

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE  
GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE

Saturday, January 31, 2009

9:24 a.m.

Legal Services Corporation  
3333 K Street, N.W.  
3rd Floor Conference Center  
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

Lillian R. BeVier, Chairman  
Herbert S. Garten  
Michael D. McKay  
Thomas R. Meites  
Frank B. Strickland, ex officio

OTHER BOARD MEMBERS PRESENT:

Thomas A. Fuentes  
Bernice Phillips-Jackson  
Sarah Singleton

## STAFF AND PUBLIC PRESENT:

Helaine M. Barnett, President  
Karen M. Dozier, Executive Assistant to the President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary  
Mattie Cohan, Senior Assistant General Counsel, Office  
of Legal Affairs  
Katherine Ward, Executive Assistant, Office of Legal  
Affairs  
David L. Richardson, Treasurer and Comptroller  
Karen J. Sarjeant, Vice President for Programs and  
Compliance  
Charles Jeffress, Chief Administrative Officer  
Jeffrey E. Schanz, Inspector General  
Ronald "Dutch" Merryman, Assistant Inspector General  
for Audit, Office of the Inspector General  
Thomas Coogan, Assistant Inspector General for  
Investigations, Office of the Inspector General  
David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of the  
Inspector  
General  
Laurie Tarantowicz, Assistant Inspector General and  
Legal Counsel, Office of the Inspector General  
John Constance, Director, Government Relations and  
Public Affairs Office  
Marcos Navarro, Design Director, Government Relations  
and Public Affairs Office  
Stephen Barr, Media Relations Director, Government  
Relations and Public Affairs Office  
Kathleen Connors, Executive Assistant, Government  
Relations and Public Affairs Office  
Charles "Chuck" Greenfield, Program Counsel, Office of  
Program Performance  
Eric R. Jones, System Administrator, Office of  
Information Technology  
Linda Perle, Center for Law & Social Policy (CLASP)  
Don Saunders, National Legal Aid and Defenders  
Association (NLADA)  
Julie Clark, National Legal Aid and Defenders  
Association (NLADA)  
Les Jin, Standing Committee on Legal Aid & Indigent  
Defendants (SCLAID), American Bar Association

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## 1 P R O C E E D I N G S

2 (9:24 a.m.)

3 CHAIRMAN BeVIER: Well, it's now time to call  
4 the meeting of the governance and performance review  
5 committee to order. And the first item of business  
6 will be to approve the agenda.

7 M O T I O N

8 MR. MEITES: So moved.

9 MR. GARTEN: Second.

10 CHAIRMAN BeVIER: All in favor?

11 (A chorus of ayes.)

12 CHAIRMAN BeVIER: The agenda is approved.

13 The minutes of the committee's November 1st  
14 meeting. Is there a motion to approve the minutes?

15 M O T I O N

16 MR. MEITES: So moved.

17 MR. McKAY: Second.

18 CHAIRMAN BeVIER: Thank you. All in favor?

19 (A chorus of ayes.)

20 CHAIRMAN BeVIER: All right. Thank you. The  
21 minutes are approved.

22 The next item that we have is to consider and

1 act on the self-assessment documents for 2008/2009.  
2 And just let me say a few words by way of introduction  
3 to what we have done and what we are going to be doing  
4 here.

5 If you recall, one of the aspects of the GAO  
6 report was to suggest that we engage in an annual  
7 self-review of the board, of the committees, and of  
8 individual board members. And that sort of process of  
9 self-evaluation has become a standard practice.

10 My guess is that all of you have had occasion  
11 to evaluate yourself and the boards you are on more in  
12 the last year or two than you ever did, or at least  
13 that you ever did with the same intensity, in years  
14 past.

15 It is an idea that has taken hold. It seems  
16 to be an idea whose time has come. And I hope that it  
17 can be a productive exercise for this board and for  
18 all of us individually.

19 There are two pieces to the self-evaluation,  
20 as you know, because most of you filled it out. One  
21 is the individual self-evaluation, which invites each  
22 individual board member to assess his or her own

1 contribution, his or her own understanding, his or her  
2 own performance, and to identify areas where he or she  
3 could use some help from management or from the board  
4 in general to improve what it is that he or she is  
5 doing. So that's the individual board member  
6 self-assessment piece.

7 And then the second piece of it, of course, is  
8 probably the more important for our purposes. Indeed,  
9 it certainly is the more important, and that is the  
10 board self-assessment. Each member of the board  
11 assesses where the board has gone, what its issues  
12 are, what it has done well, what it has done less  
13 well, what it has done perhaps poorly.

14 Most importantly, I think these  
15 self-evaluation forms serve as the beginning of a  
16 planning process for next year because they will  
17 enable us to identify our priorities and the goals we  
18 have for the year to come. So that is the background  
19 of the process and what it is that we have set as an  
20 agenda to accomplish with this self-evaluation  
21 process.

22 The first thing I'd like to have the committee

1 talk about a little bit is these self-evaluation  
2 instruments that you all -- that each -- I mean, you  
3 filled them out and each member of the board filled  
4 out.

5 How do you feel about these particular  
6 instruments? We approved them at our last meeting,  
7 and then we used them to prepare for this meeting.  
8 Did you feel that they asked the right questions?

9 When push came to shove and you got down to  
10 answering the questions, did you feel as though would  
11 have preferred a different set of questions, that a  
12 different kind of question on either one would have  
13 evoked from you a more meaningful answer, better  
14 reflections on what your experience has been, what the  
15 board can do better?

16 Does anybody have any comments about the  
17 self-evaluation instruments themselves? Tom?

18 MR. MEITES: I have a basic question, and this  
19 was my feeling when I was feeling this out, that I  
20 asked myself how candid I wanted to be. If I were to  
21 criticize the board, would this be used against LSC in  
22 the future?

1           Why should I say in a document that might  
2           become public that I have doubts, for example, about  
3           how closely the board -- how well the board works  
4           together? And the next thing I know, it's going to be  
5           in the Washington Post or the AP.

6           So my first question is: Who are going to see  
7           these, and what assurances do I have that they will be  
8           kept really confidential, unlike anything else this  
9           board has ever done?

10           CHAIRMAN BeVIER: It is my understanding -- I  
11           hope this is right; this is the advice that I was  
12           given -- that the self-evaluation forms that each of  
13           you filled out are not discoverable. They are  
14           exchange of information among board members, and they  
15           are not FOIA-able, as we say.

16           MR. MEITES: Well, FOIA is one thing. But our  
17           congressional masters are another. And I for one am  
18           not going to fill out this form if it's going to go to  
19           Congress. I won't do it. I cannot be compelled to do  
20           it, and I will not do it because I think that it is  
21           asking me for information that I do not care to share  
22           with anyone other than my fellow board members.

1           CHAIRMAN BeVIER: My response to that is  
2 Congress, as I read it, doesn't have -- how can I say  
3 this in an appropriately guarded way? I'm going to  
4 ask the lawyers for what they think.

5           (Laughter.)

6           MR. FORTUNO: I think I did hear the term  
7 "discoverable," and I'm not sure that we're really  
8 talking about that. Certainly if there were  
9 litigation, it might be discoverable --

10          CHAIRMAN BeVIER: No. I meant FOIA-able.

11          MR. FORTUNO: But under a protective order. In  
12 any event, in terms of FOIA-able, I think that  
13 probably the best analysis is that because it's  
14 pre-decisional in nature, that it goes into this final  
15 document, that the actual questionnaires themselves or  
16 forms that are completed would not be FOIA-able; but  
17 that the final document, the final product, would be  
18 FOIA-able because it's the performance of the  
19 governing body. And of course, since it's tax dollars  
20 that funds us, the public has an interest and a right  
21 to know.

22                 So the final product might be FOIA-able,

1       whereas I think it's difficult to get under FOIA,  
2       because I think it's certainly withholdable, the  
3       actual individual responses to the questionnaires that  
4       will then go into making of the final product.

5               As to the Hill, and I'll let John speak to  
6       that, but just briefly and preliminarily, you know,  
7       certainly if a subpoena is issued, they have to be  
8       provided. Absent a subpoena but a request, I don't  
9       think it's so much a legal matter as political  
10      judgment and comity. And that's with i-t-y, not  
11      m-e-d-y.

12              But I will let John go ahead and speak to that  
13      unless you have a question for me.

14              CHAIRMAN BeVIER: I'll let John speak, and  
15      then we can perhaps pursue this.

16              MR. CONSTANCE: It's been my experience, you  
17      know, not with self-evaluation forms for boards but in  
18      other areas, that if a committee chair requests  
19      material, whether it's FOIA-able or not, you know,  
20      ofttimes decisions are made in Washington to go ahead  
21      and provide that and not put a committee in the  
22      position of having to subpoena something that would be

1 requested.

2 I think Tom's point is well taken, and that is  
3 that it is a delicate issue in terms of this matter.  
4 I think that the General Accounting -- or the  
5 Government Accountability Office was, you know, quite  
6 aware of that when they suggested that the board do  
7 self-evaluation, which is now becoming a, you know,  
8 pretty standard approach to board evaluations both in  
9 the corporate area as well as government boards.

10 So I think the point is well taken. I think,  
11 you know, that it is a matter that, going in, the  
12 level of -- you know, the level of candor in these  
13 matters is always difficult to navigate.

