

**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2017**

THURSDAY, MARCH 10, 2016

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:03 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Roy Blunt (chairman) presiding.

Present: Senators Blunt, Cochran, Alexander, Cassidy, Capito, Lankford, Murray, Reed, Merkley, Schatz, and Baldwin.

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

STATEMENT OF HON. JOHN B. KING, JR., ACTING SECRETARY

ACCOMPANIED BY THOMAS P. SKELLY, DIRECTOR, BUDGET SERVICE

OPENING STATEMENT OF SENATOR ROY BLUNT

Senator BLUNT. The Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will come to order.

Mr. Secretary, we are glad you are here this morning and appearing before the committee. You and I just visited and discovered that we both started our post-college careers as social studies teachers. So it is great to have you here and understand that you embody so much about the education system. I think both your parents were teachers. You were a teacher. And I am glad to have you here as Acting Secretary. And Senator Alexander is doing everything he can to remove the “acting” designation, and the Senate will be voting on that I think before too long.

This is your first time in this position before the subcommittee, and we look forward to hearing your testimony.

Also, I think I would be remiss if I did not mention that Tom Skelly—this is his last appearance before the subcommittee. He is retiring this month from the Department of Education after 41 years, including 19 years as the Budget Director. The committee, Tom, thanks you for your years of service and particularly for the technical expertise and responsiveness that you have provided to this committee over that 19 years of doing the job you are doing now. So we are glad you are here.

The Department, of course, funds many critical activities to help students get into college and through college and prepares the next generation of workers for the jobs and careers of the future.

The fiscal year 2017 discretionary budget request for the Department has an increase of 2 percent. I think this is particularly concerning in an overall discretionary budget that increases by \$40 million. The Department's request increases by \$1.3 billion. A lot of that is because there is some reducing of discretionary funding in other areas that are within the cap of this committee, like a billion dollar increase in NIH (National Institutes for Health) research. I do not think that will happen, but we had a chance to talk about it with Secretary Burwell the other day.

Of course, we have lots of shared priorities. I hope we can work together on those priorities.

I am pleased to see your increase in charter schools. I look forward to what you may have to say about that later this morning, knowing that you have some experience there as well.

The significant funding increases for Title I and special education were maintained.

And finally, a Pell Grant increase from \$5,815 to \$5,935. I am sure we will talk about Pell Grants some, including the potential for year-round Pell.

I was disappointed, given the increase in the Department's request, that actually, once again, the budget suggests cutting funds for Impact Aid payments to schools that have significant federally owned land in the school district which, of course, then comes off the tax rolls.

I also continue to question how the Department is managing the servicing of Federal student loans. Specifically, I am concerned how the Department allocates new loans to student loan servicers and appears not to take into account the metrics that the Department has put together regarding the success rate that some servicers have over others.

I am concerned about the Department's increasingly heavy hand in regulating institutions of higher education. We have built a great higher education system in the country, in large part, because the Federal Government, while it has been very supportive of higher education, has until recently never purported to want to control higher education.

Last year, we helped convince the Department to abandon its misguided college rating system. I was glad to see the Department move away from that. However, the Department still continues to move forward with several proposals that would exert unprecedented control over higher education.

The gainful employment regulation has the Department unilaterally establishing significant policy that will impact hundreds of thousands of students. This regulation uses one single metric to measure the quality of higher education programs and will shut down good programs with the bad. You know, we should not judge our education system based purely or even largely on how much a student earns. It is almost antithetical to the idea of higher education. The size of the paycheck does not reflect the quality of education or the contribution to community. Certainly if that were the

case, you and I would not have initially been social studies teachers.

Getting these policies right is difficult. We want to work with you on these policies. I respect the skills and background you bring to the job, and I think we are all eager to work hard to find the things we can do together and talk through the things that we do not agree on. And that is what Senator Murray and I try to do as well. [The statement follows:]

PREPARED STATEMENT OF SENATOR ROY BLUNT

Good morning. Thank you, Acting Secretary King, for appearing before the Subcommittee today to discuss the Department of Education's fiscal year 2017 budget request. There are few people who embody what our education system can mean to children and young adults better than you. This is your first time before the Subcommittee and we look forward to hearing your testimony.

I would be remiss if I didn't mention this is Mr. Tom Skelly's last time appearing before this Subcommittee. He is retiring this month from the Department of Education after 41 years, including the last 19 as budget director. The Committee thanks you for your years of service and for the technical expertise you have provided this Subcommittee in particular.

The Department of Education funds many critical activities to help students get into and through college, and prepare the next generation of workers for the jobs and careers of the future.

The fiscal year 2017 discretionary budget request for the Department of Education is \$69.4 billion, a \$1.3 billion, or 2 percent increase above fiscal year 2016.

My overreaching concern with this request is that the increase of \$1.3 billion for the Department of Education dwarfs the total increase for all of non-defense discretionary spending—which is \$40 million. Further, this increase is only made possible by budget gimmicks within the Department of Health and Human Services budget request, including cutting discretionary funding for the National Institutes of Health by \$1 billion.

We have many shared priorities reflected in the budget request. It is my hope we can work together to identify priorities and find common ground while adhering to budget caps.

I was pleased to see an increase for charter schools, which have been a critical component to ensuring children have access to high quality elementary and secondary schools regardless of where they live. Last year's significant funding increases for Title I and special education were maintained. Finally, the maximum Pell grant will increase from \$5,815 this coming school-year to an estimated \$5,935 next year.

However, I am disappointed, given the large increase in the Department's request that the budget once again cuts funding for the Impact Aid Payments for Federal Property program. That program, like all of Impact Aid, represents a core aspect of the Federal Government's commitment to the parts of the country impacted by the presence of federally-owned land. The Subcommittee has rejected this proposal repeatedly in the past and I am certain we will again.

I also continue to question how the Department is managing the servicing of Federal student loans. Specifically I'm concerned with how the Department allocates new loans to student loan servicers. We should do more to ensure student borrowers have access to the best service possible. I hope we can work together on this issue going forward.

Finally, I remain concerned about the Department's consistently heavy hand in regulating institutions of higher education. We have built a great higher education system in this country, in large part, because the Federal Government has supported it, without trying to control it.

Last year we helped convince the Department to abandon its misguided college ratings system. This was the right decision. However, the Department still continues to move forward with several proposals that exert unprecedented control over higher education.

For example, with the Gainful Employment regulation, the Department is unilaterally

establishing significant policy that will impact hundreds of thousands of students. This regulation is a blunt tool that uses one single metric to measure the quality of a higher education program, and will shut down good programs with the bad. We

shouldn't judge our education system based purely on how much a student earns when they graduate. That's almost antithetical to higher education.

Getting these policies right is difficult. That is why they should be addressed through the legislative process, and not by the Department shoehorning significant changes into longstanding law that never meant to address this specific issue.

Dr. King, while there are clearly issues on which we disagree, I know we both share a strong desire to fund programs that benefit all students and support increased educational opportunities in every State. I look forward to working with you during your first full year at the helm at the Department.

Thank you.

Senator BLUNT. I am pleased to recognize Senator Murray for her opening statement.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you very much, Mr. Chairman.

Acting Secretary King, thank you for being here today and for your work to improve our Nation's education system.

Education is such an important part of building our economy that grows from the middle out, not from the top down. And that is what makes investments in education some of the most important we can make. So I look forward to your testimony and the discussion about the Department's funding needs for fiscal year 2017.

Mr. Skelly, welcome to you as well. I too add my congratulations to you and best wishes, and thank you for all of your service to all of us for so many years.

The Department's budget proposal for programs within this subcommittee's jurisdiction totals almost \$69.4 billion. That is an increase of \$1.3 billion over last year. This increase is really important considering the need to support effective implementation of the bipartisan Every Student Succeeds Act and to make college more affordable and reduce the crushing burden of student debt that is weighing on so many of our families today. This is a critical moment for K-12 education as schools, districts, and States now transition from the broken No Child Left Behind law to our bipartisan Every Student Succeeds Act that the President signed into law late last year. I was very proud to work with Senator Alexander, who is here as well, to find a bipartisan path to make sure all of our students have access to a quality education.

However, our work is not done. The Department needs to use its full authority under the Every Student Succeeds Act to now hold States and schools accountable, reduce the reliance on redundant and unnecessary testing, and expand access to high quality preschool. And Congress needs to provide adequate funding to support the new law, starting with adequate investment in Title I grants, the foundation of our education law.

Half of our Nation's schools and eight out of ten school districts rely on Title I investments. I was very glad that last year, working with Chairman Blunt, we were able to increase Title I funding by \$500 million in the 2016 omnibus. But that increase only brought Title I funding back to its previous level before the across-the-board sequestration cuts of 2013. So, Acting Secretary King, I am pleased to see your budget proposes a further increase of \$450 million in Title I.

However, I am concerned about the budget's proposal to allocate \$175 million of this amount outside of the authorized Title I formulas. Inadequate funding in Title I could mean thousands of

school districts across the country would receive less funding than they did in the prior year. I believe schools can only truly help every student succeed when they have adequate funding.

There are other areas I am interested in hearing more about today, including investments to help students who too often fall through the cracks. More than 35,000 public school students were homeless last school year in my home State of Washington. That is up almost 63 percent since the 2009–2010 school year. I am pleased this budget proposes an increase of \$15 million to help address the education needs of homeless students, bringing the total to \$85 million.

I am also pleased the budget includes \$190 million for the comprehensive literacy development program that I created in the Every Student Succeeds Act.

From higher education, I hear from so many students and families who are struggling with the rising cost of college and student debt. So I am really pleased the budget will increase investments in the Pell Grant program, and it would reinstate the year-round Pell Grants and establish a \$300 Pell bonus for students who are on track to complete their degree program.

It is important to remember the 2-year budget agreement rolled back the automatic cuts and allowed us to restore some key investments, but it did not go as far as many of us had hoped. That means, as it often does, that difficult choices will be unavoidable in 2017. They will just be tougher than last year.

Even so, I believe that this subcommittee can find a way to write a bipartisan bill once again, but doing so depends on this subcommittee getting an allocation that will allow us to make the needed investments in education and medical research and drug treatments, support for working families, and so much more.

I know that Chairman Blunt would like to work on this bill in a bipartisan manner as well, as we have in the past, and build on the progress we have made. So I look forward to working with you, Acting Secretary King, and all of our colleagues here today in the coming weeks and months. So thank you very much.

And I will turn it back over, Mr. Chairman.

Senator BLUNT. Thank you, Senator Murray.

Dr. King, we are ready for your testimony. I am glad you are here.

SUMMARY STATEMENT OF HON. JOHN B. KING, JR.

Dr. KING. Thank you very much.

Chairman Blunt, Ranking Member Murray, and members of the committee, thank you for inviting me to discuss the Department's 2017 budget, the first under the new Every Student Succeeds Act. I look forward to building on our bipartisan collaboration as we implement ESSA (Every Student Succeeds Act) and working to address our biggest challenges in education.

BUDGET PRINCIPLES

Increasing equity and excellence in public education has been my life's work. Before joining the Department, I led the New York State Department of Education and served with Uncommon Schools, a network of high-achieving charter schools. I began my

career as a high school social studies teacher and co-founded one of the highest performing urban middle schools in Massachusetts. I am also the proud parent of two public school students. These experiences inform and inspire every decision I make at the Department.

This year, the Agency is focused on three principles, which reflect the themes in our budget. First, ensuring every child has the opportunity to access a quality education. Second, supporting our Nation's teachers and elevating the teaching profession. And third, improving access, affordability, and completion in higher education. Allow me to take each of these in turn.

The budget invests in programs to increase educational equity, so all children, regardless of background, native language, ZIP code, or disability, can achieve their full potential. For example, the budget ensures our youngest learners get a strong start in school through President Obama's landmark Preschool for All initiative. In addition, the HHS (Department of Health and Human Services) budget increases funding for the jointly administered Preschool Development Grants program.

To help close opportunity gaps, the request provides \$15.4 billion for Title I grants, the cornerstone of the Federal effort to ensure all students, especially our most vulnerable, graduate from high school prepared for college and careers.

The Computer Science for All grant proposals in the budget would advance comprehensive State and local efforts to offer rigorous coursework to all students with a focus on those who have been under-represented in the STEM (science, technology, engineering, and math) fields.

The budget would also increase support for community efforts to improve the educational and life outcomes for children and youth by increasing funding for the Promise Neighborhoods program, and through the Stronger Together program, we would help local leaders create more high-achieving socioeconomically diverse classrooms and schools.

Recognizing that educators are nation-builders and vital to our children's success, the budget invests to recruit, develop, support, and retain outstanding teachers and school leaders. The Teacher and Principal Pathways program would strengthen our pipeline of effective educators, while Teach to Lead grants would capitalize on teachers' leadership, helping them realize their ideas for education improvement. And to help educators advance through every phase of their careers, the budget supports innovations in human capital management systems for districts and schools in through the Teacher and School Leader Incentive Fund.

We also are proposing RESPECT: Best Job in the World to rethink the best ways to structure teaching in high-need schools to attract and retain effective teachers where we need them most.

MAKING HIGHER EDUCATION MORE AFFORDABLE

The programs in our 2017 budget also would make higher education more affordable and help additional students earn degrees. America's College Promise would make 2 years of community college free for responsible students, an idea that is proving its potential in communities from Tennessee to Long Beach, California.

This budget would also drive innovations in Pell Grants by supporting students who take classes year-round, rewarding those who take at least 15 credits per semester and rewarding institutions with high enrollment and completion rates for Pell Grant recipients.

While this budget is focused on helping to meet challenges in education, I also want to acknowledge our country's remarkable gains. High school graduation rates are at an all-time high and dropout rates are decreasing. We have seen the largest and most diverse class completing higher education in our history. And the numbers of African American and Latino students enrolling in college are up by more than a million since 2008.

This budget leverages local leadership, the source of strength for our Nation's education system, to help more students thrive from preschool through college. We are committed to using and developing evidence and data to maximize results for students and taxpayers. To accomplish this, we propose significant investments in evidence-based and innovative initiatives, including the Education Innovation and Research program, First in the World, and an HBCU and MSI Completion Innovation Fund.

I have met countless students who know that thanks to the educators in their lives, their destiny will not be determined by where or the circumstances into which they were born. The Department's 2017 budget would support local and State-led efforts to ensure in every community and in every school, students know that their education can provide them with the knowledge and skills to achieve their greatest aspirations.

I look forward to discussing these ideas with you in more detail and would be glad to answer your questions. Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. JOHN B. KING, JR.

Chairman Blunt, Ranking Member Murray, and Members of the Subcommittee: I am pleased to testify today on behalf of the President's 2017 budget request for the Department of Education. The overall discretionary request for the Department is \$69.4 billion, an increase of \$1.3 billion, or 2 percent, over 2016. The 2017 Budget builds on our progress and reflects key developments over the past year, most significantly, enactment of the bipartisan Every Student Succeeds Act (ESSA).

INTRODUCTION

As this is my first appearance before this Subcommittee, please allow me to introduce myself. I have dedicated my life to education largely because education saved my life. Both of my parents were career New York City public school educators. To this day, they inspire me to serve, but I lost them both by the time I was 12. As I have said before, my life could have easily taken a wrong turn at that point. Instead, New York City public school teachers gave me hope and purpose. They set me on the path to where I am today.

Prior to joining the Department in 2015, and becoming Acting Secretary this year, I served as Commissioner of the New York State Department of Education. Before that, I was a Managing Director of Uncommon Schools, which today manages public charter schools serving low-income students in Boston, Newark, Camden, Brooklyn, Rochester, New York City and Troy, New York. I also was a co-founder and principal of Roxbury Preparatory Charter School in Boston, which became one of the highest-performing urban middle schools in Massachusetts. And, I began my career as a high school social studies teacher in San Juan, Puerto Rico and Boston, Massachusetts.

PRESIDENT OBAMA'S 2017 BUDGET REQUEST

This 2017 Budget Request focuses on three major priorities: (1) advancing equity and excellence for all students; (2) expanding support for teachers and school leaders; and (3) improving access, affordability, and student outcomes in postsecondary education. The Department also makes a commitment throughout the budget to promoting greater use of evidence and data to maximize results for students and taxpayers.

SUPPORT FOR THE EVERY STUDENT SUCCEEDS ACT

With the enactment of the ESSA in mid-December, the Administration worked hard to align the 2017 Budget with the reauthorized ESEA and to allocate resources to support the new law's focus on education equity, support for teachers, and well-rounded instruction. We are pleased that the ESSA embraces many reforms the Administration has long supported, including State-defined college- and career-ready standards, accountability for the success of all students, innovation in education, and expansion of high-quality preschool. The Budget provides robust funding for core components of the reauthorized ESEA to advance equity and excellence and support great teachers and school leaders.

ADVANCING EQUITY AND EXCELLENCE FOR ALL STUDENTS

The first major priority in the 2017 request is to ensure all of our young people, and particularly students from low-income families and students of color and those in high-poverty schools who are the focus of the ESSA, have the chance to learn and achieve. While we have made significant progress in increasing overall graduation rates, gaps for students from low-income families and students of color continue to persist. We must close these gaps, and one way to do so is to increase resources for key programs that support students who need the most help to meet challenging State academic standards. To help close our current resource and opportunity gaps, the 2017 request provides \$15.4 billion for Title I Grants to Local Educational Agencies (LEAs)—the cornerstone of the Federal effort to ensure that all students—including students from low-income students, students of color, students with disabilities, and English Learners—graduate from high school prepared for college and careers.

The request provides \$12.8 billion for Individuals with Disabilities Education Act (IDEA) Formula Grant Programs, to assist States in providing high-quality early intervention services to infants ages birth through 3 and their families, and help States cover the excess costs of providing special education and related services to children with disabilities ages 3 through 21. This includes a combined increase of \$80 million over 2016 enacted levels for IDEA Preschool Grants (Part B, Section 619) and Grants for Infants and Families (Part C).

The President's Budget also supports expanded access to high-quality preschool for all children from low- and middle-income families by providing \$1.3 billion in mandatory funding in 2017 and \$75 billion over 10 years for the President's landmark Preschool for All proposal, along with \$350 million for the reauthorized Preschool Development Grants program, an increase of \$100 million over the 2016 level, in the Department of Health and Human Services request and jointly administered with the Department of Education. We also would significantly increase support for State and local efforts to meet the educational needs of English Learners in public schools through an \$800 million request for English Language Acquisition formula grants.

I am proud that our 2017 budget also includes new resources for school districts ready to take bold action to address equity gaps in their schools and communities. First, we are asking for \$120 million to fund a new Stronger Together program that would support voluntary efforts by one or more school districts, guided by strong community input, to increase socioeconomic diversity in their schools. Research shows that States with more socioeconomic segregation in schools tend to have larger achievement gaps between low- and higher-income students, and socioeconomically diverse schools can lead to improved outcomes for students. Stronger Together would provide resources to communities that want to explore options for putting research into practice. Such plans could incorporate ongoing efforts of this Administration to invest in diverse, high-quality magnet and charter schools, as highlighted in the budget proposal. Several school districts and communities are already developing innovative diversity initiatives to improve student achievement, and with additional resources, these efforts could be scaled up and serve as models.

The Budget would include \$128 million—a \$55 million increase—for Promise Neighborhoods. This increase would support up to 15 new awards to local partner-

ships to implement comprehensive, neighborhood-based plans for meeting the cradle-to-career educational, health, and social service needs of children and families in high-poverty communities.

Another groundbreaking proposal is our Computer Science for All initiative. This proposal—\$2 billion in mandatory funding in fiscal year 2017 and \$4 billion over 3 years—would support efforts in all 50 states to expand access for all students to computer science instruction and programs of study. The budget also includes \$100 million in discretionary grants for Computer Science for All Development Grants for school districts that recognize the power of computer science to engage students in preschool through grade 12 in real-world computer programming and related skills in conjunction with other rigorous coursework, including STEM fields in which students from low-income families and students of color traditionally are underrepresented. Every year, increasing numbers of STEM-related jobs are created that require workers with backgrounds in computer science education, but too few school districts offer these courses, especially in high-poverty schools. The grants proposed in our Budget would focus on identifying and testing computer science instructional models that expand access to these opportunities for all students, but particularly for high school students in underserved communities, including in urban and rural areas.

In addition, the Budget includes a proposal for Next Generation High Schools, which would promote the whole-school transformation of the high school experience in order to provide students with challenging and relevant academic and career-related learning experiences that prepare them to transition to postsecondary education and careers. This program would provide students with the academic foundation and skills they need to be successful, ensuring that all students in redesigned high schools participate in project- or problem-based learning and have the opportunity to earn early college credit, and engage in experiences or postsecondary learning opportunities that build career-ready competencies. Accomplishing these goals will help improve longer-term outcomes for high school students, including increased high school graduation rates, higher rates of enrollment in postsecondary studies without the need to take remedial courses, higher postsecondary completion rates, and higher rates of completion of industry-recognized credentials and certifications.

The Budget also includes \$138 million, an increase of \$31 million over the 2016 enacted level, for more vigorous enforcement of our Nation's civil rights laws by the Department's Office for Civil Rights, which ensures equal access to education. The Office of Civil Rights has been actively protecting the rights of all students through comprehensive strategies that include, among others, efforts to eliminate racial disparities in school disciplinary practices and procedures, and the enforcement of protections against bullying and harassment and sexual assault on college campuses.

Finally, the Budget includes \$500 million for the newly authorized Student Support and Academic Enrichment block grant, nearly twice the amount appropriated in 2016 for the antecedent programs. These funds can help expand course offerings across a range of areas, such as STEM and the arts, and bolster student achievement through such activities as mentoring or school counseling and expanding digital learning opportunities. Within the discretionary caps, we were unable to fund this new block grant at the fully authorized level, and thus have proposed that States have broader flexibility in how to target these funds to ensure that the funds provided to LEAs are robust enough to make a meaningful impact on students.

EXPANDING SUPPORT FOR TEACHERS AND SCHOOL LEADERS

A second area of focus in our 2017 request is to provide support for teachers and leaders who are doing the daily work of implementing new college- and career-ready standards and aligned assessments, and turning around our lowest-performing schools. If we want all students to succeed, we must provide teachers with the preparation, support, opportunities for leadership, and autonomy they need to be effective in the classroom and to want to remain in the field. And we need to prepare, attract, and keep school leaders of diverse backgrounds who can create school cultures that bring out the best of students and staff in a climate that supports growth and learning for all.

Our 2017 request proposes significant new resources to help ensure that all students have access to effective teachers and leaders and new opportunities for teachers to shape our approaches to improving student outcomes. First, our \$1 billion mandatory RESPECT: Best Job in the World program would support the redesign of an estimated 200 high-need schools to create models that transform these schools into the best places to advance a career in education and thereby attract and retain talented and effective teachers and school leaders. For new and continuing competi-

tive grant programs for teachers and leaders that span preparation, development, and retention, we request \$525 million, an increase of \$142 million over 2016. For example, the budget includes \$250 million for the Teacher and School Leader Incentive Grants program—the reauthorized version of the Teacher Incentive Fund—to support continued innovation in the area of robust human capital management systems that help school districts and schools recruit, develop, support, retain, and advance teachers through every phase of their careers. We also would strengthen the pipeline of effective teachers and principals through a new \$125 million Teacher and Principal Pathways program, which would make competitive grants to institutions of higher education and other nonprofit entities to support the creation and expansion of high-quality teacher and principal preparation programs. In addition we fund Title II–A at \$2.25 billion in formula funds. Finally, to attract the next generation of talented educators, we propose to streamline and expand the current postsecondary assistance available to teachers into one program that will provide up to \$25,000 in loan forgiveness for serving in a high-needs school.

IMPROVING ACCESS, AFFORDABILITY, AND COMPLETION IN POSTSECONDARY EDUCATION

Higher education is one of the clearest paths to the middle class. At a time when jobs can go anywhere in the world, skills and education will determine success for individuals and for nations. Yet, far too many students do not go to college, or never complete their degree; we used to be first in the world in college completion, and now we are 13th. Our budget request builds on the Administration’s efforts to make college more affordable and accessible while putting forward important new initiatives to promote college completion. We must shift incentives at every level to focus on student success, not just on access. Students who do not complete their degrees are less likely to succeed in the workforce and have student loan default rates that are, on average, three times higher than those who graduate. Further, we know that taking a full course load helps students finish on time, at a lower cost and likely with less student debt, saving them both time and money.

The request dedicates \$188 billion to Federal student aid in fiscal year 2017, including \$31 billion to Pell Grants and over \$155 billion to student loans, benefiting more than 12 million students. The request expands the Administration’s signature initiative, America’s College Promise, which would support 2 years of free community college for responsible students, who get good grades and stay on track to graduate, as well as up to providing 2 years of college at zero or significantly reduced tuition to first-time, low-income students at 4-year Historically Black Colleges and Universities (HBCUs) and Minority-Serving Institutions (MSIs). We are also proposing a new \$30 million HBCU/MSI Innovation for Completion Fund competitive grant program to foster innovative and evidence-based, student-centered strategies and interventions to increase the number of low-income students completing degree programs.

The Budget proposes two initiatives totaling \$2 billion in Pell Grants for the 2017–2018 award year to help students accelerate progress toward their degrees by attending school year-round and encouraging students to take more credits per term, increasing their likelihood of on-time completion. The first initiative, Pell for Accelerated Completion, would allow full-time students the opportunity to earn a third semester of Pell Grants in an academic year, enabling them to finish faster by taking additional courses year-round and better meeting the diverse needs of today’s students. The second initiative, On-Track Pell Bonus, would create an incentive for students to stay on track or accelerate their progress towards a degree through a \$300 bonus, effectively increasing the Pell Grant maximum award to \$6,235, for students who take 15 or more credits per semester in an academic year, which is the course load typically needed for on-time completion.

Research published in 2013 from the RAND Corporation suggests that inmates who participate in correctional education programs are not only 43 percent less likely to recidivate but also 13 percent more likely to obtain employment post-release. Accordingly, we propose expanding postsecondary opportunity to incarcerated individuals eligible for release through the Second Chance Pell proposal that would restore their Pell eligibility with the goals of helping them get jobs, support their families, turn their lives around, and strengthen their communities.

Finally, the Administration is re-proposing other key initiatives, including rewarding colleges that successfully enroll and graduate a significant number of low-income students on time; further simplifying the FAFSA; permanently extending inflationary increases of the maximum Pell grant award; redirecting campus-based programs to target institutions that offer affordable and quality education and training; reforming and streamlining income-driven repayment plans to simplify borrowers’ experience and allow for easier selection of a repayment plan, while reduc-

ing program complexity and better targeting of benefits; strengthening teacher loan forgiveness; and protecting students and taxpayers from predatory colleges that are not delivering the high-quality education that students—and taxpayers—deserve.

PROMOTING GREATER USE OF EVIDENCE AND DATA

Over the last 7 years, we have pioneered efforts that encourage grantees and practitioners to use evidence of what works in education in ways that can improve student outcomes. Programs such as Education Innovation and Research and First in the World (FITW), which includes a 30 percent set-aside for HBCUs and MSIs, will continue to scale up the use of evidence-based grant-making. Further, a focus on evidence and data also can be a powerful tool to advance equity. For example, under our new Federal education law, the ESSA, States will establish new accountability systems that will include indicators of success that reflect a broad picture of how schools are serving all children, and not just in academics. States could decide to look at information about students' socioemotional growth, for instance, and whether schools are helping children develop skills like resilience and the ability to effectively collaborate with peers.

This Budget continues that commitment to improving student outcomes by increasing funding for programs that provide additional resources for interventions that either are based on evidence of success, or help build evidence of what works in education. The Budget strongly funds the infrastructure for evaluation within the Institute of Education Sciences, requesting \$209 million for the Research, Development, and Dissemination program, \$125 million for the Statistics program, and \$81 million for the Statewide Longitudinal Data Systems program, with a particular focus on using data at the local level. These requests will enable the collection of critical information, and help us disseminate this evidence of what works to policymakers and practitioners to empower them to improve student learning and narrow achievement gaps.

Our request also includes \$15 million to support InformED, which builds on the success of the new College Scorecard by making the Department's data and research across the education spectrum, including data and research on a wide range of issue areas for students at the Pre-K through college levels, more available—and actionable—for internal users and for the public. The 2017 Budget will help build new infrastructure to manage the collection, quality, release, and analysis of these data in innovative and effective ways.

CONCLUSION

In conclusion, our 2017 request reflects the President's determination to make the investments necessary to expand educational opportunity, position our children for success, and promote economic growth and global competitiveness. I look forward to working with the Subcommittee to secure support for the President's 2017 Budget for education, and I look forward to your questions.

Senator BLUNT. Thank you, Mr. Secretary.

We have votes scheduled at 11:30. I think if we all stay close to a 5-minute round of questions, we can get that done by 11:30.

The order I have, after Senator Murray and me, are Cochran, Baldwin, Alexander, Schatz, Lankford, Merkley, Cassidy, and Capito, and then whoever comes in. And we will probably have other people attend.

RESOURCES FOR MENTAL HEALTH SERVICES

Mr. Secretary, on mental health services, we were able to put money in the 2016 budget that gives you and the Substance Abuse and Mental Health Services Administration some opportunities to look at areas like Baltimore and Ferguson, Missouri, that had substantial community unrest and look for what we might do additionally in the school building itself to provide some mental health assistance. How is that beginning to—what path forward are you seeing happen there with you and SAMHSA (Substance Abuse and Mental Health Services Administration)?

Dr. KING. I appreciate the question. It is very important that we provide additional resources in schools where students are struggling with the impact of events like those in Ferguson and Baltimore. We are in the early stages of developing the grant process that will allow us to award funds to communities that have had these challenges. We also want to work with those communities to provide technical assistance so that they can leverage existing funding streams, like Titles I and IV, to support the sort of school-based counseling and mental health services that are essential for those students.

Senator BLUNT. Well, as you know, kids who are victims of violence, witnesses of violent acts, surrounded by violence, and have lots of things going on that make it hard to focus on the things that they otherwise would hopefully be focused in school. So I am very interested, and I know the committee is, on what you are doing there and the framework you are putting together to create this new opportunity.

CHARTER SCHOOLS

On charter schools, you have had a lot of experience with charter schools. You were the Managing Director of Uncommon Schools, a charter management organization in New York, New Jersey, and Massachusetts. Also, you have public school experience. What do you think charter schools add to the public school opportunities?

