

UNITED STATES COMMISSION ON CIVIL RIGHTS

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EDUCATION ACCOUNTABILITY BRIEFING

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THURSDAY

FEBRUARY 6, 2003



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CHARLOTTE, NORTH CAROLINA

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The Commission met at the Omni Hotel, 123 East Trade Street, Charlotte, North Carolina, at 8:30 A.M., Mary Frances Berry, Chairperson, president.

Present:

- Mary Frances Berry, Chairperson
- Cruz Reynoso, Vice Chairperson
- Christopher Edley, Jr., Commissioner
  
- Leslie R. Jin, Staff Director

*This is an unedited transcript of the full and complete proceedings of the U. S. Commission on Civil Rights in the matter of its "Education Accountability Briefing" held in Charlotte, North Carolina, on February 6, 2003. This is not a verified copy of the briefing transcript.*

Staff Present:

- Debra Carr, Deputy General Counsel
- Ivy Davis
- Barbara DeLaViez
- Terri Dickerson
- Bobby Doctor
- Pamela Dunston
- Sheldon Fuller
- Eric Lotke
- Joyce Smith
- Alex Sun
- Deborah Vagins
- Audrey Wright
- Tiffany Wright

Commissioner Assistants:

- Laura Batie
- Joy Freeman

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P-R-O-C-E-E-D-I-N-G-S

1  
2 CHAIRPERSON BERRY: The most recent, and  
3 perhaps the most extensive education reform measure in  
4 the country is No Child Left Behind. I say that on  
5 good authority because in one of my previous lives I  
6 was Assistant Secretary of Education in the Department  
7 of Health, Education and Welfare and helped create the  
8 US Department of Education. So I was in charge of all  
9 federal education programs and I can attest from that  
10 experience and from my experience since, this is the  
11 most extensive education reform measure among all the  
12 reform measures that have been passed over the years.

13 This won't be the last one, I bet, but for  
14 now it's the most extensive one. The legislation  
15 provides for mandatory steadfast testing development  
16 in secondary students with high-stakes consequences  
17 for low-performing students, schools and teachers.  
18 Public reporting of those test scores, disaggregated  
19 according to race, ethnicity, and other factors,  
20 improve professional development of teachers as well  
21 as a few other requirements.

22 As a result, the law is expected to have  
23 far reaching impact on the future of education of  
24 America, as well as the Civil Rights of students in  
25 our nation's schools. The US Civil Rights Commission

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1 has long been involved in issues concerning education  
2 because in our statutory mandate enacted in 1957 we  
3 are required to look into the matters of education  
4 disparities among other matters of concern.

5 We have done many reports over the years  
6 on various equal educational opportunities whether  
7 they're on the basis of race, gender, or national  
8 origin or whether they're on the basis of disability.  
9 And we have produced reports on school desegregation  
10 and how hard it is to do, how long it's taking it,  
11 whether whatever happened; as well as reports on  
12 higher education, historically black colleges and  
13 universities, their role in the states. We just  
14 recently issued a report called Beyond Percentage  
15 Plans: The Challenge of Equal Opportunity in Higher  
16 Education, which analyzed the effectiveness of so-  
17 called race-neutral percentage plans in promoting  
18 diversity in Texas, Florida and California as a result  
19 of the attacks on affirmative action.

20 So all of these indicate -- as well as  
21 other reports that are available to the public, the  
22 work that the commission has done -- this is just  
23 another step in our trying for ourselves to figure  
24 out, to help the country figure out, what is  
25 appropriate for equal educational opportunity. We are

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1 here because we want to have a productive and full  
2 discussion of the scope and impact of North and South  
3 Carolina education reform efforts.

4 We earlier this year had a hearing in  
5 which there were folks from Maryland and Virginia.  
6 That was before Dr. Smith went to Maryland, and we --  
7 it's like Mr. Smith going to Washington, or Dr. Smith  
8 goes to Annapolis -- and we had some documents  
9 submitted to us, what they're doing in those states,  
10 and the staff is doing a big report on K through 12  
11 education.

12 Now, we are here to see what is going on  
13 here on the issues of high-stakes testing, in  
14 particular, and education accountability, which is the  
15 major end, try to figure out whether those who are  
16 politically responsible for the education of children  
17 are seeing to it that all children are educated  
18 without regard to discrimination and there are equal  
19 education opportunities in these states.

20 We have four panel presentations, and the  
21 first panel will look at education reform and  
22 accountability laws in North and South Carolina.  
23 There will also be information on the likely impact of  
24 the testing and accountability requirements for No  
25 Child Left Behind on the school systems, the students

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1 and teachers of the Carolinas. There is no -- is  
2 there in this panel, general counsel, anything on the  
3 accountability of public officials, like politicians,  
4 for the education, or is that another panel?

5 MS. CARR: That's another panel.  
6 Throughout the day I have the responsibility for  
7 elected officials.

8 CHAIRPERSON BERRY: Okay, and I would ask  
9 if the first panelist would please come forward. Dr.  
10 Eric Smith, who is the former superintendent of public  
11 schools in Charlotte-Mecklenburg County and who is now  
12 the superintendent in Annapolis. Did I get that  
13 right?

14 DR. SMITH: Anne Arundel County.

15 CHAIRPERSON BERRY: Anne Arundel County  
16 and Annapolis, where there's lots of sailing and stuff  
17 like that, and the Honorable Howard Manning, who is  
18 Wake County's Superior Court Judge, who presided over  
19 the Leandro litigation, and Ms. Jo Anne Anderson, who  
20 is Executive Director of the Educational Oversight  
21 Committee in South Carolina who helped direct that  
22 state's educational laws. And somewhere here I have  
23 educational reform.

24 So, let me introduce the folks on the  
25 panel before they begin to speak. Dr. Smith was, as I

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1 said, superintendent here, and he's been recognized  
2 cross-country as a leader in providing quality public  
3 education for all children. He has a plan to have fed  
4 all of the information about a lot of it. So he has  
5 wanted to set goals, numerical goals, for how he plans  
6 to improve the performance of kids, which means he's  
7 held to those standards by folks who remember that he  
8 said it was going to be fifty or forty or how much  
9 ever it was going to be. And he was also named  
10 Superintendent of the Year by the North Carolina  
11 Association of School Administrators, and in 2001 he  
12 was named the country's top urban educator by the  
13 Council of the Great City Schools.

14 Judge Manning is the trial court judge  
15 who, as I said, presiding over the much-publicized  
16 landmark North Carolina school finance reform case,  
17 Leandro, in which, as we understand, the ruling was  
18 that the State of North Carolina was not meeting its  
19 obligations to provide a sound basic education under  
20 the State Constitution. A major component of this  
21 decision concerns state's obligation to provide  
22 quality pre-K programs for at-risk children. Judge  
23 Manning also clarified that the state is ultimately  
24 responsible for educating its children, as opposed to  
25 the local school districts. A novel concept, probably

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1 in the State Constitution somewhere; anyway, and  
2 placed the burden on the state to devise plans and  
3 strategies to insure that North Carolina's children  
4 are receiving a sound basic education.

5 Dr. Jo Anne Anderson, Executive Director  
6 of the Education Oversight Committee in South  
7 Carolina, bears responsibilities for developing and  
8 improving South Carolina's educational accountability  
9 system and to make recommendations to ensure the  
10 continuous improvement of South Carolina schools. Dr.  
11 Anderson is a graduate of Peabody College in  
12 Nashville, Tennessee, which is my hometown, so she  
13 probably knows where the Elson Place Soda Shop is; she  
14 may even know what a chess pie is. She has a Ph.D.  
15 from Florida State University. She has been a -- I  
16 guess she's worked in the classroom and has been a  
17 District Administrator with various policy-making  
18 bodies. We're going to begin with Dr. Smith. Please  
19 proceed. Thank you for coming.

20 DR. SMITH: Thank you very much. It's an  
21 honor to be asked to be at this panel and this  
22 presentation this morning. As I said, also it was a  
23 very significant honor for me to be allowed to serve  
24 the Charlotte-Mecklenburg Communities --

25 CHAIRPERSON BERRY: Cell phones off,

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1 please. If the cell phone comes on again, you will be  
2 ejected from your seat by some mechanism like in the  
3 movies.

4 DR. SMITH: Some thoughts about the  
5 accountability structure in North Carolina and the  
6 impact it had on our ability to improve achievement in  
7 our school district, the following thoughts: One, as  
8 I started back in 1996 in Charlotte, it became  
9 apparent to me that the whole concept of  
10 accountability, the accountability structure in North  
11 Carolina was, in fact, a central piece in our ability  
12 to move the achievement level of all children to a  
13 higher place. We did carry that here locally, with  
14 clearly defined goals for the school district that  
15 gave an umbrella to the accountability structure that  
16 the state had in place.

17 But after saying that, as we worked on the  
18 issues of achievement, the accountability, the data  
19 gathering -- the ability to analyze that data and make  
20 sense of out why students were succeeding or failing,  
21 gave focus to our work, gave purpose to our work, and  
22 allowed us to drill down on specifics in terms of our  
23 need to improve the quality of service to our  
24 children. So again, I would state without reservation  
25 the accountability structure is not just important,

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1 but it's an essential element if in fact we're to  
2 serve all children. Without the data, children will  
3 continue to fall through the cracks. Again,  
4 accountability structure, in my view, is critical.

5 I'm very proud of the fact in North  
6 Carolina, with a very strong accountability structure  
7 already in place during the six years of my tenure  
8 here, they did the make the decision to add a  
9 component, similar to Texas model of accountability,  
10 whereby they started to account for the performance of  
11 sub-populations within the schools and in school  
12 districts. That element was critical, a critical  
13 addition, that as we look at accountability and  
14 accountability measures, the need to be able to  
15 account for all sub-groups and celebrate success only  
16 when the lowest performing sub-group improves in  
17 achievement is, again, I think a significant feature  
18 of any accountability structure. It certainly helped  
19 us here, again, in our school district's efforts.

20 The business of issuing awards or  
21 sanctions based on performance was also critical. In  
22 doing it, both publicly as well as privately, tying  
23 financial incentives to it, in my view, was a critical  
24 piece. Giving meaning to the work, definition, as to  
25 what we're about in our schools and in our classrooms

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1 was important, and to bring the kinds of -- even when  
2 it was a relatively small financial compensation, but  
3 the fact that it was recognition paired with success  
4 of all children, in all sub-groups I think has had a  
5 profound effect in helping us focus our work.

6 One of the critical issues around  
7 accountability is -- I think the first battle that we  
8 had waged was, accountability of what? Some of the  
9 basic questions we had that we had to begin to answer  
10 -- what are we accountable for and how do we translate  
11 that for, as I used to constantly say, for that 22  
12 year-old teacher that just unpacked his or her U-haul  
13 truck and is going to start teaching the next day.  
14 How do we define -- accountable for what? And so a  
15 critical piece of the accountability structure here  
16 was the ability to unpack the expectations of the  
17 state in terms of what learning should take place in  
18 North Carolina, and then translate that out of the  
19 bureaucratic education needs so that it is  
20 understandable on a day-to-day basis by the modestly  
21 trained and prepared classroom teacher that is  
22 expected to deliver, in their hectic pace and hectic  
23 schedule.

24 So a huge investment here within this  
25 school district to do that at the local level to help

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1 unpack what was expected and give it definition, but  
2 that definition is central to this whole process. To  
3 be able to break it down into terms that is  
4 meaningful.

5 As we proceeded to make this definition of  
6 the work that has to take place, the next challenge  
7 that we were faced was the how. How do you deliver  
8 this knowledge, this information, this curriculum  
9 content. And during my six years here, I saw a huge  
10 transition and transformation in our school district  
11 in the classroom from a rush to test score achievement  
12 at all costs, at any costs, very bad practices, very  
13 bad procedures, truly teaching to the test, teaching  
14 the test, if we can find a way to do that, to actually  
15 teaching it, but it was evolutionary; it moved over  
16 time. It required a time period of skill development  
17 on the part of teachers and our central administrators  
18 to move from focused on test results simply and into  
19 deeper understanding of learning and knowledge. That  
20 transformation, I think, we made progress on that, and  
21 we will continue to make progress I'm confident under  
22 the leadership of Dr. Pughsley and local  
23 administration here.

24 The other critical piece that was  
25 discovered, that we shouldn't have had to discover

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1 this, it should have been self-evident, but in order  
2 to deliver on the prescribed curriculum and knowledge  
3 to be gained, that teachers need certain elements,  
4 certain things to be successful. We had talked --  
5 this community had talked for decades about equity and  
6 fairness for all children and access and opportunity  
7 for all children. Through the accountability  
8 structure that gives definition to what students are  
9 to know and learn, we were able to give definition to  
10 the term equity, equity in what, equity and fairness  
11 in what, access to what.

12           And we were able to clearly define, and  
13 start to ask the questions, what does a third grade  
14 teacher need in order to teach reading? What does a  
15 third grade teacher need in order to teach math? What  
16 should a fifth grade classroom look like? What should  
17 the facilities look like? Does it make a difference  
18 if the air conditioning works or doesn't work, whether  
19 the roof leaks or doesn't leak, whether the classroom  
20 is 850 square feet or 1100 square feet? What  
21 difference does it make? And so we started to ask the  
22 critical questions, do these have impact on our  
23 teachers ability to deliver. So the issue of equity  
24 became clearly defined in our view, in terms of  
25 materials and supplies, textbooks, facilities, media

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1 support and so forth.

2 Data has also allowed us in Charlotte-  
3 Mecklenburg to really spotlight, to focus on areas  
4 where bias, inadvertent or purposeful bias, plays into  
5 the process of decision making -- what children are  
6 encouraged to take next, what opportunities are being  
7 provided, how funding is in fact being distributed and  
8 disbursed over schools, how are needs being  
9 identified. So, it allowed us to spotlight our  
10 actions or our inactions or our inappropriate actions  
11 and take corrective steps to make adjustments.

12 Through the last six years we have -- I  
13 have seen clear evidence that there is no excuse for  
14 the low academic achievement of some sub-populations  
15 in this nation. Charlotte-Mecklenburg, although we  
16 didn't finish the job in closing the gap, we had ample  
17 evidence on an individual student basis that the gap  
18 should not exist in achievement, that there is no  
19 reason for a gap to persist in this nation, except for  
20 us. And we are the ones that can decide the future in  
21 terms of the level of achievement, and I won't bore  
22 you with my normal Rotary speech, but I'll just  
23 highlight a couple of examples to make a case.

24 In '95, '96, 59 percent of our fifth grade  
25 students were reading at grade level as measured by

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1 the state assessment test. In the year 2000 and 2001,  
2 we moved that figure 60 percent reading on grade  
3 level. That's in the aggregate.

4 Disaggregate for African-Americans in  
5 grade five reading, only 35 percent were reading at  
6 grade level. Sixty-five percent were below grade  
7 level -- in '95, '96. In 2000 and 2001, that had  
8 moved to 76 percent African-Americans reading on grade  
9 level.

10 For Free/Reduced Lunch children, only 33  
11 percent, one third, were reading at grade level. Two-  
12 thirds were below grade level at the end of grade  
13 five. After working at this job persistently for six  
14 years, one-third were on grade level. At the end of  
15 2000 and 2001 there was 71 percent Free/Reduced Lunch  
16 children reading at grade level.

17 I think the other significant data is not  
18 just around high school, around state accountability  
19 where the results show that while with upper level  
20 courses, such as advanced placement, advanced  
21 placement participation going from 4,000 students  
22 taking -- test being taken in advanced placement in  
23 '95, '96, 8,500 in the year 2000 and 2001.

24 For African-Americans, it moved from 431  
25 advanced placement exams taken in '95, '96 to 1,200

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1 African-Americans enrolled just a few years later in  
2 2000 and 2001. So, again our data is very clear.

3 The challenge as I see it, as North  
4 Carolina and other states move ahead with No Child  
5 Left Behind, there is a deep understanding that  
6 accountability runs two ways. Now, I am confident  
7 that educators are prepared and students are prepared  
8 to step up to the challenge of a rigorous system of  
9 accountability.

10 Accountability does run in the other  
11 direction also in terms of funding and support.  
12 Accountability will not work, will not work, without  
13 adequate financial support to make this a success.  
14 And we see it time and time again, where lack of  
15 funding is preventing teachers and central  
16 administration from doing what they need to do.

17 In closing, it is clear that critical  
18 issues of support, financial support, teachers,  
19 quality of teachers, training materials, facilities,  
20 time, and adequate central administration to get the  
21 job done is essential to accountability to work across  
22 the board. Thank you very much.

23 CHAIRPERSON BERRY: Thank you Dr. Smith.  
24 There'll be lots of questions. I can think of 25  
25 right at the moment. Judge Manning, please proceed.

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1 JUDGE MANNING: Well, I think we all came  
2 -- can I stand or do I sit down?

3 CHAIRPERSON BERRY: Stand up.

4 JUDGE MANNING: I sit all the time. I  
5 don't do well with sitting down. I feel like if I  
6 talk here you're going to ask me if I've ever been a  
7 member of the Communist Party. I can't get that out  
8 of my system. With your permission I will wander  
9 around a little bit.

10 North Carolina is a state that I'm going  
11 to brag on, because I happen to know much about the  
12 whole system. We have, thanks to Chief Justice  
13 Burrough Mitchell, and this is one of my little  
14 personal issues.

15 North Carolina's Constitution is a great  
16 instrument. Right off the bat it requires the state  
17 to provide all the children, through the legislature,  
18 with an education. What we didn't know until 1996  
19 when Chief Justice Mitchell defined it, was exactly  
20 what a sound basic education means in North Carolina.

21 So we're ahead of the curve.

22 I'm going to tell you, because I'm so  
23 proud of what he wrote. It means something in this  
24 state and it's color blind. It applies to every  
25 single living breathing child. A sound basic

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1 education in our constitution is sufficient ability to  
2 read, write, speak the English language; a sufficient  
3 knowledge of fundamental mathematics and physical  
4 science to enable the student to function in a complex  
5 and rapidly changing society; sufficient fundamental  
6 knowledge of geography, history, and basic economic  
7 and political systems to enable the student to make  
8 informed choices with regard to issues that affect the  
9 student personally and community, state and nation.

10 Number three, very important, sufficient  
11 academic and vocational skills to enable the student  
12 to successfully engage, successfully engage, in post-  
13 secondary education or vocational training and  
14 sufficient academic and vocational skills to enable  
15 the student to compete on an equal basis with others  
16 in further formal education or gainful employment in  
17 contemporary society.