14 MR. FORTUNO: And of course, the new  
15 administration has come out very firmly in favor of  
16 increased openness and transparency, and has directed  
17 that agencies essentially err on the side of  
18 disclosure. So that has gotten a good deal of  
19 attention, and it was something the administration  
20 addressed very early on, within the first week or so.

21 So I think that, you know, FOIA is something  
22 to be mindful of, and the public's right to know. And

1 when you complete something, while it may be that it  
2 can be withheld under FOIA because it's preliminary,  
3 you know, for the most part unless you are comfortable  
4 with it seeing the light of day, I can understand why  
5 you might not want to complete it.

6 But we are funded with federal tax dollars,  
7 and the idea is that the public has a right to know.

8 CHAIRMAN BeVIER: Herb.

9 MR. GARTEN: Can these forms be submitted  
10 anonymously?

11 MR. FORTUNO: I don't see why not.

12 MR. GARTEN: Well, does that solve your  
13 problem, Tom?

14 MR. MEITES: Absolutely not. If you look at  
15 the questions we're asked -- do I follow trends and  
16 important developments? Do I read and understand LSC  
17 financial statements? Do I have a good relationship  
18 with the LSC board chair? Do I have a good working  
19 relationship with the LSC president? I'm not going to  
20 answer those questions.

21 My personal views are my personal views. I  
22 didn't get on this board and say that everything in my

1 head is available to the United States Congress. It's  
2 not. And I'll be darned if I'm going to add to this  
3 questionnaire.

4 The GAO has its issues, and our organization  
5 has its own. We have been very patient and very  
6 understanding of the GAO's skewed view of the world.  
7 But I think it stops here. You all can do what you  
8 want, but I see no reason why I should answer these  
9 questions. Of course, I've already sent in my form so  
10 this is all after the fact.

11 (Laughter.)

12 MR. CONSTANCE: Yes. I was going to say  
13 there's --

14 MR. MEITES: But in the future, I'm not  
15 planning to answer this. As usual, I'm about six  
16 months late. But that's where I'm at now.

17 MR. CONSTANCE: With all due respect, I was  
18 just going to say, yes, I think we have your form.

19 (Laughter.)

20 CHAIRMAN BeVIER: But tomorrow is another day.  
21 Sarah, did you have a question? A comment?

22 MS. SINGLETON: My comment was in more of a

1 technical nature. The general board evaluation had a  
2 graduated scale that you could pick, but the  
3 self-evaluation was yes or no. I preferred the  
4 graduated scale because, you know, do I understand and  
5 support the mission of LSC? I think that -- well,  
6 that's -- actually, that one is sort of easy.

7 MR. FORTUNO: That one's a resounding yes.

8 MS. SINGLETON: Yes. Right. Do I follow  
9 trends and important developments? Well, it's -- you  
10 know, sort of. So the answers really didn't fit. I  
11 mean --

12 CHAIRMAN BeVIER: Well, I would like to report  
13 that in terms of their own views of themselves, which  
14 is quite appropriate in my view as I look at my fellow  
15 board members, this is the board from Wobegon. We're  
16 all yeses on that.

17 So I think there is a sense in which that  
18 failure to do any gradation does not provide useful  
19 information that presses us to think about what we  
20 need help on, one thing as opposed to another thing.

21 The difficulty, of course, is then, you know,  
22 what Tom says about -- so it's graded and it's

1 fine-grained, and then you're not going to feel so  
2 willing to answer it.

3 MR. CONSTANCE: One thing, Madam Chairwoman,  
4 that I would remind everyone of in terms of let's talk  
5 about the individual self-evaluation. The purpose of  
6 that, you know, in all the literature and for all  
7 boards is to determine are there areas of training or  
8 reorientation or things that are necessary for the  
9 board to do its job.

10 Frankly, and I understand where Tom's coming  
11 from in this, but it would be the definition of a slow  
12 news day in Washington, Tom, with all due respect,  
13 that, you know, board not getting along at LSC would  
14 be a big story.

15 What I would say is this. Picture not  
16 yourselves as an experienced board, but picture a  
17 board one year into their term or six months into  
18 their term, and then looking at these questions. Now  
19 again, these may be the right questions. They may be  
20 the wrong questions.

21 But picture them looking at that and from  
22 their perspective saying, do we understand these

1 financial -- you know, basically our responsibilities  
2 in looking at a financial spreadsheet? Do we  
3 understand our responsibilities in terms of the  
4 mission? Has there been enough done in orientation in  
5 these areas?

6 You know, putting yourself in the shoes of  
7 another board I think, you know, may be helpful in  
8 that regard in terms of the individual ones.

9 CHAIRMAN BeVIER: I think that's a really good  
10 point. It strikes me that one of the things we might  
11 think about in terms of orientation -- this is for  
12 later -- but that we might think about, this is the  
13 self-evaluation you're going to have to do.

14 So you should be thinking all year long about  
15 the individual questions that you're going to be asked  
16 with respect to that because those are aspects of your  
17 own performance that are relevant to what the board is  
18 going to be able to do effectively together.

19 MR. CONSTANCE: Spoken like a distinguished  
20 professor.

21 CHAIRMAN BeVIER: Yes. Right. You mean  
22 incomprehensible?

1 (Laughter.)

2 MR. CONSTANCE: I mean -- no, no, no. You  
3 know, basically study the darn things that you're to  
4 be asked at the end of the term.

5 CHAIRMAN BeVIER: Right, so that you can  
6 figure out what you're supposed to be doing while  
7 you're in the process of doing it.

8 MR. CONSTANCE: Exactly. Exactly.

9 CHAIRMAN BeVIER: Me?

10 MR. MEITES: I certainly agree with John.  
11 These have utility, which is why they're used. They  
12 have utility both for the individual assessing him- or  
13 herself and for assessing the board.

14 But there's a real cost or a potential cost  
15 and a risk here that is not true of the other boards  
16 that Mr. Carter McNamara has written this form for.  
17 They don't have Congress looking over their shoulder,  
18 and we know we do.

19 And in my view, although it may be a slow news  
20 day, we've known that the press and Congress, certain  
21 members of Congress, have taken what to us would seem  
22 the most trivial piece of sand and used it to

1       embarrass us greatly.

2                 For example, what happens if eight of the nine  
3       of us answer "Poor" on one of these questions? That  
4       would be something that we could be pilloried for,  
5       both because we have described ourselves as not up to  
6       the task we've been assigned, and also for not doing  
7       anything to train to do the task.

8                 It seems to me that given the position we have  
9       now all learned we are in in this job that the risks  
10       simply do not -- are not worth the cost. There are  
11       other ways to do this. We can have a retreat. We can  
12       talk amongst ourselves. Frank can just go around and  
13       talk to us each personally and make a tally.

14                But to put it in a form gives it a kind of  
15       rigor and reality in excess of what it should have, of  
16       course, because these are subjective evaluations, but  
17       unfortunately allows it quite easily to be used.

18                CHAIRMAN BeVIER: Tom, I'm curious about  
19       whether you're talking about both evaluation forms or  
20       just the individual board member self-evaluation.

21                MR. MEITES: Actually, I'm talking more about  
22       the evaluation of the board. A self-evaluation is a

1 self-evaluation. That doesn't bother me very much.

2 CHAIRMAN BeVIER: But -- okay.

3 MR. MEITES: But it's our evaluation of how  
4 we're doing as a collective entity that I really am  
5 troubled by.

6 CHAIRMAN BeVIER: Of course, I think I see  
7 your difficulty -- pardon the chair for entering the  
8 discussion. But on the other hand, one has to assume  
9 that Congress has -- that there's something useful  
10 that is supposed to happen here, that this is -- that  
11 it's not all cost, that there's some benefit, and that  
12 we should be focused as much as we can on doing this  
13 in a systematic and careful way where we identify what  
14 we should be doing, at least that.

15 MR. MEITES: This is exactly like litigation,  
16 where you don't -- you tell your expert not to take  
17 notes of what you tell him because it's discoverable.

18 Guys, this isn't rocket science. This is what we do  
19 every day as lawyers. You're making a discoverable  
20 record for people who are not your friends. End of  
21 story.

22 CHAIRMAN BeVIER: Mr. Fuentes?

1           MR. FUENTES: Thank you. While I respect my  
2           colleague's perspective, I would certainly like to  
3           separate myself from the tone and message there. I  
4           think the involvement of the Congress of the United  
5           States and its several members who have had input that  
6           might be troubling to some has been very helpful to  
7           others, and I'm one of those that feel that the  
8           Congress and its input has been very helpful to the  
9           conduct of the board.

10           I think that the Congress is the voice and  
11           presence of the people in Washington, and when we come  
12           here to do business, we're doing public business.  
13           It's not private business. I don't have any hesitancy  
14           of any action that I've taken while serving on this  
15           board for it to be public. So I very much in tone and  
16           spirit and substance disagree with that perspective.

17           As regards the particular form, it seemed to  
18           me that it was a long time between our filling out the  
19           form and when we talked about the form. So when it  
20           came to me, I would have appreciated it if maybe we  
21           would put an entry opening paragraph of some helpful  
22           reflective narrative of introduction as to what we're

1       trying to accomplish here.