Dr. KING. We think charters are an important part of the public education landscape. Certainly the schools that I was associated with are demonstrating that with the right set of supports, high-needs, low-income students can excel. We see all over the country examples of high-performing charters that are implementing strategies like a longer school day, more intensive professional development for teachers, wraparound services, and other strategies to try and support their students' success.

We worry, on the other hand, that there are charters that are under-performing, and I think one of the critical elements in the success of the charter effort is quality authorizing. And so the Charter School Grant program is a very important part of that, helping authorizers continue to improve their practice so that they are replicating high-performing charters and taking action to close charters that are not fulfilling the responsibilities of their charter agreements.

Senator BLUNT. You know, in St. Louis and Kansas City, both, we have a significant number of charter schools. We had a few of those schools that did not perform at a level that they needed to. But generally, the schools that have performed have more and more competition of people who want to be part of the lottery to get in.

IMPACT AID

On the Impact Aid topic, I am not going to say a lot about that, but where there is substantial Federal land in a school district, usually that means you have longer bus routes, you have lots of things going on because of the geography that you have to deal with that is under Federal control. And you also clearly take all of that land off the tax rolls. Cutting funding to Impact Aid is an an-

nual submission on the part of the Department, and it is an annual rejection by the committee. We are not going to cut funding this year. And maybe that is all that needs to be said there.

STUDENT LOAN SERVICING

On student loan servicing, talk to me about this a little bit. I know you have gone to great detail to put metrics together, to look at which servicers appear to have fewer students who are not able to pay back loans the way we had hoped students would be able to. But that does not seem to have anything to do with how you allocate new loans to be serviced by organizations.

Dr. KING. As was required in the 2016 budget, we actually have a new allocation for the servicers, the TIVAs, and the not-for-profits for the next few months, through September based on our existing metrics.

But our key concern is to make sure that servicers are doing a good job by students. We do have some concerns that our existing metrics do not necessarily account for the difference in the types of loans that have been managed by the TIVAs as opposed to the not-for-profits. And so as we move towards September, we are working to try and refine those metrics and certainly will be eager to get input from all of you and from your staff and from the private sector on how we ensure that the metrics are as fair as possible to borrowers. We want to make sure that the loans are distributed in a way that reflects best service to borrowers.

Senator BLUNT. Borrowers, taxpayers, and future students who benefit from those revolving funds all need to be considered here. I think you are telling me that you are looking at the metrics you have now put together. You are looking at the loans that are behind those metrics, and hopefully the metrics will matter. And maybe your loan mix is something you want to look at.

Senator Murray.

REFUNDS TO MILITARY BORROWERS

Senator MURRAY. Thank you very much, Mr. Chairman.

Dr. King, I, as you know, have been pushing the Department for some time now to make sure that the Federal student loan servicing quality reaches the highest standards of customer service and complies with the law.

Last week, as you know, in response to a review I and other Senators requested, the Inspector General reported that the Department's review of servicers' compliance with the SCRA (Servicemembers Civil Relief Act) followed a deeply flawed methodology and papered over mistreatment of military borrowers.

Now, we talked about this, and I am really pleased the Department has committed to refund all of those military borrowers for the money that they were overcharged, correcting the most disturbing finding in that IG's (Inspector General) report, but remain troubled that they occurred in the first place and that a valid review of compliance with the SCRA still has not been conducted. Our veterans, our students, our families deserve better.

And I wanted to ask you what is now the timeline for issuing those refunds to our military borrowers.

Dr. KING. I share your concern about this issue. I want to make sure that we protect our military borrowers.

As you indicated, since 2014, we have used a data match system from the Department of Defense that has allowed us to provide the benefit to all eligible borrowers. We have acted now to have the servicers go back and apply that data match system to all borrowers from 2008 to 2014 to ensure that any borrower who would have benefited from this benefit has that opportunity, whether they applied for it or not.

Our next step is to conduct a new review, informed by the findings of the Inspector General's report. We will launch that new review shortly, guided by the Inspector General's recommendations on methodology. And that review will then help us decide next steps with the servicers with respect to what happened prior to 2014.

Senator MURRAY. So when do you actually expect those refunds to be issued to the borrowers themselves?

Dr. KING. So we expect the refunds to come quite quickly. We will go year by year, working with the Department of Defense, on this data match. So we hope that that will happen in short order, and then we will conduct this additional review as well.

Senator MURRAY. Well, going forward, you and I are going to have many discussions about how we make sure that student loan borrowers are well served and this does not happen again and benefits are not denied to our military or anyone.

LOAN SERVICING OVERSIGHT

But I wanted to ask you, following up on the chairman's question. Earlier this year, the Office of Federal Student Aid established a new student aid enforcement unit to carry out, among other duties, loan servicing oversight. Your budget requests additional resources for that new unit, and I understand you are planning to announce a major recompetition of the Federal loan servicing contracts soon.

Can you tell me how loan servicing oversight will work better under the new servicing contracts and actually when you plan to announce that?

Dr. KING. We expect to announce the first stage of the new loan servicing procurement hopefully by the end of the month, perhaps early next month.

Our hope with that procurement is to build in best practice in servicing. We have spent a significant amount of time gathering information from other agencies, gathering input from stakeholders to try to ensure that the expectations for the servicers reflect the highest standard for service to borrowers and also to make sure that the procurement process protects the interests of taxpayers.

We expect to launch that shortly. I think it will result in improved servicer quality, but also we take very seriously our responsibility to conduct servicer oversight. That is an important function of the Department, and we have got to make sure that the servicers hold to the requirements of the new contracts.

COLLEGE AFFORDABILITY

Senator MURRAY. Switching topics really fast. College affordability, an issue I hear from absolutely everyone. And I have actually used my HELP website now to ask for stories from students and families about their struggles to pay for college. I have been overwhelmed by the stories that have come to me.

I had a young man named Brian from my State. He said he had to help pay for college. He applied for scholarships. He found part-time jobs, and of course, he had to take on student debt. He is now a high school teacher. He is struggling. He told me he makes the minimum payment only on his loans, and he, quote, lives with a daunting umbrella of student debt weighing on him.

You know, the yearly costs of tuition and room and board at public 4-year institutions is now actually five and a half times what it was in the early 1980s.

So the Pell Grant maximum award now only covers 30 percent of the average college costs and overall nearly 42 million Americans hold more than \$1.3 trillion in student loan debt.

I wanted to ask you how your budget proposal actually helps strengthen the Pell Grant program for the long term and help us improve access to college.

Dr. KING. Yes. This is a hugely important issue. We worry tremendously about the student debt crisis.

One of the key factors driving the debt crisis for students—or two of the key factors. One is managing their debt. Two is folks who have debt but do not actually have a degree because they started school but did not finish, and then they are trapped in a cycle where they cannot pay back their debt because they do not have a good job, because they do not have a degree, and they cannot go back to school.

Our budget proposal focuses on both issues. We call for streamlining the income-based repayment programs so that we can make sure that folks can manage their debt effectively and cap their payments at 10 percent of their discretionary income.

We call for improvements to Pell, including allowing students to access summer Pell and year-round Pell so that students can stay on track to graduation. There is good evidence that that helps students stay on track.

We include Pell bonus that incentivizes and rewards students who take 15 or more credits each semester because there is good evidence from around the country that higher education institutions that have focused on 15 credits per semester have seen significant improvements in their completion rates.

We build in an incentive for institutions because we think it is important that institutions see completion as their responsibility, and we want to reward institutions that are doing a good job for completion for Pell students.

We call for indexing Pell to inflation beyond 2017. We think that is hugely important.

AMERICA'S COLLEGE PROMISE

And the President's America's College Promise proposal, which focuses on 2 years of community college tuition for responsible stu-

dents, does so in a way that would require significant State investment. I think one of the key factors driving the change in cost for students is that many States have disinvested from public higher education. The America's College Promise program is designed in a way that would incentivize State investment.

Senator MURRAY. Thank you.

I have gone way over my time. I apologize.

Senator BLUNT. Thank you.

The chairman of the full committee, Senator Cochran.

Senator COCHRAN. Mr. Chairman, it is a pleasure to welcome the distinguished Acting Secretary to be here today to talk about his plans for carrying out legislation that Congress has recently adopted at the request of Senator Alexander, who has spent a lot of time on evidence-based strategies to improve student outcomes.

What is your reaction to this framework of Federal suggestions, in effect, to meet the challenges that are presented to our underserved and smaller school districts that are scattered around States like mine where most of the people ride the buses to school? "Busing" is not a bad word. If it were not for busing, I do not know what our schools would do. But we want to be sure that we do attract the best teachers and we encourage students in the most cost-effective way to get a good education and to help contribute to continued growth in our economy and the quality of life of our American citizens.

OPTIMISM REGARDING THE EVERY STUDENT SUCCEEDS ACT

Dr. KING. Absolutely. We are very optimistic about implementation of the Every Student Succeeds Act. We think it strikes the right balance, allowing State and local flexibility while maintaining important Federal civil rights guardrails. We think there is an opportunity for States and districts to do a better job leveraging evidence to drive their interventions when schools are struggling.

There is an opportunity for schools to broaden the definition of school quality. One of the challenges of the No Child Left Behind Act you often saw was a narrowing of the definition of school quality to just English and math performance. English and math performance are hugely important, but so too are science and social studies and access to art and music and access to advanced placement courses. And so we are optimistic about the work ahead.

Senator COCHRAN. Thank you.

Senator BLUNT. Senator Schatz.

COLLEGE ACCREDITATION

Senator SCHATZ. Thank you, Mr. Chairman.

Secretary King, glad to have you here.

I wanted to ask you about the accreditation process for higher education institutions. As you know, in 2014, there was a GAO (Government Accountability Office) study that showed that around 1 percent of those who were going through the accreditation process actually lost accreditation. You know the data, but I will just give you a quick data point. We have at least \$10 billion going to for-profit institutions that have graduation rates of less than 10 percent.

And I am wondering whether you think we are accrediting the right percentage of institutions or whether—I mean, it seems to me that given what the DOE (Department of Education) is doing in the space of cracking down on malfeasance, that there is another part of the Department of Education that does not seem to be caught up with your overall policy on this, and that is accreditation.

Now, I think some of it is the ecosystem that we have set up over time where the accreditation agencies are actually overseen by boards of directors that are populated by the heads of the institutions that are subject to the accreditation. I think there are a number of statutory and sort of institutional process things that need to change over time.

But I want you to tell me what you think is happening on the accreditation side and what needs to happen next.

Dr. KING. I appreciate the question. We are very worried about accreditors. You know, my predecessor, Secretary Duncan, I think referred to them as the watch dog that does not bite. Accreditors have not, in our view, done enough to ensure that higher education institutions are serving their students well and getting their students to graduation with a degree that allows them to be successful in the 21st century economy.

We have a number of initiatives around increasing transparency around accreditors and showing that they share with the public more of the information about the process that they have in place. We have asked accreditors a series of questions around their practices, particularly with respect to schools that have very poor graduation rates and poor student outcomes.

We are committed to using our existing authority to try to strengthen the process, but we think there is a need for a statutory change here as well. And we would be happy to work with you and your staff on that. We think it would be better if there were a clearer line from accreditors to the Department on issues of accountability for student outcomes.

Senator SCHATZ. Well, we will work with you on legislation. I know it will not be easy and it will not be instantaneous. And I think if you can keep the push—continue to push on your side within the existing statutory authorities, we will be able to work together on this.

PELL GRANT INCENTIVES

I wanted to ask you about this bonus for taking 15 credits. The University of Hawaii has a great program, 15 to Finish. And their metrics are incredibly encouraging over a relatively short period of time. So I like the idea. I am not persuaded that a \$300 bonus is sufficient to incentivize somebody to make the right set of choices, and I am not persuaded that if you are 18 years old and you are told you get the full Pell Grant amount for 12 credits, that you are not just going to go ahead and take the 12 credits and pull down the full amount. And very few college counselors are actually telling the kid, by the way, if you do the 12 credits, you are in for 6 years.

And so I wanted you to articulate, first of all, what the overall problem is, but I am more interested in whether you actually think that this 300 bucks is going to make a difference.

Dr. KING. I appreciate the question.

The University of Hawaii's work on this is excellent. And I think what you see at the University of Hawaii is two things. One is focusing the students on the benefits of taking 15 credits, but also the institutional focus that has allowed them to look at questions like whether or not students can take all of the classes that they need to for their majors the way their schedule is currently structured. So I think it is really an institutional culture question as well as a matter of incentives for students.

We do think the \$300 will help focus students' attention, but we do not think that alone is enough. That is why we also propose the institutional bonus for completion rates because we think higher education institutions need skin in the game around completion outcomes.

It is also why we proposed funding for First in the World, \$100 million to continue a competitive grant program that is focused on building an evidence base around the kinds of supports that help institutions of higher education improve graduation rates.

Your point about counseling is exactly right. What we are seeing with the First in the World grantees is where schools put in place high-quality counseling, helping students navigate which credits to take, which classes, how to use their time, what to do when they are struggling in a class, we see improved completion outcomes.

Senator SCHATZ. Thank you.

Senator BLUNT. Senator Alexander.

Senator ALEXANDER. Thank you.

Dr. KING. Mr. Skelly, I remember seeing you at the Department when I was Secretary. I think we worked together some years ago. Congratulations on your service.

RISK MANAGEMENT STRATEGY

Dr. King, following up on Senator Schatz's point, 3 years ago Senators Mikulski and Bennet and Burr and I asked a broad group of higher education people to give us specific recommendations about how we could cut through the so-called jungle of red tape that unnecessarily interferes with the wise use of the money they have. And they gave us a really good report. Working with Senator Murray on our committee, we are trying to identify maybe 3 dozen of those that might be a part of a reauthorization of higher education or some version of it. But the leaders of that committee, Chancellor Kirwan, Chancellor Zeppos from Maryland and Vanderbilt met with Arne Duncan and gave him a list of several ideas, some of which among the top 10 of the 59.

Now, I want to ask you about one of those, which is not something you can do, but relates to Senator Schatz's question. One of the recommendations was that we allow accreditors—and this will take a change in law—to spend more time on a for-profit school with problems and less time on Harvard or UCLA in their accrediting process, in other words, risk-adjusted approach. Does that not just make common sense?

Dr. KING. We would certainly be happy to work with you on a risk management strategy for accreditors.

Senator ALEXANDER. But they have 6,000 institutions to accredit. It does not make any sense to me that you would spend the same

amount of time on a well functioning university that everybody regards and the same amount of time on an institution that is in a lot of trouble and everybody knows that too. So you may be able to effect that. We may be able to effect that through legislation.

FAFSA SIMPLIFICATION

Here is another suggestion they made. This is the application form that 20 million families fill out every year for student aid, 108 questions, very intimidating, discourages a lot of students. Senator Bennet and I and Booker and Burr suggested it be two questions because that is the testimony we heard from almost everybody. The President has said that he likes going from 108 questions to as close to 2 questions as we can. His budget for the last 2 years has said there are 30 questions that he could take off that 108. Can you tell us—not today, but will you tell us what those 30 questions are so we can at least go from 108 to 78 and then go more rapidly toward two as we can?

Dr. KING. Absolutely. And one promising step, as you know, is that we are allowing, beginning next year, folks to use the prior year tax information, which both satisfies the report and also will simplify this process.

Senator ALEXANDER. That is part of our legislation and it is part of the report. And I applaud you for doing that.

THREE REPORT RECOMMENDATIONS

Now, there are three provisions in that report—and I will not ask you to get into them today. But I am going to ask you will you commit to try to do these three that are in the top 10 of the report by the end of the year.

One is the return of Title IV funds, an overly complex, 200-paragraph regulatory text about just the question of a student returning money to the Federal Government when they withdraw from school.

Number two, financial responsibility standards. These are regulations written in the 1990s that are so complex that Georgetown University got a near failing grade on a recent financial test, which is absurd.

And three, on the reporting of data to the Department. They say there are 11 different annual surveys. At Vanderbilt, one survey required 1,000 person-hours to complete. Surely that could be simplified.

Will you please work on those three that are in the top 10 and see if they can be accomplished by the end of the year?

Dr. KING. I am certainly committed to working with you and your staff to see what progress we can make on these.

CONGRESSIONAL INTENT IN ESSA

Senator ALEXANDER. Now, a last question, and it is more of a comment. We are looking for signals about how well you are going to follow the impulse of Congress in this new elementary and secondary education law. We had a consensus that it needed to be fixed, and our consensus was, while we wanted the reporting requirements on test results, we wanted the decisions about what to

do about the results of those tests back with States, classroom teachers, et cetera. It was not just Republicans. It was not just Governors. It was teachers. It was almost everybody, which is why we got 85 votes in the Senate for the bill.

Yet, your budget recommends \$5.3 billion for six new elementary and secondary programs that we did not authorize and only \$500 million for the \$1.65 billion block grant that we did authorize. A lot of Senators wanted some new programs and they did not get them because we eliminated 49 programs. So why would you be recommending new programs that we did not authorize just this past December and not funding properly the block grant that we did authorize?

TITLE IV BLOCK GRANT PROGRAM

Dr. KING. Well, let me start with the Title IV programs. We think Title IV is very important. We think the priorities in Title IV around a well-rounded education or an arts education, school counseling, safe and supportive school climates are all very important.

The prior Title IV programs had about \$278 million of funding. We have proposed taking that to \$500 million, a \$222 million increase for the Title IV batch of programs.

But we were trying in this budget to both advance the President's priorities and stay within the caps on discretionary spending. We are certainly open to working together with you on this committee to look at how we move forward in a way that acknowledges those priorities and makes the important investments that we all believe in.

Senator ALEXANDER. Thank you, Mr. Chair.

Senator BLUNT. Senator Merkley.

PROJECT SERV

Senator MERKLEY. Thank you, Mr. Chairman.

And thank you, Secretary King. I appreciate so much the Department's support for Umpqua Community College where we had a terrible tragedy this past year. One of the ways the Federal Government has been supportive is through the SERV grants, the School Emergency Response to Violence. UCC has not been able to take full advantage of those funds because the flexibility is limited specifically, for example, for help with the equipment like security cameras and door locks.

Can you work with us to expand the flexibility so when a school goes through a tragedy, they can pursue the best strategies without running into significant grant hurdles?

Dr. KING. I am certainly happy to talk with you and your staff about that and figure out where there is flexibility under the statutory language.

Senator MERKLEY. I am glad you will talk with us, but hopefully we can do more than talk.

Dr. KING. Yes, sir. Again, I think we will have to look at what flexibility we have at the Department. But as you know, we have been in constant communication with the school from the outset and want to make sure that we are as supportive of the school and the students as possible.

Senator MERKLEY. Thank you.

STUDENT LOAN REPAYMENT

Second, I wanted to turn to an act I introduced, the AFFORD Act, which takes the strategy income-based repayment so that students are not saddled with debt that way exceeds what their discretionary income could possibly pay. This was a boutique program. Your administration, the team Obama, proceeded to elevate it in the regulations to make it more prominent.

But we need to anchor it into law so that it is a prominent option from the beginning so we can tell people in seventh and eighth grade that there is an affordable repayment strategy that will not leave them on a monthly basis weighted down with a millstone around their neck because that very fear—I mean, not only are we talking about the effect of college debt when it occurs. We are talking about the effect of college debt on students' aspirations way back into junior high school. And so I would like to encourage your team to help advocate for taking the concept that you all have elevated in the regulations, working with Congress to make it a permanent part of the law so we can go to those seventh graders and say there is an income-based repayment option so that you will not be drowning in month-to-month debt repayment.

Dr. KING. I absolutely would love to work with you on that. I also think that the America's College Promise idea and the notion that we will be able to say to all students—if you are hardworking, if you are responsible, you will be able to get 2 years of community college tuition for free—would also have that powerful incentive effect.

PREDATORY FOR-PROFIT COLLEGES

Senator MERKLEY. Thank you.

Third, I want to turn to a letter that my colleague from Washington State, Senator Murray, led and I believe about 3 dozen Senators signed, and it is really related to the situation that students are in when they have been victims of predatory tactics by some bad actors within our for-profit college community.

And I want to clarify. Not all for-profits are predatory, but there are a few that have been very misleading in the way they appeal to students. And when that happens—this letter, which Senator Murray propagated, lays out several things.

One is streamlining the process so there is automatic relief to groups of students who have been the victims of predatory practices, rather than them having to go through a complicated application process. Remember, many of these students have moved multiple times. It is hard for the mail to catch up to them. They may never even get the application. They may never know they are even eligible. So being aggressive in providing relief would be a much better position to be in.

And it should not be dependent upon Federal recovery of funds from the schools.

And students should not be subject to arbitration agreements. That should just be a disqualifier right from the beginning. Any school that wants to deny its students a fair hearing as a predicate to being signed up and it is hidden in the fine print should be a

high suspicion from day one. And you all can make a difference on that.

And finally, the 2-year statute of limitations is simply not sufficient for students to be able to respond.

So please clear the path to make it a much stronger, wider, flatter avenue for students to get fair treatment in these situations.

Dr. KING. The encouraging news I can share is that I think the borrowers defense regulations that are currently being negotiated will simplify the process, will streamline the process, and will make it easier for students to get relief. Importantly, we also want to prevent students from being victimized in the first place, and I think the victory in the appeals court on gainful employment regulations suggest that we will have a new set of tools there. And our new enforcement unit will be very focused on ensuring that all institutions protect their students.

Senator MERKLEY. Well, I appreciate all of that. That is the right direction, but there are several additional items that I have just mentioned that I think could even take you in a much stronger position and better position for our students.

Dr. KING. I look forward to working with you on this.

Senator BLUNT. Senator Lankford.

DEAR COLLEAGUE LETTERS AND OTHER GUIDANCE

Senator LANKFORD. Thank you, Mr. Chairman.

Good morning. Good to be able to see you again and get a chance to visit with you.

We have talked about before—I chair the Regulatory Affairs Committee here in the Senate which deals with how we actually promulgate rules and regulations and the process of that. There is a separate issue of whether each regulation is a good idea or bad idea, but there is a clear legal standard for how we do regulations.

You also know I have serious issues with the Department of Education, how they have promulgated some of the guidance documents, which are called “Dear Colleague” letters. They appear to be policy documents, and they appear to be regulations more than they are just clarifications in the process. This process started long before you got there, so this is not about you and the months that you have been there at this point. But my concern is it seems to continue at this point.

So let me just highlight a couple things that I have shared with the Department of Education that you know well on this.

In 2010 and 2011, there were “Dear Colleague” letters that were put out dealing with the Office for Civil Rights, which by the way has a terrific mission and I am very supportive of the mission that they have. The issue is the process of how it is actually coming out.

One of the “Dear Colleague” letters interpreting Title IX forecloses all standards of proof using disciplinary proceedings except for preponderance of evidence. And now in our conversation and from the letter that I received back from my letter, the statement was there were two letters of findings from Georgetown and from Evergreen State that were the basis for that.

So here is my question. Do letters of finding form a legal precedent? Do other people have to be able to follow a letter of finding from a different university? Is that a legal precedent?

Dr. KING. No. As we have talked about, we do not view those findings as setting precedent.

Senator LANKFORD. So let me ask you this. So another school should not have to rely on compliance to a different school's letter of finding.

Dr. KING. That is right.

Senator LANKFORD. Same with the guidance documents? They are nonbinding as well. Is that correct?

Dr. KING. That is right. The institutions are accountable to the law and regulations. The guidance is intended to provide clarity and examples of best practices.

INTERPRETATION OF NONBINDING GUIDANCE

Senator LANKFORD. So let me just follow through on that because this becomes a struggle as I deal with universities around the country. So if schools were to ignore the letters of findings and the guidance documents, which are all nonbinding, rely on their own good faith interpretation of the Title IX language, this equitable resolution, if they were to rely on their good judgment on that, their own legal counsel on that, then are they okay on that? Instead of preponderance of the evidence, if they rely on clear and convincing evidence, are they okay? Are they within their bounds to do that?

Dr. KING. As we discussed, our interpretation of equitable resolution is that that requires the preponderance of evidence standard. And our goal with the guidance is to convey our interpretation of the law, but an institution has the opportunity to go to a hearing or, beyond that, to go to court to challenge a potential finding from the Department.

Senator LANKFORD. So what I am trying to determine here is if there was a letter of finding that you say this is the precedent for it, that they cannot use clear and convincing evidence, they now have to use preponderance of evidence and they have to shift to that, why that is not a regulatory decision that is made because if I look at the phrase from the law that says "equitable resolution," I am not going to immediately look at that and say that is preponderance of the evidence. You are saying it is not legally binding. They do not have to go by a letter of finding. They do not have to go by a guidance. But if they do not, we are going to take them to a hearing and to court.

Dr. KING. We believe, based on the Department's longstanding—as we discussed, this is a longstanding interpretation of equitable resolution that predates this administration—longstanding interpretation that equitable resolution would mean preponderance of the evidence. So it would be the civil standard as well.

Senator LANKFORD. It did not at Yale. It did not at Harvard. It did not at Princeton. It did not at UVA. It did not at Ohio State. And I could keep going through a lot universities that all use clear and convincing evidence that now had to shift to a new form of that because of a guidance document, a "Dear Colleague" letter, that came out to them that they felt compelled to be able to shift from one or the other. So you can say it is longstanding. It was longstanding in some institutions. It was clearly not longstanding in all of them.

I am not getting at whether that is the right or wrong evidence which, by the way, I think preponderance of evidence is not a high enough standard. That is irrelevant. The issue is this came out from a "Dear Colleague" letter, not from regulation. There was not an open conversation on this. It did not go through the process. It was a new interpretation of equitable resolution that outside entities did not have the opportunity to be able to participate in, which is the law.

EQUITABLE RESOLUTION

So what I am pushing is when the Department of Education promulgates a new rule, promulgate a rule, go through the legal process. Do not send out a "Dear Colleague" letter and say we had a letter of finding from two other schools, and so that is the basis now for a "Dear Colleague," which would create a new guidance which universities have to shift all their policies, add a tremendous number of staff, change all their procedures on something that was not a regulation.

Dr. KING. Senator, as I indicated, I appreciate the concern. I think our view is that in cases that came to the Department, prior to this administration, prior to the guidance, the standard that we applied was our interpretation of equitable resolution as preponderance of the evidence.

But I appreciate the distinction you are making, and I think we are happy to work with you and your staff to look at whether there are ways that we can more clearly communicate to higher education institutions.

Senator LANKFORD. Which I would be glad to do. Kent Talbert, who is the lawyer, used to be the general counsel at the Department of Education. When he saw the letter that came back from your office, he used the phrase "glossed over" the question whether the Department is obligated to use a formal rulemaking process. We are saying two different things. I am saying there is a formal rulemaking process. You are saying we had some prior stuff. We have the grounds to do it. This is a legal question more than it is anything else. I do want to continue this. I am looking forward to your response to the next letter on this. But when a former counsel from the Department of Education says I am being glossed over, I think I am being glossed over in this. And I want us to be able to resolve this, the process of actually how we put our guidance.

I am way over time. I apologize, Mr. Chairman.

Senator BLUNT. There will be a little time for a second round of questions too if you want to finish up.

Senator Cassidy.

FUNDING FOR DYSLEXIA SERVICES

Senator CASSIDY. Nice to see you again.

One of the things I have been interested in in these hearings is dyslexia. You got a budget. If you include Pell Grants north of \$60 billion, are you all doing anything specifically for dyslexics?

And just to put this into context, about 20 percent of children are dyslexic. It is identifiable by first grade, and it will remain with the child throughout his or her career unless addressed. And right now, we have heard in previous testimony that no school district in the

Nation screens for it. It is just amazing. Not a single one addresses or screens for the most common learning disability that is identifiable in first grade. So it is something we should be concerned about.

To what degree does your budget attempt to address this issue?

And by the way, just for the record, I would like to, Mr. Chair, submit an article for the record from the "Journal of Pediatrics" which speaks of both the prevalence of dyslexia and the fact that it is identifiable in first grade and that this defect persists throughout the child's education.

Senator BLUNT. Without objection.

[The article follows:]

Achievement Gap in Reading Is Present as Early as First Grade and Persists through Adolescence

Emilio Ferrer, PhD¹, Bennett A. Shaywitz, MD^{2,3,4}, John M. Holahan, PhD^{2,3}, Karen E. Marchione, MA^{2,3},
Reissa Michaels, MSW^{2,3}, and Sally E. Shaywitz, MD^{2,3,5}

Objectives To determine if differences between dyslexic and typical readers in their reading scores and verbal IQ are evident as early as first grade and whether the trajectory of these differences increases or decreases from childhood to adolescence.

Study design The subjects were the 414 participants comprising the Connecticut Longitudinal Study, a sample survey cohort, assessed yearly from 1st to 12th grade on measures of reading and IQ. Statistical analysis employed longitudinal models based on growth curves and multiple groups.

Results As early as first grade, compared with typical readers, dyslexic readers had lower reading scores and verbal IQ, and their trajectories over time never converge with those of typical readers. These data demonstrate that such differences are not so much a function of increasing disparities over time but instead because of differences already present in first grade between typical and dyslexic readers.

Conclusions The achievement gap between typical and dyslexic readers is evident as early as first grade, and this gap persists into adolescence. These findings provide strong evidence and impetus for early identification of and intervention for young children at risk for dyslexia. Implementing effective reading programs as early as kindergarten or even preschool offers the potential to close the achievement gap. (*J Pediatr* 2015;167:1121-5).

Developmental dyslexia is the most common neurobehavioral disorder in children, affecting 17%-21% of school-age population.^{1,2} Dyslexia is also the most comprehensively studied of the learning disabilities, affecting 80% of all children identified as learning-disabled.³ First described over a century ago, dyslexia is defined as an unexpected difficulty in reading for an individual's chronological age or intelligence.

At its core, dyslexia is a problem with a component of spoken language, phonological processing; that is, getting to the elemental sounds of speech, affecting both spoken and written language. As dyslexic children progress in school, given good instruction, reading accuracy often improves; however, lack of fluency (the ability to read not only accurately, but rapidly and with good intonation) persists and remains a lifelong problem. The landscape in dyslexia is changing rapidly. For example, in 2014 the Congressional Committee on Science, Space, and Technology held a hearing on "The Science of Dyslexia," and many new state laws now urge recognition of dyslexia.^{4,5} For the last decade, school policies have often emphasized that all children should be reading by third grade, a policy that perhaps has contributed to the delay of dyslexia diagnosis until after third grade.⁶

Here we report findings demonstrating that the achievement gap in reading between typical and dyslexic readers is evident as early as first grade and persists. We demonstrate further that typical and dyslexic readers do indeed differ in the trajectories of their reading scores and verbal IQ over time, from childhood to adolescence. Of particular importance, we demonstrate that such differences are not so much a function of increasing disparities over time but instead because of differences already present in first grade between typical and dyslexic readers.

