

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
BOARD OF DIRECTORS

OPEN SESSION

Monday, April 16, 2012

3:55 p.m.

Legal Services Corporation
3333 K Street, N.W.
F. McCalpin Conference Center, 3rd Floor
Washington, D.C. 20007

OTHER BOARD MEMBERS PRESENT:

John G. Levi, Chairperson
Martha L. Minow, Vice Chair
Sharon L. Browne
Robert J. Grey, Jr.
Harry J.F. Korrell, III
Charles N.W. Keckler
Victor B. Maddox
Laurie Mikva
Father Pius Pietrzyk, O.P.
Julie A. Reiskin
Gloria Valencia-Weber
James J. Sandman, ex officio

STAFF AND PUBLIC PRESENT:

Richard L. Sloane, Special Assistant to the President

Rebecca Fertig, Special Assistant to the President

Kathleen McNamara, Executive Assistant to the President

Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary

Mark Freedman, Senior Assistant General Counsel, Office
of Legal Affairs

Mattie Cohan, Senior Assistant General Counsel,
Office of Legal Affairs

David L. Richardson, Comptroller and Treasurer, Office
of Financial and Administrative Services

Jeffrey E. Schanz, Inspector General

Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel, Office of the Inspector General

Ronald "Dutch" Merryman, Assistant Inspector General
for Audit, Office of the Inspector General

David Maddox, Assistant Inspector General for
Management and Evaluation, Office of the
Inspector General

Daniel Sheahan, Program Evaluation Analyst, Office of
the Inspector General

Magali Khalkho, Resource Management Specialist, Office
of the Inspector General

Carol A. Bergman, Director, Office of Government
Relations and Public Affairs

Carl Rauscher, Director of Media Relations, Office of

Elizabeth Arledge, Communications Manager, Office of
Government Relations and Public Affairs

STAFF AND PUBLIC PRESENT (Continued):

Treefa Aziz, Government Affairs Representative, Office
of Government Relations and Public Affairs

Lora M. Rath, Deputy Director, Office of Compliance and
Enforcement

Janet LaBella, Director, Office of Program Performance

Reginald J. Haley, Program Analyst, Office of Program
Performance

John C. Meyer, Director, Office of Information
Management

Jane Ribadeneyra, Program Analyst, Office of
Information Technology

Eric R. Jones, Network/System Engineer, Office of
Information Technology

LaVon Smith, Network/System Engineer, Office of
Information Technology

John Constance, former Director, GRPA

Frank Strickland, Former LSC Board Chairman and
Non-Director Member of the Institutional
Advancement Committee

Robert E. Henley, Jr., Non-Director Member of Audit
Committee

Chuck Greenfield, National Legal Aid and Defender
Association (NLADA)

Terry Brooks, American Bar Association Standing
Committee on Legal Aid and Indigent Defendants
(SCLAID)

Lisa Wood, American Bar Association SCLAID

Ann Carmichael, American Bar Association SCLAID

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C O N T E N T S

CLOSED SESSION

20. Approval of minutes of the Board's Closed Session Annual Meeting of January 21, 2012
21. Briefing by Management
22. Briefing by the Inspector General
23. Consider and act on General Counsel's report on potential and pending litigation involving LSC
24. Consider and act on motion to adjourn meeting

Motions: 6, 9, 32, 36, 51, 63, 64

1 PROCEEDINGS

2 (3:55 p.m.)

3 CHAIRMAN LEVI: This is the resumption of our
4 board meeting, which we recessed yesterday. So we are
5 still under the Pledge.

6 And we are now on item No. 5 in the agenda,
7 which is the approval of the Board's open session
8 annual meeting minutes. And are there any corrections?
9 Any issues?

10 MS. REISKIN: Sorry. I don't know if this was
11 the right place, but we didn't mention anywhere that
12 the evaluation of our President was glowing. No, I'm
13 serious. If someone were to be reading this, it's
14 like, we evaluated, and then it doesn't say anything.
15 So that could be read different ways.

16 And I'm just wondering if it should reflect
17 that it was positive. It was very positive. I don't
18 know if that's appropriate or not. I just always look
19 at these of someone reading who wasn't there and didn't
20 know what happened. I guess they could always get the
21 transcript, but --

22 CHAIRMAN LEVI: We didn't know about this

1 lunch issue.

2 (Laughter.)

3 CHAIRMAN LEVI: What page are you looking at?

4 MS. REISKIN: Now I'm going to have to find it
5 again. I'm sorry, I got out of place.

6 MR. FORTUNO: Page 135?

7 CHAIRMAN LEVI: No.

8 MS. REISKIN: Oh, okay. I'm almost -- it was
9 in the report of the Operations and Regulations --

10 CHAIRMAN LEVI: All right. Well, yes.

11 MS. REISKIN: -- Committee, wherever
12 that -- so yes. Page 142. Yes. It just says that the
13 report was given. It doesn't say -- I mean, if it
14 doesn't matter to anyone, that's fine. I just didn't
15 know if that should be noted in our formal minutes,
16 that it was a positive --

17 CHAIRMAN LEVI: I don't see where it says that
18 the review occurred.

19 MS. REISKIN: It doesn't. It just says that
20 the report was given.

21 MR. GREY: He can't --

22 CHAIRMAN LEVI: He did?

1 MS. REISKIN: It's the very last sentence on
2 page 142 of the electronic.

3 MR. GREY: It's got a caption, "Vote."

4 CHAIRMAN LEVI: Yes. But it doesn't say that
5 it included a review of the President.

6 MS. REISKIN: No, it doesn't.

7 CHAIRMAN LEVI: And did it include a review of
8 the President at the last --

9 MS. REISKIN: Yes.

10 CHAIRMAN LEVI: It did?

11 MS. REISKIN: Yes.

12 CHAIRMAN LEVI: Well, if you wish to, we can
13 amend it and put that in. But I don't know that --

14 MR. FORTUNO: The review was done at a
15 telephonic meeting.

16 MS. REISKIN: No. We did it at --

17 CHAIRMAN LEVI: No. I --

18 MR. FORTUNO: I think that there was
19 some -- there was some discussion at the meeting, and
20 then it was continued over to a telephonic meeting.

21 CHAIRMAN LEVI: It was.

22 MR. FORTUNO: And I was out for that. I was

1 out for my surgery. I don't think those minutes are
2 here.

3 CHAIRMAN LEVI: They aren't.

4 MS. REISKIN: So those minutes will be
5 forthcoming, then?

6 MR. FORTUNO: Yes.

7 MS. REISKIN: Okay. Well, then, maybe we can
8 have it in there. I just think it should be reflected
9 somewhere.

10 CHAIRMAN LEVI: That's a good point.

11 Any other comments?

12 (No response.)

13 CHAIRMAN LEVI: Can I have a motion to approve
14 the minutes?

15 M O T I O N

16 FATHER PIUS: So moved.

17 CHAIRMAN LEVI: Second?

18 MS. MIKVA: Second.

19 CHAIRMAN LEVI: All in favor?

20 (A chorus of ayes.)