2               The questions came to me kind of cold: Oh,  
3       yes, I guess we're going to ask these questions of  
4       ourselves. But maybe if we had sort of a reminder of  
5       what we're trying to achieve here, it would be helpful  
6       in the form.

7               And then, Tom, to give you comfort about  
8       reading about it in the Washington Post, I don't  
9       believe the people of America believe anything that's  
10      in the Washington Post. So I think you can feel very  
11      comfortable and secure. Thank you.

12              (Laughter.)

13              MR. MCKAY: And that's primarily because Steve  
14      Barr is now gone from the Washington Post.

15              CHAIRMAN BeVIER: Sarah?

16              MS. SINGLETON: I think that if the primary  
17      purpose of the self-evaluation form is to figure out  
18      where we need more training, that the question should  
19      be more like question 4: Do I read and understand LSC  
20      financial statements? I think that's a very good  
21      question.

22              I think we should have questions like: Do I

1 believe that we get a benefit from the visits to the  
2 programs in the community? Do I believe that the  
3 provisions committee panel discussions are useful in  
4 formulating policy? More of those kind of specific  
5 questions that would better inform either plans for  
6 next year or board training.

7           Personally, I think things like, do I have a  
8 good working relationship with the LSC board chair --  
9 what are you going to do, send me to, you know, charm  
10 school so I can get along with Frank better?

11           (Laughter.)

12           CHAIRMAN BeVIER: No. We'll send Frank.

13           MS. SINGLETON: But if there's a problem, it's  
14 not Frank's. So, you know, I don't know. I don't  
15 really see the point in some of those kind of  
16 questions. And I would try to make it more pointed  
17 about specific things that the board does.

18           CHAIRMAN BeVIER: Right. And sort of, I take  
19 it, with an implicit generalization about there's a  
20 reason why we do all these things. So can I connect  
21 why we are doing them to -- why we have these  
22 particular agendas for the provisions committee with

1       why we have a provisions committee with why we have a  
2       board. Yes, that's a good idea. That's a challenge  
3       to draft that sort of questionnaire.

4               Mr. McKay?

5               MR. MCKAY: Still trying to figure out our  
6       system. There we go. Very good.

7               CHAIRMAN BeVIER: I don't think it's on.  
8       Press the red light.

9               MR. MCKAY: Is it on?

10              THE REPORTER: Yes, it's on.

11              CHAIRMAN BeVIER: Oh, it is?

12              MS. SINGLETON: His red light doesn't show.

13              CHAIRMAN BeVIER: Oh, his red light doesn't  
14       show. Okay.

15              MR. MCKAY: I'd like this replaced by noon,  
16       then, because I want my red light on.

17              (Laughter.)

18              MR. MCKAY: This is really a question for Vic.  
19       When I completed the form, I thought it was a good  
20       catalyst for discussion. And I guess my question is,  
21       I mean, in many ways like let's assume you get a new  
22       board and, as John says, you get six months or a year

1 in and several board members are saying, I don't  
2 really understand how the financial statements -- how  
3 to read the financial statements.

4 It seems to me these kinds of responses would  
5 be a catalyst for a discussion or more of a briefing.

6 And I'm wondering, if this were a private board,  
7 private company or something, I'd say, you know, go  
8 off and have a long weekend.

9 You know, quietly talk amongst yourselves.  
10 Get some briefings from some folks, like how to read a  
11 financial statements, and maybe discussions amongst  
12 yourselves of how to be a better board.

13 The question I have for you is, with the  
14 Sunshine law, how far can we go to have, say, a half a  
15 day or even a full day as a board or a new board  
16 getting together to -- we can certainly have a  
17 briefing, have someone come in and give a presentation  
18 on how to read financial statements. Maybe briefings  
19 on other issues to help us be and the next board to be  
20 a better board.

21 How far can the board itself go after you hear  
22 a briefing and say, you know, that's a great idea.

1       Maybe we should get those finance statements three  
2       weeks ahead of time so we can study them a little bit  
3       more. That was a great idea on some other subject.

4               How far can the board go in a closed session,  
5       in the wake of a briefing, not making a decision but  
6       just simply saying -- just discussing amongst  
7       themselves how to function better. Not making a  
8       decision, we're going to do this, but how can we as a  
9       board function better.

10              MR. FORTUNO: I think you've identified the  
11       core of it which is once you have a quorum of the  
12       board come together, there are restrictions on what  
13       the board can do. Certainly there can be briefings.  
14       Those technically are not covered by Sunshine. And  
15       there can be exchanges among board members.

16              And that's where you have to be careful  
17       because once board members start to discuss with one  
18       another, interact with one another, as opposed to kind  
19       of passively sitting there and receiving information  
20       from some presenter, that's where you have to be  
21       careful how far you go.

22              You can exchange views, but not make

1 decisions. The really delicate part is that if you're  
2 exchanging views in a way that would cause other  
3 members of the board to reach a position on something  
4 that is going to come before the board for a vote for  
5 action, at that point you want to stop because you  
6 don't want for the discussion that causes you to reach  
7 a position on something that is coming before the  
8 board for a vote.

9           However, that still leaves a fair amount of  
10 room there. And what we've done in the past, there  
11 have been different approaches to it. One approach  
12 that was taken, for example, and actually I was  
13 kidding with Tom about a paddle before, but it's been  
14 having someone in the room who can essentially --  
15 because when you're involved in the discussion, when  
16 you're caught up in that, it's hard to keep track of,  
17 hold it. Where are we on this?

18           But somebody whose job is essentially to  
19 monitor to make sure that when you start getting close  
20 to that point, there's some signal sent that, you  
21 know, you need to back off a little bit or not go any  
22 further on this.

1           But, you know, that's not to say that there  
2           isn't an opportunity for an exchange of views in  
3           addition to the briefings. Obviously, the briefings  
4           would be very helpful. But I gather that what your  
5           question is is: Can you go beyond the briefings and  
6           exchange some views?

7           MR. MCKAY: Exactly.

8           MR. FORTUNO: And I think exploring issues  
9           preliminarily and tentatively discussing specific  
10          issues, so long as you don't get to the point where  
11          you're trying to convince one another of a position to  
12          take on a matter coming before the board, I think  
13          you're okay.

14          MR. MCKAY: Let me just follow up.

15          CHAIRMAN BeVIER: Yes. Go ahead, please.

16          MR. MCKAY: It seems to me -- and this was --  
17          and I'd like to put this out for some consideration --  
18          is that, you know, when we come together for these  
19          meetings, we have a pretty jam-packed schedule of  
20          committee meetings, and then the full meeting, and all  
21          the sidebar meetings that we have to discuss one thing  
22          or another, less than a quorum.

1           It seems to me to complete a form and to have  
2 a brief discussion in a committee meeting is one  
3 thing. It's something else to carve out half a day or  
4 even a full day, take a deep breath, and say, how are  
5 we doing? And using as the catalyst you complete the  
6 forms. Maybe we need a little more information in  
7 this area, how to read financial statements or  
8 whatever it is.

9           And then use that as a catalyst for  
10 discussion. How can we work better? With counsel  
11 being there to make sure that we toe the line on being  
12 in compliance with all the laws. It seems to me that  
13 might be a good approach for how to assess ourselves  
14 as a board and to make ourselves better.

15           And maybe if we can create some kind of a  
16 vehicle like that for the new board, it might not be a  
17 bad idea. Filling out forms and discussing it in a  
18 committee meeting is good, but I do think that, you  
19 know, going away and spending a chunk of time together  
20 as a group is a good idea.

21           MR. FORTUNO: In the past, it's even -- in one  
22 instance, at least one instance that I can recall --

1       there was such a gathering with a facilitator present,  
2       a professional facilitator.

3               MR. MCKAY: The whole idea, of course, is to  
4       try to faithfully execute the very good suggestion we  
5       received from the GAO to self-assess, and to remain in  
6       compliance with all the laws, and to not -- and to  
7       also meet Tom's concerns.

8               CHAIRMAN BeVIER: Just a question about a  
9       decision for the board in the context of what Mike is  
10      suggesting because I think it's a terrific idea and  
11      something that we really ought to consider as we go  
12      forward and think about what our priorities are going  
13      to be for next year because we're not going to redo  
14      this evaluation this year, I think.

15              And that is in the context of a discussion  
16      like that, when it looks like there's a sort of  
17      consensus emerging about a good idea going forward and  
18      what it is we're going to be needing, does that sort  
19      of -- does that get you in trouble?

20              So if I were to say at a meeting like that,  
21      well, I agree with Sarah, and then somebody were to  
22      say, well, I agree with Lillian and Sarah, and then

1 somebody else were to say, well, I agree with Tom and  
2 Lillian and Sarah, then we'd have to stop? Would it  
3 be something like that?

4 MR. FORTUNO: And it's -- you know, there's a  
5 scale there.

6 CHAIRMAN BeVIER: Yes.

7 MR. FORTUNO: And you do start to reach -- I  
8 think that you need to understand whether it's a  
9 matter that is scheduled to come before or is likely  
10 to come before the board for a decision.

11 If you're talking about things that the board  
12 will not be called upon to make a decision and take  
13 action on behalf of the Corporation, then I think  
14 you're got more flexibility.