18 That means something. It's not like West  
19 Virginia or someplace where you learn to count on your  
20 toes and you've got an education. It means that when  
21 you get to the end of the line, that when you go out  
22 and get a job at IBM on the assembly line that you can  
23 work the computers, that you can follow instructions,  
24 and that you don't have to have remedial English or  
25 math in order to do that. That's what our

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1 constitution requires.

2 And how did the state go about doing this  
3 in terms of accountability? We were very fortunate to  
4 have Dr. Smith's predecessor, a man I never got to  
5 know except on the witness stand. I loved him to  
6 death, Jay Robinson, who was our Superintendent of  
7 Public Instruction. He pushed for our accountability  
8 system in North Carolina in the early '90's.

9 That accountability system is called  
10 ABC's. All I know is the "C" means local control.  
11 I'll get to that in a minute, because local control  
12 can also mean yokel control in North Carolina. So  
13 that's why the state's not real happy with some of my  
14 rulings. The ABC systems, you can read about it, I  
15 gave you some stuff.

16 Basically what it does is we have three  
17 levels of performance. One, sorry, bottom of the  
18 line, the end. Level II, state employees say this  
19 should be on a constitutional basis, but I don't agree  
20 with it, should be just barely able to get to the next  
21 grade. Number III, the state calls grade level, I  
22 call that constitutional. Number IV, you're really  
23 moving up the line.

24 What that would do is, in the test, which  
25 you can read all about and I'm not going to spend time

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1 telling you all about that, but we do have testing for  
2 the elementary schools. We have end-of-course tests,  
3 beginning of third grade through the eighth grade.

4 Unfortunately, to graduate from high  
5 school in this state all a child has to do is to  
6 successfully get to the Level III grade level on the  
7 eighth grade competency test, which is a joke. That  
8 is something, hopefully, we can get changed.

9 The bottom line is that this state,  
10 through the ABC program, the legislature puts \$85  
11 million a year into the reward side. In other words,  
12 if a school has 90 percent of its children with a  
13 positive score, I think, at above or Level III, then  
14 they become a school of excellence. Eighty percent or  
15 above Level III becomes a school of distinction and  
16 drops down from there.

17 There's one thing about our system that No  
18 Child Left Behind appears to me to have left out, and  
19 you're going to have a problem with it, and that is  
20 you do not have any room for growth. North Carolina  
21 has a growth composite in its rewards and in its  
22 analysis.

23 In other words, you take a child who might  
24 be a Level I at the beginning of the year, who ain't  
25 got a snowball's chance in hell of getting to Level

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1 III in 180 days, but if that teacher works with that  
2 child and that child makes growth based on those  
3 tests, then we can count that in and give -- that  
4 comes into the formula and count it. High-stakes  
5 testing without that is nothing more than -- you've  
6 got to realize not everybody is going to start off and  
7 can be brought all the way up to Level III grade level  
8 in 180 days, no matter who you've got teaching. Some  
9 children are never going to get there, but at least  
10 they get rewarded for growth.

11 The safety net for all the nay-sayers who  
12 don't like North Carolina, gripe about it -- is what  
13 about my smart child that's going to go to Yale.  
14 Well, we're not educating people to go to Yale. We're  
15 educating them to go to Carolina, Western Carolina.  
16 We're not giving them a prep school education. Those  
17 children are measured each year for growth, too. So  
18 if you're performing at Level IV, the top level, and  
19 your teacher doesn't get you from your growth  
20 component to where you're supposed to be, she doesn't  
21 get paid. So we have some equity in that. But that's  
22 basically what our accountability system is.

23 We also have it built in, thanks to the  
24 legislature -- as we're running out of time. We also  
25 have a remediation component. We have a carrot, and

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1 we have a stick, and the remediation component came in  
2 2001, 2000, the year 2000-2001. What it's called, and  
3 there's information in your packet about that, that's  
4 called Gateways Program.

5 While it may seem harsh, but when we test  
6 for the first time, it counts in the third grade. And  
7 anybody who's an educator, and I'm not, but I know  
8 because I've heard so many of you say so, the first  
9 three years plus kindergarten, plus what I hope will  
10 be pre-K is to get a child learning to read. From the  
11 third grade on they should be reading to learn; so  
12 they need to get there.

13 So the third grade, the end of third  
14 grade, if they are not performing at grade level under  
15 our Gateways System, two things happen. They are not  
16 going to go to the fourth grade. But it's not like  
17 that; they get remediated. In other words, they get  
18 what they call a personal education plan, to teach,  
19 just like dealing with the disabled kids, they get a  
20 PEP by law. It's supposed to get the parents  
21 involved, and they're supposed to go forward to help  
22 that child. So the only data I have is on the third  
23 grade -- fifth grade, which is the first group they  
24 did.

25 Everybody says, oh, woe is me, we're going

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1 to lose 65 percent of our children and all this stuff.

2 Anyway, we had 92 percent go forward because over the  
3 summertime they had concentrated remediation. They  
4 got to take the test again, and they were successful.

5 So not only did we have accountability, we have in  
6 place, as long as we keep getting the money for it and  
7 we keep getting people working on it, we also have the  
8 remediation in place to get these children to succeed,  
9 so when they get to the next level they can succeed on  
10 that level and not be "minimally prepared" to be  
11 successful.

12 Local -- I'm trying to do it fast -- local  
13 control is the big political football, and that's  
14 because everybody thinks, and the politicians think  
15 that the school locally can do it first. What we  
16 found, or what I found, in talking my case, is I found  
17 that in some school districts that Lord knows need  
18 help -- it's not just the teachers. It's the people  
19 down there.

20 When you're bottoming out, when the kids  
21 are 50 percent at grade level, and it's happening  
22 every year in every school, something's wrong, and  
23 that's where I determined that the State of North  
24 Carolina has to come in; it's ultimately responsible.

25 You can't create a subsidiary and blame the

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1 subsidiary for negligence. The people who are  
2 responsible is the state, the partnership. You've got  
3 to go in and clean it up, that is go down there.

4 We've got one now, it's called District  
5 Assistance Team. You go down and see why they're not  
6 teaching the standard course of study.

7 Last, but not least, when I got through  
8 with my journey all the way around the pole, using  
9 accountability, all the evidence came out with the  
10 following things. The average in North Carolina and  
11 over the United States, every child should have equal  
12 opportunity to a sound basic education. The only way  
13 that can be delivered in my book under the  
14 constitution of our State is that every classroom  
15 should have a competent certified teacher who is  
16 teaching what we call a Standard Course of Study,  
17 which is our curriculum, in a manner to which those  
18 children can adjust.

19 So if you've got children at risk of  
20 failure, who I feel like are my children now after  
21 five years of this, these kids all can learn, but they  
22 may have to be taught differently. You've got to have  
23 a principal in that school who's doing more than  
24 sitting in the office drinking coffee. They've got to  
25 be a school leader and they've got to know what the

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1 heck they're doing. And number three, they've got to  
2 have the resources. It's not Cadillacs and great big  
3 offices like he has. They've got to have the basic  
4 resources to deliver the educational program.

5 There's one more thing I need to tell you  
6 and then I'm going to sit down before you pull that  
7 button on me -- I don't like that red light. I'm  
8 usually the one that pulls the button. The last thing  
9 is that in North Carolina we have the luxury of having  
10 flexibility in our system to do all these things that  
11 we need to do and to focus on the education.

12 The bottom line is we need to focus on  
13 resources and I think federal money -- I love No Child  
14 Left Behind, but we've got to have, unless we have the  
15 resources that are focused not on administration but  
16 focused on our classroom teachers, give her or him  
17 support and training that they need to do, it's not  
18 going to be done.

19 Last, but not least, there's a little  
20 program that came from Texas, that I can brag on that  
21 we've got in Wake County, called the Brasin Score  
22 method. And I'm going to give you this final example  
23 because this thing works, folks, and it doesn't cost  
24 \$6,000 a year per child, it doesn't cost \$15,000 a  
25 year per child, it doesn't require fancy equipment; it

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1 requires dedicated teachers.

2           What they do, this guy in Texas, this girl  
3 in Texas who figured it out, they take this  
4 curriculum, put it into little pieces so that the  
5 children learn little pieces. Then they are, let's  
6 use the word tested on whether or not they know where  
7 the little pieces are. They don't move out of that  
8 little piece until they know it. And in Wake County  
9 we put it in seven middle schools, seven elementary  
10 schools and three middle schools. And looking at the  
11 numbers I saw, the children who are at risk, and  
12 unfortunately a lot of our black kids are at risk,  
13 they moved in their data in one year.

14           It was remarkable where those schools came  
15 out going from 70 percent composite to like 80 percent  
16 or 79 percent composite using that way. No child in  
17 that thing is ever left behind. They don't get to the  
18 end of the six weeks; they don't get to end of the  
19 day. And it costs \$450 a child to implement in the  
20 school, which is dirt cheap. It requires hard guts  
21 and hard work from the teachers and the principal.  
22 But when they get on board, they all love it because  
23 it works.

24           Last thing, and then I'm going to sit  
25 down. North Carolina has schools and the minute the

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1 school buses rolled in the 1970's in the northeast and  
2 other places, the white kids went to the Bible schools  
3 and the local academy. We have counties in which we  
4 basically have, and have had for years, all black  
5 schools.

6 Up in those counties, folks, they have  
7 some educators who with nothing but heart and guts  
8 have got those poor kids, and they're all poor, all of  
9 them at risk, up into the 70 and mid-70 percentile,  
10 all of them in school in grade level. See, it can be  
11 done. We're going to close the gap in North Carolina.

12 It's going to take hard work, it's going to take  
13 flexibility in the program that you administer to your  
14 kids so they can learn at the level. I'm sorry, I've  
15 preached too long.

16 CHAIRPERSON BERRY: No, that's perfectly  
17 fine. Thank you very much. There will be questions,  
18 but I just want to say that Senator Robert Byrd of  
19 West Virginia, a ranking member of the Senate  
20 Appropriation Committee, should understand that I do  
21 not associate myself with your remarks about the West  
22 Virginia education system.

23 COMMISSIONER EDLEY: We need to strike  
24 that from the record.

25 CHAIRPERSON BERRY: There will be some

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1 questions. Dr. Anderson.

2 DR. ANDERSON: Thank you very much. It's  
3 really an honor to be here and appear before you this  
4 morning. I have to tell you that as a person that  
5 grew up in the 60's and the 70's I know that the work  
6 that the Commission has done over the last 35 or 40  
7 years has been significant in getting us to point  
8 where we are dissatisfied with the educational system  
9 that only educates some of the children.

10 For about 400 years, South Carolina's  
11 economy has been built on a three-legged stool: family  
12 farms, textile industry and tourism. As we enter the  
13 twenty-first century only one of those legs of that  
14 stool remains for us. So for South Carolina, changing  
15 its workforce and changing the climate of its schools  
16 is essential for the state's survival.

17 That is the message clearly in the recent  
18 groups like mine, that are one-third business, one-  
19 third elected officials and one-third educators, are  
20 really pushing this momentum. Our Education  
21 Accountability Act, passed in 1998, does not differ  
22 greatly in basic principles from what we see in North  
23 Carolina or Texas or Virginia or No Child Left Behind,  
24 and that's because as we created that model we visited  
25 all those places and looked at the evidence from those

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1 states in those years. So you would see we did a  
2 focus on what students should learn through use of  
3 assessments to inform instruction and to rate schools,  
4 professional development and technical assistance,  
5 public reporting and rewards and sanctions.

6 So we're talking about two pieces of  
7 legislation when we look at the federal and South  
8 Carolina. They're very, very closely aligned. In  
9 1998, South Carolina set a goal to be ranked in the  
10 middle of states nationally in academics. It was  
11 about the same time our neighbors here in North  
12 Carolina set the goal to be number one, but we were  
13 undergoing a campaign of billboards and political ads  
14 that almost seemed to celebrate the fact that we were  
15 50. So setting a goal to be in the middle was a  
16 significant step forward.

17 What you should have been given is a copy  
18 of a document called Where are We Now. We've set nine  
19 measures by which we can measure South Carolina's  
20 progress to the middle and beyond that our progress to  
21 2014. In fact, the rigor of that goal is such that if  
22 it increases in rigor all the way through to 2014, it  
23 would be approximately at the same goal as No Child  
24 Left Behind.

25 For the last four years we worked very

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1 hard to change the pattern of student achievement in  
2 South Carolina and it's evident in that document and  
3 other documentation that we reviewed. We can see that  
4 we have moved the two ends of the achievement  
5 continuum. We have moved students out of the very  
6 bottom and we have moved our students at the top  
7 further along. But unfortunately, the group of  
8 students that we did not move were those who live and  
9 learn between those extremes, and there lies our  
10 challenge and it's dominated by low expectations.

11 In the copy of the written paper I sent,  
12 you will see that our standards for our state  
13 assessment program are set exactly at the standards  
14 that are met, and that is a tough goal, and it's one  
15 that is discussed a lot in South Carolina now as we  
16 look at that requirement in No Child Left Behind to be  
17 proficient, even though proficient is gauged  
18 differently across the state.

19 It's with a great deal of courage that  
20 South Carolina's elected leadership are willing to  
21 stand with our definition of proficiency knowing that  
22 an overwhelming majority of our schools will be  
23 labeled as not making adequate yearly progress.

24 Our system employs two ratings. One is an  
25 absolute index which measures the school against an

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1 annual target, what is the total level of that student  
2 population. It's calculated across grade levels and  
3 across content areas, and it's an annual, really,  
4 status report.

5 We also use an improvement rating and  
6 those turn out the toughest standards. The  
7 improvement rating is based upon longitudinally  
8 matched students. Jo Anne in grade three compared to  
9 Jo Anne in grade four. It is one of the most rigorous  
10 measures that can be used. If you look across the  
11 State, it's one of the most rigorous. Last year we  
12 rated about 5 percent of our schools as satisfactory.

13 What you have to understand in our  
14 absolute growth, what we do is we, you know, you  
15 couldn't start with where you want to be and rate  
16 everybody unsatisfactory. So what we do is increase  
17 the rigor of how X point is defined over time. Five  
18 percent of our schools were rated unsatisfactory on  
19 the absolute measure, 25 percent of our schools were  
20 rated unsatisfactory and need improvement.

21 What we saw in our pattern of student  
22 performance was, yes, that we moved students out of  
23 the below basic category, but we also saw students  
24 drop from advanced proficient and from proficient to  
25 advanced. So, part of our challenge in moving that

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1 continuum is to make a real commitment to educating  
2 every single child.

3 We have seen historically in our  
4 improvement measures that we expect a net gain of 5  
5 percent per year in terms of student performance. If  
6 you look at the gains expected by the federal  
7 legislation, you're looking at a 7 to 8 percent gain  
8 in student performance.

9 So that's a little bit intimidating and  
10 I'm glad my two colleagues talked about the sources,  
11 because that is part of our challenge in implementing  
12 No Child Left Behind and our challenge to continue to  
13 implement our state legislation. For example, 11.4  
14 percent of South Carolina disabled students scored at  
15 the proficient level. So we have to go in and  
16 convince the teachers who are working with inadequate  
17 resources, perhaps more students than she feels  
18 comfortable, struggling to help parents understand  
19 that, and an underfunded system of special education,  
20 that she can get every student to proficient level.  
21 It is a formidable goal and one that we need to know  
22 enough that our teachers and our administrators see  
23 that it is possible, not that it's so impossible we  
24 will never get there.

25 Our analysis of our data show few

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1 surprises. Our absolute performance ratings, that  
2 annual status, is clearly related to the -- correlated  
3 to a significant level of student's socioeconomic  
4 status, but our improvement ratings are not.

5 What we see in the improvement ratings and  
6 what we see in this fairly sophisticated analyses of  
7 dollars and student poverty funds are the things that  
8 matter. When students learn, it's what we as adults  
9 do that matters -- not the advantages or disadvantages  
10 the child brings to the classroom, not who his parents  
11 are, not where he lives, but what adults do is what  
12 matters.

13 Our data suggests clearly students in  
14 schools succeed when administrators have been in their  
15 position two or more years, when teachers hold  
16 advanced degrees, when teachers have enough expertise  
17 and experience to be under continuing contract, when  
18 teachers return to the school year after year, and  
19 when parents interact with teachers. When adults do  
20 what matters, children learn.

21 In our under-performing schools the  
22 average administrator turnover rate is 50 percent per  
23 year; every other year there's a new administrator.  
24 The teacher turnover rate is between 25 and 30 percent  
25 per year. Those teachers that are coming in as first-

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1 year teachers, they tend to be getting a little  
2 experience and as quickly as they can and leaving  
3 those schools.

4 So we know that -- that when we can  
5 provide teachers with expanding content knowledge they  
6 are more likely to teach. If we get teachers with  
7 experience, then they understand how to manage  
8 classrooms, they're more confident in that. And most  
9 compellingly, when we have teachers that are there to  
10 work with parents, it matters.

11 In Jasper County, South Carolina, at four  
12 o'clock in the morning parents get on buses and ride  
13 to Savannah or to Hilton Head and change bed linens  
14 all day, and get off that bus about 8:30 or 9:00 at  
15 night. We cannot expect those parents to be at PTA.  
16 We have to find new ways to interact with them.

17 Our profession is also changing. As a  
18 teacher, and I remember growing up, you know, Ms.  
19 Berry in Shelbyville, Tennessee -- if I got in trouble  
20 in the third grade classroom, my mother knew by the  
21 time she picked me up in the afternoon; no one  
22 questioned that teacher. But there is a disconnect  
23 now between parents and teachers.

24 And it's most poignantly expressed one  
25 night in Andrews, South Carolina, a place in rural

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1 South Carolina on the way to the beach, when a woman  
2 stood up and said, "I don't go to that school and talk  
3 to those teachers." And someone said, "Why? Why  
4 won't you talk to the teacher about what's happening  
5 to your child?" And she said, "I don't know him.  
6 They don't live here. I don't see him at the grocery  
7 store. I don't know if they go to church. I don't  
8 know how they raised their own children."