21 CHAIRMAN LEVI: I have a very brief report
22 because I've been speaking a lot.

1 I just, first of all, want to -- and I did, at
2 the beginning of the session yesterday for some of you
3 who were not here, welcome our new folks -- Carol
4 Bergman, Carl Rauscher, and Becky Ferdig. And I think
5 two of the three are in the room with us right now, and
6 we're pleased to have you on board.

7 The other is to say that for some of us, this
8 has now been two years. It seems like, how did that
9 happen? And then I'm asking myself, is it really only
10 two years?

11 (Laughter.)

12 CHAIRMAN LEVI: For others of you, it isn't.
13 It's just 18 months. And you must be really asking
14 yourself that question.

15 And we've had a lot of work to do together,
16 and I think we're continuing to do it. I'm very proud
17 of this Board and the work it's doing, and I am so
18 grateful to all of you for pitching in and taking the
19 extra time.

20 Tomorrow I think you're in for a treat when
21 you hear the work of the Pro Bono Task Force. They're
22 not done, but they're sure a long way along the road.

1 And I think you're in for a very compelling morning,
2 and then I think the same in terms of our afternoon
3 session at the White House.

4 The number of letters and calls that I've been
5 getting from folks, emails about the situation that our
6 programs are confronting, was one of the motivating
7 reasons that I thought a forum of some kind would be a
8 good idea.

9 And it may be -- I know that New York and
10 California have had -- the chief justices have held
11 access to justice commission-type hearings of their
12 own, and that these are going on in some of the states.

13 But from the standpoint of giving our own
14 grantees an opportunity to talk with us when we're in
15 their area about what's happening to them and their
16 program I think is important, and it's important for us
17 to understand what they're going through, just as a
18 Board, so that we are better informed.

19 And so, in the next year, as we move through
20 the country -- Michigan, North Carolina, Colorado -- I
21 hope to have a couple of hours at each board
22 meeting -- not a separate day, don't worry -- but

1 instead of some of the briefings that we've been
2 having, giving the opportunity to have a discussion of
3 what's happening in the field and what's happening in
4 the region so that we are better informed, and so that
5 we can be able then to articulate best to our own
6 representatives when they ask us for information.

7 So that's what we're up to. I know the
8 committees are all very busy. We'll try to stay on
9 schedule here today. Are there any members that want
10 to give a report of any kind?

11 (No response.)

12 CHAIRMAN LEVI: Jim?

13 PRESIDENT SANDMAN: Thank you, John. I'd like
14 to report on five matters this afternoon. I'll start
15 with a review of grantee data from 2011.

16 Within the last two months, we've received
17 reports from all of our grantees on their activities in
18 2011. And I'll give you the highlights of what they
19 reported. I'd like to acknowledge and thank John Meyer
20 for his work in putting all of the information
21 together, and Wendy Long, who turned John's information
22 into PowerPoint graphics.

1 Next I'll review where we stand with our
2 technology initiative grant applications for the next
3 grant cycle. I'll then let you know where we stand in
4 implementing the recommendations of the Fiscal
5 Oversight Task Force, then give you an update on the
6 Public Welfare Foundation grant, and finally, give you
7 a brief overview of where we stand with our
8 communications program in support of our grantees.

9 Last year we had about 900,000 -- hang on, I
10 think I skipped a slide -- 900,000 cases closed,
11 899,800. That was actually a decline from 2010, a
12 decline of 3.6 percent. That's not surprising because
13 funding went down in 2011 compared to 2010.

14 Total funding for our programs from all
15 sources declined by 2.8 percent, and LSC funding
16 declined by 3.5 percent. So the cases closed decline
17 of 3.6 percent was in line with the reduction in
18 funding.

19 Staff numbers reported were, as of the end of
20 2011, 6.7 percent below where they were at the end of
21 2010. So the decline in cases closed was actually less
22 than the decline in staff numbers, which showed, I

1 think, that our programs were continuing to work very
2 hard to address an overwhelming need.

3 Pro bono cases, a special focus of the Board
4 this week, were up last year to 79,578 cases. That's
5 an increase of 11.4 percent from 2010, but I need to
6 qualify that, because we did change the reporting
7 requirements to become more refined for PAI cases,
8 private attorney involvement cases.

9 MS. REISKIN: An increase of what?

10 PRESIDENT SANDMAN: It was the number shown on
11 the graph here. The increase from 2010 to 2011 is an
12 increase of 11.4 percent.

13 Pro bono cases are reported along with private
14 attorney involvement cases, some of which are not pro
15 bono. Some of those are Judicare cases or "low bono"
16 cases; they're compensated at a low level.

17 And last year, for the first time, we required
18 all programs to categorize cases in this category as
19 either pro bono or other PAI, whereas previously there
20 had been a category that was ambiguous. Can you speak
21 to that, John?

22 MR. MEYER: We had two ambiguous categories.

1 We had co-counsel cases and we had the category of
2 "Other." And what we did is we set in co-counsel, pro
3 bono, co-counsel compensated, other pro bono, other
4 compensated. And that allows us to categorizing them
5 all.

6 Actually, this graph is pretty accurate
7 because what we found is that those two categories were
8 almost all pro bono. And so what was done in this is
9 we assumed that the cases falling in these two
10 categories in the three prior years were almost all pro
11 bono.

12 PRESIDENT SANDMAN: So this is a very good
13 number to be able to report, and very good progress to
14 be able to report. In fact, I wouldn't have been
15 surprised if pro bono cases had gone down because as
16 programs reduce staff by 6.7 percent and have less
17 infrastructure to support pro bono lawyers in doing
18 their work, sometimes you see a decline in pro bono
19 work.

20 So they had reduced staff to work with trained
21 pro bono lawyers, screen cases, et cetera, but still
22 managed to increase the pro bono output. A very good

1 development.

2 And turning that into percentages, pro bono
3 cases as a percentage of total cases closed last year
4 was up to 8.8 percent from 7.6 percent the year before.

5 That's a significant increase.

6 We always look at the breakdown of cases by
7 type. These pie charts show the breakdown of cases by
8 type for the last four years. You don't need to labor
9 too much over the size of the pieces of the pie. The
10 bottom line is that there have been very modest changes
11 in the mix of the case load in the last four years; the
12 relative percentages have remained pretty much the
13 same.

14 We did have two new categories of information
15 reported this year. One, we asked programs to break
16 out for us cases involving domestic violence no matter
17 where else they might have been reporting it because we
18 had a concern that we might be missing the true volume
19 of domestic violence cases under our previous reporting
20 scheme. And 12 percent of all cases handled by
21 grantees in 2011 involved domestic violence.

22 We also asked programs to report the number of

1 persons in each household for the client that they
2 assisted, and that number was 2.284 million people, an
3 average of 2.5 people per case. So that's a good
4 statistic to have; we've been estimating that number
5 previously, but now have concrete data to support it.

6 This graph shows our funding situation. You
7 should look at the 2011 number. It's the
8 second-to-last number from the right there. You can
9 see that our funding declined. It had declined in both
10 categories, LSC funding and non-LSC funding. This was
11 the first decline in non-LSC support in many years.
12 Non-LSC support was down by 2.2 percent.

13 The 2.2 percent number, however, masks wide
14 variations among the reporting jurisdictions -- 28 went
15 down in non-LSC funding, 27 went up. There are more
16 jurisdictions than states because we include
17 territories in our count.