15 And in terms of approaches, you know, if you  
16 -- I don't know, just kind of out of thin air,  
17 something touchy-feely like, well, you know, I think  
18 we ought to make time to have coffee at every meeting  
19 just to, you know, sit around and not talk LSC  
20 business -- you know, if you're going to reach a  
21 consensus on something like that, I don't think it  
22 matters that you're reaching a consensus because

1       that's not something that's going to come before the  
2       board for official action.

3                But I think there is that scale.  And that's  
4       why it may be helpful to have someone there because  
5       when you get caught up in the discussion, sometimes  
6       you forget where the line is and someone there to help  
7       keep you on the right side of the line.

8                CHAIRMAN BeVIER:  Thank you.  So, okay, Herb,  
9       more on the individual evaluation -- well, this is the  
10       whole evaluation instruments.

11               MR. GARTEN:  I just want to give the board the  
12       benefit of experience that we had in meetings that  
13       were not meetings, just discussions, of the three  
14       members of the audit committee.  And we were very  
15       careful, and I relied on advice of counsel in making  
16       certain at the beginning that this was a meeting of  
17       the committee solely for the purpose of discussing  
18       various items, that we were not going to come to any  
19       conclusions.

20               And I think -- and Tom was part of that group.

21       And I think the way we handled it -- I hope Tom  
22       agrees with me this time, which he does.

1 MR. MCKAY: Thank you very much.

2 MR. GARTEN: So there was a roadmap, and  
3 counsel supplied us with it, and we followed it. And  
4 I think we had some very successful discussions in all  
5 of the meetings that we had -- not meetings,  
6 discussions we had on the phone. It was clear at the  
7 beginning we were not coming to any conclusions. We  
8 were just reviewing various issues.

9 So I think this can be accomplished, and I  
10 think with the help of counsel and the roadmap,  
11 there's no reason why we can't have these discussions.

12 CHAIRMAN BEVIER: Thank you. Sarah?

13 MS. SINGLETON: Are we ever going to see the  
14 results of the evaluations that were filled out?

15 CHAIRMAN BEVIER: We are going to see the  
16 results of the board self-evaluation, and that's going  
17 to come just as soon as we're done with this  
18 particular discussion.

19 MS. SINGLETON: The board self-evaluation, the  
20 general one, not the personal one?

21 CHAIRMAN BEVIER: The general one, not the  
22 personal one. I'm going to report the results of the

1 personal one. There's very little to report there,  
2 but I will -- I think it's -- I don't think you need  
3 to -- there's not really results there because of the  
4 way the questions were framed.

5 MR. MCKAY: Can we have a copy of Tom's?

6 (Laughter.)

7 MR. FORTUNO: No, that was requested by the  
8 Hill. We're waiting to get it back.

9 (Laughter.)

10 MR. MEITES: To give some closure here, it  
11 will almost certainly be our successors who face this  
12 problem again next year, and they will have to make  
13 their own decision.

14 I of course am concerned that they will come  
15 to Washington as naive as we were and will make  
16 exactly the same mistakes, mistakes that people from  
17 the hinterlands have been making coming to Washington  
18 probably since the first administration of President  
19 Washington. But there's not much we can do about  
20 that.

21 But we now have learned a lot, and I think at  
22 a minimum we should withdraw these forms and have

1 something to give to them about the problems that have  
2 been raised in this discussion. I hope it will help  
3 them.

4 CHAIRMAN BeVIER: Are you talking again about  
5 both of the forms, the board evaluation form and the  
6 individual self-assessment?

7 MR. MEITES: Well, I think there are some  
8 general issues with any self-evaluation form, given  
9 the context we operate in. And there are some  
10 specific comments, particularly the ones that Sarah  
11 made, about the actual content of these forms.

12 CHAIRMAN BeVIER: Thanks. One more question.  
13 Yes, Tom?

14 MR. FUENTES: Well, first we should ask Herb  
15 if the Washington administration made the same errors  
16 because he was there.

17 (Laughter.)

18 MR. FUENTES: I want to say that I think that  
19 Vic's recommendation on even maybe informally --  
20 perhaps formally -- having somebody that could be of  
21 assistance in monitoring that we don't get off into  
22 troubled waters, in my own experience back home where

1 I sit as an elected member of a board of trustees of a  
2 community college district -- in California we have a  
3 thing called the Brown Act, and that's like a Sunshine  
4 Act. And we always have a Brown Act attorney sitting  
5 with us when we're in a meeting, you know, where  
6 there's a quorum.

7 And it serves us very well. It's helpful.  
8 It's supportive. It's informative. I think that for  
9 us to have some sort of professional resource at our  
10 disposal is great.

11 Of course, Bernice and I, being the only two  
12 non-attorneys who sit at this table, would expect that  
13 with all the expertise that's here, we wouldn't need  
14 it. But if you attorneys would like to also have some  
15 help, that would be good, too.

16 CHAIRMAN BeVIER: You do know what they say  
17 about any lawyer who has himself as a client.

18 MR. FUENTES: That's right.

19 (Laughter.)

20 CHAIRMAN BeVIER: Well, thank you for these --  
21 I think these are very helpful comments, and we seem  
22 to have a bit of a consensus about how we need to

1 think about the evaluation instruments in the future  
2 so that they will be useful to the new board as they  
3 come on and try to begin, perhaps with a little bit of  
4 a more -- a faster start than we think that we perhaps  
5 got off to.

6 With respect to the individual  
7 self-evaluations, as I just suggested, there's pretty  
8 general feeling, it seems, on the part of us  
9 individually that we're basically pretty satisfied  
10 with our own performance. At least on a yes/no basis,  
11 we come out yes on the questions of whether we are --  
12 whether we think that we are sufficiently informed.

13 There was also, I must say, a number of  
14 appreciative comments about the extent to which  
15 management has been responsive to requests for  
16 information from board members.

17 And I think that's very -- that's an important  
18 aspect because it needs to be a piece of the puzzle  
19 going forward, that we -- and any board members feels  
20 as though if they have a question, they can get it  
21 answered and they can get it answered promptly, and  
22 that there will be a sense of responsiveness, not just

1 in answer to a question, but a sense of understanding  
2 and appreciation of the concern that the question  
3 addresses. And I think in general, that's been --  
4 that seems to have been the case in the sense that  
5 several members seem to feel the need to comment on  
6 that.

7           There was a suggestion about how board  
8 meetings run, and this was in the individual  
9 self-assessment, too, but I think we might put that  
10 suggestion, perhaps, on the table for the board  
11 evaluation. I'll just report it to you.

12           It's a suggestion that the meetings themselves  
13 seem to be a bit redundant because the committee  
14 meetings -- it seems like everybody goes to all the  
15 committee meetings, and then people who are not on the  
16 committees feel to participate in the committee  
17 meetings.

18           Then the committee meetings are like a mini  
19 board meeting. And then you have to go to the next  
20 committee meeting even if you're not on it. So it's  
21 not a real committee system. But then the board  
22 meetings do go over the same ground, except that they

1 go over it a lot faster, and usually a consensus has  
2 been reached by that time.

3 But there's some sense about how we might --  
4 that one might imagine a different way of structuring  
5 the board meetings as a whole; and also, the use of  
6 teaching with respect to between-meeting information  
7 flow.

8 I think that we might want to take those  
9 issues up either at the full board today or when we're  
10 talking about the board evaluations generally. So if  
11 there are no questions about the individual  
12 self-assessments, I'd like to move on to the board  
13 evaluations. And we have some results that John has  
14 --

15 MR. CONSTANCE: They're being copied right  
16 now, Madam Chairwoman.

17 CHAIRMAN BeVIER: Oh, they're being copied.

18 MR. CONSTANCE: But if you want to go through  
19 that and just describe the highlights, I will get --  
20 I'll have copies for everybody in two minutes.

21 CHAIRMAN BeVIER: Certainly. If you look at  
22 page 69, which you will see is a copy of the

1 evaluation form for the board, so what I will -- oh,  
2 I'm sorry, page 70. No, page 70 is the board of  
3 directors director self-evaluation form. Does  
4 everybody have it now? Does the chair have it? Yes.

5 All right. So there are several things about  
6 which the board is in complete agreement and feels No.  
7 5, very good, about. Let me point those out to you.

8 We are in unanimous agreement that we achieve  
9 input to and approve the budget request to Congress.  
10 That's question 6.

11 We are in unanimous agreement that we engage  
12 in an annual evaluation of the LSC president. That's  
13 question 10.

14 We are in unanimous agreement that we adhere  
15 to standards of comment -- of conduct, excuse me.  
16 Question 12.

17 Question 4: The board has clear goals and  
18 measurements resulting from relevant and realistic  
19 strategic planning. This received the lowest overall  
20 score. When you -- let's see. I have my own.

21 MR. CONSTANCE: I think it was 4.3, Madam  
22 Chairwoman --

1                   CHAIRMAN BeVIER:   Yes.

2                   MR. CONSTANCE:  -- in terms of as an average  
3                   score for that.

4                   CHAIRMAN BeVIER:  That's right.

5                   MR. CONSTANCE:  Again, which is still a good  
6                   plus, but it was the lowest.

7                   CHAIRMAN BeVIER:  It is a good plus, but it  
8                   was the lowest.  And there are other scores that were  
9                   -- you know, the good news, I take it, about that  
10                  being a low score is that that's what this is all  
11                  about.  That's what this evaluation process is all  
12                  about.  That's what we're trying to do going forward,  
13                  is to set some clear goals and priorities for the year  
14                  ahead.

