MURPHY: Yes. In fact, in the annual report, they're required to put in all the financial details, and there's a chart that shows the last three years of default rates so that we know that--yeah. Sorry.

DR. SULLIVAN ALIOTO: Have you ever withheld support of an institution that had outrageous rates of default?

MR. MURPHY: I know what I witnessed was that we've had schools try to come into New York to start, and we would not get past the stage of

allowing them to finalize the program registration and start their school due to high default rates. That was one of the areas that we cited, that we would not allow them to move further until they could give us a rationale and reason for why that is and if indeed they feel that they could improve on it.

So I know, I witnessed firsthand that we did not move forward with certain institutions that had very high default rates.

DR. SULLIVAN ALIOTO: And when you say that it's seamless K-12 to you, I'm working in New York. I'm not sure about how seamless the K-12 education system is.

[Laughter.]

MR. MURPHY: Yeah.

DR. SULLIVAN ALIOTO: And I'm wondering how you're including that in terms of the future medical personnel of our state.

MR. MURPHY: So what we do, what we do from time to time, since all of our staff are in the same building for the most part, when it

relates to K through 12 and higher ed and professional education and vocational education, we have many initiatives that go before the Board of Regents, where we're trying to make sure that the plan for higher education and the plan for P through 12, that they take into consideration the pipeline aspect, and we even go into the schools many times, and we try to do initiatives where we're getting students many times from our underrepresented backgrounds to get introduced to the professions.

There's been many different initiatives, even from the board offices, where they'll go into schools, they'll hold like dental fairs, and they'll try to make sure that they're aware of these other pathways to, say, engineering for females, which are many times underrepresented, and so we try our best to make sure that--you're correct that it's really more in regulation that you have this umbrella where we have K, we have pre-K, kindergarten, we have all the curriculum going up through high school, and we oversee higher

education and the professions.

All those things are under the same umbrella, and what I'm simply trying to contend is that I don't think you could find another state that has that.

CHAIRPERSON PHILLIPS: Thank you. Simon.

MR. BOEHME: Sure. So in going back to the staff report, you were found that in 3(d), which is basic eligibility requirement, you do not meet, and I'll just read it for emphasis, enforces a well-defined set of standards regarding a school's ethical practices, including recruitment and advertising.

And I know that all the excitement of ACCJC has simmered down, but this is still something very important because what is so worrisome about higher education is previous institutions have been allegedly accused of misleading students, and, in particular, even more disheartening, veterans who have served our country, and luring them into universities that are not so good, and so that's why this is so

important.

And your remarks are encouraging that you do hold your schools to high ethical standards, and it's part of the review, but just so we can be absolutely concrete, when the site visit teams go out to the schools, can you provide specific examples of the questions that they would ask related to advertisement or do you have any information that you can tell us about these site visits?

MS. GECSEDI: Good morning. For the record, I'm Renee Gecsedí, and I'm an Associate in Nursing Education with the New York State Education Department. And I am one that goes out and does these site visits, and just to bring it back, we do have, as Bill has referenced, the code of ethics that came out as a memo back in 1980, and it was decided that it would be in that form as opposed to a regulation.

I connect that then back to the regulations and our site visit report, in which the elements of that code of ethics are explicit in the

site visit report. So things that we would look at and speak with the faculty, staff, even students, and then also in doing our own investigation in terms of what we see on the public website and so forth with the school are things about, you know, pass rates for their professional licensing examination, default rates, employment capability upon graduation. Those types of questions are looked at.

We also look at how they are promoting the program and make sure that it's in alignment with what we have as registered and that they're not misleading in that regard as well.

MR. BOEHME: So with the, in the site visit report that you submitted to the Department of Education, it was just a one off thing where there was no ethical--was it just a mistake you guys made? Is that what it was?

MS. GECSEDI: No. Actually I have the site visit report that we submitted, and it doesn't talk--the words "ethical" and--are not explicitly stated in the site visit report. We do talk about

the publications provided and identify elements that are included in those publications, but the words "ethical" aren't necessarily right there.

CHAIRPERSON PHILLIPS: I have Bobbie.

DR. DERLIN: Hi. I'm Bobbie Derlin.

Thanks for being here. So I just want to make sure I understand the tone of these remarks.

MS. GECSEDI: Sure.

DR. DERLIN: Your sense is that the recommendation by the staff that you be brought into compliance is maybe a little picky.

MS. GECSEDI: A little? I'm sorry.

DR. DERLIN: Maybe a little picky because, while the documentation doesn't necessarily tie up all the loose ends, you feel you examine this issue of advertising and recruitment pretty well. But even that said, you can modify to create the clarity that the staff has requested and get that accomplished in the time lines proposed; is that yes or no?

MR. MURPHY: Yes.

DR. DERLIN: Okay. Thanks.

CHAIRPERSON PHILLIPS: Other Committee questions of the agency?

MR. BOEHME: I think that answers it, and I'd like to make a motion if that's--

CHAIRPERSON PHILLIPS: We have one more step. Hold on. We have the opportunity for the staff to respond to the agency.

MS. LEFOR: Thank you. I think that you guys just hit the nail on the head, in my opinion. I'm in agreement that the information is in the standards, that they do clearly articulate it in the memo. As a staff analyst, we just want to ensure that they're thoroughly looking at this information. As Simon mentioned, this is an important issue, and so if this information could be included in the site visit report and properly documented, that would be especially helpful for us to ensure that they are looking at that information.

Thanks.

CHAIRPERSON PHILLIPS: Thank you. Any further questions for staff? Thank you all. Now,

you're welcome to return to your seats.

MR. BOEHME: Great. Well, I'd like to make a motion to accept the staff recommendation that reads: Continue the agency's current recognition and require the agency to come into compliance within 12 months and submit a compliance report 30 days after the 12-month period that demonstrate's the agency's compliance with the issue identified in the report.

Thank you.

CHAIRPERSON PHILLIPS: And do we have a second?

DR. DERLIN: This is Bobbie. I will second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Okay. Okay. Any discussion or comments? Frank.

MR. WU: This is just a comment for us as a body. Something I've never been clear on is when there is an agency that is associated with a state, it's a state governmental body, how do we deal with them? So this isn't just New York. We had an

issue with Puerto Rico, for example. It comes up from time to time. It's just never been clear to me, and probably nobody out there really knows, what is the relationship of what we do, our substantive standards and our process, to state bodies because it seems that when this comes up, there's always a little doubt about how, whether there's additional deference or whether we treat them differently?

In addition, although I wasn't here for the discussion of the prior agency, when there is legislation in a state or when there is litigation in a state, it's murky what happens with what we're doing and how that, whether it preempts state law and so on.

CHAIRPERSON PHILLIPS: Okay. I'm going to ask Jen to respond to part of that and Sally to respond to the other part of it.

DR. HONG: So with regard to the nursing accrediting agencies, state agencies, and the public postsecondary vocational state agencies, you'll notice that they're on a totally different

set of regulations. And there's no--we basically default to the procedures we use for accrediting agencies in reviewing them, but the nature of the regulations, the substance, the content are very different. They're, I guess, I don't want to say that they're less, well, they're less voluminous for one so it's different regulations.

MS. MORGAN: And as far as the question on whether they preempt, the answer is no. I mean whether we recognize them or not or use them to let, as a gatekeeper for Federal programs doesn't affect positively or negatively what the state may do as far as regulating educational programs within its borders.

CHAIRPERSON PHILLIPS: And the other, the flip side of that, if there is a state action, the implications of that for this recognition process? The flip side of that is if there is a state action of some kind--I think this is also what Ralph was-- I'm sorry--Frank was asking--yeah, I know who you are--was asking if there's a state action of some kind, legislative or legal, whatever, what

implications that has for the processes or actions that we take?

MS. MORGAN: If it's a state enforcement action, you know, if the institution is no longer authorized to operate in the state, that will affect whether they get Title IV. If the state changes the statutory or state statutory or regulatory requirements relating to the agency, that affects what the agency is when we review it, and that can affect whether or not we, it meets our criteria.

MR. WU: So it sounds as if unless it's specially covered as a nursing agency, then we just handle this the way we would handle any other agency?

MS. MORGAN: Correct.

CHAIRPERSON PHILLIPS: Agency, nursing or vocational education. Those are the two. Other Committee questions or discussion? Ready for the question? The motion on the table is on the screen.

Show of hands, those in favor?

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: I realize I didn't ask for abstentions last time so I will this time. Any abstentions?

[No response.]

CHAIRPERSON PHILLIPS: Okay. Motion passes. Thank you very much.

- - -

**NORTHWEST COMMISSION ON COLLEGES AND
UNIVERSITIES [NWCCU]**

CHAIRPERSON PHILLIPS: We're going to move next to the consideration of Northwest. This is the renewal of recognition petition of Northwest Commission on Colleges and Universities, NWCCU. I understand there are no recusals for this item, but we do have a number of public commenters.

We begin this process by inviting the primary readers to make their presentation. I believe it is Arthur Rothkopf and Federico Zaragoza.

MR. ROTHKOPF: Federico is going to--

CHAIRPERSON PHILLIPS: Federico, you're on.

DR. ZARAGOZA: Madam Chair, colleagues, this is another agency that is pending a Secretary's ruling on an agency appeal so background information to that effect will be provided during this introduction.

The Northwest Commission on Colleges and Universities, NWCCU, is a regional institutional accreditor that accredits and preaccredits over 150

graduate degree and distance education programs within those institutions in seven states. Most of the institutions accredited by NWCCU use the Secretary's recognition of the agency to establish eligibility to participate in Title IV Student Financial Aid program.

The NWCCU received initial recognition in 1952 and has received periodic reviews on recognition since that time. The last full review of the agency was conducted on December 2013, at which time NACIQI found the agency out of compliance with ten sections of the Secretary's Criteria for Recognition, and the Department staff found the agency out of compliance with 12 sections.

Both NACIQI and the Department staff recommended the continued recognition of the agency, and that it come into compliance within 12 months and submit a compliance report on the deficient sections. The acting Secretary of the Department concurred with the NACIQI recommendations. However, NWCCU disagreed with the

findings in five sections and appealed the NACIQI and the Department decisions regarding those sections to the Secretary.

On December 11, 2014, Secretary Duncan received the decision, reversed the decision concerning three sections and affirmed the decision concerning two sections. The Secretary also granted continued recognition pending the submission of a compliance report on Section 602.24(a) and 602.24 within 12 months. The Secretary's appeal decision is expected on January 11, 2016.

Therefore, the complaint--this compliance report is in response to the finding by the senior Department officials regarding the five sections of the Secretary's Criteria for Recognition that were not appealed by NWCCU.

Madam Chair, at this time, I will defer to Department staff for their review and recommendations.

CHAIRPERSON PHILLIPS: Thank you very much. Department staff. There you are. Thank

you.

MS. DAGGETT: No problem. Good morning, Madam Chair and members of the Committee. For the record, my name is Elizabeth Daggett, and I am providing a summary of the review of the compliance report for Northwest Commission on Colleges and Universities.

The staff recommendation to the senior Department official for this agency is to accept the compliance report and continue the agency's recognition until the Department reaches a final decision regarding the outcome of the compliance report on Section 602.24(a) and 602(24(b) in response to the Secretary's appeal decision, which is due January 11, 2016.

This recommendation is based on our review of the agency's report in response to the remaining issues and its supporting documentation. The remaining issues from the petition review in 2013 required documentation to demonstrate the implementation of new and revised policies. Our review of the agency's report found that the agency

is in compliance with the Secretary's Criteria for Recognition in those areas. Since the agency's last review in December 2013, the Department has received, reviewed, and resolved one complaint.

In conclusion, as I stated earlier, the staff recommendation to the senior Department official is to accept the compliance report and continue the agency's recognition until the Department reaches a final decision regarding the outcome of the compliance report on the sections cited previously in response to the Secretary's appeal decision.

Thank you.

CHAIRPERSON PHILLIPS: Questions of staff?
Arthur.

MR. ROTHKOPF: Yeah, Beth, I'm not, I guess I'm a little bit puzzled by the process here when we discussed it a bit before, informally before the session began. The Secretary is going to respond on January 11, which is--

MS. DAGGETT: Yeah, the Secretary--

MR. ROTHKOPF: --2016.

MS. DAGGETT: That's when Northwest is required--

MR. ROTHKOPF: Can't hear you.

CHAIRPERSON PHILLIPS: Mic.

MS. DAGGETT: Sorry. That's when the Secretary, that's when the agency is required to respond to the two areas that the Secretary affirmed in the appeal. So the Secretary affirmed the decision of the staff and NACIQI and ultimately the senior Department official in two areas, and is requiring a compliance report on those two areas, and that is due January 11, 2016, based on the Secretary's decision.

MR. ROTHKOPF: I guess I understand--

CHAIRPERSON PHILLIPS: Microphone.

MR. ROTHKOPF: Oh, sorry. I'm puzzled. Why January 11? Here we are on December 17. Is there some reason that this decision couldn't have been rendered before January 11? I mean I assume that's the final date for issue--

MS. DAGGETT: Sorry. Well, that is when the compliance report is due. So we still have to

review the compliance report in the same fashion that we review any other compliance report. And that's the amount of time that they were provided in the Secretary's decision that was granted on dated December 11, 2014. And so in that, he granted them one year, 12 months, to come into compliance with those two sections, which would bring us to December 2015, but then you get an additional 30 days to put the report together and submit it. So the deadline is January 11, 2016 for the submission of that report.

MR. ROTHKOPF: Thank you.

CHAIRPERSON PHILLIPS: Other questions of staff? Anne?

MS. NEAL: My math is probably not very good. I'm looking that there were ten sections that were out of compliance. Northwest appealed five. Three were reversed so that doesn't leave seven?

MS. DAGGETT: Well, the five are reviewed in this particular compliance report, and the remaining two--

MS. NEAL: I see.

MS. DAGGETT: --are in the compliance report that will be due in January.

MS. NEAL: Okay. Okay. And then it says also that you received and resolved one complaint. What kind of complaint was it?

MS. DAGGETT: I'm going to be honest. That wasn't a complaint that I processed so I'm not going to be able to answer it, but I believe that is related to probably what you're going to hear from the third-party commenters, which is complaining about Northwest's complaint policies and procedures.

MS. NEAL: Okay. And then I'm--when I look on the agenda, it says renewal of recognition, and then when I look on the action item, it says compliance report. Are we doing both? Or what are we doing?

MS. DAGGETT: This is a compliance report.

MS. NEAL: Thank you.

CHAIRPERSON PHILLIPS: Correction to the agenda, which says it's a renewal of recognition.

MS. DAGGETT: Oh, was it? Okay.

CHAIRPERSON PHILLIPS: Yeah. Other questions of staff? Okay. We'll invite you back after the third-party comments. We have now six third-party commenters who have signed up requesting time to speak. As is typical, we have three minutes.

Oh, I'm sorry. The agency is wondering why it's not being invited up. Sorry about that. Just trying to move things along.

[Laughter.]

CHAIRPERSON PHILLIPS: My apologies. The agency would like to join us. Thank you, Sally. My apologies and welcome.

DR. ELMAN: Good morning, Madam Chair and members of NACIQI. I want to begin by thanking you on behalf of the Northwest Commission on Colleges and Universities. I'm Sandra Elman, the President of the Commission. I've had the honor and privilege of serving the Northwest Commission for-- I can't believe I'm saying this now as I look at long-time colleagues--19 years.

On behalf of the commission, I want to introduce to you Chancellor Tom Case, a commissioner of the Board of Commissioners of the Northwest Commission, and my good colleague, Vice President Dr. Pam Goad.

I want to thank you, Madam Chair, and the members, Dr. Hong, Dr. Bounds, for your service on this important Committee. It's good to see you, Dr. Derby. These are important times for higher education.

We do not have any prepared comments. I do want to extend on behalf of my colleagues, who are not here but worked on our compliance report, and on behalf of the commission, our appreciation for the professionalism and guidance of Ms. Elizabeth Daggett throughout this process. Thank you to you.

I've appeared before this Committee many, many times, beginning in 1997. I hope that we have an opportunity--we're very pleased, of course, that the staff analyst has found us to now be meeting the five compliance regulations.

The Northwest Commission takes very seriously its function of protecting the public interest in our 4,000 mile region from Barrow, Alaska to Las Vegas, Nevada, and we're pleased to be able to continue our gatekeeping function on behalf of all the citizens and all the students of the United States. So we have no other prepared comments, but of course we're happy to answer any questions.

CHAIRPERSON PHILLIPS: Thank you very much. Questions? Arthur.

MR. ROTHKOPF: My question really goes to what's happened since the last time you appeared before NACIQI? And I guess I'd want to explore or ask the question, as you look over that period of time, what have been the two greatest challenges that you have faced and if you could talk about how the commission is responding to those two challenges? If you want to go to three, that's fine also.

DR. ELMAN: Thank you, President Rothkopf. The challenges and the high priority issues that

the commission has been dealing with, and Commissioner Case, who's a fairly new commissioner, but, Vice President Goad, chime in here, do not, and I say this deferentially to the five issues that we have found to now be in compliance with, were not issues of the greatest import, if you will, that the commission has been dealing with.

Without in any way undermining the importance of these regulations, they were regulations that we were able to demonstrate evidence and compliance with, certainly in a time consuming but a fairly straightforward way.

I am very pleased to say, and maybe we will have an opportunity once you speak to the five issues, if you so wish, to talk a little bit about what Ms. Neal and others over the years have rigorously and vigorously asked of the regionals, as have you, President Rothkopf, we have focused on issues of student outcomes and student achievement.

We now have an outcomes-based accreditation model, which we implemented in 2011. When I came before you a year or so ago, two years

ago, we were still in the early stages of that. I'm pleased to say that many of our institutions have now come up for reaccreditation under this model, and we have many components that I can speak to, as you so wish, that have all our institutions addressing student achievement and student learning outcomes. So that really has been I would say our, our challenge, our productive challenge, our rewarding challenge, not perfectly done yet, but that's where so much of our energy and the thoughtfulness of commissioners in reaccrediting institutions and in seeing to the extent that they meet the standards, where our greatest intellectual and accreditation challenges have been.

MR. ROTHKOPF: If I might just follow up on that.

DR. ELMAN: Please.

MR. ROTHKOPF: And that's really what I wanted to hear about. Has there been--I mean how well are you doing in terms of getting the institutions that you accredit to come to a common understanding or a common agreement as to student

outcomes and student achievements? In other words, where is this process, and when you get to that wonderful land of perfect agreement, what do you propose to do? Do you propose to put out a statement on it or to then, if you will, compel schools to follow those rules? What, where does all that stand?

DR. ELMAN: That's an excellent and timely question and thank you for it. It's a two-prong answer. One is that our institutions are now really, to put it fairly commonly, they are really getting it and understanding it and embracing the importance of student learning outcomes, measuring those outcomes, however the institution decides to do it, and relating it to what we call in Standard 5 mission fulfillment.

So they are now not only just understanding the importance of it, but they're actually collecting data. They have methodologies in place, benchmarks and indicators to assess student learning outcomes in accordance with their own educational objectives and their own

distinctive missions. So that's happening, if you will, en masse.

In particular, to the other point in your question, so what will we do when we all, quote, "get to the promised land," we have instituted, or, not instituted, we have launched a demonstration project. The demonstration project is a three-year project. We're in year-and-a-half now of that project in which we have four institutions of different types: Columbia Basin College, which is a comprehensive community college; the University of Puget Sound, which is a liberal arts private institution; the University of Montana Missoula, which is a research university; and the University of Oregon, which is also a research university in Oregon.

These four institutions are working together are working together under the leadership of one of our former commissioners, Dr. Lee Thornton, and with my colleagues on the staff and myself to develop what we are calling best practices, best practices for their institutions in

terms of assessing student learning outcomes and mission fulfillment. They will be producing best practices for their own institution--four different types of institutions or three different types, but there are distinctions between Missoula and Oregon--and the hope is that we would mandate, we would not mandate, but that these best practices would be model practices, if you will, and model ways of helping other institutions in our region and perhaps even--Northwest is never presumptuous so we're not sure it will be helpful nationwide, but we think it will be--to help various institutions actually do what so many of us, so many of you have been talking about, the public is talking about for years and years, and that is determining how does an institution know what its students know and is it fulfilling its mission?

So we have the more general, if you will, President Rothkopf, and then we have this specific project.

MR. ROTHKOPF: Right. Thank you.

DR. ELMAN: Thank you.

MR. CASE: Through the chair, if I may add one comment in two parts. First, from the perspective of a chancellor within the universities covered by Northwest Commission, I have spent a little over ten years now both as a dean and as a chancellor under this commission, and I found the structure to be extremely effective in keeping us focused with a big deal of attention to student success through a process that really makes sense. So that's why I was pleased to volunteer to serve as a commissioner because I believe what the commission is doing is very worthwhile.

And, secondly, as a commissioner, I've had the opportunity to go through two meetings now where our member schools come in and present their case, and I found that process to be, on the one hand, collegial and respectful, but, on the other hand, very data driven and in accordance with the requirements. So that's a fine road to walk sometimes, but I personally am very pleased with the way it goes.

Thank you.

CHAIRPERSON PHILLIPS: Thank you. I have Anne and Kathleen.

MS. NEAL: Thank you for coming. And I appreciate your opening up the discussion about student performance because I know when you were last here, we had a vigorous discussion about that. I decided to take advantage of all the wonderful new data that the Department of Education recently provided, and I looked at graduation rates of your, the schools in your universe, and I know that graduation rates are imperfect, but I was struck in looking at the four-year graduation rates of your publics, that's at 21.5 percent, whereas the national average is 33.5 percent; six year graduation rates of your public average, 42.8 percent, whereas the national average is 57.7 percent.

So I'm happy to hear that you are sanguine, but I wonder against that backdrop, how you've determined that things are improving?

DR. ELMAN: Thank you for that question. I'm sanguine, but I'm not happy. Before the

commission in January, and actually Commissioner Case does not know this, but my colleague Dr. Goad does, we will be putting forth to the commission a suggestion, or recommendation might be a little bit strong. We're constantly looking at our standards--Mr. Wolff knows this from his many days as president of the WASC region--to try to make them better and to make them more responsive to external needs and public interest, and so we will actually be putting forth, or I will be putting forth, but I'll talk, of course, to my chair beforehand, a slight revision to our standards. Because we are now looking as part of the process I discussed just in the previous question by President Rothkopf, we talk about asking institutions for what's called direct measures and indirect measures of student achievement, and there's a whole controversy.

There are pros to graduation rates, and then there are cons, I suppose you would say, but, nevertheless, graduation rates are important. And retention rates are important. So we're actually going to propose a one sentence addition into--was

it Standard 1, Pam--

DR. GOAD: Uh-huh. Yes.

DR. ELMAN: --Standard 1, where we actually say amongst all the things that the institutions have to do that is part of addressing Standard 1, they have to have multiple--let's see if I have the language--multiple direct and indirect measures, including, but not limited to, graduation rates and retention rates. By doing that, Ms. Neal, then they become a standard, okay, that they have to meet and comply with.

Then, of course, the conundrum, which I don't have the answer for, but the commissioners hopefully will grapple with it, is what is a reasonable and what is an appropriate graduation rate? I can say with confidence that it will be probably the expectation a different, and I don't normally choose institutions, but in this case, it's not a bad thing to cite an institution, the graduation rate for Reed College in Portland, Oregon, a selective liberal arts institution, is likely to be different than for a community college

sitting in a rural area of one of our seven states.

Nevertheless, the graduation rate is important, and we will need to know the context for why it is very low. We will need to know--if it is low, we will need to know what the institution is planning to do or has done in increasing that graduation rate and certainly retention rates as appropriate. So we're going to--and I think it's a good move. And it's not--maybe I shouldn't say this--it's not only in response to the public demands, et cetera. It is, I think, in a world that we live in good public policy to do that.

CHAIRPERSON PHILLIPS: Thank you. I have Kathleen and John.

DR. SULLIVAN ALIOTO: Are you also including the median earnings data ten years after enrollment, the earning above high school graduation after six years, the three-year repayment rate, the median debt, the percent of Pell students, the price and the student borrowing of each institution?

DR. ELMAN: I am not going to put that

suggestion forward to the commission at this point. We are aware of that data. I think our institutions, I actually called the institutions. I don't know what data sheets you're looking at, and I'm not going to mention institutions because in this sense it wouldn't be in their favor, but I actually called the two institutions that we received data copy sheets on that had very low, very, very low graduation rates.

Before I called--you used the word "sanguine" before--I was nervous that they wouldn't know about it, one, or they could possibly deny it, two. Neither was the case. They did know about it. It actually had increased a bit because those were figures from 2013. They were aware of it, but then they began to explain the context for it, et cetera.

We do not monitor median salaries. I know many colleges do look at that for their graduates, but I don't think the commission would necessarily at this juncture see that as data we would require.

DR. SULLIVAN ALIOTO: In terms of this

whole business about graduation rates with community colleges, when a large part of their mission is to have continuing education--

DR. ELMAN: Exactly.