9           There is a tremendous disconnect that if  
10 we are going to use the power of a parent-teacher  
11 partnership, we have to come back to them. Our school  
12 and district report cards include information, but do  
13 not apologize, and do not consider into the  
14 calculation information on schools with similar  
15 students, and that similar students grouping is used  
16 to require the people to look at where things are  
17 working. And similar schools grouping is based upon  
18 two factors: a poverty composite of participation in  
19 free/reduced price lunch programs and eligibility for  
20 Medicaid over a three year period, using the Medicaid  
21 to pick up about 20 percent more students to  
22 understand -- and that's because a lot of families are  
23 on the edge of eligibility for free lunch and also  
24 high school students tend to under-represent  
25 themselves in the free lunch population.

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1 We create a lot of supplementary materials  
2 for people to use in order to support them because we  
3 know that the report cards are used locally and the  
4 data are used without that change locale. I've  
5 included in your packets some information where you  
6 can look at the variability in South Carolina school  
7 districts organized by the school ratings. And so  
8 what this is, we have communities where they only  
9 raised \$3,400 and communities where they're raising  
10 1.2 million dollars.

11 But perhaps the most dramatic of the  
12 representations are on the colored maps. I hope  
13 they've given you the ones with colored maps. If you  
14 look at page 10, you see the blue, the below average  
15 schools and the green for below average. But you turn  
16 the next page and you'll see in pink and red, decline  
17 in student population and then below the dark teal and  
18 the black color, minority representation. What  
19 becomes apparent to you graphically in South Carolina  
20 is the vast spacial inequality. I-85 is a corridor of  
21 wealth and achievement. I-95 is economically and  
22 educationally bereft. And we could show you data that  
23 demonstrates I-95 as it winds up through North  
24 Carolina; it's the same problem as it does in South  
25 Carolina. We see a "V" which tells us that rural

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1 South Carolina is dying. Students and families are  
2 leaving there and many of those communities have a  
3 lower population than they did in 1930.

4 So our challenge is to make certain that  
5 spacial inequalities which in South Carolina the line  
6 between spacial inequality and race is very blurred.  
7 Geographic and economic isolation do not exist if they  
8 have teachers who are prepared to work at those  
9 populations, and they've got policies in place -- the  
10 most troubling policies is that we use a teacher  
11 market document that says the least prepared teachers  
12 lead to the most challenging districts. And if we  
13 form those political and parent partnerships so that  
14 we can in fact create a local momentum to use the data  
15 to leverage change, because unless we use the data  
16 than we will be in the same place tomorrow that we are  
17 today. Thank you.

18 CHAIRPERSON BERRY: Thank you very much  
19 Dr. Anderson. Commissioner Edley is a Professor at  
20 Harvard Law School and various other important things,  
21 like a civil rights project at Harvard. He's been a  
22 high official in various administrations and he's an  
23 expert on some of these matters. And vice-chair  
24 Reynoso is sitting to my right who is a distinguished  
25 Professor at University of California at Davis and is

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1 involved in all matters and used to be a Justice on  
2 the California Supreme Court. I wonder if either of  
3 you have any questions for anyone of the panel?

4 COMMISSIONER EDLEY: We have until what?  
5 Saturday afternoon. I'll defer to my senior  
6 colleague.

7 CHAIRPERSON BERRY: Would you like to  
8 start?

9 VICE-CHAIRPERSON REYNOSO: I have a lot of  
10 questions. I'll start with Dr. Smith. The outline  
11 that you present to us is a very hopeful one, and I  
12 must say that your Kiwanis speech --

13 DR. SMITH: Rotary.

14 VICE-CHAIRPERSON REYNOSO: Rotary. I  
15 found your two minute summary of your Rotary speech to  
16 be very impressive particularly in terms of the  
17 figures that you gave and the improvement that came  
18 about. But I have questions pertaining to the process  
19 that you undertook here, and let me start with the  
20 most difficult. Each of you on the panel said that  
21 your programs don't work without the resources the  
22 teacher has.

23 And I'm from California and I was involved  
24 in a series of hearings in Los Angeles County where I  
25 heard firsthand from students who did not have text

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1 books for example. It seems to be that's pretty  
2 essential for teaching. So the first question is, how  
3 do you as educators go about convincing the policy  
4 makers of the state, mainly the legislators, that  
5 indeed those resources are necessary, and I assume  
6 that you have to convince them that there will be good  
7 results from that. So how did that process work out  
8 when you were in the position of trying to persuade  
9 legislators that they needed to put more money to  
10 education? That seems to be, frankly, a national  
11 problem.

12 DR. SMITH: It is a national problem. In  
13 that question lies the future of "No Child Left  
14 Behind", whether or not it succeeds or fails is that  
15 question.

16 VICE-CHAIRPERSON REYNOSO: We already hear  
17 from the states concerns that the ideals of the  
18 federal program are fine, but where are the resources,  
19 the local folk are asking. So even then we have the  
20 beginning of problems in terms of a solution as --  
21 certainly it's expressed by each of you on this panel,  
22 because you need those resources. So the question is,  
23 I guess maybe we should make it broader at this point,  
24 if "No Child left Behind" starts to exceed the new  
25 resources, how can you convince the federal

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1 legislature and the President? But at this point I'm  
2 just concerned about your testimony in terms of the  
3 success locally. That itself is a challenge. How  
4 would you go about bringing that change about?

5 DR. SMITH: Specifically, we were very  
6 blessed in Charlotte because this community responded  
7 and we did have a good support from the state  
8 legislature. But our funding, we're physically  
9 dependent on the County Commission and really across  
10 party leadership, Republican and Democrat, the County  
11 Commission, we consistently had a high level of  
12 funding. Margaret Carnes, who will speak later today  
13 and perhaps our colleague from Charlotte can speak to  
14 some of the business commitment, the corporate  
15 leadership, their support for school funding, as well  
16 as parents and others that stepped up and in essence  
17 demanded.

18 And to follow up on just how does that  
19 happen, perhaps they'd be better to answer that  
20 question than I. But the strategy was to clearly  
21 define our objective, and we did that through a clear  
22 statement of goals and then a rigorous statement of  
23 accountability. And what, at least, in my experience  
24 has told me, is that people are willing to pay the  
25 price for quality education and achievement if they

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1 know the money is being well spent and is delivering a  
2 return for the dollar, and so we work annually to  
3 demonstrate that.

4 VICE-CHAIRPERSON REYNOSO: So an important  
5 part of that, I take it from your response that, my  
6 experience has been that County Commissioners and  
7 other elected officials, and I don't mean to sound  
8 openly negative, but that I have not much faith in the  
9 elected officials absent community involvement. And I  
10 hear you saying that the business community, the  
11 parents and others got together and were able to then  
12 meet with the officials and they responded, so I can  
13 understand that.

14 So we need to jump back then to -- my  
15 notes indicate that the first thing you said was  
16 clearly defined goals. How did you decide what those  
17 goals were going to be? You have now, but more so  
18 then, great variations in accomplishments by different  
19 school districts and in different ethnic and racial  
20 groups within those school districts. How did you go  
21 about defining the goals in such a way that the entire  
22 community, the business community, the educational  
23 community, parent community came together and said,  
24 yeah that's right. How did you go about doing that?

25 DR. SMITH: It's a little different than

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1 perhaps some people might anticipate. It wasn't group  
2 decision making. We basically, when I came to  
3 Charlotte in '96, I didn't even know there was a state  
4 accountability system when I took this job; I learned  
5 that after I got here. So I didn't think about  
6 independent accountability; I knew that I needed to  
7 have an accountability structure in order to be  
8 successful. We focused on three specifics that we  
9 felt were essential for school operation. One that we  
10 had to have, goals around academic achievement.  
11 Second around school safety, third; community  
12 cooperation.

13 The goals, the specific goals that were  
14 stated in academic achievement were built on the --  
15 were goals that would reflect the strategies that I  
16 intended to have played out. One is that all students  
17 must have a solid foundation early in the educational  
18 process, grade three, grade two, kindergarten, if  
19 possible. And so we had clear measures around  
20 reading, writing and arithmetic in the earlier grades,  
21 so we defined that. Reading is basic --

22 VICE-CHAIRPERSON REYNOSO: You said a  
23 child by grade three ought to be able to read or think  
24 --

25 DR. SMITH: Eighty-five percent proficient

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1 across the system. If they're well prepared with  
2 their foundation then we can jump to the out year  
3 measures. Are we able to put students on a trajectory  
4 that gets them to a higher, more rigorous performance.

5 So we moved to things such as, what are we doing in  
6 terms of SAT? Are we at the national average, with  
7 what percent of test-takers? What portion of our  
8 student population is accessing advanced placement or  
9 internal baccalaureate or what's the performance  
10 rating?

11 VICE-CHAIRPERSON REYNOSO: And did you  
12 have goals as to that various -- that five years from  
13 now we'd like to see a specific goal?

14 MR. SMITH: Specific goals. And so we have  
15 them drafted up. Again, Charlotte has a wonderful  
16 business community. We shared that with people like  
17 Hugh McColl and Ed Crutchfield and some people who  
18 were willing to give us the time and begin to get --  
19 again, it's a straightforward process and people  
20 stepped up and said, we're going to go on this journey  
21 with you, and then we reported annually. We'd stand  
22 in front of the Edman Building and we reported our  
23 success or our failings and we make course  
24 adjustments. The state accountability system ended up  
25 dove-tailing with this very nicely.

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1           But again, the original goal didn't  
2 reflect on the state system, a bigger agenda than  
3 that. But without that focus that laser focus for six  
4 years in '92 and continuing with Dr. Pughsley, without  
5 that laser focus we would waste money, we would waste  
6 effort and human resource.

7           And so when you come back to the question  
8 of resource, financial resource, there is two issues.

9           One is being able to get the community support for  
10 adequate funding. The other is to -- you don't have  
11 it, you just, at the end of the day, it's just not  
12 there, how do you cut back to your core business and  
13 how do you scale back. You can't be a social service  
14 agency. You can't be all these others things that  
15 society expects of public education and you've got to  
16 cull it back to those keys issues which, again, might  
17 be defined by the state, it might be -- or the federal  
18 government, that reading, writing and arithmetic and  
19 those are things that we're going after, and then  
20 start to build back. So again, it's extraordinarily  
21 frugality in how you spend and then building the  
22 community support to fund where we can.

23           VICE-CHAIRPERSON REYNOSO: I have tons of  
24 other questions, but I want to go on to Judge Manning  
25 and Dr. Anderson because I'm sure that there'll be

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1 follow up questions on how you deal with awards and  
2 sanctions and all of that. Judge Manning, how has the  
3 state been able to balance, and again, this is a  
4 crucial question in my own state, and I'm sure many  
5 other states, the reality that it's the state  
6 constitution that says in many states, including yours  
7 and mine, that it's the responsibility to educate to  
8 children. And then it's delegated to the local  
9 districts, and then the local districts very often  
10 have their own notions of how to best educate. And  
11 how is that balanced in the states so that the state  
12 meets its obligation?

13 In California, for example, we have high  
14 schools in many small, rural areas and then to my  
15 surprise I found for the last few years then that in  
16 big, urban schools we have high schools that don't  
17 even provide the basic courses that a student must  
18 have to be eligible to go enter the university system  
19 in California, for example. And yet it's the state  
20 that has the responsibility, constitutionally, to  
21 teach those youngsters. So how is that balance worked  
22 out? It's always been my experience a tricky balance.

23 JUDGE MANNING: Well, the balance in North  
24 Carolina, it's like a shell game. Let's just call it  
25 what it is. The constitution says the state is

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1 responsible.

2 VICE-CHAIRPERSON REYNOSO: Right.

3 JUDGE MANNING: We have the Department of  
4 Public Instruction, which is the constitution, the  
5 head of which is a constitutional officer.

6 VICE-CHAIRPERSON REYNOSO: Yes, sir.

7 JUDGE MANNING: And then we have the  
8 state-formed local boards of education. They are  
9 children and nephews and nieces of the state, and it's  
10 just like an employee. To put it in a business  
11 context, you've got a plant in Rayford, North Carolina  
12 that is making rayon and it's losing money. Your  
13 corporate headquarters is going to come down there and  
14 stop the bleeding. They're either going to fire the  
15 manager or do something to get a hold on that bleeding  
16 plant.

17 It's the same concept. The state of North  
18 Carolina created these entities and the entities have  
19 the local control which by all leaps and bounds and  
20 common sense that they ought to because they know  
21 what's on the ground, just like the principal in a  
22 school needs to have that flexibility, so if she's  
23 working with high at-risk kids, she can readjust her  
24 resources to focus on how they learn which may not be  
25 as fast as somebody in a wealthy area in a particular

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1 town. So you've got to have that flexibility.

2 But at the same time, what happened in  
3 North Carolina is that the state had a disconnect. In  
4 other words, the state in the lawsuit took the  
5 position, and still does, that it is the fault of the  
6 local school if the system isn't working, but the line  
7 of responsibility goes all the way to the top. And  
8 this is one of the things on the appeal of my decision  
9 they're having a fit about, because they don't want to  
10 be responsible for little Billy Smith in a third grade  
11 classroom who is not getting the instruction that he  
12 needs to get or little Sally Smart, who's not getting  
13 the instruction.

14 VICE-CHAIRPERSON REYNOSO: I heard the  
15 bench decision you were quoting from, clearly the  
16 state has the responsibility, so what does the state  
17 do if a local school district's failing in that  
18 responsibility?

19 JUDGE MANNING: Now, we have lots of  
20 things in place from the legislature under our laws,  
21 several things. We have schools which are called low  
22 performing schools.

23 VICE-CHAIRPERSON REYNOSO: Right.

24 JUDGE MANNING: That's a school with less  
25 than 50 percent at grade level for less than two

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1 years. Now we have remediation there which is -- and  
2 we don't have any, we don't have a lot of it -- but  
3 the state can come in under the law, send in what they  
4 call a mandatory assistance team of retired educators  
5 and specialists, and they will go into that school for  
6 a year, if not longer, and they will try to jerk the  
7 chain for the people that aren't getting the job done.

8 Then we can remove -- the state of North Carolina can  
9 come in and remove a school board. They can take over  
10 the school system, they can remove a principal, that's  
11 all in place in North Carolina.

12 VICE-CHAIRPERSON REYNOSO: Has that worked  
13 pretty well, because in California we've had the state  
14 actually take over a couple of school districts and it  
15 doesn't seem to have worked too well.

16 JUDGE MANNING: We haven't taken over a  
17 single school district to my knowledge, but they have  
18 come in, in certain instances. I know they came into  
19 one school in Wake County and ended up about to take  
20 the principal, remove the principal, and they put the  
21 resources in there, and the children went to this --  
22 they brought in the people that you pay to teach them  
23 to read for a year and now it's "Montessori Magnet  
24 School." So they turned it around because everybody  
25 wanted to keep their jobs, so we've got all this

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1       statutorily in place in North Carolina. We haven't  
2       had to take over a school board yet, except I was  
3       trying to get them to go down to Polk County and help  
4       this whole system out, which they reluctantly did, and  
5       surprisingly I think they did a pretty good job of it.

6                   VICE-CHAIRPERSON REYNOSO: As to the six  
7       or so years that have gone by, have you seen an  
8       increase in the number of students attending the  
9       public schools vis a vis the academies. That is, as  
10      you have seen more success in the public schools, has  
11      there been somewhat of a transition from those from  
12      private academies, to say, well the public schools  
13      really are working pretty well, or as has that not  
14      changed too much in the last few years?

15                   JUDGE MANNING: Well I, you know, I can't  
16      expect you to know everything about North Carolina and  
17      I don't know everything about California. My remarks  
18      on that point were devoted to the counties, just like  
19      they've got in South Carolina, which are rural and  
20      poor.

21                   VICE-CHAIRPERSON REYNOSO: I understand.

22                   JUDGE MANNING: In the big cities, like  
23      Charlotte-Mecklenburg, like Wake and Guilford and  
24      everything, we did not have this so-called white  
25      flight. In the areas where they used to burn crosses

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1 and stuff, we have the people get out. Those systems,  
2 those children, I don't think they think -- they're so  
3 economically deprived and we lost the text books, like  
4 South Carolina, that they're there because they've got  
5 no place to go. So what the problems those people  
6 have is they're dealing with dirt poor, bare bones, no  
7 way out.

8 But the difference is, I want to bring  
9 this back to the big city, in every big city in North  
10 Carolina, we've got the same type of kids that I don't  
11 think there has been enough attention paid to. And so  
12 I put in your package for you to look at when you want  
13 to go to sleep that you'll get, I've got statistics  
14 statewide by black and white over the last three or  
15 four years, including Charlotte-Mecklenburg's and  
16 including Wake County because this is not a race case  
17 that I have, but that's where I was getting the  
18 numbers. And we've got -- and you'll find that all of  
19 it is progress. Every year the percentages get a  
20 little better, and we've done great overall, but we've  
21 still got this gap.

22 The point I wanted to make to you before,  
23 and I make it every time you ask me a question today,  
24 before you all kick me out, is these children with the  
25 proper educational technique can learn just like

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1 anybody else. And in Wake County we had the Project  
2 Achieve, and what I saw by, because I need the  
3 numbers, is that the black male was one of the hardest  
4 -- they're the ones that suffer the most. These  
5 children were making strides under this program.

6 In the pre-kindergarten program which you  
7 put in called Bright Beginnings in Charlotte, if you  
8 look at the disaggregated data, you will see that  
9 these children who had pre-K in Charlotte ended up, a  
10 lot of them ended up in Level IV when they were tested  
11 in the third grade. Some of them didn't do as well,  
12 because probably the classroom teachers didn't follow  
13 up.

14 But in any event that's -- we have had,  
15 the state hadn't had any problem going in and taking  
16 over the school districts. It's an isolated incident.

17 We have very few of these low performing schools, and  
18 the reason we do is because they set the bar so dag-  
19 gone low, that they're already dead by the time we go  
20 into help. If we raise the bar and said if you are 65  
21 percent and you've got a problem, we're going to send  
22 somebody in to help you, then we will "add more" low  
23 performing schools. But we will -- they basically  
24 were dead by the time they get the forced state aid,  
25 because if you're less than 50 percent, something's

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1 wrong.

2 VICE-CHAIRPERSON REYNOSO: Dr. Anderson,  
3 in South Carolina have you seen the same sort of  
4 increase in the educational accomplishments of  
5 African-Americans that we've heard about in North  
6 Carolina in the last few years?