15                  There were other scores that were not 5s,  
16                  namely question 1, a full and common understanding of  
17                  the roles and responsibilities of the board.  That was  
18                  a 4.3.

19                  The board meetings facilitate focus and  
20                  progress on important organizational matters.  That  
21                  was a 4.3.

22                  MS. SINGLETON:  Which one is that?

1                   CHAIRMAN BeVIER: Eight. I'm sorry. The  
2 fourth question, clear goals and measurements  
3 resulting from relevant and realistic strategic  
4 planning, is 4.0. Is that -- did I --

5                   MR. CONSTANCE: I'm sorry.

6                   CHAIRMAN BeVIER: That's a 4.0.

7                   MR. CONSTANCE: You're correct.

8                   CHAIRMAN BeVIER: The 4.3s are, No. 1, the  
9 board has a common understanding of roles and  
10 responsibilities; board meetings facilitate focus and  
11 progress on important organizational matters, that's  
12 question 8; and question 14, board members possess the  
13 skills and knowledge to carry out their duties. Those  
14 were 4.3.

15                   I think we should mention that these are in  
16 the low range of the board's self-evaluation scores,  
17 but they are -- they do not suggest the kind of  
18 concern about our performance that I think ought to be  
19 of major concern to us. They're issues we might be  
20 attentive to, but they do not suggest major problems.

21                   And moreover, I think it's fair to say that  
22 question 1 and question 14 are part of what we should

1 be thinking about when we think about the transition  
2 and plan for what we can do to facilitate the new  
3 board and how we can best spend our time in the year  
4 ahead.

5 So having said that, it seems to me that we  
6 have a task of setting clear goals and  
7 responsibilities, of trying to identify and to reach a  
8 common understanding of what the roles and  
9 responsibilities are. And the way I have conceived  
10 this in terms of what it is we're here to talk about  
11 is roles and responsibilities I've interpreted to mean  
12 what should we be paying attention to next year.

13 I mean, I'm thinking of this as not -- perhaps  
14 not strategy, but rather tactics and priority-setting.

15 Because we can't have as priorities let's do  
16 everything and do it really well. Let's make sure  
17 that we have quality civil legal aid for everybody in  
18 the country, let's make sure we have an LRAP program,  
19 and so forth.

20 We have some issues that I think we need to  
21 pay particular attention to. And so, you know, if you  
22 have ten priorities, it means you don't have

1 priorities. You just have a sort of mishmash.

2 So the four goals or the four concerns that  
3 emerged -- and John is -- Kathleen is passing those  
4 out as well -- emerged in the process of putting  
5 together the comments of board members that came along  
6 with the self-evaluation form listing three to five  
7 points on which you believe the board should focus its  
8 attention in the next year. And people were asked to  
9 be pretty specific.

10 And what emerged from that, from those forms  
11 and the responses to those forms, were in our view  
12 four pretty clear goals. And I'll tell you -- you can  
13 see what they are. It's this overview of recommended  
14 goals.

15 I think we have at this committee one tricky  
16 issue in terms of how we proceed -- you know, how we  
17 proceed here, what we take as the committee task, and  
18 what we do to recommend to the board. We could do at  
19 least a couple of things.

20 We could just say let's talk briefly about  
21 these recommended goals and reach some sort of brief  
22 but not fulsome agreement about the four goals we

1 would like to recommend that the board adopt, and then  
2 take those to the full board and have a much more  
3 detailed and elaborate discussion about what those  
4 goals will require us to be doing and what we mean  
5 when we set those goals.

6 Or we could talk more about whether these are  
7 the right goals, and talk more about what we mean when  
8 we do them. John is prepared to help us do either  
9 one. We can do it at this level, committee level, or  
10 we can do it when we get to the board meeting. It  
11 seems to be -- they're the same people here, but I'm  
12 not sure whether that's something that ought to  
13 matter.

14 So I will just suggest to you that I think my  
15 own sense is this is a board matter. It should be  
16 something that would be board participation in the  
17 detailed discussion rather than people saying, well,  
18 I'm not a member of the committee but I think this,  
19 and feel like they weren't really part of the  
20 committee discussion.

21 So my sense of what the committee ought to do,  
22 if we're going to have anything like committee input

1 before the board meeting, is to see whether we think  
2 these are the right goals; whether we need some  
3 details filled in for these four goals; whether we  
4 want to recommend these four goals to the board;  
5 whether we want to stick with four; and if we don't  
6 want to stick with four, what should we add.

7 So I would propose that we go forward that  
8 way. I don't think it's a motion, but if someone  
9 thinks that's not the right way to do it, I would  
10 really like to be stopped in my tracks.

11 Go ahead, Herb.

12 MR. GARTEN: I have a suggestion. Obviously,  
13 there were probably eight of these submitted.

14 CHAIRMAN BeVIER: Yes.

15 MR. GARTEN: And you can -- the score can be  
16 skewed on an average. For example, if you had one  
17 person indicating a 1, and you had seven at 5, your  
18 average would be 4.5. So it may be helpful to do the  
19 equivalent of an anonymous roll call showing the  
20 number in each category that was used to arrive at the  
21 average.

22 CHAIRMAN BeVIER: Oh, well, that's a mistake

1 in -- a misleading way of describing the averages.  
2 These aren't averages. These are the number of board  
3 members who mentioned this as a priority.

4 MR. GARTEN: Oh, I'm looking at --

5 CHAIRMAN BeVIER: Overview --

6 MR. GARTEN: I'm looking at the  
7 self-evaluation.

8 CHAIRMAN BeVIER: Oh, I see. I apologize for  
9 that.

10 MR. GARTEN: So I apologize for not  
11 identifying it to begin with.

12 CHAIRMAN BeVIER: I'm not sure what you want  
13 -- you want us to raise our hand if we voted for a  
14 different number?

15 MR. GARTEN: No, no. I was thinking that if  
16 you showed the results --

17 CHAIRMAN BeVIER: Yes?

18 MR. GARTEN: -- the number of the eight that  
19 voted 5, the number that voted 1, et cetera, and then  
20 we'd know how the average was arrived at.

21 MR. CONSTANCE: Well, all board members are  
22 not here that filled out the forms.

1 MR. GARTEN: I'm not asking that be done now.

2 MR. CONSTANCE: I'm sorry.

3 MR. GARTEN: I'm just suggesting for the  
4 future.

5 CHAIRMAN BeVIER: Oh, I see. For the future.

6 MR. CONSTANCE: Oh, I see. I see, Herb.

7 CHAIRMAN BeVIER: Yes.

8 MR. GARTEN: Yes. Because averages can be  
9 misleading. You might have one very --

10 MR. CONSTANCE: I understand.

11 MR. GARTEN: -- a person who feels very  
12 strongly about something, and you may have the rest of  
13 the board feeling differently.

14 CHAIRMAN BeVIER: Right.

15 MR. GARTEN: So I'm not sure that --

16 CHAIRMAN BeVIER: It's like cumulative voting  
17 in a corporation. Right? That you get more than your  
18 share of votes if you vote for -- I mean, you bring it  
19 down farther if you put a 1 someplace?

20 MR. GARTEN: Exactly.

21 CHAIRMAN BeVIER: Yes. Sure.

22 MR. CONSTANCE: We actually have that data on

1 another spreadsheet, Herb, and to show what the spread  
2 is of votes and then what the average was.

3 MR. GARTEN: Yes. The average doesn't  
4 identify that one person --

5 MR. CONSTANCE: No. I understand.

6 MR. GARTEN: -- who may be voting --

7 MR. CONSTANCE: Right. What you have is that  
8 summary. Yes.

9 CHAIRMAN BeVIER: Yes.

10 MR. GARTEN: Just for the future, though.

11 CHAIRMAN BeVIER: Absolutely. That's a good  
12 suggestion. I may be wrong in my recollection because  
13 I don't -- have not looked at the raw evaluation forms  
14 since they all came in. But my sense was that it was  
15 -- people would put 5 or 4 or -- that it wasn't a sort  
16 of range of 1 to -- it wasn't that sort of  
17 granularity, if you will, that sort of disparity.

18 MR. CONSTANCE: Yes. The challenge with --  
19 you know, back to Tom Fuentes' comment about  
20 instructions. You know, this kind of a grading scale  
21 is very much in the eye of the beholder, you know, by  
22 virtue of the fact that this is the first experience

1 going through this. What is a 4? What is good as  
2 opposed to 5, very good? I mean, what is fair  
3 comparative to -- you know, so that's the challenge.

4 I would say that the lower numbers obviously  
5 had quite a spread, and the one that stands out, the  
6 4.0 in terms of goal-setting, which fortunately at  
7 this meeting we're about to embark on the possibility  
8 of taking care of that, that was the one that had the  
9 largest spread. That went all the way down to fair, I  
10 think, in terms of that spread.