Methods

The data for this report came from the Connecticut Longitudinal Study, a sample survey of Connecticut children entering public kindergarten.^{1,7,18} The analyses presented here involve data from the 414 individuals who were first assessed in first grade and followed annually. Of the participants, 55.2% are females and 44.8% males. The sample contains Caucasians (84.3%), African Americans (11.2%), Asians (0.9%), Hispanics (2.0%), and other children with unknown ethnicity (1.6%). This sample from Connecticut was similar to the racial and ethnic composition of the nation at the time of the study.¹¹

From the ¹Department of Psychology, University of California, Davis, CA; ²Department of Pediatrics, Yale Center for Dyslexia and Creativity, and ³Department of Biomedicine, Yale University School of Medicine, New Haven, CT.

Financial disclosures in conflicts of interest.

Supplemental digital content is available for this article. Direct URL citations appear in the text and in the online version of this article on the journal's website (www.jpeds.com).

WISC-R Wechsler Intelligence Scale for Children-Revised
WJ-III Woodcock-Johnson Psycho-Educational Test Battery

Table 1. Variable estimates from a growth model of WJ reading components

	Typical	Dyslexic
Passage comprehension		
Mean intercept μ_0	288 (.047) [†]	-1,170 (.071)
Mean slope μ_1	421 (.006) [†]	490 (.012)
Variance intercept σ_0^2	612 (.047)	288 (.061)
Variance slope σ_1^2	.007 (.001)	.008 (.002)
Covariance σ_{01}	-.094 (.006)	-.009 (.012)
χ^2 (df)		221 (90)
BIC		5326
Word identification		
Mean intercept μ_0	286 (.044) [†]	-1,236 (.079)
Mean slope μ_1	396 (.005) [†]	483 (.011)
Variance intercept σ_0^2	584 (.049)	448 (.078)
Variance slope σ_1^2	.006 (.001)	.008 (.002)
Covariance σ_{01}	-.051 (.005)	.035 (.009)
χ^2 (df)		577 (90)
BIC		2935
Word attack		
Mean intercept μ_0	307 (.059) [†]	-1,232 (.105) [†]
Mean slope μ_1	345 (.007) [†]	339 (.014)
Variance intercept σ_0^2	928 (.084)	085 (.038)
Variance slope σ_1^2	.007 (.001)	.011 (.002) [†]
Covariance σ_{01}	-.082 (.008)	-.001 (.008) [†]
χ^2 (df)		669 (90)
BIC		7003

BIC, Bayesian information criterion.
 SEs are in parentheses. N_{typical} = 836, N_{dyslexic} = 73. Dyslexia based on achievement and discrepancy definitions in third grade. All parameter estimates are derived from data in z-scores from the first measurement occasion.
[†]Significant difference (typical = dyslexic).
[‡]Parameter with $P > .05$.
[§]Non-significant difference (typical = dyslexic).

Measures

Annually from 1st to 12th grade, participants completed 3 reading subtests from the Woodcock-Johnson Psycho-Educational Test Battery (WJ).¹² In addition, at grades 1, 3, 5, 7, and 9, participants were assessed on the Wechsler Intelligence Scale for Children-Revised (WISC-R).¹³ In the current analyses, we consider the 4 verbal components of the WISC-R (vocabulary, information, comprehension, and similarities) as well as the reading subtests from the WJ (passage comprehension, word identification, and word attack).

Dyslexia was evaluated using a composite of the word reading subtests from the WJ battery (reading cluster, a composite of passage comprehension, word identification, and word attack) and the full-scale IQ score from the WISC-R. Dyslexia was determined if a participant's score was below 90 on the reading cluster score or if there were a difference of 1.5 SDs between the IQ and the reading cluster score, a difference that refers to the standardized residuals calculated from the regression of IQ on the reading scores. It is well established that reading and dyslexia occur along a normal distribution,² and similar results would be obtained whether the discrepancy is set at 1 or 1.5 SD. If participants met criteria for dyslexia in either grade 2 or grade 4, they were classified as dyslexic; if not, they were classified as typical.

To examine changes in the target variables across the grades, we used growth curve models (equivalent to multi-level or hierarchical linear models) that include grade as the underlying time dimension.^{14,16} Details of the growth

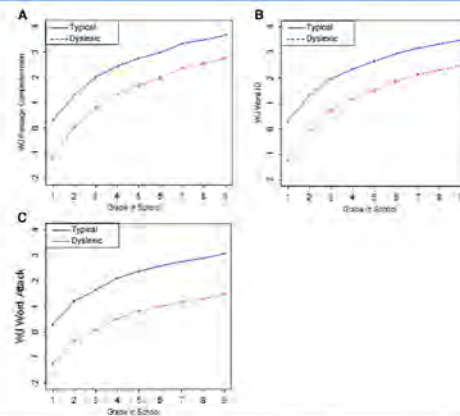


Figure 1. Smoothed predicted trajectories of reading across grades for both reading groups. A, Passage comprehension. B, Word identification. C, Word attack.

curve methods are found in the Appendix (available at www.jstor.org/stable/2475000).

Results

Changes in Reading Scores over Time

For all analyses, we transformed the data into *z*-scores, based on the first measurement occasion. This transformation allowed us to put all measures into a common metric and to evaluate change in terms of SD units from first grade. In the first set of analyses, we examined differences in reading between typical and dyslexic readers using the reading subtests from the WI battery¹¹ (ie, word identification and word attack [decoding nonsense words]). In addition, we also included a measure of reading comprehension (passage comprehension) to examine the potential negative impact of dyslexia on reading comprehension. We employed a growth curve model and compared a linear model (ie, equal changes across grades) with a model allowing for nonlinear changes across grades (ie, latent coefficients for the slope). Across all reading subtests, this latter model showed a much better fit relative to a linear specification. Next, we evaluated differences between typical and dyslexic readers using a multiple-group model following an increasingly relaxed sequence: (1) full invariance (same parameters across both groups); (2) different mean of intercept and slope; (3) different variances and covariances; (4) different slope coefficients; and (5) different residuals. Table 1 includes results from these analyses.

Across all reading subtests, typical readers had higher initial scores at first grade than dyslexic readers. The slopes for passage comprehension and word identification, however, were slightly larger for the dyslexics, whereas for word attack, the slopes were similar between groups. The resulting trajectories from these models are presented in Figure 1, A-C, for passage comprehension, word identification, and word attack, respectively. Across all subtests, dyslexic readers show substantially lower reading scores in first grade than typical readers do, and their trajectories never join those of the typical readers. To illustrate, the difference in passage comprehension scores between both groups at first grade is 1.46 SD units. This difference decreases slightly across grades but remains as almost 1 SD in ninth grade. A similar pattern is evident for word identification. In sum, because of the initial achievement gap in first grade, the trajectories of dyslexic readers never catch up with those of the typical readers, even for subtests such as passage comprehension and word identification, on which they have slightly faster rates of change than typical readers.

Changes in Verbal IQ over Time

In the next set of analyses, we examined the changes in each of the verbal components of IQ (ie, vocabulary, information, comprehension, and similarities subtests; WISC-R).^{12,13} As we did for the reading subtests, we implemented a growth curve model and compared linear with nonlinear changes across grades (ie, latent slope coefficients). Across all verbal

components, the nonlinear model showed a much better fit relative to a linear specification. Next, we fitted a multiple-group model to evaluate differences between typical and dyslexic readers. For each of the 4 verbal components, the best fitting model was one in which the intercept and slope means as well as variances and covariances were allowed to differ between typical and dyslexic readers. Results from this best-fitting model across all verbal components are reported in Table 2. We also fitted a single-group model using group as a covariate. The results from this model confirmed those from the multiple-group approach.

The first section of Table 2 represents parameter estimates for the Vocabulary IQ subscale. These estimates indicate initial vocabulary scores (at first grade) for the 2 groups of readers ($\mu_0 = .244$, and $-.596$, for typical and dyslexic, respectively). Of particular importance, the slope estimates were reliably different from zero for both groups ($\mu_1 = .623$, and $.519$), indicating evidence for changes in vocabulary scores from first to ninth grade for both groups. Both the intercept and slope showed statistical differences between groups, with higher values for typical relative to dyslexic readers. The variance estimates were also different from

Table 1. Variable estimates from a growth model of IQ verbal components.

	Typical	Dyslexic
Vocabulary		
Mean intercept μ_0	.244 (.053)*	-.596 (.115)
Mean slope μ_1	.623 (.008)*	.519 (.017)
Variance intercept σ_0^2	.514 (.065)	.711 (.164)
Variance slope σ_1^2	.010 (.002)	.012 (.004)
Covariance σ_{01}	.021 (.008)	.025 (.017)
χ^2 (df)		46.9 (26)
BIC		5254
Information		
Mean intercept μ_0	.252 (.051)*	-.626 (.080)
Mean slope μ_1	.605 (.010)*	.578 (.021)
Variance intercept σ_0^2	.646 (.078)	.293 (.099)
Variance slope σ_1^2	.017 (.002)	.024 (.006)
Covariance σ_{01}	.027 (.009)	.052 (.017)
χ^2 (df)		60.3 (26)
BIC		5568
Comprehension		
Mean intercept μ_0	.176 (.057)*	-.280 (.117)
Mean slope μ_1	.620 (.008)*	.500 (.019)
Variance intercept σ_0^2	.521 (.073)	.638 (.165)
Variance slope σ_1^2	.004 (.001)	.014 (.005)
Covariance σ_{01}	.010 (.008)*	.028 (.020)*
χ^2 (df)		76.5 (26)
BIC		5708
Similarities		
Mean intercept μ_0	.261 (.053)*	-.550 (.126)
Mean slope μ_1	.438 (.009)	.418 (.019)
Variance intercept σ_0^2	.513 (.069)	.860 (.196)
Variance slope σ_1^2	.005 (.001)	.004 (.003)
Covariance σ_{01}	-.017 (.006)	-.010 (.018)
χ^2 (df)		119.4 (26)
BIC		5581

SEs are in parentheses. N_t (typical) = 305, N_d (dyslexic) = 76. Dyslexics based on achievement and discrepancy definitions in 3rd grade. All parameter estimates are derived from first in *z*-scores from the first measurement occasion.

*Significant difference (typical vs. dyslexic).

†Parameter with $p < .05$.

(Nonsignificant difference (typical vs. dyslexic)).

zero, denoting variability in both initial scores and changes over grades across individuals within each of the groups. These results indicate that both groups showed improvements in vocabulary scores across the nine grades. However, because of initial differences in first grade and the different rates of change, the disparity in vocabulary scores increases throughout the grades. This is visualized in Figure 2, A (Vocabulary), which displays the predicted scores from the curve models for each of the groups. Typical readers have higher scores at first grade and slightly faster rates of change than dyslexic readers, resulting in group trajectories with initial gaps that expand over time.

The next sections in Table II include results for information, comprehension, and similarities. In all cases, the intercept estimates (values in first grade) are statistically larger for typical than dyslexic readers. The slope estimates are also statistically higher for typical readers for information and comprehension, and not different across groups for similarities. For all verbal subsets, and regardless of the between-group differences, the slopes are positive. The resulting pattern of trajectories is consistent: positive changes across grades with a slightly diverging trajectory between both groups, except for similarities, for which the

trajectories remain parallel over time (Figure 2, B-D, for information, comprehension, and similarities, respectively).

Discussion

Our findings demonstrate that an achievement gap appears as early as first grade in dyslexic readers and persists. This finding has important implications. If the persistent achievement gap between dyslexic and typical readers is to be narrowed, or even closed, reading interventions must be implemented early, when children are still developing the basic foundation for reading acquisition. The persistent achievement gap poses serious consequences for dyslexic readers, including lower rates of high school graduation,⁶ higher levels of unemployment,¹⁷ and lower earnings because of lowered college attainment.¹⁸ Implementing effective reading programs early, even in preschool and kindergarten, offers the potential to reduce and perhaps even close the achievement gap between dyslexic and typical readers and bring their trajectories closer over time.

The argument for the benefits of early intervention is not new. It has been cast in terms of educational achievement

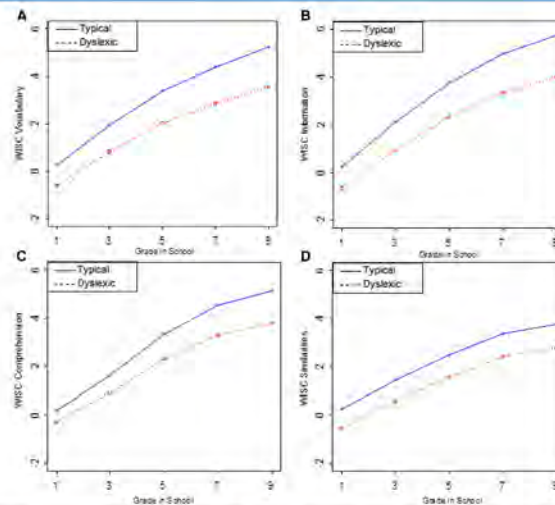


Figure 2. Smoothed predicted trajectories of verbal IQ components across grades for both reading groups. A, Vocabulary. B, Information. C, Comprehension. D, Similarities.

as well as financial returns. Heckman et al.¹⁷ for example, have shown the benefits of high-quality preschool programs in a range of areas. These findings have been further replicated recently in a different population.¹⁸ Often not taken into consideration in education policy is not only the possibility that the achievement gap between dyslexic and typical readers may already be apparent in very early grades, but also the awareness that, even when the trajectory of reading improves over time (as our data indicate), the gap does not narrow. Now, examination of our longitudinal data indicates that the achievement gap is already present at first grade and points to the overwhelming influence of the large early difference accounting for the persistence of this difference. In other words, although the gap may not become wider over time, because of early disparities, it persists. Interventions at later grades may decrease or prevent the gap from widening, but will not overcome the already existing differences in early grades. These data are consistent with prior reports of the general lack of substantial improvement in reading if interventions are delayed until after the first grade.¹⁹

Our data provide strong evidence of the need for early intervention in dyslexic children, beginning in kindergarten, first grade, or even earlier, perhaps in preschool. Even though such early interventions are just starting to be applied, at least one recent report suggests that preschool reading interventions are effective and available.²⁰

Solid evidence from a number of lines of investigation^{21,22} indicates that dyslexia is best conceptualized as a weakness in phonology (ie, getting to the sounds of spoken words) affecting initially spoken language, and then, print. This finding raises the possibility of using spoken language measures to identify children at risk for dyslexia, even before they are expected to read. In order to read, children must be able to pull apart the sounds of spoken language so that they can go on to attach the letters of a word to the sound it represents; hence, children learn to sound out words.

In sum, our data indicate that the achievement gap between typical and dyslexic readers is evident as early as first grade, and this gap persists into adolescence. Identifying students at risk for dyslexia and then implementing effective reading programs as early as kindergarten or even preschool offers the potential to close the achievement gap. ■

We thank supporters of the Connecticut Longitudinal Study over the years: Connecticut State Department of Education; U.S. Department of Education; U.S. National Institutes of Health; and Seedlings Foundation.

Submitted for publication May 13, 2015; last revision received Jul 1, 2015; accepted Jul 24, 2015.

Reprint requests: Emilio Ferrer, PhD, Department of Psychology, University of California, Davis One Shields Ave, Davis, CA 95616-8686. E-mail: eferrer@ucdavis.edu

References

1. Ferrer E, Shaywitz S, Holahan J, Marchione K, Shaywitz S. Uncoupling of reading and IQ over time: empirical evidence for a definition of dyslexia. *Psychol Sci* 2010;21:90-101.
2. Shaywitz S, Fletcher J, Shaywitz B. Issues in the definition and classification of attention disorder. *Top Lang Disord* 1994;14:1-25.
3. Lerner J. Educational interventions in learning disabilities. *J Am Acad Child Adolesc Psychiatry* 1999;28:324-331.
4. The Science of Dyslexia, Full Committee Hearing, House Committee on Science, Space and Technology. 114th Congress. September 18, 2014. Washington, DC.
5. Younan M, Mather N. Dyslexia laws in the USA. *Ann Dyslexia* 2013;63:133-55.
6. Hernandez D. Double jeopardy: How third grade reading skills and poverty influence high school graduation. Baltimore: Annie E. Casey Foundation; 2012.
7. Ferrer E, McArdle J, Shaywitz B, Holahan J, Marchione K, Shaywitz S. Longitudinal models of developmental dynamics between reading and cognition from childhood to adolescence. *Dev Psychol* 2007;43:1460-73.
8. Shaywitz S, Escobar M, Shaywitz B, Fletcher J, Makuch R. Evidence that dyslexia may represent the lower tail of a normal distribution of reading ability. *N Engl J Med* 1992;326:145-50.
9. Shaywitz S, Fletcher J, Holahan J, Schneider A, Marchione K, Stuebing K, et al. Persistence of dyslexia: the Connecticut Longitudinal Study at adolescence. *Pediatrics* 1999;104:351-9.
10. Shaywitz S, Shaywitz B, Fletcher J, Escobar M. Prevalence of reading disability in boys and girls: results of the Connecticut Longitudinal Study. *JAMA* 1990;264:596-1002.
11. Statistical abstract of the United States: 1986. In: Census USGov. ed. 106th ed. Washington, DC: Government Printing Office; 1985.
12. Woodcock RW, Johnson MB. Woodcock-Johnson Psycho-Educational Battery-Revised (WJ-R). Allen, TX: Developmental Learning Materials; 1989.
13. Wechsler D. Wechsler Intelligence Scale for Children-Revised. San Antonio, TX: Psych Corp; 1981.
14. Bollen K, Curran P. Latent curve models: A structural equation perspective. Hoboken, NJ: Wiley; 2006.
15. Ferrer E, Hamagami F, McArdle J. Modeling latent growth curves with incomplete data using different types of structural equation modeling and multilevel software. *Struct Equ Modeling* 2004;11:452-83.
16. McArdle J. Latent variable modeling of differences in changes with longitudinal data. *Annu Rev Psychol* 2009;60:577-605.
17. Heckman J, Pinto J, Savelyev P. Understanding the mechanisms through which an influential early childhood program fostered adult outcomes. *Am Econ Rev* 2013;103:2052-86.
18. Campbell F, Conti G, Heckman J, Moon S, Pinto J, Pungello E, et al. Early childhood investments substantially boost adult health. *Science* 2014;344:1179-85.
19. Torgesen JK. Lessons learned from research on interventions for students who have difficulty learning to read. In: McCauley P, Chhabra V, eds. The voice of evidence in reading research. Baltimore, MD: Paul H. Brookes; 2004. p. 355-82.
20. Lonigan C, Purpura D, Wilson SB, Walkers PM, Clancy-Menchetti J. Evaluating the components of an emergent literacy intervention for preschool children at risk for reading difficulties. *J Exp Child Psychol* 2013;114:111-30.
21. Shaywitz S. Current concepts: dyslexia. *N Engl J Med* 1998;338:307-12.
22. Shaywitz S. Overcoming dyslexia: A new and complete science-based program for reading problems at any level. New York, NY: Alfred A. Knopf; 2003.

Appendix

Details of Growth Curve Modeling

A basic curve model for a variable Y measured over time ($t = 1$ to T) on the same individual ($n = 1$ to N) can be written as

$$Y_{it} = \gamma_0 + \lambda(t) \cdot \gamma_1 + \epsilon_{it} \quad (1)$$

where γ_0 represents an individual's initial level, $\lambda(t)$ contains the basis coefficients that specify the timing or shape of the curve, γ_1 represents the slope, or the individual change over time, and ϵ_{it} represents the unobserved error of measurement. This model includes sources of individual differences in the level and slope, whose terms can be decomposed at a second level as

$$\gamma_0 = \mu_0 + e_{0n}$$

$$\gamma_1 = \mu_1 + e_{1n} \quad (2)$$

where the level and slope scores have fixed group means (μ_0 and μ_1) and residuals (e_{0n} and e_{1n}), and these residuals have variance components (σ_{0n}^2 and σ_{1n}^2) but are assumed to have zero means and to be normally distributed.

The basis coefficients can take specific values to represent alternative hypotheses of growth. For example, linear change can be tested with equation (1) and basis coefficients that represent linear changes, as $\lambda(t) = 0, 1, 2, \dots, t-1$. Alternatively, some of these coefficients can be freed to be estimated from the data, as to represent unequal changes across occasions (grades in our data), as $\lambda(t) = 0, t_1, t_2, \dots, t-1$, where " t_i " represents an estimated coefficient.

Group Comparisons

To evaluate hypotheses about differences between groups, the model just described can be extended by a covariate that represents the group or through multiple-group analyses. The former approach is an extension of the previous model with an exogenous, or "extension," variable on the curve.¹⁴ In such a case, the equations for the level and slope (equation 2) can be written as

$$\gamma_0 = \gamma_{00} + \gamma_{0G} \cdot G + e_{0n}$$

$$\gamma_1 = \gamma_{10} + \gamma_{1G} \cdot G + e_{1n} \quad (3)$$

where the level and slope scores now have fixed group intercepts (γ_{00} and γ_{10}), and regression coefficients (γ_{0G} and γ_{1G}), representing the effect of the group variable G (for group $g = 1, 2, \dots, G$) on the level and slope. This model follows the same formulation than what are termed hierarchical, multilevel, or random-effects models¹⁵ and is suited to examine differences across the groups regarding the intercept and the slope.

The multiple-group approach consists of fitting the same model from equation (2) separately to each of the groups. The resulting model can be written as

$$Y_{it}^{(g)} = \gamma_{0n}^{(g)} + \lambda(t) \cdot \gamma_{1n}^{(g)} + \epsilon_{it}^{(g)} \quad (4)$$

where $g = 1, 2, \dots, G$, represents the group. This multiple-group approach allows the examination of differences between groups in any of the model parameters, not just intercept and slope. In the present report, we use both approaches to examine differences across groups based on various dyslexia criteria.

Trajectories of Reading and IQ Scores

In this report we compared the trajectories of reading scores and of verbal intelligence over time between typical and dyslexic readers. Specifically, we examined the extent to which the reading subtests and verbal components of IQ differed between both groups from first to ninth grade. For the reading subtests (ie, passage comprehension, word identification, and word attack), the findings reveal that dyslexic readers have lower scores at first grade and slightly higher rates of change than typical readers, with the exception of word attack, for which such rates are similar. As a consequence, the reading trajectories show initial differences between groups and lines that, despite the slight differences for some subtests, never converge over time. It is important to note that despite maintaining differences in the scores across grades, both groups, dyslexic, as well as typical readers, showed increasing trajectories over time. Furthermore, these findings indicate that, across all four measures of verbal IQ (ie, vocabulary, information, comprehension, and similarities), dyslexic readers had lower scores at first grade. For vocabulary, information, and comprehension, dyslexic readers had lower rates of change than typical readers; for similarities, the rates of change were similar across groups. As a consequence, the trajectories of components of verbal IQ in dyslexic readers showed a slight divergence from those of the typical readers or, as for the similarities subscale, parallel courses over time. That is, their scores in all components of verbal IQ and reading subtests improved across grades.

Matthew effects have been described in the literature as a consequence of dyslexics' reading difficulties, which over time result in increasing disparities in reading compared with typical readers.^{16,17} Because of the connection between reading and IQ,^{18,19} especially its verbal components, this pattern of increasing disparities is postulated for IQ as well. Although the data show some increasing differences over time between dyslexic and typical readers in components of verbal IQ (vocabulary, information, comprehension), these differences are generally small compared with the initial disparities. These data indicate that dyslexic readers do not catch up with typical readers through ninth grade primarily because of differences observed as early as first grade.

References

1. McArdle JJ, Eysenck DB. Latent growth curves within developmental structural equation models. *Child Dev* 1987;58:110-33.
2. McArdle JJ, Ferrer E, Hamagami E, Woodcock RW. Comparative longitudinal structural analyses of the growth and decline of multiple intellectual abilities over the life-span. *Dev Psychol* 2002;38:115-42.
3. Bryk AS, Raudenbush SW. Application of hierarchical linear models to assessing change. *Psychol Bull* 1987;101:47-58.
4. Bryk AS, Raudenbush SW. *Hierarchical linear models: Applications and data analysis methods*. Newbury Park, CA: Sage; 1992.
5. Laird NM, Ware JH. Random-effects models for longitudinal data. *Biometrics* 1982;38:963-74.
6. Stanovich K. Matthew effects in reading: some consequences of individual differences in the acquisition of literacy. *Read Res Q* 1986;21:360-407.
7. Walberg H, Tsai S. Matthew effects in education. *Am Educ Res J* 1983;20:359-73.
8. Ferrer E, McArdle J, Shaywitz B, Holahan J, Marchione K, Shaywitz S. Longitudinal models of developmental dynamics between reading and cognition from childhood to adolescence. *Dev Psychol* 2007;43:1466-73.
9. Ferrer E, Shaywitz B, Holahan J, Marchione K, Shaywitz S. Uncoupling of reading and IQ over time: empirical evidence for a definition of dyslexia. *Psychol Sci* 2010;21:93-101.
10. Ramsden S, Richardson F, Josse G, Shakeshaft C, Seghier M, Price C. The influence of reading ability on subsequent changes in verbal IQ in the teenage years. *Dev Cogn Neurosci* 2013;6:30-9.
11. Thomson M. Monitoring dyslexics' intelligence and attainment: a follow-up study. *Dyslexia* 2003;9:3-17.

Dr. KING. Thanks, Senator. I appreciate the question. As we talked about, I saw firsthand as a teacher and a principal the impact that dyslexia has on students and the power of high-quality services being provided to dyslexic students, giving them access to reading and language and unleashing their academic potential in a way that would not have happened if they had not gotten those high-quality interventions. So I share your commitment on this issue.

In the 2016 Budget, there was funding, \$1.5 million, for launching a technical assistance center focused on dyslexia. We are mov-

ing forward with that process and will certainly update you on that as that moves along.

We are working with 30-plus States in our results-driven accountability work on IDEA (Individuals with Disabilities Education Act) implementation, providing technical assistance on literacy-related disabilities, including dyslexia in particular. We have done a “Dear Colleague” letter, a guidance letter to districts on dyslexia, and resources that they can tap into on supporting their students with dyslexia. And certainly many of our discretionary grant programs on the IDEA side are supporting literacy-related disabilities.

[The letter follows:]

This letter clarifies that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluation, eligibility determinations or IEP documents. See: <http://www2.ed.gov/policy/speced/guid/idea/memosdcrltrs/guidance-on-dyslexia-10-2015.pdf>.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

THE ASSISTANT SECRETARY

October 23, 2015

Dear Colleague:

Ensuring a high-quality education for children with specific learning disabilities is a critical responsibility for all of us. I write today to focus particularly on the unique educational needs of children with dyslexia, dyscalculia, and dysgraphia, which are conditions that could qualify a child as a child with a specific learning disability under the Individuals with Disabilities Education Act (IDEA). The Office of Special Education and Rehabilitation Services (OSERS) has received communications from stakeholders, including parents, advocacy groups, and national disability organizations, who believe that State and local educational agencies (SEAs and LEAs) are reluctant to reference or use dyslexia, dyscalculia, and dysgraphia in evaluations, eligibility determinations, or in developing the individualized education program (IEP) under the IDEA. The purpose of this letter is to clarify that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluation, eligibility determinations, or IEP documents.

Under the IDEA and its implementing regulations “specific learning disability” is defined, in part, as “a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, *dyslexia*, and developmental aphasia.” See 20 U.S.C. §1401(30) and 34 CFR §300.8(c)(10) (emphasis added). While our implementing regulations contain a list of conditions under the definition “specific learning disability,” which includes dyslexia, the list is not exhaustive. However, regardless of whether a child has dyslexia or any other condition explicitly included in this definition of “specific learning disability,” or has a condition such as dyscalculia or dysgraphia not listed expressly in the definition, the LEA must conduct an evaluation in accordance with 34 CFR §§300.304-300.311 to determine whether that child meets the criteria for specific learning disability or any of the other disabilities listed in 34 CFR §300.8, which implements IDEA’s definition of “child with a disability.”

For those students who may need additional academic and behavioral supports to succeed in a general education environment, schools may choose to implement a multi-tiered system of supports (MTSS), such as response to intervention (RTI) or positive behavioral interventions and supports (PBIS). MTSS is a schoolwide approach that addresses the needs of all students, including struggling learners and students with disabilities, and integrates assessment and intervention within a multi-level instructional and behavioral system to maximize student achievement and reduce problem behaviors.

MTSS, which includes scientific, research-based interventions, also may be used to identify children suspected of having a specific learning disability. With a multi-tiered instructional

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2600
www.ed.gov

The Department of Education's mission is to promote student achievement and preparedness for global competitiveness by fostering educational excellence and ensuring equal access.

framework, schools identify students at risk for poor learning outcomes, including those who may have dyslexia, dyscalculia, or dysgraphia; monitor their progress; provide evidence-based interventions; and adjust the intensity and nature of those interventions depending on a student's responsiveness. Children who do not, or minimally, respond to interventions must be referred for an evaluation to determine if they are eligible for special education and related services (34 CFR §300.309(c)(1)); and those children who simply need intense short-term interventions may continue to receive those interventions. OSERS reminds SEAs and LEAs about previous guidance regarding the use of MTSS, including RTI, and timely evaluations,¹ specifically that a parent may request an initial evaluation at any time to determine if a child is a child with a disability under IDEA (34 CFR §300.301(b)), and the use of MTSS, such as RTI, may not be used to delay or deny a full and individual evaluation under 34 CFR §§300.304-300.311 of a child suspected of having a disability.