DR. SULLIVAN ALIOTO: --courses, do you separate that out in any way so that, so that community colleges are not banged on the head for something that's not part of their mission?

DR. ELMAN: Well, you're absolutely correct, and that's why in my response to Ms. Neal I used the word "as appropriate," and I gave the example that the graduation rate for Reed College I can tell you is significantly different, and should be, and one would expect it would be, than for community colleges that have a multiple mission, have student body that comes in and out of college, that has a great deal of transfer students, et cetera. And that's where the "as appropriate" is so, so, so critical.

CHAIRPERSON PHILLIPS: Thank you. John.

DR. ETCHEMENDY: Yeah. I just want to follow up on Anne's question and I think really the

sense of Kathleen's questions. I'm delighted that you're now asking the institutions to measure their graduation rates. It's kind of surprising that accreditation organizations have not done that regularly for until relatively recently. You're not alone in not having required that before.

And I think a good first step is to do what you're planning to do, which is look at the graduation rates and ask the institution to explain if they look low, explain why they're low, and that's a good first step. I hope you have plans to take it beyond that and to try to come up with ways of recognizing when an institution really is falling below what they should be producing given the kinds of students they serve.

I think it's essential that all the regionals start looking at graduation rates, and I'd like them to look at various other measures as well and work together to figure out how we can actually draw some lines, now maybe not bright lines, but, you know, pretty bright lines that indicate when an institution really is underserving

the population that it should be serving.

So I encourage you not to leave it at where you're going now, collect the data and explain to us the data, go beyond that and try to figure out when you should be actually coming down on an institution and saying, no, your accreditation is actually threatened by the low graduation rates.

DR. ELMAN: Thank you for those helpful comments, and I think you're correct. I don't want to imply that we have never had our institutions collecting or reporting on graduation rates. It's just that it has not been a standard per se. And to your very insightful comments, I think you're absolutely right, graduation rates in and of themselves, per se, don't tell the full story. They might tell a story that explains why a graduation rate is what it is, and everything else might be copacetic, or where you are I think implying is that they might tell a story about some other serious issues at the institution that must be addressed. And that is the far more serious

one.

CHAIRPERSON PHILLIPS: Jill.

DR. DERBY: Just to follow up on that.

I'm assuming that when we're talking about the community colleges that have their multiple mission, that we're talking about completion rates because counting in students that come in for a particular certification, for some sort of documentation of completion of a program, that there's a way that that's factored in so that community colleges aren't held to a comparison with four-year colleges and universities, particularly with very selective universities, as you pointed out, in terms of Reed College, so that there's a comparability.

I think in the eyes of the public, there's often a great misunderstanding when we hear about very low completion rates, rather graduation rates, for community colleges, that the multiple mission means that there are other students that are completing what they came for or, as we know, simply taking some courses to advance their

expertise in whatever their work positions are.

DR. ELMAN: You're absolutely correct, Dr. Derby, and we would certainly, certainly do that. Absolutely.

CHAIRPERSON PHILLIPS: I have Anne, Federico and Arthur.

MS. NEAL: I just quickly want to clarify that those numbers, distressing numbers that I articulated, were for four-year publics. They were not for community colleges.

CHAIRPERSON PHILLIPS: Federico.

DR. ZARAGOZA: Yes, Madam Chair. I just wanted to confirm since staff recommendation alluded to the compliance report January 11 that, in fact, you will be forthcoming with that report as assumed in staff recommendations?

DR. ELMAN: Oh, yes, of course, we will submit it. Yes.

DR. ZARAGOZA: Good. Right answer.

[Laughter.]

DR. ELMAN: I don't know if it's appropriate to just clarify President Rothkopf's

question about the timing. Our appeal wasn't responded to until December 11, almost a complete year when we submitted it. The whys and hows are not for going into. So we received a letter on December 11, 2014, as our staff analyst indicated, and you did so eloquently, reversed three, but we had to address two, and they gave us the year plus 30 days so that's why it became January 11, 2016. But, yes, of course, we will submit it.

MR. ROTHKOPF: And I'll make a motion if I can. Is there anyone else?

CHAIRPERSON PHILLIPS: We're not quite there yet.

MR. ROTHKOPF: Uh?

CHAIRPERSON PHILLIPS: We've got third-party comments and response. So hold on.

MR. ROTHKOPF: Okay.

CHAIRPERSON PHILLIPS: Any further questions for the agency? Thank you for joining us.

DR. ELMAN: Thank you and thank you for your thoughtful comments about the student learning

outcomes issue, which is so important. Thank you all.

CHAIRPERSON PHILLIPS: Before we go to the third-party commenters, I wanted to clarify with staff if we could get some information about the complaint that was requested? Do we have any information that we can provide on that?

DR. HONG: So I was the analyst assigned to Northwest during 2012 and 2013. Just a minor correction. It's actually three complaints were received during the time period when I had them. Briefly, the first complaint, the agency was notified in April 3, 2013, and by the way, the complainants are present here today and are third-party commenters, the agency--the nature of this particular complaint was with regard to complaint processing, and the agency was found noncompliant in April 2013 with their processes.

And these findings were reflected in the agency's review back in 2013, I believe. Shortly thereafter, we received, around the same period, we received another complaint regarding some faculty

at Idaho State University on various issues, particularly again complaint processing, and they were alleging noncompliance under consistency, and we had said that, you know, that they had supplied information supporting their continued compliance under consistency, but that we had already, that they already had a previous outstanding finding of noncompliance under complaint procedures.

So we did find that they didn't handle this complaint in accord with their complaint procedures either, but they were already noncompliant. So that's the second complaint.

And then, let's see, the third complaint was alleging wrongful accreditation of an institution by the accrediting agency, as well as, again, noncompliance under complaint procedures, and since they were already in the process of repairing that deficiency, we informed the complainants that they were, there was a finding of noncompliance on complaint procedures, you know, and what the agency status was with regard to it, and this is prior to--the agency was reviewed

December 2013. So these complainants were advised of their continuing review and the review before this Committee, as well as given information where they could provide oral comment.

And you may recall one set of complainants, the faculty from Idaho State, they were present and provided oral comment at the 2013 meeting.

CHAIRPERSON PHILLIPS: Thank you. I want to invite our third-party commenters to join us. We have a list of six. I think I've got the timing right now. First up is Greg Scholtz of AAUP with David Delehanty from Idaho State University on deck. Again, our procedure is we have a three-minute opportunity to talk. I get the pleasure of being the wicked witch of the North in calling time. So welcome and thank you for joining us.

DR. SCHOLTZ: Thank you for the opportunity.

CHAIRPERSON PHILLIPS: You need to press the button at the bottom.

DR. SCHOLTZ: Got it. Thank you for the

opportunity. I am the Director of the Department of Academic Freedom, Tenure, and Governance at the American Association of University Professors, and I'm here to speak about the AAUP sanction of Idaho State University.

In June 2011, the American Association of University Professors, by vote of delegates to its annual meeting and on the recommendation of its Standing Committee on College and University Governance, added Idaho State to its list of six institutions sanctioned for, quote, "substantial noncompliance with generally accepted standards of academic governance."

Founded in 1915, the AAUP has helped to shape American higher education in service of the common good by developing principles and standards on academic freedom, tenure and governance. Many of the AAUP's key recommended principles and standards, often formulated in cooperation with other higher education organizations, have become widely accepted at public and private colleges and universities.

AAUP standards for academic governance are set forth in the 1966 Statement on Government of Colleges and Universities. The Statement on Government, which was jointly formulated with the American Council on Education and the Association of Governing Boards of Universities and Colleges, asserts that the variety and complexity of the task performed by institutions of higher education and the resulting inescapable interdependence of governing board, administration, faculty and students requires joint planning and effort for effective institutional decision-making.

While recognizing the authority of the administration and the final authority of the governing board, the Statement on Government accords the faculty primary responsibility in, quote, "curriculum, subject matter, methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process"--closed quotes.

The report that informed the sanction vote, published in May 2011, recounts a number of

actions by the Vailas administration and the state board of education that contravened normative principles and standards of academic governance, actions that culminated in the unilateral dissolution of the faculty senate. The report concludes, quote, "In severely restricting the faculty's decision-making role in academic governance over the last several years, and suppressing faculty dissent, and, finally, in abolishing the faculty senate, and with it the last vestiges of shared governance on the ISU campus, the administration of Idaho State University and the Idaho State Board of Education acted in direct violation of widely accepted principles and standards of academic governance as set forth in the Statement on Government of Colleges and Universities"--closed quotes.

CHAIRPERSON PHILLIPS: If I could ask you to wrap up in one more sentence.

DR. SCHOLTZ: Sure. Since the sanction's imposition in 2011, the AAUP's staff has received no information suggesting any significant

improvement in these dire conditions for academic governance at Idaho State University.

CHAIRPERSON PHILLIPS: Thank you very much. Thank you.

DR. SCHOLTZ: You're welcome.

CHAIRPERSON PHILLIPS: Questions for this speaker? Hank.

MR. BROWN: Obviously you've touched on a critically important question with regard to governance issues. Just for clarification, putting aside the abolishment of the faculty senate, which would indeed be an unusual action, you used the term "faculty decision-making." That implies authority to make a decision, not simply make recommendations. Is that what you intended to imply?

CHAIRPERSON PHILLIPS: Mic, please. Mic. Thank you.

DR. SCHOLTZ: One at a time, I guess. Our position is that faculty, the faculty have a primary responsibility in these academic matters, but they do not have final authority in these

academic matters. So, yes, faculty, the faculty can make recommendations on these issues, and the administration or board can decline to accept these recommendations, but we also say, quote, "in rare instances and for compelling reasons which should be stated in detail."

MR. BROWN: Thank you for the clarification.

DR. SCHOLTZ: You're welcome. I have Anne and Jill.

MS. NEAL: And in terms of your concern, what is it you are seeking from the accreditor or what is the failure of the accreditor as you see it? Is this a failure to follow by the complaint processes or?

DR. SCHOLTZ: I was asked simply to come here and speak about the AAUP's report and sanction at Idaho State.

CHAIRPERSON PHILLIPS: Quick staff interjection. Jen.

DR. HONG: Just to help clarify, the complaint submitted by Idaho State University, the

noncompliance finding was based on a complaint that they had submitted to Northwest regarding academic governance issues. So that's why we have this testimony before us if that helps.

CHAIRPERSON PHILLIPS: Jill.

DR. DERBY: I just missed something. Who acted to dismiss the faculty senate at Ohio State, at Idaho State?

DR. SCHOLTZ: Ultimately the State Board of Education on the recommendation of President Vailas.

DR. DERBY: I see.

CHAIRPERSON PHILLIPS: Frank.

MR. WU: This raises a question for me that has arisen many times over the years, and I'm never sure how we should deal with it. What happens when there is an issue specific to one institution that is brought before us? Should we regard this as something appropriate to question the agency about? Should we look to see if there's a pattern, or should we regard it as not rising to the level that this body needs to be concerned with

because it's one institution?

Part of why I ask is we might want to set expectations for the public at large. I don't want to waste people's time in that they might come here and do something thinking that we will then act upon it. If we're never or rarely going to think about issues at one specific institution, then we might want to signal that somehow.

CHAIRPERSON PHILLIPS: Let me ask Sally to respond to that.

MS. MORGAN: Of course the consideration is within NACIQI's discretion, but the answer is, like all lawyers, it depends. If it's a really egregious problem that the accrediting agency really should have caught, you know, an academic sham, a fraud that you can't imagine how a credible process couldn't have addressed it, then that would be enough in my judgment to talk about it. But other than that, you have to consider whether, you know, the agency's process as a whole is okay, and if there's only--if there's a minor problem or even a severe problem with one that they overlooked,

that might not bear on their effectiveness.

CHAIRPERSON PHILLIPS: Frank, go ahead.

MR. WU: So I'll follow up with two questions for this witness, and then I'll ask a question of the agency when they come back. The two questions for this witness, knowing that this witness might not have answers, are, first, do you have any sense that this is an issue beyond the single institution within the purview of this agency, that is, is AAUP saying there are 27 other institutions within purview of this agency that present with this problem? That's the first question.

The second question is, is there a specific statute or regulation that NACIQI is responsible for that you would want to direct our attention to that you think this particular issue involves?

DR. SCHOLTZ: I am not aware of any other institutions within the accrediting agency's purview that are currently experiencing problems such as those at Idaho State, although in my

experience in the AAUP, I imagine there are some, and the second question was, was there any standard that AAUP wished to address? The answer is not that I'm aware of.

MR. WU: May I ask one more question? How often does--and I don't know how AAUP is organized. I don't know if you yourself are part of a national body or particular region or chapter. How often does AAUP come before NACIQI?

DR. SCHOLTZ: I've been on the staff of AAUP for seven years, and in that time, as far as I know, no member of the staff has come before NACIQI. I understand that yesterday, the first vice president of the association gave public comment.

MR. WU: So for you to come indicates that AAUP thinks this is a big deal? You wouldn't just come if you thought this didn't rise to some pretty significant level?

DR. SCHOLTZ: I think that's a safe assumption.

CHAIRPERSON PHILLIPS: Further questions

of this commenter? Thank you very much for joining us.

DR. SCHOLTZ: Thank you.

CHAIRPERSON PHILLIPS: The next person who signed up for public comment is David Delehanty with Mike Ellis on deck. David Delehanty, Idaho State University. Welcome. Let me introduce you to the button at the bottom of your mic. There you go. Thank you.

DR. DELEHANTY: Are we ready? Madam Chair and Committee members, thank you for your service to American higher education. My name is Dr. David Delehanty. I'm a tenured professor of biology at Idaho State University, an institution that sadly has arrived at a four-year graduation rate of 11 percent, the lowest graduation rate per Federal student loan dollar among NWCCU institutions and with the Federal student loan default rate above the national average.

At ISU, I teach undergraduate and graduate students, and I have an active research laboratory funded through competitive Federal grants.

However, my responsibilities as a dually-elected faculty leader ultimately led me to report ISU malfeasance to the NWCCU via the complaint process ensured by CFR 602.23(c).

I've come to realize that the NWCCU is an accrediting body that has lost its way. It does not follow its own policies and procedures. It is not complying with 602.23(c) at this time. Your Committee and the USDE are being asked to accept a gross misrepresentation on the part of NWCCU led by Dr. Sandra Elman.

Dr. Elman reports to you and to USDE that NWCCU has returned to compliance with 602.23(c) in part by considering the highly detailed 260-page Idaho State University faculty complaint during NWCCU's seven-year site visit to ISU. This is false. The complaint was not legitimately considered. I met with on-site evaluators, including the evaluation panel chair, who told me in person that the evaluators were not familiar with the 260-page complaint and were not provided a copy of the complaint because Dr. Elman told them

that the complaint was closed.

I provided them with copies of the complaint. For three-and-a-half years, Dr. Elman has maneuvered to avoid actually investigating this major complaint which represents the concerns of a 650-member faculty and was approved by the ISU faculty senate in April 2012, and then the faculty senate for the second time was dissolved as a result of our submitting this.

By evading 602.23(c), NWCCU shields itself from embarrassing public disclosure of deficient performance and malfeasance by universities under its watch and the subsequent harm to students. Effectively, NWCCU now challenges your authority by presenting you with a "too big to fail" dilemma. I urge your Committee not only to find NWCCU to be in continued noncompliance with 602.23(c), but I also, but also to consider limiting or suspending NWCCU until it comes into compliance, something that may require new and responsible leadership at NWCCU.

Thousands of hardscrabble students in Idaho need the benefits of meaningful academic

standards upheld by an honest accreditation process, something that they do not have at this time. Thank you for your attention.

CHAIRPERSON PHILLIPS: Thank you very much. Questions for this commenter? Thank you. Kathleen.

DR. SULLIVAN ALIOTO: Why wouldn't the faculty senate and the faculty itself be developing the policies and procedures to have better results?

DR. DELEHANTY: We exhausted internal efforts to have these kinds of results. It's hard for this group--it may be hard for this group to imagine that the faculty organized through a senate and duly elected work very hard with the new Vailas administration to seek these better results that you suggest. And we were shut down, cut out of the process. Ultimately, President Vailas received an 80 percent vote of no confidence from the faculty.

This was not a casual thing. The response was for President Vailas to cause the faculty senate to be dissolved. The faculty senate recreated itself with the former members being

reelected, and they used their several months of existence to create this 260-page complaint and report it to the accreditors because all internal methods had been exhausted.

We were then dissolved again, and what's so troubling to us is that we can't get NWCCU to look into this. It's highly documented. You're going to hear more from speakers who follow me. This is a dismal history, and the faculty have been shut down at ISU, and frankly NWCCU has a 19, almost 20-year history of evading faculty complaints. We're at a loss. It's not casual that I come here on my own to speak to this group. This is not my--I want to be teaching and doing my research. But I'm here because we are out of options, and we place it before you.

CHAIRPERSON PHILLIPS: Frank.

MR. WU: So I have a question for the witness and then a question for us and for staff. My question to you is I want to make sure I understand what's going on. There is a concern on your campus about shared governance. It has not

been resolved to your satisfaction and that of others, including the AAUP, and that then--

DR. DELEHANTY: That's correct.

MR. WU: Okay. So that's correct.

CHAIRPERSON PHILLIPS: Mic, please.

DR. DELEHANTY: That's correct.

MR. WU: Okay. And then that issue was brought to the attention of the accrediting authority?

DR. DELEHANTY: Yes.

MR. WU: And in your view not resolved satisfactorily there or not even considered in the detail it should have been?

DR. DELEHANTY: It's true that that is my view. It's also true that that was the view of NACIQI in 2013.

MR. WU: Okay. Great. Thank you. That's very useful. So I have a question for all of us, which is to what extent do we or should we, other than recognizing agencies and not recognizing them, do we ever direct agencies to do things? Do we tell them? Do we have any authority to do that?

Should we be doing that? Or can we strongly suggest or hint at through questions? So I'm just wondering does this body have the authority when an agency comes to say, agency, you ought to do "x"?

CHAIRPERSON PHILLIPS: Sally?

MS. MORGAN: Well, of course, what you make is a recommendation. So the real question is I suppose would the Department, if you made that recommendation, would it have authority to require it? And I'm not clear enough to know whether it's tied to the criteria. It would have to be tied to the criteria and what the history is.

CHAIRPERSON PHILLIPS: I have Ralph.

MR. WOLFF: I too am a little confused so if I may ask a question of the witness and then of the staff. Have you filed or have the faculty filed a complaint not just with Northwest, but I understand a complaint was filed with the Department of Education?

DR. DELEHANTY: The faculty developed this 260-page complaint, submitted it to NWCCU, which then told us they could not accept the complaint

because it was signed by individuals. Dr. Phil Cole, who you'll hear from, and I, who I was vice chair and he was chair at that time of something called the Provisional Faculty Senate, then signed on behalf of the senators who did this, and then we were met with the criticism that this was just a complaint from two ornery faculty members.

We nevertheless proceeded, and it was rejected, not investigated. There wasn't fair, timely, equitable investigation. We didn't receive any documentary evidence from NWCCU. We simply got a terse message that the complaint was not valid. I don't remember the exact term.

We then followed, according to policy, an appeal to NWCCU. Now, remember, this means NWCCU appeals has to evaluate itself, and they found that their own behavior was outstanding, and we had, we had, we were not aggrieved. And that is what we then complained to USDE, which to their credit, in my view, listened to us and brought the matter before your group, and in 2013, your group did find NWCCU to be out of compliance in this way. At that

time, NWCCU promised your group to do the right thing, but they never contacted us, and it went away.

Well, when they began to claim that they were in compliance, and our complaint still had not been investigated. We resubmitted it. We had checked first that it was all right, and you know it was all right, and we resubmitted it, and we have simply been told, oh, this was considered at the seven-year site visit, but I was there. It wasn't.

MR. WOLFF: Thank you. Maybe I'll just say after the final witnesses I would have a question that I would like to prepare the staff for. One is what happened in the processing of this particular complaint, but also it appears the staff reviewed the new complaint policy and finds that it is now compliant. So I confess being a little confused about the specific filing of the complaint and then the current finding. I don't feel it's appropriate for NACIQI to adjudicate an individual complaint, but I know what the basis of

the current finding would be in light of your previous findings of noncompliance. So I'm trying to figure how do we get to the point of now being in compliance if this issue seems still to be unresolved?

CHAIRPERSON PHILLIPS: So just to clarify the process. We will have an opportunity to speak to the staff again, and the staff will have an opportunity to respond to the third-party comments and to the agency. So we've got a few more steps to go. And we have Frank and Anne.

MR. WU: Briefly, I was just going to offer four options. I'm not pushing for any of these. I'm just laying them out as things, we NACIQI, could do about this, and not just this, but in general when a witness or multiple witnesses come with an issue about a specific campus.

And I thought I would offer these now so we can have them in mind as we hear from others; right. They are in ascending order to intervention. So the first is we could do nothing. We can just listen to this and then make our

decision as to the agency the way we normally do with no additional language. That's the first. We do nothing different.

The second is the action we take is normal. We just use one of the forms that we've developed, but we add some suggestion orally or through questioning that suggests to the agency some members of this body think the agency ought to be doing more. So sort of informal, not part of the official recommendation, type of note.

Third, we could say something in general. That is we could add language to our boilerplate, which we do from time to time. We could add language that says we recommend the agency for an approval of "x" number of months or years with the proviso that they do more to look at issues of shared governance at institutions that they have, that they have.

The fourth is we could be very specific and say we recommend approval for "x" number of months or years with the proviso that they do something about this specific set of issues at

Idaho State. So I'm just offering that, they are, one, do nothing; two, do something very informal; three, do something general by adding it to the statement; four, do something very specific about what we've heard and add to our statement.

CHAIRPERSON PHILLIPS: Thank you. Anne.

MS. NEAL: Well, good morning. We talked a lot this morning about politics in the State of California. So I want to pursue now politics in the State of Idaho. Am I correct in understanding, so Idaho State Board of Ed, is it an appointed body or an elected body?

DR. DELEHANTY: It's an appointed body, and it covers unusually kindergarten through Ph.D.

MS. NEAL: Okay. But they were involved in this particular action to which you object?

DR. DELEHANTY: They were involved in the two dissolutions of the faculty senates because the president had to gain their approval, but we have solid evidence that he lobbied them for that result.

MS. NEAL: And it is fair to say that

there is strong sentiment from the faculty senate against the current president of Idaho State?

DR. DELEHANTY: From the entire faculty. He is a discredited president.

MS. NEAL: Okay. Thank you.

DR. DELEHANTY: You're welcome.

CHAIRPERSON PHILLIPS: Other questions for this speaker? Kathleen.

DR. SULLIVAN ALIOTO: Do you consider that part of the role of an accrediting agency should be to help you deal with an internal problem, or does the accrediting agency say if you have an 11 percent graduation rate at a four-year institution that perhaps you shouldn't be accredited?

DR. DELEHANTY: Well, I love being in higher education, and I'm committed not only to my field but to the students, and when you go to an impoverished place like Idaho and southeastern Idaho, that is the place where you can make one of the greatest differences as a professional educator.

It would be easy to go to Princeton and

say my students are good, not that they've invited me, by the way, but you know, when you get a, when you get a young person from a semi-rural area in Idaho, who has never really been exposed to basic biological concepts and so on, you're making a difference in their life as they develop as a scientist.

So I don't want Idaho State University to go away. I want Idaho State University to be held to the standard that we are claiming publicly we have when we invite students to come, take out Federal student loans, and really stake their grub stake on ISU.

I am saddened and I am embarrassed that we have these students coming, and they don't know. They're fresh-faced freshmen, and they don't know that their chances of actually graduating, even after six years, are less than one in three, and they will be \$45,000 in debt with no degree, and in Idaho for a young person, \$45,000 is a small mountain of money.

I don't like being a part of that. What's

the solution? The solution is to hold ISU to an appropriate standard, and what's the vehicle if they won't do it themselves? It's NWCCU. But NWCCU won't do it because faculty members aren't listened to by NWCCU. I mean that's our last resort. The last thing--I had so many--this was years in the making. I had people warning me for years, well, don't go to your accreditor. They might, you know, they might find a deficiency at your university. We worked hard inside the university to get things right, but ultimately there has to be a guardian.

There has to be some kind of body, and then if NWCCU won't do it, as they should, you know, the last resort from our point of view--you're like the Supreme Court from our point of view--the last resort is to come here and say they're violating the Secretary's criteria, you know. Clear violation of 602.23(c). It feeds back to the students in the end.

I don't want ISU to lose its accreditation, but it needs to reform, and NWCCU

should be doing that. It's stunning to me that they would come and do a seven-year evaluation at ISU with these vast problems that faculty are trying to tell them about, and then they simply say, no, everything is fine, it looks good here to us.

You know what the recommendation was? Revise your mission statement. I'm a committed educator. That seemed like an absurdity to me with the problems that we face.