11 But I think it's a good suggestion to show --  
12 you know, show what that range is.

13 CHAIRMAN BeVIER: Thanks.

14 Yes, Sarah?

15 MS. SINGLETON: I was going to ask how the  
16 questions that had numeric answers informed the  
17 recommended goals. It seems to me there's almost no  
18 relationship between them, and that what you really  
19 took was the fill-in-the-blank ones.

20 MR. CONSTANCE: That's correct.

21 CHAIRMAN BeVIER: Yes. We took the  
22 fill-in-the-blank ones. That's exactly right. But

1 the other thing that we did to sort of explain what  
2 our thinking was, that it seemed as though question 1  
3 and question 8 were captured -- the 4.3, the lower  
4 scores there, were going to be undertaken to be  
5 addressed by the goal-setting that -- by specific  
6 goals.

7 It's, you know, one thing to say we don't have  
8 goals. It's another thing to say, well -- or we don't  
9 agree on goals. It's another thing to say, well,  
10 let's find out what the goals are and then we'll get a  
11 consensus. And that's the beginning of solving that  
12 problem or getting that issue addressed.

13 So there is not no relation. There's some  
14 reasoning behind that. Does that make sense, sort of?

15 MS. SINGLETON: It makes sense. But if  
16 question 4 had scored a 5, would we have skipped the  
17 blanks?

18 MR. CONSTANCE: No.

19 CHAIRMAN BeVIER: No, we wouldn't have. No.  
20 Go ahead.

21 MR. CONSTANCE: The one thing I would say in  
22 terms of the process of this in the literature and

1 best practices now is that, you know, this all -- at  
2 the individual evaluations, the individual  
3 self-evaluations, that's designed to inform training  
4 and further briefing.

5 The board-wide self-assessment, you know, is  
6 in best practices always designed for goal-setting for  
7 the next year. So, you know, those things -- and  
8 again, that could have been pointed out, I think, you  
9 know, by us a little bit more clearly.

10 But there would be that goal piece in terms of  
11 the board-wide discussion anyway. And that is what  
12 that board-wide evaluation is really designed to do.

13 CHAIRMAN BeVIER: I think the challenge for  
14 any board is to stay focused on -- to have time in any  
15 meetings to address strategic issues. I think it's  
16 just -- certainly it has been for any board I've been  
17 on.

18 That's -- you know, you get your committee  
19 reports, and you get what's going on on people's minds  
20 at present. And then thinking about strategy comes  
21 last, and you have to really make time for it. So  
22 that's what we're trying to do here.

1                   How about the goals? Do people want to just  
2 reflect a little bit here on what the goals are, or  
3 should we defer that discussion? Is it fair enough?  
4 Let me just say that the transition piece of this has  
5 two pieces of it. It says, "Smooth transition for  
6 board and president."

7                   We have two issues, I think, and just sort of  
8 to identify where I think we might be thinking about  
9 addressing one. One is obviously to try to prepare  
10 the road for the new board as best we can, and the  
11 other is to make a decision about how to go forward  
12 with the presidential selection.

13                   The second, resources: shepherding,  
14 allocating, and increasing. Those are three different  
15 ways of thinking about resources, and so that really  
16 looks to me in some ways like three goals sort of  
17 stuffed into one.

18                   Shepherding is to make sure that we're doing  
19 the best we can with what we have; and allocating is  
20 obviously do we have our priorities right in terms of  
21 our budget is set; and increasing has to do,  
22 obviously, with trying to get more.



1 (No response.)

2 CHAIRMAN BeVIER: All right. That's what we  
3 will do. We will take these four.

4 I did not talk about the individual  
5 recommendations from individual board members. This  
6 is basically a sort of word-for-word description, and  
7 I'm wondering if any of you have questions about that  
8 or want to suggest that we in some way add those to  
9 the list. Or shall we just make sure that the board  
10 has an opportunity to look at them and to consider  
11 whether we want to do that?

12 MR. MCKAY: I don't want to be critical of the  
13 recommendations, but I find problems with all three.  
14 And so that's why I was -- I am enthusiastic about the  
15 four we just voted upon. But with regard to aligning  
16 our priorities with the new presidential  
17 administration, I'm not entirely sure I know what they  
18 are.

19 I'm not entirely sure -- I think we should  
20 statutorily. There's a balance politically, and I  
21 think that's there for a purpose. I think we should  
22 be balancing our priorities with the Corporation. And

1 we also have to look at what Congress's priorities are  
2 as well. So I'm not enthusiastic about the first  
3 suggestion.

4 Litigation I think is something we review  
5 every meeting anyway. I'm not entirely sure that  
6 should be a recommended goal.

7 And prohibited activities really falls into  
8 the compliance oversight section, so I think it's  
9 already addressed. So I guess -- I don't believe that  
10 we ought to be listing any of these as goals. I think  
11 the four that we have are enough, and indeed, Madam  
12 Chair, you suggested that recommendation -- or goal  
13 No. 2 actually could be three. So I think our plate  
14 will be full with what we just voted upon.

15 CHAIRMAN BeVIER: Other comments?

16 (No response.)

17 CHAIRMAN BeVIER: Thank you. I think we've  
18 wound up with the self-evaluation, and I should just  
19 like to say that as the chairman of this committee, as  
20 should be apparent, I couldn't have moved a muscle  
21 without John Constance's help.

22 And it was very useful to have someone who's

1 actually reviewed the literature and knows what this  
2 process is supposed to be about. I've been an  
3 evaluator before, but I've never sort of had to think  
4 about how we set it up. So I'm very grateful to John  
5 for that.

6 The next item on the agenda is the planning  
7 for -- wait, where's my agenda -- transition materials  
8 and the plan for the new board orientation. And Vic  
9 and John Constance are going to help us with that.

10 MR. FORTUNO: Yes. For the record again, it's  
11 Victor Fortunato, LSC general counsel.

12 You have at page 72, starting at page 72 of  
13 the board book, a list. I think it runs through to  
14 page 74. It's a fairly, I think, comprehensive list  
15 of materials that we would suggest making available to  
16 the new board as part of an orientation.

17 We don't have the actual materials here. We  
18 describe what the materials are. If you have  
19 questions about that, please let us know. It will be  
20 fairly voluminous. What we're talking about is the  
21 possibility of having a meeting or gathering of the  
22 new board where we would go over these materials with

1       them, and allow for question and answer.

2               And then, of course, when that was all done --  
3       and that, we'd have to decide whether that's a day  
4       event or a two-day event. And it would be soup to  
5       nuts, everything from we're covered by Sunshine and  
6       FOIA and what the implications of that are; what the  
7       bylaws are -- of course, we'd review the Act and board  
8       members' rights, duties, and responsibilities; the  
9       corporate charters; the structure of the board.

10              They would be introduced to the operations of  
11       the organization, what each office, each operating  
12       component of the organization does, all those kinds of  
13       things. And then after that, that one- or two-day,  
14       however long session it was, was completed, the  
15       materials would be shipped to the individual board  
16       members so that they would have them at home as a  
17       resource.

18              But we were thinking of that possibly as a  
19       first step, but wanted again to bring it to the board  
20       and ask for input as to whether you think or feel  
21       that's moving in the right direction, or there's  
22       something you think we ought to be doing different or

1 in addition to this.

2 CHAIRMAN BeVIER: Sarah?

3 MS. SINGLETON: I like what you have here.

4 But there are two things that are missing that I think  
5 it's very important for the new board to know about.  
6 One is OIG investigations, both of the Corporation and  
7 of grantees.

8 I think that people will have no idea -- most  
9 people will have no idea of how the Office of the  
10 Inspector General works or what their function is. To  
11 the extent that those things are public, I think they  
12 ought to be given copies of recent Inspector General  
13 reports.

14 MR. FORTUNO: Actually, on that point, we  
15 spoke very briefly with the IG and whether he wanted  
16 to address this in this context. And I think  
17 rightfully so, his response was that his will have to  
18 be separate and apart from ours.

19 So we haven't included an OIG orientation, if  
20 you will, for the new board. The IG would like to  
21 address that himself.

22 MS. SINGLETON: I'm not just suggesting --

1       that's fine, but I still think you, management, has an  
2       obligation to give copies of the publicly issued OIG  
3       reports that dealt with management issues to the new  
4       board. And whatever the OIG decides to do, that's  
5       fine. But I think management has an obligation to  
6       give them to them.

7                The other thing is congressional inquiries. I  
8       think they should get copies of recent letters that  
9       have been sent to the Corporation by Congress because  
10      I think they need to know what the atmosphere is like.

11             As Tom Meites mentioned a minute ago, people  
12      come to Washington who are not from the Beltway  
13      thinking that they are going to be greeted warmly  
14      because they are, in essence, volunteering their time  
15      --

16             MR. FORTUNO: Mr. and Mrs. Smith?

17             MS. SINGLETON: Yes. Right. And that's not  
18      the case. And that may be for good. It may be  
19      positive, as Tom Fuentes said. But it can also be  
20      kind of a shock. So I think that it's good for people  
21      to know what they might be -- what kind of letters  
22      they might be getting in the mail, you know.

1                   MR. SCHANZ: Sarah, if I may. This is Jeff  
2 Schanz, the Inspector General. You gave me a perfect  
3 segue into the brief conversation that Vic and John  
4 and I had prior to this meeting.