7 DR. ANDERSON: No sir, not really in the  
8 last few years. We are beginning to see it on a  
9 statewide basis. Only about 15 percent of our  
10 African-American population in scoring at the  
11 proficient level in those schools, and that's what our  
12 data has enabled us to do. In those schools where you  
13 see a real light, Dr. Smith talks about a laser focus  
14 and a real commitment, consistent commitment to  
15 changing to GPS, we can identify high minority, high  
16 poverty schools that are demonstrating terrific gains,  
17 both primarily in the urban systems, not so much in  
18 the rural systems. The urban systems seem to be able  
19 to accomplish that much better.

20 But we still know that there is a culture  
21 of low expectations. Many of those young people,  
22 particularly in rural sections, are in schools that  
23 are grossly under funded and dependent upon what's  
24 left over in the personnel hiring process. So we're  
25 beginning to see some reasons to give us optimism, but

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1 we've only had our rating system in place for two  
2 years and so we'll just continue to focus on --

3 VICE-CHAIRPERSON REYNOSO: I teach at the  
4 graduate level and I've served on the admissions  
5 committee last year, and I think I will again this  
6 year, and I'm always disturbed when we can't among the  
7 applicants admit, it seems to me, an equitable number  
8 of African-Americans and Latinos into the law school,  
9 because it's from the graduate school system we know  
10 that so much of the leadership of this country comes  
11 from and we need that leadership from all ethnic and  
12 racial groups.

13 Let me ask you this. In California we've  
14 seen the phenomenon, for example, there's a school  
15 district near the Mexican border in the little town of  
16 Calexico where the average family income is \$12,000 a  
17 year and the district is 98 to 99 percent Latino, and  
18 the Latinos are the largest ethnic group in  
19 California. And that school district has always sent  
20 a large proportion of their high school graduates on  
21 to universities. I used to live in that area, but  
22 I've read a lot about it also.

23 And its success seems to have much to do  
24 with what you mentioned in terms of what you needed;  
25 consistency of teachers, teachers who understand their

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1 community, dedication to the progress of the students  
2 and so on. So, it seems to me that it's not a magical  
3 formula to understand what makes for success, even  
4 when the families are poor, et cetera. So why have we  
5 had such a hard time implementing those successful  
6 formulas in a proper way in really most of our states?

7 DR. ANDERSON: I think one of the real  
8 challenges, you know, I work with policy makers is  
9 that they see certain formulas that work and think  
10 that's working. I mean Eric Smith has done that in  
11 Charlotte and so let's implement it in South Carolina  
12 and let's implement it everywhere, and I think most of  
13 us would say is that schools are local. Schools are a  
14 very different community context, and so what we've  
15 got to make certain is that mix of policies and so  
16 forth fits that local situation.

17 In fact, we just released a study from  
18 which some of these maps are taken where we said,  
19 there is not one, you cannot chose a cookie cutter  
20 approach for a rural community that has a 10 percent  
21 Hispanic population, as compared to a rural community  
22 that has only, you know, a quarter of its population  
23 African-American. It's very different. We're  
24 beginning to see that particularly --

25 CHAIRPERSON BERRY: Please turn off your

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1 cell phone.

2 DR. ANDERSON: -- in our Latino students.  
3 The Latinos that are moving into South Carolina are  
4 very different than other minority cultures. They're  
5 coming in with intact families, they're coming in with  
6 some of that new immigrant American ethic of the  
7 America myth that you come into this country with --

8 VICE-CHAIRPERSON REYNOSO: I once heard a  
9 politician who's very anti-immigrant, and complained  
10 that immigrants come in with a greater American ethic  
11 than most Americans.

12 MS. ANDERSON: I think one of the  
13 challenges is to adapt the solution to the situation,  
14 because what we want is very -- is uniformity and  
15 resolve and variation in classes, as opposed to  
16 uniform processing, variable results.

17 JUDGE MANNING: Thank you very much. I  
18 want to yield to my colleague because I could go on  
19 for the 37 minutes we have.

20 COMMISSIONER EDLEY: First, I just want to  
21 express my profound appreciation for your statements  
22 and your help today and it's really quite wonderful.  
23 I have a number of things and I'll just to have rely  
24 on the chair to silence me when I've gone on for too  
25 long.



1           Let me start with the accountability  
2 issue, generally, and the specific thing I want to  
3 focus on is high-stakes testing. And let me just make  
4 my point. I am deeply troubled by, first of all, the  
5 disparate impact of high-stakes testing as a legal  
6 matter, as a moral matter.

7           Second, the assertion that an  
8 accountability system must include high-stakes for  
9 children as opposed to people who really have power in  
10 the system strikes me as unproven. By which I mean to  
11 say, I really have not understood in all the listening  
12 I've done and all the reading I've done, why so many  
13 educators believe that unless the children are left,  
14 the achievement disparities cannot be narrowed. I  
15 mean, I see the hand waving, but I don't -- where's  
16 the evidence for that proposition?

17           And number three, I'm especially concerned  
18 because there does seem to be a growing body of  
19 evidence that retention in grade is unmet. Unmet  
20 education is disastrous for children because it drives  
21 up drop-out rates, increases alienation, and there are  
22 alternatives. So, let me just be clear, I'm for  
23 testing, I'm for standards, I'm for accountability as  
24 a general principal, I'm for excellence, I'm for  
25 ending the soft tyranny of low expectations, I'm for

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1 ending the soft bigotry of low expectations. But  
2 could any of you please explain to me why holding  
3 children accountable and compounding their victimhood  
4 in this system is a necessary component of standards  
5 driven school improvement? I'm sorry, I stated that  
6 somewhat argumentative. I just thought I'd put it out  
7 there, what my concern is.

8 DR. SMITH: I'll be brief. Here in  
9 Charlotte we're centering on that very point, about  
10 high-stakes for students. And so to kind of deal with  
11 a final answer is the accountability issue has got to  
12 be systemic. Again, I think that accountability will  
13 fail if it's focused on one or limited aspects. It  
14 gets to be high-stakes for kids, it has to be high-  
15 stakes for educators, it has to be high-stakes for  
16 those who are funding and their policy makers. There  
17 has to be this chain that goes up and down the system,  
18 and we're all going to weigh in on this thing and be  
19 ready to stand up and be accounted for our success or  
20 our failure.

21 I argued your point here in North Carolina  
22 with the previous governor about whether or not we  
23 needed to have high-stakes for children, whether  
24 they'd be retained if they didn't perform. I lost the  
25 argument and then I became convinced that the decision

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1 to move to high-stakes for the kids was the right  
2 thing because I saw the results. And again, I don't  
3 have data, but perhaps we can find it to share with  
4 the commission. I did see, after we moved to  
5 requirements to perform at a certain level, pass a  
6 certain level in order to be promoted, it increased --  
7 it was a huge blitz of all information to parents and  
8 so forth that we were serious about achievement that  
9 there was a significant, it wasn't minor, a  
10 significant increase in student performance because of  
11 the accountability, particularly in the upper grades.

12 In the middle grades in high school, we started to  
13 see that this step is required, they couldn't ignore  
14 this test, they couldn't ignore the efforts.

15 The other is that it, I think the focus,  
16 it focuses on the retention and it focuses on the  
17 promotion. I think it's very important that any high-  
18 stakes be focused on promotion and that punitive  
19 action be taken against those systems or schools that  
20 have high retention rates. It has to be -- the  
21 expectation has to be that the children will be  
22 promoted. That's why strategies such as Brasin Score  
23 in Texas, which is -- was quickly -- we adopted it and  
24 Jim Pughsley could tell you it's implemented in  
25 probably 40 of our schools. But a system of knowing

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1 before the end game is over that our students  
2 performing on grade level, getting access to  
3 meaningful -- understanding what the state assessment  
4 is going to be about, so we can break it down and have  
5 many assessments every week to week and a half in our  
6 classrooms to give immediate feedback to teachers.  
7 Those kinds of things are required to build a  
8 structure of promotion, high-stakes promotion, not  
9 high-stakes retention, and so again, I think it's  
10 multi-faceted.

11 COMMISSIONER EDLEY: Let me make sure I  
12 understand you. So is what you're saying to me that  
13 by and large you have found that, not just some  
14 teachers, but many teachers, perhaps most teachers,  
15 are unable to motivate eight-year-olds and fifteen-  
16 year-olds to learn at high levels, unless they have  
17 this weapon available to punish the students?

18 MR. SMITH: No, I'm not saying that. I'm  
19 saying that as it appeared to work for teachers and  
20 for myself to focus on what our job really was to the  
21 accountability process, and there would be no doubt  
22 about the seriousness of getting the job done; that  
23 there will be sanctions if you don't do this.

24 COMMISSIONER EDLEY: I'm sorry.

25 MR. SMITH: For adults.

1                   COMMISSIONER EDLEY:     Or, for adults.  
2     Here's the way to put it to you.    I can see two  
3     possible theories for holding the child accountable.  
4     One theory would be that you needed -- that you need  
5     it as a way to produce an incentive for the child to  
6     try harder.

7                   A second way to pay attention to the  
8     teacher, to do homework, whatever, you need as an  
9     incentive for the child to cooperate.    A second  
10    justification would be that it is educationally  
11    disadvantageous to the student to do social promotion,  
12    so I could see either of those two theories being  
13    applicable.

14                  But on the latter, as far as I know, the  
15    research, the great weight of the research is that  
16    it's not true.    That in fact it's worse for the child  
17    to hold them back in grade, they drop out of their age  
18    cohort, et cetera, et cetera.

19                  It's even in terms of what happens after  
20    they get out of high school, which is the market  
21    signaling and all the rest of these, it's just false  
22    that it is an educational benefit to the child to  
23    retain them in grade.

24                  So, then I fall back to the former  
25    argument, where you need it as an incentive to get the

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1 student to pay attention, et cetera. Well, if the  
2 reason that I'm not in grade level, the reason that  
3 I'm not prepared to move on to the eighth grade or to  
4 the ninth grade is actually not because I haven't  
5 tried, but because I haven't had the opportunity to  
6 learn because there's a problem with the teacher,  
7 because there's a problem with the facilities, with  
8 the curriculum, with whatever, then at least that sub-  
9 set of circumstances, the incentive justification for  
10 high-stakes would seem to evaporate.

11 So even if I grant you that there's some  
12 proportion of the students for whom that whip actually  
13 is an important incentive to get them to learn, what  
14 about all the students where the problem isn't the  
15 incentive that they feel, the problem isn't their  
16 aspiration, their commitment. The problem is they're  
17 not being adequately served.

18 Even for those students you say it's  
19 important in an accountability system to -- You have  
20 knowledge that the school is failing, nevertheless,  
21 you want to say the child has to be held back, or the  
22 child has to be deprived of a degree of diploma?

23 DR. SMITH: And again, you stated my  
24 argument very well.

25 COMMISSIONER EDLEY: I'm sorry.

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1 DR. SMITH: That's exactly the question  
2 and the issue is are civil rights being violated in  
3 the process when we know that adequate support for all  
4 those things that are required are not being -- are  
5 knowingly not being provided and that's why I say this  
6 whole issue of accountability, it's not a single  
7 event.

8 It has to be a systemic event, and you  
9 have to be covering all these bases simultaneously and  
10 when you insert the issue of social promotion, what is  
11 the science of education? How do you recapture a  
12 child if, in fact, they do need more time?

13 Because I think most people would agree it  
14 is unfair to send a child into high school that can't  
15 read. So where do you stop the process and say we've  
16 got to intervene at this point?

17 So I think, again, it's one element of  
18 many; all have got to be in play. You can't have high  
19 schools that don't offer the curriculum, then expect  
20 students to move on, to be promoted into the  
21 university.

22 These things just aren't right in America,  
23 so it's a multiple issue.

24 CHAIRPERSON BERRY: Could I respond for a  
25 minute and then I'll come right back to you so I don't

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1 have to ask the same question. Let me just say that  
2 it sounds from listening to the exchange, and I was  
3 going to ask the same question, so I'm trying to do  
4 this in the interest of time, is if you're saying --  
5 or what Christopher's saying -- is that if a student  
6 is retained in grade, and the school system has not  
7 provided what the student needs, knowing what the  
8 student needs and all three of you have told us that  
9 you know what the student needs, whether it's the  
10 Texas bite-sized bits, which is the same thing as me  
11 giving quizzes to my students every week to see if  
12 they know what I taught them that week, which people  
13 have been doing for years, or whether it's some other,  
14 you know, the class size needs to be smaller or the  
15 teacher needs more help or whatever, and we know this  
16 already as adults, we don't offer this to the student  
17 and the student is retained in grade.

18 So should the outcome be that the student  
19 then suffers by being retained, dropping out, all  
20 those things, or does the student then, is there some  
21 liability on the part of the system to the students?

22 Indeed has he not only, if it's a question  
23 of race or whatever, been discriminated against or  
24 even in the absence of that, is he owed damages by the  
25 school system and his parents for the failure to

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1 educate the student, knowing all that we know and not  
2 only knowing all that we know, everything that the  
3 three of you told us and that everybody tells us about  
4 education and everything I know about it.

5 We have known for years that what do you  
6 call it bite-sized pieces or checks or quizzes or  
7 whatever you call it how to teach people. And I  
8 remember reading something in the materials on you,  
9 Dr. Smith, when one day it dawned on you, you were  
10 studying something else, that people knew how to teach  
11 kids, they just weren't doing it. I mean they knew  
12 how to educate everybody.

13 So, if we do indeed know how to educate  
14 everybody, why is the only result along this high-  
15 stakes testing and retention and all of this that  
16 students get punished, or that we end up saying  
17 schools are failing schools, when indeed the schools  
18 wouldn't be failing schools if we provided in the  
19 schools what the schools needed so that they wouldn't  
20 be failing.

21 So how did we get into this fix, and why  
22 are the students ultimately the ones who are being  
23 deprived and punished, and can Judge Manning or  
24 somebody get us out of this box?

25 JUDGE MANNING: I'll get you out of the

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1 box. Going around and around, the box is a box that  
2 is not solvable. If it's being solved in North  
3 Carolina -- I think in answer to your question,  
4 Professor, I take issue in North Carolina with this  
5 being -- we have the results of the test which is  
6 disaggregated.

7 That way we know which populations are not  
8 being served and we have our achievement gap. And the  
9 things that everybody who's on the ground, that is  
10 including the teachers, is that I think a lot about we  
11 have a great number of many -- and white kids are in  
12 the same boat.

13 We have a population -- let's focus on it.  
14 Let's take the gloves off and quit beating around the  
15 bush. We have a population of people in North  
16 Carolina, white and black, who are not -- do not have  
17 families.

18 There were 40,000 illegitimate births in  
19 North Carolina in the year 2001, 50 percent of them  
20 were white, 50 percent of them were minority. Those  
21 children I see in my courtroom that I left yesterday,  
22 which is why I'm so impassioned about it.

23 I can see a young black male and I can  
24 look on his plea bargain and see he got to the eighth  
25 grade. So let's just take the gloves off. Those kids

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1 are damaged from the time they hit the street, and so  
2 what we've got to do, folks, the at-risk children, and  
3 they're white children and they're Hispanic children,  
4 they're coming out without the family structure. This  
5 family value stuff is great in a country club, it  
6 doesn't mean a damn thing in the ghetto because it's  
7 not there, and they come out and they do not have a  
8 vocabulary, they do not get the nutrition, they do not  
9 get the care from the mother who might have two or  
10 three. In fact I had one lady who violated probation  
11 and she had six illegitimate children, four of which  
12 were when she was on probation, and those kids haven't  
13 got a snowball's chance in hell unless the education  
14 system provides them, in my opinion, with at least  
15 four-year-old kindergarten. Because these kids come  
16 to school, they don't even know their colors, and they  
17 are behind from the start. That's where the disparate  
18 impact -- it's not the test. All the test is telling  
19 me is that we have a problem here, Houston, we have a  
20 big problem because -- and the reason for it is we  
21 have these kids who need the help up front and the  
22 only way that you can "measure" that, is to provide a  
23 uniform system of measurement so that we know where  
24 you fit in Berkeley County and where you fit in  
25 Mecklenburg. And in North Carolina everybody had the

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1 same reaction when we put in the Gateways Program,  
2 that, oh Lord, we're going down the tubes. Well these  
3 children in fact, 92 percent of them, all of the kids  
4 went on to the next grade level, because guess what,  
5 they got the help they needed at the time and space in  
6 the third grade before it was necessary, but it's not  
7 a disparate impact. The disparate impact is caused by  
8 the societal failings, not by the educators. Now the  
9 schools -- one more thing, one more thing, we had in  
10 my case the most unbelievable revelation. The NCA put  
11 in a brief and admitted they had been teaching with  
12 low expectations for a lot of years, and that they  
13 said we need to be retrained so that we can adjust to  
14 teaching the heterogeneous children, not the  
15 homogeneous children, the heterogeneous groups we're  
16 now facing as classroom teachers. Which I thought was  
17 a startling admission that we've been doing it.  
18 Again, you've got to have a teacher who knows her  
19 children, who has high expectations and whether it's  
20 bits and pieces that you know how to teach, the  
21 elements is, there's a lot of them that don't know how  
22 to do it right. But the only way we can survive and  
23 know what we're doing is we've got to have measures.  
24 So I disagree with you that we're beating the kids.  
25 You know, life is a test and I'd rather have them have

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1 a test so when they get to the end of their education  
2 they're 18 years old and they haven't a high school  
3 diploma that means something more than the daggone  
4 piece of paper it's written on, than to have them drop  
5 out and show up in my courtroom or any other courtroom  
6 by the hundreds of thousands selling drugs, and having  
7 no chance in life at all, except for a prison cell. I  
8 know that nobody likes it, and I wish we didn't have  
9 to do it, but for the children's sake we've got to  
10 have some way to help them along and see how they're  
11 doing, and Ms. Berry knows that, she checked, she gave  
12 her kids tests every week, so guess what, they didn't  
13 get to the end of the six weeks and be behind --

14 CHAIRPERSON BERRY: Judge Manning, you and  
15 Professor Edley are really saying not different  
16 things. You're saying that you want to test kids, but  
17 you want to do something, when you find out they don't  
18 know --

19 JUDGE MANNING: -- I disagree that it's a  
20 whip. I think it is a tool by which you help the  
21 children and everybody goes through it. It's not like  
22 you just pick Hispanic kids and make them take the  
23 test; everybody has to take it.