CHAIRPERSON PHILLIPS: Simon.

MR. BOEHME: Well, I can safely say we are no Supreme Court. If we were, I can guarantee you things would sure as hell be a little different. But at least for mine. But I'm just curious to why, why NACIQI and why the accreditor? Because I think this is a serious concern, obviously, dissolving the faculty senate, but it almost strikes me as this is an issue more in-house within your board of regents that goes kindergarten to Ph.D. or maybe to your local elected official. But can you address why specifically the accreditor?

DR. DELEHANTY: Yes. NACIQI, you're guardians of hundreds of billions of dollars of Federal student loans, and you are charged with that money being used responsibly. And that's good. And the mechanism that was in place before anybody here was part of this process was the accreditation process that we're talking about.

So the only way, and, you know, the leverage, as everybody here knows, the leverage is money, but the principal are standards. All right. So why do we come to NACIQI and why do we go through an accreditor? Well, first of all, we didn't do it originally as I've tried to make clear. We spent years trying to work internally. A thing I didn't mention to you was the suppression of regular public free speech in which our university president argued in a case that went all the way to the Idaho Supreme Court that he could regulate faculty speech in newspapers and in public venues because the public might consider them to be representatives of the university. On that point, we prevailed at the Idaho Supreme Court.

We also went to the AAUP that does uphold professional standards for faculty. We also went to the American Federation of Teachers. I guess we are, we are arguing for principle. We don't see it as a partisan. We just see, we see that we have to come--

MR. BOEHME: So you think the accreditor-- you think--

DR. DELEHANTY: --through these mechanisms? Uh?

MR. BOEHME: You think the accreditor is your last hope because it seems like you've gone through all the motions, you've gone to all the stakeholders, but you really feel that the accreditor is not giving you the outcome that you wish, and this is really it?

DR. DELEHANTY: To say that this is just a matter of us being upset by the accreditor's decision I think is not the right analysis because it hasn't actually been investigated. All right. We still haven't been heard. How could they possibly have come to a determination without

asking some questions? It would be like, you know, if somebody stole my wallet and there is a witness, and I go to the police officer and say, hey, that guy stole my wallet. He said, well, let me go talk to that guy. No, he says he didn't steal it; he'd never do such a thing. That's not an investigation. You ought to talk to the witnesses too.

MR. BOEHME: Great. Thank you.

CHAIRPERSON PHILLIPS: I have Jill, and I just want to remind people we have four more speakers.

DR. DERBY: Well, I just need some help here. If you could clarify for me the linkage between the low graduation rate and the issue that's before NACIQI which has to do with noncompliance around the complaint process because let me say I'm a very strong proponent of shared governance in higher education. I think it's really vital, but I'm trying to make that linkage here with what's before us in terms of the compliance issue.

DR. DELEHANTY: Well, I'll say honestly that that's a brilliant question, and this is why. You have to appreciate that our effort to solve things was in the interest of students and academic principles, the standards. The mechanism to shut down faculty was to take away our voice. All right. Now we had every intention of using our voice to address many issues, and we signaled that to the administration.

So the trick, the pitch point was if we can get it so that faculty members can't speak, if they can't effectively complain, then we can't-- then the faculty can't raise these many other issues. We think that there are issues of noncompliance outside of NWCCU's Standard 2.A.1. We know so. But if we can't even speak, then how can we raise these other issues?

We imagined, naively, as it turns out, that NWCCU would be receptive to this, to listening to faculty members. But it seems from our experience they appear to be complicit in shutting us down, and so we don't, so the first thing you

have to do is regain the right to speak. Then once you have the right to speak, you can raise these other issues in the interest of the university and its entire endeavor.

So that's the link. We went to NWCCU and said, now, wait a minute, you know, they dissolved the faculty senate twice. There are three people in this room who were forbidden from participating in faculty governance through trickery. I was not allowed to be a faculty representative by a de facto policy, you know, there's no, it's not defensible, but that's what they did. Delehanty, Cole, Ellis, you're not allowed anymore to be your faculty representatives even though the faculty wanted us. You know, that's--so that, you know, you keep moving up and this is where we've ended up. And you, your group I hope is the defenders of, by being the enforcers of good accreditation principles.

CHAIRPERSON PHILLIPS: I have John.

DR. ETCHEMENDY: Just following up on Jill's. What was the specific precipitating event

that led the president to request the disbanding of the faculty senate? Were you trying to say something about educational policy or graduation rates or something, and he said I don't want that?

DR. DELEHANTY: Yes, and--yes. And, of course, you all appreciate I am a professor. I can speak a week for on this if you'd like.

[Laughter.]

DR. DELEHANTY: But we, yeah, you know, we had faculty members who were being pressured to reduce the rigor of their course, for example. We were losing the ability to be involved in policy that was fundamental to faculty in curriculum and so on, and as we lost these things and couldn't get, you know, an appropriate interaction with administration, as you learned from the AAUP testimony that preceded mine, you know, it came to a head, and so the precipitating event, to explicitly answer your question, was when the faculty finally had enough, and they did a vote of no confidence, and our voter turnout was 76 some percent, which is huge, and the vote was 80

percent--I'm using rounded to the single digits--80 percent to 20 percent against President Vailas.

DR. ETCHEMENDY: Thank you.

CHAIRPERSON PHILLIPS: Further questions for this speaker? Thank you for joining us.

DR. DELEHANTY: Again, thank you, all of you, for your service to higher education.

CHAIRPERSON PHILLIPS: Our next speaker is Mike Ellis of Idaho State University. Philip Cole, Idaho State University, on deck. Welcome.

DR. ELLIS: Madam Chair, I'm Mike Ellis. I'm also a faculty member at Idaho State University. On August 10, 2014, a second complaint was submitted by a separate group of faculty at Idaho State University. This complaint referenced events that occurred after the faculty senate complaint was submitted. The allegations were different from the faculty senate complaint.

The staff compliance report is based, in part, on Northwest's description of its handling of this complaint. I'm here today to tell you this is a misrepresentation of facts. Initially, Northwest

did not even acknowledge the submission of this complaint and indicated the matter was closed without an investigation. Only after the complainants informed the Department of Education did Northwest reverse its decision and indicate it would provide the, quote, "correspondence" to the site evaluation team following its policy for "third party comments."

This policy states, and I'll now quote: "Copies of third party comments will be made available to members of the evaluation committee and the institution being visited for candidacy or accreditation at least ten days prior to the scheduled evaluation."

The evaluation committee was not given copies of these two complaints prior to their visit. I have legally recorded conversations with Dr. Elman and the chair of the evaluation committee that explicitly state that copies were not supplied to the committee prior to their visit. This precluded any fair, timely, and equitable evaluation of this complaint by the evaluators.

Northwest never responded to the specific allegations in this complaint. I believe this Committee has given Northwest every opportunity to comply, having already granted one extension for good cause. Northwest has simply refused to comply.

The Committee asked Dr. Elman or this Committee asked Dr. Elman on December 13, 2013, if the institution was not adhering to its own mission statement, would that become a concern for your association? In response to this question, Dr. Elman stated, yes, it would.

The second complaint filed by ISU faculty alleged violations of Idaho State Board of Education policy. A violation of State Board of Education policy is a more serious allegation than not adhering to a mission statement. Dr. Elman again contradicted her own statement before this Committee when she stated in a letter to us that, quote: "The commission is not the venue for determining the institution's compliance with Idaho State Board's policies"--end quote.

At the very least, Northwest needs to be required to investigate this complaint. I would ask that the Department of Education official oversee this process. Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Questions for this commenter? Hank.

MR. BROWN: Just a clarification. I assume the normal process is for an accreditor to hold hearings on campus and provide an opportunity for faculty members and other interested parties, shareholders in the institution, to come and offer comments. Did that take place in this circumstance?

DR. ELLIS: Yes, it did, and there were a lot of comments made that I don't think were ever investigated, such as academic fraud for one was accused--you know, that was an accusation that was brought forward. So, yes, those, you know, that did happen, and that's actually when we got a chance to give the complaints to the accreditors because they did not have them at that point.

MR. BROWN: So the concern here is that

they did not receive copies of the petitions and other information with enough notice in advance of the hearing?

DR. ELLIS: That's correct according to their own policy. That's the reason for the policy so that accreditors don't arrive on campus, and they're not familiar with the issues and don't have time to really sort through them. That's correct.

MR. BROWN: And is it your thought that accreditors should have a responsibility to investigate all the complaints brought to them?

DR. ELLIS: In this case, what happened is Northwest decided to make the complaint into a comment and have the accreditors handle it. That was a decision that Northwest decided to do.

MR. BROWN: Your suggestion is that if complaints are brought to an accreditation team, that they have a responsibility to investigate them?

DR. ELLIS: Northwest has a responsibility to investigate complaints.

MR. BROWN: Thank you.

CHAIRPERSON PHILLIPS: Other questions for this speaker? Thank you very much for joining us. Our next speaker is Philip Cole, Idaho State University, with Jack--

DR. LONGMATE: Longmate.

CHAIRPERSON PHILLIPS: --Longmate--thank you--from Olympic College on deck. Thank you for joining us, and let me introduce you to the button at the bottom of your microphone.

DR. COLE: Madam Chair and members of the Committee, good morning. For the record, my name is Philip Cole, and I'm a professor of physics at Idaho State University. I came before this body slightly over two years ago on the matter of 602.23(c). I will speak to this matter again.

I wish to provide a time line on NWCCU's lack of compliance with 602.23. On April 10, 2012, the Idaho State University faculty senate approved a 260-page complaint to NWCCU. Ten days later, the senate was dissolved against the wishes of the faculty.

On September 21, 2012, NWCCU dismissed the

complaint without demonstrating any evidence of meaningful investigation, and 11 months later, the appeal was dismissed, again with no documentary evidence. This lack of documentary evidence and failure to meet their own complaint process was the very reason for the USDE finding that NWCCU was out of compliance with 602.23(c).

On December 13, 2013, NACIQI recommended that NWCCU come into compliance with 602.23(c) within a period of 12 months. NWCCU remained silent. Hence, we resubmitted the self-same complaint to NWCCU on August 1, 2014.

Independent of this resubmitted faculty senate complaint, a separate complaint signed by 18 professors was filed with the NWCCU on August 10, 2014. This complaint was never adequately reviewed.

Three months later in October of 2014, the year-seven evaluation team paid a site visit to Idaho State University. Dr. Elman was with the team, but she did not provide the site visitors with either of the two complaints. The chair of

the evaluation team, Provost Paul Reichardt, later confirmed that the two complaints had been withheld from the site team.

On January 28, 2015, NWCCU informed Drs. Cole, Delehanty and Ellis that the complaint was closed and had been closed since September of 2012. That is to say NWCCU never reopened nor subsequently reviewed the complaint, notwithstanding the NACIQI December 2013 recommendation.

It is therefore clear that NWCCU has completely failed to comply with NACIQI's charge on the matter of coming back into compliance with the complaint process. This is two years after the NACIQI recommendation, not the required 12 months.

I further note that the Council of Higher Education Accreditation, CHEA, no longer recognized NWCCU and has not since 2012. NWCCU is the only regional accrediting body not so recognized by CHEA.

I therefore respectfully request that NACIQI investigate NWCCU and remand its petition

for USDE recognition. This accrediting agency oversees 163 institutions, is out of compliance with the Secretary's Criteria for Recognition in handling complaints in a timely, fair and equitable manner. Thank you for your time.

CHAIRPERSON PHILLIPS: Thank you very much. Questions for this speaker? Thank you for joining us.

DR. COLE: Thank you.

CHAIRPERSON PHILLIPS: Our next speaker is Jack Longmate of Olympic College with Keith Hoeller, Green River College, on deck. Welcome.

DR. LONGMATE: Okay. Madam Chair, my name is Jack Longmate. I've been an adjunct or part-time instructor at Olympic College in Bremerton, Washington since 1992.

I'm here because there's no evidence that the Northwest Commission reviewed my 28 March 2012 complaint, much less conducted a thorough review in a fair and equitable manner. That is no documentation showing consideration or comprehension of the charges, and at no point was I

ever contacted for any follow-up. I wasn't even told that my complaint had been denied. I learned through a journalist who forwarded me the commission's 30 November 2012 letter to Olympic College.

When I asked why I hadn't been notified, the commission claimed that it had sent me a letter, and to prove it, mailed me a hard copy that was dated not 30 November 2012 but 28 June 2012, some five months earlier.

NWCCU's own operational policy explains that when a decision is made, quote, "the complainant and the institution"--unquote--are notified. If the commission actually did send me a letter on 28 June, then it violated its own procedures by failing to notify Olympic College in June. The college wouldn't have had to inquire on its own as it did in November.

In her 3 April 2013 letter, Accreditation Group Director Kay Gilcher reprimanded Northwest Commission for failing to provide, quote, "sufficient evidence to demonstrate compliance

under 602.23(c)"--unquote--and gave the commission until 1 April 2014 to come into compliance.

Long before that deadline, I acquired Olympic College's 17-page rebuttal to my complaint through a Freedom of Information Act request, not as a routine part of the evaluation process. The college's rebuttal is full of inaccuracies, which I documented in a 28-page analysis that I sent to Kay Gilcher on 12 November 2013, with the request that my complaint be given a fair evaluation.

Since the Department of Education reprimanded the Northwest Commission for not having provided evidence of a thorough review, asking for one would seem reasonable. But the Department considered the matter closed and suggested that I, quote, "appeal directly to NWCCU"--unquote--which I saw no point in doing for the obvious conflict of interest.

No agency can be expected to provide a fair and unbiased review of its own decision. Again, I don't believe my original complaint of 28 March 2012 has ever been formally evaluated.

In closing, those individuals who filed complaints do so at considerable personal risk because in challenging the accreditation of their institution they stand a very good chance of being seen as enemies by their institution and fellow staff.

But they do so trusting that the complaints will be given due process and the personal risk they take will be offset by the potential improvements from the corrective action. But if lax oversight allows complaints to be handled without due diligence, not only is there a disservice done to those who file them, it nullifies any potential improvements that could result.

Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Questions for this speaker? Simon.

MR. BOEHME: So this is just for the record. This is a due process issue that you have with the accreditor, and this is not related to Idaho State University? This is a separate issue?

DR. LONGMATE: A separate issue although remarkably similar problems.

MR. BOEHME: And it was, did you file this complaint with the Department of Education or was this only filed with the accreditor?

DR. LONGMATE: My original complaint went to the accreditor. When I learned not from receiving communication from the accreditation agency, but from Peter Schmidt, a senior writer to the Chronicle of Education, I then contacted NWCCU. And then I noted the discrepancy of dates, well, no, when I finally did receive the letter from NWCCU, at that point, I contacted the Department of Education to ask what's up?

MR. BOEHME: Was this your first complaint filed to the accreditor or--

DR. LONGMATE: Yes.

MR. BOEHME: All right. Thank you.

CHAIRPERSON PHILLIPS: Other questions of this speaker? Thank you very much for joining us. I understand that you're the designee for Keith Hoeller, also.

DR. LONGMATE: That's right.

CHAIRPERSON PHILLIPS: Keith Hoeller,
Green River College.

DR. LONGMATE: That's right.

CHAIRPERSON PHILLIPS: Okay. So we will
shift hats, and this would be testimony given on
behalf of Keith Hoeller, Green River College.

DR. LONGMATE: [For Dr. Keith Hoeller]
Madam Chair, I've been designated to read this
third-party testimony on behalf of Dr. Keith
Hoeller, who made this request through Senator
Murray's office.

My name is Dr. Keith Hoeller. I'm the co-
founder of the Washington Part-Time Faculty
Association and the Green River Adjunct Faculty
Association. I'm also editor of Equality for
Contingent Faculty: Overcoming the Two-Tier System.
I've taught at Green River for 25 years.

In 1997, I became the first adjunct
professor to file a complaint with an accreditation
agency over the refusal of accreditors to apply
their standards to adjunct faculty. Dr. Sandra

Elman dismissed my complaint without an investigation, claiming that the Northwest Commission's handbook was undergoing a revision, and that the older criteria no longer applied.

A similar complaint was filed by Seattle adjunct Doug Collins, and it was also dismissed without an investigation.

Dr. Elman told the Chronicle of Higher Education in a 7 November 1997 article, quote, "The new standards are really very forward looking, and I would think that that would make the Dr. Keith Hoellers very pleased"--end quote.

I was not pleased. The new standards were worse than the old, and the NWCCU continues to refuse to investigate complaints by adjuncts and to enforce their standards.

On April 9, 2013, I filed a 73-page complaint with the Northwest Commission on behalf of the Green River Adjunct Faculty Association. On May 14, Dr. Elman wrote to me, quote, "In our review of the documentation you provided, the commission found no evidence that institutional

appeal procedures were utilized for resolution of your complaint"--end quote.

I am not aware of any such review. I was never contacted before dismissal. She cites no procedures that we did not follow. If Dr. Elman had read our complaint, she would have seen our exhaustive efforts to seek internal remedies from Green River. If someone at Green River told her that we had failed to avail ourselves of internal procedures, they were wrong. And Dr. Elman should have tried to verify such a claim.

On May 1, 2013, Green River College summoned me to a disciplinary hearing on false charges and placed a letter of sanction in my personnel file on May 2. I believe this was retaliation for my accreditation complaint and no agency has even investigated it.

On November 14, we filed a complaint against NWCCU. I believe this was the third one you identified as you were talking about three recent complaints. This was during the time when the NWCCU was under review for refusing to

investigate Jack Longmate's 2012 complaint.

On November 27, Kay Gilcher, Director of the Accreditation Group, referred me back to NWCCU, who had already rejected my complaint. The NWCCU had no such procedures on its website at the time, but accrediting agencies cannot investigate themselves due to conflicts of interest.

Our complaint remains without investigation. You have ample evidence that NWCCU does not investigate complaints and does not apply their standards to adjunct faculty. I ask that recognition of NWCCU be rescinded immediately due to fraud.

CHAIRPERSON PHILLIPS: Thank you very much. Questions for Keith Hoeller to the extent that Jack Longmate can respond to them? Frank?

MR. WU: So I was just struck by the last sentence that you read.

DR. LONGMATE: Yeah.

MR. WU: The person you're speaking for and you, what you want us to do is to recommend to the Department that this agency not be recognized.

Do I have that right?

DR. LONGMATE: Yes, you have that right.

MR. WU: That's your desired result.

Okay.

CHAIRPERSON PHILLIPS: Further questions?

Thank you very much for joining us. I want to talk about the sequence of events here and, given the hour, take a short break for lunch.

We have up next the opportunity of the agency to respond to the third-party commenters, and then for the staff to respond to the commenters and to the agency, and at that point, we would then be willing to entertain a motion and then discussion and vote.

It strikes me that that might take a bit so I'm going to put a pause in here for our lunch break. When we come back, we'll pick up with the agency response to the commenters. To give a bit of a forecast--and I would ask you over lunch again all deliberations must be in public in this so please don't discuss amongst yourselves.

When we come back, I also wanted to signal

a bit of a scheduling plan for this afternoon after we complete the Northwest review process. I want to move directly to the Association of Institutions of Jewish Studies, followed by ACEN, the American Board of Funeral Education, and then we should be back on schedule at that point with the National Accreditation Commission for Career, and so forth.

So we're a little bit out of sequence again, but I'm working to get back there. But just to give you a sense of what the sequence is for the afternoon. Okay. So let me ask you all to come back here by 1:30. We will pick up with--willing to go 45 minutes. Okay. 1:15 it is. See you all at 1:15.

[Whereupon, at 12:32 p.m., the NACIQI meeting recessed, to reconvene at 1:20 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.]

NORTHWEST COMMISSION ON COLLEGESAND UNIVERSITIES [NWCCU][continued]

CHAIRPERSON PHILLIPS: Please take your seats and let's get started. As you know, we're reviewing the compliance report for the Northwest Commission on Colleges and Universities, NWCCU.

We've heard from the primary readers, the Department staff, the agency representatives and a number of commenters. Our process now proceeds with inviting the agency to respond to the commenters. This will be followed by the staff response to commenters and the agency and then followed by our motion and discussion and vote.

So with that, let me invite the agency to rejoin us. Thank you. Go ahead.

DR. ELMAN: Thank you, Madam Chair and members of NACIQI. I suppose I'll just begin with three comments that we have and then turn to my commissioner colleague and my vice president

colleague.

Many of you around this table know me a long time, and so I just feel because this is the public record that I just want to say I'm personally and professionally disconcerted and disturbed by many of the very serious inaccuracies and comments that were made that referenced my name and the Northwest Commission. And I say that because all of this is on the public record. So my father would want me to say that because my name is Elman.

Second, without going into a tit for tat, there were many false statements unfortunately made without going into each and every statement that was made, both regard to process and procedure, and what the Northwest Commission has done with regard to complaints.

Third, my last statement is I believe verified by the very methodical and meticulous review that was done by Ms. Daggett in looking at our fourth issue that we had to demonstrate our compliance with, and that was 602.23(c).

And then I don't know, Madam Chair, whether we would get a chance to just talk to make any concluding remarks or is this kind of it?

CHAIRPERSON PHILLIPS: This would be your opportunity.

DR. ELMAN: Okay. So if I may, you know, these are interesting times we live in. I have appeared before this austere body, if we calculate 19 years, probably--I don't know--six times maybe, five times at least, and I do so again today with deference and with seriousness and humility. I hope--I've never had to appear, whoever was my commissioner, representing my commission chair, with an attorney--I haven't eaten much lunch so keep that in mind as I make these comments--I hope that I don't have to say to my successor, whoever my successor is in the next few years, that he or she should be sure that when he or she comes before NACIQI, one should definitely bring an attorney, with all due respect to attorneys.

Do you know where I'm going? That we don't make this very serious gatekeeping function

process that I'll only speak clearly for my regional accrediting commission takes very, very seriously, that we feel we need to make sure we have an attorney with us.

The world is very litigious. That's good. We want employees, attorneys to be well employed. We have good attorney legal minds around this table. My son-in-law is one, and I want him to succeed. But we want to keep this the way it has been for a long, long time in terms of a very systematic process between the accreditor, the agency, USDE as staff analysts, NACIQI and the Secretary. And so I say that because the last two days have been different, President Rothkopf, right, than what we had maybe ten, 15 years ago.

So with that I will just tell you--and with this comment, the Northwest takes very, very, very seriously everything we do--two applicable statements here to what you heard after we left this table. One, we must adhere to our eligibility requirements and standards for accreditation. Those standards do not say that the Nevada Board of

Regents should do X, Y and Z. They do not speak to state boards. They do not speak directly to the intricacies and processes and practices that our different governing boards fulfil. Our standards don't, and you have approved our standards. We accredit a multiple array of institutions.

So if our standards, if you look at them, and I know that Ms. Daggett has, when they speak to issues of shared governance, when they speak to issues of faculty roles and responsibilities, we hold our institutions accountable to those standards. If individuals would like those standards to go beyond what they call for, that is their purview, but that is not what the Northwest Commission does and what the Northwest Commission has to do to apply our standards for accreditation and to meet your criteria, which we have met.

So with that, Commissioner Case, I don't know whether you wanted to add anything?

MR. CASE: Well, thank you to the chair. Several thoughts came to my mind as I listened to the dialogue. Number one, I appreciate passionate

people. We heard from some today. But I also appreciate the importance of process, and the standards with which the commission operates have mechanisms and an emphasis on governance, and as President Elman said, it is not the commission's role to make decisions for universities.

There are processes within those universities for grievances, and I was taken back to an earlier time in my life as the Inspector General for Pacific Air Forces, who went into a whole lot of situations where determining facts needed to be done. And yet the accrediting body is not in the business, in my view, in my experience, limited as it is in this role, to be doing investigations at universities on behalf of individual faculty members unless there is some compelling reason to do so.

So I commend the passion and focus on our shared dedication to seeing students succeed and to ensuring that the environments in which they live and operate are conducive to that. Thank you.

CHAIRPERSON PHILLIPS: Questions for this

group? I have John and Frank.

DR. ETCHEMENDY: Yeah, I just have one question. I agree obviously about individual complaints, that it's presumably not your business to investigate. I'm more concerned about the Idaho case since that wasn't a single individual, and I'm curious, did you, at least one of the speakers said that they had never received any kind of acknowledgement or any report or anything of that sort, and that kind of concerns me, that there wasn't at least a response, even if it was a response that says we're not going to consider this or we don't see this as our purview.

So could you address that?

DR. ELMAN: Absolutely. And it's in the documentation, and Ms. Daggett reviewed it. In our last, I think it was last, the last correspondence that we had with the individuals who lodged that complaint, we sent a two-page single-spaced letter, accompanied by a four-page single-spaced letter, four-page single-spaced letter, delineating the reasons. It's kind of right here, and it's in Ms.

Daggett's documentation explaining the reasons why the commission concluded what it did. Two-page letter, four-page accompanying documentation, explicating the reasons why. Ms. Daggett has it.

CHAIRPERSON PHILLIPS: Frank.