In determining whether a child has a disability under the IDEA, including a specific learning disability, and is eligible to receive special education and related services because of that disability, the LEA must conduct a comprehensive evaluation under §300.304, which requires the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child. This information, which includes information provided by the parent, may assist in determining: 1) whether the child is a child with a disability; and 2) the content of the child's IEP to enable the child to be involved in, and make progress in, the general education curriculum. 34 CFR §300.304(b)(1). Therefore, information about the child's learning difficulties, including the presenting difficulties related to reading, mathematics, or writing, is important in determining the nature and extent of the child's disability and educational needs. In addition, other criteria are applicable in determining whether a child has a specific learning disability. For example, the team determining eligibility considers whether the child is not achieving adequately for the child's age or to meet State-approved grade-level standards when provided with learning experiences and instruction appropriate for the child's age or the relevant State standards in areas related to reading, mathematics, and written expression. The team also must determine that the child's underachievement is not due to lack of appropriate instruction in reading or mathematics. 34 CFR §300.309(a)(1) and (b). Section 300.311 contains requirements for specific documentation of the child's eligibility determination as a child with a specific learning disability, and includes documentation of the information described above. Therefore, there could be situations where the child's parents and the team of qualified professionals responsible for determining whether the child has a specific learning disability would find it helpful to include information about the specific condition (e.g., dyslexia, dyscalculia, or dysgraphia) in documenting how that condition relates to the child's eligibility determination. 34 CFR §§300.306(a)(1), (c)(1) and 300.308.

¹ See OSEP Memo 11-07 (January 21, 2011) available at: www.ed.gov/policy/speced/guid/idea/memosdcfrs/osep11-07r1memo.pdf Under 34 CFR §300.307(a)(2)-(3), as part of their criteria for determining whether a child has a specific learning disability, States must permit the use of a process based on the child's response to scientific, research-based intervention, and may permit the use of other alternative research-based procedures in making this determination.

Stakeholders also requested that SEAs and LEAs have policies in place that allow for the use of the terms dyslexia, dyscalculia, and dysgraphia on a child's IEP, if a child's comprehensive evaluation supports use of these terms. There is nothing in the IDEA or our implementing regulations that prohibits the inclusion of the condition that is the basis for the child's disability determination in the child's IEP. In addition, the IEP must address the child's needs resulting from the child's disability to enable the child to advance appropriately towards attaining his or her annual IEP goals and to enable the child to be involved in, and make progress in, the general education curriculum. 34 CFR §§300.320(a)(1), (2), and (4). Therefore, if a child's dyslexia, dyscalculia, or dysgraphia is the condition that forms the basis for the determination that a child has a specific learning disability, OSERS believes that there could be situations where an IEP Team could determine that personnel responsible for IEP implementation would need to know about the condition underlying the child's disability (e.g., that a child has a weakness in decoding skills as a result of the child's dyslexia). Under 34 CFR §300.323(d), a child's IEP must be accessible to the regular education teacher and any other school personnel responsible for its implementation, and these personnel must be informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. Therefore, OSERS reiterates that there is nothing in the IDEA or our implementing regulations that would prohibit IEP Teams from referencing or using dyslexia, dyscalculia, or dysgraphia in a child's IEP.

Stakeholders requested that OSERS provide SEAs and LEAs with a comprehensive guide to commonly used accommodations² in the classroom for students with specific learning disabilities, including dyslexia, dyscalculia, and dysgraphia. The IDEA does not dictate the services or accommodations to be provided to individual children based solely on the disability category in which the child has been classified, or the specific condition underlying the child's disability classification. The Office of Special Education Programs (OSEP) funds a large network of technical assistance centers that develop materials and resources to support States, school districts, schools, and teachers to improve the provision of services to children with disabilities, including materials on the use of accommodations. The U.S. Department of Education does not mandate the use of, or endorse the content of, these products, services, materials, and/or resources; however, States and LEAs may wish to seek assistance from entities such as the National Center on Intensive Intervention at: <http://www.intensiveintervention.org>, the Center for Parent Information and Resources available at: <http://www.parentcenterhub.org>, and the National Center on Accessible Educational Materials available at: <http://aem.cast.org/>. For a complete list of OSEP-funded technical assistance centers please see: <http://cers.osepideasthatwork.org/>.

In implementing the IDEA requirements discussed above, OSERS encourages SEAs and LEAs to consider situations where it would be appropriate to use the terms dyslexia, dyscalculia, or dysgraphia to describe and address the child's unique, identified needs through evaluation, eligibility, and IEP documents. OSERS further encourages States to review their policies,

² Although the IDEA uses the term "accommodations" primarily in the assessment context, OSERS understands the request to refer to the various components of a free appropriate public education, including special education, related services, supplementary aids and services, and program modifications or supports for school personnel, as well as accommodations for students taking assessments.

procedures, and practices to ensure that they do not prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in evaluations, eligibility, and IEP documents. Finally, in ensuring the provision of free appropriate public education, OSERS encourages SEAs to remind their LEAs of the importance of addressing the unique educational needs of children with specific learning disabilities resulting from dyslexia, dyscalculia, and dysgraphia during IEP Team meetings and other meetings with parents under IDEA.

I hope this clarification is helpful to both parents and practitioners in ensuring a high-quality education for children with specific learning disabilities, including children with dyslexia, dyscalculia, and dysgraphia. If you have additional questions or comments, please email them to sld@ed.gov.

Sincerely,

/s/

Michael K. Yudin

Dr. KING. But you are exactly right. There is more that we need to do as a country for children with dyslexia. However, it is inaccurate to say that no school district in the Nation screens for dyslexia. Again, I refer to the Department's Dear Colleague previously cited that there is nothing in the IDEA that would prohibit the use of the terms dyslexia, dyscalculia, and dysgraphia in IDEA evaluation, eligibility determinations or IEP documents. I think this technical assistance center will help us and States and districts identify ways that we can make progress.

Senator CASSIDY. You are putting a 40 percent overhead on that technical assistance center. It seems like a pretty steep overhead on that. Obviously, we would rather less be spent upon administrative costs and more actually coming up with best practices as to how to intervene in the child's life.

By the way, just for the record, just for consequences, there is a study out of Texas showing that 48 percent of inmates are dyslexic. And my work as a physician with those who are incarcerated, illiteracy, the absence of a father figure, and drugs are the unholy trinity that is so common. And again, this establishes 48 percent of the children are dyslexic. I would like to submit that for the record too.

[The information follows:]

The Journal of Texas Medicine

TEXAS MEDICINE
• PUBLICATION OF THE TEXAS MEDICAL ASSOCIATION
VOLUME 96 NUMBER 6
JUNE 2000

Contents

64 Nutritional rickets still afflict children in North Texas

MEHUL SHAH, MD; NINA SALHAB, MS, RD/LD; DIANE PATTERSON, RN;
MOUIN G. SEIKALY, MD

69 Prevalence of dyslexia among Texas prison inmates

KATHRYN C. MOODY, EDD; CHARLES E. HOLZER III, PHD; MARY J. ROMAN, PHD;
KATHERINE A. PAULSEN, MPH; DANIEL H. FREEMAN, PHD; MARJIE HAYNES;
THOMAS N. JAMES, MD

76 Commentary: Dyslexia and criminal behavior

CURTIS PROUT, MD

Prevalence of dyslexia among Texas prison inmates

KATHRYN C. MOODY, EDD
CHARLES E. HOLZER III, PHD
MARY J. ROMAN, PHD
KATHERINE A. PAULSEN, MPH

DANIEL H. FREEMAN, PHD
MARJIE HAYNES
THOMAS N. JAMES, MD

Approximately 80% of prison inmates are reported to be functionally illiterate. We hypothesized that poor single word decoding (the chief feature of dyslexia) accounts for a significant percentage of that rate. We studied 253 subjects selected randomly from more than 130,000 Texas prison inmates. Among them, we conducted a cross-sectional sample survey of recently admitted Texas inmates, beginning with social and educational background and followed by an educational test battery that included measures of word attack skill and reading comprehension. Deficient performance was defined primarily as single word decoding performance that measured below the 25th percentile on the Woodcock Reading Mastery Test. We found that 47.8% of the inmates were deficient in word attack skills. Word attack skills were detected in each group defined by gender and ethnicity. Nearly two thirds of the subjects scored poorly in reading comprehension.

INTRODUCTION

Several studies as cited by Newman et al (1) have found that rates of functional illiteracy in the prison population of the United States far exceed those found in the nonincarcerated public. Various factors could lead to this poor reading ability, including a general lack of reading education or specific cognitive deficits. Skill in decoding single words plays a critical role in ability to read. Difficulty with single word decoding is the core component of dyslexia (2). The purpose of this study was to examine the ability of Texas prison inmates to decode single words.

In this study, we hypothesized that poor single word decoding ability is primary evidence of dyslexia and is a significant contributor to illiteracy in prison inmates. In addition to single word decoding, we examined passage reading comprehension, which provides an estimate of overall reading level. These indicators are related to standard demographic descriptors such as age, gender, and ethnicity, and to other risk factors for reading difficulty.

Poor reading ability in adults may have a number of causes including learning disabilities not addressed during childhood, lack of education, poor motivation, or more recently acquired mental or physical disabilities. Our primary concern is that, if not identified and remediated early, the reading disability manifest by lack of phonemic awareness and inability to decode single words may lead to a life of reading difficulty (3). Lack of appropriate intervention can contribute to more than failure in school and inability to achieve occupational success. Poor performance in school or at work too often leads to a life of crime and eventual imprisonment. To the extent that this is true, early and effective remediation could facilitate success and prevent a life of crime; for those

already incarcerated, such remediation in the prison might reduce recidivism.

Dyslexia, a specific difficulty in acquiring reading skill, may be at the root of the illiteracy problem in prisons. Dyslexia occurs in approximately 15% of the general population (4) and has at its core unusual trouble decoding single words into phonemes (5-8), the smallest recognizable units of sound within language. This fundamental inadequacy in phonological processing (9) is the most common form of reading disability. Dyslexia can and should be identified and treated, even at a young age (10-11). The disability of dyslexia occurs along a continuum (12) as do hypertension, diabetes, or musical talent. Furthermore, dyslexia is not merely an incident or "episode" but is a long-term condition that is often hereditary (13). Most important, dyslexia at any age is responsive to appropriate remediation (10,14-16), but unrecognized and consequently untreated dyslexia may leave a child with persistently diminished reading skills (3).

Adults with reading difficulties exhibit deficits similar to those observed in dyslexic children. More specifically, deficits in phonological awareness, single word decoding, and spelling have been found both in adult dyslexics (3,13,17-19) and in persons identified as having nonspecific learning disabilities or low literacy levels (20-22). Furthermore, examinations of the reading characteristics of incarcerated youth and adults suggest the presence of similar reading characteristics in these populations (23). Certainly, complex developmental and educational histories, which are common in incarcerated adults, make determination of dyslexia difficult, especially in the absence of relevant documentation such as elementary school records. Nonetheless, the ascertainment of reading deficits consistent with dyslexia has important implications for remediation.

Drs Moody, Holzer, Roman, Freeman, and James, and Ms Paulsen, The University of Texas Medical Branch at Galveston; Ms Haynes, Texas Department of Criminal Justice, Windham School District, Huntsville, Tex. Send reprint requests to Dr Moody, Open Gates Dyslexia Programs, The University of Texas Medical Branch, 301 University Blvd., Galveston, TX 77555-0173; e-mail: kmoody@utmb.edu.

This work was supported by a research grant from the Texas Department of Criminal Justice and by the Pegasus Fund of The University of Texas Medical Branch at Galveston. A portion of this work was presented before the annual meeting of the International Dyslexia Association in San Francisco on November 12, 1998.

METHODS

Sample design

Recently admitted Texas prison inmates (incarcerated fewer than 6 months) were studied so as to minimize the potential influence of prison culture. This study was tailored to permit efficient comparisons among groups by gender and ethnicity through oversampling of the smaller groups.

The sample was drawn from the Institutional Division of the Texas Department of Criminal Justice (TDCJ), which has approximately 130,000 inmates. The first stage was a random selection of prison units with probabilities proportional to the number of "eligible beds" for males and females separately. For the second stage, we selected a random sample of inmates within each chosen prison unit. Thirty male inmates were examined from each of 5 male prison units at a rate of 10 per month. Seventy-five female inmates were chosen from each of 2 female units at a rate of 25 per month. Thus, we began with 150 male and 150 female subjects.

The sample included men and women from 3 self-described ethnic groups (African American, Hispanic, and white) for a total of 6 strata. The ethnic categories are those used by TDCJ. Ethnic groups comprising less than 1% of the population were excluded.

Inmates were excluded from the study also if they were placed in administrative segregation for violent behavior, judged mentally retarded or psychotic by prison diagnostic services, in facilities for detoxification because of substance abuse, unable to see or hear adequately, severely medically ill or in need of hospitalization, unable to speak English, or younger than age 18 years. From the remaining pool of inmates, we selected the final group for study by random sampling after stratification by gender and ethnic group.

Informed consent

All study subjects were informed of the nature of our study and asked for informed consent by way of a specially produced video, with all responses recorded on audiotape. This procedure was approved by The University of Texas Medical Branch (UTMB) Institutional Review Board. The consent rate by inmates was 96%, reflecting 13 refusals. We interviewed 253 of the 267 remaining inmates. Reasons for failure to complete interviews were as follows: 5 were released from prison; 12 said that Spanish was their primary language, limiting their understanding of the testing procedures; 1 had a previously unrecognized visual problem; 2 were inadvertently interviewed in both the first and third wave (results from the third wave were eliminated); 7 were deemed (by prison authorities) as unsafe to visit; 6 were transferred to a different unit or had come under medical care; and 1 was eliminated for having completed fewer than 6 years of schooling. Combining the 13 refusals and 34 exclusions left the final study group of 253 inmates.

Diagnostician training and testing procedures

The Windham School District and TDCJ supervisors identified 12 licensed and certified diagnosticians (among their employees) who conducted all study assessments. Windham School District is responsible for education of inmates and has an average enrollment exceeding 50,000 students. Each diagnostician was competent in psychoeducational test administration and had extensive experience testing inmates. Training specific to our study's test protocol was provided at UTMB. Before beginning the study, we conducted a full systems test of all procedures, including completion of pilot interviews. During the field test and subsequent data collection, the work of each diagnostician was recorded on audiotape to

assure that protocols were followed consistently. All tapes were reviewed by a specialist in psychoeducational assessment on the UTMB staff. During the study, a subset of tapes from each diagnostician was reviewed by 2 additional members of the research team.

Field procedures and instruments

Studies began with a 30-minute Background Interview. This included questions about the inmate's self-reported language and educational history, family and medical history, and past alcohol and drug use, as well as any specific history of early difficulties reading or spelling or both. Each subject then took a battery of psychoeducational and cognitive tests designed to evaluate reading achievement, language-based cognitive skills, and general aptitude. The following specific tests were administered: Visual-Auditory Learning, Word Identification, Word Attack, and Passage Comprehension from the Woodcock Reading Mastery Test-Revised (24); Incomplete Words, Sound Blending, Picture Vocabulary, and Verbal Analogies from the Woodcock Johnson-Revised Tests of Cognitive Ability (25) and the Test of Non-Verbal Intelligence-2 (TONI-2) (26). The TONI-2 is a task of nonverbal analogical reasoning, which provides a relatively culture-fair measure of intellectual functioning. In our sample, the mean TONI-2 score was 85.6 (unweighted $SD=9.5$). A subset of these tests, Word Attack, Passage Comprehension, Word Identification (24), and the Background Interview became the major focus of the current investigation.

The Word Attack test evaluates single word decoding and phonological awareness. Subjects read aloud a series of nonsense words such as "tat" or "op," showing their ability to apply phonic and structural analyses to the task of reading novel words. This procedure produced a raw score, which was standardized through reference to age-normed tables for that test. A stan-

dard score of 90 corresponds to the 25th percentile, or doing as well as 25% and worse than 75% of the reference population.

The Word Identification test measures single word decoding skills by having subjects read real words of increasing difficulty. Comparable norms were used as for the word attack measure.

The Passage Comprehension test assesses the ability to read and comprehend a brief passage of text, composed of 1 to 3 sentences, in which a single word is missing. Subjects must deduce from context an appropriate word to complete the passage. Comparable norms were used as for the word attack measure. This test was included in our battery to provide an overall measure of reading level (27).

Until recently, the finding of major discrepancy between Intelligence Quotient (IQ) and achievement test scores was considered a principal basis for diagnosing dyslexia (2). Many public school systems still require that children demonstrate such a discrepancy before being assigned to special reading remediation. However, growing evidence suggests that the critical deficits in dyslexia are impaired word decoding skills and phonemic awareness, and that this deficit is independent of either high or low intelligence (28-31). For these reasons, we chose not to examine discrepancies between IQ and achievement; instead, we focused on reading variables alone.

We considered Word Attack test scores below the 25th percentile of the standard national reference as evidence of dyslexia. We selected this measure because poor ability to "sound out" or decode single words appears to be the core deficit in dyslexia (9,32-33). In a subset of our sample, we examined an additional indication of deficient decoding based on single-word decoding of both real words and nonwords. According to this alternative measure, word attack and word identification were both re-

quired to fall below the 25th percentile for a subject to meet the primary characteristics of dyslexia. This requirement enabled us to determine whether a more restrictive definition of decoding impairment (involving real words as well as novel letter strings) would alter the composition of the group, which has impaired decoding skills.

Statistical analysis

The 2-stage sampling process required that the responses be weighted to reflect the relative oversampling of females and the stratification by ethnic groups. In addition, the analysis adjusted for clustering of interviews within specific prison units. The adjustment for stratification and clustering was accomplished through the use of Taylor Series estimators, which allowed incorporating the "design effects" explicitly into the analysis. The SUDAAN software application was used to perform computations (34).

Our analysis began with simple tabulations of the prevalence of various outcomes. The first was the prevalence of a word attack score below the 25th percentile (standard score = 90); this represented the dyslexia characteristic of primary interest. The second outcome considered subjects with low scores (below the 25th percentile) on both word attack and word identification. The third outcome included those inmates who scored below the 25th percentile on the Passage Comprehension test, indicating difficulties with reading comprehension. The fourth outcome identified those with poor word attack skills who also had passage comprehension scores below the 25th percentile. These outcomes were examined according to gender, age, and ethnic group.

We first hypothesized that the sampled inmates would differ significantly from the general population with respect to poor word attack skills. To test this hypothesis, we compared prison-

ers' standard scores on the word attack measure with national norms (24). That is, the percentage of prisoners with word attack scores below the 25th percentile was compared with the 25th percentile of the normative sample. Word attack plus word identification scores were analyzed similarly.

A second hypothesis was that higher prevalence rates in overall reading difficulty, as reflected in passage comprehension scores, would be found in the prison population. For this analysis, we compared subjects' prevalence rates for low passage comprehension scores with the 25% rate of low scorers in the normative population (24). For the word attack and passage comprehension analyses, we computed the student's *t* test statistic, adjusted for the sample design. The corresponding mean $\pm$ its standard error and its probability (*P*) value are reported for each demographic group for these variables.

We also examined poor word attack skills among inmates as a function of age, gender, and ethnic group. The test statistics were based on the Wald chi-square statistics for complex sample surveys as proposed by Koch, Freeman, and Freeman (KFF) (35).

After considering the demographic variables, we examined whether poor word attack skills were associated with self-reported history of reading difficulty or other prisoner characteristics. Regarding risk factors for dyslexia, we anticipated finding that prisoners with low word attack scores would be more likely to report having had reading difficulties in childhood. For risk factor analyses, we cross-tabulated the prevalences by childhood and adult risk factors, and tested for the statistical significance of any differences found. The KFF statistic is also adjusted for the sample design based on a Taylor Series estimator of variance. Only the statistical significance (*P* value) of these associations is reported.

Table 1. Percentage scoring below the 25th percentile on standardized tests of word attack skills and reading comprehension.

Low Word Attack Score Low Reading Comprehension							
Variable	Sample Size	%	SE	P Value	%	SE	P Value
Total	253	47.8	± 4.3	<0.001	61.7	± 5.4	<0.001
Gender							
Male	121	48.0	± 4.6	<0.001	61.9	± 5.7	<0.001
Female	132	45.5	± 3.8	<0.001	59.7	± 3.6	<0.001
Wald chi-square		0.18			0.11		
P value		0.689			0.757		
Age (y)							
18-29	63	53.2	± 6.0	<0.001	67.9	± 6.0	<0.001
30-34	55	38.9	± 7.6	<0.066	63.8	± 5.3	<0.001
35-39	64	26.9	± 4.5	<0.674	54.3	± 11.3	<0.009
40-54	71	63.5	± 8.2	<0.001	58.2	± 6.0	<0.001
Wald chi-square		15.61			2.03		
P value		0.054			0.603		
Ethnicity							
African American	89	63.0	± 7.1	<0.001	75.7	± 11.4	<0.001
Hispanic	78	38.5	± 4.7	0.004	60.6	± 3.6	<0.001
White	86	32.9	± 4.9	0.105	39.2	± 7.6	0.063
Wald chi-square		10.04			6.49		
P value		0.064			0.125		

* The first data column shows sample size by demographic group. The second shows the data for word attack skills, the percent scoring below the 25th percentile on the word attack subtest, the standard error, and the probability (P value) that the percentage shown matches a national norm of 25%. The third column shows low reading comprehension with the percentage compared with a national norm of 25%. All percentages and standard errors are adjusted for the sample design. The Wald chi-squares test whether the percentages vary among levels of each demographic variable. For all tests of significance, $P < 0.05$ is considered significant.

RESULTS

Prevalence of poor word attack skills

We found that 47.8% of the entire in-mate sample obtained word attack scores below the 25th percentile (Table 1). Thus, the prevalence was approximately twice that found in the normative population.

We next determined the prevalence both of word attack and word identification scores falling below the 25th percentile. We considered this combination of variables, just as many previous studies of dyslexia have examined real-word as well as nonword decoding. This analysis was conducted on the subset of the sample completing the word identification test ($n = 147$

[58.1% of the entire sample]). Of those 147 subjects, 59 (40.1%) had both real word and nonword decoding difficulties. Using the same subset of 147 subjects, we compared this alternative with the prevalence of nonword reading deficits alone and found that 61 subjects (41.5%) had low scores. Thus, those identified by real word or nonword decoding difficulties or by both were nearly the same, with only 2 subjects having low word attack scores without low word identification scores.

Prevalence of low reading comprehension

Low reading comprehension (scoring below the 25th percentile on the passage comprehension test) was found for

61.7% of the entire study sample, well above the normative sample prevalence of 25%. Of those subjects with low passage comprehension scores, 59.3% had poor word attack skills. Thus, poor word attack skills appeared to account for more than half of the subjects with poor reading comprehension. We found also that 82.9% of subjects with low word attack scores had poor reading comprehension as well.

Demographic variables

Large differences in low word attack skills were seen among the 3 ethnic groups. More than 60% ($63.0 \pm 7.1\%$) of African Americans but fewer than 40% of Hispanic subjects ($38.5 \pm 4.7\%$) or white subjects ($32.9 \pm 4.9\%$) scored below the 25th percentile on the word attack test. After adjusting for the sample design, we found that these direct ethnic comparisons were not statistically significant ($P = 0.064$). However, when we adjusted for age and gender using logistic regression, African Americans had a significantly increased prevalence of low word attack scores ($P = 0.01$) compared with Hispanic and white subjects. We found no statistically significant difference between men and women and no consistent age pattern ($P = .054$).

On the Passage Comprehension test, no statistically significant difference was seen among the ethnic groups. Scoring below the 25th percentile on this measure were $75.7 \pm 11.4\%$ of African Americans, $60.6 \pm 3.6\%$ of Hispanic subjects, and $39.2 \pm 7.6\%$ of white subjects.

Risk factors

In an attempt to understand our findings, we analyzed the contribution of several known risk factors for dyslexia such as poverty, hunger, head injury, and problems in the home. Adjusting for ethnic group and sample design, the following risk factors were associated significantly with poor word attack skills at the $P < 0.05$ level: having

had a head injury in childhood or adulthood, having been in a resource room in elementary school, and reporting "fair" or "poor" mental health during the past year. Other findings that were statistically less robust but worth reporting included a greater history of having repeated a grade ($P=.051$), a history of having been placed in a "special education" class in elementary school ($P=.058$), and a report of poor physical health in the past year.

DISCUSSION

The purpose of this study was to determine the extent to which dyslexia could contribute to the high prevalence of reading difficulty in prison populations. We have argued that poor single word decoding is a core deficit of dyslexia and that the word attack measure from the Woodcock Reading Mastery Test is an appropriate operational measure of single word decoding. Keith Stanovich and Linda Siegal, two leaders in the field, have advocated that the screening for dyslexia be based on the performance on a test of pseudoword reading (e.g., the Woodcock Johnson Word Attack subtest used in our study). Further, Stanovich says that this should be "the primary diagnostic indicator of reading disability," noting that the most common and accurately identified type of reading disability is phonological dyslexia (36).

As originally stated, our first hypothesis was that the prison population, and particularly those prisoners incarcerated for fewer than 6 months, would have lower performance on word attack than the age-specific national norms for nonincarcerated adults. This hypothesis was supported, with 47.7% of the prisoners sampled scoring lower than the 25th percentile on the general population norms. The prisoners had nearly twice the difficulty with single word decoding as the general population has.

We also considered the effect of combining the word attack measure, which focuses on decoding of nonsense words, with the word identification subtest from the same battery. We found that these measures combined differed from word attack alone in only 2 of the 147 subjects who received both tests. Because no national norms are reported for the combined measure and because its use would reduce our sample size, we stayed with the word attack measure as our primary estimate of single word decoding difficulty.

We have reason to be concerned that word attack or any measure of reading performance might be degraded by long-term incarceration, at least for those who are not participating in active educational programs. However, because our sample was focused on persons who had entered the prison system within the past 6 months, issues relating to long-term incarceration were less relevant for interpreting our results.

One issue related to constitutional versus acquired difficulties with reading is the presence of reported childhood or adult head injury in a number of the prisoners. Although we did not use head injury as a criterion measure, our examination of risk factors makes clear that head injury is associated with reading difficulty and needs to be considered as a possible source of acquired reading difficulty. However, relying on self-reported head injury without knowing the medical assessment for severity or significance of the episode carries limitations.

We have examined specifically the relationship of word attack as a measure of single word decoding to a measure of reading comprehension. We found that 82.9% of those below the 25th percentile on word attack were also below the 25th percentile in their reading comprehension. This supports the importance of single word decoding

as a core reading skill. From another perspective, 59.3% of those with poor reading comprehension also had poor word attack scores, indicating that deficits in single word decoding are not the only cause of poor reading comprehension. In future studies, we plan to explore the relationship between specific single word decoding deficits and the more general issue of reading comprehension in the prison population.

While the high overall prevalence of difficulties with single word decoding in our sample is striking, group demographics were examined also. We found no significant differences by gender or age, although we note that the results were adjusted to age norms. On the other hand, we found striking ethnic differences in word attack scores. About 63% of African American respondents had word attack scores below the 25th percentile of the Woodcock reference norms for the general population. This percentage was significantly higher than the corresponding 38% for Hispanic respondents and 33% for white respondents. Note that the Woodcock norms are not ethnic specific and, thus, we cannot make such comparisons to the general population. Because of cultural differences in language use, this is a complicated issue that goes beyond the explanatory data that we have available. However, each group of prisoners performed significantly worse than the general norms on word attack. Similarly, all 3 groups also performed worse than the norms on reading comprehension, supporting our hypothesis that more dyslexia appears in prisoners than in the general population.

The ethnic differences that we observed in word attack and reading comprehension are consistent with general findings of greater reading difficulty for minorities, but the specific comparisons between African Americans and Hispanic subjects are inconsistent with reports from Haigler's report of greater

difficulties in prose literacy for Hispanic persons (37).

That poor readers, even in the prison population, can respond positively to appropriately designed reading interventions is evident. Greene (22) has demonstrated the efficacy of an individualized educational rehabilitation program, which provided instruction in phonemic awareness and single-word decoding as well as other spoken and written language skills in a population of adjudicated youth. We recommend the implementation of programs to build word attack skills in every prison population (38). Reading programs must also foster interest and desire in continuing to read.

While we recognize that the cost of remediating dyslexia and illiteracy is high, particularly in a prison population, we know already that building more prisons, hiring more police, and toughening our laws have still failed to prevent crime. The cost of keeping a single inmate in prison is about \$30,000 per year. We should welcome any opportunity to apply a new approach that may truly reduce crime and its concomitant financial and tragic consequences. Teaching everyone to read is not a utopian dream but a realistic goal for which no shortcuts exist. As for cost, the more relevant question is whether we can afford not to do it.

Finally, the nature of this study and our interpretation of the findings must not be misread. To conclude that dyslexia causes criminal behavior would be completely incorrect. We know of no evidence to support such an interpretation. The association of dyslexia with criminal behavior is not a directly causative relationship. The uninformed and careless response to dyslexia by society-at-large becomes a contributory cause, ending in an emotionally degrading life for the dyslexic child who is often being told how lazy he is when he knows how hard he has been trying.