24 COMMISSIONER EDLEY: I think that -- I  
25 just want to be clear that I think I agree with

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1 everything that all of you have said with respect to  
2 the value of the assessment of doing the testing, and  
3 I agree that the disparities and achievement that are  
4 revealed by the testing do not constitute disparate  
5 impact, they constitute evidence of the crime. Where  
6 my concern is raised is when the results of the  
7 assessment are then used for high-stakes purposes and  
8 the sanctions have a disparate impact, and there's  
9 obviously already case law with respect to the due  
10 process violation that occurs with respect to diploma  
11 denial when opportunity to learn has not be provided,  
12 for example, the curriculum has not been provided to  
13 students. I just want to suggest that I think that  
14 there are similar moral, if not legal issues, when it  
15 comes to the issue of retention, if indeed opportunity  
16 to learn has not been provided, but we may just have  
17 to agree to disagree on that issue. I want to raise  
18 one last question and subside, Madame Chair, because  
19 this is an easy one, this is a very easy one, I assure  
20 you. That is I wanted to ask you what your views are  
21 about the extent to which racial integration is at all  
22 relevant to this issue of closing achievement  
23 disparities as we go forward. In other words, I think  
24 we should stipulate that desegregation played a  
25 substantial role in the '60s, '70s and '80s in

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1 narrowing some issues of disparity, and certainly on a  
2 national basis, I don't specifically know the data in  
3 the Carolinas, but certainly on a national basis as  
4 there's been a trend towards resegregation, there's at  
5 least a correlation with some widening of achievement  
6 disparities in the last 15 years. But on a going  
7 forward basis, I guess do you believe that continuing  
8 commitment to racial integration is part of the answer  
9 in addressing our achievement needs, or do you think  
10 that that's really a separate question that needs to  
11 be addressed on its merits, independent of the  
12 achievement issue?

13 JUDGE MANNING: Well the Fourth Circuit  
14 Court of Appeals has, at least the Fourth Circuit,  
15 that you cannot use race in assignments and so I'm  
16 going to answer because I'm the one with the law  
17 degree and I hear the cases. Brown versus the Board  
18 of Education said something different to me, but I'm  
19 not sitting on the Fourth Circuit and never will after  
20 today, I can assure you of that. The point I'm making  
21 is that in Wake County we use diversity, which is free  
22 and reduced lunch and one other -- a couple of other  
23 factors to keep our system balanced. What we're  
24 finding is that as the wealth gap gets bigger, that is  
25 as Wake County gets -- we get all these people with

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1 high tech jobs and the parents really don't want their  
2 children bused across town for diversity, we're going  
3 to have a problem. My answer to you is that we need  
4 diversity; I think it's necessary. Call it whatever  
5 you want to call it, I think you need diversity in  
6 schools because you've got to get along with people.  
7 You can't get -- you've got to know that people  
8 aren't like you and learn to get along with them,  
9 which is what Brown versus Board of Education was  
10 saying along the fact as to the adverse impact it had  
11 on little black children. But in any event -- in any  
12 event, I think we've got to have it. What I really  
13 would like to warn you about, and I'm concerned for  
14 North Carolina, is that we're going to end up with  
15 some places like we've got in the northeast with  
16 children who are not going to have diversity and we've  
17 got to address -- we've got to learn how to  
18 effectively give those children the rights to  
19 education that you were talking about. That is we've  
20 got to give those children, each of those children has  
21 an equal opportunity under our Constitution to have  
22 the same basic education, to be able to go to college  
23 if they can, technical school if they can't, as any  
24 child in Cary, North Carolina, which is very wealthy.

25 COMMISSIONER EDLEY: So this, even in a

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1 situation in which diversity is unattainable whether  
2 for doctrinal reasons or for demographic reasons,  
3 you're saying that that's no excuse for --

4 JUDGE MANNING: Under our Constitution,  
5 every child, regardless of the color, sex or anything  
6 else, is entitled to the opportunity to obtain that  
7 same basic education. Not everybody is going to get  
8 there, but they've got to have in that classroom the  
9 teacher that knows how to do it, a principal that  
10 knows how to lead that school and a curriculum and  
11 method of teaching that addresses those childrens'  
12 needs, that's flexible and you've got to have the  
13 resources to accomplish that education plan.

14 COMMISSIONER EDLEY: Madame Chair, thank  
15 you very much. I just want to point out that in the  
16 University of Michigan case, the affirmative action  
17 case at the University of Michigan case that's before  
18 the Supreme Court right now, if the Court rules that  
19 diversity can be a compelling interest to justify  
20 race-conscious affirmative action in higher education  
21 then it seems to me it will at least open the door to  
22 revisit, even in the Fourth Circuit, to revisit the  
23 question of whether diversity can be a compelling  
24 interest for pupil assignment in K-12, and if that  
25 comes to pass, then it's going to fall back in the

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1 laps of the states and the school boards to decide  
2 whether it's a voluntary matter. There is sufficient  
3 commitment to the goal of diversity to adopt measures,  
4 be they like Wake Forest or others -- like Wake County  
5 or others to try to pursue that goal for achievement  
6 and for other purposes.

7 CHAIRPERSON BERRY: I think you are quite  
8 right, Commissioner Edley. If the Court does decide  
9 that way, we can revisit the issue of diversity in K-  
10 12. However, I hope that the Court does not hear that  
11 you said that because it might encourage them not to  
12 decide that --

13 COMMISSIONER EDLEY: Strike that from the  
14 record, too.

15 CHAIRPERSON BERRY: We have all these  
16 things being stricken. I have two or three small  
17 questions, and then a big question. My small  
18 questions are for specific people on the panel and  
19 then the big question is for everybody. I wanted to  
20 ask you, Dr. Anderson, you mentioned that in South  
21 Carolina the Loan Forgiveness Program ends up putting  
22 the least prepared teachers or the least experienced  
23 ones in the worst schools, which we know from research  
24 is the worst possible thing you can do for kids. How  
25 is that so, and what can we do about that?

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1 DR. ANDERSON: Well, I think the latter  
2 part of that was conceived in, I know, there is some  
3 legislation that's been introduced in congress to deal  
4 with the Stafford Loans in rural parts. You look at  
5 some of these less challenging situations, and they  
6 have the very highest turnover rate, they are smaller  
7 school districts, do not have a big HR staff that can  
8 go out and recruit all over the country or they're  
9 slowest to get contacts and so there's a good intent.  
10 What it says to these young people that are going  
11 into teach, we'll forgive your loan if you go into  
12 these situations. Go into the rural or isolated  
13 schools, and so that -- that, you know, when you stop  
14 right there, it's a good thing, and our program was  
15 established in the mid-80s and it has been a great  
16 resource and many of the participants are still in  
17 teaching; it's a very effective program. It's done  
18 what we wanted it to do. But if you move us forward  
19 and you move us forward with a data system so that we  
20 can begin to look at that, what you see then is that,  
21 we are sending very young teachers into the highest  
22 and most challenging situations. There is a parallel  
23 in teacher preparation as well. A lot of us have  
24 moved into, we teach preparation, these professional  
25 development schools, the model, and they tend to want

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1 to place a cadre of student teachers at one school, so  
2 they can learn and interact as part of that reflective  
3 process, which means you're looking for an elementary  
4 school or middle school with 500 or more students and  
5 in our states, the smaller, high minority, rural  
6 schools tend to be very, very small, and so teachers  
7 are not prepared. And as part of their preparation  
8 they're not exposed to how to deal with those  
9 situation, how to work in situations which you have 80  
10 percent of one ethnic group, or 80 percent minority.  
11 And so what we found and I used to be an administrator  
12 in an urban system is we would bring in these  
13 wonderful talented graduates and they would spend two  
14 years in culture shock, never having worked in a  
15 predominately disadvantaged community and so there are  
16 practices and policies that we have that are good when  
17 measured against one measure, but when measured  
18 against a results measure, and to me that's what's  
19 accountability is doing.

20 CHAIRPERSON BERRY: Would you favor combat  
21 pay for teachers who -- the best teachers who are  
22 willing to go into the least performing school  
23 districts? We used to talk about combat pay at one  
24 point, I lost track of it. But, would you support  
25 that?

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1 DR. ANDERSON: Absolutely --

2 CHAIRPERSON BERRY: -- is it correct?  
3 Would all the panel -- I see you all -- is it correct  
4 that all of you would in the interest of time, like I  
5 said.

6 DR. ANDERSON: There are few professions  
7 that pay the least to those in the most challenging  
8 roles.

9 CHAIRPERSON BERRY: All right. The other  
10 question that I wanted to ask is we have had a lot of  
11 discussion in the last few years about the importance  
12 of school-level accountability and the importance of  
13 principals, and a lot of discussion about how it  
14 doesn't really matter what's happening at the top of  
15 the system, you know, superintendents probably just  
16 cut them all out, and just as long as you have school  
17 based, you know, good folk, it wouldn't make any  
18 difference. Then we have Dr. Smith who comes along as  
19 superintendent of a county, and a county here who is  
20 known to be an educational leader, a system and -- so  
21 is it true that superintendents do make a difference  
22 or not, and I want to ask you Dr. Smith. But for you,  
23 Dr. Anderson, and what you looked at Judge Manning,  
24 does it matter what the superintendent is doing or is  
25 that the superintendents don't matter much?

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1 DR. SMITH: What do you say?

2 DR. ANDERSON: I would have to say the  
3 first thing we have to make certain of is that we have  
4 a good governing boards.

5 CHAIRPERSON BERRY: Oh, governing boards.

6 DR. ANDERSON: And good governing boards  
7 that focus on the results of the system, not micro-  
8 managing. I happen to think that the superintendent  
9 is really key, because he's the one or she's the one  
10 that's sets the tone for the whole system and a casual  
11 statement that takes people off target, then the  
12 superintendent has a disastrous effect throughout the  
13 system, so yes, I don't think any part of the system  
14 can be weak, but I would broaden your view to include  
15 governing boards.

16 CHAIRPERSON BERRY: The only thing is  
17 that, are all of your school systems as data driven in  
18 terms of setting goals, as what Dr. Smith described he  
19 did here in Charlotte-Mecklenburg, and what -- I guess  
20 he's doing it in Anne Arundel County too, in terms of  
21 goal settings. Do you all have the same kind of data  
22 which would tell you for example that Latino or  
23 African-American students do not have access to  
24 certain kinds of courses, or poor white students don't  
25 have access, do you have that kind of data -- do you

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1 have that kind of data and are you data-driven in  
2 setting goals in your school systems the same way --

3 JUDGE MANNING: You better believe it. We  
4 have more -- there's more paper that killed more  
5 forest in a year in the average department of public  
6 instruction -- given we have a report card on every  
7 school, every superintendent can disaggregate the  
8 data, down to the classrooms. They all know who's not  
9 doing the job and they all know who's doing the job  
10 and it all comes out every year. So North Carolina  
11 has, I can't speak for South Carolina, North Carolina  
12 has more information that you could ever possibly want  
13 to know.

14 CHAIRPERSON BERRY: But do they use it?

15 JUDGE MANNING: And they use it, the  
16 superintendent --

17 CHAIRPERSON BERRY: You set goals like Dr.  
18 Smith does in South Carolina?

19 DR. ANDERSON: We do use it that way as  
20 well. I would say at the local school district level  
21 you're seeing varying usage depending upon how  
22 comfortable people are with evaluating the -- our  
23 professional development goal is to increase people's  
24 capacity to use the data and to get beyond the  
25 numbers. To apply the data to a real knowledge base

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1 in terms of those kinds of issues.

2 CHAIRPERSON BERRY: The point that I read  
3 in the materials on him, Dr. Smith, where he was  
4 saying that he discovered that some black students  
5 didn't have access to the kinds of math courses that  
6 would have made it possible -- see, staff, I read all  
7 that stuff -- made it possible for the students to be  
8 able to pass certain tests, and he went into a flying  
9 whatever and tried to make sure those classes -- so  
10 are your administrators and principals and all these  
11 folks, as far as you know, I say are they data-driven,  
12 I don't just mean are they drowning in paper and  
13 numbers, but do they look at this? Is there somebody  
14 that makes sure that folks look at this stuff and try  
15 to implement strategies based on it?

16 DR. ANDERSON: I'd say we're about halfway  
17 there.

18 CHAIRPERSON BERRY: About half-way there,  
19 okay. How about the rest of North Carolina, Judge, as  
20 far as you think?

21 JUDGE MANNING: I think it's all the way  
22 there because -- the collection process. It's not --  
23 that what they do. The superintendent means  
24 something. They're the ones that can take a look at  
25 the disaggregated down to the classroom, determine

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1 they have a problem and with which group or with which  
2 school and with teachers. It's up to the  
3 superintendent to take the principal to the woodshed  
4 if that principal's -- if there's an obvious problem  
5 in that school. So it's -- and everybody's got the  
6 same access to the same data, now whether they apply  
7 it the way it ought to be done or not, that's for  
8 another month or two of discussion.

9 CHAIRPERSON BERRY: Well could you -- I  
10 mean somebody's got to do that, because Dr. Anderson's  
11 says they're half-way there in South Carolina.

12 DR. ANDERSON: Using the data; we have the  
13 data.

14 CHAIRPERSON BERRY: I'm talking about  
15 using it.

16 JUDGE MANNING: Well, the state uses it.  
17 The state uses it, because it's one beauty about our  
18 ABC's is it is all public. If you want to go on the  
19 Internet and find out how your school is doing,  
20 there's a report card, something called report card  
21 for every single school, and it gives you a broader  
22 picture on the composite level, how many grade level,  
23 how many are not. It gives you everything. It's all  
24 there and I know my superintendents and BPI in the  
25 state department use that in the analyzing where they

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1 have problems and where they don't have problems.

2 CHAIRPERSON BERRY: Do you use phonics in  
3 your school systems?

4 DR. SMITH: Do what now?

5 CHAIRPERSON BERRY: Phonics?

6 DR. SMITH: Oh, yes. We transitioned to  
7 that here in Charlotte, and we transitioned -- we're  
8 transitioning to it in Anne Arundel County. If I  
9 could speak to your point. I've come to believe that  
10 the unit of change needs to be refocused; it is  
11 district. Districts will either make this work or not  
12 make it work and it will be a huge mistake for anyone  
13 to compromise the importance or significance of  
14 central administration, the complexities. We're  
15 revolutionizing education and follow through on this  
16 effort from an expectation of all students having  
17 equal access, to all students having proficiency;  
18 that's two different issues. And then cultural shift  
19 in America to change to that notion and the need to  
20 have sophistication in analysis of data requires some  
21 pretty bright people working around the superintendent  
22 or requires a level of collegiality on board, and to  
23 get some focus from top to get that to happen and to  
24 be able to move on schools that are not being  
25 effective or efficient.

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1 CHAIRPERSON BERRY: Okay. My big question  
2 was -- did you want to add something, I thought I  
3 heard you make a sound?

4 COMMISSIONER EDLEY: Your question is  
5 terrific. Can I just ask one little thing? I want to  
6 ask an appropriate session closing question. I just  
7 can't miss the opportunity to ask the three of you,  
8 how do you feel, whether you believe as many have  
9 argued that the 12-year timetable in NCLB for closing  
10 the achievement disparities is overly ambitious?

11 CHAIRPERSON BERRY: Twelve years.

12 DR. SMITH: I don't think it's overly  
13 ambitious.

14 CHAIRPERSON BERRY: Twelve years, I think  
15 is fine. My question is first out, let me just say  
16 that when you were talking about your decision and the  
17 State Supreme Court decision that you read and in the  
18 materials I read, the argument against state  
19 responsibility, I was reminded that I spent the last  
20 20 years trying to argue with lawyers in the public  
21 interest law firms that they should bring suits in  
22 every state demanding that states exercise their  
23 responsibility in being accountable and they keep  
24 telling me about all the barriers to doing that. But  
25 in any case, when in Washington and policy discussion,

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1 states are always arguing that they don't want  
2 Washington telling them what to do because the state  
3 is responsible. So you're telling me when you come to  
4 the state, they tell you that they're not responsible,  
5 like Catherine Harris and our Florida Elections  
6 investigation, in which she kept telling us that she  
7 wasn't responsible, the locals are responsible.

8 JUDGE MANNING: They admit they were  
9 responsible in the big picture, but did not want to be  
10 as hands-on responsible as I think they should be.

11 CHAIRPERSON BERRY: They don't want to be  
12 accountable?

13 JUDGE MANNING: They don't want to be --

14 CHAIRPERSON BERRY: I see, they're  
15 responsible, not accountable. Anyway, so they believe  
16 in states rights when they care to. What I want to  
17 ask what to me is a big question --

18 JUDGE MANNING: That's what the News and  
19 Observer said the attitude was.

20 CHAIRPERSON BERRY: Some people say that's  
21 their attitude. In looking at all this data that you  
22 gave us on South Carolina and North Carolina and  
23 listening to you, Dr. Smith, could it be argued that  
24 given what's happening in these low-performing schools  
25 and where they are and so on, and who's being served,

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1 that the public school system just doesn't work and  
2 that what we really ought to do is blow it up and give  
3 everybody money and let them go to private schools,  
4 which there's a great move in this country to do it,  
5 I'm sure you're aware of it. Not just the old  
6 academies, but private schools in general, at the very  
7 least, have public charters but even beyond that that  
8 the failing schools indicate that these children are  
9 being so deprived in the way we've been talking about  
10 it back and forth here that their parents should have  
11 money to send them to private schools and that the  
12 public schools just no longer serve public interest,  
13 couldn't that be an argument for doing that?

14 DR. SMITH: One could try and make that  
15 argument, but I would argue against it. Issues that  
16 put value and diversity in our schools, these various  
17 issues of vouchers and other kinds of programs. One  
18 of the major problems, and Dr. Anderson mentioned  
19 this, was the challenge of low expectations. And if,  
20 by governmental mandate, we implement a structure that  
21 allows this nation to create large pockets of those  
22 most -- that we've had the greatest difficulty in  
23 educating, we're building a massive challenge for this  
24 country. Because when you concentrate children that  
25 historically have not been successful in buildings and

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1 you compound that with teachers that might carry with  
2 them a low expectation for these children's success,  
3 and then you're faced with the extraordinarily  
4 expensive challenge in bringing in strong leadership  
5 to change a culture and change the science of how we  
6 educate in that environment, you have just built a  
7 more expensive process to bring about success for all  
8 kids. So it's not that we need to hold kids to a  
9 place to make the process better, but it doesn't serve  
10 our purpose well, if you follow my train of thought,  
11 that our great urban cities are facing huge challenges  
12 with large concentrations of low income and students  
13 with low expectations, and to fight that is massively  
14 expensive and very, very challenging. So we need to  
15 make sure that we don't structure a public school  
16 system, a public school system in this nation, that in  
17 fact creates more of this kind of isolation of those  
18 that historically haven't been successful with and it  
19 might be.