18 The increases tended to be in smaller
19 jurisdictions. There were six jurisdictions that lost
20 more than 15 percent of their non-LSC funding last
21 year. Oregon, for example, was down 22-1/2 percent in
22 non-LSC funding, New Jersey down 21.3 percent, Colorado

1 down 16.9 percent, Tennessee down 15.8 percent.

2 Now, because the funding cut that we
3 experienced in November of 2011 isn't really going to
4 be felt until 2012, we've tried to estimate what the
5 funding mix might look like in the current year if we
6 assume that non-LSC funding remains in 2012 at the
7 level it was at in 2011.

8 And if that happens, and if we hold our
9 current level of funding through the calendar year,
10 that will drive LSC funding down to 39.7 percent as a
11 portion of the total funding, which you could see would
12 have us at the lowest level in some years.

13 I just think it's important to bear that in
14 mind as we become more of a minority funder, how that
15 affects the nature of our relationship with our
16 grantees and how it should affect our expectations of
17 them.

18 CHAIRMAN LEVI: But you're assuming that that
19 may not stay static.

20 PRESIDENT SANDMAN: It may not stay static.
21 If we have another decline this year in non-LSC
22 funding, that would change the mix a little bit. But

1 as John Meyer regularly points out, non-LSC funding is
2 fairly resilient. Even though it went down last year,
3 it went down by only 2.2 percent. So just for purposes
4 of display here, we assume that it would stay at the
5 same level next year this year that it was at last
6 year.

7 MR. MADDOX: Jim, that's everything, filing
8 fees, IOLTA, and all that?

9 PRESIDENT SANDMAN: That is everything. All
10 sources, yes.

11 This graph shows the distribution of programs
12 by percentage of funding received from LSC. I prepared
13 this slide last year and have updated it for the 2011
14 numbers. And this again shows that when we talk about
15 averages, that the average percentage of dependence on
16 LSC was 43.3 percent last year, masks wide variations
17 across the program.

18 We had 33 programs last year that were getting
19 less than 30 percent of their funding from LSC. We had
20 35 programs that were getting more than 60 percent of
21 their funding from us. Obviously, the programs at the
22 right end of the graph are much more heavily impacted

1 when there is a significant decline in LSC funding, a
2 decline of 18 percent, like the one that we experienced
3 in November of 2011.

4 This graph breaks down the various components
5 of the sources of non-LSC funding. And you have to
6 look longer-term to see some of the significant
7 changes -- IOLTA, for example, which is the third
8 number up from the bottom, has declined significantly
9 since 2008, when it was at its all-time high.

10 It was at \$111 million, almost \$112 million
11 then. It was down to \$60.8 million last year, and
12 interestingly, is continuing to decline. So there was
13 a reduction of 10.4 percent in IOLTA funding between
14 2010 and 2011.

15 Funding from local sources was down by 9.5
16 percent in 2011 compared to 2010. State-level funding
17 was down by 5.8 percent. Filing fees were up by 4.1
18 percent. And we do see in some states that declines in
19 direct appropriations to legal services programs have
20 been mitigated by increases in filing fees or other
21 creative ways of trying to find support for legal
22 services programs.

1 Another good development: We're beginning to
2 see some impact of the decision by Congress to lift the
3 restriction on attorney's fees a couple of years ago.
4 So attorney's fees awarded in LSC-funded cases were
5 \$1.8 million last year, up from \$400,000 in 2010.

6 It takes some time for attorney's fees to work
7 their way through the case pipeline. So I'd expect
8 that number to continue to increase over the next few
9 years.

10 MS. REISKIN: Does private include
11 foundations?

12 PRESIDENT SANDMAN: Yes.

13 FATHER PIUS: Were we just not tracking filing
14 fees in 2008 and 2009?

15 PRESIDENT SANDMAN: Yes. We began to when we
16 began to see that filing fees were becoming an
17 increasing means of support at the state level. We
18 began to break that out separately. It had previously
19 been --

20 FATHER PIUS: Okay. So before, we counted it;
21 it was just included in the state?

22 PRESIDENT SANDMAN: It was included in state.

1 That's correct. Any other questions about that slide?

2 (No response.)

3 PRESIDENT SANDMAN: I'd next like to move to
4 the TIG program. There was some discussion of this
5 this morning. We were very interested in tracking
6 these numbers for the current grant application
7 process.

8 We'd heard comments in the past year that the
9 administrative burdens associated with TIG grants were
10 discouraging programs from applying for them, and/or
11 that their threshold for applying for a grant, the
12 number of dollars that they would have to receive in
13 order to make the perceived burdens worthwhile, was
14 going up.

15 So we've tracked that this year. And as you
16 can see, the blue line -- these are letters of intent,
17 in effect applications for funding that we've received
18 from programs. The number was at exactly the same
19 level in -- for the current grant cycle; that shows us
20 2012 as it was in 2011. And we've invited exactly the
21 same number as last year, 58, to submit full
22 applications.

1 MS. REISKIN: So you send a letter. Anyone
2 can send a letter of intent --

3 PRESIDENT SANDMAN: Yes.

4 MS. REISKIN: -- and that's kind of like a
5 pre-application?

6 PRESIDENT SANDMAN: Yes. And then we review
7 the letter of intent, and then based on that decide
8 which programs we'll solicit full-blown applications
9 from. So that's the difference between the 82 and the
10 58.

11 MS. REISKIN: And then you declined 21 or 24?

12 PRESIDENT SANDMAN: Yes. Correct.

13 This graph shows the number of programs and
14 states participating. We like to look at the breadth
15 of participation. Is it the same programs all the time
16 that are applying for grants? Are we getting new
17 programs participating? We had 49 programs from 34
18 states submit letters of intent this year.

19 This graph shows first-time applicants. And
20 we have five first-time applicants this year, and all
21 five of those were programs that had received
22 scholarships to the TIG conference in January. That

1 was the first time we ever offered scholarships. They
2 were available only to programs that had never received
3 a TIG before. And of the ten that we gave the
4 scholarships to, five, for the first time ever, applied
5 for a TIG. So that seems to have been a beneficial
6 result.

7 The average amount of TIG funding requested
8 didn't really change much. It ticked up a little bit,
9 from \$8,485 to \$89,727. But this phenomenon that we'd
10 heard about, that programs might have a much higher
11 threshold now for applying for a grant, doesn't seem to
12 be borne out by the numbers.

13 And finally, this map shows the designation
14 across the country of letters of intent received per
15 service area between 2009 and 2012. We now have only
16 ten programs, out of the 135 that we currently fund,
17 that have never applied for a TIG. But one of those
18 ten has actually been a partner many times with another
19 program on TIG, so it's really only nine that haven't
20 made any effort to participate in the program yet.

21 I'll next turn to the implementation of the
22 Fiscal Oversight Task Force recommendations. Becky

1 Ferdig, who joined us recently, has created a database
2 to track each recommendation of the Task Force, which
3 shows the recommendation, our action plan, it's current
4 status, and its estimated completion date. And we'll
5 plan to report to the Board now regularly at each
6 meeting on where we stand in implementing the Task
7 Force recommendations.

8 We've done a number of things already. We've
9 revised the grant application for 2012 for the first
10 time to request specific fiscal control information
11 that hadn't been asked for in prior applications.