MR. WU: I have a simple question, which is what is the second-best of all possible worlds for you? So the first-best possible outcome for you here is that we recommend that you be rerecognized for the standard period of years, and we just have the same boilerplate that you've seen used many a time.

Let's just pretend for a minute. I'm not signaling anything about my view or any of my colleagues. I don't know what their views are, and my own views are not fully formed. What would the second-best outcome be? So let us say hypothetically that based on this, I, at least, have some interest in something. What exactly that might be I don't know. What would you recommend we do if we had some concern? So if you didn't get just the recommendation of straightforward

rerecognition for the standard period, what would the second-best world be? Second-best outcome?

DR. ELMAN: The second one would be to include in your notification letter that as we demonstrated in 602.2(c), that we now have a revised complaint policy, and in our latest complaint that we processed, that Ms. Daggett reviewed, we followed "to a T," if you will, the fair, equitable and timely requirements of USDOE, and that you would encourage us to continue to do so.

MR. WU: A follow-up question. I'm really glad I asked that question that you've just answered. Let me just make sure I hear you correctly. You're saying that everything we heard about was under a prior set of rules, and the rules have been revised? Do I have that right?

DR. ELMAN: That is, yes, that is true, and we laboriously and seriously--Commissioner Case was not involved in that, but my colleagues in the office were--and go ahead, Pam. She works laboriously on this. So, yes--I was going to call

you Commissioner Wu; I'm so used to that--Mr. Wu, that yes, and that was part of what Ms. Daggett reviewed.

One, we revised our policy, and, two, we had to submit as part of this compliance review have we processed any complaints since the revision of that policy, and I'm never happy to say we had a complaint. We had a process. But in this case, I was so that we could show that we followed the revisions of the policy.

MR. WU: So it's actually not a bad outcome for you if you get the recommendation of renewal for "x" number of years, and then a note, various complaints were heard, those were all under a prior complaint rule? You wouldn't leave incredibly unhappy with that?

DR. ELMAN: You know the world we live in right now is that everything is transparent, and people have their own interpretations. You're the dean of a very fine law school so I suspect you have a law background, and so I suspect that you, as your colleague just--we have several attorneys

along this row here--know that every word we say now, every sentence we write, I've always been very careful of what I say. It's just part of the public policy training of mine. But now everything we say, everything I say, I was going to start my remarks with a different opening. Don't worry. I won't start--I won't go and say what they were.

But everything is on public record, and so my worry, Mr. Wu, my worry would be that that letter that would come from, actually not Dr. Bounds, probably Secretary Duncan, would not be understood, would be, would be game, if you will, for lack of a better word, to misinterpretation. If you want to call me aside, or Madam Chair, and say, you know, we would hope that you would do A and B, that's one thing. But that, it's not a matter of making me happy or not happy. I represent the commission. I represent 162 institutions, and I'm your gatekeeper, and that would make me very worried.

MR. WU: Thanks. I'm not bargaining. I'm just thinking out loud--

DR. ELMAN: No, I understand. And you asked--

MR. WU: --about what this would look like.

DR. ELMAN: In another world, in another time.

CHAIRPERSON PHILLIPS: Hank.

MR. BROWN: Just from your memory, I can appreciate you may not recall just off the top of your head, but in thinking through the complaints and concerns that you heard in this case, can you give us an idea of what portion of them related to governance matters and what portion of them related to the standards in the statutes for accreditation?

DR. ELMAN: Help me here, Pam. They related to governance matters, but many of those-- and it's a good question--many of those governance matters went beyond the purview of the Northwest standards for accreditation and certainly any criteria for regulations that you have.

So in other words, we have a standard on governance, okay, 2.A.2. 2.A.1. Thank you. But

we do not say that the board of trustees at Reed College--I keep picking on Reed, my good friends at Reed--that it must have a faculty senate or the faculty must be engaged in two-thirds of "x" or students, et cetera. It's a generic statement. And then we hold the institution up to that standard. So I don't know if that answers your question.

MR. BROWN: Were the concerns that you heard--

CHAIRPERSON PHILLIPS: Mic, please.

MR. BROWN: Were the concerns that you heard primarily governance questions or primarily academic questions?

DR. ELMAN: Governance.

MR. BROWN: Thank you.

CHAIRPERSON PHILLIPS: Other questions for this group? Yes, Kathleen and Anne.

DR. SULLIVAN ALIOTO: Do you think that you have any responsibility for helping an institution that's floundering?

DR. ELMAN: Floundering overall?

DR. SULLIVAN ALIOTO: Yes.

DR. ELMAN: Absolutely. That's my view. I don't know what Commissioner Case would say, but, yes, I've been in accreditation 19 years here and six years in New England, not as president, but, yes, I, I do, I do.

DR. SULLIVAN ALIOTO: And what is your procedure in that regard?

MR. CASE: If I can, through the chair, I've seen two instances where site visit teams representing the commission, part of the commission, make their site visit, and they go through their process there, and then, as was mentioned earlier, the president of the university is always invited to attend our meetings and participate in that. And several have had difficult circumstances, financial, and in areas of declining economics which put the institution at risk. Tremendous discussion around the table of, first of all, a compliance with the standards, but then what ways through the experience of people around the table representing the commission and

the presidents and others who attend, what best practices or solutions might be considered, not by way of recommendation but just, just as discussion.

So there are, you know, there are assistance mechanisms that I've seen in action just in my brief time.

DR. SULLIVAN ALIOTO: Was this ever done at Idaho?

DR. ELMAN: Yes. I don't know if there's something specific that you might be referring to.

DR. SULLIVAN ALIOTO: Well, I'm not sure. I think besides the governance issues, it's a question of what's going on in classrooms and across the institution that has an 11 percent graduation rate. There's a problem there. So did you help them? Did you do this kind of not interventional but discussion with the president and the faculty senate at that institution, and do you think it's appropriate for you to do something like that?

DR. ELMAN: I'm going to invoke an attorney's response, but I say it with great

seriousness, it depends.

[Laughter.]

DR. ELMAN: No, I say that very seriously and very, very deferentially. It depends.

CHAIRPERSON PHILLIPS: Other questions for the agency? I have Ralph. Oh, I'm sorry. I have Anne first and then Ralph.

MS. NEAL: Let Ralph go first.

CHAIRPERSON PHILLIPS: Okay. Ralph and Anne.

MR. WOLFF: The allegation was made that you had promised to, I just wondered if you could address this specific allegation, given you said there were many false statements made, but that you had promised to provide these complaints to the team and failed to do so. And that was a pretty specific one, and I just wonder if you could respond since we're on the record, and it would be helpful to know what the promise was and what the actual reality was.

DR. ELMAN: Thank you, Mr. Wolff. I spent three days of my life at the Idaho State University

year-seven evaluation in Pocatello, Idaho, in
October--

DR. GOAD: 2014.

DR. ELMAN: Thank you, Dr. Goad.

DR. GOAD: October 20 through 22.

DR. ELMAN: Thank you, Dr. Goad. October
20 to 22, 2014. I was what we call the staff
liaison. In the Northwest, we have staff liaisons
on our comprehensive year-seven evaluations. I
personally handed, in addition to a packet that was
given to Paul Reichardt, but not--who chaired the
visit--but not the other members of the team, I
gave him in person, every member of the team, Mr.
Wolff, copies of those complaints, and the reason,
as Mr. Daggett who went through all our materials
and knows, the reason that it was considered as a
third-party comment at that juncture rather than as
a complaint was because it was received weeks prior
to the year-seven evaluation, and to err on the
side of us doing our due diligence and allowing the
complaint to be reviewed and considered, we gave it
to the evaluation committee, but rather than

considering it as a complaint because committees don't consider complaints, they do consider third-party comments, and that's how it was reviewed and considered. Thank you for that question.

CHAIRPERSON PHILLIPS: Anne. My apologies.

MS. NEAL: Just a matter of facts here, am I correct in understanding that the ISU matter, which has been brought to us, actually goes back to 2011 in terms of their shared governance issue?

DR. ELMAN: I believe it was 2013, but--

MS. NEAL: And am I correct in understanding that your sense of, at least vis-a-vis the issues that are raised by that particular school, that those are beyond the purview of your--

DR. ELMAN: Yes.

MS. NEAL: --of your authority?

DR. ELMAN: Yes, I do, Ms. Neal.

MS. NEAL: And then let me ask for a follow-up. An allegation was made that CHEA has not accredited you, and if that is indeed the case, would you tell us why not?

DR. ELMAN: I'd be happy to. First of all, CHEA does not accredit institutions. In 2010, the Northwest Commission, the Board of Commissioners, unanimously decided with no punitive actions intended that it would withdraw voluntarily, which it did--Dr. Eaton can, of course, attest to that--we notified her of it--from seeking recognition by CHEA. It's a voluntary organization, and we really had two reasons. I don't know if it needs to go on the record, but I shared it with Dr. Eaton so she knows.

One, your regulations had become so robust, if you will, in all seriousness, that we were spending a great deal of time and we felt-- I'll stop there. And the second was that we were launching our new accreditation model, and the time and the effort that we were going to be spending on implementing that model was going to be very, very time consuming, as it has been, and so we voluntarily withdrew, and Dr. Eaton knows that, and it was--it was all fine.

CHAIRPERSON PHILLIPS: Other questions for

the agency? Simon?

MR. BOEHME: How are you guys? Thank you so much for coming. So, Idaho, well, so first of all, on your website, your complaint process, and I'll read it verbatim so it's on the record:

Complaints regarding member or candidate institutions only when the reported conditions are substantially documented and are related to the commission's eligibility requirements, standards, and policies. Complaints must be submitted in writing with an original signature of the complainant and addressed to the president.

And so I assume that they can submit in email form or written letter? Just written letter; is that correct?

DR. ELMAN: We want a hard copy signed letter.

MR. BOEHME: So is this complaint process the new one or the old one?

DR. ELMAN: We changed the part about the signature a few years ago. Let Dr.--

DR. GOAD: Much in the same way as

verifying which students are taking online courses, we just simply cannot verify that the person pressing the "send" button on a computer is the person, and so we have always required, as a matter of practice, an inked signature. And so we revised the policy a couple of times since 2012 to make sure that's very clear, and also that we do not accept electronic submissions.

MR. BOEHME: So I am still not getting an answer to my question. Is the complaint process of just simply writing to the president, is that the new complaint process or is that the old one? Because one of the critiques of the staff report, and someone correct me if I'm wrong, is that, that there was an issue with the complaint process; is that correct? That you did not meet the standards when it came to the complaint process?

MS. DAGGETT: Happy to discuss that when--

MR. BOEHME: When you come. Okay. And so, okay, we'll have to clear that up. But in your January 2015 Summary of Actions, you gave Idaho State University, you reaffirmed their

accreditation on the basis of a year-seven evaluation. Did the issue of the senate faculty or the faculty senate being revoked come up in the accreditation process and in the report?

DR. ELMAN: It did come up in the discussions between the institution and our full commission. The president and representatives of the institution met with us just as they do for our normal procedures.

MR. BOEHME: And can you provide some sort of summary of how those conversations went?

DR. ELMAN: They were productive. They were constructive, and they followed our procedures, our protocols, and our standards for accreditation.

MR. BOEHME: Thank you.

CHAIRPERSON PHILLIPS: Any further questions for the agency? Thank you for joining us again.

DR. ELMAN: Thank you all for your, for your good work, for your patience, and for keeping American higher education as strong as we can be in

the world we live in today. So thank you very much.

CHAIRPERSON PHILLIPS: If I could invite the staff to return. This is an opportunity for the staff to respond to the commenters and also to the agency, agency's comments. This will be the last moment before we have our discussion, potential motion and discussion and vote. Welcome back.

MS. DAGGETT: Thank you, Madam Chair. I'm going to try to address the questions that I've been asked regarding the staff and the review. Obviously, if, as we get to the end, if there's something that's not clear, please feel free to go ahead and ask.

I feel like it might be important in this particular, as one particular area has been brought up, to kind of give a bit more overview of what we look for for our compliance. Overall, the Department is looking for the compliance with our regulations, and so in order to demonstrate that, it's possible that as in the case of Northwest,

that they were found out of compliance in a particular area.

Our expectation is that they would then make whatever correction is necessary, whether that's standards, policies, procedures, implementation, and then be able to demonstrate that they have made this change through that mechanism. We--this is always kind of a prospective process in that even if we require them to provide additional information and documentation regarding a previous process or policy, that our expectation is that we cannot make them go back and revisit something that they applied under a previous policy that we found out of compliance, but, in fact, we're expecting them to demonstrate that they've made the changes where we found them out of compliance and demonstrate compliance with that new policy or procedure.

So that's the case here, as Jennifer stated in her review of talking about the different complaints. Two of the complaints, as even the third-party commenters had said, were never

resubmitted to the agency under their complaint review policy for them to do their own internal review. It's our requirement that they need to exhaust their complaint, whatever complaint procedures are available to them before they were to come to us.

The last one, the Idaho State one, which has been the primary thing that we've talked about, is the one that they were out of compliance with back in the report back in 2013. So since that time, and in this current review, they provided all this additional information that the agency has talked about regarding the 2014 submission of the complaint, providing that information to the evaluation team, the evaluation team, you know, doing their review, that review going to the commission, the commission's ultimate deliberation and decision on that, which is the document, I think, that Dr. Elman was talking about, the single-spaced document, very detailed. All of that information was provided to us along with the revised complaint policy.

And then they also provided a complaint that was submitted after this new policy was put into place--a complete one from, you know, initial submission of the complaint all the way through deliberation and decision that demonstrated that they now met their complaint policy. And so that is the rationale of how we got to that they were in compliance with our regulation at this time.

I also want to point out one other thing, is that one of the commenters said that they were under a good cause extension. I can't give any background under why something happened, but I can say that both the staff recommendation and the NACIQI recommendation in 2013 did include a provision for a good cause extension under the review of this particular section.

However, that language did not make it into, and perhaps the senior Department official decided not to include that information, so there was no official good cause extension that was granted to the agency. So it was just under review of this compliance report.

And then, finally, I just wanted to add one other thing, is that we do not, the Department does not require any standards for the review that the agency must have for the review of institutions or programs related to governance.

CHAIRPERSON PHILLIPS: Okay. Questions for staff. I have Frank and Arthur and Simon.

MR. WU: This is really a question for Sally. It's two questions that are parallels. The first is when the staff does its report, I assume somewhere in the statute or the reg, it says is the agency in compliance as of "x" date? What is the date the staff is asked to look at? Is it the date that the agency completes submission or the date the staff members--and the parallel question is for us what is the date? Are we supposed to ask are they in compliance as of this minute or were they in compliance on some earlier date?

MS. MORGAN: Well, as far as I understand, the staff makes their decision as of the time they issue their final staff report, and, by that time, sometimes originally when they issue their draft,

things aren't all fixed, but over the period of time of the--by the time the final, that's the date that's effective for the staff.

And then, you know, as far as NACIQI, it can certainly take into account any additional information that the agency comes forward with at the hearing.

MR. WU: Thanks.

CHAIRPERSON PHILLIPS: Arthur.

MR. ROTHKOPF: Yeah. Sort of along all these lines, and I've listened with great interest as to the third-party witnesses, but I guess I go back to the report that we have, and it talks about third-party comments and said there haven't been received any third-party comments regarding this agency.

Now this report was, I think is dated or released about a week ago, just, you know, in terms of what--before then it was a draft. And I guess my question, Beth, is, you know, considering all that you've heard of these matters about Idaho State and AAUP and all the rest of it, are these

matters that you were aware of and decided or determined that it was, did not adversely affect the recognition of Northwest or is this all new and something that you think we need to take a fresh look at?

MS. DAGGETT: Well, I mean as the commenters have said, they have contacted the Department. Most of that contact was back in 2013. I will say that it wasn't until about a month ago, I think, that we knew that we were going to have commenters come to address the agency, that they were going to come to address Northwest. Prior to that, as per NACIQI policy, and Jennifer can speak to this much better than I can, there was obviously a Federal Register notice that requested third-party comments, and as you've seen in the review of other agencies, people have availed themselves of that process.

So these commenters did not avail themselves of that written third-party comment process to then be included within the report, which is why it says we didn't receive any because

we didn't receive any during that third-party commenter time for this agency.

MR. ROTHKOPF: If you had heard what we heard for the hour or so earlier before the lunch break, you had heard those comments, would you have written your report any differently?

MS. DAGGETT: I don't think so.

MR. ROTHKOPF: Thank you.

CHAIRPERSON PHILLIPS: I have Simon and Ralph--Herman.

MR. BOUNDS: I just wanted to recomment on something Beth said. We are looking at issues of compliance with the criteria so we are looking at processes related to the complaint policy. As Beth mentioned, too, we don't have a criteria that we look at relative to governance. So we wouldn't look at those issues as part of our review.

CHAIRPERSON PHILLIPS: I have Simon and Ralph.

MR. BOEHME: Sure. Just for clarity--

CHAIRPERSON PHILLIPS: And Kathleen.

MR. BOEHME: --for 602.23(c), the

complaint procedure, they did not meet, and then they did meet when they resubmitted. Could you just walk me through that, initially why they did not meet it, and what they submitted to meet that standard?

MS. DAGGETT: You mean the difference between the draft and the final?

MR. BOEHME: Correct.

MS. DAGGETT: Okay. I'd be happy to. So in the draft, in their original submission, and that's what I reviewed, they provided some additional information with regard to I'll just refer to it as the Idaho State complaint.

MR. BOEHME: So it was, the draft was specific to Idaho State?

MS. DAGGETT: Yes, they provided--

MR. BOEHME: Okay.

MS. DAGGETT: --the specific information with regards to that review and how they felt that they had dealt with the specific Idaho State.

My response back was that I felt that the information they provided still didn't clearly tell

me that they met their complaint policy. They did provide their revised complaint policy, but the complaint, that that complaint and the way that it was resolved did not clearly demonstrate that they resolved the complaint as we would require within our regulations. So I said that they needed to provide additional information and demonstrate that this complaint was in compliance or provide additional documentation that they're in compliance with this particular regulation.

So, in response, they provided very, very detailed narrative as well as additional documentation with regard to the Idaho State complaint. I wouldn't say that how they handled it followed the complaint policy so, in addition, they also had provided a new complaint of a totally different subject that did demonstrate that they, from the complaint all the way through, that they met their complaint policy, and that it seemed to have been a fair and equitable process.

MR. BOEHME: So it's your read that they did not meet the Federal guidelines by following

their complaint procedure for Idaho State University, but for another complaint that they submitted, they did follow the Federal guidelines? You would agree with that?

MS. DAGGETT: Well, we would expect them to follow their policy--

MR. BOEHME: Right, right. Yeah, right, right, right, right.

MS. DAGGETT: --that met our Federal regulation requirements, yes.

MR. BOEHME: All right. Moving forward, do you have confidence that they'll follow this?

MS. DAGGETT: I have no reason to think that they wouldn't.

MR. BOEHME: Thank you.

CHAIRPERSON PHILLIPS: I have Ralph and then Kathleen. Passing on Ralph. Kathleen.

DR. SULLIVAN ALIOTO: Sally, could you tell us in terms--you know, this word "governance" keeps coming up--what is the responsibility of an accrediting agency legally? Are they responsible for helping a floundering institution? Is that

part of what it means to accredit an institution legally?

MS. MORGAN: What we look at is just our criteria, and we don't have any criteria related to helping institutions. We have criteria as far as whether they meet the agency's requirements or not, and also, as far as governance, we don't, our statute doesn't require them to have any standards on governance so any standards they have on that are outside of our purview.

DR. SULLIVAN ALIOTO: And by extension, ours as well?

MS. MORGAN: Yes. I mean you can make recommendations, but we don't have authority to do oversight on agency standards on governance.

CHAIRPERSON PHILLIPS: Anne.

MS. NEAL: If I can just pursue that a little. It certainly does raise a rather interesting issue, constitutional perhaps. It seems to me that if these bodies can create standards, and there is no body that can review them, that we have essentially delegated

governmental authority to private entities over which there is no review. So I raise that as a serious concern, one that I've raised before, and that I will continue to raise. So thank--

CHAIRPERSON PHILLIPS: Kathleen.

DR. SULLIVAN ALIOTO: Could you go into that a little more, Anne? I don't really follow what you're saying.

MS. NEAL: You're asking me?

CHAIRPERSON PHILLIPS: It's a question to Anne.

DR. SULLIVAN ALIOTO: I'm asking you to help me since I'm just beginning.

MS. NEAL: Well, the statute sets out various criteria, and then it also provides a blank check, if you will, to accrediting bodies to develop other standards.

DR. SULLIVAN ALIOTO: Uh-huh.

MS. NEAL: And this has been interpreted by the Department of Education to allow accrediting bodies to develop these extra standards which are not explicitly stated in the criteria, but the

Department has said that it has no review authority over these.

So my question is if there's no review authority over these standards, and that these are then being utilized to hold a gun to the head of these accrediting bodies and by extension institutions, what kind of power have we put into the hands of these so-called nonprofit entities? Because it seems to me that there's no extension to their authority if, in fact, there's no review authority, and I think it's a constitutional issue, and it's one that the Congress should be profoundly concerned about.

CHAIRPERSON PHILLIPS: Other questions of the staff? Arthur.

MR. ROTHKOPF: Yeah, I'm ready to make a motion. I will have to say I agree with Anne's comments although it's--I don't know--I'm not sure it's within the purview of this particular case to be dealing with it. I mean these are issues that go beyond the particular circumstances here.

I'm prepared to make a motion which is

consistent with the staff recommendation: to accept the compliance report of the agency, continue its recognition until the Department reaches a final decision regarding the outcome of the compliance report on Sections 602.24(a) and (b) in response to the Secretary's appeal decision, which is due January 11, 2016.

DR. ZARAGOZA: I would second that.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Discussion? John, Frank--we've got a second. John.

DR. ETCHEMENDY: I just have a question. I notice this doesn't have any end date. That is, so what if the Department never came to a final decision?

[Laughter.]

DR. ETCHEMENDY: Would that mean that their recognition was extended forever? Just a question.

CHAIRPERSON PHILLIPS: That actually happened during the time that we were suspended. Sally, you want to address that, or Herman?

MS. MORGAN: Our regulations are written so that the recognition continues until there's a final decision. So that's what would happen. The statute requires us to review agencies every five years. So when you get beyond that, we're in violation of the statute.

CHAIRPERSON PHILLIPS: Frank and then Arthur.

MR. WU: I'm fine with the motion and will vote in favor, but I just want to note, my understanding is we are not saying that we would never regard a single instance as rising to the level where we would want to inquire? In other words, this does not say that we're just disregarding what we've heard about Idaho State? That it's possible that in some other instance, there will be a case or a number of complaints that are sufficiently strong that we might think to modify our language?

CHAIRPERSON PHILLIPS: Arthur.

MR. ROTHKOPF: I was going to say in order to deal with I guess the point John made about

there's no deadline here, you could, I guess I'd ask Federico whether he thinks this is a good change, to add at the end "or six months from now, whichever is later." In other words, try and put in an end date that would say the recognition is only good until a particular time. I don't know if anyone has any thoughts on that one?

CHAIRPERSON PHILLIPS: Friendly amendment?

DR. ZARAGOZA: Arthur, can I clarify that because my understanding is that on January 11, what is due is the compliance report, not the Secretary's decision?

MS. MORGAN: That is correct.

MR. ROTHKOPF: Is that right?

CHAIRPERSON PHILLIPS: Yeah.

MS. MORGAN: That's correct. And generally the termination we use before we've reached a final decision of yeah, you're recognized for five years or four years or three years is this "continuing." It means we think you're going to come into compliance within 12 months so we're not turning you down, but we're continuing you, and

then the final decision says we renew your recognition.

CHAIRPERSON PHILLIPS: Ralph.

MR. ROTHKOPF: Yeah. I don't think we do need what I was suggesting.

CHAIRPERSON PHILLIPS: Okay. I've got Ralph and Bobbie.

MR. WOLFF: Yeah. I just want to, I would maybe go back to the earlier history. So if the Secretary either affirms the appeal, meaning what Northwest has submitted, or denies it, they will then continue on the remainder of their five-year period; is that correct? I mean what happens in either case for the two issues, how the Secretary may rule?

MS. MORGAN: Okay. To clarify, the Secretary has already ruled on the appeal. So, and what he said was, yeah, I agree you're noncompliant on these two issues. So, in January, the agency has to file its compliance report showing that it's fixed those problems. Then the matter will come before NACIQI, and, well, the staff will analyze it

and give you an analysis and say, yeah, they've complied or, no, they haven't and come with a recommendation, and you'll make a recommendation, and then it will come to the Secretary.

And if it's compliant all the way, the maximum period of time the agency could get is five years minus the time it's taken them to reach this point.

MR. WOLFF: Sally, I have somewhat of a different question, and if I may ask--

CHAIRPERSON PHILLIPS: Let me just ask if, before you take a left turn, Herman wanted to put a clarification in.