20 CHAIRPERSON BERRY: Let's see whether you  
21 want to say anything about the question. Do you think  
22 it's an argument for blowing it up or is that too  
23 sensitive a question to answer?

24 DR. ANDERSON: I don't think it's too  
25 sensitive of a question; I think it's certainly out

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1 there. Actually I was asked yesterday at a leadership  
2 green board, development of young community leaders  
3 program, that very same question. I would say, when we  
4 look at "No Child Left Behind", what we have to  
5 recognize is that in the next 12 years to achieve  
6 those goals we are going to have to implement massive  
7 changes in our system and that's whether the children  
8 are in public education or private education. The  
9 current system is not going to accomplish that, it is,  
10 you know, hampered by low expectations, hampered by  
11 disparate funding, hampered by all sorts of  
12 inequities. And so that's what to me "No Child Left  
13 Behind" says to us, fix the system, and it may be a  
14 radical change or may be not so radical, depending  
15 upon the context in which you are. I think our first  
16 goal is to have every child in the United States well-  
17 educated regardless of where that child is well-  
18 educated. We look at private schools and I'm not  
19 certain that if we impose the same kind of high-stakes  
20 testing and accountability system we would recognize  
21 that they are doing any better than the public system  
22 is doing with similar groups of students, so I think  
23 we have to very cautious in looking to another market  
24 in order to think there's a solution.

25 CHAIRPERSON BERRY: Okay. All right.

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1 Thank you very much for coming. We're going to take a  
2 10 minute break.

3 (WHEREUPON, THE COMMISSION TOOK A SHORT RECESS.)

4 CHAIRPERSON BERRY: Okay. All right. The  
5 panelists for this session which is on content and  
6 performance standards and assessment, Dr. James  
7 Pughsley who is the Superintendent of public schools,  
8 Charlotte-Mecklenburg County. I think he succeeded  
9 Dr. Smith, is that right?

10 DR. PUGHSLEY: That's correct.

11 CHAIRPERSON BERRY: -- who was on the  
12 panel. For Dr. Pughsley, has taken a strategic  
13 approach to education that's had a tremendous impact  
14 on school achievement and community confidence in the  
15 school system, at least that's what I reading here,  
16 the staff wrote; I hope that's true.

17 DR. PUGHSLEY: It's all true.

18 CHAIRPERSON BERRY: Dr. Pughsley has been  
19 credited with addressing critical needs within the  
20 system and achieving the CMS Vision: Equity and  
21 Student Success plan. It's a comprehensive framework  
22 designed to eliminate racial and socioeconomic  
23 disparities and honor the commitment to a quality  
24 education. He has been educated at the University of  
25 Arizona and Northern Arizona University, is that

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1 correct?

2 DR. PUGHSLEY: That's correct.

3 CHAIRPERSON BERRY: Then we have Ms. Janet  
4 Jenkins, who is middle school math coordinator for  
5 curriculum and instruction; so he's your boss?

6 MS. JENKINS: Yes ma'am.

7 CHAIRPERSON BERRY: Charlotte-Mecklenburg  
8 Schools. She's responsible for monitoring curriculum  
9 implementation alignment with statewide testing  
10 standards to middle school math students in schools.  
11 She has been a school teacher, 20 years of teaching  
12 experience, grades 7 through 9 and then she became an  
13 administrator, math coordinator, 1999. She has been  
14 educated at the University of North Carolina at  
15 Charlotte and in education, special ed and math and  
16 science from Appalachian State University. The next  
17 speaker is Marvin Pittman, who is a mathematics and  
18 science teacher and Assistant Principal, Director of  
19 Instruction for Wake County Public Schools, which is  
20 in Raleigh, North Carolina; is that right?

21 MR. PITTMAN: That's correct.

22 CHAIRPERSON BERRY: And he's also worked  
23 in the Department of Public Instruction. He now  
24 serves as Senior Assistant to the State Superintendent  
25 of Public Instruction. He represents the State

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1 Superintendent on boards, commissions and meetings and  
2 he is here today and we thank you very much for coming  
3 and the next speaker is Rachel Quenemoen. Am I  
4 pronouncing your name right?

5 MS. QUENEMOEN: Very well.

6 CHAIRPERSON BERRY: Is Senior Fellow and  
7 Technical Assistance and Research, National Center on  
8 Education Outcomes, University of Minnesota. NCEO,  
9 conducts research and provides assistance to the  
10 states and school districts to implement assessment  
11 and accountability systems, specifically including  
12 students with disabilities. She's been working in the  
13 past ten years at the state and national level on  
14 these issues. She has written books about these  
15 issues and so she's a scholar and a person who is  
16 learned in these matters. And the next is Connie  
17 Hawkins. Ms. Hawkins is the Executive Director of the  
18 Exceptional Children's Assistance Center, one of the  
19 oldest parent and training information centers in the  
20 country and has been funded by the US Department of  
21 Education, Special Education Programs to serve North  
22 Carolina families with children with disabilities, and  
23 has also been with Title One Parent Information and  
24 Resource Center since 1991, and it has both of these  
25 Department of Education parent programs. Thank you

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1 very much all of you for coming and we will begin with  
2 Dr. Pughsley, and please proceed.

3 DR. PUGHSLEY: Thank you. Thank you for  
4 inviting me to testify before the Commission on Civil  
5 Rights on the topic of content and performance  
6 standards and assessment. With me today is Dr. Susan  
7 Agruso, Assistant Superintendent for Instructional  
8 Accountability. Who we are, Charlotte-Mecklenburg  
9 Schools is a consolidated city-county district with  
10 112,000 students in pre-kindergarten through grade 12.

11 By the end of this decade our enrollment is projected  
12 to be nearly 150,000 students. We operate 145  
13 schools, 51 of which have magnet programs. CMS is one  
14 of the largest employers in Mecklenburg County with  
15 over 14,000 employees, including 7,000 full-time  
16 teachers.

17 Our district is truly a diverse learning  
18 community. Students from over 102 countries speak  
19 more than 83 languages. African-American students  
20 make up 43 percent of the student body; equal in size  
21 to white students. Hispanic/Latinos represent the  
22 fastest growing group, which now accounts for 8  
23 percent of our student body, and Asian students  
24 comprise 4 percent of our student population. Multi-  
25 racial and Native-American students each account for 1

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1 percent of our students.

2 For the first time in 30 years, CMS is not  
3 under court order to desegregate its schools. Just  
4 this year we instituted a Choice Plan, which affords  
5 families the opportunity to decide where they want  
6 their children to attend school. Choice does not work  
7 without its complications. Transportation expenses  
8 have increased since we now transport more children  
9 than ever. We have over 1000 buses on the road each  
10 day. This bold step has also resulted in what some  
11 have called the resegregation of our schools,  
12 resulting in greater educational challenges for all of  
13 us. Though we may not favor this situation, we  
14 recognize that parental choice within the public  
15 school community is important. For us, choice  
16 provides the opportunity to demonstrate our  
17 responsibility to educate all children, no matter  
18 where they may attend school.

19 CMS has set for itself a vision to become  
20 the premier urban integrated school system in the  
21 nation in which all students acquire the knowledge,  
22 skills and values necessary to live rich and full  
23 lives as productive and enlightened members of  
24 society. To this end we have publicly established  
25 Goals 2005, which identifies targets for success to be

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1 achieved in the next two years. Among these are 95  
2 percent of the students at or above grade level in  
3 reading and math and 50 percent of students in the  
4 highest level of achievement.

5 Our goal is to have 60 percent of our  
6 grade eight students to take Algebra and pass the  
7 state's end-of-course tests. Currently, 50 percent of  
8 our graduating students take at least one advanced  
9 placement or international baccalaureate test. We are  
10 proud of this rate of participation, but we are not  
11 satisfied with the success on these tests. Our 2005  
12 goal is to have 75 percent of these tests will have  
13 passing scores.

14 Successes: These goals are ambitious, but  
15 we have already demonstrated that we are capable of  
16 achieving them. Over the last six years reading  
17 performance for our grade five students has increased  
18 from 59 percent to 81 percent at or above grade level.

19 For African-American students the level is even more  
20 dramatic, up from 35 percent at or above grade level  
21 in 1996 to 70 percent in 2002. The gap in achievement  
22 between African-American and white students in  
23 mathematics in grades four and five has been reduced  
24 to 18 percentage points. Over 80 percent of our  
25 middle school students scored at or about grade level

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1 on last year's state mathematics test.

2 AP enrollment has more than doubled over  
3 the last six years. These students took more than  
4 10,000 AP exams and 41 percent of those exams had  
5 passing scores. The passing grade on IB exams taken  
6 by CMS students was 87 percent, and 82 percent of our  
7 IB candidates earned a prestigious IB Diploma. The  
8 top 10 percent of our graduating seniors outscored  
9 their national peers on the SAT. All of these was  
10 achieved when our graduating class was the largest  
11 ever and our drop-out was the lowest ever. We have  
12 gone from having 22 schools identified by the State  
13 Department of Public Instruction as low-performing to  
14 none for two years in a row.

15 CMS has long recognized that education is  
16 not a school only event but a long-term commitment of  
17 the community. Over the years we have built strong  
18 partnerships with business, faith and community  
19 organizations. Last year we enjoyed 1400 partnerships  
20 which provided over \$17 million in donations and  
21 37,000 volunteers giving more than half a million  
22 hours of their time. Partnerships are not a one-way  
23 street. CMS staff has been equally generous with  
24 their time and contributions, raising more than  
25 \$600,000 for the United Way and the Arts and Science

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1 Council. In addition our schools organized fund  
2 drives for many notable organizations, including  
3 several food banks in our community.

4 Equity Initiatives: The state has adopted  
5 content standards and assessments that articulate the  
6 expectations for our schools. It is the school  
7 district's responsibility to operationalize these  
8 expectations into sound educational practices. Our  
9 challenge is to create a school system that enables  
10 all students to reach these standards.

11 The Council of Great City Schools  
12 chronicled the success of four urban districts,  
13 including CMS. The Council found that among these  
14 districts, three themes surfaced as drivers for  
15 meeting high expectations; building the foundations  
16 for success, developing instructional coherence, and  
17 making data-driven decisions.

18 Success comes from providing access to  
19 core learning for all students and then accelerating  
20 their learning so they can participate in higher-level  
21 opportunities. As a system we have identified those  
22 areas that require district initiatives to support  
23 access and acceleration for all students. CMS adopted  
24 a Balance Scorecard approach to identify goals, define  
25 measures and establish yearly targets that mark

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1 progress toward achieving those goals. Project  
2 Charters are used to align all district activities to  
3 the high achievement targets of the Balanced Scorecard  
4 and to maintain focus on our core business of teaching  
5 and learning.

6 The key to achieving the goals is  
7 providing the resources where they are needed most.  
8 The Equity Plus Two Program enables the district to  
9 differentiate spending by providing extra resources to  
10 54 schools. These funds are used to reduce teacher-  
11 student ratios, to provide additional instructional  
12 supplies and to offer incentives to attract and to  
13 keep highly qualified teachers.

14 The district established standards for  
15 materials and supplies and is allocating resources to  
16 bring all schools up those standards. The textbook  
17 adoption process requires the same textbooks in a  
18 grade or course across all schools so that students  
19 changing schools within the district would not lose  
20 valuable instructional time.

21 Building a foundation for success also  
22 means ensuring children begin school with the skills  
23 they need. A child who enters kindergarten behind his  
24 or her peers is already set up for failure. Our  
25 Bright Beginnings Program is designed to develop the

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1 early literacy skills of our neediest four-year olds  
2 so they can begin kindergarten on a par with their  
3 peers. For five years the success of this program has  
4 been well documented.

5 Establishing the foundations for success  
6 will not get you where you want to be without careful  
7 attention to what is being taught and how it is being  
8 taught. It is unacceptable for quality of instruction  
9 to vary by school and for teachers to not teach the  
10 standard course of study on which all state  
11 assessments are based.

12 The district established common curriculum  
13 pacing guides for all students to follow so resources  
14 are more efficiently used to provide help where help  
15 is needed. Daily written lesson plans are expected of  
16 all teachers in all courses. Quarterly assessments,  
17 aligned to the pacing guides are administered district  
18 wide so that teachers can chart student progress and  
19 provide interventions for students who are struggling.

20 Principals monitor the following performance so they  
21 provide support for teachers and students.

22 Forty-nine schools are participating in  
23 the A+ Initiative, a research-based process  
24 incorporating nine quality conditions for highly  
25 effective schools. For each of the last two years,

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1 schools participating in this program have seen  
2 greater improvement in student achievement and a  
3 greater reduction in the achievement gap than CMS as a  
4 whole.

5 Students have open access to high-level  
6 courses, and schools actively recruit students for  
7 participation. Each year all middle school students  
8 passing state end-of-grade tests in mathematics and  
9 reading are accelerated to higher level courses to  
10 ensure they have the opportunity to take advantage --  
11 advance course work, such as Algebra, by grade eight.

12 The PSAT is administered to all students  
13 in grades 9, 10 and 11 and the results are used to  
14 match students to AP courses. Schools use this  
15 information to encourage parents to register their  
16 students for these advanced opportunities.

17 Regional superintendents work closely with  
18 curriculum leaders to ensure alignment between  
19 instructional expectations and student practice.

20 As a sign of the district's absolute  
21 commitment to student achievement, funds allocated for  
22 pay increases for principals and senior district staff  
23 members are redirected into a pay-for-performance  
24 accountability system that is tied to student  
25 achievement. Teachers are eligible for bonuses, from

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1 both the state and the district if student achievement  
2 improves. Our Local Accountability and Bonus Program  
3 is based on the success of ten different groups of  
4 students. Groups are disaggregated based on race,  
5 ethnicity, lunch status and prior performance. All  
6 students are expected to achieve.

7 CMS is a data driven district. We gather  
8 data for ever program and every activity, and more  
9 importantly we use it, we review it and run it again.

10 Our data tells us we need to assign our best teachers  
11 to our neediest schools and we are taking steps to  
12 address that. Our data told us that all of our  
13 schools did not have materials and supplies meeting  
14 basic district standards and we are taking steps to  
15 correct that.

16 CHAIRPERSON BERRY: You have one minute,  
17 sir, to sum up and remember your statement is going to  
18 included in the record.

19 DR. PUGHSLEY: Let me just go to "No Child  
20 Left Behind". "No Child Left Behind" legislation may  
21 be a wake up call for many in education. The notion  
22 that all children can learn and that it is the  
23 school's responsibility to teach them is not new. The  
24 national focus on these expectations holds the promise  
25 that we will address the educational needs of all

1 students no matter what their circumstances. The  
2 emphasis on scientifically based research will help to  
3 ensure that programs we adopt are tested, but not  
4 fads. We support the disaggregation of data by groups  
5 of students to ensure that no group's left behind, is  
6 left out of educational opportunities.

7 Allow me just to go to the recommendations  
8 that I have, because I would like to share those.  
9 Recommendations: I have shared with you our vision,  
10 our successes, our hopes and our fears, so let me turn  
11 your attention to a few recommendations to help us  
12 meet our goals.

13 Districts needs the capability to  
14 differentiate spending and redirect resources to the  
15 neediest students. They have an obligation to  
16 maintain standards for all schools, so there is not  
17 doubt to achieve equity for all students we need  
18 greater funding. Surely a more comprehensive and  
19 valid system for marking the success of schools can be  
20 designed. This legislation is single baseline for all  
21 student groups based on the average statewide  
22 performance of all students last year. As a result  
23 all groups will be held to this standard this very  
24 first year without adequate time to prepare for these  
25 standards. Let me just hold with that, if I may, and

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1 certainly I'm prepared to answer any and all questions  
2 that may come forward.

3 CHAIRPERSON BERRY: All right. Thank you.  
4 You can address some of the other points in your  
5 questioning. Ms. Jenkins, please.

6 MS. JENKINS: Good morning, and welcome to  
7 Charlotte. I'd like to begin by sharing some basic  
8 background information with you about our district to  
9 help you put my comments into perspective.

10 CHAIRPERSON BERRY: And your statement  
11 will be included in the record. All statements will  
12 be included in the record.

13 MS. JENKINS: The Charlotte-Mecklenburg  
14 School district consists of 145 schools, which serve  
15 over 112,00 student. Our student population is 2  
16 percent American Indian/Multi Racial, 4 percent Asian,  
17 43 percent African-American, 8 percent Hispanic and 43  
18 percent white. There are 83 native languages spoken  
19 by CMS students who represent 102 countries. We are  
20 the largest school district in North Carolina. As the  
21 Middle School Mathematics Coordinator, I support the  
22 29 middle schools.

23 As we endeavor to make our district's  
24 vision of being the premier urban school district in  
25 the nation a reality, we've placed a focus on

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1 increasing student achievement and academic success  
2 for all students. I'll focus my comments on the  
3 middle school mathematic programs, because that's  
4 where I have direct experience, but similar efforts  
5 are in place in all disciplines at all grade levels.

6 First, there's a focus on improving  
7 teacher knowledge and the quality of instruction. As  
8 a district we've placed emphasis on providing teachers  
9 supporting materials such as daily instructional  
10 calendars, alignment guides, focus lessons, mini-  
11 assessments, and quarterly assessments that ensure  
12 that instruction meets the expectations established by  
13 the North Carolina Standard Course of Study. Many of  
14 our teachers are inexperienced and/or lateral entry  
15 into the profession. They do not have the knowledge  
16 or training plan in instructional program that ensures  
17 access to all skills and objectives mandated by our  
18 states's standards without these supporting materials.

19 Most nationally published materials are generic in  
20 nature and do not specifically address the North  
21 Carolina standards. Our master teachers worked to  
22 develop these materials, thereby insuring that every  
23 teacher and in turn every student has the benefit of  
24 their knowledge and experience.