REFERENCES

- Newman AP, Lewis W, Benhamock C. *Prison Literacy: Implications for Program and Assessment Policy*. Philadelphia: National Center on Adult Literacy, Summer 1991. Publication No. (NCAL) TR-93-1.
- Lyon GR. Toward a definition of dyslexia. *Annals of Dyslexia*. 1995;45:2-27.
- Bruck M. The adult functioning of children with specific learning disabilities: a follow-up study. In: Siegel L, ed. *Annual Advances in Applied Developmental Psychology*. Norwood, NJ: Ablex; 1985.
- Interagency Committee on Learning Disabilities. *Learning Disabilities: A Report to the US Congress*. Washington, DC: US Government Printing Office; 1987:111-112.
- Shaywitz SE, Shaywitz BA, Pugh KR, et al. Functional disruption in the organization of the brain for reading in dyslexia. *Proc Natl Acad Sci USA*. 1998;95:2636-2641.
- Lieberman IV, Shankweiler D. Speech, the alphabet and teaching to read. In: Resnick LB, Weaver PA, eds. *Theory and Practice of Early Reading*. Hillsdale, NJ: Lawrence Erlbaum Associates; 1976.
- Menas LC, Lyon GR. Wanted: teachers with knowledge of language. *Topics in Language Disorders*. 1996;16:75-86.
- Crichtley M, Crichtley EA. *Dyslexia Defined*. Chichester, Great Britain: Charles C. Thomas; 1978.
- Wagner RK, Torgesen JK. The nature of phonological processing and its causal role in the acquisition of reading skills. *Psychol Bull*. 1987;101:192-212.
- Forman BR, Francis DJ, Winkates D, Mehta P, Schachneider C, Fletcher JM. Early interventions for children with reading disabilities. *Scientific Studies of Reading*. 1997;1:255-276.
- Stanovich KE, Siegal LS. The phenotypic performance profile of reading disabled children: a regression-based test of phonological-core variable difference model. *Journal of Educational Psychology*. 1994;86:24-53.
- Shaywitz SE, Escobar MD, Shaywitz BA, Fletcher JM, Makuch R. Evidence that dyslexia may represent the lower tail of a normal distribution of reading ability. *N Engl J Med*. 1992;326:145-150.
- Pennington BF, Van Orden GC, Smith SD, Green PA, Haith MM. Phonological processing skills and deficits in adult dyslexics. *Child Dev*. 1990;61:1753-1778.
- Alexander AW, Anderson HG, Heilman PC, Voeller KKS, Torgesen JK. Phonological awareness training and remediation of analytic decoding deficits in a group of severe dyslexics. *Annals of Dyslexia*. 1991;41:193-206.
- Bail EW, Blachman BA. Does phoneme awareness training in kindergarten make a difference in early word recognition and developmental spelling? *Reading Research Quarterly*. 1991;20:44-66.
- Frank S. Stimulating basic reading processes using auditory discrimination in depth. *Annals of Dyslexia*. 1994;44:60-80.
- Bluck M. Word recognition skills of adults with childhood diagnoses of dyslexia. *Dev Psychol*. 1990;26:439-454.
- Felton RH, Naylor CE, Wood FB. Neuropsychological profile of adult dyslexics. *Brain Lang*. 1990;39:485-497.
- Fink RP. Literacy development in successful men and women with dyslexia. *Annals of Dyslexia*. 1998;48:311-346.
- Bialock JW. Persistent problems and concerns of young adults with learning disabilities. In: Cruickshank WM, Silver AA, eds. *Bridges To Tomorrow: The Best Of ACOL*. Syracuse, NY: Syracuse University Press; 1981:35-55.
- Pratt AC, Brady S. Relation of phonological awareness to reading disability in children and adults. *Journal of Educational Psychology*. 1988;80:319-323.
- Greene JE. *LANGUAGE Effects of an individualized structured language curriculum for middle and high school students. Annals of Dyslexia*. 1996;46:97-121.
- Read C, Ruxter L. Reading and spelling skills in adults of low literacy. *Remedial and Special Education*. 1985;6(6):43-52.
- Woodcock RW. *Woodcock Reading Mastery Test-Revised: Examiner's Manual*. Circle Pines, Minn: American Guidance Service; 1987.
- Woodcock RW, Mather N. *W-J-R Tests of Cognitive Ability - Standard and Supplemental Batteries: Examiner's Manual*. Chicago, Ill: Riverside Publishing; 1989, 1990.
- Brown L, Sherbenou RJ, Johnson SK. *The Test of Nonverbal Intelligence*. 2nd ed. Austin, Tex: Pro-ed; 1990.
- Fowler AE, Scarborough HS. *Should Reading Disabled Adults Be Distinguished From Other Adults Seeking Literacy Instruction? A Review of Theory and Research*. Philadelphia, Pa: National Center on Adult Literacy; September 1993. Publication No. (NCAL) TR-93-7.
- Fletcher JM, Shaywitz SE, Shankweiler DP, et al. Cognitive profiles of reading disability: comparisons of discrepancy and low achievement definitions. *Journal of Educational Psychology*. 1994;86:6-23.
- Lyon GR, Chhabra V. The current state of science and the future of specific reading disability. *Mental Retardation and Developmental Disabilities Research Review*. 1996;2:2-9.
- Stanovich KE. Explaining the differences between the dyslexic and the garden-variety poor reader: the phonological-core variable

- difference model. *J Learn Disabil.* 1988;21(10):590-604.
31. Stanovich KE. Discrepancy definitions of reading disability: has intelligence led us astray? *Reading Research Quarterly.* 1991;26(1):7-29.
 32. Gough PB, Tunmer WE. Decoding, reading, and reading disability. *Remedial and Special Education.* 1986;7(1):6-10.
 33. Tai NF, Siegel LS. Pseudoword reading errors of poor, dyslexic, and normally achieving readers on multisyllable pseudowords. *Applied Psycholinguistics.* 1996;17:215-232.
 34. Shah BV, Barnwell BG, Bieler GS. *SUDAAN: User's Manual, Release 7.5.* Research Triangle Park, NC: Research Triangle Institute; 1997.
 35. Koch GG, Freeman DH, Freeman JL. Strategies in the multivariate analysis of data from complex surveys. *International Statistical Review.* 1975;43:159-178.
 36. Castles A, Coltheart M. Varieties of developmental dyslexia. *Cognition.* 1993;47:149-180.
 37. Haigler KO, Harlow C, O'Connor P, Campbell A. *Literacy Behind Prison Walls.* Washington, DC: US Dept of Education, Office of Educational Research and Improvement, National Center for Education Statistics; 1994. Publication No. (NCES) 94-102.
 38. Brier N. Targeted treatment for adjudicated youth with learning disabilities: effects on recidivism. *J Learn Disabil.* 1994;27:215-222.

Senator CASSIDY. So I would say \$1.5 million—it is a start, but in a budget of \$66 billion, it is kind of a leaky faucet. And so I would encourage a little bit more.

Dr. KING. Yes. I want to note that the Budget request includes nearly \$12 billion for the Grants to States program, which can be used and is used for the provision special education and related services, including child find and evaluation, for students with disabilities including those with dyslexia at the discretion of States, districts, and the IEP teams.

Also, the award for the technical assistance center to be made in fiscal year 2016 does not yet have an indirect cost rate associated with it since there has not been a grantee selected through the Department's competitive award process.

FUNDING LEVELS FOR BLOCK GRANTS

Senator CASSIDY. Secondly, just to follow up on what Senator Alexander spoke of, it is kind of crazy. On a bipartisan basis we proposed increasing block grants, and you all do not. And we proposed closing programs and you all expand them.

Now, let me just come back to what Senator Alexander asked. It really seems since Senator Alexander advocated for you being appointed so that we could follow through on the clear intent of the Congress in terms of implementation of the law, right out of gates, it looks like you are kind of ignoring the clear intent of Congress, which was to give block grants and to decrease individual programs. As an example, clearly the block grant funding is not sufficient. In your budget, you actually allow States to allow school districts on a competitive basis to apply for this money. Yet, we intended for there to be enough money that the State could do the applications and then filter the money down to the district levels.

Just going back to this, we want you to give a block grant. That was the clear intent of the law. Why not? It is just kind of a question that has to be asked.

Dr. KING. Two points on that.

As I indicated earlier, the programs that were folded into Title IV last year received \$278 million in funding. We have proposed \$500 million in funding, so a \$222 million increase.

Senator CASSIDY. So we wanted to back that off. You have doubled. So that kind of proves my point that the clear intent was—

Dr. KING. No, no. Sorry if I was unclear. Those four programs are now all folded into a single Title IV grant program. We have actually taken what was \$278 million in four programs and put \$500 million—a \$222 million increase—into the Title IV grant program. So that is consistent. Certainly we are open to conversation about whether that number can be increased, along with other priorities within the discretionary spending caps.

The other point I would make is that we propose allowing States the option of distributing the grants on a competitive basis because we worry that, as currently constructed, you would have districts that could receive as little as \$10,000, which seems too small to meaningfully impact arts education, well-rounded education, school counseling, and safe and supportive school climates. So we propose allowing States to award the grant competitively with a \$50,000 floor.

But again, I am open to conversation about both the level of funding and the methodology. We just want to make sure schools are able to have enough funding to make a difference.

ABILITY OF RURAL SCHOOL DISTRICTS TO COMPETE FOR FUNDING

Senator CASSIDY. As regards competitive grants—just 30 seconds more—that, if you will, is a little bit prejudice towards more urban districts. If you go to a rural district, they may not have the ability to apply for a grant. I just met with a gentleman from Winn Parish, Louisiana yesterday, and they are a rural community very much trying to keep it together as a population and their industry has evacuated. So when you put in a rule like that, I will just say that there is a certain prejudice against those smaller districts.

Dr. KING. We have tried in our competitive grants at the Department to include a rural priority, and so you see that play out, for example, in the program that now would be the Education Innovation and Research Program. Twenty-six percent of the dollars are going to rural communities because of the rural priority in that grant program. States, if they chose this option of awarding the grants competitively under Title IV, could also include a rural priority or a set-aside. So there could be different approaches on distribution, and we are certainly open to talking about that.

Senator CASSIDY. I yield back. Thank you.

Senator BLUNT. Senator Reed.

LITERACY PROGRAMS

Senator REED. Thank you very much, Mr. Chairman.

Thank you, Secretary King, for being here today.

Because of the great leadership of Senator Alexander and Senator Murray, we passed the Every Student Succeeds Act. Thank you very much. Part of that was the innovative approaches to the Literacy grant program, which I am very pleased to see.

Can you give us an idea of how the Department is going to provide the guidance and the technical assistance to encourage and support States and the school districts to implement the school library provisions? We talked yesterday about the criticality of school libraries.

Dr. KING. Yes. We are excited about both the Comprehensive Literacy Development Grant program and the Innovative Approaches Literacy program, and we look forward to running those grant competitions this year for new awardees under both. We are trying to build on lessons learned from prior grantees and from our Education Innovation and Research grantees. I am certainly happy to follow up with you or your staff as that process moves forward.

Senator REED. I would very much appreciate that. Again, as we talked, school libraries are such a multiplier in terms of their benefits not just to the students but the community. And then when you link them to public libraries and you link them to university libraries that might be in your thought process also.

Dr. KING. Absolutely. As we talked about, I am a very strong supporter of school libraries and have seen firsthand as a student, as a parent, and as a teacher the benefits that school libraries have.

STUDENT LOAN DEBT

Senator REED. Now, shifting to the issue of higher education, this is an issue that we all have spent a lot of time trying to deal with the huge overhang of debt. One approach that I have talked to my colleagues about for several years now has been forcing the institutions and the lenders to put skin in the game, to actually have a monetary interest in seeing that students do not over-borrow, that students are prepared for real work and get real jobs. And it seems there is a very cost-effective and efficient way to do it. It is an incentivization structure that would operate almost automatically. This is a real different process than check off the boxes and you are fine.

I would like to work with you to establish this type of requirement in the student loan programs if you could do it administratively. We have legislative proposals. But I think there is not just one solution. There are many solutions. But this could be a big part of dealing with the issue.

INCENTIVES TO INSTITUTIONS WITH STRONG COMPLETION RATES

Dr. KING. Absolutely. Eager to work with you on this. I think the current incentive structure really rewards enrollment, not completion. And we have got to shift that. The President proposes in the budget an incentive fund that would reward institutions with strong completion rates for Pell-eligible students. But we are open to working with you and the committee on different strategies to achieve skin in the game.

Senator REED. Again, a complex subject, but my sense from a macro perspective is there is sort of a 40 percent threshold. If you go past that, you are out of the program. But it easily managed I think or it is managed. It has to be and I think several years in a row. And I would think if you could look at your regulations even, if that could be tightened up because as it exists today, there is really no incentive to ensure students can finish, ensure they take courses that are adequate, ensure that they get the right advice about borrowing. And as I said on the phone, it is eerily reminiscent of the mortgage crisis where nobody had any incentive except to sign the papers and take the money and run. So I would hope we could work together on that.

Dr. KING. Yes, and we would like to use every tool that we have available under current law to try and ensure accountability for higher education institutions, but also would look forward to working with you and others on the committee on the budget priorities that might incentivize institutions to focus on completion and ideally working with Congress on a reauthorization of the Higher Education Act.

Senator REED. Thank you very much.

Thank you, Mr. Chairman.

Senator BLUNT. Thank you, Senator Reed.

Senator Baldwin.

Senator BALDWIN. Thank you, Mr. Chairman, Ranking Member Murray.

Thank you, Dr. King, for your testimony today.

TITLE IV BLOCK GRANTS

I understand during the time I needed to step out that you received a number of questions about the level of proposed funding for the new Student Support and Academic Enrichment Grant under Title IV. I am not going to ask you to repeat your answers. But I wanted to add my voice to those who expressed strong concern about the very low level of funding proposed.

This grant program provides States and school districts with the flexibility to invest in a wide range of programs, things like educational technology, physical education, school counseling, foreign language arts, arts, advanced placement.

And Congress authorized—I also serve on the HELP Committee. So I am very much focused on adequate funding there. We author-

ized \$1.65 billion. Your testimony indicated that the administration's request, the Department's request, reflects the very difficult choices that you had to make, given the caps. However, you have given further explanation.

I just want to state and underscore how extremely important I believe this program is. And I do not think we will successfully achieve the intent of the Congress of the United States at the current funding level. So I look forward to working with my chairman and ranking member on this very high priority issue.

AMERICA'S COLLEGE PROMISE

I want to move now to the budget request for America's College Promise. I know you have also been asked questions about that. It is a commitment to making 2 years of community or technical college tuition free for eligible students while also, and importantly, incentivizing educational reforms that I think will improve student outcomes.

As you know well, I am proud to be the lead sponsor in the United States Senate of the bill, America's College Promise.

So some talk about the cost of this plan, but I really think that it is a crucial investment that both increases access to higher education and prepares the workforce of the future.

I would like you to address for a moment what the Department sees, what you see as the economic benefits of the legislation and how it would help us ensure that we have the workforces that our businesses are demanding, that our employers are demanding.

Dr. KING. Thanks. Very grateful for your leadership on America's College Promise.

We think that students having access to 2 years of community college will do a few things. One is it will make clear to all students that college is accessible to them. Too many students today think college is unavailable to them. Being able to communicate clearly that if you work hard, if you are responsible, you will be able to get 2 years of community college for free I think it is a powerful message to young people about their future.

Two, we know that community colleges are a key economic driver throughout the country. They are often the place where first generation college students get their first access to higher education and pathway to work. They are often very strong partners to employers in providing job training and job skills for their future workforce. And they are a source of what some people would call stackable credentials, places where you might go get some initial credits towards job training, then come back, get your associate's degree, then come back, get some additional training, and then head on to a 4-year program. They are a linchpin, we think, to the ladder of opportunity, that is, the American dream. So we think America's College Promise should not be viewed as an expense but rather as an investment.

Senator BALDWIN. I appreciate those comments. When we spoke earlier, I noted that there are several community colleges and technical colleges in the State of Wisconsin that are endeavoring to make a college promise to students in their area, even without this legislation. We know several States, Tennessee and Oregon, have taken steps in that direction.

Of course, I restate my invitation for you to come back and join us at one of these Wisconsin campuses. I am going to be doing so tomorrow in an attempt to urge the first group eligible to fill out their FAFSA (Free Application for Federal Student Aid) by March 15th in order to be eligible for the first year of one of those programs.

CAREER AND TECHNICAL EDUCATION

Let me just conclude by taking a moment to note that the budget request includes funding for two other major priorities of mine and I know others on this committee, the Carl D. Perkins CTE (Career and Technical Education) Act and Next Generation High Schools. I am co-chair of the bipartisan CTE Caucus in the Senate, and I am really pleased to see the request build on our commitment to Perkins CTE. I also note that the budget seeks \$80 million for the Next Generation High Schools program, an idea that I championed during the ESSA process.

So these are both programs that can help keep our high school students better—help them better obtain the education and skills that they need to succeed in college and a career beyond. And I look forward to working with fellow members of the committee on those issues.

Thank you.

Senator BLUNT. Thank you, Senator Baldwin.

We have a little time for a few more questions I think.

COMMUNITY COLLEGES

On the community college issue, I think community colleges are the best buy in higher education. We have a robust system in our State. There is no community college in Missouri that if you qualify for full Pell, you cannot pay all the tuition, all the fees, all the books, and have some money left over. And I do not think we have any student outside of the reasonable reach of a community college now in our State. So just for the record, on that needs-based Pell, we have community college paid for now if you meet the needs-based requirement to have it paid for.

TITLE IV BLOCK GRANTS

On the Title IV issue, I want to go a different direction with Title IV. But Title IV—the authorized money in the bill we just passed is a 500 percent increase over what we have been spending. You asked for essentially double what we have been spending. So I just want to be sure that we are not suggesting here that somehow anybody is stepping back from the traditional commitment to programs now funded by Title IV. Last year it was \$278 million, which is about what it was the year before, a little more I think than the year before that. You are asking for \$500 million. You know, the authorizers did approve in the ESSA bill \$1.65 billion, but you are still asking for twice as much as we have been spending on those areas.

GAINFUL EMPLOYMENT

On gainful employment, I think actually Title IV is a good backdrop to talk about gainful employment. Arts education, physical education, music education, all are an important part of education. They are not necessarily the things that add the most to a paycheck. Now, I am not offended by a significant number of art history majors in the country today. All of them might have made more money if they would have decided to become business finance majors or brain surgeons. But then we would have no art history majors.

I just am concerned, John, that this gainful employment concept, a phrase that has been in the law for 50 years—and has never been fully defined—is too focused on the amount of money a person makes versus their loan versus what they have decided to do. My belief is if you apply the gainful employment standard in the direction it is headed to the not-for-profits—and I was a university president for 4 years. Senator Alexander was a university president. The not-for-profits would not stack up all that well either when you look at all their students.

Now, if you look at whether people are current on their loan or not, no matter how much they make, there are other factors here that I think we should think about. And I am very concerned that we are monetizing the value of higher education in a way that has not been in the traditions of the country. And I would be glad to hear your response.

Dr. KING. Look, I appreciate the concern. We do not want to send a signal to students that pursuing studying the humanities is a bad thing. Lots of great, creative, successful people began their studies in areas that were not necessarily work-related.

That said, “gainful” is intended to apply to our for-profit colleges and our career preparation programs at other institutions. And to say if the promise on which the student is enrolling is that this experience is going to lead to gainful employment, we have got to make sure that that promise is delivered. And we know that there are institutions where students are told, come to this program, when you leave this program, you are going to get a great job. But then hardly anyone gets a good job at the end of that program. And so we see “gainful” as a way to make sure that we are protecting the consumers and the taxpayers as well because we want to make sure that taxpayers are getting the benefit of the investment in those educational services.

Senator BLUNT. Well, people that are the first person in their family to go to college often have a different concept of what is available for them to do, what they decide to major in. I think at some point in fairness you have to look at higher education generally. You cannot just decide that the for-profits must be there for a bad purpose and the not-for-profits do not need standards. We will talk more about that later.

Senator Murray.

PRESCHOOL

Senator MURRAY. Dr. King, as you know, the bipartisan Every Student Succeeds Act marks the first time that our Nation’s pri-

mary education law authorized dedicated funding to improve access to preschool for children from low-income and disadvantaged families.

Although the program is now going to be funded at HHS (Health and Human Services), the program will be jointly administered by HHS and the Department of Education. The Department of Education has done great work, in collaboration with HHS, to help our States develop and sustain strong early learning systems. I wanted to ask you today how do you plan to work with HHS to leverage your Department's expertise in this arena so we can make sure we are getting high-quality early learning.

Dr. KING. Thanks. I appreciate the question.

You know, we have worked very closely with HHS on implementation of the Race to the Top Early Learning Challenge and then the Preschool Development Grant program. So we have a good track record of close collaboration.

We have already been talking with them about execution of the new program under ESSA and think we will be able to work together very productively, ensure we are providing good technical assistance to States and districts and providers and that we are lifting up best practices because we know that the return on investment for high-quality pre-K is at eight to one, nine to one, but we have to make sure it is high quality. And so we will be focused on technical assistance, on quality issues, and also on transition issues. We have to make sure that students are able to transition smoothly from preschool into the K-12 system.

Senator MURRAY. I really appreciate that. And anything I can do to be helpful, let me know.

Dr. KING. Thank you.

CAMPUS SEXUAL VIOLENCE

Senator MURRAY. I wanted to ask you about the Office for Civil Rights. I have been impressed with this administration's work over the years to protect civil rights, including promoting educational opportunities for students of color, women and girls, students with disabilities, LGBT students. And I look forward to continuing to work with you on those issues.

But there is one specific issue I want to raise here today. Campus sexual assault and violence is a growing national crisis. Depending on the survey that you look at, we know that at least one in five women are being sexually assaulted while on college campus, and that is the lowest of the estimates out there. That is really appalling and it is unacceptable. And I hear over and over again from students, administrators, and survivor groups and schools and others about the important work the Office for Civil Rights does to enforce Title IX.

The Office for Civil Rights has taken critical action to ensure that our college campuses have the tools and the resources necessary to comply with Title IX and keep our campuses safe.

Can you talk with us today about the importance of having safe campuses and your Department's commitment to addressing this?

Dr. KING. You know, I think it has to be a top priority for our country to tackle this. When you look at the impact on the victims of sexual assault, whether it is female victims or male victims, it

is devastating, a devastating life impact, and it makes campuses unsafe places for everyone.

Our goal at the Office for Civil Rights has been to ensure that institutions are doing all they can to protect students. We want them to respect due process. And we have tried in our guidance to make clear what it will take for higher education institutions to comply with the law and regulations, and also we have tried to establish for them examples of best practices from around the country. You know, there was a task force on sexual assault and sexual violence that held dozens of meetings, gathered input from around the country on these issues.

We think we have made significant progress. The institutions that have reached agreements with our Office for Civil Rights have made their policies and practices better, and students are safer as a result. And we want to continue to do that work.

We worry that capacity is a challenge in our Office for Civil Rights. We had around 7,000 complaints in 2010 because we have shown that we are going to enforce civil rights. We expect we will probably have 11,000 complaints this year.

Senator MURRAY. Yes. I understand the workload has increased 45 percent since 2010?

Dr. KING. That is right.

Senator MURRAY. No additional resources? And I am worried about that because the number of cases that remain unresolved for more than 180 days has increased from 315 at the end of fiscal year 2009 to 1,311 at the end of fiscal year 2015. That is a fourfold increase in the number of cases that are unresolved. And as you just referred to, an unresolved case means the student that drops out, does not finish college—you know, it has a lifetime impact. And our students and our families really rely on the Office for Civil Rights for enforcement. So I am assuming you are as concerned as I am about that delay in justice.

Dr. KING. Absolutely, and that is why we have asked for an increase in funding for the Department's budget so that we can add staff in the Office for Civil Rights.

Senator MURRAY. Thank you very much. Appreciate it.

Senator BLUNT. Senator Alexander.

OVERREACH VIA DEAR COLLEAGUE LETTERS

Senator ALEXANDER. Dr. King, the Kirwan-Zeppos task force report on higher education said that our 6,000 colleges and universities get on the average of one communication each workday from the U.S. Department of Education, whether it is a guidance or a memo or news about a new regulation. Is it correct that if that communication is simply a "Dear Colleague" letter, that it is not legally binding?

Dr. KING. That is right. The institutions are responsible to the law and the regulations. The guidance is intended to share our interpretation of the law and regulations.

Senator ALEXANDER. And if it is a guidance, it is not legally binding.

Dr. KING. That is right. Now, the institution, of course, needs to be aware that we are sharing our interpretation of the law and regulations which are binding.

Senator ALEXANDER. What?

Dr. KING. That we are sharing our interpretation of the law and regulations, that we are communicating through the guidance——

Senator ALEXANDER. Well, now, let us think about that a minute. So you are making the law?

Dr. KING. No. We are providing our interpretation and how we interpret what their responsibility is under the law and regulations.

Senator ALEXANDER. I had a visit with Mr. Donovan, the head of the Office of Management and Budget, and he was very clear that it was the Obama administration's policy that guidances and "Dear Colleague" letters are what you just said, not legally binding, and that when something is to be legally binding, it needs either to be a law or it needs to be a regulation that goes through the process of notice and all that.

Dr. KING. That is right.

Senator ALEXANDER. Then who is going to tell Ms. Lhamon that, the Assistant Secretary who is in charge of Title IX? Because when I asked at a hearing, do you expect colleges to comply with your guidance, she says, yes, sir, we do.

Dr. KING. I think what she intended to convey is the point that I was making, that the guidance shares our interpretation of the law and regulations.

Senator ALEXANDER. Yes, but if I am at a small college out in Texas and I see that, I think she is making the law. And I do not dare not do what you want. And I think that goes back to Senator Lankford's questions about the 2011 guidance about these very difficult instances of alleged sexual assault, which are for every campus administrator probably the most difficult and terrible problem to deal with, as well as for the alleged victim and in some cases the alleged perpetrator.

And in 2011, the Department put out a guidance and basically said equitable resolution cannot mean either clear and convincing evidence or preponderance of the evidence. It has got to mean preponderance of the evidence. So that would mean to me that the U.S. Department of Education could today initiate an action and say to a school you are violating Title IX if you use the standard of clear and convincing evidence. Is that correct?

GUIDANCE CONVEYS DEPARTMENT INTERPRETATION OF LAW AND REGULATIONS

Dr. KING. Let me first reassure you that in our communication with Senator Lankford, Assistant Secretary Lhamon made very clear that we do not believe the guidance has the force of law. The guidance is intended to convey our interpretation of the law and regulations.

We do believe that equitable resolution means preponderance of the evidence.

Senator ALEXANDER. Well, who gave you the right to believe that? I mean, we were all elected, and that is not easy to do these days, or maybe even before these days. And that is an enormously important decision to make in the lives of students and universities.

So the Congress specifically said equitable resolution and left that to university administrators and boards and others to resolve. And you have come along and not in a regulation but just in a guidance, which is not binding, you have changed the law for 6,000 colleges and universities. And when you say preponderance of the evidence, that introduces a whole series of concerns about due process, which you also have not addressed and which, if addressed, we should be doing, not you.

Dr. KING. As I indicated to Senator Lankford, the interpretation of equitable resolution means preponderance of the evidence is longstanding.

Senator ALEXANDER. Where is that written? Where is that written?

Dr. KING. That has been the longstanding policy of the Department.

Senator ALEXANDER. No, it has not. In 2011, a university could use either clear and convincing evidence or preponderance of the evidence. In 2011, you changed that by guidance and now you are, in effect, making every university do that because they might fear an action from your Department based upon that legislating by the Department.

Dr. KING. We believe the guidance merely clarified what had been the longstanding interpretation. When the Department investigated a complaint on a Title IX issue, the Department's approach, predating this administration, was to evaluate equitable resolution through the preponderance of the evidence.

Senator ALEXANDER. But do you not believe that if Congress had wanted to make that important a decision about the level of the evidence required, that Congress would have written that out. You know, we can spell. We can write. We are very clear in what we seek to do. So I think I would strongly disagree with your interpretation of that.

My time is up, Mr. Chairman.

Senator BLUNT. Senator Murray.

Senator MURRAY. Mr. Chairman, I would like to submit some of my questions for the record.

Again, Dr. King, I really do appreciate the work you are doing on these many issues.

And, Mr. Skelly, we wish you the best.

Senator BLUNT. And, Mr. Skelly, do you have anything you would like to say?

Mr. SKELLY. It has been a great run. It has been an honor and privilege to work for the U.S. Department of Education. We have done many good things for many students and teachers. I am glad to work with you and hope we did a good job.

ADDITIONAL COMMITTEE QUESTIONS

Senator BLUNT. Well, thank you for your service.

The record will stay open for 1 week for additional questions.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

MENTAL HEALTH IN SCHOOLS

Question. The Department of Education and the Substance Abuse and Mental Health Services Administration (SAMHSA) have been working together for a number of years to improve the capacity of State educational agencies, local educational agencies, and schools to address the mental health needs of students exposed to violence and other traumatic events. What have we learned from the activities and the partnership with SAMHSA about the capacity of schools to address the mental health needs of students?

Answer. We believe that the capacity of school districts and schools to use instructional staff to provide effective low-intensity mental health services is increasing, in part because school districts and schools are using more evidence-based programs that help staff recognize the early warning signs of mental health issues. However, districts and schools generally do not have the capacity to provide intensive individual mental health services to the roughly 5 percent of students who generate 70 percent of all disciplinary referrals. To fill this gap, school districts and schools need to improve their ability to access the various Federal, State, and local mental health funding streams that can support the provision of these services both in the school and in the community. In addition, many school districts and schools struggle to find the resources needed to support a sufficient number of mental health professionals in schools, such as school counselors and social workers. The President's request for first-time funding of the Title IV, Part A Student Support and Academic Enrichment Grants would help meet this need.

PARTNERSHIP BETWEEN THE DEPARTMENTS OF EDUCATION AND THE SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

Question. The fiscal year 2016 Omnibus included new funding at the Department of Education and SAMHSA (Substance Abuse and Mental Health Services Administration) for school-based programs to specifically address the behavioral and mental health needs of students in communities experiencing significant episodes of civil unrest, such as in Ferguson, Missouri. How does the Department plan to work with SAMHSA in this effort, and improve access to school-based mental health services for students in those communities?

Answer. We greatly appreciate the additional resources provided by Congress to help students who may be struggling with the impact of events like those in Ferguson and Baltimore. We currently are engaged in discussions with SAMHSA about how best to coordinate our efforts to improve access to school-based mental health services while also providing other supports for students in such communities. The Department also is considering how to provide technical assistance related to the use of existing formula grant funds, such as Title I Grants to Local Educational Agencies, as well as possible funding under the newly authorized Title IV, Part A Student Support and Academic Enrichment Grant program, to help affected students overcome the potentially negative impact of civil unrest on educational outcomes. We anticipate making awards in time for projects to begin providing services in the 2016–2017 school year.

STUDENT LOAN SERVICING

Question. Under current common performance metrics established by the Department, some servicers perform significantly better than others. Why shouldn't the Department allocate more loans to servicers who have demonstrated they can both manage their loans better and serve student borrowers better?

Answer. Under the Department's existing performance-based servicing contracts, new borrower accounts have always been allocated based on servicers' success in helping borrowers avoid delinquency and default, as well as on their scores on customer satisfaction surveys. Because we believe that the significant variation in the composition of the loan portfolios between the Title IV Additional Servicers (TIVAS) and Not-for-Profit (NFP) servicers prevents an optimal comparison of their performance using the existing contractually established common metrics, prior to March 1, 2016, each group of servicers competed within separate allocation pools. Within each pool, accounts were allocated among servicers based on their performance.

In the recently enacted Consolidated Appropriations Act of 2016, Congress included a provision requiring that the Department "no later than March 1, 2016, allocate new student loan borrower accounts to eligible student loan servicers on the basis of their performance compared to all loan servicers utilizing established common metrics, and on the basis of the capacity of each servicer to process new and existing accounts." Currently, the TIVAS and NFP servicer contracts contain provi-

sions that govern the allocation of new loan volume on the basis of the common performance metrics established in the contracts. We interpret this statutory requirement and deadline to prohibit the Department from using the contractually established common metrics as we have been, that is, by comparing the performance of the TIVAS and NFP servicers separately, and, instead, to require the Department to use the established common metrics to compare, by March 1, 2016, servicer performance among “all loan servicers,” without regard to their status as a TIVAS or NFP servicer. Accordingly, new allocation percentages were implemented for all servicers on March 1, 2016; these allocations reflect the results of a comparison of performance scores across all servicers using established metrics. Details regarding the March 1, 2016, allocation are available at: <https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing/servicer-performance#12312015>.