MR. WOLFF: Sure.

MR. BOUNDS: No, I just wanted to add on to what Sally said. So they're going to come back anyway to address those questions, and then depending on the June schedule, how heavy it is, most likely it would be the fall that we could get them reviewed. It could happen in June, but we'll just see. So you'll see them again.

CHAIRPERSON PHILLIPS: Okay. Now, the

second question.

MR. WOLFF: Well, there are two points I wanted--one is a comment and the other, first, is a question though. The comment was made about an appeal. As I recall from our process or the requirements of the regs is that you're required to have a complaint process. You are also required, each agency is also required to have a process for an appeal against the commission. And so the comment was made that there's an inherent conflict of interest and the like, but I want to just say that I, as I understand the regs, that's the procedure that is expected of accrediting agencies, that there is, if you will, a separate process to appeal a complaint decision or an action or whatever against the commission itself. Have I got that right?

MS. MORGAN: That's right.

CHAIRPERSON PHILLIPS: Herman.

MR. BOUNDS: Yes, you're absolutely right. They have to have procedures that they can, that an individual can file a complaint against the

commission so they have a complaint process. The second thing, and I was going to read earlier, that I thought, I think Beth covered, but I may not have heard, is that there was some discussions about the agency being able to address complaints filed against itself.

Well, that's a requirement. 602.23(c)(3) says review in a timely, fair and equitable manner, and an unbiased manner or judgment, any complaint against--submitted against itself. So the agency is required to be able to review complaints submitted against itself.

MR. WOLFF: So I would just say that that may be an area of further inquiry for all agencies, about what constitutes unbiased or those terms when it's an appeal of an earlier decision. All universities have to deal with this situation. So I would just say this is not particular to the one commission, but I think this is a question that the complainants raised.

I also, if I may make a comment, just privilege me for a moment. On the Idaho State

website is a copy of the Northwest Commission letter following their most recent review, and I would say I recognize the termination of a faculty senate as a very big issue inside an institution, and I appreciate the fact that the complainants came a long way.

There is a recommendation identified by the Northwest Commission in its letter that says the evaluation committee recommends the institution build upon its present governance framework by promoting an environment of transparency and collegiality resulting in trust that encourages the expression and consideration of the views of faculty, staff administrators, and students on matters in which they have direct and reasonable interest, citing their standard on governance and faculty.

So I would just say there is a recommendation, and I would hope that given the emotion, the importance of this issue, that it is followed up, but I really respect the fact that the staff have reviewed the policy and the current

application of it and can support the motion.

CHAIRPERSON PHILLIPS: Thank you. Bobbie. Bobbie passes. Any further comments, questions, discussion on the motion? Ready to go? Okay. The motion is as you see on the screen. I'll ask for a show of hands. Those in favor?

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[Show of hands.]

CHAIRPERSON PHILLIPS: We have two opposed.

Abstentions?

[No response.]

CHAIRPERSON PHILLIPS: Okay. The motion passes. Thank you.

- - -

**ASSOCIATION OF INSTITUTIONS OF JEWISH
STUDIES [AIJS]**

CHAIRPERSON PHILLIPS: We're going to shuffle our agenda yet again. Next up I would like to take the Association of Institutions of Jewish Studies and follow that by our Air Force colleagues who I have neglected before. So, again, this now is the application for initial recognition for the Association of Institutions of Jewish Studies.

I don't believe we have any recusals for this item. Our primary readers are John Etchemendy and Bill Pepicello, and I would ask you to introduce the agency to us, whichever of you is on deck.

DR. ETCHEMENDY: Sure, I'll do that. So the Association of Institutions of Jewish Studies is requesting initial recognition as an accrediting institutional, national institutional accreditor. The agency was first incorporated in 2000. Now, my understanding is that the reason for this is that the existing association that accredits institutions of Jewish studies limits itself to male programs, and this allows the institution--

this institution--sorry--this association to accredit institutions that are co-ed and have female students.

The agency has so far accredited four institutions, one in Maryland and three in New York, and they, if this is granted, they will provide at least one of the institutions eligibility to receive Federal student Title IV funding.

I'll turn it over to staff.

CHAIRPERSON PHILLIPS: Turn it to staff.

MR. PORCELLI: Thank you. Good afternoon.

I am Steve Porcelli of the Department's Accreditation Staff.

The staff recommendation to the senior Department official regarding the Association of Institutions of Jewish Studies, or AIJS, is to grant the agency initial recognition for a period of five years.

The staff recommendation is based on our review of the agency's petition, supporting documentation, a file review, and observation of an

AIJS on-site evaluation and a decision-making meeting.

Our review of the agency's petition found that AIJS is in compliance with the Criteria for Recognition. In addition, the Department received no written complaints and no third-party comments in connection with the agency's petition. Therefore, as stated earlier, we are recommending that the senior Department official grant the agency initial recognition for a period of five years. And there are representatives of the agency here today. Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Representatives of the agency, please join us. Welcome. If I could ask you to introduce yourselves, I'd be happy to hear your statement. I need to introduce you to the button at the bottom of the screen. There you go.

DR. COHEN: Good afternoon, and thank you very much for the opportunity to present our application for recognition. I would also like to express our appreciation to the Department staff,

in particular, Mr. Steve Porcelli, for very expert assistance over the last number of years in helping us and guiding us toward this day.

I'd like to introduce the members of our delegation: Rabbi Moshe Zev Weisberg, who is the founder and guiding spirit of the organization, AIJS; Mr. Alex--Rabbi Alex Lowinger, the Director of Operations of AIJS; Mrs. Elisheva Kahan, who is the specialist of the agency in compliance, compliance matters; Dr. Leslie Klein, the academic dean of the Women's Institute of Torah Seminary in Baltimore, a recipient of our agency's accreditation; and Mrs. Nechama Landesman, who directs the accreditation activities of AIJS.

At this point, I'd like to recognize Rabbi Weisberg for opening remarks.

RABBI WEISBERG: Thank you, Dr. Cohen. Good afternoon, Madam Chair and members of NACIQI. My name is Moshe Zev Weisberg, and I thank you for considering our petition for recognition today.

As one of the founding members of the Association of Institutions of Jewish Studies, or

AIJS, today's a milestone for me personally but more so for the thousands of Jewish women from traditional communities who have long enough been denied proper recognition for their quality academic coursework in Jewish studies.

By way of background, there have been men's higher education institutions specializing in rigorous academic study of Jewish related disciplines for over 2,000 years. With the devastation of traditional Jewish communities in Europe during World War II, hundreds of these institutions were destroyed, only to be reborn here in the United States. Today there are over a hundred such men-only institutions in the United States, with the majority being accredited by AARTS.

Concurrent with the development of yeshivas, as the men's schools are known, a handful of women's institutions were founded to offer Jewish education on the college level to young women in traditional Jewish communities. Some of these institutions have been around for half a

century or longer. In recent years, it has almost become a rite of passage for many young women from these communities to enroll in these Jewish studies institutions to prepare for a career in Jewish education or to utilize their coursework as a stepping stone to various professional careers or conventional graduate education.

Unfortunately, despite the high quality and rigor of these programs, there was not specialized accrediting agency that offered a good fit for these institutions. A very limited pathway primarily using transfer credit articulation agreements were used by some schools to offer some recognition. Regrettably, this recognition was second-class as hard-earned credits were heavily discounted or relegated to the status of electives.

Some 15 years ago, a conference of about 20 such Jewish colleges decided that the time has come to create a specialized agency to have as its exclusive scope the recognition of these and similar Jewish studies institutions, and AIJS was founded. Moving with both determination and

prudence, using a combination of best practices in accreditation and deep knowledge of the students and communities we serve, we believe we have developed an agency which will properly serve the quality schools within our scope of accreditation, as well as the national goal of striving for academic excellence through recognized peer accreditation.

We fully understand the responsibilities of an accreditor, to do right by the schools it serves, while concurrently being in full compliance with the spirit and letter of all Department of Education regulations. Further, we pledge to be a proper gatekeeper of scarce Federal student aid funds should we be given the opportunity.

We thank NACIQI and especially the staff for taking the time and effort to critically evaluate our accrediting practices and procedures and for the helpful recommendations they made. We are hopeful for a positive outcome so that the young women in our community can finally get their rightful recognition.

Thank you for your consideration.

DR. COHEN: Dr. Klein.

DR. KLEIN: Good afternoon. I'm Dr.

Leslie Klein, the Academic Dean of the Women's Institute of Torah Seminary, and I want to speak for a minutes on why AIJS is such an important agency for Women's Institute of Torah Seminary and its students.

Women's Institute of Torah Seminary, or WITS, is a four-year undergraduate college approved by the Maryland Higher Education Commission. Over the past 18 years, WITS has graduated over a thousand Orthodox Jewish women who have gone on to be successful in graduate school and in the professional world. We have an excellent record of admission to graduate programs. Just to name a few, we've had students accepted to Johns Hopkins School of Nursing, University of Maryland Law School, Columbia University's program in psychology, and many other programs in Maryland and around the country. Our students have gone on to hold leadership positions both inside and outside

of the Jewish community.

But the landscape of higher education is changing, and we are feeling that. Ten years ago, many schools accepted our state-approved degree. Today, however, with the growing competitive nature of graduate school admissions, programs want to see a higher level of accreditation. Additionally, some programs won't recognize our coursework as fulfilling their prerequisite requirements.

We constantly have to send letters explaining our institution and our coursework to graduate programs. Our students have had to work unduly hard to demonstrate that they indeed have the credentials they need to gain admission. This has put our students, who are an underserved population, at an unfair disadvantage.

And that is why AIJS is so important because our students are motivated and diligent, and many of them are extremely intelligent. At WITS, we are so committed to providing them with an undergraduate education equivalent to, if not better than, the programs offered by other colleges

in the area in Jewish studies, in general education, in pre-professional coursework in a variety of fields. I can say with confidence, based on my 14 years of experience in higher education at a number of institutions, that our program is excellent, and we are constantly challenging ourselves to improve through assessments and implementing concrete actions based on our findings.

And you don't have to take my word for that. We underwent two AIJS reviews where academics from other prestigious colleges and universities assessed our coursework, our instructions and outcomes. They recognized the academic rigor and all around high quality of our institution. They also provided us with valuable feedback, which we have used to further improve ourselves.

AIJS' stress on outcomes has motivated us to improve our accountability and focus on concrete measures of success.

With national accreditation through AIJS,

WITS will be even stronger. We will be able to better serve our students because they will finally gain recognition commensurate with what they have accomplished in their undergraduate studies. We and our students will no longer have to explain what WITS is. WITS will be able to stand on its own and be on equal footing with other nationally-accredited institutions, including the ability to offer eligible students need-based Federal financial aid.

We can then continue to focus our attention on providing our students with a rigorous, challenging and valuable academic experience. Thank you.

DR. COHEN: Nechama.

MRS. LANDESMAN: Good afternoon. My name is Naomi Landesman, and I appreciate the opportunity to present our agency to you. My colleagues have shared with you what makes us unique. What the need is for this new agency. They've told you what was missing until AIJS was formed. I'd like to tell you what we share, what

you, NACIQI, the Department of Education, and AIJS, along with the other agencies sitting behind us serving higher education, share.

We share the ideals of making our seminaries and colleges excellent and reliable places of higher learning. Colleges exist to transform the lives of its students and shape society for better. The education they provide creates a resilient and responsible adult, provides tools for analytical and critical thinking, for community values, respect for the opinions of others, and appreciation for a responsible work ethic.

These are core values intrinsic to the Jewish studies curriculum required of all AIJS member schools. Attending the NACIQI meetings for the past years--I won't say how many--I have heard one comment repeated on many occasions, and it went something like this, I've read pages and pages of petitions and reports; I've studied the figures that your agencies have provided. I have a granular picture made out of lots of data and

facts, but I don't quite have a picture of what's really happening. What's the story?

Well, I'd like to tell you a real story, a human story, and what it's like to be the face of AIJS, working with a women's institution of higher education. A seminary in New York approached me through AIJS to discuss the possibility of working towards accreditation. They wanted to know about the process and what was required. We sent them the necessary paperwork, and then we told them that they would have to appoint a liaison, and we would begin by explaining the process to that person.

A candidate was suggested, and we agreed that she would be suitable, and I agreed to meet her for lunch. Well, lunch stretched into dessert and stretched into another cup of coffee so we could keep our table. The table was covered with standards and policies and manuals and pages of her notes. While she was excited about the prospect of peer review, of the need to write policies and procedures to concretize existing good practice, she was wary of how the idea would be received.

We all know how much work it is even with the most experienced schools, and she was concerned that the staff would be reluctant to comply with the extra burden of Federal standards of recordkeeping, outcomes tracking.

But the stakeholders in this school felt that this was a proactive way to raise the glass ceiling confining these women. They were confident that their small school meant strong and personalized support, support systems that would ensure student completion and, hopefully, predictably, a better socioeconomic level.

She set the date for an all-staff meeting. I expected some back and forth questions, but I got the answer much sooner than I thought. She called me early the next morning after her staff meeting and told me, I want to thank you and your agency. I have never been so excited or proud to work on a project before. She continued to tell me that immediately following her presentation, the dean of the seminary jumped up and hugged her and said I've been waiting for something like this for years.

The teachers were as excited as she was. There wasn't an iota of objection to the work involved, but there was a lot of talk about an idea whose time had come. We finished the conversation on the phone with concrete plans of how to continue.

I sincerely hope that at the end of today, we will thank you for being able to continue this dynamic as a recognized accrediting agency, and that in the coming years, we will be privileged to come back again before you. You will have third-party comments, I hope not too many, not like yesterday, but you will have third-party comments attesting to the change in the world of women's seminaries that you will be proud to have started today.

Thank you.

DR. COHEN: Madam Chair, questions.

CHAIRPERSON PHILLIPS: Thank you very much for joining us. Questions of the agency by the Committee? Rick.

MR. O'DONNELL: I'm just curious. How

long a process has it been have you formally been working with the Department to get your application and recognition in order?

RABBI WEISBERG: We accredited our first institution--actually WITS was our first institution--in 2009. We needed to do accreditation activities prior to sending in our petition. That's the way the process works. You evaluate what we've done rather than our plans to do things. So after accrediting, I believe, it was two institutions, we felt we were ready to send in a petition, and, boy, did we learn the hard way from our good friend Steve that we still had a ways to go. And we actually pulled our petition at that point and went back not to the drawing board, but it was basically improvements, and then we went through two other accreditations, and finally submitted our petition during the last cycle, I'd say about a year ago.

And then Steve came down and reviewed our accreditation of an institution, as well as one of our meetings, came down to our offices to see the

operations of the agency, and then with--I guess I was quite surprised--finally we got to the point where we got a staff report that said that we're in compliance with everything, and there are no recommendations. So that's sort of been the history. It's taken about five or six years to get to this point, but I'm glad we're here.

CHAIRPERSON PHILLIPS: Bill.

DR. PEPICELLO: Just to follow-up, I had the opportunity to review some of the back and forth between you and Steve, and I think both Steve and the agency are to be commended on their attention to detail and thoroughness in the petition.

RABBI WEISBERG: Thank you.

CHAIRPERSON PHILLIPS: Simon and then Arthur.

MR. BOEHME: I just wanted to say congratulations.

CHAIRPERSON PHILLIPS: Arthur.

MR. ROTHKOPF: Yeah. I don't have the list in front of me of all the recognized agencies,

but I know there are some that relate to rabbinical studies and other Jewish studies of different--I don't know--there are one, two, or three. I guess my question is how does what you're doing relate to the other agencies and are they supportive? Is it duplicative? Give me a feel for how this relationship stands.

RABBI WEISBERG: I say this in jest, but there's a biblical story about a war between the five kings and the four kings, and it concerns Abraham, and what it says is that they've tried to make peace for I think 13 years, and then they fought for 12 years, and that's been--there's only one other agency that sort of comes close to this type of a program, and it's AARTS, and we did try for a long time to have them expand their scope to recognize these types of institutions.

At the end, we certainly don't fault them or blame them, they felt that their scope was exactly what they wanted it to be, and they couldn't expand it any further, and this was a little bit of a different universe of schools that

we were looking at. Their schools are mostly focused on life-long scholars of Jewish studies and with institutions that are minimum baccalaureate and then following into graduate programs, and that's their focus. And they felt that the programs that we're looking at now, which are mostly on the undergraduate--which are exclusively on the undergraduate level, were not in their scope of accreditation.

So that's what left these schools in a dilemma that they really didn't have an easy place to go.

CHAIRPERSON PHILLIPS: Other questions of the agency?

DR. ETCHEMENDY: I'd also like to add my congratulations on your vision and the amount of work that you put into this, and congratulations at this point are probably premature, but--

[Laughter.]

DR. ETCHEMENDY: --my prediction is that the congratulations will be in order.

CHAIRPERSON PHILLIPS: We have an

opportunity for staff to respond further.

MR. PORCELLI: Nothing.

CHAIRPERSON PHILLIPS: Nothing. Okay. We can entertain a motion.

DR. PEPICELLO: I would like--I'll move that NACIQI accept the staff recommendation as put forward. It's not up there, but I can read it. That we grant initial recognition for a period of five years for the accreditation of postsecondary institutions of Jewish studies within the United States, exclusively offering educational programs leading to a certificate, associate degree, baccalaureate degree or their equivalent credential in Jewish studies or classical Torah studies.

And there it is.

MR. O'DONNELL: Madam Chair, can I--a point of order? Were we supposed to allow third-party comments if there were any?

CHAIRPERSON PHILLIPS: I don't have any third-party commenters.

MR. O'DONNELL: Okay. I thought they said there were going to be some so I just wanted to

make sure.

MRS. LANDESMAN: No, next time.

MR. O'DONNELL: Next time.

CHAIRPERSON PHILLIPS: Next time.

MR. O'DONNELL: "Gotcha." Thank you.

[Laughter.]

CHAIRPERSON PHILLIPS: Okay. We have a motion on the floor. Do we have a second?

MR. BOEHME: Second. Simon.

MR. ROTHKOPF: Second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Second is Arthur. Discussion? We'd like to move to the congratulations part of this event. Those in favor of the motion, hands.

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: Abstentions?

[No response.]

CHAIRPERSON PHILLIPS: Now we can do the congratulations.

[Applause.]

RABBI WEISBERG: Thank you very much.

- - -

**UNITED STATES AIR FORCE INSTITUTE
OF TECHNOLOGY, GRADUATE SCHOOL OF
ENGINEERING AND MANAGEMENT [AFIT]**

CHAIRPERSON PHILLIPS: Okay. I would like to do one more item before we take a break. This is the Air Force, which we--the United States Air Force Institute of Technology, Graduate School of Engineering and Management, notification of degree modification. I understand there's a recusal of Bobbie Derlin.

I want to express my appreciation to the agency for their flexibility. We have moved them from Slot A to B to C to D to E to F, and it was time to make sure that they got on the agenda.

The primary readers for this are Art Keiser, who is unavailable, and Cam Staples, who is available, and we'd ask our primary readers to present the agency to us.

MR. STAPLES: Thank you, Madam Chair. This is a review by NACIQI that is in a different category than our typical reviews, and in this capacity, we are sitting as a review Committee or the designated review Committee for matters concerning degree-granting authority of military

educational institutions. In this particular case, what is before us is a substantive change notification from the United States Air Force Institute of Technology for modifying an existing degree-granting authority.

More specifically, they have an existing degree in master's, a master's degree in Operations Management, logistics concentration, and it is at the Joint Base McGuire-Fort Dix-Lakehurst, New Jersey location. What the substantive change is, is they would also like to operate the master's in Operations Management with an emphasis on nuclear deterrence and policy at Kirtland Air Force Base in Albuquerque, New Mexico.

When we sit in this capacity as a review Committee, we review the evidence submitted by the agency, and there are certain criteria that the staff report evaluates. The staff evaluates and makes recommendations to us, and I'll just briefly mention those before turning it over to Chuck, that the (1)--criteria--the conferring of the authority to grant the graduate degree, in this case modify

it, is essential to the accomplishment of the program objectives of the applying agency; (2) that the graduate program in question and/or the graduate degrees proposed cannot be obtained on satisfactory terms through facilities of existing non-Federal institutions of higher education; (3) that the graduate program conducted by the applying agency meets the standards for the degree or degrees in question which are met by similar programs in non-Federal institutions of higher education; and (4) that the administration of the graduate program concerned is such that the faculty and students be free to conduct their research activities as objectively, as freely, and in as unbiased manner as found in other non-Federal institutions of higher education.

And on the basis of meeting these criteria, to make a recommendation to the Secretary concerning this modification and the subject of change modification. So with that, Madam Chair, I'd ask you to recognize Chuck Mula for further presentation.

CHAIRPERSON PHILLIPS: All right. Chuck, you're on.

MR. MULA: Good afternoon, Madam Chair, and thank you and members of the Committee. For the record, my name is Chuck Mula, and I will be providing an update to the NACIQI regarding a substantive change request for an existing degree-granting institution, specifically the United States Air Force Institute of Technology, which has submitted a request for modification of existing degree-granting authority to the U.S. Department of Education.

The NACIQI is the designated review Committee for matters concerning degree-granting authority of military educational institutions as outlined in the United States Department of Defense Instruction 5545.04, and the Federal Policy Governing the Granting of Academic Degrees by Federal Agencies and Institutions, which was approved by a letter, dated December 23, 1954, from the Director of the Bureau of Budget to the Secretary of Health, Education and Welfare.

Department of Defense guidance 5545.04 was approved on April 2, 2011, and it recommends notification of the NACIQI in regards to changes when seeking to modify an existing degree-granting authority and explains that the institution should submit notification to the Department of Education when there are changes that are made by military educational institutions.

The process outlined in the guidance explains that a copy of the substantive change request should be sent within 60 days of its submission to the applicable accrediting agency. In this case, it was--I'll get to that--sorry.

And then under the regulations recommended by the U.S. Secretary of Education regarding substantive change requests will also be notified, will also be given notification to the House and Senate Armed Services Committee.

Department staff has reviewed the memorandum submitted by the Air Force Institution of Technology and determined that it is related to the offering of an existing degree program of a new

location, specifically Kirtland Air Force Base in New Mexico.

The aspects of the existing degree program meet the standards for a master's degree, which is encompassed in the accreditation of the institution by the Higher Learning Commission, and Department staff has notified, was notified of a letter from the Higher Learning Commission to the Air Force Institute of Technology, dated October 29, 2015, notifying them of the approval of the additional location and indicating their plan to conduct a site visit within six months, which is required by statute.

Since notification to NACIQI is required, this report serves as that means of formal notification. Department staff recommends to the NACIQI to accept the report with additional comments from NACIQI if desired. And we will be happy to take any questions. Also, a representative from the institution is here, Dr. Paul Wolf, and he'll be able to answer any questions that you may have.

Thank you.

CHAIRPERSON PHILLIPS: Thank you. Any questions for staff? Kathleen.

DR. SULLIVAN ALIOTO: Chuck, as part of your investigation, did you look into the reaction of the community to having nuclear research going on?

MR. MULA: No, we don't do that. Actually it is part of the review by the accrediting agency how the community is affected when a degree-granting authority is given to military institutions. For example, if we went to Edwards Air Force Base to look at their operation there, they would have an open house for the community to let the community know, and this is part of something that the government degree-granting institutions do when they plan to either build something, and it's really not in our purview to get involved in that.

DR. SULLIVAN ALIOTO: Do you know if anyone has done that?

MR. MULA: Well, I do know that when

there's a military institution, and there's weapons of, any kind of weapons, which includes aircraft, naval vessels or military army vehicles, that while they are on a military reservation, they don't have to have any kind of consent from the local governments surrounding the reservation.

CHAIRPERSON PHILLIPS: I have Jen.

DR. HONG: Yes, I just wanted to note for the record that this is the first such notification that we've received since the Department of Defense guidance was issued in 2011, and you have that in your folders.

CHAIRPERSON PHILLIPS: Any other questions of staff? Let me invite the Air Force representatives to join us. Thank you for your patience--representative. Welcome.

DR. WOLF: Good morning. Good afternoon, Madam Chair and members of the Committee. I'd like to thank you for inviting us to address the Committee on the nature of the substantive change request that would permit the Air Force Institute of Technology, AFIT, to offer an existing degree

program at an additional location.

I'm Dr. Paul Wolf, a professor of physics and the Associate Dean for Academic Affairs in the Graduate School of Engineering and Management at AFIT. As Associate Dean, I am also the Institute's accreditation liaison to the Higher Learning Commission.

AFIT is the Air Force's institution that provides defense-focused, research-based graduate education in engineering, applied sciences, mathematics, and technically-oriented areas of management. It exists primarily to fulfil the advanced educational requirements of the Air Force in technical areas, and, secondarily, those of the Department of Defense and government organizations involved with national defense.

Within the past year, Air Force Global Strike Command created a leader development and training program called the School of Advanced Nuclear Studies, SANDS for short. This program aims to develop military officers recognized as emerging leaders of the Command in preparation for

assuming major leadership roles. Global Strike wanted an academic degree program included in the SANDS portfolio to complement the training activities.