12 We're requiring that applicants for grants
13 provide a copy of their accounting manual, and if they
14 choose to correlate pieces of the accounting manual to
15 the specific questions that we're asking, if they want
16 to shortcut their responses by just saying, "The answer
17 is contained on pages 8 to 10 of the accounting
18 manual," they can do that if they want to.

19 We have more formal involvement now with the
20 Office of Compliance and Enforcement in grant-making
21 decisions. The director of OCE now makes a formal
22 written recommendation as a part of each grant decision

1 process, and that's recorded in LSC grants.

2 We now have regular meetings between the
3 Office of Program Performance and the Office of the
4 Inspector General and the Office of Compliance and
5 Enforcement and the Office of the Inspector General.
6 Those meetings are at the staff level and held monthly
7 for those offices. In addition, Jeff Schanz and I
8 continue to meet every other week.

9 We're working on consolidating and expanding
10 access to all of the LSC data that we have on grantees.

11 Information about grantees has historically been
12 maintained in different places -- sometimes siloed,
13 sometimes not readily accessible to everybody in the
14 organization, sometimes unknown to people in the
15 organization.

16 So we're working with OCE, OPP, and the Office
17 of Information Management to identify all information
18 we have about grantees on the databases, and we will
19 combine them, as best we can, as appropriately as
20 possible.

21 Finally, we're in the process of recruiting
22 for a vice president for grants management. We've

1 received about 85 or 90 applicants. I have reviewed
2 them. I have interviewed one candidate and will report
3 on that in more detail in closed session because it
4 involves a personnel matter, and I can't name names or
5 give details at this point because the person has
6 requested confidentiality.

7 On the Public Welfare Foundation grant, we
8 completed work on the initial planning grant that we
9 received back in December, and the Public Welfare
10 Foundation has invited us to apply for another grant.
11 The purpose of that grant would be to improve the
12 collection, analysis, and use of data from grantees.

13 They've indicated that the grant might be on
14 the order of 250- to \$270,000, and have requested that
15 we submit our application for a grant in time for the
16 board of the Public Welfare Foundation to consider it
17 in their June grant-making cycle.

18 Finally, as I reported by email to the Board a
19 few weeks ago, we have rolled out a public service
20 announcement on a pilot basis to 20 LSC-funded
21 programs, and we have approximately 30 more waiting in
22 the wings to try it out once we've completed the pilot.

1 The initial feedback has been very positive.
2 The timing turned out to be good for one of our
3 programs, Blue Ridge in Western Virginia; they were
4 able to use the public service announcement in
5 connection with their new fundraising campaign, and it
6 dovetailed very nicely with that.

7 We plan to make the public service
8 announcement available to all of the programs that have
9 expressed interest, about 50 programs, some time later
10 this year.

11 And finally, the Public Welfare Foundation,
12 which is getting increasingly active in funding legal
13 services initiatives, is interested generally in the
14 idea of supporting better communications about legal
15 services to try to communicate to people more broadly
16 what legal services are about and why people should
17 care.

18 So there's nothing specific there, but there's
19 a foundation with some substantial resources that has
20 expressed an interest in the subject and is working
21 closely with us on other matters.

22 I'd be happy to answer any questions.

1 MS. REISKIN: Do you know why the Public
2 Welfare Foundation is -- did you create that interest?

3 CHAIRMAN LEVI: Their president, Mary
4 McClymont, started with the Public Welfare Foundation
5 in February of 2011. Mary is a lawyer. She had
6 previously worked at the Ford Foundation back when Ford
7 was funding legal services. It's a personal interest
8 of hers.

9 It's not an identified area of focus for the
10 foundation. But the Board does give the president
11 discretion, within certain bounds, to fund certain
12 priorities. So it's been a special project for the
13 current year.

14 CHAIRMAN LEVI: Other questions? Comments?

15 MS. REISKIN: Excellent.

16 CHAIRMAN LEVI: Thank you, Jim. A terrific
17 report.

18 Mr. Inspector General?

19 MR. SCHANZ: Thank you, Mr. Chairman. My
20 report will be not nearly as sophisticated as the
21 President's, but perhaps equally as important.

22 I just want the Board to be aware that

1 Chairman Issa is not only solely involved in a GSA
2 scandal right now, but he's also asked the IGs -- and
3 this is an annual request, and I'll just tell you what
4 he is asking for, and this is why it's important for us
5 to close recommendations.

6 Chairman Issa wants to identify -- and this
7 goes to all IGs. This isn't unique to LSC -- identify
8 the current number of open and unimplemented IG
9 recommendations.

10 For those recommendations that have an
11 estimated cost associated with them, identify each
12 recommendation, the date it was recommended, and the
13 total estimated cost.

14 Three, of the open and unimplemented
15 recommendations identified, which does your office
16 intend to focus on first? Put it in priority order.

17 He wants to know the status of the
18 recommendation, the cost associated with the
19 recommendation, and whether there are plans to
20 implement the recommendation in 2012.

21 Identify the number of recommendations your
22 office has deemed accepted and implemented by the

1 agency during the time period from April 7th to the
2 present.

3 This ties in a little bit with our semiannual
4 reporting, which I'll talk about in closed session.
5 I'll give you some numbers related to that. This goes
6 to a roll-up report by the government Ops Committee as
7 to the state of IG recommendations across the board.

8 You'll find when that report does come out,
9 there's several cross-cutting issues, and they use
10 that, I believe, as part of the X amount of trillions
11 of dollars of -- that the President uses to say, "Well,
12 we can balance the budget if we can close out all these
13 recommendations."

14 And then, of course, you're all familiar with
15 Issa's attention on the GSA scandal.

16 That's all I have.

17 CHAIRMAN LEVI: Questions? Comments?

18 (No response.)

19 MR. SCHANZ: Thank you.

20 CHAIRMAN LEVI: Thank you, Jeff.

21 Laurie?

22 MS. MIKVA: The Promotion and Provisions

1 Committee has nothing that requires action. I would
2 just report that the Committee had a teleconference
3 call and discussed what process for working with
4 management to devise topics for the Committee to
5 address in the coming year; and that there is a list in
6 the book, two levels of priorities.

7 We're also waiting for the report of the Pro
8 Bono Task Force, and then we will come up with an
9 agenda for the coming year.

10 CHAIRMAN LEVI: Thank you.

11 Robert? Finance Committee?

12 M O T I O N

13 MR. GREY: Mr. Chairman, the Finance Committee
14 met and got a report from the treasurer, and reviewed
15 both the process for the 2014 budget process and
16 approved the budget for 2012. We would recommend that
17 to you for Board approval.

18 CHAIRMAN LEVI: Is there a resolution in here?

19 MR. GREY: There is.

20 CHAIRMAN LEVI: And it's on -- what page? Can
21 we find it? Is it page 14? Yes.

22 MR. GREY: It's page 14, as amended, with the

1 first line removed in the caption. So that's the
2 Committee's recommendation to the Board.

3 CHAIRMAN LEVI: With the Sharon Browne
4 amendment.

5 MR. GREY: Yes. With the Browne amendment,
6 with the E on it.

7 CHAIRMAN LEVI: That's right. Okay.

8 DEAN MINOW: I think we've treated our
9 recommendation from a Committee as if it would have
10 been moved and succeeded.