Because we continue to believe that variation in the composition of the TIVAS and NFP portfolios prevents an optimal comparison of their performance, we plan to develop and implement adjustment factors or new common metrics not later than June 30, 2016. Those metrics will account for variations in the composition of the TIVAS’ and NFPs’ loan portfolios.

LOAN PORTFOLIOS OF SERVICE PROVIDERS

Question. How specifically do differences in the loan portfolios of the different servicers impact how they perform on the common metrics established by the Department?

Answer. The portfolios managed by the NFP servicers are overwhelmingly made up of accounts received from the Direct Loan Servicing Center in 2011–2012. These loans were already in repayment and current at the time they were selected for transfer to the NFPs. As a result, the loans are more stable and mature than the portfolios of the other Federal loan servicers. The TIVAS portfolios have high volumes of new borrowers who are more likely to enter and exit delinquency. These four Federal loan servicers also service Federal Family Education Loan (FFEL) Program loans purchased through the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA), Public Law 110–227 and loans of all statuses received from the Direct Loan Servicing Center. Although the NFP members of the Federal loan servicer team began receiving new borrowers in early 2015, most of those loans are still in an in-school status and therefore do not require payments to be made at this time.

CURRENT COMMON PERFORMANCE METRICS

Question. If, as the Department believes, the current common metrics cannot be used to compare all servicers, why didn’t the Department account for differences in portfolios when they originally developed common metrics?

Answer. The Department accounted for differences in portfolios by establishing separate allocation pools for the TIVAS and NFP servicers. This approach was no longer available with the enactment of the Consolidated Appropriations Act of 2016; as a result, we are now developing an alternative approach to address the portfolio variation.

ADJUSTMENTS TO THE CURRENT METRICS

Question. What specific adjustments to the current metrics, or new metrics, is the Department considering to account for differences in portfolios, and how and when does the Department plan to implement them?

Answer. We have not completed the process of determining what adjustments or changes to the current metrics will be made. As we continue developing these adjustments or changes, we are consulting with all Federal loan servicers for their input on how best to control for such variation and how to optimally compare their performance. We will post publicly our calculations and the results of both our initial and subsequent allocations, as has been our standard practice with previous results and allocations.

CURRENT ALLOCATION PERIOD

Question. Why did the Department shorten the current allocation period from 6 months to 4 months, and when was this decision made?

Answer. The statutory language related to servicing allocations requires the Department to take into consideration the capacity of each servicer to manage and process new and existing borrower accounts. We have experience working with each of our servicers and are already familiar with their systems and capabilities. Regardless, we have requested, received, and conducted an initial review of capacity

plans from all of our servicers to assess the reasonability and risk of each servicer's staffing, training, system, and other resource planning. Based on our experience and our initial assessment of the capacity plans, we are confident that all of our servicers can manage and process projected borrower account allocations for the next few months, while the volume of new accounts is relatively low. While we continue the process of completing and documenting our capacity assessment, we will monitor each servicer's performance closely and can modify or discontinue allocations on short notice if any issues arise. Our plan is to complete and document the capacity review, as well as any adjustments or changes to the metrics, by June 30, 2016. The current allocation period was shortened to allow us to reflect the results of these actions prior to the beginning of the new academic year on July 1, 2016. This decision was made in February 2016 after it became apparent that we would need additional time beyond March 1, 2016, to complete our analyses and documentation.

RELEASE OF PRELIMINARY COMPETITION INFORMATION

Question. When does the Department plan to release preliminary competition information for the new student loan servicing contract? What requirements, if any, will the Department include for an organization to be eligible to compete for the new contract?

Answer. We expect to post a request for proposals for new loan servicing contracts in the near future. Until that time, we cannot share information on the requirements or selection criteria as that information is procurement-sensitive.

COMPLEXITY OF MEASURING THE VALUE OF HIGHER EDUCATION

Question. Given the complexity of measuring the value of higher education, why has the Department settled on one single metric student loan debt compared to earnings a year or 2 after completion—to determine if program prepares a student for gainful employment? Why not consider longer term earnings data? Why not consider whether a borrower is current on their loan payment, or any other measures?

Answer. The Gainful Employment regulations measure whether a student is able to earn enough income to be able to pay back their loans after completion of a program. We believe the debt to earnings metric (D/E) is an appropriate approach to measure this. For a full discussion of the debt-to-earning metric and why the Department believes it is appropriate and our responses to the comments received, please see the final rule, which can be found at: <https://www.Federalregister.gov/articles/2014/10/31/2014-25594/program-integrity-gainful-employment>.

The accountability framework of the regulations is based on discouraging institutions from saddling students with unmanageable amounts of debt and thus focuses on whether students who attend GE programs will be able to manage their debt. As we discussed in the NPRM, the gainful employment requirements are tied to Congress' historic concern that vocational and career training offered by programs for which students require loans should equip students to earn enough to repay their loans. Allowing students to borrow was expected to neither unduly burden the students nor pose "a poor financial risk" to taxpayers. In authorizing federally backed student lending, Congress considered expert assurances that vocational training would enable graduates to earn wages that would not pose a "poor financial risk" of default.

Congress' decision in this area is supported by research that shows that high levels of debt and default on student loans can lead to negative consequence for borrowers. We believe that the D/E rates measure achieves the objectives of these regulations because it assesses earnings in the context of whether they are at a level that would allow borrowers to service their debt without serious risk of financial or emotional harm to students and loss to taxpayers. Our analyses indicate an association between ultimate repayment outcomes, including default, and D/E rates. Based on the best data available to the Department, graduates of programs with D/E rates above the passing thresholds have higher default rates and lower repayment rates than programs below the thresholds. Although many other factors may contribute to default outcomes, we believe high D/E rates are an important indicator of financial risk and possibility of default on student loans. In addition to addressing Congress' concern of ensuring that students' earnings would be adequate to manage their debt, research also indicates that debt-to-earnings is an effective indicator of unmanageable debt burden.

DEPARTMENT OF EDUCATION'S REPORT OF STUDENT DATA

Question. Colleges and universities submitted preliminary data required by this regulation to the Department in July. The Department planned to provide data back

to schools a list of students who had completed the program in the covered years by the end of last year but has not done so yet. What is causing this delay at the Department? When is the first time that schools, and the public, will be able to see how programs perform under this regulation?

Answer. Institutions were required to report retrospective data on their GE programs to the Department by July 2015 and for the most recently completed award year, by October 2015. There has been a delay in setting up the system for institutions to correct reported data. We expect to release completers lists in the next few months once we resolve any remaining issues with the correction and challenge system. We will continue to conduct pilot tests of our systems with several institutions in order to ensure that the completers list correction process runs as smoothly as possible for all institutions. We look forward to sharing the final rates with the public as soon as possible.

QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

AWARDING RESEARCH GRANTS

Question. In Mississippi, 91 percent of school districts are considered rural by the Department of Education, and they serve more than 50 percent of our students. However, a vast majority of your Department's research is conducted in urban and suburban communities. The Every Student Succeeds Act requires that schools implement evidence-based strategies to improve student outcomes. In awarding research grants, does the Department consider the geographic distribution of research projects and geographic disparities in education research funding? How does this budget ensure that funding is available to research institutions located in under-researched and underserved areas?

Answer. Discretionary research grants are awarded on a competitive basis through a rigorous peer review process, and a large percentage of these awards are field-initiated. Funding opportunities are open to all eligible entities, regardless of geographic area. In addition, the budget invests significant funding in evidence-building programs, in particular the new Education Innovation and Research program, the successor to Investing in Innovation (i3). Over the past few years, the Department has placed a priority within i3 on supporting and evaluating innovative strategies to improve student outcomes in rural areas. As these strategies are evaluated, they will play a significant role in building a knowledge base of effective practices for rural schools.

Much of the Department's research efforts happen through the Institute of Education Sciences (IES). IES research grant programs at the National Center for Education Research (NCER) and National Center for Special Education Research (NCSE) are highly competitive; only a small percentage of fundable applications receive awards. Like other grant-making offices of the Department, IES strives to increase the number and quality of discretionary grant applicants from traditionally underserved and underrepresented communities, including rural areas. For example, program officials conduct targeted outreach and widely distribute application packages to maximize diversity of applicant pools. Additionally, IES programs utilize a variety of strategies to help build capacity for institutions from traditionally underserved areas, including: conducting pre-application workshops and webinars to provide technical assistance to applicants from rural and other underserved areas that may be preparing proposals for research grants or other discretionary grant competitions that include research activities; highlighting research opportunities related to rural needs in notices announcing competitions; and providing targeted follow-up after peer review panel scoring to discuss individual application strengths and weaknesses and to identify ways for applicants to strengthen future submissions. One such program, the Regional Education Labs (RELs), partners with school districts, State educational agencies, and others to use data and research to improve academic outcomes for students, especially those in underserved areas.

To further support institutions in under-researched and underserved areas, the Department has proposed funding for a number of longer-term strategies in this Budget: promoting postsecondary access and completion within community colleges, MSIs, HBCUs, and other post-secondary institutions with high percentages of Pell recipients many of which are located in rural areas; supporting high quality, affordable education programs at all levels; conducting research, model demonstrations, and other activities to promote effective teaching practices in elementary schools including schools in rural areas. In addition, the Secretary supports the use of competitive preference priorities that award additional points to applications from eligible entities in rural areas, as well as those that address rural themes or establish

partnerships with rural entities. Importantly, the 2017 request also outlines investments in research specifically focused on improving rural education, including the evaluation of technologies to support teaching and learning in rural schools, and the development and evaluation of strategies to help rural high school students successfully transition to work or college.

EQUITABLE ACCESS TO EFFECTIVE TEACHERS

Question. Across the Nation, equitable access to effective teachers remains an issue. Rural schools, especially, often struggle to recruit and retain talented teachers and school leaders. The Transition-to-Teaching program provided for scholarships for teacher preparation programs to meet the needs of schools with demonstrated teacher shortages. In Mississippi, Transition-to-Teaching grants have led to the successful licensure of more than 200 of new teachers in the past 5 years, addressing the needs of rural schools. The proposed budget includes funding for loan forgiveness through Teacher Education Assistance for College and Higher Education (TEACH) grants but does not explicitly create scholarship programs to serve as incentives for new teachers. Please discuss how you envision this Committee should address inequitable distribution of resources to support effective teachers, particularly in rural areas.

Answer. The re-authorized ESEA does not include continued authority for the Transition to Teaching program, but does provide increased flexibility in the use of Federal formula grant funds by State and local educational agencies (LEAs) to support activities that most meet their needs. For example, our request includes \$2.25 billion for the Title II, Part A Supporting Effective Instruction State Grants program, which allows States to use funds to improve equitable access to effective teachers and to carry out programs that establish, expand, or improve alternative routes for State certification of teachers. Most Title II, Part A funds are distributed to LEAs by formula, but States have discretion to use up to 8 percent of their allocations for activities to improve access to effective teaching and school leadership, and to target such activities to areas with the greatest needs, including rural districts and schools.

The Administration is committed to ensuring that all students, especially those in high-need schools, have access to effective teachers. To meet this commitment, we must attract more talented people into the teaching profession and reward them for the hard, daily work of improving student learning outcomes in our lowest-performing schools. The budget proposes to expand and increase teacher loan forgiveness, starting in 2021. This proposal would simplify existing postsecondary assistance available to teachers, such as TEACH grants and the current teacher loan forgiveness program, by consolidating them into a single, more generous loan forgiveness program, incentivizing more individuals to teach in our neediest schools and encouraging them to stay on the job.

Our request also includes \$30 million, a \$13.6 million increase from 2016, for the reauthorized School Leader Recruitment and Support program, which would help improve the recruitment and retention of principals and other school leaders in high-need schools, i.e., those with large concentrations of students in poverty. These funds will be competitively awarded to eligible entities, which include LEAs with high-need schools, and the Secretary is required to ensure that, to the extent practicable, grants are distributed among eligible entities that will serve geographically diverse areas, including urban, suburban, and rural areas.

Finally, we have requested \$10 million for the STEM Master Teacher Corps program, which would provide funds to recognize, reward, attract, and retain outstanding science, technology, engineering, and mathematics teachers, particularly in high-need and rural schools.

Support for these programs will help ensure that schools, including schools in rural areas, have the effective teachers and school leaders needed to improve student achievement.

LESSONS LEARNED IMPLEMENTING COMPREHENSIVE PROGRAMS IN RURAL AREAS

Question. The Promise Neighborhoods program attempts to transform education by encouraging collaboration among schools and other community services to address education throughout students' matriculation. A few of the Promise Neighborhood grants, including one in Mississippi, have been located in rural communities. The fiscal year 2016 Appropriations Bill included a \$15 million increase for the Promise Neighborhoods program. The Department's budget requests another \$55 million increase on top of that. What have you learned about implementing comprehensive, coordinated programs in rural communities, and what can our Committee do to sustain the progress they have made?

Answer. The Administration recognizes that rural communities face unique challenges. In order to ensure that every child has an equal chance at succeeding academically and in life, we think it is crucial that students and their families in rural communities receive appropriate support. Over the past few years, Department staff has visited rural Promise Neighborhood grantees, including one grantee in Indianola, Mississippi, to learn more about the specific obstacles they face. Through these experiences we have learned a great deal about the challenges of implementing place-based solutions in rural settings, including the dispersal of resources across long distances, limited access to essential services, and fewer “anchor institutions” that can serve as hubs for supporting the myriad needs of families in rural communities, particularly those living in poverty.

We appreciate your support for and commitment to this program, and note that one common challenge all Promise Neighborhoods grantees face is how to sustain their good work after the period of Federal funding ends. While we endeavor to support each grantee throughout its project, we think that Promise Neighborhoods grantees must cultivate strong relationships with their partners in order to sustain the impact their work has on the lives of children and families in their communities. The Promise Neighborhoods program provides seed money to its grantees with the expectation that each project will ultimately be able to sustain itself beyond the life of the Federal award. The authorization for Promise Neighborhoods in the Every Student Succeeds Act included a provision helpful to communities, and particularly rural communities, which may face challenges in finding high-quality partners to help them sustain their work. Under the new law, which goes into effect for this program on October 1, 2016, the Department has the discretion to extend by 2 years the life of Promise Neighborhoods projects, when appropriate, allowing the grantees more time and funding to get on their feet. In addition, current grantees, including those that will be awarded in fiscal year 2016, can request no-cost extensions at the end of their projects. While we cannot provide current grantees with additional funding, we find that, due to project implementation challenges that can arise naturally during the life of a Federal grant, many grantees would find value in having additional time to spend their existing funds.

ASSURANCE THAT PROGRAMS SERVE RURAL COMMUNITIES

Question. What is the Department doing to ensure this program reaches rural communities, and addresses the unique challenges facing children and families living in rural communities?

Answer. Since its creation, the Promise Neighborhoods program has considered carefully the needs of rural communities. Through Promise Neighborhoods grant competitions held in 2010, 2011, and 2012 all of which specifically incentivized rural applicants the Department has ensured that applicants in rural areas can successfully compete for Federal funding. To date, the Department has awarded eight Promise Neighborhoods grants to six rural communities (two communities Indianola, Mississippi and Berea, Kentucky have received both a planning and implementation grant). Through these investments, Promise Neighborhoods is creating comprehensive models to address the academic and developmental outcomes for children, youth, and their families in rural communities. For example, the Delta Promise Neighborhood in Indianola has worked to coordinate and align the efforts of 28 providers in early childhood education, resulting in more high-quality early childhood opportunities. One such effort encourages early literacy by mailing free books to more than 900 children per month and teaching families the importance of reading to children. In addition, the grantee has worked with key public health and economic development partners to better coordinate the delivery of services such as prenatal care, housing support, and financial literacy training.

Looking ahead, under ESSA, the Promise Neighborhoods and Full-service Community Schools programs will use at least 15 percent of available funds to support rural communities. The Administration’s requested increase for the Promise Neighborhoods program in 2017 would help to ensure that this 15 percent set-aside has maximum impact.

IMPACT OF READY-TO-LEARN PROGRAM

Question. In this day and age, children are spending more time watching television and using digital media outside of school. Educational opportunities for students outside the classroom are increasingly important. It is my understanding that the Ready-to-Learn program’s grantees have been able to demonstrate positive and statistically significant gains in math or literacy skills for children who access their educational material. Can you speak to the positive impact that effective educational programming can have on student academic achievement?

Answer. Children, particularly children in high-poverty settings, spend large amounts of time watching television and using digital media. Researchers in many fields have looked carefully at whether and how television viewing might contribute to the “literacy gap,” and, conversely, whether and how television and digital media can be used as a tool to promote literacy development. Recent research suggests that television and transmedia can have a positive impact on children’s literacy and learning, provided certain conditions are in place. Producers and developers must understand how children learn, and how programming content can facilitate such learning. Individual episodes should reflect what research tells us about effective educational programming. For example, programs that succeed in helping children learn tend to help children understand how to watch and make sense of what they see. Such programs also develop familiarity by using recurring characters and situations, repeat key tasks and information, link knowledge to what children already know, and are carefully paced to keep children cognitively engaged throughout each episode.

Early childhood, preschool, and elementary school curricula typically emphasize basic skills in math and reading. Ready-to-Learn (RTL) content is specifically designed to reinforce young children’s literacy skills, emphasizing letter recognition, vocabulary, fluency, rhyming, and comprehension. Through targeted outreach and marketing campaigns, grantees actively reach out to parents and caregivers, particularly in high-poverty rural and urban communities, to encourage the use of RTL programming to support the skills that children need to succeed in school.

The Department is very interested in learning about the positive impact that effective educational programming can have on student academic achievement. Therefore, one of the Department’s performance measures for the RTL program looks at the percentage of summative experimental or quasi-experimental research studies that demonstrate positive and statistically significant gains in math or literacy skills when RTL transmedia properties are compared to similar non-RTL-funded digital properties or to other more traditional educational materials. The results have been overwhelmingly positive for the 2010 cohort of grantees. Of the nine total studies that have been submitted, eight (or 89 percent) found that children using RTL-produced products demonstrated statistically significant gains when compared to similar, non-RTL-produced products.

CAREER AND TECHNICAL EDUCATION TEACHERS

Question. Secretary King has brought to my attention the importance of reauthorizing the Carl D. Perkins Career and Technical Education Act of 2006. Career and Technical Education (CTE) programs in secondary classrooms are only as good as the quality of the teachers who lead them. How do teacher education provisions in the Department’s proposed budget provide support or incentives for individuals to become CTE teachers?

Answer. It is imperative that we invest in innovative ways to recruit, develop and retain the teachers our schools and our students need. Our Perkins reauthorization proposal would strengthen provisions for CTE teacher and leader preparation and would require States to include in their plans a description of how they will provide pre-service and in-service professional development. States would be encouraged to enhance their recruitment and professional development activities for CTE educators, for example, by developing talented teachers and faculty through alternative licensing policies that support mid-career professionals in becoming CTE teachers. States also could work in collaboration with industry associations to ensure that CTE teachers and faculty have opportunities to refresh their knowledge of industry and of effective instructional practices for students of diverse backgrounds and needs, including English learners and students with disabilities.

In addition, the 2017 request includes other significant new resources to support teachers, including CTE instructors, through pre-service training and in-service professional development. For example, we are proposing \$125 million for a Teacher and Principal Pathways program, which would make competitive grants to institutions of higher education and other nonprofit entities to support the creation and expansion of high-quality teacher and principal preparation programs. This investment would significantly expand the diversity and number of new teachers and principals who have high-quality, evidence-based training and preparation for their important roles in high-need districts. These pathways are particularly important for CTE teachers, many of whom come from industry.

CAREER AND TECHNICAL EDUCATION PROGRAMS IN RURAL COMMUNITIES

Question. Many schools prioritize CTE for 21st century technologies, but in rural States agricultural and other traditional CTE programs remain important. How

does your budget embrace new directions in CTE while also continuing to support agricultural and manufacturing programs important to rural States?

Answer. Our Perkins reauthorization proposal includes a number of provisions that would support CTE programs in rural areas. First, States would be required to ensure that rural economic needs are considered in the creation of CTE programs and that rural students have access to high-quality CTE programs. In addition, rural districts would have to form consortia with postsecondary institutions, but would have flexibility to create such partnerships at a regional level. Furthermore, CTE programs would have to be aligned with labor market demands in the region, ensuring that rural districts support the employment needs of their community.

The Administration's request for \$4 billion in mandatory funding over 3 years for Computer Science for All State grants would also provide resources to rural areas and help students attain skills to succeed along their career pathways. The Computer Science for All program would support grants to stimulate and advance comprehensive State efforts to offer rigorous coursework to all students in preschool through grade 12, with a focus on serving students in under-resourced schools and communities (including in rural and urban areas) and improving participation by student groups historically underrepresented in science, technology, engineering, and mathematics (STEM) fields. Similarly, the request for \$100 million in discretionary funding for the Computer Science for All Development Grants would support competitive grants to LEAs to help jump-start improving access to computer science and related STEM coursework in districts.

In addition, the proposed \$80 million Next Generation High Schools program would support the transformation of secondary education in order to create more challenging and relevant academic and career-related learning opportunities for youth. The purpose of the program is to help districts and their partners redesign the high school experience, with a priority on projects designed to improve readiness in STEM fields as well as projects that would serve areas with limited access to high-quality college and career opportunities, including rural LEAs. Accordingly, Next Generation projects could support rural programs with an agricultural or manufacturing focus.

QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

HIGHER EDUCATION DE-REGULATION

Question. Higher Ed Deregulation: What is the status of your implementation of the following three recommendations from the report of the Task Force on Federal Regulation of Higher Education?

1. Return of Title IV Funds
2. Financial Responsibility Standards
3. Reporting of Data to the Department

The Task Force identified 59 specific burdensome regulations. Of the 59, they identified approximately a dozen which can be changed by the Secretary without Congressional action. 3 of these regulations are included in the Task Force's top 10 list of especially problematic regulations.

Answer. Consistent with the recommendations in the Task Force report, the Administration has taken important steps to relieve institutional burden. In September, President Obama announced significant changes in the process for filing the Free Application for Federal Student Aid (FAFSA), which would allow the use of "prior-prior" year income information, permitting families and students to apply for aid 3 months earlier. Both of these results of these change will streamline the student aid process and provide families with an earlier picture of their aid eligibility. Despite these improvements, we agree that more can be done to make it easier to apply for college. That is why the recent President's Budget called for additional and significant FAFSA simplification by removing questions regarding savings, investments, and net worth, which rarely affect the actual aid award but significantly lengthen the application for some families. Additionally, untaxed income and exclusions from income data that are not reported to the IRS would no longer be collected. To prevent resulting decreases of aid awards, the Budget also proposes adjustments to the Expected Family Contribution for certain categories of applicants.

The 2017 President's Budget's also addressed another of the Task Force's recommendations by proposing streamlining and reforming income-driven repayment by creating a single, simple, and better targeted income-driven repayment plan.

With respect to other recommendations in the report, including these three issues, we are in the process of identifying and prioritizing additional ways to alleviate institutional burden while still fulfilling our obligations to protect students and tax-

payers. As you know, regulatory work under Title IV of the HEA requires negotiated rulemaking which is a time consuming and expensive, and we must prioritize and allocate limited resources.

In addition, as Congress considers ways in which to reform or eliminate these institutional requirements, we remain committed to working with your office and others to achieve this balance.

FAFSA SIMPLIFICATION

Question. Last year and this year, the Administration's education budget calls for simplifying the FAFSA by eliminating about 30–40 questions. However, the Department has not yet provided specifics regarding what questions could be eliminated. What exactly are the questions that the Department feels can and should be eliminated from the FAFSA?

Answer. The Department of Education has taken significant steps to improve the process of applying for Federal financial aid. These include providing an online version of the FAFSA that uses skip-logic to help students complete faster; permitting students and families to pull in tax information automatically through the IRS Data Retrieval tool; and, for the first time in the 2017–2018 award year, allowing applicants to apply earlier and to use their prior-year income information. For our last full FAFSA cycle, students completed the online FAFSA in an average of 20 minutes one-third the amount of time it took 7 years ago.

However, the Department continues to believe that the FAFSA should be simpler for many applicants, some of whom are still asked to complete more than 100 questions, by removing data elements pertaining to assets and additional types of income, and by relying primarily on information readily available in Federal tax returns. That is why the President's 2016 and 2017 Budgets proposed additional and significant FAFSA simplification by removing questions regarding savings, investments, and net worth, which rarely affect the actual aid award but significantly lengthen the application for some families. Specifically, we propose removing questions related to:

- Savings, investments, and net worth (including questions 41–43 and 90–92);
- Untaxed income and exclusions from income not reported to the IRS (including all items from the “Additional Financial Information” and “Untaxed Income” worksheets—questions 44 [b, c, e, and f], 45 [a, b, c, g, h, i, and j], 93 [b, c, e, and f], and 94 [a, b, c, g, h, and i]; and
- Income earned from work [39, 40, 88, and 89]).

To prevent resulting decreases of aid awards, the Budget also proposes adjustments to the Expected Family Contribution for certain categories of applicants. Overall, our FAFSA simplification proposal would eliminate approximately one-third of the questions on the FAFSA.

BORROWER DEFENSES PROVISION WITHIN THE HIGHER EDUCATION ACT

Question. The Department announced a process for borrowers to claim the Borrower Defenses provision within the Higher Education Act. The Department has begun to process these requests and is currently conducting a rulemaking process to update and clarify the process under which borrowers may claim this relief. Recognizing the final policy is still in the works, what were the Department's preliminary estimates of potential cost to taxpayers related to this provision as it related to the situation involving Corinthian Colleges and the costs associated with other borrowers seeking potential claims unrelated to Corinthian?

Answer. The investigation and findings of fraud involving Corinthian Colleges and subsequent closure demonstrated that the implementing regulations for the borrower defense discharge authority are highly burdensome for the Department and do not provide enough protections for students and taxpayers. The number of affected students from Corinthian schools is unprecedented and has been handled through a Special Master to create a fair, transparent, and efficient process to evaluate the borrower defense claims of affected borrowers. As of March 16, 2016, the Department has processed 6,876 Corinthian closed school discharges totaling \$90.6 million. For borrower defense claims, as noted in the Special Master's March 25th report, 2,048 borrower defense claims totaling \$42.3 million have been approved, with 345 completed for \$7.5 million. Additionally, 9,875 borrower defense claims are awaiting review.

As the Special Master process has developed, it reinforced the need to revise and update the borrower defense regulation through negotiated rulemaking. As noted, the development of the regulation is ongoing and the Department is in the process of developing a cost estimate for this regulatory package that will be presented in the Regulatory Impact Analysis of the NPRM and the Final Rule. This is a complex

regulation and we are continuing to look for data and information that will help us develop our estimates.

As the Corinthian College situation is resolved and the borrower defense process is revised through regulation, the Department will continue to update and work with Congress to address abusive practices of institutional participants in Federal student loan programs and the borrower claims arising from such practices.

CASE-BY-CASE ELIGIBILITY OF BORROWER DEFENSES PROVISION

Question. The statute is clear that the Borrower Defenses provision is designed for individual and case-by-case application, as the Department has traditionally observed; however, in its most recent actions, the Department has seemingly not applied this provision or established a process that resembles an individual, case-by-case eligibility. What is the legal rationale for allowing a cohort of students who attended a college, like Heald College for example, to be automatically qualified for relief?

Answer. The Department has established a process for borrowers to obtain relief for injury due to placement rate misrepresentations by Heald College. This process requires each borrower to attest, on an individual basis, to facts that would make a case for relief for an individual under California law. Where the Department has found that Heald published an inflated placement rate for a particular program, a borrower who might have reasonably relied on such a rate to their injury must attest that he or she in fact did so rely. The Department does not believe, however, that the borrower defense provision in the HEA requires individual, case-by-case application by borrowers and is exploring options through the negotiated rulemaking by which the Department may assert borrower defense claims on behalf of borrowers whether on an individual basis or as a cohort.

INTERAGENCY TASK FORCE FOCUSED ON FOR-PROFIT INSTITUTIONS

Question. On November 17, 2015, I signed a letter to then Secretary Duncan inquiring about the Interagency Task Force focused on for-profit institutions. To date no reply has been received by this office. When can a reply to that letter be expected providing full details to each question contained in that letter?

Answer. On January 28, 2016, Under Secretary Ted Mitchell wrote a response to your letter on behalf of Secretary Duncan and sent copies of the letter to the other co-signers of your letter. Copies of these responses are enclosed.

QUESTIONS SUBMITTED BY SENATOR LINDSEY GRAHAM

FEDERAL STUDENT AID PERFORMANCE METRICS

Question. Last week, Federal Student Aid (FSA) announced that it was creating new performance metrics for loan allocation “because of the significant variation in the composition of loan portfolios” between student loan servicers. What variation is FSA referring to? Why is the Department creating new performance metrics when it just completed such a process in 2014? What new performance metrics is the Department considering using going forward?

Answer. The portfolios managed by the Not-for-Profit (NFP) servicers are overwhelmingly made up of accounts received from the Direct Loan Servicing Center in 2011–2012. These loans were already in repayment and current at the time they were selected for transfer to the NFPs. As a result, the loans are more stable and mature than the portfolios of the Title IV Additional Servicers (TIVAS), which have high volumes of new borrowers who are more likely to go in and out of delinquency. These four Federal loan servicers also service Federal Family Education Loan (FFEL) Program loans purchased through the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA), Public Law 110–227 and loans of all statuses received from the Direct Loan Servicing Center. Although the NFP members of the Federal loan servicer team began receiving new borrowers in early 2015, most of those loans are still in an in-school status.

Because we believe these variations in the composition of the TIVAS and NFP portfolios prevent an optimal comparison of their performance, we plan to develop and implement adjustment factors or new common metrics not later than June 30, 2016, to take effect no later than July 1, 2016. Those adjustments or metrics will account for variations in TIVAS’ and NFPs’ loan portfolios. We have not completed the process of determining what adjustments or changes to the current metrics will be made. As we continue the process of developing these adjustments or changes, we are consulting with all Federal loan servicers for their input on how best to control for such variation and how to optimally compare their performance. We will

post publicly our calculations and the results of both our initial and subsequent allocations, as has been our standard practice with previous results and allocations.