Therefore, the Command requested AFIT's master's degree program in Operation Management, a program which is also being delivered to students in a similar leadership program owned by the Air Mobility Command. This program is called the Advanced Study of Air Mobility, ASAM, for short, and is offered at Joint Base McGuire-Fort Dix-Lakehurst in New Jersey, and that also comprises AFIT's only other additional location.

The degree program offered to Global Strike Command is intended to develop Air Force officers as knowledgeable users of quantitative analysis as applied to nuclear operations.

AFIT's degree program will be offered at Kirtland Air Force Base in New Mexico, the administrative and operational home of the SANDS program. In May of 2015, AFIT submitted a substantive change request to the Higher Learning

Commission, seeking permission to offer the academic program at Kirtland Air Force Base, a new additional location for AFIT.

Consequently, AFIT provided notice to this Committee per Department of Defense Instruction 5545.04 and the 1954 letter on Federal Policy Governing the Granting of Academic Degrees by Federal Agencies and Institutions.

As AFIT continues to directly support the needs of the Air Force through its academic offerings, we are asking this commission to provide a favorable response to AFIT's request for an additional location so we may offer a degree program to emerging leaders in the Air Force's nuclear enterprise. Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Committee member questions for this agency? Yes, Kathleen.

DR. SULLIVAN ALIOTO: So this program, this is strictly an academic program? It's not a nuclear institution? You're not creating a nuclear plant or something in New Mexico? It's strictly

academic?

DR. WOLF: That's correct. That's correct.

DR. SULLIVAN ALIOTO: Okay. Thank you.

CHAIRPERSON PHILLIPS: Other questions of agency? Staff, any further comment or follow-up with the agency?

MR. MULA: No thanks.

CHAIRPERSON PHILLIPS: Okay. I would entertain a motion.

MR. STAPLES: Waiting to see it posted so that I remember what it is.

[Laughter.]

MR. STAPLES: Because it's not, we're voting to accept the report of the Department staff. So I would recommend that we accept the report upon the recommendation of the Department staff.

MR. ROTHKOPF: Second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Motion has been made and seconded. It is as up there. Any

discussion? I'm going to move to the vote. Those in favor of the motion as stated, hands.

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: Abstentions?

[No response.]

CHAIRPERSON PHILLIPS: Congratulations.

I'm going to call a break for 15 minutes.

When we come back, we will start with our 10 a.m. agenda item--

[Laughter.]

CHAIRPERSON PHILLIPS: --of ACEN, and we'll try to move through in sequence then. See you at 3 p.m. sharp.

[Whereupon, a short break was taken.]

**ACCREDITATION COMMISSION FOR
EDUCATION IN NURSING, INC. [ACEN]**

CHAIRPERSON PHILLIPS: Okay. As we resume our morning agenda, welcome to our 10 a.m. compliance report for the Accreditation Commission for Education in Nursing, ACEN. Thank you for your patience. We do have several recusals that I'll just note for the record. Bill Pepicello is recused. Art Keiser, who is not here. Federico Zaragoza I understand is recused, and Bobbie Derlin. So we will ask those members to leave us for what will certainly be a very short time as we conclude this at 10:05.

We begin the process as usual by asking for our NACIQI primary readers to give us an introduction to the agency. The readers are Jill Derby and Frank Wu. Whichever of you is up, if you could introduce the agency?

MR. WU: Sure. This is an agency familiar to us. It used to be a part of the National League of Nursing, and it now comes to us after having resolved a series of lawsuits that it had, and the main issue that we had previously confronted is

that the parent entity, which is the nursing nonprofit, and the agency were not separate. So they failed to meet the separate and independent test, and that was not disputed.

For reasons we don't have to go into-- thankfully--they were embroiled in lawsuits for years. Those have been settled. Documents have been submitted. They've been reviewed by staff and by the Department, and the conclusion has been reached that based on the resolution of their lawsuits, they are now separate and independent per the rules.

I would add that I think we as a body did something useful in the world in this case because had we not intervened and said, look, we're going to have to pull the plug after years of these lawsuits going on, they were making no progress, but at the last meeting, we gave them another six months, said the record could stay open for them to supplement it, and by some miracle, that was what they needed to get this done. So they settled things. This now is done.

CHAIRPERSON PHILLIPS: Thank you. And the staff, Chuck Mula.

MR. WU: Did Jill wish to add?

DR. DERBY: I couldn't add much except this is one of these happy ending stories. After hearing others where there has been divisiveness and contention, it's nice to hear six months later that the two entities have come together and resolved the issue very nicely.

CHAIRPERSON PHILLIPS: Thank you. Staff report. Chuck Mula.

MR. MULA: Thank you, Madam Chair, and good afternoon, and members of the Committee.

For the record, my name is Chuck Mula, and I will be presenting a summary of the compliance report submitted by the Accreditation Commission for Education in Nursing, ACEN, formerly the National League for Nursing Accreditation Commission, hereafter referred to as the commission.

The commission last appeared before you in the spring of 2015 when Department staff

recommended the agency's recognition be terminated. Based on NACIQI's evaluation of the agency's issues and responses to the Department's concerns, you also recommended the adoption of the staff report, recommending that ACEN be found not to meet the requirements of recognition, specifically the requirements that it be separate and independent as required by 34 CFR 602.14(a) and (b).

NACIQI's recommendation also included the suggestion that the record remain open for a period of three months to allow supplementation with new information. The review of this supplemental information requested by NACIQI and provided to the Department and a request by the Assistant Secretary of Postsecondary Education to review this information by staff is the subject of this report.

The Department reviewed--Department staff received no complaints this recognition cycle regarding this agency's recognition or activities.

On or about August 13, 2015, the Assistant Secretary, as the senior Department official, received information relating to the recognition

status of ACEN. This information was received from Dr. Belle S. Wheelan, President of the Southern Association of Colleges and Schools, Commission on Colleges.

Dr. Wheelan transmitted various documents which included: changes to the Certificate of Incorporation for ACEN, that was dated 10 August 2015; the amended ACEN bylaws, effective August 12, 2015; and a Mutual Agreement and Assurances between the National League of Nursing and ACEN, signed by representatives of both agencies on August 6, 2015 and August 12, 2015 respectively.

The Assistant Secretary determined that pursuant to 34 CFR 602.36(h), the information submitted by Dr. Wheelan could not have been submitted previously because ACEN and NLN did not reach an agreement on ACEN's bylaws until August 2015.

The Assistant Secretary also determined that the information regarding the bylaws would be relevant and material to her decision on recognition within the meaning of 602.36(g) because

it may be determinative of the issue of whether ACEN is separate and independent. Therefore, the Assistant Secretary concluded that her decision on recognition should not be made without consideration of the information submitted by Dr. Wheelan.

Accordingly, pursuant to 602.36(g)(1)(ii), the Assistant Secretary referred the matter to the NACIQI with the record supplemented by information from Dr. Wheelan to Department staff for review and analysis and consideration by NACIQI under this 602.34.

The staff has analyzed the information provided by Dr. Wheelan, and based on that documentation, the staff has concluded that ACEN is now in compliance with 602.14(a) and (b).

The staff's recommendation to senior Department official for the agency is that she renew the agency's recognition for a period of one-and-one-half years. Department staff would also like to thank both agencies for their diligence and hard work to come to this resolution.

This concludes my report, and representatives of the agency are here for your questions.

CHAIRPERSON PHILLIPS: Thank you. Questions for staff? Thank you, Chuck. We'd invite the agency representatives to come forward. Welcome back.

DR. STOLL: Good afternoon. I am Marsal Stoll, the CEO of the Accreditation Commission for Education in Nursing. I am joined today by our Board Chair, Dr. Marilyn Brady;, by our General Counsel, Dr. Patrick McKee; and by Dr. Belle Wheelan, President of Southern Association Colleges and Schools, Commission on Colleges, who graciously consented to provide third-party comments in support of our petition.

After I make some remarks, Dr. Brady and Mr. McKee will provide you some additional information, and then all of us will be pleased to respond to your questions.

You will recall that we appeared before this body at its June 25-26, 2015 meeting. At that

meeting, you adopted the following recommendation:
NACIQI recommends adoption of the staff report that ACEN be found to not meet the requirements for recognition, specifically that it be separate and independent.

NACIQI makes this recommendation without expressing any view on the corporate structure of ACEN other than it must comply with the requirement that it be separate and independent.

NACIQI observes that there are authorized accrediting agencies that function within a larger corporate structure, as well as those that are fully stand-alone. It also recommends consistent with regulations that the record be open for a period of three months to allow supplemental information with--excuse me--to allow supplementation with new information not available at this time regardless of the party that submits the new information.

I am here to report to you that we have taken your recommendation with the utmost seriousness. We have made modifications to our

internal corporate organization necessary to make ACEN separate and independent. We are now in compliance with the Secretary's Criteria for Recognition and therefore request that you accept the staff recommendation that you renew our recognition for a period of one-and-a-half years.

Since your June meeting, ACEN modified its bylaws and Certificate of Incorporation to come into compliance with the Secretary's requirements. On August 13, 2015, Dr. Wheelan, President of Southern Association of Colleges and Schools, Commission on Colleges, submitted the following documents to the Assistant Secretary concerning ACEN's corporate status: change to the Certificate of Incorporation for ACEN, dated August 10, 2015; amended ACEN bylaws, effective August 12, 2015; and the Mutual Agreement and Assurances between NLN and ACEN, signed by representatives of NLN and ACEN on August 6, 2015 and August 12, 2015 respectively.

A copy of Dr. Wheelan's cover letter and the accompanying documents are attached to the staff report for consideration by this body.

The Assistant Secretary determined that pursuant to 34 CFR Section 602.36(h), the information submitted by Dr. Wheelan could not have been submitted previously because ACEN and NLN did not reach agreement on ACEN's new corporate documents until August of 2015.

The Assistant Secretary also determined that the information regarding these corporate documents would be relevant and material to her decision on recognition within the meaning of 34 CFR Section 602(36)(g) because they may have been determinative of the issue of whether ACEN is separate and independent.

Therefore, the Assistant Secretary concluded that her decision on recognition should not be made without consideration of the information submitted by Dr. Wheelan. Accordingly, pursuant to 34 CFR Section 602.36(g)(1)(ii), the Assistant Secretary referred the matter with the record supplemented by the information submitted by Dr. Wheelan to Department staff for review and analysis under 34 CFR Section 602.32 and for

consideration by NACIQI under 34 CFR Section 602.34.

The staff has analyzed the information provided by Dr. Wheelan. That is the amended Certificate of Incorporation, amended bylaws, and Mutual Agreement and Assurances, and based on that documentation, the staff has concluded that ACEN is now separate and independent in compliance with 34 CFR 602.14(a) and (b).

It is my request that you accept the staff recommendation and grant the ACEN petition for recognition. I am certain you have many questions concerning the specifics made, and I'm going to refer those questions to Mr. McKee after he concludes his presentation. And now I wish to turn our presentation over to our chair, Dr. Brady.

DR. BRADY: Good afternoon. I am Marilyn Brady, Dean of Nursing, Trident Technical College, Charleston, South Carolina. I am the newly elected chair of the Board of Commissioners of the Accreditation Commission for Education in Nursing.

Prior to that time, I was one of the

representatives from ACEN on the team charged with negotiating bylaw changes with NLN. In these capacities, I have been directly involved in the efforts of ACEN to achieve compliance with the separate and independent requirements of the regulations. ACEN is committed to achieving compliance with the Department's requirements, has acted on the consistent statements from the Department, and has expended significant efforts in doing so. It is my firm belief that the changes made to the ACEN internal corporate organization achieve compliance with the Secretary's requirements.

I also request that you accept the staff recommendation and grant the ACEN petition for recognition. I now wish to turn our presentation over to our General Counsel, Mr. McKee.

MR. McKEE: Good afternoon. I'm Patrick McKee, and I serve as General Counsel to ACEN since 2010, just after ACEN moved to Atlanta in 2009. I've worked with ACEN throughout the entire time of its efforts to achieve compliance with the

Secretary's separate and independent requirements. As we represented to you at the last meeting, upon receiving this body's recommendation, ACEN took immediate steps to amend its certificate and bylaws to achieve the required compliance, these steps including negotiating the requisite changes with the National League for Nursing.

We also noted that it would be necessary for the Assistant Secretary to take notice of these subsequent changes under the Assistant Secretary's authority to consider relevant and material information pertaining to the agency's compliance with recognition criteria, but not contained in the record as provided in 34 CFR 602.36(g).

As you have heard from Dr. Stoll, this information was provided to the Assistant Secretary by Dr. Wheelan. Of particular significance we believe in the determination of compliance is the fact that the corporate documents evidence a complete split between the internal corporate organization of ACEN over which NLN retains control and the accreditation and operation functions of

ACEN over which ACEN maintains control.

We believe the separation of these functions and the independence that ACEN exercises over the accreditation responsibilities evidence compliance with the separate and independent requirements of the regulations. Based on this evidence, we believe ACEN establishes compliance. Accordingly, we request that this body accept the recommendation of the staff.

I'm sure you have questions for which we will now be pleased to entertain.

CHAIRPERSON PHILLIPS: Thank you very much. Frank.

MR. WU: I just have one question. Everyone is in a good mood. This is done as soon as we vote. My question is looking back, and this is to help us as a decision-making body, how might we have done this better, to have brought this result along sooner? Would you encourage us to be more directive, more aggressive? Should we have yelled at you, you know? I'm wondering because there are many other agencies that will present

themselves not with this particular problem, but with other problems, and some of the agencies present themselves again and again and again without this happy conclusion.

DR. STOLL: As you know, I joined ACEN a year ago so I can't speak to the past history. I can respond that the outcome of the June NACIQI meeting created an imperative, and I went into this situation after the June meeting that failure was not an option. So as a result of the June meeting, and with the perception that failure was not an option, Bev Malone and I found a way to set aside our past conversations and the conversations that happened before me. We worked together, and more importantly we focused on the thing that was the most important, and that was the students, and the irreparable harm that would have been done to the programs and the students.

And so with that, our efforts resulted in the information that was submitted by Dr. Wheelan on our behalf in August of 2015.

MR. McKEE: If I may, Chancellor Wu,

supplement that. It was the directive of this body that was clear and unequivocal that led us to take the needed action.

MR. WU: That's great. I hear that as saying we should yell at other agencies.

[Laughter.]

MR. WU: Thank you.

MR. McKEE: You didn't yell at us, but what you did was right.

CHAIRPERSON PHILLIPS: Other questions of the agency? George.

DR. FRENCH: Yes. Madam Chair, I concur with what I heard Frank saying. I'm not sure what we can do on our side, but certainly on agencies' sides, I wish that more agencies would take the imperative that Dr. Stoll did, come back to this body so that we can have expeditious action. Congratulations.

CHAIRPERSON PHILLIPS: Thank you for joining us. We are going to ask our third-party commenter to join us. Belle, thank you for your patience.

DR. WHEELAN: It's my pleasure. Madam Chair, to you, to members of NACIQI, Mr. Bounds, to you and members of the staff, thank you very much for allowing me this opportunity to speak. My name is Belle Wheelan, and I have the pleasure of serving as President of the Southern Association of Colleges and Schools, Commission on Colleges, better known as SACSCOC.

SACSCOC serves as the recognized regional body for the accreditation of degree-granting higher education institutions in the southern region of the United States, Latin America and other international sites.

We serve as the Title IV gatekeeper for over 800 institutions of higher education and as such have a strong interest in the assurance of quality in nursing programs and our accredited institutions. I believe that ACEN has and continues to serve that purpose. It is the entity that is responsible for the specialized accreditation of nursing education programs and institutions, both postsecondary and higher degree,

which offer either a certificate, a diploma or a recognized professional degree, such as a clinical doctorate, master's, post-master certificate, baccalaureate, associate, diploma and practical certifications.

SACSCOC has a vital interest in ACEN keeping its recognition as an accreditor by the Department since it directly impacts the students enrolled in the institutions we accredit. Since the date of the previous hearing before this body, ACEN has accomplished revisions to its bylaws and Certificate of Incorporation that make clear the authority of NLN.

You've heard a description of these changes so I'm not going to reiterate them here, but it is my belief that these changes respond appropriately and directly to the recommendations of this body and demonstrate that when two entities put the needs of students before themselves that anything is possible.

It is my request that you consider this evidence of compliance favorably in your review and

grant ACEN's petition for recognition. Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Any questions for this commenter? Arthur.

MR. ROTHKOPF: Not a question. I just express my own appreciation to Dr. Wheelan for helping to bring about this result because it was, I'm sure, through her good offices that we have resolved this very difficult problem.

DR. WHEELAN: Thank you.

CHAIRPERSON PHILLIPS: Thank you for joining us. Staff, any--we have a second commenter? I'm sorry. I didn't have any awareness of this. Oh, I'm sorry. Our second commenter is Beverly Malone, ACEN, NLN.

DR. MALONE: Thank you, Madam Chair.

CHAIRPERSON PHILLIPS: My apologies.

DR. MALONE: No problem, Madam Chair. Thank you, Madam Chair, and all the commissioners, board members and staff. I am the CEO for the National League for Nursing, and I just want to express my appreciation to my colleagues for the collaboration that occurred in moving toward a

resolution of the issues and my appreciation to NACIQI for being very clear in our options, and as everyone has said, the opportunity, the clear, not just opportunity, the mandate to put the students first and to resolve the issues, and we are so delighted that we have moved forward with that, and we ask for your favorable acceptance of this resolution.

Thank you, Madam Chair.

CHAIRPERSON PHILLIPS: Questions for this speaker? Thank you both for joining us. Staff, any follow up with commenters and agency?

MR. MULA: No more comments, Madam Chair.

CHAIRPERSON PHILLIPS: Thank you. That leads us to being able to consider a proposed motion. Anybody want to make a motion?

DR. DERBY: I move that in alignment with the staff recommendation--

CHAIRPERSON PHILLIPS: Mic, please. Mic.

DR. DERBY: In alignment with the staff recommendation, I move that we renew the agency's recognition for one-and-a-half years.

DR. FRENCH: Second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Second from George.

Any discussion? Okay. Those in favor signal by hand.

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: Abstentions?

[No response.]

CHAIRPERSON PHILLIPS: The motion passes.
Congratulations. See you in a year-and-a-half.

- - -

**AMERICAN BOARD OF FUNERAL SERVICE
EDUCATION, COMMITTEE ON ACCREDITATION
[ABFSE]**

CHAIRPERSON PHILLIPS: Okay. Our next agency for review will be the renewal of recognition of the American Board of Funeral Service Education, Committee on Accreditation, originally scheduled for 11 o'clock. Thank you for your patience. I don't believe we have any recusals on this. Correct me if I'm wrong.

Our primary readers are Simon Boehme and Ralph Wolff. And I would ask you to introduce the agency to us.

MR. BOEHME: Great. So today we're going to be looking at the American Board of Funeral Service Education, Committee on Accreditation. It is a national specialized accrediting agency. Its current scope of recognition is the accreditation of institutions and programs awarding diplomas, associate degrees, and bachelor's degree in funeral service. It is therefore both an institutional and programmatic accreditor.

A brief recognition history. Basically, they were up for recognition in 2008. After the

Higher Education Act and after a series of events, it was required to submit an updated petition for review by staff. At its December 2012 meeting, the NACIQI recommended to continue the agency's recognition and require it to come back in three years for its renewal petition.

The renewal of the agency's recognition is the subject of this analysis, and just so it's on the NACIQI members' radar, something of importance is that this contentious issue is that it does not meet the conflict of interest forms, and we look forward to hearing what the staff has to say about that and a few other issues.

Thank you, Madam Chair.

CHAIRPERSON PHILLIPS: Thank you. Turning to the Department staff, Valerie Lefor.

MS. LEFOR: Thank you. Good afternoon, again, Madam Chair and members of the Committee. For the record, my name is Valerie Lefor, and I will now summarize the analysis for the American Board of Funeral Service Education, or ABFSE.

The recommendation to the senior

Department official is to continue the agency's current recognition and require the agency to come into compliance within 12 months and to submit a compliance report 30 days after the 12-month period that demonstrates the agency's compliance with the issues to be identified.

This recommendation is based off a review of the agency's petition, supporting documentation, and a site visit attended with the agency in September 2015. The agency has not had any complaints or third-party comments submitted to the Department since its last review.

Based off the documentation, Department staff have identified that there are a few remaining issues in this report.

First, Department staff raised concerns regarding the collection of conflict of interest information from all decision-making entities. The agency must be consistent in its application of this policy. The collection of signatory information is significant in both awareness and in understanding of the role of being a site team

visitor and/or appeals members.

Secondly, Department staff is unclear regarding the agency's term and the use of the words "deviate significantly" as it relates to compliance or noncompliance with its standards regarding enforcement action. The agency must evaluate its definition of this term to develop a way to consistently review its institutions and programs for determining that ABFSE standards are met or not met.

And, finally, for Title IV purposes, the agency should add a definition of how clock hours are defined that matches the Federal definition and should also demonstrate that they have trained reviewers for ensuring that this definition is being appropriately reviewed.

As a result of these concerns, Department staff is, again, recommending to the senior Department official to continue the agency's current recognition and require the agency to come into compliance within 12 months and to submit a compliance report 30 days after the 12-month period

that demonstrates the agency's compliance with the issues identified.

There are representatives here from the organization, and I will be happy to take any questions that you may have. Thank you.

CHAIRPERSON PHILLIPS: Thank you very much. Initial questions for staff? Ralph?

MR. WOLFF: I want to ask--excuse me--I want to ask the agency representatives this question, but in going through their standards, I noticed that--let me find it here--they have a provision of a 60 percent pass rate is their required outcome. And if a first-year, there's less than 60 percent, they have to file an improvement report. The second year, they're placed on warning. Third year, placed on probation. Fourth year, withdrawn unless good cause is shown.

And I'm not clear how that meets the two-year requirement. It just seems like four years is required before--they've set a 60 percent mark. So I just wasn't clear how--I want to ask them, and

then maybe come back, but I just want to see, and particularly some of these programs are one year and some are a full bachelor's degree, but, so, and then I'm going to ask the same question for distance education. But, so just to say I'm not clear how that works.

MS. LEFOR: Well, as I said, there are agency representatives here who may be able to assist with further. It's my understanding that how they use the terms "warning" versus "probation" versus "accreditation withdrawn," so there may be a difference in how they define adverse action versus an action that needs attention. I don't know. I'm not sure I'm explaining it very clearly.

So just to clarify, you are looking at the information under student achievement, right, in regards to a national board exam rate?

MR. WOLFF: Right.

MS. LEFOR: Okay. If it's okay, I'll let the agency respond to that first and then I can follow up with my analysis of that.

MR. WOLFF: Just to let you, let them and

you know, this is in their standards under 11.4.2 in their handbook. So I was just going through it and it leapt out.

MS. LEFOR: Okay. No, great. Thank you.

CHAIRPERSON PHILLIPS: Other questions for staff at this time? Okay. Thank you for joining us. Let me invite the representatives of the agency to join us. Welcome. If I could invite you to introduce yourselves and give us your comment.

MR. SMITH: Thank you. Good afternoon. My name is Rob Smith. I'm the Executive Director of the American Board of Funeral Service Education. I'll let my colleagues introduce themselves.

MR. OGRODNIK: Gene Ogrodnik. I'm the current president.

MR. SPANN: Steve Spann, Nashville, Tennessee, past chair of the Committee on Accreditation.

MS. SMITH: Venus Smith, Birmingham, Alabama, current chair of the Committee on Accreditation.

MS. HUGHES: Billie Watson Hughes, co-

chair, Committee on Accreditation.

CHAIRPERSON PHILLIPS: Welcome.

MR. SMITH: We appreciate the opportunity to be here before the Committee and answer any questions that you might have. I'd just like to say if any of you remember when the American Board was here prior, our Executive Director's name was Smith. I was hired in January of '14, Smith again, and in October of '15, Venue Smith became our COA chairperson. So your name doesn't have to be Smith to be involved with the American Board and the COA, but it looks like it helps.

[Laughter.]

MR. SMITH: In any case, the petition that we presented was a real learning experience for me as a new Executive Director. I had a lot of "aha" moments when I saw things that we were doing and now I said this is why we are doing it, and this is why we are doing it in this way.

In addition, the petition and the recommendations and so forth provided a couple of things, suggestions for us that I know we know we

can do a little bit better. So we're looking forward to making some of the adjustments that were suggested for us as well.

But with that said, I think the best thing for us is to try to answer any questions that you might have.

CHAIRPERSON PHILLIPS: Thank you. Committee members, questions for the agency? Ralph and then Arthur.

MR. WOLFF: Thank you. Thank you for coming. I actually have two questions. One is looking at your standards, you've established a 60 percent pass rate for the examination, and just curious, we've been focusing on student achievement. First question is how did you come to that figure? It could have been 70 percent or 50 percent. But what process did you use to establish the 60 percent benchmark?