11 CHAIRMAN LEVI: That's correct.

12 And all in favor?

13 (A chorus of ayes.)

14 CHAIRMAN LEVI: Against?

15 (No response.)

16 CHAIRMAN LEVI: It carries.

17 Any other matter from the Finance Committee?

18 MR. GREY: No.

19 CHAIRMAN LEVI: Audit Committee?

20 MR. MADDOX: The Audit Committee met by
21 telephone on March 15 and received a report on the IRS
22 Form 990 for FY 2011, considered its members'

1 self-evaluations, and took public comment. And there
2 was no action that required board approval or action at
3 that meeting.

4 At today's meeting, we had a lively discussion
5 of the Audit Committee charter and process of
6 attempting to revise it. We deferred action until we
7 receive further comments from the OIG, and hope to have
8 a resolution for the Board regarding revision to the
9 Audit Committee charter at the July 2012 meeting.

10 We also received the quarterly review of the
11 403(b) plan performance from Traci Higgins, the
12 director of the Office of Human Resources, and welcomed
13 Ms. Higgins in her first appearance before the
14 committee.

15 We received a report from the Inspector
16 General and a report or a briefing on travel procedures
17 from the treasurer and comptroller. There was no
18 public comment, and there's no action that requires any
19 further action by the Board.

20 CHAIRMAN LEVI: Thank you.

21 Ops and Regs?

22 PROFESSOR KECKLER: Thank you, Mr. Chairman.

1 The Operations and Regulations Committee met
2 by telephone on February 29th, at which time we began a
3 consideration of a number of Board protocols, the
4 discussion, which continued into the session this
5 morning.

6 We have deferred action for the present time
7 on a contributions protocol, but that will recur, and
8 all board members are invited to submit comments on
9 that as we prepare a new draft for committee
10 consideration.

11 At the telephonic meeting, we also had
12 considerable discussion of the Board's role in
13 reviewing and being a part of the continuity of
14 operations plan for the Corporation. That's also a
15 project that's ongoing, in which Board comment is
16 welcome.

17 We do have two items of business to bring
18 before the Board today. One is a new board policy on
19 LSC promulgations. There is a resolution in your board
20 book located at page 55. There is one small amendment
21 in the second "Whereas" clause where it says, "LSC's
22 board of directors does not" -- we insert the word

1 "currently" -- "have a comprehensive policy."

2 M O T I O N

3 PROFESSOR KECKLER: Given that amendment, the
4 Committee has recommended this new board policy on our
5 notice of LSC promulgations.

6 CHAIRMAN LEVI: All in favor?

7 (A chorus of ayes.)

8 CHAIRMAN LEVI: Opposed?

9 (No response.)

10 PROFESSOR KECKLER: Thank you.

11 The second item of business we also considered
12 today that requires board action is an extended
13 discussion that we had regarding the potential
14 modification of Legal Services Corporation regulations
15 in response to the Inspector General's concerns over
16 the TIG program and the audit thereof.

17 After discussion, the Committee recommends
18 that the strategy we follow follows in line with
19 management's recommendations, which are that
20 we -- management's recommendation is to engage in
21 rulemaking regarding the subgrant and transfer
22 regulations, but not at the current time as to the

1 subgrant third party contracting, a matter which is
2 being handled in other ways through grant assurances
3 and other policies.

4 So that's the discussion of the Operations and
5 Regulations Committee, and we recommend that course of
6 action, which would result in an NRPM, a notice of
7 proposed rulemaking, for subgrant and transfer
8 regulations as they relate to at least the TIG program,
9 possibly with application to other types of grant
10 programs.

11 CHAIRMAN LEVI: Father Pius?

12 FATHER PIUS: Before we move to a vote, just
13 if I could give my thoughts on this.

14 It seems to me that the issue here, as I've
15 heard it in the Committee, is a disagreement on the
16 interpretation of the particular statute. It doesn't
17 seem to me that it's an efficient use of our time to go
18 into rulemaking to do all of this, and the staff's
19 time.

20 It seems to me that we could easily solve this
21 by a resolution from the Board saying, here is our
22 interpretation, and we're not expanding the scope of

1 the rule. We're not changing the law. We're simply
2 giving an authoritative interpretation of what the law
3 says.

4 I think it's sufficient. I'm not opposed to
5 the rulemaking. I don't think it's necessary; I think
6 it's a bit of a waste of our time. I think the context
7 of the rule and the law is clear. I think the
8 interpretation by management is fairly clear and
9 supported by the statute.

10 And my recommendation would be instead that we
11 simply issue a resolution supporting that
12 interpretation and move on.

13 PROFESSOR KECKLER: Yes. Well, this is sort
14 of endorsing management's position on this. There
15 would be one activity.

16 Management has taken the position that the
17 subgrant rule is obviously -- there's a lack of
18 clarity. Now, the lack of clarity came up in the
19 committee discussion, and it's come up before, in the
20 sense that, well, at a minimum, the Inspector General's
21 office has found it unclear and has had a variant
22 interpretation of it for some time.

1 And in the discussions this morning, we also
2 talked a bit about that there can be confusion in the
3 field over what is a subgrant and what is not. Now,
4 the nature of the rule that will come out could be
5 simply a codification of management's basic position
6 that in turn lays out a series of checklist steps,
7 considerations that tell you whether or not you've got
8 a subgrant or not.

9 So it may not be, ultimately, a substantive
10 change as much as a clarification. That's to be
11 decided as we develop the rule. It's something that
12 seems to -- you know, we just heard the Inspector
13 General say there's a recommendation. This is a way
14 for us to close off the recommendation and perhaps do
15 some good in terms of clarification, at minimum.

16 CHAIRMAN LEVI: Martha?

17 DEAN MINOW: I don't have a strong view about
18 this, but I guess I do tend to think that Father Pius
19 has a point. And I guess I have a question, really,
20 for Jim.

21 Is there a process that LSC itself could
22 engage in that's done in other agencies, federal

1 agencies, which is to produce a guidance or an
2 interpretive ruling so that there is clarity that
3 closes out, resolves, the ambiguity in the field but
4 doesn't require the degree of lift that's involved in a
5 notice and comment rulemaking?

6 FATHER PIUS: I'm fine with the rulemaking.
7 But I don't want to get into the case that every time
8 there's a disagreement over the interpretation of a
9 statute or a rule that we have to go to rulemaking.
10 The Board should be to make authoritative, interpretive
11 decisions.

12 CHAIRMAN LEVI: And Martha's suggesting an
13 alternative way.

14 PRESIDENT SANDMAN: I solicited Vic's advice
15 on this. My goal was just to eliminate the ambiguity
16 for the field. I don't think it's helpful to the field
17 to have our Office of the Inspector General
18 interpreting our regulations in one way and management
19 in another. And whatever the best way of resolving
20 that is, I'm all for it.

21 DEAN MINOW: Well, let me say just one more
22 thing. A rulemaking signifies a plan to change the

1 rules. That's what it means. A rulemaking does not
2 mean, here's our interpretation.