NATIONAL NON-PROFIT AND FOR-PROFIT STUDENT LOAN SERVICING CONTRACTS

Question. The contracts the Department has in place with the 10 national non-profit and for-profit servicers specify that servicer performance will be measured semi-annually in the areas of customer satisfaction and default prevention, and these results will determine future loan volume allocations every 6 months. What rationale is the Department using—and under authority is the Department using—to unilaterally reduce the allocation window from September to July?

Answer. A provision of the Consolidated Appropriations Act of 2016 related to servicing allocations requires the Department to take into consideration the capacity of each servicer to manage and process new and existing borrower accounts. We have experience working with each of our servicers and are already familiar with their systems and capabilities. Regardless, we have requested, received, and conducted an initial review of capacity plans from all of our servicers to assess the reasonability and risk of each servicer's staffing, training, system, and other resource planning. Based on our experience and our initial assessment of the capacity plans, we are confident that all of our servicers can manage and process projected borrower account allocations for the next few months, while the volume of new accounts is relatively low. While we continue the process of completing and documenting our capacity assessment, we will monitor each servicer's performance closely and can modify or discontinue allocations on short notice if any issues arise. Our plan is to complete and document the capacity review, as well any adjustments or changes to the metrics, by June 30, 2016. The current allocation period was shortened to allow us to reflect the results of these actions prior to the beginning of the new academic year on July 1, 2016. This action, and other changes related to the allocation of borrower accounts, will be made under the Department's general authority to modify contract terms.

QUESTIONS SUBMITTED BY SENATOR SHELLEY MOORE CAPITO

RANDOMIZED ORDER OF STUDENTS LIST OF COLLEGES ON FAFSA

Question. The West Virginia Higher Education Policy Commission (WVHEPC) has reached out to my office regarding a change on the FAFSA for the 2017–2018 academic year where the Department of Education will stop providing State agencies with the order in which students list colleges. States will continue to receive the full list of colleges that students share on the application, but the Education Department will first randomize the ordering of the institutions.

WV and other States have found that students are most likely to attend the college they list first on the FAFSA. Without that information, they would need to develop a process to capture the correct institution they are attending. Currently, if they send the student award to the incorrect institution, they call or e-mail their office and they transfer the award, which is not too much of a burden because students generally attend the first institution they list. However, if the information was randomized as proposed they would instead have tens of thousands of students calling their office to have their award transferred, which will put a larger administrative burden on their and other State's small staffs. What precipitated this change?

Answer. Most States administer their State need-based grant programs centrally, relying primarily on the information provided by FAFSA applicants to provide early notification of State grant awards to students for attendance at one or more of the institutions listed by the student on the FAFSA. As you may be aware, out of concern that some institutions were using the list of the students' FAFSA institutions for reasons unrelated to determining eligibility for student financial aid (e.g., admissions decisions, marketing, differentiated institutional award packages), we no longer provide an institution with information about the other institutions the student listed on the FAFSA beginning with the 2016–2017 FAFSA. As to State grant agencies, we continue to provide them with the full listing of the student's FAFSA listed institutions. However, in January the Department announced that, beginning with the 2017–2018 FAFSA, we would no longer provide the listing of institutions to State grant agencies in the order provided by the students. Instead, we will randomly re-order the list. This change was made to avoid any possible misunderstanding students may have about the implications of their listing of institutions may have, including, for example, any misunderstanding about whether they will be considered for State student financial aid by their State (and the amount) if the

student does not list an institution located in the State in the first positions of the listing on the FAFSA form.

SIMILAR CONCERNS FROM OTHER MEMBERS OF CONGRESS

Question. Have you heard similar concerns from members of Congress and other higher education agencies in other States?

Answer. We have heard similar concerns from members of Congress and other higher education agencies in other States. Prior to making our decision, however, we spoke with officials representing the National Association of State Student Grant and Aid Programs about our concerns. As a result of our conversations, and from comments we received from others, we understand that our decision may impact some States' student financial aid award notification and budget processes, administrative systems, and student outreach and counseling efforts. Consequently, we announced our decision as soon as possible so that States have as much time as possible to begin making, funding, and implementing any necessary changes. For these same reasons, we opted to not implement the planned changes sooner, in the 2016–2017 FAFSA cycle. As an interim step, we did include in the 2016–2017 FAFSA additional State-specific information for applicants concerning their designation of institutions that they wish to receive FAFSA information, such as whether the order or type of institution they designate may affect their eligibility for, or notification of, State student financial aid. NASSGAP officials kindly offered to help us collect the information we needed from States to provide applicants with this information and we are grateful for their assistance.

CONSIDER NOT IMPLEMENTING CHANGE

Question. Considering the time, resources and training which will be required for State higher education agencies and the potential for confusion for students would the Department consider not implementing this change?

Answer. At this time, they are not considering not implementing this change. However, we are always open to hearing about the concerns Members of Congress, institutions of higher education, and State agencies may have about important issues affecting students' access to Federal student aid.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

REDUCTION IN TITLE I FUNDING TO ELIGIBLE SCHOOLS

Question. Dr. King, I mentioned in my opening statement how pleased I was to see the increase proposed in your budget for Title I grant. This program provides funding to more than 80 percent of the Nation's school districts and is the core Federal program for our Nation's schools. However, I am concerned about the budget's proposal to designate a portion of the increase for use outside of the authorized Title I formulas that benefit all eligible school districts. This proposal would reduce funding for eligible school districts just as they are implementing the new law, with the result that many would see cuts to their Title I funding. What do you tell those school districts many of which face significant challenges that would see reductions in their Title I allocations?

Answer. The Administration requests \$15.4 billion for Title I Grants to Local Educational Agencies (LEAs) for fiscal year 2017. As you note, our request includes authority to allocate 50 percent of funds above the authorized funding level, or \$174 million to States to support school improvement activities by LEAs consistent with section 1003(b) of the amended law. The Administration believes that turning around the Nation's lowest-performing schools remains an especially urgent challenge and warrants prioritized funding. The portion of the requested increase that would be allocated for school improvement activities would buttress States' increased set-asides under section 1003(a) of the reauthorized law and help ensure that LEAs can implement the rigorous interventions critical to turning around these schools. Under section 1003(a), States may make subgrants to LEAs competitively or by formula.

Due to the reauthorized law's increased set-asides under 1003(a) and the suspension in fiscal year 2017 of the LEA-level hold-harmless provision, some LEAs may receive lower Title I allocations in fiscal year 2017 than in fiscal year 2016. The impact of the amended law on LEA allocations would be mitigated, however, if Congress enacts the Administration's request, which would make available to LEAs an estimated \$160 million over the amount that would be available at the fiscal year 2017 authorized funding level.

NEWLY AUTHORIZED AUDIT PROGRAM

Question. Dr. King, as you know, one of the priorities of our elementary and secondary education reauthorization bill was to reduce reliance on high-stakes testing, so teachers and students can spend less time on test prep and more time on learning. I heard from many around my home State of Washington about the need to replace this flaw in No Child Left Behind with having common sense testing policies. And, that's what we did. Your budget proposes \$403 million, an increase of \$25 million, to help pay for the cost of State tests. This amount includes \$20 million for the newly-authorized audit program of testing in our schools. Can you comment about how these funds will help States and districts eliminate unnecessary testing so they can better focus on student learning? How would you allocate the \$20 million proposed for the audit program?

Answer. For fiscal year 2017, the \$18.2 million will be awarded to approximately 12 States on a competitive basis. Awarding funds competitively rather than by formula will allow the Department to provide grants of sufficient size, consistent with the statutory requirement for a minimum annual award of \$1.5 million per State, to ensure that States demonstrating the strongest commitment to meaningful assessment audits receive the additional support they need to be successful in conducting such audits and subsequently developing plans to improve their assessment systems based on the audit findings.

Funds would be used for a variety of activities that would support eliminating unnecessary testing while promoting better use of assessments to support learning, consistent with the principles in the Administration's Testing Action Plan to help States and districts reduce redundant or low-quality assessments while protecting the vital role that good assessments play in measuring student progress each year and providing critical information to parents and teachers. States receiving these funds would have to review the purpose and educational benefit of the assessments they administer, as well as the legal authority for administering them. As part of this review, States would have to obtain feedback from stakeholders on a number of issues pertaining to the assessments, such as how assessment data are used to improve instruction; the timing and format for releasing assessment results; the amount of time teachers spend on assessment preparation and administration; and which assessments school personnel, parents, and students do and do not find useful. States would not only have to implement a plan to eliminate unnecessary or low-quality assessments at the State level; they would also be required to disseminate best practices for improving assessment quality and efficiency. Furthermore, these funds would also allow States to assist LEAs in examining and streamlining local assessment systems, as a portion of a State's award must be reserved to provide subgrants to LEAs, or consortia of LEAs, to improve assessment quality and use at the local level. Ultimately, these activities will help ensure that students only take tests that are that are of high quality, support good instruction, and help keep all students on track. These activities will also prevent tests from occupying too much classroom time, which crowds out teaching and learning.

For fiscal year 2017, the \$18.2 million will be awarded to approximately 12 States on a competitive basis. Awarding funds competitively rather than by formula will allow the Department to provide grants of sufficient size, consistent with the statutory requirement for a minimum annual award of \$1.5 million per State, to ensure that States demonstrating the strongest commitment to meaningful assessment audits receive the additional support they need to be successful in conducting such audits and subsequently developing plans to improve their assessment systems at the State and local level based on the audit findings.

DEAR COLLEAGUES LETTERS AND OTHER GUIDANCE DOCUMENTS

Question. According to the Department of Justice, 1 in 5 female undergraduates have experienced some type of sexual assault while in college.¹ This data backs up a similar 2010 finding from the Centers for Disease Control and Prevention, National Intimate Partner and Sexual Violence Survey, which found that 1 in 5 women and 1 in 71 men will be raped at some point in their lifetime.² These surveys join several others that have concluded a similar finding in the past year.³ These sur-

¹Department of Justice, Bureau of Justice Statistics, Campus Climate Survey Validation Study Final Technical Report, available at: <http://www.bjs.gov/content/pub/pdf/ccsvsfr.pdf>.

²Centers for Disease Control and Prevention, National Intimate Partner and Sexual Violence Survey, available at: http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

³Association of American Universities, Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct, available at: https://www.aau.edu/registration/public/PAdocs/Survey_Communication_9-18/Final_Report_9-18-15.pdf; Washington Post and Kaiser Family

veys validate a growing trend of gender-based violence on our college campuses. This is a growing public health epidemic across our schools.

Answer. Yes. The Department has issued interpretive guidance throughout its 36-year history consistent with the Administrative Procedure Act (APA), which authorizes agencies to issue interpretative rules and policy statements “to advise the public of the agency’s construction of the statutes and rules which it administers.” *Shalala v. Guernsey Memorial Hospital*, 514 U.S. 87, 99 (1995). This was also true of the Department’s predecessor, the Department of Health, Education, and Welfare.

DEPARTMENT ISSUED INTERPRETIVE GUIDANCE

Question. Can you tell me for the period of the past 10 years, covering a time when the Department was led by secretaries from both parties, how many times has your Department issued such interpretive guidance? What about the Office for Civil Rights? And, what prompted such guidance documents, were they requests from the regulated community or determined necessary for other reasons?

Answer. The Department has published a list of the significant guidance documents in response to the U.S. Office of Management and Budget’s Agency Good Guidance Practices (January 25, 2007), www.ed.gov/policy/gen/guid/significant-guidance.html. Significant guidance issued by OCR is listed on pages 5–8. The list was last updated November 4, 2015. The list includes 20 significant guidance documents issued by OCR in the past 10 years. In December 2015, OCR issued an additional Dear Colleague Letter on Title IX’s exemption for voluntary youth service organizations. The Department has also issued many other guidance documents that were not deemed significant.

As you are aware, Title IX of the Education Amendments of 1972⁴ is an important civil rights law that prohibits discrimination. The statute reads, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”.⁵

TITLE IX DEPARTMENT ISSUED GUIDANCE

Question. As you are aware, Title IX of the Education Amendments of 1972⁶ is an important civil rights law that prohibits discrimination. The statute reads, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”.⁷ Since 1972 when Title IX was enacted into law, what regulations has the Department of Education released?

Answer. The Department first issued regulations implementing Title IX in 1975, using notice-and-comment procedures. Since then, the regulations have been revised several times. The regulations were most recently revised in 2006 to modify Title IX regulatory requirements pertaining to the provision of single-sex schools, classes, and extracurricular activities in elementary and secondary schools. The full current text of the Department’s Title IX regulations is available online at www.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html.

SUB-REGULATORY POLICY AND GUIDANCE

Question. What sub-regulatory policy and guidance has the Department of Education issued?

Answer. The Department has issued many guidance documents interpreting Title IX and the Department’s Title IX regulations. OCR’s Title IX policy guidance documents are available in OCR’s reading room: www.ed.gov/ocr/frontpage/faq/rr/policyguidance/sex.html.

REASONS THE DEPARTMENT ISSUED TITLE IX GUIDANCE

Question. Why did the Department feel it was necessary to issue this guidance and take such steps?

Answer. The Department’s decision to issue each guidance document is fact-specific. Considerations include the volume of reports or complaints of noncompliance, questions that arise in OCR’s investigation of complaints, questions received from

Foundation, “1 in 5 College Women Say They Were Violated,” <http://www.washingtonpost.com/sf/local/2015/06/12/1-in-5-women-say-they-were-violated/>.

⁴ 20 U.S.C. § 1681.

⁵ Public Law No. 92–318, tit. IX, § 901, 86 Stat. 235, 373, codified at 20 U.S.C. §§ 1681–1688.

⁶ 20 U.S.C. § 1681.

⁷ Public Law No. 92–318, tit. IX, § 901, 86 Stat. 235, 373, codified at 20 U.S.C. §§ 1681–1688.

stakeholders, legal developments in Federal courts' analysis of the laws enforced by the Department, and requests for guidance from the members of the public and Congress. For example, OCR issued its 2010 Dear Colleague Letter on Harassment and Bullying in response to reports that schools were responding to complaints of discriminatory harassment under bullying policies that did not take civil rights into consideration. Likewise, OCR's 2014 Question and Answer document on single-sex classes was issued because OCR observed confusion among recipients about when single-sex schools were permissible, leading to recipients being subjected to private litigation.

TITLE IX SCHOOLS UNDER INVESTIGATION

Question. In May of 2014, the Department of Education released a list of the higher education institutions under investigation for possible violations of Federal law over the handling of sexual violence and harassment complaints.⁸ This original list had 55 schools. Why did the Department of Education make the list of schools with active Title IX investigations public? Had this list been public before?

Answer. Consistent with our obligation to protect personal privacy and with our resource limitations, the Department strives to be open about matters of concern to the public to further the values of transparency embodied in the Freedom of Information Act (FOIA).

In May 2014, the Department began releasing a list of names of schools that have open and pending Title IX sexual violence investigations. The purpose of releasing this list is to (a) be responsive to the public's strong interest in knowing which schools are currently subject to government enforcement activities and (b) foster better public awareness of civil rights and institutions' awareness of civil rights obligations in order to spur community dialogue, increase safety and reduce discrimination on school campuses. The Department is committed to improving communication with survivors, parents, school administrators, faculty, and the public, by making our Title IX enforcement efforts more transparent. The Department made clear when it released the list that the fact that schools are being investigated does not mean that they have violated Title IX or any other Federal law.

TRANSPARENCY AND ACCOUNTABILITY UNDER TITLE IX

Question. What other steps has the Department of Education taken to ensure transparency and accountability for Title IX?

Answer. The Department is focused on improving compliance with Federal laws by increasing transparency. OCR now posts nearly all recent resolution letters and agreements with recipients on our website, except those documents that raise individual privacy concerns. In addition, OCR has posted sexual violence resolution agreements and letters on NotAlone.gov to make them more accessible to students, parents, and community members. We hope that these agreements will be helpful for schools seeking to address similar problems. At the same time, we note that each agreement represents the resolution of a particular case, not OCR or Administration policy. Every school needs to take into account the circumstances on its own campus in adopting practices to comply with Title IX.

The Department is also in the process of requiring both public school districts and colleges and universities to report the name and contact information of Title IX coordinators through two existing data collections, and we intend to make the collected information publicly available. Every school district and college and university is required by law to designate at least one Title IX coordinator, an employee charged with coordinating the school's Title IX responsibilities. Schools are required to notify students and employees of the name and contact information of the Title IX coordinator. However, there is currently no central, national repository of coordinator contact information. We hope these collections will make it easier for anyone to locate the name and contact information of a particular Title IX coordinator, and will allow Title IX coordinators to collaborate and share information with each other.

After receiving almost 40 requests for all or some subset of documents related to schools' requests for religious exemptions from Title IX and OCR's response letters under the Freedom of Information Act (FOIA), OCR plans to produce these documents on its website.

INCREASED NUMBER OF SCHOOLS UNDER TITLE IX INVESTIGATION

Question. Since 2014, the list has grown. Why has the list grown?

⁸ <http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-i>.

Answer. OCR has received and continues to receive an unprecedented volume of Title IX complaints involving allegations of sexual violence. OCR has negotiated resolutions of some of these complaints, but many remain under investigation or negotiation. OCR continues to vigorously enforce Title IX and negotiate robust resolutions where it finds violations.

SCHOOLS INITIATIVE TO COMBAT SEXUAL ASSAULT

Question. What proactive response steps have schools, either on the original list or subsequently, taken to combat sexual harassment and violence on college campuses?

Answer. OCR's release of its 2011 Dear Colleague Letter on Sexual Violence (DCL) and 2014 Questions and Answers on Title IX and Sexual Violence are widely credited with having sparked significant changes at schools as they worked to meet Title IX's requirements consistent with the DCL. The 2011 DCL discusses the proactive efforts schools can take to prevent sexual violence and to educate employees and students and provides examples of the types of remedies that schools and OCR may use to respond to sexual violence.

OCR requires schools to properly address and prevent sexual violence through a wide range of school- and campus-specific remedies. Such remedies could include:

- Requiring regular and mandatory sexual assault and harassment trainings for all students, faculty, staff, and administrators;
- Mandating that a school conduct annual climate surveys to assess sexual harassment and other civil rights issues on campus;
- Requiring a school to hire or designate Title IX coordinator;
- Ensuring that a school obtains a consultant as an expert in sexual harassment prevention;
- Instructing a school to seek input from the campus community, including from past complainants, in order to evaluate and improve the effectiveness of the school's implementation of its sexual harassment policies and practices; and
- Ensuring that a school's students and employees are aware of their rights under Title IX.
- During the course of OCR investigations and through contacts with the recipient community, OCR has learned of many proactive steps schools have taken, including for example:
 - Revising their nondiscrimination policies to fully satisfy Title IX
 - Taking steps to notify their student communities of allegations of sexual violence
 - Providing bystander and other training to school community members
 - Creating task forces to identify ways to better prevent and address sexual violence
 - Conducting climate surveys of students
 - Revising school disciplinary practices to better address sexual violence
 - Entering into Memoranda of Understanding with local police forces to ensure coordinated responsiveness to sexual violence
 - Committing research resources to creating evidence-based prevention and response best practices

TITLE IX GRIEVANCE PROCEDURES

Question. The 2011 Dear Colleague Letter noted the "Grievance Procedures" clarified that Title IX regulations require all recipients to adopt and publish grievance procedures for the prompt and equitable resolution of sex discrimination complaints. The Department's Office for Civil Rights noted "As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX, OCR reviews a school's procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints."⁹ Before the Department of Education issued this guidance, what standard were most schools using? What prompted the Department of Education to issue guidance this for schools?

Answer. The 2011 Dear Colleague Letter noted the "Grievance Procedures" clarified that Title IX regulations require all recipients to adopt and publish grievance procedures for the prompt and equitable resolution of sex discrimination complaints. The Department's Office for Civil Rights noted "As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX,

⁹ U.S. Dept. of Educ., Office for Civil Rights, Dear Colleague (Apr. 4, 2011).

OCR reviews a school's procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints."

- The Department does not formally track the standard of proof that schools use in their grievance procedures.
- A 2002 study submitted to the National Institute of Justice found that approximately 80 percent (149 of 183) of institutions that identified a particular standard of proof for sexual assault disciplinary proceedings employed the preponderance-of-the-evidence standard.¹⁰ More recently, in 2011, a Standard of Evidence Survey compiled by the Foundation for Individual Rights in Education, found that before the 2011 DCL was issued approximately 80 percent (135 of 168) of institutions that specified a standard of proof for adjudicating allegations of sexual harassment and sexual assault used the preponderance-of-the-evidence standard or lower.¹¹
- Through our work investigating complaints, conducting compliance reviews, and responding to technical-assistance requests from schools, it became clear that schools could use assistance in how to apply the Title IX requirements related to incidents of sexual harassment and sexual violence, including the appropriate standard of proof to use. We recognized that this is a complex issue, and schools were often unsure of what their Title IX obligations are in this area.
- Additionally, whether or not we issued guidance, our office was receiving complaints that schools were discriminating by failing to address sexual harassment and sexual violence. And we must resolve every complaint we receive so we were investigating and making findings in individual cases, including regarding the standard of proof. By issuing guidance, we gave recipients clearer notice of what we expected of them in this area if we did receive a complaint, and encouraged some schools to change their behavior so that there wouldn't be a complaint.

NUMBER OF SCHOOLS USING DEPARTMENT ISSUED STANDARDS

Question. After introducing this guidance, does the Department have a sense of how many schools are using this standard?

Answer. The Department does not formally track the standard of proof that schools use in their grievance procedures.

As explained above, according to two studies, the majority of schools were already using a preponderance-of-the-evidence standard prior to the issuance of the 2011 DCL. Since the issuance of the 2011 DCL, OCR has not resolved any complaints where schools have not agreed to change their standard of proof if they were not already using a preponderance-of-the-evidence standard.

APPROPRIATE REMEDIES FOR NON-COMPLIANT SCHOOLS

Question. This same 2011 Dear Colleague Letter¹² also noted "Steps to Prevent Sexual Harassment and Sexual Violence and Correct its Discriminatory Effects on the Complainant and Others." The section provided for "education and prevention" to ensure full compliance with Title IX and steps for schools to prevent sexual harassment and violence in the first place. As part of this section, the Department also notes "When OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population."¹³ What individual or student population relief has the Department been able to obtain?

Answer. OCR has required schools to properly address sexual harassment or violence through a wide-range of remedies applicable to the broader school population. Such remedies include, requiring regular and mandatory sexual harassment and violence trainings for all students, faculty, staff, and administrators; mandating that a school conduct annual climate surveys to assess sexual harassment and violence issues on campus; requiring a school to hire or designate a Title IX coordinator; ensuring that a school obtains a consultant as an expert in sexual harassment and violence prevention; and instructing a school to seek input from the campus community, including from past complainants, in order to evaluate and improve the effec-

¹⁰ See Heather Karjane, et al., Campus Sexual Assault: How America's Institutions of Higher Education Respond 122 (Nat'l Criminal Justice Reference Serv., Oct. 2002), www.ncjrs.gov/pdffiles1/nij/grants/196676.pdf.

¹¹ See Standard of Evidence Survey: Colleges and Universities Response to OCR's New Mandate (Oct. 28, 2011), <http://thefire.org/public/pdfs/f17fa5caafd96ccdf8523abe56442215.pdf?direct> and <http://thefire.org/public/pdfs/8d799cc3bcca596e58e0c2998e6b2ce4.pdf?direct>.

¹² Id. at 14.

¹³ Id. at 16.

tiveness of the school's implementation of its sexual harassment and violence policies and practices.

In addition to remedies for the broader school population, OCR's resolution agreements may also include remedies for individual complainants. For example, OCR's resolution agreements have required schools to reimburse complainants for educational and medical expenses, such as tuition or payments for counseling services, where those remedies are required to eliminate a hostile environment or remedy the effects of sexual violence.

IMPORTANCE OF REMEDIES

Question. Why did the Department think providing this relief was important?

Answer. The robust remedies OCR requires in our resolution agreements are designed to ensure full satisfaction of the civil rights laws OCR is charged to enforce. We seek to secure remedies that are responsive to violations and concerns we identify during the course of our investigations, to ensure going forward that recipients of Federal funds fully satisfy Congress' promise that Federal funds will not be used to discriminate.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

PROCESSING BORROWER RELIEF APPLICATIONS

Question. It was December 18, 2013 when I first wrote to the Department asking for an investigation of Corinthian Colleges after reports of widespread fraud, related to inflated job placement rates. Since that time, the company has crumbled and investigations by the Department of Education, Consumer Financial Protection Bureau, and countless State Attorneys General, including Lisa Madigan in my home State of Illinois, have found widespread fraud. I'm concerned that despite the tens of thousands of Corinthian students who may be eligible under the law for Federal student loan relief, only 1,312 former Corinthian students have thus far have received it. This is unacceptable. What is the Department doing to speed the processing of the borrower relief applications it has received and what will it do to improve outreach to students to ensure they are aware of their eligibility? Is the Department receiving borrower relief claims from schools besides Corinthian? When it does, is the Department using that information to initiate investigations of those schools?

Answer. As of March 16, 2016, we've approved borrower defense discharges for 2,048 students, and provided closed school discharges to 6,876 former Corinthian students together representing nearly \$133 million in loan relief. But we are not done. The new form we posted on studentaid.gov/Corinthian, based on our latest set of findings about misleading placement rates for Everest and WyoTech programs, will allow students who were defrauded at more than 90 Corinthian campuses to easily seek and obtain relief. The Department has been working closely with Attorneys General from multiple States including California, Illinois, and Massachusetts to collect and evaluate evidence that could form the basis of loan relief for students.

The Department will continue to reach out to potentially eligible borrowers through multiple rounds of emails and postal mail. To improve response rates for these emails, the Department has conducted email subject-line testing, the results of which we anticipate will improve open rates in future email campaigns. In addition, the Department is exploring alternative methods of outreach including, but not limited to, social media outreach and enhanced coordination with servicers to reach potentially eligible borrowers that may not regularly check email and/or postal mail.

The Department has received claims from students at schools other than Corinthian. A breakdown of the claims we have received is provided in Special Master Joseph Smith's latest report, which can be found at: <http://www2.ed.gov/documents/press-releases/report-special-master-borrower-defense-3.pdf>. The Department will use borrower defense claims as a factor in determining the schools that we investigate.

ENFORCEMENT DIVISION TO REDUCE FRAUD AND ABUSE BY INSTITUTIONS IN THE TITLE IV PROGRAM

Question. I'd like to thank you for the Department's recent announcement to stand up an enforcement division to root out fraud and abuse by institutions in the Title IV program. This will be key to ensuring the integrity of the program regardless of what kind of school is involved in misconduct. But we know the sector that has been most often responsible for misrepresentation and other misconduct affecting students for-profit colleges. Nearly every major for-profit college is facing State

or Federal investigations or lawsuits ITT Tech, University of Phoenix, DeVry, just to name a few. But all these institutions continue to receive billions in taxpayer funds each year through Title IV. What steps is the Department taking, in addition to the new enforcement unit, to identify misconduct and cut off Title IV eligibility to schools who engage in misconduct?

Answer. The Department does not have the authority to simply stop providing access to Title IV Federal student financial assistance to a fully certified institution. Rather, the Department must provide due process to institutions through termination or similar actions that are litigated through an administrative hearing process, and possibly in court.

The Student Aid Enforcement Unit (<http://www.ed.gov/news/press-releases/student-aid-enforcement-unit-formed-protect-students-borrowers-taxpayers>) will work closely with Federal and State agencies to investigate and bring actions against bad actors in order to best protect students and taxpayers. The new unit will collaborate with, and incorporate evidence gathered in investigations by, partner State and Federal agencies, in building cases against institutions of higher education. The unit will also collaborate with the Federal Student Aid (FSA) Program Compliance Unit regarding evidence which may impact ongoing program compliance reviews. FSA's new Chief Enforcement Officer will work with his team to create a process to best allocate investigative resources; and the new unit will conduct investigations that may lead to termination or similar actions by the Department.

In addition to the objectives of the new Student Aid Enforcement Unit, Program Compliance established the Multi-Regional Division (MRD) that focuses on large for-profit and publicly-traded institutions that operate on a national level. The MRD has implemented several new oversight strategies including the hiring of Case Managers that each oversee a group of corporate institutions. The Case Managers have developed innovative oversight strategies to monitor large for-profit and publicly-traded institutions, including utilizing a contract vehicle to do extensive placement rate validation at select institutions. To help conduct more focused reviews that involve complex student and Title IV administration issues, the MRD has hired additional staff. Additionally, the MRD has begun requiring 13-week projected cash flow statements and monthly student enrollment rosters for institutions that do not meet the financial responsibility standards, or have indicated they may close. The additional reporting requirements help with monitoring the financial condition and student information at at-risk institutions on a more frequent basis as the Department proactively prepares for potential school closures. The Department has been actively working with other agencies on schools under investigation, is developing targeted oversight strategies based on risks to student and tax payers, and taking appropriate actions within its authority, when appropriate. As a result of these efforts, limitation and recertification denial actions have occurred in recent months directly related to these enhanced strategies and the very schools overseen by the Multi-Regional Division. Program Compliance will also be partnering with the Enforcement Division to develop collaborative strategies to ensure both effective oversight and enforcement of egregious non-compliance are addressed.

The Department remains strongly committed to investigating violations that harm students and taxpayers and taking swift and immediate action as necessary. These new resources will help ensure such activities are completed in an effective and efficient manner, including supporting more reviews of high-risk institutions, responsive to the concerns raised by States' and other Federal agencies' investigations of such institutions, as well as by complaints by students. The creation of the new Student Aid Enforcement Unit builds on steps the Obama Administration has taken over the past 7 years to hold schools accountable for providing a quality education, including:

- Developing a wealth of consumer tools to help provide families with clear information to make a smart college choice;
- Establishing gainful employment regulations to help ensure that students at career colleges don't end up with debt they cannot repay;
- Establishing State authorization regulations to ensure State agencies are upholding their important role in the triad and that students have designated offices to voice their complaints, as well as other important program integrity protections, including credit hour, misrepresentation, and incentive compensation regulations;
- Creating a Federal interagency taskforce to crack down on bad actors through investigations and enforcement actions;
- Enforcing the ban on incentive compensation to protect students from aggressive recruiting practices;
- Increasing the rigor of accreditation processes to ensure stronger reviews and a greater focus on outcomes by accreditors; and

—Proposing to close the 90/10 loophole so institutions do not take advantage of service members.