MR. SMITH: Sorry. It had been on. I didn't realize it had gone off. It's been in use for several years now. I believe when we established it, we more or less said we need a

benchmark somewhere, let's use 60 and see how it works, and it has worked effectively for us because what we found is as soon as a school drops below that 60 percent benchmark, they get a reminder that they missed that first year, and what are you going to do about it?

And they jump on it immediately and they take it, most every school takes it extremely seriously, and they say, okay, why did we miss, and they go back and they look at themselves internally and figure out what we can do better.

And then if it happens the second year, then they're really reminded, hey, your plan didn't work, and now your feet are to the fire, and you've got to make it work, and invariably they do.

When they go back and they look at reasons for low pass rates on their licensing exam, they also frequently find that there are many other things that they could do better to improve the entire program, and it benefits everybody down the line.

MR. WOLFF: As I asked staff, I wonder if

you could respond to it would appear it takes four years, at least on this metric, to have accreditation withdrawn, and looking at your actions, it does appear you withdraw accreditation voluntarily or involuntarily, and that probation is imposed as well. But how do you address the one year, the time frame requirement for adverse action, one year for an associate degree or two years for a bachelor's degree? So I'm trying to juxtapose that with this four-year time table on this 60 percent pass rate measure.

MR. SMITH: Well, the reality is that the adverse action starts with probation. The first two are warning, and they're to say, hey, look, get your act together because anybody could have an off year where that particular student body dropped a little bit below, that student or that particular graduating group falls a little bit off the radar and they improve.

And that's most often what does happen so the real, the true adverse action kicks in with probation.

CHAIRPERSON PHILLIPS: Kathleen.

DR. SULLIVAN ALIOTO: I'm curious about two things in regards to distance education. How do you deal with preparing a cadaver long distance?

MR. SMITH: Well, the requirement is, number one, that students that are in the distance education programs must do an on-campus segment for practical embalming and restorative art. So that's how we are addressing that very practical issue with distance learning, and it's very clear on our website that students that are involved in distance education, it's not going to be 100 percent; they still have to do an on-campus component for those two pieces.

DR. SULLIVAN ALIOTO: I'm interested in that expression, restorative artistry.

MR. SMITH: Restorative art, yes, yes.

DR. SULLIVAN ALIOTO: And what is the success rate of your distance education program piece?

MR. SMITH: Well, if we compare, the pass rates are almost identical. The academic side of

students grade-wise, the grade point average of the online students is about two-tenths of a point higher than it is in the classroom.

DR. SULLIVAN ALIOTO: And is the distance education a hybrid model? It sounds like it is in terms of the art.

MR. SMITH: Well, again, when we are requiring students to be on campus for that segment, then I think we'd have to refer to it as a hybrid in that regard, yes.

DR. SULLIVAN ALIOTO: Uh-huh.

MR. SMITH: Many of the schools are able to accomplish that piece in probably a two-week stint on campus, but the reality of our funeral service education and our profession is that the large majority of our students are employed in funeral homes while they are in school.

DR. SULLIVAN ALIOTO: I see.

MR. SMITH: So they are combining practical education, if it's not part of the school's requirement, they're combining it with their practical education throughout their time.

DR. SULLIVAN ALIOTO: And does part of the, I assume that part of the education is how to deal with grieving families?

MR. SMITH: Yes. Yes.

DR. SULLIVAN ALIOTO: Thank you for your work.

MR. SMITH: Thank you.

CHAIRPERSON PHILLIPS: Art. Arthur. Sorry.

MR. ROTHKOPF: Yeah, I was going to ask the same question that Ralph Wolff did, which was what your percentage is that you consider successful? I hear it's 60 percent. Does that apply to all the programs, diplomas, associates, and bachelors? Is each one measured by 60 percent or some higher or some lower?

MR. SMITH: No, on that national licensing exam, the same 60 percent metric applies to everyone. They all take the same licensing exam, whether they took, whether they got a diploma, an associate's degree or a bachelor's degree. They still take the licensing examination.

MR. ROTHKOPF: Yeah, I have a reaction that that's a low number. And I think other organizations that have technical requirements, they tend to, licensure requirements, that they tend to have higher numbers, but, you know, I'll just throw that thought out, and you may or may not want to consider that.

To what extent are your schools nonprofit or for-profit? Is there a break that you can help us with?

MR. SMITH: We essentially have 58 programs. Eight of them are what we call single-purpose institutions so they would be for-profit institutions, and then we have--and then we have-- I'm sorry--some of those single-purpose are also nonprofit. I was corrected by our president.

MR. ROTHKOPF: Say that again.

MR. SMITH: We have, of our 59 programs, we have--

MR. ROTHKOPF: Right.

MR. SMITH: --eight that are single-purpose that only teach funeral service. Some of

those are nonprofit, and we may be down to only one that's left as a for-profit institution. That has been changing.

MR. ROTHKOPF: So you're saying of those where you act as a Title IV gatekeeper, there's only one institution?

MR. SMITH: Well, we're Title IV gatekeeper for eight, but you said profit versus nonprofit, and we have I believe now just one left as a for-profit institution.

MR. ROTHKOPF: Thank you.

CHAIRPERSON PHILLIPS: Ralph.

MR. WOLFF: Very quick question on the 60 percent. Is there a national--what's the norm for the national pass rate for the exam? As a lawyer, you know, the bar exam varies in different states, but you have a national exam. What tends to be the average from year to year?

MR. SMITH: The pass rate on the national exam floats in the low 70s. Sometimes it's 72. Sometimes it might be as high as 74, 76.

CHAIRPERSON PHILLIPS: Further questions

of the agency? Thank you for joining us.

MR. SMITH: Thank you.

CHAIRPERSON PHILLIPS: I don't believe we have any third-party comments for this agency.

Staff want to respond in any way?

MS. LEFOR: Thank you. I would just like to respond to Ralph's comment. So I looked back through the information, and then based on how the agency responded to the information provided today, and I'm in agreement with you that based on the information provided, it does not appear that 34 CFR 602.20 is being met, which talks about the time lines as appropriate.

So I hadn't realize that they were not considering--so if you read under 11.4, as it relates to the information on student achievement and the 60 percent rule, the first year they are found to not be meeting that standard, it's read as they have to do reporting, and that is a noncompliant issue, which then, in fact, starts the time clock, but when I read through the section in 602.20 previously, I hadn't realized that it was

the noncompliance issue so I'm in agreement with you that that issue is also not compliant, and I apologize for that mistake. And I appreciate you catching that.

MR. WOLFF: Can I just say it also strikes me there may be a difference between an associate and bachelor's degrees because there's a one-year time table and a two-year time table? So whenever it tolls, one year, even if they were to do a probation, it looks like it could be more than a year. So it just seems to be an issue that needs to be clarified.

MR. ROTHKOPF: Can I just ask, is the 60 percent applicable to a licensure test or is it applicable to having a job in this field?

MS. LEFOR: It's related to the national board exam so it's a test, a licensure exam, is my understanding.

MR. ROTHKOPF: So they could pass the exam and meet the 60 percent, but they might not have a job in the funeral industry?

MS. LEFOR: It's my understanding that is

correct. My observation from the site visit did note that it seemed like they did have an incredibly high placement if they did pass the exam, but that was just one particular institution so I can't speak across, you know, all institutions. But that is possible, yes.

CHAIRPERSON PHILLIPS: John.

DR. ETCHEMENDY: So this is just a question for staff. The two-year rule strikes me as sort of a one-size-fits-all. I can imagine it seems like there are some ways of falling short that once you fall short, it will either be hard enough to fix it that it will take more than two years, or take longer to prove that you fixed it than two years, and I don't know if this is one case of that, but that just seems odd to me. I just thought I'd register that.

Herman.

CHAIRPERSON PHILLIPS: Herman.

MR. BOUNDS: So, yeah, if I understand your question, depending on the length of the program, an agency can give an institution the two

years to come into compliance so it's important that the times and dates be noted, and then as they approach the end of that two years, after they've made that decision, then that's where that extension for good cause would come into play so that they could give the institutional program additional time to demonstrate that.

So for a two-year program, they could have up to four years to complete, but I agree, they are out of compliance with that area, and thanks, Ralph, for bringing that up, and that's not all on Valerie. Since I look at the reports too, I'll share in that issue. Thank you.

CHAIRPERSON PHILLIPS: Any further questions for staff? We're at a point of being able to consider a motion if somebody wanted to make one.

MR. WOLFF: I'd like to move the staff recommendation but add the--I'm not quite sure what the regulatory provision is that we would cite as an area. I think it's inherently fixable how they define what the trigger point is and the like. So

I'm prepared to accept that they would report 602.2(a)?

MR. BOUNDS: 20(a).

MR. WOLFF: Okay. So staff recommendation plus an additional finding. Continue the agency's current recognition, require the agency to come into compliance in 12 months with a compliance report 30 days after the 12-month period compliance that demonstrates they've come into compliance with the issues identified in the staff report, and, in addition, 602.2(a)--20(a). Excuse me. 602.20, subparagraph (a).

MR. BOEHME: And I'll second that. Simon.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Thank you.

Discussion? Okay. Ready for a vote? Those in favor of the motion as posed, hands.

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: Abstentions?

[Show of hands.]

CHAIRPERSON PHILLIPS: One abstention.
Carries. Thank you very much.

- - -

**NATIONAL ACCREDITING COMMISSION OF
CAREER ARTS AND SCIENCES, INC. [NACCAS]**

CHAIRPERSON PHILLIPS: We move now to the renewal of recognition petition of the Accrediting Commission of Career Arts and Sciences, catching up on our agenda. Thank you for your patience. I don't believe we have any recusals. We do have a third-party comment. Our primary readers--Anne Neal had to step out, and so our remaining primary reader is Ralph Wolff, and I would ask you to help us introduce the agency.

MR. WOLFF: Okay. The National Accrediting Commission for Career Arts and Sciences was most recently reviewed in 2012, and their scope is as a national accrediting body for departments, for postsecondary schools and departments of cosmetology arts and sciences and massage therapy. And they're up for a--they have a petition for continued recognition, and there's a staff recommendation to renew for a full five-year period.

CHAIRPERSON PHILLIPS: Thank you. And Rachael, the staff report. Thank you.

DR. SHULTZ: Good afternoon. My Rachael Shultz, and I will be providing information regarding the staff recommendation for the National Accrediting Commission of Career Arts and Sciences, or NACCAS.

The staff recommendation to the senior Department official is to renew the agency's recognition for five years. The staff recommendation is based upon its review of the agency's petition and supporting documentation, as well as its observation of a NACCAS commission meeting in Arlington, Virginia on September 2, 2015.

Although the agency accredits over 1,500 schools, it has had only seven complaints lodged against it during the current accreditation cycle. We do not consider this to be excessive given the number of schools that they accredit. I had a question from Ms. Neal earlier in the day before she left in which she asked if there was any pattern to the seven complaints? I would say that what they all had in common, as well as I remember,

is that they were schools that had been denied reaccreditation, and the complaints were related to a variety of areas, such as the staff, the team composition, various deadlines, the appeals process. So there was not a pattern to the seven complaints as far as I can remember.

All seven of the complaints were resolved in the agency's favor. The agency currently has one additional complaint that is in process. We sent that to them last Friday. That complaint was forwarded to the agency under our standard complaint review process, and the agency has been requested to provide its response to the complaint within 30 days, which is the usual time period that we allow for agency response.

The agency has addressed all of the requirements of the Secretary's Criteria for Recognition and has no remaining compliance issues to address. No written third-party comments were submitted regarding the agency's petition; however, the agency was not placed on the consent agenda for this meeting because there are representatives of

the school that has filed the current in-process complaint who wish to address the Committee today as third-party oral commenters regarding the agency's petition.

In closing, as I stated previously, the staff recommendation to the senior Department official is to renew the agency's recognition for five years. There are agency representatives present today, and we will be happy to answer the Committee's questions. Thank you.

CHAIRPERSON PHILLIPS: Thank you. Any questions for staff at this point? Okay. Thank you very much.

I would invite the agency representatives to join us. Welcome. If you could introduce yourselves and whatever comments you care to share.

DR. MIRANDO: Good afternoon, Madam Chairman, NACIQI Committee members, Department of Education officials. Thank you for giving us the opportunity to come before you today and a special thank you to Dr. Rachael Shultz for all of her assistance throughout our petition process.

My name is Tony Mirando, and I am the Executive Director for the National Accrediting Commission of Career Arts and Sciences. To my left is Darin Wallace who is NACCAS' Director of Governmental Relations and Legal and serves as our agency's in-house counsel, and to his left is Ray Testa, who is the Chairman for the Commission's Rerecognition Committee.

I know this has been a very long day for you all, and I promise I will keep my comments very, very brief. I would like to take this opportunity again to thank NACIQI for all the work that they do and for allowing us to come before you for our rerecognition process.

NACCAS consistently strives to be an accreditor of excellence. And so when we receive notification from the Department of Education that indicated the staff's recommendation to the senior Department official is to renew the agency's recognition for five years, we were delighted to know that our hard work and diligence had been well received.

However, we do understand that our work is never done and consistently challenge ourselves to review what we do, how we do it, being ever mindful of even more meaningful ways to accomplish our tasks as we focus on the ultimate impact of what we do, the students.

Once again I'd like to thank NACIQI for everything that they do, and again a special thanks to Dr. Shultz for always providing us with guidance and assistance when needed. Thank you.

CHAIRPERSON PHILLIPS: Thank you.
Questions for the agency. I have Ralph and Arthur.

MR. WOLFF: Greetings. I have two areas I'd like to talk to you about. One is, if I read your materials correctly, to help us understand, similarly to the last agency, I think you have three metrics so I'm trying to figure out how you got there and how they work. One is 50 percent completion, as a benchmark, 70 percent pass rate, and 60 percent placement. And I just wondered how did you, as we're trying to work with this whole issue of student achievement, how did you come to

those figures, and how do you verify that that seems to be the right threshold point for triggering further monitoring of institutions?

DR. MIRANDO: I wish I can say that I have a special number there for you. I've been with the agency for about eight years, and those were the numbers that we had when I came to the agency, and they seemed to work really well for us, and the students are definitely passing their exams, and so we've had no problems with those numbers.

Did you want to add something?

MR. WALLACE: I would just note that NACCAS has been recognized by the Department since 1969. As far as I'm able to determine, those numbers have been in place since time immemorial, and the then sitting commission's rationale for why those were appropriate numbers is beyond arcane. However, we revisit this issue on a regular basis, and our commission has found that they seem to be appropriate for the types of schools that we accredit.

MR. WOLFF: Thank you. It may be an issue

for staff or when we talk about validity and reliability and the review of the standards when there are benchmarks like that to see how do you--I don't want to get scientific--how do you validate that they continue to work but as part of the ongoing review of your standards?

The second issue is I really like the idea of the survey cards that you have that you give to graduates about what their employment is going to be when they leave, but I wonder how it works because as I read your manual, as I recall, you give it to the graduates, and then they take it to the employer, and the employer is supposed to tell you, give you information, and could you explain that a little bit? It looks like an interesting process.

DR. MIRANDO: Actually I'd be more than happy to explain that since that is pretty much my baby. I am definitely an individual who is very much focused on student outcomes. As an educator myself, I really believe that our institutions should focus on whether or not they're doing a good

job.

As many of you are well aware of, following a student once they graduate and get a job is becoming increasingly very difficult challenge for a lot of our institutions, and so in trying to provide our institutions with some special process, the commission and I had a lot of thought put into this, and we determined why don't we come up with a computer network program that is not mandatory, but if a school wants to participate in it, they can provide a student with a card that says who they are, and when they go to their employer, they can present the card to their employer, and the employer can then go on to our website and leave a two-minute, two-minute survey on their newly hired graduate.

And that information is left on the, on our server, and at the end of the year, a school could go there to initiate, and that's the key word, initiate information from that server to then begin their process of determining whether or not employment was satisfactorily attained.

MR. WOLFF: What kind of response rate are you getting for that?

DR. MIRANDO: To be very honest, this is our first year so I can't really give you that information yet. I hope that it's going to be helpful, but, look, at the end of the day, as long as our schools can provide us with adequate documentation to show that their students are being placed at the level for which we require them to, then I think any means that's adequate is sufficient to us.

MR. WOLFF: Thank you.

CHAIRPERSON PHILLIPS: Arthur.

MR. ROTHKOPF: I have sort of a series of questions to follow up on the ones that Ralph has asked. First, over the last year, how many schools have you disciplined, have you found that they were not meeting your requirements, they weren't placing students? How many have you either put on a probation or actually removed their accreditation?

DR. MIRANDO: I can't say--

CHAIRPERSON PHILLIPS: Mic, please.

DR. MIRANDO: I apologize. I can't say that I have those numbers in front of me.

MR. ROTHKOPF: Have you removed any?

DR. MIRANDO: Yes. Oh, absolutely. We are very active.

MR. ROTHKOPF: I mean one, ten, 100--

DR. MIRANDO: No, no, no, no. I would say--

MR. ROTHKOPF: A thousand?

DR. MIRANDO: Go ahead. You want to--

MR. WALLACE: I think it depends on whether you're asking how many schools have lost their accreditation or been denied accreditation for those purposes as opposed to how many schools have been placed on some sort of monitoring process where their initial numbers are unsatisfactory, and we are monitoring whether they are able to come back into compliance.

I can speak in broad terms as to the number of withdrawals, but not specifically related to that issue because I work with our appeal review panel, and as a consequence of that, I'm regularly

tracking the appealable actions taken by the commission with respect to accredited schools, and while I can't give you an exact number, on a quarterly basis for the last several years, I would say six to eight schools have had, in any given quarter, have had an accredit--pardon me--an appealable action taken against them. So in an average year, perhaps 20 or more, not all of them for those purposes.

And, of course, some of those schools are able on appeal to demonstrate that they've brought themselves into compliance and therefore did not ultimately lose their accreditation.

MR. ROTHKOPF: Are some of those schools that simply just because of financial reasons just didn't continue or did you actually take--

MR. WALLACE: Sometimes for financial reasons.

MR. ROTHKOPF: --action against them to say that they shouldn't be accredited?

MR. WALLACE: Some of them for financial reasons. Any school who is incapable within the

permissible period of remediation to prove itself, show that it's come back into compliance with any of NACCAS' standards, is subject to withdrawal.

MR. ROTHKOPF: Are all--you accredit 15,000 schools?

MR. WALLACE: No. Roughly 1,500.

MR. ROTHKOPF: 1,500. Okay. Are all of those for-profit institutions?

DR. MIRANDO: I would say the majority, yes. I would not say all.

MR. ROTHKOPF: I guess another question, have you analyzed for, when you do an accreditation review, the debt or the average debt that the graduate has or even if the person is not a graduate, the debt versus the job that that individual may or may not have? And I'm not just talking immediately but say one year later, do you compare the investment and the debt that has been incurred with the income that that person may have from cosmetology?

MR. TESTA: According to recent Federal regulations, this would not apply to all accredited

institutions because not all accredited institutions participate in Title IV, but if an institution participates in Title IV, they have to calculate the median loan debt for every completer, everyone who has completed. That information has to be posted on their website. Do they submit that as part of the--

DR. MIRANDO: No.

MR. TESTA: No. The accrediting commission does not solicit that data. The data is there. By Federal regulation, it has to be posted so it's accessible at any point in time. Regarding the debt versus earnings, the ability of the institutions to gather the earnings information is somewhat limited. That's based on because we can't mandate that graduates will tell us what they're earning.

So for many years what we always looked at was the typical Bureau of Labor Statistics numbers and, in fact, not to get too far in the weeds, but we always felt that we could withstand scrutiny looking at the earnings by BLS numbers.

One of the problems in our industry and many service industries is that we have a question, to be perfectly blunt, of reported income versus actual income because such a large portion of the earnings of people in service industries is related to gratuities, and the ability of the IRS or anyone else to track the exact numbers is limited, to say the least.

CHAIRPERSON PHILLIPS: Kathleen.

DR. SULLIVAN ALIOTO: I'm just curious. It's not an accreditation issue, but what is the percent of women of your clients?

DR. MIRANDO: Our clients or our schools' participants?

DR. SULLIVAN ALIOTO: Your students. Students.

DR. MIRANDO: I would say it's up in the 80s, if not in the 90s.

DR. SULLIVAN ALIOTO: Are there any women on your governing board?

DR. MIRANDO: Oh, yes, uh-huh. Yeah, right now, exactly, the majority of my commission

are women.

DR. SULLIVAN ALIOTO: Glad to hear it.

DR. MIRANDO: But that does change from time to--right now, a majority of the commissioners are women.

DR. SULLIVAN ALIOTO: And do your students--

DR. MIRANDO: And majority of my staff are women.

DR. SULLIVAN ALIOTO: Are your students able to win Pell grants?

DR. MIRANDO: Win? They do participate in Pell grants.

DR. SULLIVAN ALIOTO: They do?

DR. MIRANDO: Yes.

MR. TESTA: Yes, our typical programs, I think the shortest program is about 600 hours which is Pell eligible, and they range in length by state regulation up to 2,300 hours, and then institutions define their academic years within a certain range, usually between 900 and 1,200 hours as an academic year.

DR. SULLIVAN ALIOTO: And you're talking about how you can find the statistics someplace else, but it is possible now for you to be able to give the graduation rate, median earnings data ten years after enrollment, earnings above high school after six years, three-year repayment rate, three-year CDR, median debt Pell, the net price, and the number of students who are borrowing, which is kind of a direction because of the national scandal of student debt?

MR. TESTA: All of the information, as I said, you have about four different arenas where schools are required to post, as you mentioned, net price calculator. You have the gainful employment disclosure template requirements. These have all been very recently enacted. But long prior to that, NACCAS, as an accrediting agency, requires all prospective students to be provided with completion rates, placement rates and licensure pass rates.

I'd like to say even going back when Ralph asked the question about how they came up with the

numbers, I'm really old, but because we're in the beauty business I don't look quite so old.

[Laughter.]

MR. TESTA: Initially those numbers were floated as trial balloons, and they were mapped against averages, and then they did applications of standard deviations and so on, and then we realized that that was flawed, but when they got into the-- tightened up the numbers, those were where they fell in the norms, and so that's when they became bright line benchmarks.

NACCAS established bright line student outcomes benchmarks when it was just a gleam in the eye at the Department of Education. It was considered sacrilege to tell a school that they had to establish these bright line benchmarks. So we were way ahead of the curve, not to the delight of many institutions back then I will add because no one wants to have an additional thing that they're held accountable for, but NACCAS has been way ahead of the curve on this.

DR. SULLIVAN ALIOTO: A final question.

CHAIRPERSON PHILLIPS: Mic, please.

DR. SULLIVAN ALIOTO: Do you ask your schools as one of your, one of the things that you look at, about the issue of cleanliness in spas or anyplace that your students work?

DR. MIRANDO: Absolutely. I mean we have a standard on sanitation and so that's very, very, very, very important to us, and as a health practitioner, I can assure you that is very, very important to me as well. So, yes.

DR. SULLIVAN ALIOTO: Me too.

CHAIRPERSON PHILLIPS: Simon.

MR. BOEHME: Great. And just following up with my colleague Kathleen, after doing a quick analysis of the data provided from the Department of Education, about 60 percent of your 1,100 plus institutions receive Pell grants.

And so kind of following up with Kathleen along the same questions, when you have these site visits, what do you encourage the team to talk about when it comes to three-year repayment rate and the three-year cohort default rate? What kind

of questions are involved around that? Because 60 percent seems like a lot. Some of these, nearly all of your students, 91 percent, 88 percent, 87 percent, receive some sort of Pell grant.

DR. MIRANDO: Yeah, the team visits do not address Title IV Pell grants.

MR. BOEHME: But after the students graduate presumably?

DR. MIRANDO: What NACCAS does, what NACCAS does is we will monitor three-year cohort default rates on its own, and--

MR. BOEHME: Per institution?

DR. MIRANDO: Per institution, correct.

MR. BOEHME: Okay.

DR. MIRANDO: And if a school drops below the threshold--

MR. BOEHME: What's the threshold?

DR. MIRANDO: Was it 20? Yes, correct, but it is over a certain period. I think it's over 25 or over 20, we start to--

MR. BOEHME: And that's the three-year repayment rate?

DR. MIRANDO: Cohort default.

MR. BOEHME: Okay. Are you going to start looking at the repayment rate?

DR. MIRANDO: Yeah, correct.

MR. BOEHME: Right. Okay.

CHAIRPERSON PHILLIPS: Other questions for the agency at this point at this point? Thank you for joining us. We do have a third-party commenter for this agency, Deana Labriola from Park West Barber School.

I'll just remind people of the process. Once the third-party commenter completes, we'll go back to the agency for comment on the third-party comment, to the staff for comment, and then on to the motion and vote.

I notice that there are more than one Deanas here and would invite you to identify yourselves and indicate if there are more than one commenter involved.