3 Maybe I'm just being very pedantic about it,
4 but that's how we teach it. And I think that it would
5 be actually confusing to the field to notice a
6 rulemaking when our actual plan is to adhere to the
7 existing interpretation recommended by management. So
8 that is my problem with this proposed procedure.

9 MR. FORTUNO: I think that you're absolutely
10 right. And for the record, Victor Fortuno, Office of
11 Legal Affairs. If what we're talking about is simply
12 ratifying the rule or confirming the interpretation,
13 there is, strictly speaking, no need for a rulemaking.
14 That can be done.

15 I think in terms of is there a way of doing it
16 without board involvement, I think the problem right
17 now is that the Inspector General's office has taken
18 the position that our interpretation -- there's
19 something lacking in our interpretation, so that for
20 management to issue something, as in a program letter
21 affirming the longstanding interpretation, may not
22 accomplish much.

1 But if the Board were to do that by
2 resolution, affirm the longstanding interpretation, it
3 seems to me that that would be sufficient.

4 CHAIRMAN LEVI: Well, would the Board like to
5 see, then, a draft interpretive guidance that could be
6 circulated and --

7 MR. FORTUNO: We could certainly do that. I
8 think that if there were going to be a change, then I
9 think, of course, we'd have to go through with the
10 rulemaking. But if it's simply an affirmation of a
11 longstanding interpretation then it can be done by
12 resolution.

13 CHAIRMAN LEVI: Harry?

14 MR. KORRELL: I'd just like to get Charles'
15 reaction to that proposal because I've listened to his
16 presentation and I'm not sure if there's a conflict
17 here or not.

18 PROFESSOR KECKLER: Well, that's not what the
19 Committee considered. That's an alternative, it's just
20 not what the Committee considered. And so that's a
21 separate issue. And you're welcome to table that and
22 the Committee's recommendation, if you would like, and

1 see what comes out of an alternative process.

2 I guess the issue is that I personally -- now,
3 I'm not speaking for the Committee any more -- I
4 personally anyone sure which interpretation, the Office
5 of the Inspector General's or management's, that I
6 fully endorse. I'm still sort of thinking through
7 that.

8 The Inspector General, as part of their
9 comments, has said, look. If somebody gives you a
10 grant and you hand it over to somebody else for doing
11 all the work, that's a subgrant.

12 Now, if you look at other places in the
13 federal world, that is. That's one common definition
14 of a subgrant. And we talked about delegation and
15 things like that, and authority and supervision.

16 So the subgrant rule as it currently exists
17 was designed for legal services. That's what it says.

18 It says it's designed for legal services. On the
19 other hand, we now hand out different kinds of grants
20 in TIG, and we're thinking -- and we're thinking about
21 other kinds of grants.

22 And we're also in a different kind of world in

1 which grants to TIG programs -- technology grants,
2 self-help grants -- it's not just about lawyers and
3 court any more. That's not -- ever since TIG started,
4 at least, that's not entirely what we're about here any
5 more.

6 And so I'm not sure that when I read the
7 subgrant rule as it was drafted more than 20 years ago,
8 when we were just talking about lawyers, that we can
9 confine it to just legal services. That's a concern
10 that I have about updating the rule to represent the
11 kinds of grants and the kinds of things that we do
12 today, at minimum.

13 DEAN MINOW: Of course. That's very well
14 taken. I guess what I understand to be the case is
15 that the reason that the subgranting device is used is
16 that even if the subgrant, as it were, is given to
17 someone who's technologically proficient, unless there
18 are lawyers deeply involved, the design of the project
19 does not work. And that's my understanding of why
20 we're using this process.

21 If there's a different reason, then I think we
22 would have concerns. I guess what troubles me is for a

1 legal services organization to say to the field, we
2 don't know how to interpret the law so we're going to
3 ask the field: Tell us how to interpret the law, that
4 just doesn't seem like it's taking our board
5 responsibility seriously.

6 It sounds like there may be some factual
7 questions that we have to address about how these
8 grants actually proceed, and maybe we need some more
9 fact-finding about that. But ultimately, this is an
10 interpretation for the Board.

11 I haven't heard that there's a dissent. I
12 understand the ambiguity they're raising, but it's a
13 factual ambiguity. It's not about how do you read the
14 rule. And it just seems like an odd use of notice and
15 comment rulemaking. And it says to the field, we don't
16 know what we're doing, and tell us what we think the
17 law is. And that just seems like an odd use when it's
18 really an interpretation.

19 If we're proposing a change in the rule, then
20 we need notice and comment rulemaking. But I haven't
21 heard that anybody's proposing a change in the rule.

22 PROFESSOR KECKLER: The way that we did it in

1 the Committee is that there's a potential change
2 because there's a potential interpretation of the word.

3 And it would be a change from the subgrant rule
4 because the subgrant rule, as LSC has used it, is not
5 the general term "subgrant."

6 Subgrant means legal services in the way that
7 the subgrant rule has been written and defined.
8 There's a general term hanging out there, subgrant,
9 that has -- I don't know if it has a common meaning
10 because I don't think people commonly use the word
11 "subgrant." But there's a meaning of what a subgrant
12 would be in common, ordinary English.

13 And that corresponds to some of the things the
14 Inspector General said. So there's different ways.
15 There's the traditional way that subgrants have been
16 written about in our regulations currently that
17 confines it to legal services. And then there's the
18 word "subgrant" generally.

19 So I think there can be a change because you
20 can say subgrants can be defined by what the grant was
21 for and not for legal services. That's the potential
22 change. But the way that the Committee dealt with it

1 is to say, look. There's some different ways you could
2 go with changing the rule, clarification, elaboration,
3 or some kind of more substantive change. Let's get
4 some concrete language.

5 So there may be a change. But it's not
6 certain that it would be a substantive change rather
7 than a clarification.

8 CHAIRMAN LEVI: Robert?

9 MR. GREY: I enjoyed Father Pius's observation
10 and comment because I think it's an issue of precedent.

11 And if we start down this path, the expectation is
12 that as these issues come up, that that's the way to do
13 it.

14 And when I say that, here's what I'm
15 suggesting, is that there ought to be -- we ought to
16 rule out things before we get to rulemaking because
17 that's the ultimate reflection to the public of what
18 we're doing. And it's sort of like exhausting your
19 administrative remedy.

20 Can we resolve this, I think what Father Pius
21 is saying, through the process that is internal and
22 lessen the burden, as you say, John, reading everything

1 in the Federal Register?

2 But that was not part of this process. And so
3 in the Committee's defense, I think the position was,
4 this was such an important issue and received such
5 scrutiny over the past, that clarification in this
6 case, recognizing the expanded nature in which we were
7 using these processes, was important to get straight
8 and to inform.

9 And this was the highest form of disclosure
10 and of getting feedback that we could get with what is
11 important for this organization to do. Having said
12 that, what I would like -- I mean, I think we are clear
13 about what we want the field to consider in this case,
14 and I think that the process is in place to get that
15 done.

16 I don't see this as being minor, Father Pius.

17 I think this is a significant matter that is not an
18 issue of whether the Board doesn't have the ability to
19 handle this or not. And it doesn't hurt us to do this
20 in this case.

21 But I think what you've done is to strike an
22 important chord of, let's make sure we go through our

1 default mechanisms. Can we do this through a
2 committee? Can we do this through the board? Can we
3 do this through staff analysis?