25 In addition to materials, we have a

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1 comprehensive professional development program. Last  
2 summer we collaborated with the University North  
3 Carolina at Charlotte to offer undergraduate and  
4 graduate level math courses to our teachers; we have  
5 over 650 teachers, elementary and secondary to  
6 participate in these institutions. These courses were  
7 designed to increase teachers' content knowledge as  
8 well as to provide them with quality instructional  
9 strategies. Throughout the school year, we offer a  
10 number of other professional development opportunities  
11 including Math in the Zone, district wide curriculum  
12 days, and Mathemagica, which is a series of eight on-  
13 line math courses. In my role as the district's  
14 middle school math coordinator, I work with teachers  
15 at individual schools to address their specific  
16 concerns. Additionally, there is ongoing  
17 communication with teachers almost daily throughout  
18 the district via e-mail.

19 Principals at several schools where  
20 there's a concentration of inexperienced teachers have  
21 created positions for math facilitators. Math  
22 facilitators are master teachers who work directly  
23 with the math teacher to develop quality lessons.  
24 They provide materials, teach demo lesson, co-teach  
25 lessons, lead planning meetings, et cetera. They

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1 provide ongoing daily support to teachers specifically  
2 to enhance the level of teacher performance.

3           Second, all students are provided an  
4 opportunity to learn challenging and rigorous  
5 mathematics. Within the district we offer all  
6 students the opportunity for acceleration into higher  
7 level math courses. Our math program is designed so  
8 students may be progress through the state middle  
9 school math standards in less than the three years  
10 time frame indicated by the state, thereby allowing  
11 students to access high school level content which  
12 still in middle school. The commitment is that every  
13 student will develop the skills necessary to be  
14 successful in high school math classes without  
15 skipping skills or concepts that may leave gaps in  
16 their learning. As a result, approximately 80 percent  
17 of our middle school students will complete Algebra I  
18 or geometry prior to entering high school.

19           Third, there's a support system in place  
20 to ensure that all students are successful. The  
21 Commitment from the district and each individual  
22 school is for students to be successful. Teachers use  
23 the results of students' performance on the mini-  
24 assessments and quarterly assessment to plan re-  
25 teaching activities. Most of our schools schedule

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1 students for a 90-minute math class each day, thereby  
2 doubling the amount of time that would ordinarily be  
3 provided for instruction. There are programs that  
4 offers students both individual and/or small group  
5 tutoring during the school day, before school, after  
6 school and on Saturdays. Math Extra is a live  
7 interactive television program, which airs four  
8 afternoons a week to provide the students with  
9 homework assistance. Several community groups offer  
10 tutorial programs.

11 I have included a summary of data that  
12 serves as an example of the result of these efforts  
13 for the last two years, and I believe you have that at  
14 the back of your handbook, this is a transparency of  
15 that data. The data represent the increases in the  
16 percentage of students who have scored at proficiency  
17 level, which is considered Level III in North Carolina  
18 or above, Level IV in the North Carolina End-of Grade  
19 tests or End-of-Course tests. Please note that while  
20 all groups indicated on the chart are showing  
21 increases, students who have traditionally been lower  
22 performing --

23 CHAIRPERSON BERRY: If you could slow down  
24 a little bit. I know you're trying to get through, but  
25 the court reporter needs you to speak a little more

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1 slower.

2 MS. JENKINS: I'm sorry. Actually, it's  
3 that I'm nervous --

4 CHAIRPERSON BERRY: But slow down then.

5 COMMISSIONER EDLEY: Why are you so  
6 nervous? We're so nice.

7 MS. JENKINS: But this is very important.

8 CHAIRPERSON BERRY: Just slow down. There  
9 you go.

10 MS. JENKINS: Please note that while all  
11 groups indicated on the chart are showing increases,  
12 students who have traditionally been lower performing  
13 are making greater gains each year, thereby closing  
14 the achievement gaps between African-American and  
15 white students as well as the gap between those  
16 students who receive free/reduced lunch and free  
17 lunch. Of special interest are the gains in algebra I  
18 and geometry. The percentage of students taking these  
19 courses prior to entering high school has been  
20 increasing.

21 Currently, approximately 80 percent of all  
22 eighth graders will complete at least Algebra I while  
23 in middle school. One would expect the percent of  
24 students performing at or above proficiently to  
25 decrease as the number of students participating in

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1 these higher level courses increases, but as you can  
2 see that has not been the case. As we have offered  
3 opportunities for students to participate in  
4 challenging courses, performance on state tests has  
5 improved.

6 Last year on the state math tests 85  
7 percent of all sixth graders performed at proficiency,  
8 which would be considered on grade level or above, and  
9 79 percent of seventh and eight graders performed at  
10 proficiency or above. Additionally, 94 percent of the  
11 middle school students taking Algebra I performed at  
12 proficiency or above, and 98 percent of the middle  
13 schools students taking geometry performed at  
14 proficiency or above. The middle school students in  
15 our district are doing well in mathematics and  
16 continue to make gains.

17 I'm proud of the efforts we're making and  
18 the resulting gains, but there's still challenges that  
19 have to be addressed. The placement process we have  
20 developed for assigning students to math classes has  
21 resulted in a small percent of students remaining in  
22 regular classes. These classes homogeneously group  
23 lower achieving students and tend to consist of  
24 economically disadvantaged minority students. The  
25 current research indicates that this type of

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1 scheduling does not always result in positive  
2 experiences for students. Additionally, these classes  
3 are often assigned to inexperienced, less qualified  
4 teachers. Anecdotal comments from the teachers  
5 indicate that they're concerned that these students  
6 are not making the gains we would hope for.  
7 Additional, they're concerned that these classes lack  
8 the student role models that having higher achieving  
9 students in the classes would provide.

10 Across the nation there is a shortage of  
11 high qualified, devoted, experience professional math  
12 educators. Our district is not the exception. Even  
13 though we provide a variety of support systems for our  
14 teachers, there continues to be a high level of  
15 attrition among middle school math teachers. The  
16 annual influx of new teachers who are primarily  
17 inexperienced and lateral entry, requires the district  
18 to commit a disproportionate amount of funding,  
19 resources, and energy each year to support them.

20 As a district we're committed to improving  
21 student achievement. We have implemented district-  
22 wide initiatives that are resulting in gains, but  
23 there are still challenges that remain, challenges  
24 that have not gone unnoticed and I'm sure will not go  
25 unaddressed.

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1 CHAIRPERSON BERRY: Thank you very much.  
2 Mr. Pittman, would you like to make an opening  
3 statement.

4 MR. PITTMAN: Good morning. I bring you  
5 greetings from the Department of Public Instruction  
6 where Dr. Michael Lee Ward is our State  
7 Superintendent, and Bill Kurd is our State Board  
8 Chair. I serve as Director of the Division of School  
9 Improvement which oversees the Assistance Teams that  
10 you referenced earlier this morning. North Carolina  
11 has a state curriculum and it's a called a Standard  
12 Course of Study.

13 All our schools across the state must  
14 teach the Standard Course of Study. In 1992, we  
15 aligned our testing program with our curriculum.  
16 Prior to that we were using the California Achievement  
17 Test, we now use our own North Carolina developed  
18 test. But it's critically important to understand  
19 that our testing program and our curriculum are the  
20 same; they are very much aligned. North Carolina has  
21 a very comprehensive accountability program. We hold  
22 schools accountable, as you've heard earlier this  
23 morning.

24 We have a series of sanctions and rewards  
25 for all of our schools across North Carolina. Prior

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1 to 1996 we gave school districts a report card. What  
2 we found and what we really discovered is that when  
3 you give a district a report card, you really don't  
4 know very much about what is happening in individual  
5 schools.

6 So in 1996 we designed what is called the  
7 ABC's of public education. The A is for  
8 accountability, B is for the basics, C is for local  
9 control and there's where we hold all schools  
10 accountable for growth of students. We also have an  
11 accountability program for students. As you've heard  
12 this morning, we hold students accountable. Many  
13 people misunderstand our student accountability  
14 program and they call it the end of social promotion.

15 It is not the end of social promotion. The  
16 accountability program for students is there to help  
17 students grow and to have more students functioning at  
18 grade level.

19 While North Carolina is making much  
20 progress, we have far too many students who are  
21 performing below grade level, and so we use our  
22 testing program to determine where to put resources  
23 and where to help students. You probably heard of  
24 personalized education plans. When students are  
25 performing below proficiency, schools are required to

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1 have personal education plans for those students. It  
2 is not a system of just retaining students, and is  
3 critically important to understand and perhaps we can  
4 have some dialogue about that later on. But when you  
5 test students as we do in North Carolina, you have to  
6 be able to deal with the results.

7 So in North Carolina it's pretty clear to  
8 us that this past year we had roughly 72 percent of  
9 our students in grades three through eight performing  
10 at grade level or above, but we disaggregate our data  
11 in North Carolina, and we do it openly and we've been  
12 doing that for years, prior to "No Child Left Behind".

13 So, when you test you must be able to deal with the  
14 results. One of the documents that you should have  
15 before you, is called North Carolina's Commission on  
16 Race and Achievement and Closing Gaps. If would turn  
17 to page 26 of that document -- do they have that?

18 MS. CARR: Can you hold the front cover  
19 up?

20 MR. PITTMAN: It looks like this.

21 CHAIRPERSON BERRY: Yes, we have that.

22 MR. PITTMAN: If you would turn to page  
23 26, you will see that we have disaggregated the data  
24 for North Carolina. When you lock the data together,  
25 North Carolina is doing an impressive job. When you

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1 disaggregate the data, what you quickly notice is that  
2 there is a disparity between how groups of students  
3 perform; we talk about that openly in North Carolina.

4 We've been addressing the achievement gap now for  
5 several years. One of the things that we do in North  
6 Carolina, each year we sponsor a conference that's  
7 called Improving Minority and At-Risk Student  
8 Achievement and Close the Gaps. That conference is  
9 now in the 7th year, we have only 3500 people  
10 attending the conference each year. Two years ago our  
11 State Superintendent made a public address to the  
12 participants at that conference and he laid out a ten-  
13 point plan for how we were going to address this issue  
14 of disparity between groups of students. I want to go  
15 through each of the ten points, but two in particular.

16 One thing he said we were going to do, we were going  
17 to create within our agency a section that was going  
18 to deal with this issue of these achievement gaps; it  
19 is called the Closing The Achievement Gap Section. It  
20 has 13 people working in that section and we deal with  
21 the issue of how do we close the gaps in performance  
22 between groups of students. The other thing that Dr.  
23 Ward mentioned to that group that day two years ago,  
24 he said we're going to form a commission to look at  
25 this issue of the achievement gap to give us some sort

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1 of help in helping schools to address how do you close  
2 the gaps in achievement. We took these  
3 recommendations to our State Board of Education and  
4 the state board two years ago, approved the both of  
5 those recommendations, so we have the section in place  
6 and we also have a commission. The commission worked  
7 for two years looking at what is holding this gap  
8 steady in North Carolina. The person that we asked to  
9 serve as the chairman of this commission is a former  
10 superintendent here in North Carolina and has done  
11 many years of work on this issue of disparity in  
12 student performance. Dr. Bridges came to us when we  
13 asked him to serve as Chair and he said to us pretty  
14 boldly, that we're going to have to go to the root  
15 causes, as to what is holding this problem steady in  
16 North Carolina. And I recall very vividly Dr. Bridges  
17 looking the State Superintendent eye to eye and he  
18 said to us, if we do this, if you ask me to do this,  
19 we're going to go to the root causes and if we go to  
20 the root causes, I swear to you he said, it is going  
21 to be ugly. Now, do you still want me to do this?  
22 The state superintendent in his normally warm and  
23 passionate way, said to Dr. Bridges, go forth until  
24 apprehended. Dr. Bridges did not, was not  
25 apprehended, and so for two years, a 29 member

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1 commission, very diverse from all over the state, came  
2 together. The first meeting there was a conversation  
3 with a lots of parents and teachers and folks who work  
4 at the department as superintendents. At the end of  
5 the day there seemed to have been five strands that  
6 kept coming up over and over and over. Those five  
7 strands, we turned those into study commissions  
8 because we thought they could be possible root causes.

9 This document was presented to our state board in  
10 December, 2001, and it has the work the commission  
11 included. There are 11 recommendations in this  
12 report. I would refer you to a single paged document  
13 that has the 11 recommendations on one page, it's  
14 called The North Carolina Commission on Raising  
15 Achievement and Closing Gaps. It's important to look  
16 at the strands. The first strand that seemed to occur  
17 throughout the meeting that day was a strand that  
18 talked about participation, minority student  
19 participation in courses. Out of that came two  
20 recommendations, the very first one was this. The  
21 commission said we have far too many minority students  
22 who are assigned to special education classes, and  
23 that every school in North Carolina needs to be  
24 addressing the issue of how do you assign students to  
25 special ed, how long do they stay there, and what

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1 kinds of services do they receive. The commission  
2 made a statement pretty boldly and said that many of  
3 minority students and poor students, regardless of  
4 race, really aren't disabled, but it could be us the  
5 educators who are disabled in terms of not being able  
6 to teach certain children. The second recommendation  
7 deals with the issue of far too many minority students  
8 being assigned to non- or low-challenging classes.  
9 The commission believes emphatically that more  
10 minority students and poor students need to have  
11 opportunities to take advanced courses.  
12 Recommendations three and four deal with the issue of  
13 the roles of home and community. We plan to do a  
14 statewide campaign to address these issues so that  
15 everyone knows what the issues are. Recommendation  
16 four deals with the issue of parental involvement.  
17 Many minority parents in this state are disengaged  
18 from our public schools and the commission is asking  
19 schools across this state to look at the image that  
20 they have; now I'm getting close to the end.  
21 Recommendations five, six, seven, eight and nine deal  
22 with the issue of teacher preparation and support.  
23 The commission believes that if teachers and other  
24 educators have already asked to address the issue of  
25 minority achievement that we need to look at

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1 professional development in a very different way.  
2 They need to have the knowledge, skills and a  
3 disposition to work with minority students to help  
4 them to be successful learners. Recommendation number  
5 ten, addresses the issue of changing our ABC's model,  
6 so that we have a closing the achievement gap  
7 component to the ABC's and we have that now.  
8 Recommendation number 11 deals with the issue of how  
9 we educated black students and American-Indian  
10 students in this state prior to integration. The  
11 commission felt that prior to integration, black  
12 children in this state were educated in all black  
13 schools and some good things happened in those  
14 schools. But after integration those schools were  
15 closed and we never looked back to see what good came  
16 out of those schools. This particular recommendation  
17 focuses on studying how African-American children and  
18 Native American children were educated, learn from  
19 that process, and then begin to use that today as we  
20 address the issue of how do we build relationships and  
21 how do we address this issue of disparities in student  
22 performance. And hopefully, we can have an  
23 opportunity to discuss the recommendations in more  
24 detail.

25 CHAIRPERSON BERRY: Okay. Thank you very

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1 much. There will be some opportunity. Ms. Quenemoen,  
2 please.

3 MS. QUENEMOEN: Thank you. Madame  
4 Chairperson and distinguished members of the  
5 commission, staff, thank you for the opportunity to  
6 address. I'm in a little different role here, in that  
7 I come in as a national observer on education reform  
8 over the last decade. The National Center on  
9 Educational Outcomes is a federally funded technical  
10 assistance center and we work very closely, primarily  
11 with states right now, in implementation of inclusive  
12 assessment and how to build a system to benefit all  
13 children. We've been working over the last ten years  
14 on four areas working with states and federal agencies  
15 to identify the important elements of education for  
16 all students, including students with disabilities,  
17 examining the participation and use of combinations by  
18 students with disabilities in both national and state  
19 assessments. The value ratings, national and state  
20 practices and reporting assessment information on  
21 students with disabilities and finally now and most  
22 importantly, bridging the general and special  
23 education systems as they work to increase  
24 accountability for students with disabilities. That  
25 requires us to look very closely at how states have

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1 defined what all children should know and be able to  
2 do, and to begin identifying with patterns of what  
3 looks like, when in fact all children can be  
4 successful in this system. We've heard bits and  
5 pieces of that I think so far this morning. We do  
6 work with both South Carolina and North Carolina. We  
7 have a fairly intensive system right now in supporting  
8 states as they implement "No Child Left Behind". But  
9 my remarks tend to be more broadly construed in that  
10 this is a very general, things are going around all  
11 over, so this is my focus on them; it's certainly more  
12 vital. The other comment I'd make is I will talk  
13 about accountability and some of the benefits that we  
14 see for them and in light of the discussion earlier  
15 this morning, I want to point out that NCEO feels very  
16 strongly and a system of accountability is a very good  
17 thing for students with disability, that if we shine  
18 the light on if we desegregate by the sub-groups,  
19 including those students with disabilities, which we  
20 haven't seen on too many charts so far today, we will  
21 be able to also identify where opportunities are being  
22 offered. As a stance, we as an organization believe  
23 that students' stakes should go into place after the  
24 system has been held accountable for those  
25 opportunities. We have about half of our states that

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1 have some kind of student stake. System stakes is  
2 what is in "No Child Left Behind", and we're seeing  
3 possibilities there.

4 But clearly, given our topics that we've  
5 been working for the last 15 years almost now, this is  
6 a teachable moment for us in our work with states. We  
7 have gotten their attention, although not all the  
8 people we work with see it in this light, we believe  
9 it is a time of great opportunity for students with  
10 disabilities. So, I'd like to provide an overview of  
11 how far we've come in inclusive assessment and  
12 accountability in a very short period time, over the  
13 last ten years. But I want to emphasize that I want  
14 to speak to that in the context of raising  
15 expectations for the performance of all children, and  
16 specifically for students with disabilities. In the  
17 materials I have provided to you I have some stories  
18 of individual children that I won't go through now,  
19 but the reason that we are taking around stories of  
20 individual children who have in a way beaten the odds,  
21 is that students with disabilities have not  
22 participated in state assessments for long enough to  
23 see good trending. That is something that's being  
24 forced by federal law and we think that is a good  
25 thing. So, with the stories that I've given you in

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1 your packet in mind, I think I'll proceed with an  
2 overview of where we've come in the last ten years.