5                   I think it's perfectly appropriate to do what  
6 you said from the management perspective. But from  
7 the inspector general perspective, I would prefer  
8 keeping with my statutory authority and independence  
9 to provide my own materials to a transition board.

10                  In fact, when the transition team met with the  
11 LSC, they did meet with the inspector general separate  
12 from management. And I think that's perfectly  
13 appropriate and how I would intend to proceed.

14                  MS. SINGLETON: I think that's a very good  
15 idea.

16                  MR. FUENTES: Maybe it's on this list and I'm  
17 just missing it, but the mention of the disclosure  
18 forms that we file each year, is that listed here? Is  
19 that someplace --

20                  MR. FORTUNO: We're not talking about the ones  
21 that are submitted for confirmation. We're talking  
22 about the annual disclosure forms that are filed by

1 board members on an annual basis.

2 MR. FUENTES: Right.

3 MR. FORTUNO: You're right. That discussion  
4 would have occurred under bylaws. But we probably  
5 should specifically list to make sure that when we  
6 send the bylaws, that we include those forms.

7 MR. FUENTES: Yes. I think that would be the  
8 first item I'd like to receive. And maybe they return  
9 their nomination papers unfilled or something.

10 CHAIRMAN BeVIER: Bernice?

11 MS. PHILLIPS-JACKSON: I would just suggest  
12 that when new board members come on -- you said you  
13 would send them the material after the orientation,  
14 Vic?

15 MR. FORTUNO: I'm sorry. What was the  
16 question?

17 MS. PHILLIPS-JACKSON: Did you say when new  
18 board members come on, you would send them the  
19 information after the orientation or --

20 MR. FORTUNO: Yes. That is -- these materials  
21 would be here awaiting them. We'd have a meeting  
22 shortly after there, and my assumption is it would be

1       shortly after their confirmation, although again, that  
2       could be discussed whether there's an interest in  
3       having it before confirmation.

4                But I think the thinking was that shortly  
5       after confirmation, they would come to Washington for  
6       an orientation. It would be one or two days. They  
7       would meet with people in the organization. They'd  
8       hear some presentations. They would get all this  
9       material with discussions about it, and have an  
10      opportunity to ask questions about it. And then once  
11      done, the materials themselves would be shipped to the  
12      individuals' homes or offices so that they would have  
13      them available for reference purposes.

14               MS. PHILLIPS-JACKSON: Okay. So the materials  
15      will be provided here and then shipped to their home?

16               MR. FORTUNO: Yes. And the question -- and  
17      Tom's question, I think, was -- and something John  
18      asked kind of brought that home -- that if we're  
19      talking about the disclosure forms that you fill out  
20      on an annual basis, that certainly those we can  
21      provide because board members will want to see those.  
22      And so they'll have to complete those on an ongoing

1 basis.

2 If anyone is thinking about the forms that are  
3 completed in connection with the confirmation process,  
4 obviously at this point it would be too late for that  
5 because those forms will have been completed, the  
6 background checks done, and the confirmation occurred.

7 So we're really talking -- in terms of  
8 including in this package, we're talking about the  
9 materials that you complete on an annual basis.

10 CHAIRMAN BeVIER: Mike?

11 MR. MCKAY: I didn't hear you discuss, and I'm  
12 wondering if you considered, including as part of the  
13 presentation at least inviting to the new board's  
14 attention the opportunity of having previous board  
15 members participate in the orientation.

16 It seems to me sections C and D on page 72 of  
17 your outline, it would -- six years ago I would have  
18 appreciated having some board members share with me  
19 some of their thoughts about directors' rights,  
20 duties, and responsibilities and what they learned  
21 over the previous eight years.

22 So in addition, Vic -- it seems to me you'd be

1 taking the lead on making the presentation of most of  
2 these items -- some board members -- and again, it's  
3 up to the new board to decide whether or not they want  
4 to hear from some of our colleagues -- but it seems to  
5 me that invitation should be extended to the new board  
6 to let them know.

7 I think it would be very helpful, and in  
8 particular, committee chair to committee chair  
9 communications. So again, as I -- looking at my own  
10 experience when I became chair of the finance  
11 committee, Rob Dieter had already gone to Belize. I  
12 would have liked to have spent some time, you know,  
13 half a day sitting down talking to him.

14 CHAIRMAN BeVIER: In Belize?

15 (Laughter.)

16 MR. McKAY: Well, yes, as a matter of fact. I  
17 tried to get that, and we were not able to pull that  
18 off.

19 But perhaps as part of the orientation, then,  
20 the outgoing committee chairs could meet with the  
21 incoming committee chairs. I think it would be  
22 enormously valuable for them.

1 MR. FORTUNO: Providing continuity.

2 MR. MCKAY: Exactly. Right.

3 CHAIRMAN BeVIER: Yes. All right. Herb?

4 MR. GARTEN: I would suggest that probably in  
5 the category Recent History of LSC on page 74, that  
6 you make a reference to the GAO report and what steps  
7 have been taken to comply.

8 MR. FORTUNO: We actually have that under  
9 section G, Government Accountability Office Reports.

10 CHAIRMAN BeVIER: Yes.

11 MR. GARTEN: Oh, I didn't see it. The other  
12 thing, with regard to these annual reports, as I  
13 recall when I first questioned you about it, you  
14 indicated to me that they were held in a safe in your  
15 office and had complete confidentiality insofar as  
16 employees here at LSC. And you might want to give  
17 that similar type of assurance to the new directors.

18 MR. FORTUNO: I think that the financial  
19 disclosure forms -- basically there are two kinds of  
20 financial disclosure forms that are used for -- by the  
21 Office of Government Ethics in cases of confirmation.  
22 And they're either private or public.

1           In the past, the administration has used  
2 public financial disclosure forms. The Bush  
3 administration, so for this board, has been using  
4 private financial disclosure forms so that the ones  
5 that you've completed are treated as private, not  
6 public, documents. Those are the ones -- for  
7 confirmation purposes. Those are the ones that have  
8 the financial data.

9           The prior administrations used public  
10 financial disclosure forms, which interestingly meant  
11 that after a period of time, a fairly short period of  
12 time, those were available to the public. Some  
13 members of the public could actually get your  
14 financial disclosure form with the financial  
15 particulars.

16           Those particulars don't -- aren't called for  
17 by the form that you fill on an annual basis. I think  
18 the forms that are completed on an annual basis really  
19 seek to identify affiliations, what other entities  
20 you're affiliated with, so that that information is  
21 available for conflicts purposes.

22           The more expansive, comprehensive, I dare say

1       exhaustive forms that are used for confirmation are  
2       the ones that actually ask about the extent of your  
3       financial interest in different ventures. And I think  
4       we need to distinguish between the two.

5               And certainly so long as the new  
6       administration continues to use the private financial  
7       disclosure statements, that will continue to be the  
8       case. But we need to determine what it is they're  
9       going to use, and we need to inform the new -- the  
10      nominees, and then as they're confirmed, new board  
11      members, what the status and treatment to be accorded  
12      those documents is to be.

13             CHAIRMAN BeVIER: Tom Meites.

14             MR. MEITES: I looked at your list, and I have  
15      a bunch of comments.

16             First of all, most people who will be  
17      appointed have been on boards before. And a lot of  
18      what you're sending them is just dry boilerplate --  
19      job descriptions and so on. They're not going to get  
20      much of a sense of what the real questions are.

21             The fact is that there are some things that  
22      just were hard for us to grasp as a board, and I'm

1 going to give you my personal list.

2 First is the budget cycle and process. None  
3 of us had ever run into that before. It's confusing  
4 because of the overlapping. Our commitment to it,  
5 what we have to do, what Congress does, was something  
6 that we should have been told about and our successors  
7 should have been.

8 Second, it's imperative you walk through the  
9 regulations. You just don't give them the  
10 regulations. You explain what each regulation is  
11 about, where it came from, and then what the process  
12 is to change regulations.

13 The third is to try to explain the  
14 relationship and responsibilities of OCE, OPP, and  
15 OIG. That has baffled this board from day one, and it  
16 still baffles this board. And there's reasons why it  
17 is confusing, but that doesn't mean that you can just  
18 start dropping these entities on the new board and  
19 expect them ever to understand it.

20 The fourth is the congressional oversight,  
21 both the formal relationships that the congressional  
22 committees have with us and also what several people

1 have mentioned, our actual history, which would give,  
2 I think, a flavor of what kind of issues may come up.

3 The fifth area that is likely to be very new  
4 to new board members is what is an OIG? What is an  
5 inspector general? Because in our private lives,  
6 we've never encountered anything like that.

7 The sixth you actually have here, which is the  
8 Sunshine Act and Freedom of Information. We were  
9 actually briefed on that very effectively by Vic at  
10 the beginning, and it was very helpful.

11 And the last item is something that is dear to  
12 all of our hearts, is expenditures, and particularly  
13 meal expenditures. I'll be blunt: That's a trap for  
14 the unwary. And that is, John, something that the  
15 Washington Post would publish and has published in a  
16 different context about this board.

17 You absolutely owe it to the new board to  
18 explain to them exactly how that game is played here.

19 And we'd be happy to tell them the various steps  
20 we've taken to comply with the regulations and the  
21 policies.