4 CHAIRMAN LEVI: What we're really doing is
5 sending it back to committee --

6 MR. GREY: Yes.

7 CHAIRMAN LEVI: -- is what you're proposing,
8 to consider this.

9 MR. GREY: And run it through the hoops and
10 make sure that we are doing what we're supposed to do.

11 CHAIRMAN LEVI: And do it quickly.

12 (Laughter.)

13 FATHER PIUS: Charles, I'm sorry. I didn't
14 mean to throw sort of a grenade on this at the last
15 minute. That is not my intention. Because my thought
16 is that the problem seems -- if we say, as a Board, if
17 we clarify this, when you're determining whether this
18 is a subgrant or a transfer, you should treat the TIG
19 grant as if it were being made with general grant funds
20 instead of a TIG grant.

21 That seems we could make that clarification,
22 and that would make this entire problem go away. And

1 we could say, this is where the ambiguity is. This is
2 the way we interpret the ambiguity. And we can go
3 forward.

4 If I'm wrong factually, we can talk about it
5 more. But I'm just giving you my thinking leading up
6 to it, why I think the intention is better, and why I
7 think the Board has a supervisory role not only over
8 management but also over the OIG precisely so we can
9 engage in these interpretive decisions.

10 I don't want to continue argument. I just
11 want to give you -- that's my thought pattern.

12 PROFESSOR KECKLER: That's fine. And we'll
13 accept to table it and send it back to Committee and
14 examine whether, as an organization -- and by this, I
15 include the Office of the Inspector General and
16 management and so on -- whether this can be resolved
17 via something like an instruction or something which I
18 basically never use any more, or some other type of
19 mechanism.

20 CHAIRMAN LEVI: Interpretive guidance.

21 PROFESSOR KECKLER: Interpretive guidance, but
22 I'm not sure whether we have -- what do we call an

1 interpretive guidance around here these days?

2 CHAIRMAN LEVI: But I would ask that the
3 Committee have a telephonic meeting, that the work be
4 done so that we don't drag this out all the way to the
5 next board meeting.

6 PROFESSOR KECKLER: Of course.

7 MR. GREY: Mr. Chairman, does this need to
8 come back to the Board? He's basically saying, tell us
9 which one you think you ought to do and then go do it.

10 (Pause)

11 CHAIRMAN LEVI: I think that's right. So do
12 we have to do that by motion? Or you're just --

13 PROFESSOR KECKLER: Well, the question was --

14 CHAIRMAN LEVI: I think that, actually, Father
15 Pius should move to table this while --

16 PROFESSOR KECKLER: He should move to table.

17 CHAIRMAN LEVI: Yes.

18 M O T I O N

19 FATHER PIUS: I move to send it back to the
20 Committee for reconsideration.

21 DEAN MINOW: I think that's better because if
22 we table, we can't talk about it.

1 CHAIRMAN LEVI: Second?

2 DEAN MINOW: I second it. And I do think one
3 of the weird things about this very interesting
4 organization is that we are, on the one hand, modeled
5 on a federal administrative agency. On the other hand,
6 we're a private nonprofit that has a board.

7 And the board is the boss. And as the boss,
8 we have two potentially intentions and interpretations
9 of our governing statute, and the bosses should figure
10 out what we want to do. If our analogy were a federal
11 agency, it would be what the Secretary does.

12 So we're the Secretary. And at this point,
13 actually, the Committee is the Secretary. So thank
14 you, Charles.

15 (Laughter.)

16 CHAIRMAN LEVI: Any more comment?

17 MR. FORTUNO: So it's remand with
18 instructions?

19 CHAIRMAN LEVI: Yes. All in favor?

20 (A chorus of ayes.)

21 CHAIRMAN LEVI: Opposed?

22 (No response.)

1 CHAIRMAN LEVI: Does that conclude your
2 report?

3 PROFESSOR KECKLER: That concludes the report
4 of the Operations and Regulations Committee.

5 CHAIRMAN LEVI: Happily so.
6 The Governance Committee.

7 DEAN MINOW: Thank you, Mr. Chair.

8 We met and did two basic functions. One was
9 we reviewed the pending recommendations from GAO, of
10 whether there are 17. Of those, nine have been closed
11 by GAO. Two have been recommended by us to go for
12 further closure. Then that leaves six.

13 Of those six, two are awaiting union
14 negotiation. Two are awaiting the implementation of
15 our own strategic plan, but once it is under
16 implementation, that will proceed forthwith.

17 One involves an RFP for a consultant that will
18 help us figure out the internal controls. And the last
19 one is something that we are working on. And so that's
20 the status, and it seems that GAO itself is comfortable
21 with the status of these pending recommendations.

22 The second function that we performed was to

1 engage for the first time, actually, in an oversight
2 and performance review of two officers because a member
3 of our Committee pointed out that we are charged with
4 that particular obligation, even though it had never
5 been performed by the Board before.

6 So we did engage in a review, with the
7 voluntary -- or not so voluntary -- participation of
8 Victor Fortuno and David Richardson, who very helpfully
9 presented self-evaluations and proposals for their
10 goals for the coming year. And I think it was a very
11 productive colloquy.

12 I think that, going forward, the Committee is
13 interested in ongoing discussion with the Board about
14 how best to perform this brand-new function, and also
15 with the President. And it may be the timing of our
16 doing this is a little bit off because we're maybe in
17 the middle of your doing a performance evaluation. So
18 we will continue this conversation over the coming
19 weeks and months.

20 And with that, I have no further report from
21 the Committee.

22 CHAIRMAN LEVI: Thank you.

1 MR. KORRELL: Question for that Committee.

2 CHAIRMAN LEVI: Yes.

3 MR. KORRELL: Has any consideration been given
4 to whether that's an appropriate function of a board
5 committee? It seems like that's -- I don't have a lot
6 of experience with this, but it seems like a board
7 committee participating in or doing its own evaluation
8 of management strikes me as a little meddling.

9 But I wonder whether that's something we've
10 thought about and if management has any views on that.

11 PRESIDENT SANDMAN: I agree that it's unusual.

12 I think the reason we got where we are is because by
13 statute, the Board appoints officers of the
14 Corporation, and both Vic and Dave are officers of the
15 Corporation.

16 And I think inferred from that was the notion
17 that therefore, since only the Board could remove
18 officers, that it would fall to the Board to do the
19 evaluations.

20 But the fact is that in terms of the
21 day-to-day knowledge of what the officers, at least
22 those others other than the President do, I don't know

1 that the Board has the kind of knowledge that you would
2 typically expect an evaluator to have.

3 DEAN MINOW: So for my part, I guess I welcome
4 your question, Harry, and think it deserves some
5 conversation among the Board. We do have language in
6 the statute that has led to this interpretation, so
7 it's not within our purview to ignore it.

8 On the other hand, perhaps there is, going
9 forward, some way in which the Board can supervise the
10 conversation or participate. Just an example, in the
11 discussion with Victor Fortunato, the topic of a legal
12 advisory committee came up, and it may be that that's
13 as good or better a way to perform a supervisory
14 function than it is to engage in a performance review.

15 But I do think that we found something of
16 value in this exchange, and I look forward to further
17 thoughts among board members and with the President
18 about exactly what we should do.