MS. LABRIOLA: Good afternoon. Thank you all for having us here to the Department, the NACIQI members. To clear up the confusion, I am

Deana Labriola.

CHAIRPERSON PHILLIPS: Okay.

MS. LABRIOLA: And there is not another Deana in the room. With me today up here are one of Park West Barber School's owners, Timothy McIntosh.

CHAIRPERSON PHILLIPS: If I could just--

MS. LABRIOLA: Yes.

CHAIRPERSON PHILLIPS: --just pause for just one moment.

MS. LABRIOLA: Yes.

CHAIRPERSON PHILLIPS: I would like initially before we start our clock a clarification on the two other people that do not seem to be Deana, who is signed up to be a commenter.

MS. LABRIOLA: I don't believe they're here to comment. They're just here for support in the event we need, there's questions that need answers.

CHAIRPERSON PHILLIPS: We welcome your presence and your silence. Thank you. Our procedure allows us to afford three minutes for

anybody who has signed up, and since you have signed up, welcome, and let me turn over the floor to you for three minutes.

MS. LABRIOLA: Well, thank you. Again Deana Labriola, representing Park West Barber School. I serve as Park West Barber School's General School and have for several years. I'm here with Timothy McIntosh and then my law partner, Devon Williams, who will remain silent.

Due to the limits on speaking time, I'm going to briefly outline NACCAS' most recent and most egregious violation of Park West's due process rights, and I'm going to highlight how that instance demonstrates NACCAS' overall noncompliance with 602.25, 602.15, and 602.18.

In sitting through this morning's session, we heard a lot about the agency's lack--certainly agencies' lack of due process toward schools and inconsistency in decision-making. We are here to highlight one clear example implicating the same issues with respect to NACCAS.

As you heard, we do have a formal

complaint into the system, and so I won't rehash that, but to tell you it was submitted in August, and we were asked to resubmit it in November, and that is now going through the formal process. So we have done that.

Park West owns and operates a combination of seven NACCAS-approved barber and/or cosmetology schools in the United States, and in March 2015, the Executive Director of NACCAS and his assistant conducted an unannounced on-site visit of Park West Alexandria, Virginia campus. Park West sincerely believes that this visit was conducted wholly outside of the bounds of NACCAS' own prescribed rules.

During the visit, the Executive Director was alarmingly accusatory, implied without any factual basis that there was, that Park West was somehow engaging in unethical behavior or otherwise violating NACCAS' rules. This behavior is corroborated by three separate affidavits on behalf of Park West, mine being one of them in the complaint.

I was part of that unannounced visit. I was called. NACCAS rules prescribe exactly how unannounced on-site visits must be conducted. The Executive Director's visit was in direct conflict with Sections 3.1 and 3.3 of NACCAS' own rules. Those sections require on-site evaluation teams to include a certain number of people that have certain knowledge competencies. Dr. Mirando and his assistant did not meet the stated number of evaluators nor did they meet the required credentials under the rules.

As a result of this inappropriately conducted visit, NACCAS issued a visit report citing three limitations against Park West. Park West has responded and answered the visit report and the limitations even though we are still unsure whether we really are or should be required to answer the visit report since the visit was conducted in violation of the rules.

We have asked on four separate occasions the commission to opine and investigate this. It has been silent to date. The NACCAS Commission has

delayed clearing Park West from such limitations for nearly seven months.

CHAIRPERSON PHILLIPS: If I could ask you to wrap up in one minute?

MS. LABRIOLA: Yes. Since the March 2015 visit, in October 2015, I'll let you know, that NACCAS occurred, conducted a properly credentialed on-site visit of the same campus, Virginia. No limitations were found. So when a proper team under the NACCAS rules conducted the same visit and looked at the same documents, no limitations were found. Yet our visit report is still outstanding. We'll take any questions.

CHAIRPERSON PHILLIPS: Thank you very much. Committee questions for this commenter? Ralph.

MR. WOLFF: Thank you. Just one question. I'm not clear as you gave this presentation, you have filed a complaint with NACCAS?

MS. LABRIOLA: Yes, we have. We have filed a formal complaint with NACCAS, and that complaint has gone unanswered to date. It keeps

being delayed on the agenda.

MR. WOLFF: And it is currently, and as a result, you've filed a complaint with the Department, and it's currently under review by the Department staff; is that right?

MS. LABRIOLA: That is correct.

CHAIRPERSON PHILLIPS: Other questions by Committee members? Thank you for joining us.

MS. LABRIOLA: Thank you.

CHAIRPERSON PHILLIPS: I'd like to invite the agency to--oh, I'm sorry--for the commenters or for us?

MR. WU: Intended for Sally.

CHAIRPERSON PHILLIPS: Okay. Frank.

MR. WU: The question is what happens with complaints like that that go to the Department and what should happen? Should we hear about these things, you know, in greater detail?

MS. MORGAN: I'll let Herman give you more details, but generally what happens is that the Department investigates them, and if it finds any noncompliance, that would then--and if the agency

wouldn't then agree to rectify the compliance, they would, Department staff would bring it before NACIQI and then the senior Department official.

CHAIRPERSON PHILLIPS: Herman.

MR. BOUNDS: Yeah. I think Sally summed it up. If we, if we review the complaint and we find the agency in compliance, then there is, there is really not an issue. And, again, we look strictly at the Criteria for Recognition, no outside issues, because we know a lot of times our complaint resolutions can be used in other forms and court hearings so we are very careful to make sure that we only review for violations of the criteria.

If we--I'm sorry--if there was a case where we found an agency out of compliance, which we have before, and then the agency takes steps to correct those issues, once the agency corrects those issues, then of course they're in compliance. This Committee would become involved if we found something that was of irreparable harm against an institution that was really egregious that the

Committee needs to see or if the agency says, no, Department staff, we don't agree with you, and then there is no resolution.

Other than that, at a NACIQI meeting, you would see tons of complaints that have really already been resolved, and the agency has been found out of compliance, and that's really the process that we have.

MR. WU: Just one follow-up. How often are agencies found out of compliance, just ballpark, once a year, ten times a year, a hundred times a year, a thousand times? I mean is it quite rare?

MR. BOUNDS: It is. During my tenure, we have found agencies out of compliance, and they have made the corrections that we have suggested. So none of them have had to appear before this body because they either didn't agree or that they couldn't fix, they couldn't fix the issue.

CHAIRPERSON PHILLIPS: Rick.

MR. O'DONNELL: Herman, I just have a question. How many complaints, whether they, you

know, after you investigate them, and there's merit or not, just how many incoming complaints against agencies do you get in an average year or month?

MR. BOUNDS: That's tough to remember. I think this year one of the analysts has done probably five. I think Rachael has one or two, and then Beth had three. So if my memory is working correctly. So we get seven, and I will say these complaints are quite extensive, and in many cases, it's like reviewing a petition for recognition.

The one that Valerie reviewed--she's been reviewing one, and total documentation was 800 pages or better. So these are very extensive. They take sometimes longer than the complainant thinks it will take us to review, but we have to be very sure that we make a good decision, and we make an informed decision, and that we look at every piece of documentation.

I would like to also add that in many times, the analyst will actually go out to the agency to ask questions of the documentation and to gain further information. So I just want to make

sure that it's not, in many cases, it's not just a paperwork shuffle that we're trying to meet or that we're just trying to look at things based on what we get.

There are many times where the analyst actually, they go out, talk to the agency, try to find out what actually has, all the, all the issues that they discuss and what they provide us.

CHAIRPERSON PHILLIPS: Ralph.

MR. WOLFF: Yeah, I'm, I'm not sure if I'm confused or if this would be helpful, but I have a real question because we process complaints as an accrediting agency, and we don't adjudicate the complaints. We determine whether or not the complaint raises issues under the accrediting agency standards. And I assume it's the same process for the Department. You're not adjudicating the merits of the case. You're determining whether or not the complaint policy of the agency was followed in the handling of the complaint.

MR. BOUNDS: Well, we have to add to that,

we're also making sure that there are not violations of the Criteria for Recognition, not just that they processed it, but they reviewed the complaint in accordance with the criteria. If we find a violation of the criteria, then that's when we, as you say, that's when we would find the agency out of compliance and ask them how they're going to correct those issues.

MR. WOLFF: And then if I understand from the last conversation, I think it was Beth that was saying that even if you find the agency out of compliance, it's prospective, that you're then to determine whether or not they've corrected the let's just say the policy on complaints, and when we were dealing with the Northwest Commission, it's not necessarily going back and looking at how did they handle the complainant and the substance of the complaint.

So the issue I'm seeing is however you've resolved this particular complaint before the Department staff, it will be handled between the Department and the agency, and so if there was a

the policy is fine but they didn't follow the policy, then they would need to correct the policy.

If the--I'm sorry--if the policy was not fine, if it was noncompliant, they would need to correct the policy. I'm just trying to figure out what happens to the actual complaint versus the policy of complaint handling? In this case, we have a recommendation of a five-year renewal, and I don't see this complaint interfering with that recommendation, but I assume this is just something that will be handled between the staff and the agency. And I just wonder what happens to the substance of the complaint itself?

CHAIRPERSON PHILLIPS: Mic, please.

MR. BOUNDS: That's really part of it. When we receive the complaint, we review the complaint for, to make sure that it contains information that's relative to the criteria, meaning we want to make sure that what the complainant is talking about could be a violation. Once we make that determination, we send the information provided by the complainant to the

agency with a letter saying we have received this complaint; would you address each one of these, agencies?

So, you have to look at those, and when we get that--excuse me--when we get that information back, we compare what the complainant has said and then we look at how the agency resolved that original complaint. And that's where the analysis comes in. We want to see--excuse me--comes in--we want to see how those interactions have taken place. And that's what we make our decision on.

So at that time if we say, yeah, you're out of compliance, you didn't handle this, there's a violation of the criteria. Then at that point, we would ask the agency to tell us how you're going to remedy this issue, whether they have to do some policy changes, and then once we see those policy changes in place, we will then make a determination if they're sufficient.

The other issue, if we would go back and see the violation, again, if it was something that caused irreparable harm to an institution,

something that was really egregious, fraud, waste or abuse, something like that, then those issues would be elevated higher because you can't--some of those things you can't correct. I mean there are serious issues there, and that would come through this body for determination by the senior Department official.

MR. WOLFF: Thank you.

CHAIRPERSON PHILLIPS: Kathleen.

DR. SULLIVAN ALIOTO: Herman, since the Corinthian situation, has the Department developed some criteria so that that doesn't happen to us taxpayers again?

MR. BOUNDS: I don't have any information. That would probably be maybe a Sally question, but as far as the Accreditation Group goes, there's nothing that we, nothing that I know that's, that I can speak to that's happened. There may be, but it's just outside of my knowledge.

DR. SULLIVAN ALIOTO: Well, that particular accreditation agency certainly wasn't alert.

MR. BOUNDS: Yeah, I mean they're coming up for review so we will, we will look to see if there's any, if there's any violations of the criteria, and I'm not versed in everything that happened with Corinthian or how those issues follow so I'm probably not the authority to speak on it. I just know that we review based on the criteria so whatever is in the Criteria for Recognition, regulations between 602.10 and 602.28, that's what we'll look at, and if we find a problem, we'll address it.

DR. SULLIVAN ALIOTO: So is the criteria determined by Congress or by the Department?

MR. BOUNDS: It follows statute, and then based on rulemaking, the regulations are put in place to implement the statute, and that's what we have. And then I will let Sally address if I did not explain that as well as I should have.

MS. MORGAN: Well, the Criteria for Recognition are definitely statutory and rules that are promulgated underneath the statute, and the criteria, the regulatory criteria, have to pertain

to the statutory criteria.

As far as Corinthian goes, accrediting is certainly one thing that we're looking at and looking at those accreditors and see if they should have done anything else under our criteria. The Department has ongoing oversight of its schools and certainly its oversight methods are always being reviewed and risk factors looked at. So it's a Department--and depending on the issues, if it's an issue of academic quality, it's not one that we can reach directly.

If it's an issue of violation of Title IV, we can through program reviews and that sort of thing. We also have independent audits and yearly independent compliance audits.

CHAIRPERSON PHILLIPS: Just a note on Corinthian for the record. There was more than one accreditor involved in the recognition, the accreditation of those programs.

Jen.

DR. HONG: I would just add that a lot of the steps that the Department is taking currently

in revising the website and providing all this information, at least part of that is in response to what happened with Corinthian.

CHAIRPERSON PHILLIPS: So I'm going move back to our agency. Thank you for this educational interlude.

[Laughter.]

CHAIRPERSON PHILLIPS: We need to invite the agency back to respond if they would like to to the third-party comment. Following this, we'll ask the staff to respond to the agency and to the third-party comment, and then we'll be back to the question of motion, discussion, and vote.

So, welcome back.

MR. WALLACE: Thank you very much. It has indeed been a long day, and I will try not to waste too much of your time. Our response to the third-party comment will be relatively brief and I hope to the point.

As Dr. Shultz alluded to in her opening comments, NACCAS has only received a copy of this complaint. In fact, with all due respect to Dr.

Shultz, we actually received our copy of that comment three days ago, and the Department has provided NACCAS with 30 days in which to respond to the allegations of that complaint.

This is consistent with the Department's longstanding practice, and it is NACCAS' understanding that the purpose of that practice is to afford an accreditor a reasonable period of time in which to carefully evaluate a complaint filed against it, consider the allegations, conduct an appropriate internal review, and then provide a full and fully documented response to those allegations to the Department, at which time the Department can then review that response together with the complaint and determine whether or not any of the allegations made are, in fact, well founded.

As I'm sure everyone on the Committee understands, the significance of a complaint is not that it was filed or what the allegations of the complaint may have been, but whether or not after appropriate investigation, it's determined that those allegations had any merit.

NACCAS has begun that process but necessarily only just begun that process. We fully intend to provide an appropriate and fully documented response to the allegations of the complaint in the ordinary course of a regularly-- pardon me--the regularly adopted consistent practice of the Department.

In short, the Department has a procedure for evaluating complaints against accreditors. The third-party commenters today have availed themselves of that procedure. NACCAS is fully cooperating with that procedure. And we will in due course respond to the allegations of the complaint.

The fact that I am limiting our response right now should not be intended, is not intended to and should not be interpreted as an indication that we have no response. In fact, we disagree vigorously with many of the allegations, in fact, virtually every allegation you heard today and which are contained in the complaint, and we will indeed address them through the appropriate

process.

CHAIRPERSON PHILLIPS: Questions for the agency? Thank you for joining us. We now invite the Department staff to respond to the agency and the third-party commenters if you so choose.

DR. SHULTZ: I would just also note that the complaint is in process and we would not expect the agency to be able to respond to it today.

CHAIRPERSON PHILLIPS: Thank you.
Questions for staff? Okay. Thank you, Rachael.

Now we're at a position of being able to consider a motion, discussion and vote. So we will entertain a motion.

MR. WOLFF: I move the staff recommendation that the petition, that NACCAS be renewed for five years.

CHAIRPERSON PHILLIPS: Is there a second?
We have a second in Bobbie?

DR. DERLIN: I'll second. I'll second.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: And discussion?
Arthur?

MR. ROTHKOPF: I don't feel I can vote for this motion. On the other hand, I don't think I have the basis for opposing it. I think I'll abstain. I worry that you have here an accrediting agency that's responsible for the supervision of 1,500 schools, mostly appealing to low-income individuals who are going to be taking out Pell grants, taking out loans, and yet I don't feel I have any sense as to whether or not this investment by the Federal government in this is being properly managed.

I don't know that the Department has the authority to look into it. It probably is not in the statute and not in the regulations. On the other hand, I find the licensure rates and the 60 percent or 50 percent and the rates of employment, and not just employment the first day they're out of the school but a year later, and what are they earning in relation to what they're investing, I think those are legitimate issues that probably the Department is not able to really look at because it's not part of its charter, but I just worry

about this.

I don't know the extent to which Department looks at, you know, to what extent are institutions being rigorously examined and have they been, their accreditation taken away? I'm not sure what percentage have done, but these are, there's the potential, I think, here for I wouldn't say--I'd say the potential for individuals who are low-income individuals to not achieve what they want, and I think the percentages that are used are sort of plucked out of the air, and I'm not sure they've really been studied.

So in any event, I'm not sure there's much that I can do about it, what we can do about it, but I think there's some risks in this particular field.

CHAIRPERSON PHILLIPS: Thank you. Other discussion? Jill.

DR. DERBY: Well, I just wanted to follow up on Arthur's comment because I think that's interesting, and I don't know, too, if the Department has any authority or capacity even to

know, get any more information about that, but I'm wondering if there's any way of knowing with, for instance, in this case, that the institutions that are accredited by a particular agency, what the default rate is, you know, employment follow-up and default rate on those loans that are taken out?

Is there any information about that from any source or is there any responsibility for an agency to know that?

MS. MORGAN: The Department publishes three-year cohort default rates, which is the default rate on loans by borrowers that take out Federal student loans. And for every institution, they're published, and that's, I think, on the Accreditation website as well. So the institution has, I mean the agency has access to that information, and, in fact, even in the part of the statute about the standards, they're supposed to have, they're supposed to have standards on compliance with Title IV, and it does mention default rates there. It doesn't say what they have to do with them, but they are to be taken into

account.

The other aspect that the agency alluded to is our new Gainful Employment regulations which do look at debt-to-earnings ratios on a program-by-program basis and can eventually result in the loss of eligibility of a program.

CHAIRPERSON PHILLIPS: If I could just ask a clarifying question. My understanding is that the student loan default rates and the other data that you mentioned are not on the Higher ED side of the house, but on the FSA side of the house. Is that correct? I mean they're posted on the Accreditation website, but my understanding is that it's the financial, Federal Student Aid part of the Department that is tracking gainful employment and tracking. Is that not true?

MS. MORGAN: Yeah, that's true.

CHAIRPERSON PHILLIPS: Okay.

MS. MORGAN: The information on the Accreditation website is taken from Federal Student Aid, which gathers that data and calculates the cohort default rate.

CHAIRPERSON PHILLIPS: And enforces the sanctions that come with that?

MS. MORGAN: Correct. Those can be enforced through the Federal Student Aid process, and we don't rely only on accreditors for those.

CHAIRPERSON PHILLIPS: Ralph.

MR. WOLFF: I'd just say this is a larger issue than NACCAS, and I would appreciate--I would just say I appreciate the fact that they were among the first, if not the first, to actually create some standards. That they've been around for so long, I would appreciate some review of them, but they say they do.

But if community colleges were held to those standards, probably about half would be found wanting, and so I think we really have to say how do we know that the standards are appropriate for the constituency, the type of program, and I think we're just venturing into this field, and I think it's a worthy area to keep engaging without ourselves setting the wrong bright lines.

As I recall, and correct me if I'm wrong,

Sally, that the Department has a trigger point for default rates, and that whenever an institution surpasses that default rate, the accreditor is notified, and the institution has to come up with a plan in addition to gainful employment. So if I'm correct, then the accreditor is notified and is expected to address default rates when they're beyond the trigger point that the Department sets for a particular year. Am I correct in that?

MS. MORGAN: The way the statute works and the regulations is that if they have three rates, three successive rates of 30 percent or more, they lose eligibility for two years for the Title IV programs. They can't get any money. And I'm sure that notice is given to the accrediting agencies, although, as I said, the website also publishes the rates of all institutions so agencies could look them up as well.

With initial schools that are starting participation, I believe they have to file a default management plan. That is not to my knowledge required of going forward. It used to

be.

CHAIRPERSON PHILLIPS: Kathleen.

DR. SULLIVAN ALIOTO: I think just as this Committee has been pushing the student achievement agenda, certainly the questions that Arthur has asked are part of what the success of students is. If it's 50 percent, then what about the other 50 percent? And as you say, it's a long-range discussion about why that is true in America today, but certainly I think the questions that are, the various data things, we now can get so that the agencies also could get it. So when they're coming before us, then they can tell what wonderful things their schools are accomplishing.

So I'd like to have us kind of be thinking about that as part of this student achievement and side indications of student achievement. It's certainly not a student achievement if he ends up with \$100,000 in debt.

MR. WOLFF: I'm--

CHAIRPERSON PHILLIPS: Ralph.

MR. WOLFF: I hate to prolong this, but I

just would say maybe in our petition, it could be asked, just because the, let's just say the pass rate or the placement rate is 50 percent or 70 percent, it doesn't mean that all institutions are hovering at 51 percent. And it may be that it would be helpful to get more information from the agency about what is the average in these scores so that they set a minimum, you know, 50 percent, 60, 70 percent, whatever, but where do their institutions fall in a scattershot or something like that, if there could be some data, because we're just looking at minimum criteria and making assumptions on the basis of that.

And if, in fact, the vast majority of programs are at 80 percent, you get a very different idea about what's going on than just looking at the minimum threshold that they've established in their policy. So I'm wondering if we could ask for that information?

CHAIRPERSON PHILLIPS: I'd like to defer the query to tomorrow's discussion where we have an opportunity to think about going forward how we

would like to craft questions to be posed to the agencies. I am mindful in this that while we can ask many questions, there are some limits to what we can do with the answers, how we can understand the answers because of the limitations that both Sally and Jen spoke about and that are in the regulations, the prohibitions about setting bright lines.

So just as a reminder of that being an issue, we will come back to that tomorrow. We do have that on our agenda. If you would, I would like to come back to this motion, which I think we still have on the table, and see if we're done with discussion on this agency? Okay. The motion as presented on the screen, of those in favor, hands.

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: And abstentions?

[Show of hands.]

CHAIRPERSON PHILLIPS: We have two abstentions. Thank you. The motion passes. Thank

you very much.

- - -

**PUERTO RICO STATE AGENCY FOR THE APPROVAL
OF PUBLIC POSTSECONDARY VOCATIONAL,
TECHNICAL INSTITUTIONS AND PROGRAMS
[PRHRDC]**

CHAIRPERSON PHILLIPS: We have one final item for today. This is the renewal of recognition for the public postsecondary vocational education for Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs. This is an abbreviated item because of some processing items that occurred, but I would, and so I will skip the primary readers, which were Jill and Rick, for the moment, ask for a direct, if that's all right, ask for a direct summary from the staff, and then we'll call it a day.

Rachael. Thank you.

DR. SHULTZ: Good afternoon. My name is Rachael Shultz, and I will be providing information regarding the staff recommendation for the Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs, or the state agency.

The staff recommendation to the senior

Department official is to defer consideration of the agency's compliance report until the next NACIQI meeting. This recommendation is due to a malfunction in ED's online recognition system, which did not release the draft staff analysis to the state agency as requested.

As a result of this system error, the agency has not yet had the specified time required to respond to the draft staff analysis. The state agency has now received the draft staff analysis and is in the process of preparing its response.

The Committee was due to consider a compliance report that addressed eight issues. Because the Federal Register notice that was published for the current meeting indicated that the report would be considered at this meeting, ED management determined that both a staff recommendation and a Committee recommendation were necessary to ensure the state agency's continued eligibility to serve as a link to Title IV funding.

ED staff would note that the initial draft staff analysis of the report identified three

remaining issues, which were relatively minor and were related to a need for additional documentation demonstrating various policy revisions that the agency had already made.

Also no complaints have been lodged against the agency and no written third-party comments were received regarding its report.

Therefore, we would request that the Committee would concur with the staff recommendation in order that the Puerto Rico state agency would not be penalized for a situation over which it had no control. As I stated previously, the staff recommendation to the senior Department official is to defer consideration of the agency's compliance report until the next NACIQI meeting.

There are no agency representatives present today, but I will be happy to answer the Committee's questions. Thank you.

CHAIRPERSON PHILLIPS: Thank you, Rachael. Reader, any questions that you want to raise? Committee questions? So we could entertain a motion to--entertain a motion. Rick.

MR. O'DONNELL: I would move to accept the staff recommendation to defer the agency to the next NACIQI meeting.

MR. ROTHKOPF: Second.

CHAIRPERSON PHILLIPS: Seconded by Arthur.

[Motion made and seconded.]

CHAIRPERSON PHILLIPS: Discussion? All right. We'll move to the vote. Those in favor?

[Show of hands.]

CHAIRPERSON PHILLIPS: Those opposed?

[No response.]

CHAIRPERSON PHILLIPS: Abstentions?

[No response.]

CHAIRPERSON PHILLIPS: No abstentions.

Thank you very much. Motion passes. All right.

- - -

CHAIRPERSON PHILLIPS: I do believe we are now caught up with ourselves on our agenda. We reconvene tomorrow morning at 8:30. We will be joined at that time by Under Secretary Ted Mitchell and I believe Jamiene Studley. We do have, we have three agencies to review tomorrow and the remaining part of our policy agenda, which no doubt will be a fruitful discussion.

So have a good evening, and I will see you at 8:30 tomorrow morning.

[Whereupon, at 4:49 p.m., the NACIQI meeting recessed, to reconvene at 8:32 a.m., Friday, December 18, 2015.]