22 MR. FORTUNO: We will --

1                   MR. MEITES: Wait, wait. Let me finish. But  
2 to give them this list of, I've seen this a thousand  
3 times in a thousand meetings, this is the dullest day  
4 of my life, is not going to help them at all. You  
5 have to do it by topics that matter and are grouped  
6 according to what they don't already know.

7                   MR. FORTUNO: No. And that --

8                   CHAIRMAN BeVIER: Excuse me. I want to camp  
9 onto that comment. I looked at this and I thought,  
10 oh, please don't make me go there and don't make these  
11 people go there because that -- the difficulty is the  
12 format. There is so much of it. It is so  
13 bureaucratic. It is so dull. It is very important; I  
14 understand that. They need to have some of that.

15                   But in part, a way for me to think about what  
16 Tom Meites is saying is some of this should be just  
17 for the new board, but some of it should be the old  
18 board and the new board talking about these kinds of  
19 things that Tom was suggesting.

20                   And in those issues, there's the legal  
21 constraints under which the board works, of course.  
22 But then there's the practical experience, none of

1       which is conveyed by these written documents.

2               And I don't think the old board needs to be  
3       there for these formal presentations. I do think, if  
4       they are interested in having us -- I don't want to  
5       tell them how to do their business, but I do think  
6       that perhaps we could help them to avoid some pitfalls  
7       that --

8               MR. FORTUNO: Give them the benefit of your  
9       experience?

10              CHAIRMAN BeVIER: Possibly, if they think it  
11       might be useful. I mean, you know, I'm not sure  
12       whether they would want it or think it would be  
13       useful. But if they do, that would be the occasion  
14       for something that -- at least speaking for my own  
15       self and the kinds of things I hear and am informed by  
16       in a way that will be useful to me in the future,  
17       coming from people who have just done it and who have,  
18       you know -- I don't mean war stories, but I mean who  
19       have genuine personal experiences with some of the  
20       things that have happened.

21              MR. CONSTANCE: I think if I could just add  
22       one thing to that, Madam Chairwoman, that you make an

1       excellent point.  And back to Mike's point earlier  
2       about retreats.

3               The literature right now, particularly one of,  
4       I think, the positive by-products of Sarbanes-Oxley in  
5       terms of how difficult this is for corporate boards  
6       and large nonprofits, is that the retreat model is one  
7       that's being used.

8               And there is an understanding that  
9       "entertaining" is not the right word, but engaging and  
10      packaging things is something that really requires a  
11      lot of work.  And there's a lot of -- you know,  
12      there's a lot of consulting around that right now.  
13      You could do that or not do it.

14              Also, one of the models is a half a day with  
15      the old board -- I mean, again, from the literature --  
16      a half a day with the old board, and then a half a day  
17      to a day and a half just really on their own.  I hate  
18      the word "bonding," but, you know, again, to get the  
19      information that they need to have that the board  
20      doesn't need to sit through, but at the same time --

21              CHAIRMAN BeVIER:  Right.

22              MR. CONSTANCE:  -- you know, have an

1 opportunity to come together. This was meant to be a  
2 list of materials. And really, you know, that really  
3 is all this is at this point. It's called, "What Are  
4 the Materials That Are Missing?" But I think the  
5 point is really well taken.

6 CHAIRMAN BeVIER: Of course, it may be  
7 possible -- it's conceivable that there will be not a  
8 transition of the entire board.

9 MR. CONSTANCE: That's correct. That's  
10 correct.

11 CHAIRMAN BeVIER: So I think in many ways,  
12 that's to be hoped.

13 Sarah? Sorry, go ahead.

14 MS. SINGLETON: Last time, for most of you,  
15 there was quite a long period between the time the  
16 President nominated you and when you were confirmed by  
17 the Senate. And during that time, the previous board  
18 invited the new nominees to attend the board meetings.

19 If that happens again, I think that would be  
20 an ideal time to have a pre-confirmation orientation,  
21 at which the old board and the new board get to  
22 discuss these kinds of issues.

1                   Also, yesterday we heard from at least one,  
2 maybe more, that there are mentors assigned to new  
3 board members. We may not have the opportunity to  
4 assign a mentor that would carry you through a long  
5 period of time, but at least we could have an initial  
6 assignment of mentors if there is any lag between the  
7 nomination process and the confirmation process. And  
8 I think we ought to think about that.

9                   CHAIRMAN BeVIER: Yes. I didn't hear the  
10 mentor suggestion. Was that --

11                   MR. CONSTANCE: One of the other boards.

12                   CHAIRMAN BeVIER: Oh, right, right, right.  
13 Okay. From yesterday's. Sure.

14                   MS. SINGLETON: And I think we ought to  
15 consider adopting that if we have the time to do so.

16                   CHAIRMAN BeVIER: Thank you.

17                   MR. CONSTANCE: And certainly that tracks with  
18 Mike's suggestion. The mentoring at the committee  
19 chair level will be really important as well.

20                   MS. SINGLETON: But the rest of us peons need  
21 some mentorship also..

22                   MR. FORTUNO: But we do have -- just to

1 address Tom's point, you know, for example, under D we  
2 have travel arrangement and reimbursement procedures.

3 This is just the material that will be provided. but  
4 this would provide kind of a structure around which we  
5 would have the discussions so that when they're here,  
6 we would cover -- that's part of the soup to nuts --  
7 we would cover how that works because we understand  
8 that that's something you have to become familiar  
9 with.

10 But we agree that all these things would have  
11 to be discussed, not just provide them with the  
12 written materials.

13 CHAIRMAN BeVIER: Can I raise one more -- oh,  
14 sorry, Jeff. Yes, please.

15 MR. SCHANZ: Well, I just wanted to bring out  
16 that in working with the audit committee, we've  
17 established, and the audit committee has credit for  
18 keeping us up to date on this, is an electronic  
19 bibliography that not only includes what is necessary  
20 for an audit committee, but it also goes into a lot of  
21 detail on board governance.

22 And right now it's a little overwhelming, but

1       there's 20 good articles related to board governance  
2       and specifically the audit committee's role within the  
3       board of directors. So information does exist  
4       already.

5                 CHAIRMAN BeVIER: Good. Thank you. Sarah?

6                 MS. SINGLETON: I think people should be given  
7       the option of getting these materials electronically.

8       It would be a lot easier to have them -- for me to  
9       have them on a disk than to have 20 volumes of  
10      notebooks taking up my office shelves.

11                CHAIRMAN BeVIER: I'm sure that that could be  
12      done, but it might not be the best way for everybody.

13      So "option" is probably the right word.

14                I think this has -- Tom, did you have  
15      something?

16                MR. FUENTES: Just one comment. I'm the least  
17      PC member of this board, but I would like us to refer  
18      to the incumbent board and the incoming board. I  
19      don't want to be known as an old board.

20                (Laughter.)

21                CHAIRMAN BeVIER: Well, you're the exception  
22      on this board, of course.

1           MR. FUENTES: Well, that's why I'm concerned.  
2           I think we should be the incumbent board and the  
3 incoming board.

4           MR. GARTEN: You're going to have to develop a  
5 phrase for me, then.

6           MR. FUENTES: I was being sensitive to you in  
7 requesting this, Herb.

8           CHAIRMAN BeVIER: That's right. I thought  
9 that you were going to say, I'm not a PC person but I  
10 want you to be called Madam Chairwoman.

11          MR. FUENTES: I always wanted you to be called  
12 Madam Chairman --

13          CHAIRMAN BeVIER: Me, too.

14          MR. FUENTES: -- because that is --

15          CHAIRMAN BeVIER: What I am.

16          MR. FUENTES: What you are. Yes, ma'am.

17          CHAIRMAN BeVIER: Good. Thank you. So we are  
18 the incumbent board, and there will soon be an  
19 incoming board. And perhaps there will be some  
20 overlap.

21                 I will report this discussion to the board  
22 meeting. My sense is that what ought to happen now is

1       that you on the staff have heard these suggestions --  
2       I think they're heading in very similar directions --  
3       and that we will meet again or not meet again.

4                But I think we're well on the way, even should  
5       it happen -- should a miracle happen between now and  
6       April and there be an incoming board and we are the --  
7       outgoing board? The former board? Whatever we are.  
8       The former incumbent board -- that there's enough  
9       guidance here for what they should get for what we  
10      think they need and for our willingness to help them  
11      in any way we can, that that's a first step even if we  
12      don't have a chance between now and April to firm it  
13      up and make it a little bit more definite.

14               Thank you so much for your work on that. We  
15      appreciate it.

16               MR. FORTUNO: Thank you, Madam Chairman.

17               CHAIRMAN BeVIER: Consider and act on other  
18      business. Is there any other business to come before  
19      the committee?

20               (No response.)

21               CHAIRMAN BeVIER: Is there public comment?

22               (No response.)

1                   CHAIRMAN BeVIER: Do I hear a motion to  
2 adjourn?

3                                   M O T I O N

4                   MR. MCKAY: So moved.

5                   CHAIRMAN BeVIER: Second?

6                   MR. MEITES: Second.

7                   CHAIRMAN BeVIER: All in favor?

8                   (A chorus of ayes.)

9                   CHAIRMAN BeVIER: Carried unanimously. Thank  
10 you, everyone.

11                   (Whereupon, at 10:56 a.m., the committee was  
12 adjourned.)

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