19 It almost the watchword of a nonprofit
20 organization that the Board picks the CEO and the CEO
21 supervises all other staff. That's the structure.

22 CHAIRMAN LEVI: And further, that the Board in

1 some respects get involved in the employment
2 relationship when it starts doing reviews, and
3 potentially can create difficulties both for itself and
4 for management.

5 One of the things that I want to ask, and I
6 know that one of our committees pointed at this, at
7 that mandate. But I think for how many years did we go
8 along as an organization without doing it in this way?

9 So somebody thought that there was a different
10 interpretation that was permissible, and we've taken a
11 different tack. And I'm not sure we like that tack.
12 So I think this is worth discussing here.

13 MS. BROWNE: Well, I think these are good
14 questions that are being raised. And it just seems
15 that the Board could delegate the evaluation process of
16 the officers, such as the general counsel and the vice
17 president for -- comptroller to the President, and then
18 the President could report back to the Board that the
19 evaluations took place. And that might be one solution
20 that we could look at. I think that's a --

21 CHAIRMAN LEVI: I think -- I think you may
22 have hit the solution.

1 DEAN MINOW: I think that's a very good
2 suggestion, and by George, I think we're seeing
3 lawyering happen before our very eyes.

4 (Laughter.)

5 DEAN MINOW: Is there a show or hands, or is
6 the Board comfortable with that as an approach?

7 (Show of hands.)

8 DEAN MINOW: Is the President comfortable with
9 that approach?

10 PRESIDENT SANDMAN: Yes. I'm comfortable with
11 that.

12 DEAN MINOW: I don't know if we need a motion.
13 It's an interpretation of our practice.

14 FATHER PIUS: Just a question. A question
15 would be how would the report, then, occur? There was
16 also some question, I know, about confidentiality,
17 whether that should be done in open session or whether
18 that should be done -- I'm perfectly happy delegating
19 to the President. I think you're right. I think it
20 makes perfect sense. But how should that be reported
21 back?

22 DEAN MINOW: I think that's a great question.

1 I guess I would suggest that in general, we have a
2 yearly moment when the President reports to us about
3 the results of performance reviews of officers. And to
4 the extent that further detail is necessary, we will
5 explore whether that requires an open or closed
6 meeting.

7 CHAIRMAN LEVI: And I think that's the
8 appropriate answer. And I suspect we could -- I don't
9 know why we couldn't actually do this delegation today.
10 Does it have to come through a committee, do you
11 think?

12 PROFESSOR KECKLER: Yes. I don't know
13 that -- we'd have to go back and look at the charter
14 and what we actually put in the charter. It says that
15 we'll --

16 DEAN MINOW: Let's look at it.

17 PROFESSOR KECKLER: The evaluation is in
18 consultation, I think.

19 DEAN MINOW: That's better.

20 PROFESSOR KECKLER: I think it's consultation.

21 DEAN MINOW: Consultation.

22 PROFESSOR KECKLER: Consultation with the

1 President. So we'd have to look at the charter with
2 it. The policy that Sharon put forward could very well
3 be within the realm of the charter in the sense that
4 we're evaluating. It doesn't say that we have to
5 evaluate them live. It says we evaluate them in
6 consultation with the President.

7 The President, we're there consulting with the
8 President about the evaluation of officers, in closed
9 or open session. I'd have to go back and look at the
10 chart, or you may want to look at that. But I think
11 that probably is fine without any action.

12 DEAN MINOW: How about this? How about we
13 assume that that's the case, but the Committee will
14 take one more look at the language and so forth and
15 work it out with the President.

16 CHAIRMAN LEVI: And I'm assuming that there
17 are no further such open meeting reviews contemplated
18 for the next meeting, as far as we know.

19 DEAN MINOW: No.

20 CHAIRMAN LEVI: Is that correct?

21 DEAN MINOW: Right.

22 CHAIRMAN LEVI: Okay. Well, then, I can --

1 DEAN MINOW: It won't interrupt anything.

2 CHAIRMAN LEVI: Then you do not need to
3 resolve this before the next meeting, is what I'm
4 saying.

5 Anything further from your Committee?

6 DEAN MINOW: No, thank you. We're done.

7 CHAIRMAN LEVI: The Institutional Advancement
8 Committee met. We heard a briefing from our outside
9 consultant, Bob Osborne. He is continuing his work,
10 and hopefully will conclude it within the month.

11 The Committee also talked about goals,
12 fundraising goals and kinds of areas in which we could
13 be supportive of legal services without interfering
14 with our grantee programs. And we came up with a list
15 of, I think, appropriate kinds of ideas that many of
16 you have heard, from research to pilot programs.

17 And we are going to, I think, put some of
18 those, or try to put them forth as part of the
19 redrafting of the strategic plan so that the
20 Developments section reflects some of those, although
21 not down to the actual specifics, but some larger
22 discussion of the kinds of things that we would

1 contemplate.

2 Other than that, we don't have any need for
3 formal action. That was the report of the Committee.
4 Did I miss anything?

5 DEAN MINOW: No.

6 CHAIRMAN LEVI: Before we turn to item 16, I
7 just want to say that you hear all of the
8 committees -- I think all of the committees had
9 meetings, with the exception, maybe, of the
10 Institutional Advancement Committee, in between the
11 last board meeting.

12 This is of great value. And all committees
13 were able to complete their agendas without feeling
14 rushed this time, and here we are ahead of schedule.
15 So I think the use of in-between meetings is very
16 important, and it keeps us moving along -- we do have a
17 lot on our plate -- rather than overwhelming the Board
18 or a committee with so much at any particular meeting
19 that it makes it difficult for all committees.

20 So we now have a -- is this for you, Jim, on
21 the designated -- it's just a resolution in front of us
22 to -- John Meyer has been trying to give up this role

1 for how long? But we wouldn't let him when we were in
2 transition. So he served admirably in the role. We're
3 very grateful to him.

4 And I don't know what you'll do in your spare
5 time because it's kept you so busy, but Richard Sloane
6 has agreed to pick up the burden. The resolution is in
7 front of us, and we need to act on it.

8 M O T I O N

9 MS. REISKIN: So moved.

10 CHAIRMAN LEVI: All in favor?

11 DEAN MINOW: Second.

12 CHAIRMAN LEVI: Maybe it needs a motion.

13 MS. REISKIN: I move the resolution.

14 DEAN MINOW: Second.

15 CHAIRMAN LEVI: All in favor?

16 (A chorus of ayes.)

17 CHAIRMAN LEVI: Any other business?

18 (No response.)

19 CHAIRMAN LEVI: Now we have to consider -- oh,
20 public comment. Any public comment? On the line?

21 (No response.)

22 CHAIRMAN LEVI: And now could I have a motion

1 to go into closed session?

2 FATHER PIUS: Is there any other business?

3 CHAIRMAN LEVI: There is no other business.

4 M O T I O N

5 FATHER PIUS: I move that we go into closed
6 session.

7 DEAN MINOW: Second.

8 CHAIRMAN LEVI: The record can show that we're
9 15 minutes, or 10 minutes, ahead of schedule.

10 (Whereupon, at 5:05 p.m., the Board adjourned
11 to Executive Session.)

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