CONSUMER FINANCIAL PROTECTION BUREAU REPORT

Question. I appreciate your quick response to the recently released Department of Education Inspector General Report which found that the Department minimized instances where its contracted student loan servicers failed to provide veterans with student loan benefits to which they were entitled under the law. But I'm troubled that on the heels of that report, this week the Consumer Financial Protection Bureau found additional violations by Department of Education student loan contractors. Specifically, CFPB found that some contracted debt collectors used "false, deceptive, or misleading representations when performing collection services of defaulted Federal student loans." Borrowers were threatened with garnishment even when Department of Education guidelines would not have permitted it against those borrowers. How is the Department responding to this report by the Consumer Financial Protection Bureau? What steps is the Department taking to reign in its contractors, both servicers and debt collectors, to ensure they are following the law and helping students repay their loans?

Answer. There are many functions involved in Federal Student Aid's oversight of loan servicers and private collection agencies (PCAs). Among these functions, some are common to loan servicing and private collections agencies (and potentially other vendors) and others are unique to loan servicing or collections. The functions that are common to servicing and collections include contract administration and management, system security and change management. Each contract has designated and responsible contracting officers from the Acquisitions Office and designated Contracting Officer Representatives (COR) positioned within the various program and operations offices. The Contracting Officers, with assistance from the COR(s), oversee the administration and management of the contracts according to Federal Acquisition Regulation (FAR), manage the invoice processing and payment, and ensure the annual submission of contractor performance data. The Contracting Officer Representatives also coordinate the review of contract deliverables; formal documents that are identified in contracts that are often management reports that provide information regarding the contractor's delivery of goods and services. Often, deliverables require advanced subject matter expertise for review for acceptance or rejection. The COR is typically responsible for the distribution of deliverables to the appropriate subject matter experts within the program or operational business units. The deliverables are delivered and reviewed according to a set schedule. Issues identified by staff, who review the deliverables are reported to the contracting officer and COR. Contractors are generally provided the opportunity to rectify issues with the deliverable. When remediation is not successful, the contracting officer may take further action. Invoices are submitted to FSA. The contracting officer, the COR and FSA's Finance Office all participate in the invoice payment process. The contracting officer ensures all requirements for payment are met, the COR validates the invoice amounts using data provided by the vendors or otherwise available to the COR. Invoices may be rejected if it is found that the requested payment amounts are not aligned with supporting documentation or system data.

System security is monitored on an ongoing basis. All vendors are required to comply with the Federal Information Security Management Act of 2002 (FISMA), GAO's Federal Information System Control Audit Manual (FISCAM), all relevant National Institute of Standards and Technology (NIST), Office of Management and Budget (OMB), and Department of Education security standards, guidance, and directives. Vendors must obtain a formal security Authorization to Operate (ATO) from the Department. Such authority is only granted once the Department has validated that the contractors have met the security requirements.

Contracts have varying periods of performance. Over time, requirements change as a result of new regulation, desired process improvements, or for other reasons. FSA maintains a Change Management process that manages requirement changes and the validation that the changes to impacted systems have been made correctly and that the altered process(es) remain compliant.

There are two oversight functions at FSA that are common to both loan servicing and private collections agency contracts administered by FSA. Oversight of both of these contract types require call monitoring, onsite reviews/process monitoring, and internal controls. Servicers and PCAs perform telephone outreach to borrowers who are either in delinquent loan repayment status (this is part of a servicer function also known as due diligence) or in default status (PCAs). The manner in which the outreach is conducted is regulated, and is specified in the form of contract requirements. The vendors submit recorded phone calls to FSA staff, who then select sam-

ples of calls to monitor. The recorded phone calls selected for monitoring are then evaluated for compliance with regulation (FTCP, UDAP, SCRA, etc.) and contract requirements, and assessed from a customer service perspective (the tone of the Customer Service Representative, for example). The monitored calls are evaluated, and errors are recorded and reported back to the contractors. FSA is currently enhancing this function to factor the results more heavily in contractor performance. For PCAs, the call monitoring scoring will be used in the calculation that determines the number of collection accounts awarded to PCAs as a means of driving improved performance.

FSA also performs on-site reviews at loan servicer and PCA locations. On site reviews are conducted for the purposes of:

- Validating that PCA vendors meet requirements to operate prior to receiving accounts (the Contractor Initial Evaluation).
- Conducting system security assessments.
- Addressing issues revealed through annual risk assessments conducted by FSA's Financial Institution Oversight Service (FIOS) unit within Program Compliance.
- Validating that servicers are managing specific, predefined activity such as loan discharges, SCRA requirements, loan status reporting, or due diligence according to requirements and regulation.
- Following up on potential issues revealed through the monitoring of PCA or servicer activities, deliverables and reports, or customer complaints.
- Validating proper loan servicing of accounts identified for a comprehensive loan level detailed account review.
- Monitor Debt Management Collections System processing.
- Investigating potentially critical issues on an ad-hoc basis.

There are other oversight functions that are unique to either loan servicer or PCA oversight. For loan servicing, FSA maintains a team of Servicing Liaisons who are tasked with monitoring servicer day-to-day activity, processing inventories and backlogs, and call center performance. The Liaisons analyze reports, deliverables and other work products to assess servicer performance, and meet regularly to discuss performance with other FSA staff including the Acquisitions Office, and the vendors themselves. In addition, FSA conducts the Servicing Monitoring Group meeting on a monthly basis to discuss issues or potential issues related to contract monitoring plan activities. The Servicer Monitoring Group meeting is attended by all FSA business units involved with contractor oversight as described in the Contract Monitoring Plan. Controls within loan servicer processes and systems are critical components of Federal Student Aid's internal control framework. As such, we anticipate that, at a minimum, some facet of servicer process controls and systems, as well as certain oversight functions described in this Contract Monitoring Plan (CMP), are assessed annually. Staff coordinate servicing control assessment planning and reporting activities with Business Operations A-123 senior assessment and core team members. A summary of the four phases that comprise Federal Student Aid's assessment lifecycle is provided below.

- Plan*: Reconvene the governance structure, perform risk assessments, prioritize processes and systems, define scope, and assign resources. Planning activities generally occur in January and February, but may start as early as the end of the preceding year (i.e., September).
- Document*: Identify and document internal controls over financial reporting for processes and systems in scope, assess design of these controls, and develop test plans to assess operating effectiveness. Documentation phase activities generally start in February or March and continue through April or May. Documentation phase activities may be concurrent to and overlap with certain planning and test phase activities.
- Test*: Execute test procedures to determine whether controls have been operating effectively over a period of time. The testing procedures may include testing techniques such as observation, inspection, re-performance, and corroborative inquiry. Test phase activities are generally scheduled from April through July.
- Report/Remediation*: Evaluate and report the impact and significance of identified control deficiencies, develop corrective action plans to remediate those deficiencies (or accept the risk), and develop management's conclusions and assertions on the effectiveness of internal control over financial reporting. Reporting phase activities start in the July/August timeframe and continue through AFR reporting in November. Remediation is on-going.

For each servicer, a significant amount of time and resources are invested to document and test the relevant process and system controls. FSA also defines financial internal control activities to be performed by loan servicer contractors, conduct com-

pliance reviews of the servicers in accordance with OMB Circular A-123, and to liaison with external auditors providing the auditors with accounting work papers for samples and explanations of loan servicing processes. Within this activity, FSA staff:

- Sponsor financial requirements of loan servicers and liaison between the Finance Office and the servicers to provide the financial requirements documented in the Servicer contracts and change requests.
- Work with the Finance Office (FO) on the Annual Financial Audit (External) and A-123 Review-Part A (Internal Audit)
- Staff define and provide the types of transactions and activities to be reviewed and assessed to FO, for the development of the scope of auditing activities
- A-123 Review-Part C (Improper Payment Monitoring System). Staff comply with the Improper Payments Elimination and recovery Act of 2010 (IPERA) (Public Law 111-204), Improper Payments Information Act of 2002 (IPIA) (Public Law 107-300) and the Office of Management and Budget's (OMB Circular A-123, Appendix C, Requirements) for Effective Measurement and Remediation of Improper Payments, to define requirements to reduce improper/erroneous payments made by the Federal Government.
- Internal Control (IC) staff also create and track Corrective Action Plans resulting from FIOS Servicer program reviews (referred to above). In addition, IC staff review the results of Servicer SSAE-16 reports, determining their acceptability as deliverables, and converting findings into Corrective Action Plans.

FSA Finance Office staff reconcile activities related to business operations origination, disbursement servicing of Federal student aid for the Direct Loan Program. Staff perform the following:

- Review and sign off on contractor prepared reconciliations of Servicer portfolio balances, transfers to other Servicers and Servicer cash interface with Treasury.
- Prepare reconciliations of contractor interface data.
- Monitor inter-system and intra-system balancing reports provided by contractors.

FSA does not have internal financial controls over PCAs because they do not receive, process, or post any money for FSA. All borrower payments flow through payment channels managed by Treasury (e.g., lockbox for checks, ACH for electronic payments, etc.) There are internal controls over the PCA invoice process. These are documented and tested through A-123A.

In addition to onsite review activity and call monitoring, FSA staff review, approve or reject:

- Collection litigation packages on all accounts submitted by PCAs
- Discharge recommendations
- Refunds
- TOP and AWG hearing materials

COST OF TEXTBOOKS

Question. I know you and the President share my concern about the growing cost of college. One of the most overlooked costs of a higher education is the cost of textbooks. GAO found that new textbooks prices increased 82 percent between 2002 and 2012. According to the College Board the average student budget for textbooks and supplies during the 2014-2015 academic year was \$1,225. A recent survey by the Student Public Interest Research Group found 65 percent of students decided not to buy a textbook because of the cost and 94 percent of those students worried it would hurt their grade. But there's a solution. Open textbooks are free, online educational materials that professors can use instead of a traditional textbook which may cost students several hundred dollars. I have a bill, the Affordable College Textbook Act which would provide grants to encourage the creation and expanded use of these materials. How is the Department currently investing in these materials and encouraging their increased use? How can we work together to do more on this important issue for students?

Answer. The cost of escalating textbook prices is a real concern for students attending our Nation's colleges and universities. The Textbook Information provisions authorized under Section 133 of the HEA are designed "to ensure that students have access to affordable course materials by decreasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials."

Although fewer openly licensed textbooks are used than traditional publisher textbooks, they are becoming increasingly popular. Openly licensed textbooks provide 24/7 access to learning resources, thereby expanding learning time and improving equity of access to high quality resources for all students. These initiatives align

with a number of the President's proposals to help make college more accessible, affordable, and attainable for all American families, including supporting and encouraging higher college completion rates. While the scope of these proposals is broader than open textbooks, new and continued forms of financial assistance can help to ease the impact of textbook costs and related supplies. Originally proposed by President Obama in 2009 to help students and families pay for post-secondary education, the American Opportunity Tax Credit, worth up to \$10,000 over 4 years, helps working families pay for the cost of tuition, fees, and textbooks.

In addition, the 2017 budget request includes proposals to expand access and make postsecondary education more affordable such as—

- Several new Pell Grant initiatives to expand access to postsecondary education and promote student completion including, full funding for the Pell Grant maximum award, Pell for Accelerated Completion, and On-Track Pell bonus for students taking at least 15 credit hours per semester in an academic year.
- \$1.26 billion in 2017 for America's College Promise which would make 2 years of community college free for responsible students, letting the students earn the first half of a bachelor's degree or an associate degree and earn skills needed in the workforce at no cost. By covering students' tuition, America's College Promise affords students the opportunity to apply their Federal aid to cover expenses such as books, supplies, and room and board, which make up a high proportion of college costs.

[Note: Highlights and additional information about the President's fiscal year 2017 budget proposals can be found on the Department's website: <http://www2.ed.gov/about/overview/budget/budget17/budget-factsheet.pdf>. Making college more accessible and affordable is essential to student success and completion.]

We look forward to working with you to identify ways to promote access, affordability, and attainment in higher education for working families, including decreasing the cost of college textbooks and supplemental materials while supporting the academic freedom of faculty members to select high quality course materials for students.

QUESTIONS SUBMITTED BY SENATOR JACK REED

GUIDANCE AND TECHNICAL ASSISTANCE TO STATES FOR LIBRARY PROVISIONS

Question. In addition to the Innovative Approaches to Literacy grant program, the Every Student Succeeds Act also contains other school library provisions to expand opportunities for students and improve instructional programs, particularly as part of Titles I and II, the comprehensive literacy program, and the education technology provisions. What are the Department's plans for guidance and technical assistance to encourage and support States and school districts in implementing the school library provisions of the new law and ensuring that all students have access to effective school library programs?

Answer. The new law provides time and authority for the Department to work with State and local partners to ensure a smooth and orderly transition from NCLB to the ESSA. There will be regular communication from the Department and we will be providing guidance and technical assistance to support all grantees during this period.

In addition, we note that the Comprehensive Literacy Development program in Title II, which is very similar in structure to the current Striving Readers Comprehensive Literacy program, awards grants to States that agree to use their grant funds to support literacy interventions at the local level that meet the needs of students in the community and are evidence-based. Increasing access to effective school library programs could be a local strategy supported by a Comprehensive Literacy Development grant, assuming such strategy meets local needs and is sufficiently evidence-based. Of the \$190 million requested for the Comprehensive Literacy Development program in fiscal year 2017, the Department could use up to 5 percent or \$9.5 million on technical assistance and evaluation activities, which could include specialized support to projects that include school libraries as part of their literacy development strategy. If Congress funds this program in fiscal year 2017, the Department looks forward to working closely with literacy projects funded by this initiative to provide technical assistance, guidance, and other support.

AFFECTS OF WORKFORCE INNOVATION AND OPPORTUNITY ACT IMPLEMENTATION FOR ADULT EDUCATION

Question. The Administration's budget justification documents noted a "persistent need for adult education in the U.S." Additionally, States and adult education pro-

viders are transitioning to the new adult education provisions under the Workforce Innovation and Opportunity Act (WIOA). The Administration has requested the full authorization level for the adult, youth, and dislocated worker programs under WIOA. However, the request is only for level funding for the Adult Education State Grant Program. Why did the Administration choose not to request the authorized amount? How will the lack of resources affect WIOA implementation for adult education?

Answer. To address the persistent need for adult education, the Administration is working to ensure a smooth transition and effective implementation of the reauthorized program under WIOA. To that end, the Administration is requesting \$11 million in additional funding under Adult Education National Leadership Activities to support WIOA implementation. This funding will help States meet the data collection requirements of WIOA and align their adult education standards to their K–12 standards. Additionally, these funds would improve the efficiency and interoperability of data systems. The Administration believes investments in WIOA implementation will yield a high return in improving the state of adult education and that its request for Adult Education State Grants is sufficient to meet the objectives of WIOA.

TEACHER QUALITY PARTNERSHIP GRANT PROGRAM

Question. Please explain how the Teacher and Principal Pathways proposal does not duplicate the Title II provisions of the Every Student Succeeds Act. Also, please explain the rationale for cutting continuation grants for current TQP recipients.

Answer. The Administration's overall request for fiscal year 2017 includes a set of initiatives that would help State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), and other partners address each phase of a teacher and school leader's career, including innovative strategies for better preparing, recognizing, and supporting teachers and leaders.

The Teacher and Principal Pathways (TPP) proposal continues the emphasis of the Teacher Quality Partnership (TQP) program on expanding high quality teacher preparation programs, but would broaden eligibility, eliminate some of the burdensome limitations of current law (for example, requiring that a student receive a Master's Degree in 18 months), and ensure a strong priority for programs with proven track records of preparing effective and diverse teachers who get and keep jobs in classrooms where they are needed most. The proposed TPP program would fund competitive awards to IHEs and nonprofit organizations in partnership with high-need LEAs. Teacher Pathways grants would build on and replace current efforts to improve teacher preparation through TQP; while Principal Pathways grants would build on and complement current Department efforts under the reauthorized School Leader Recruitment and Support program, the successor to the School Leadership program. In addition, the request for Supporting Effective Educator Development, which would support innovation in the areas of alternative certification and professional development, would complement work supported under TPP.

In addition, TPP would help SEAs and LEAs meet the goals of the ESEA Title II Part A Supporting Effective Instruction (SEI) State grant program, which include helping ensure that teachers and principals are prepared to work in high-need schools, increasing numbers of teachers and principals are effective in improving student academic achievement, and low-income and minority students have greater access to effective teachers and principals.

The 2017 Budget requests funding for TPP as a standalone program for a number of reasons. First, States have a limited set-aside under the SEI State grant program to support a wide range of activities. Particularly in small States, they may not have sufficient resources under Title II to establish or expand teacher and school leader preparation academies, and the TPP would be able to help fill this gap in such States. Second, by requiring grantees to partner with high-need LEAs, the TPP grants will be well-targeted to high-need districts and increase the likelihood that programs successfully prepare and place effective teachers and principals in schools where they are needed most. Finally, TPP would prioritize projects that have a strong evidence base, either by expanding successful programs or by supporting programs adopting effective practices.

The Department would not cut continuation grants for current TQP recipients. The \$125 million request for the proposed Teacher and Principal Pathways programs would cover the approximately \$29 million in continuation costs for TQP grantees, as reflected in the output tables contained in the fiscal year 2017 Congressional Justification for TPP.

STUDENT LOAN COMPLAINT SYSTEM AT CONSUMER FINANCIAL PROTECTION BUREAU

Question. In April 2015, just after the Administration unveiled the Student Aid Bill of Rights, Senators Warren, Durbin, Brown, and I sent a letter to the Office of Management and Budget, with copies to the Department of Education and the Consumer Financial Protection Bureau (CFPB), asking the administration to examine the feasibility of using the existing student loan complaint system at the CFPB for Federal student loans. We wrote: “We urge the Administration to leverage the efficient and transparent system that is already in place at the CFPB rather than expend resources to create a parallel system at the U.S. Department of Education. Creating a parallel system at the Education Department may be confusing to student borrowers. Borrowers often have both Federal and private student loans and could benefit from a one-stop complaint system to address their problems.” We asked for a formal response and have yet to receive one. It appears that the Department of Education has proceeded to develop its own parallel system. What considerations were given to leveraging the CFPB’s system?

Answer. The Enterprise Complaint System is being developed in response to the directive in the President’s Student Aid Bill of Rights, published on March 10, 2015, for the Department to “Create a Responsive Student Feedback System” to “give students and borrowers a simple and straightforward way to file complaints about Federal student loan lenders, servicers, collections agencies, and institutions of higher education.” The Student Aid Bill of Rights notes that, as a result of such a system, “students and borrowers will be able to ensure that their complaints will be directed to the right party for timely resolution, and the Department of Education will be able to more quickly respond to issues and strengthen its effort to protect the integrity of the student financial aid programs.” Although the CFPB system and the Department’s upcoming Enterprise Complaint System both collect complaints, the Department is responsible for using the information collected to improve operational efficiency both internally and at its own contractor partners. As a result, the Enterprise Complaint System incorporates processes for complaint resolution, oversight, and data management that differ in purpose and in design from the CFPB system.

DEPARTMENT OF EDUCATION’S INVESTMENT IN PROPOSED CFPB SYSTEM

Question. How much has the Department invested in staff time, contracts, and other resources in developing its proposed system?

Answer. The Department expects total development costs to be approximately \$7.4 million across fiscal years 2015 and 2016. Staff members across various business units have participated in the design of the new system.

ESTIMATED COSTS FOR DEVELOPMENT AND IMPLEMENTATION OF CFPB SYSTEM

Question. What does the Department estimate the costs going forward to be?

Answer. The Department has estimated annualized ongoing costs, including operations and maintenance, software licenses, and contractor customer service support, to be approximately \$2.5 million per year.

FULLY OPERATIONAL SYSTEM

Question. When will the system be fully operational?

Answer. In accordance with the President’s Student Aid Bill of Rights, the Enterprise Complaint System will be implemented by July 1st, 2016.

INTERFACE OF DEPARTMENT’S PROPOSED SYSTEM AND CFPB COMPLAINT SYSTEM

Question. How will the Department’s system interact with the CFPB complaint system?

Answer. Interactions between the Enterprise Complaint System and the CFPB complaint system are governed by the Memorandum of Understanding (MOU) between the CFPB and the Department regarding Federal Student Aid (FSA) Ombudsman data. Cases that are determined to be related to the scope of the CFPB complaint system and not the Department, e.g., cases related to private student loans, will be forwarded to the CFPB for resolution through a process that is seamless to the customer. The complainant will be informed when this occurs.

ONE-STOP INTERFACE TO FILE STUDENT LOAN COMPLAINTS

Question. Will borrowers have a one-stop interface to file student loan complaints regardless of the origin of the loan?

Answer. Students and borrowers will have a one-stop shop to file Federal student aid complaints about Federal student loan lenders, servicers, collections agencies,

institutions of higher education, guarantors, and Federal student aid programs. The Enterprise Complaint System will contain language recommending that borrowers with complaints about private student loans use the CFPB complaint system in order to receive a response efficiently. However, as mentioned in the response to the previous question, if a borrower should complain about private student loans using the Enterprise Complaint System, that complaint will be seamlessly forwarded to the CFPB for resolution, and the complainant will be informed when this occurs. We expect these cases to be the vast minority as only approximately 7.5 percent of outstanding student loan debt is associated with private loans.

COMPLAINTS MADE PUBLIC

Question. And will the complaints be searchable and available to the public for review?

Answer. Although the Department recognizes the value that a searchable public database can provide to customers, this functionality is not planned for initial implementation. However, the Department is exploring ways to develop this capability for a future release, and does plan to provide reports to the public. For example, the Department will release an annual report on complaint data beginning in October 2016, and is exploring the possibility of releasing standardized complaint data at more frequent intervals on the FSA Data Center, as well as periodic ad hoc reports on significant or timely issues.

DEFAULT MANAGEMENT SYSTEM

Question. Currently, when an institution's cohort default rate exceeds 30 percent, the institution must create a task force and develop a default management plan. Are there examples of successful institutional default management plans that have benefited student loan borrowers? What are the features of those plans?

Answer. An institution that has a 3-year cohort default rate (CDR) of 30 percent or greater for any one Federal fiscal year is required to establish a default prevention task force, create a program of default prevention, and submit a written Default Prevention Plan to the Department for review and technical assistance. The purpose of the task force and Default Prevention Plan is to reduce defaults and to enhance borrowers' understanding of their loan repayment responsibilities.

An effective and comprehensive Default Prevention Plan must:

- Identify the factors causing the institution's default rate to exceed the threshold. The institution must conduct an analysis of delinquency and default patterns of the student population to identify factors that appear to increase default risk.
- Establish measureable objectives and the steps the institution will take to improve its 3-year cohort default rate. The activities included in the Default Prevention Plan must be measureable. This measurement is not only to demonstrate that the institution has a delinquency and default prevention strategy, but also to ensure that the institution has a mechanism to routinely evaluate the success or failure of the default prevention activities identified in the institution's Default Prevention Plan.
- Specify the actions the institution will take to improve student loan repayment. These actions include, but are not limited to, counseling students on repayment options; providing general financial information; and, if possible, offering classes on financial literacy.

The number of required default plans over the past cohorts has declined. We attribute the decline to more targeted efforts working directly with schools by the Departments Default Prevention team. Other key factors of successes identified include:

- Senior Leadership (President or another Cabinet-level person) chairs the schools Default Management Task Force. This approach ensures the right level of awareness and influence in the school policy
- Assigning a full time default prevention coordinator
- Schools working directly with Federal servicers
- Schools working with third-party servicers
- Schools focusing more effort on specific cohorts
- Establishing early alerts to help at-risk borrowers like those students most likely to drop out
- Analysis of the defaulters

QUESTIONS SUBMITTED BY SENATOR JEANNE SHAHEEN

INSTITUTIONAL RISK-SHARING IN HIGHER EDUCATION

Question. Secretary King, a critical driver of the student debt crisis is the skyrocketing cost of tuition and attendance at higher education institutions across the country. I believe that institutions themselves need to have a vested interest in the amount of debt their students take on and can successfully repay, and I have introduced bipartisan legislation called the Student Protection and Success Act to implement such a policy. What is the Department currently doing to address institutional responsibility for student debt and to hold institutions accountable for their students' ability to repay their loans?

Answer. As part of the Obama Administration's aggressive action to protect students and taxpayers, the U.S. Department of Education has created a Student Aid Enforcement Unit to respond more quickly and efficiently to allegations of illegal actions by higher education institutions.

The new unit will collaborate with, and incorporate evidence gathered in investigations by, partner State and Federal agencies, in developing cases against institutions of higher education, as appropriate. The unit will also collaborate with the Program Compliance Unit regarding evidence which may impact ongoing program compliance reviews. Moreover, the new Enforcement Unit will utilize a broad set of interventions and tools, including subpoena authority, document demands, and interrogatories and interviews to enforce against violations of Federal law. In the 2017 Budget, the President requests \$10.5 million in additional funds to strengthen FSA's enforcement and oversight activities, as part of its Student Aid Administration requested budget increase. The Department remains strongly committed to investigating violations that harm students and taxpayers and taking swift and immediate action as necessary. This new unit would help to ensure such activities are completed in an effective and efficient manner, including supporting more reviews of high-risk institutions, responsive to the concerns raised by States' and other Federal agencies' investigations of such institutions, as well as by complaints by students.

The Department has also put in place a number of program integrity regulations to better protect students from poor performing institutions. The Government Accountability Office and the Department's own Inspector General recommended many of these steps, and the Department views them as critical safeguards that provide adequate flexibility where necessary.

Under the Higher Education Act (HEA), all programs at for-profit institutions and certificate and non-degree programs at public and non-profit institutions must prepare students for "gainful employment in a recognized occupation" in order to be eligible for Title IV student aid funds. Additionally, the Department has enacted and is enforcing State authorization regulations to ensure State agencies are upholding their important role in the triad and that students have designated offices to voice their complaints. Other regulations protect students from misrepresentation by institutions; limit incentive compensation that results in aggressive recruiting practices; ensure that only eligible students receive Federal aid; and clarify both the courses that are eligible for Federal aid and the amount of aid that is appropriate for that coursework. We are also working to increase the rigor of accreditation processes to ensure stronger reviews and a greater focus on outcomes by accreditors.

We remain committed to working with Congress and to providing technical assistance to help ensure legislative proposals meet the consumer and taxpayer protection purposes of these provisions.

ALLOCATION OF STUDENT LOAN VOLUME TO FOR-PROFIT AND NOT-FOR-PROFIT STUDENT LOAN SERVICERS

Question. As you may know, I have long been concerned by the Department's approach in allocating student loan volume under the Direct Loan program among the for-profit and not-for-profit student loan servicers in the program. Not-for-profit servicers typically score significantly higher on the Department's performance metrics, but the Department has arbitrarily, and harmfully, continued to allocate the vast majority of student loan volume to the for-profit Title IV Additional Servicers, known as TIVAs.

Congress included language in the Consolidated Appropriations Act for fiscal year 2016 that requires the Department to allocate loan volume based on the performance of the loan servicer, and I was pleased to see this reflected in the Department's most recent allocation, with a much higher share going to not-for-profit servicers who have performed well. However, I am very concerned by recent reports that the

Department is now planning to make changes to its performance metrics with the goal of allocating more loan volume to the TIVAs.

Does the Department recognize that such a change would violate Congressional intent for the program?

Answer. The provision in the Consolidated Appropriations Act related to the allocation of borrower accounts requires the Department to “allocate new student loan borrower accounts to eligible student loan servicers on the basis of their performance compared to all loan servicers utilizing established common metrics, and on the basis of the capacity of each servicer to process new and existing accounts.” On March 1, 2016, in accordance with this provision, new allocations were set based on a comparison of performance across all Department servicers. At the same time, and again consistent with the provision, the Department announced that we would require additional time to complete and document the required assessment of servicer capacity, as well as to ensure that the allocations determined on March 1 were equitable given differences in the portfolios of the Title IV Additional Servicers (which include contracts with two not-for-profit and two for-profit entities) and the Not-for-Profit servicers. We will announce the results of these efforts no later than June 30, 2016.

QUALITY OF CUSTOMER AMONG STUDENT LOAN SERVICE PROVIDERS

Question. Does the Department support ensuring all student loan borrowers receive quality service? Does it believe that allocating loan volume under the Direct Loan Program to the highest performing loan servicers would make progress towards that goal?

Answer. The Department is committed to providing the best possible service to student and parent borrowers. Under the Department’s existing performance-based servicing contracts, new borrower accounts have always been allocated based on servicers’ success in helping borrowers avoid delinquency and default, as well as on their scores on customer satisfaction surveys. As we continue our efforts to fully implement the allocation provision of the Consolidated Appropriations Act, quality service for borrowers will continue to be our principal goal.

CONTRACTS WITH STUDENT LOAN SERVICE PROVIDERS

Question. I am also concerned that the most recent allocation by the Department was for just 4 months, despite the fact that servicers’ contracts up until now have explicitly stated that the allocations will be announced twice a year for six-month periods. What was the reason for the unusually short time period of the most recent allocation, and what is the Department’s justification for modifying the terms of its contract with the servicers?

Answer. This statutory language related to servicing allocations requires the Department to take into consideration the capacity of each servicer to manage and process new and existing borrower accounts. We have experience working with each of our servicers and are already familiar with their systems and capabilities. Regardless, we have requested, received, and conducted an initial review of capacity plans from all of our servicers to assess the reasonability and risk of each servicer’s staffing, training, system, and other resource planning. Based on our experience and our initial assessment of the capacity plans, we are confident that all of our servicers can manage and process projected borrower account allocations for the next few months, while the volume of new accounts is relatively low. While we continue the process of completing and documenting our capacity assessment, we will monitor each servicer’s performance closely and can modify or discontinue allocations on short notice if any issues arise. Our plan is to complete and document the capacity review, as well as any adjustments or changes to the metrics, by June 30, 2016. The current allocation period was shortened to allow us to reflect the results of these actions prior to the beginning of the new academic year on July 1, 2016.

SUBCOMMITTEE RECESS

Senator BLUNT. The subcommittee will stand in recess until 10:00 a.m. on Thursday, March 17.

Dr. King, thank you for your time today.

[Whereupon, at 11:31 a.m., Thursday, March 10, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 17.]