3 As you all know, assessment in student  
4 achievement and the accompanying requirement of state  
5 district and school accountability for all student  
6 success in the grades or the content is the  
7 centerpiece for "No Child Left Behind". A decade ago,  
8 most states included fewer than 10 percent of students  
9 with disabilities. That number reflected state  
10 expectations about who could achieve and the beliefs  
11 that achievement requirements could harm some  
12 students. Today the average percentage of students in  
13 the general assessment is 85 percent and it is moving  
14 very quickly to 100 percent. As I said, "No Child  
15 Left Behind" has gotten everyone's attention. We had  
16 to come a long way quickly based on the belief that  
17 the greatest crime to students is caused by what  
18 President Bush has called soft bigotry of low  
19 expectations. I have a chart in your folder, a three  
20 column chart that shows a decade of change, do you  
21 have that? I'd like to refer you to that briefly.  
22 That table is backed up by the past 15 years of  
23 research, all of which is available on our website.  
24 We self-publish a lot of studies on the inclusive  
25 assessment and accountability. Frankly, states can't

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1 wait for the three year lag in going to journals  
2 although we also take those materials and bring them  
3 in there. We are a technical assistance center, even  
4 though we do our own research. But I would encourage  
5 staff, commission members to go to our website and you  
6 will be able to see the documentation that I've been  
7 showing you.

8           You'll notice in the top, the left two  
9 columns, the left past status in the middle, Decade of  
10 Change, that the third entry down speaks to ten years  
11 ago, participation policies for a national, state and  
12 district assessments often reflected low expectations,  
13 overprotectiveness and a lack of concern about the  
14 educational progress for students with disabilities.  
15 That changed over the '90s standards-based reform,  
16 started using the term "all students", meaning all  
17 students, and in both 1994, Improving America's School  
18 Act and in the 1997, Individuals with Disabilities  
19 Act, we emphasized assets to the general curriculum;  
20 same content standards, same achievement expectations  
21 for all students. So that piece of "No Child Left  
22 Behind" is not moot. We have been working on that for  
23 a decade. The fifth bullet down, in the left in the  
24 middle column, says that early in the '90s we  
25 identified negative consequences of excluding students

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1 with disabilities from assessment. One of which is  
2 that increasing numbers of children weren't expected  
3 to perform well and tests were being dumped, would be  
4 the word, into special education, because kids with  
5 disabilities were exempted essentially, from being --  
6 schools being held accountable for their --

7 COMMISSIONER EDLEY: Exacerbating racial  
8 disparities.

9 MS. QUENEMOEN: Well exactly, yes. And in  
10 fact, if special education were placed as it was  
11 intended to be where you got the services and support  
12 so that you could achieve at the grade level content,  
13 that wouldn't be a horrible thing. But, in fact, I  
14 think everyone on this panel would agree that we've  
15 had to come a long way in rethinking some of these  
16 assumptions. The last decade positive consequences of  
17 including students with disabilities emerged. We  
18 heard from districts where parents are going with  
19 their states. Look what happens when they actually  
20 expect kids to learn, as if it were a new lesson.  
21 But, if you will focus on the far right-hand column, I  
22 want to point out, given that I am from an assessment  
23 and accountability system, even though I am dreadfully  
24 worried about the status of curriculum and instruction  
25 and the fact of the ability of schools to move forward

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1 in a standard space reform mold, that we have  
2 challenges within our assessments. That the current  
3 assessments, the ones you and I all of us have grown  
4 up with may not be the quality that we need to meet  
5 the purpose of holding either systems or students  
6 accountable. So our center's working very hard on  
7 something we're calling Universal Designing  
8 Assessments.

9 The federal government just has released  
10 three research grants -- one of them to us, two to  
11 departments that we work with often, to essentially  
12 rethink how we build assessments so that all children  
13 can show what they know and are able to do --  
14 assessments that will be amenable to showing us the  
15 effects of good quality instruction and increased  
16 expectations. So we have a lot of work there to do  
17 and you'll see the kind of research that we are moving  
18 forward on, and we'll be happy to work with you as you  
19 grapple with some of these issues, because we think  
20 the status quo of assessment itself is part of our  
21 problem in building accountability systems that work.

22 Although we at NCEO have been working to  
23 help states improve their inclusive assessment and  
24 accountability practices, we know that the crux of  
25 ensuring that all students achieve at higher levels is

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1 an improved curriculum of instruction. We have to  
2 focus on the services, support, accommodations and  
3 adaptations necessary so students with disabilities can  
4 achieve at grade level. We have heard from states,  
5 from New York to Kansas to Washington, and more  
6 importantly from districts where they agreed to put a  
7 concerted effort into moving all children to high  
8 standards, that astounding things happen -- and that's  
9 all encouraging. But we still don't have good large  
10 scale data because we're just now including students.

11 But that leads us to the centerpiece of  
12 "No Child Left Behind", system accountability. What  
13 we have found in assessments is that, it is not a  
14 matter of assessing lower to get these kids into the  
15 assessment system, it is a matter of teaching higher.

16 You've heard protests from every corner in the  
17 accountability formula for "No Child Left Behind" that  
18 expecting students with disabilities to achieve at  
19 high levels is unrealistic. That may be true in the  
20 short term, given that many of these students are  
21 stuck in the middle of their school career already  
22 several grade levels behind. That we're going to miss  
23 that bubble of students who are already caught in the  
24 system is tragic. Intervening with earlier and  
25 accelerated methods -- what I've heard from Charlotte-

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1 . Mecklenburg often -- from the very beginning must  
2 occur.

3 But, it's also alarming to hear -- given  
4 what we understand about these expectations and what  
5 students learn -- and there's a teacher in a meeting  
6 on a state accountability plan say, well any fool  
7 knows that those students with disabilities can't  
8 learn.

9 We have a colleague at NCEO, Dr. Kevin  
10 McGrue, who is one of the authors of the Woodcott  
11 Johnson Three Tests of Achievement. He has tested  
12 that so-called research question -- that any fool  
13 knows these children can't learn -- by looking at the  
14 academic achievement of students of varying measured  
15 IQs, a common measurement used for eligibility for  
16 special education services. He has found "It is not  
17 possible to predict which children will be at the  
18 upper half of the achievement distribution, based on  
19 any given level of general intelligence. For most  
20 children with cognitive disabilities, those with below  
21 average IQ scores, it is not possible to predict their  
22 expected achievement with the degree of accuracy that  
23 would be required to deny a child a right to high  
24 standards or expectations."

25 In other words, those children can learn,

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1 given appropriate services and supports.

2 CHAIRPERSON BERRY: You've got about a  
3 minute.

4 MS. QUENEMOEN: All right, thank you. Dr.  
5 McGrue suggests that students with disabilities have  
6 been facing systematic and institutionalized low  
7 expectations for so long that those low expectations  
8 are internalized even by most educators, and thus when  
9 we are confronted by success stories -- stories I  
10 included in your packet -- or even large scale  
11 assessment data that suggests that achievement test  
12 scores are increasing for students with disabilities  
13 in places with concerted efforts to raise  
14 expectations, services and supports, we say, oh, but  
15 those students aren't like my students.

16 So we are looking forward to working with  
17 folks like people here in Charlotte-Mecklenburg and  
18 across the country as we identify these schools where  
19 all children can be successful. Where we intervene  
20 early and often, where we accelerate and not just  
21 remediate, and we are looking forward to the work you  
22 folks and others like you will do to make sure those  
23 doors stay open and high expectations again are held  
24 for all children.

25 CHAIRPERSON BERRY: Thank you. Thank you

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1 very much. Ms. Hawkins.

2 MS. HAWKINS: First, I'd like to say  
3 "amen" and really thank you for the opportunity. I  
4 guess for the Chair I probably need to tell you that  
5 I'm a Tennessee native, and I do know how to make  
6 chess pies.

7 COMMISSIONER EDLEY: Did you bring any?

8 MS. HAWKINS: I even do chocolate chess  
9 pies. I wanted to tell you a little bit about my  
10 organization and the perspective that I come from. We  
11 are one of the 12 centers in the country that have  
12 both the Title One Parents Center and The Individuals  
13 with Disabilities Education Act Parents Center.  
14 Sometimes, and I never thought about this way until I  
15 talked to a family not long ago, who said "you only  
16 deal with families with labels" -- and I went "wait a  
17 minute."

18 I said "I know my kids with disabilities  
19 have labels, but these other kids don't." And they  
20 said -- she said -- "Yup. I got confused the other  
21 day because I have been black, then I was African-  
22 American. My children were black, then they were  
23 African-American. And then we went through this  
24 little period that they were 'free/reduced lunch,' and  
25 now they're at-risk." And this is what I'm heading

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1 for: I think this mom has a point, that we do seem --  
2 at least in the world that I live in -- to deal with  
3 labels. One of things that I think is very important  
4 for you all, from the family perspectives, is to hear  
5 some families. So I'm going to make some comments and  
6 then I have brought two families with me whose  
7 children are really being impacted by what you're  
8 talking about today, and I'm going to defer some of my  
9 time to them.

10 "No Child Left Behind" is definitely an  
11 ambitious piece of legislation, and I concur very much  
12 with the previous speaker on the fact that it does  
13 have some really just wonderful possibilities for all  
14 children. And the fact that it does say "all  
15 children" is a very significant thing.

16 Part of the problem when it comes to most  
17 kids of color and to children with disabilities, I  
18 guess the proof is in the pudding, how we implement  
19 this. You all are very aware of the fact that right  
20 now we are in the process of re-authorizing the  
21 Individuals With Disabilities Education Act. There is  
22 some major conflict between these two acts. One is a  
23 group right for an education; the other one is an  
24 individual right for an education. There will be some  
25 pretty significant blood shed on Capitol Hill if they

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1 try to take away the individual rights of children  
2 with disabilities to have an IEP and a standard of  
3 education that is based on their individual needs.

4 But with saying that I would also be  
5 extremely remiss if I did not bring up the point that  
6 we do have hundreds of thousands of children in  
7 special ed who are only there because of lack of  
8 instruction, of the accountability system that did not  
9 measure what was accurately going on with them, and I  
10 think that's something we have to get extremely honest  
11 about. The President's Commission on -- that group  
12 for Special Education, if you read that report --  
13 really did address the idea of early reading and over-  
14 identification.

15 Lots of the past years we've been talking  
16 about the over-identification problem, and it's  
17 something we have to address. But even when the kids  
18 are appropriately identified, we have to look at the  
19 back data. Sixty percent of the teachers of  
20 behaviorally and emotionally disabled children in the  
21 state of North Carolina are not certified. North  
22 Carolina's standard course of study does not pull down  
23 to kids who are not working on grade level. Other  
24 states -- it might pull down, but our standard course  
25 of study is being proposed, does come down. So there

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1 are pretty significant challenges on how we will give  
2 education for children with disabilities.

3 Real briefly, before I turn it over to the  
4 families, I also want to point out that a very  
5 significant part of the law is parent involvement.  
6 Section 1118 -- there's a whole section on parent  
7 involvement. Dr. Tillman was very eloquent about  
8 addressing that minority families are not involved  
9 with schools.

10 The Department of Ed did some research and  
11 discovered that time, lack of knowledge about  
12 expectations for their children, lack of knowledge  
13 about expectations for themselves in the school  
14 climate were the reasons that families did not engage  
15 with school systems. And I think if we are looking at  
16 doing a better job of making sure that all families  
17 are engaged and children are learning, we have to  
18 start addressing these issues.

19 I also want to real quickly address one of  
20 things that Judge Manning said this morning. He was  
21 very eloquent in his description of some families. I  
22 have to tell you, in 20 years I have met very few  
23 families that didn't care. They didn't know how to  
24 care, they didn't know the skills they needed to act  
25 on the schools, but they really did care. I'm going

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1 to turn my comments over to two families who've come  
2 to finish for me, and then I will available and they  
3 will be available for questioning.

4 CHAIRPERSON BERRY: All right. Thank you.

5 MS. MILLER: I'm Vernita Miller. I have a  
6 ten-year-old daughter. She's retained in the second  
7 grade and the third grade. Last year, she failed the  
8 EOG tests three times, the pre-test, the end-of-the-  
9 grade test, and the summer school test. She was  
10 promoted to the next grade by the Board and then she  
11 was -- I got a letter stating that she wasn't, and I  
12 called and tried to see why they sent the letter  
13 saying that she was promoted when she wasn't. But  
14 instead she's back in the third grade this year, and  
15 she has a 58 percent in reading and a 55 in math, and  
16 she wasn't graded on the writing test because of her  
17 learning disability.

18 It's hard for me to sit and hear, you  
19 know, my daughter is going to be kept back again,  
20 because of the pre-test that she's already done took,  
21 and just to hear my daughter cry and upset because she  
22 feels like she can't do it and that she will have to  
23 stay back again. Kids picking with her. I want to  
24 know --if she doesn't pass the test, would she be  
25 retained again? Because she's already too far behind,

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1 and it's just hard.

2 Like last year, she had a teacher that put  
3 her back at the beginning of the first part, because  
4 she felt like she wasn't going to do any better.  
5 She's in resources, she's in speech, and I feel like  
6 she needs more help.

7 CHAIRPERSON BERRY: Okay, thank you.

8 MS. JONES: Hi, my name is Ruby Jones. I  
9 have a 14-year-old son. He's been in and out of nine  
10 schools and he has a learning disability. He cannot  
11 read, at all, so we have a hard time dealing with him.

12 And they set up programs, and we sent him to Sylvan,  
13 different other learning centers, to try to get him on  
14 the level that he needs to be on, which I don't have  
15 the resources, but I have people behind me to try and  
16 help me with him.

17 But he cannot read, it gets in the way, and that  
18 makes bad behavior, so that marks him out even more,  
19 because he knows -- and then at school the teachers  
20 they know -- that he has that problem, and still they  
21 don't try to compromise with him. They throw it in  
22 his face, and I have to deal with that also, and I  
23 would just like to know --

24 MS. HAWKINS: How much do you know about  
25 the standards in the accountability system? When the

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1 school -- have they talked to you about what this  
2 meant? One of the things that when we were talking  
3 earlier, the parents had said to me that they really  
4 weren't clear on what the expectations were. That,  
5 you know, the students are being tested, and they know  
6 that there are expectations, but it was for, you know,  
7 some families who aren't -- you're a volunteer at your  
8 school, aren't you?

9 MS. MILLER: Yes

10 MS. HAWKINS: Having a very clear idea of  
11 what the standards are, what the expectations are, and  
12 what to do in cooperation with the school to work on  
13 it.

14 MS. JONES: No.

15 CHAIRPERSON BERRY: Okay. Let's do this.

16 Since we're at the -- why don't you finish, and then  
17 we'll start with the questioning with you, because I  
18 wanted to ask you something.

19 MS. HAWKINS: Okay. I think the trick and  
20 the reason I wanted to bring these two over, the  
21 parents, is to say "No Child Left Behind" as the  
22 President describes it -- he really talks about the  
23 four pillars. And parent involvement and including  
24 families in decisions for the children, knowing what's  
25 going on, is one of the pillars that he talks about.

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1           We all know that when all four pillars  
2 aren't the same size the roof falls in. And, I think  
3 we do have significant issues in education with kids  
4 who have some label, whether it's disability, whether  
5 it's free/reduced lunch, whatever. But I do think  
6 that we have not included all families. We've  
7 included the families like me who will always come to  
8 the door if you say, hello, it's me.

9           But we have not included all families. In  
10 helping to create the solutions, bridge for education  
11 as a whole, but also for individual children and  
12 definitely a universal design and some of the other  
13 things, so that we are no longer looking at kids with  
14 labels, but we're looking at the improvement of  
15 education.

16           COMMISSIONER EDLEY: Let me just do this,  
17 and then I'll turn the questioning over. But just to  
18 follow up on what the parents had to say. Is it to be  
19 our understanding that these children have  
20 individualized education plans? They have IPs -- at  
21 least they still call them that.

22           MS. HAWKINS: Yes, they do.

23           COMMISSIONER EDLEY: And that the IPs have  
24 been implemented or not implemented? I'm just trying  
25 to figure out --

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1 MS. HAWKINS: You know, that's not a black  
2 and white answer, because you can have an IP that  
3 isn't reading well --

4 COMMISSIONER EDLEY: Problem with the IP -  
5 -

6 MS. HAWKINS: The question is, are we  
7 connecting education, special education programs to  
8 high standards? You made the comment about, you know,  
9 making sure that the kids are being taught to learn.  
10 A 14-year-old who does not read is probably going to  
11 have a behavior issue. And not particularly knowing -  
12 - I haven't looked at the evaluation of this  
13 particular child -- but we do know those connect.

14 We have a person, who is not  
15 representative of special ed in North Carolina, saying  
16 that she didn't understand why special ed teachers  
17 were being pushed to teach reading, because they were  
18 special ed teachers, not reading teachers.

19 CHAIRPERSON BERRY: I see. So that  
20 basically, what we're looking at is what these two  
21 parents and the testimony that they've given is, one,  
22 whether there's some coordination between or some  
23 overlapping conflict between the special education and  
24 education of children with disabilities, and the "No  
25 Child Left Behind".

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1 MS. HAWKINS: And I think the other thing  
2 is where the kids fit in the assessment. Because the  
3 child that is being retained -- North Carolina does  
4 have -- principals do have the authority to say, I've  
5 looked at everything about the this child, and I'm  
6 going to move them on. But they're really hesitant to  
7 do that, because in the long run those test scores are  
8 going to count for their building, and your eloquent  
9 comments earlier about who we are punishing here, and  
10 are we saying, are we putting kids back in classes and  
11 saying the same information louder, instead of looking  
12 at differentiated instruction and what else we need to  
13 do in these strategies, because we know just retention  
14 --

15 CHAIRPERSON BERRY: Ms. Hawkins, for the  
16 sake of the record, so that it's clear, are you saying  
17 that these children that were described for us could  
18 be taught if appropriate methods and resources were  
19 used to teach them, to bring them along at their own  
20 pace until they're able to learn?

21 MS. HAWKINS: I firmly believe --

22 CHAIRPERSON BERRY: And that what we have  
23 here is a situation where these resources and these  
24 appropriate methods are not being applied to disabled  
25 kids, the learning-disabled kids, and so then the

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1 system is concerned about whether overall the system  
2 is failing and how many low grade school or high grade  
3 schools and do we meet the standards and all that.

4 So left behind are children like these,  
5 who may not this year reach grade level or whatever it  
6 is or it may take them forever, but that they are not  
7 are being appropriately dealt with. It's not that  
8 they are just so dumb or mentally deficient that they  
9 could never learn anything.

10 MS. HAWKINS: Correct.

11 CHAIRPERSON BERRY: And then it's creating  
12 all kinds of behavioral problems, social problems, and  
13 the kind of perhaps drop-outs and other kinds of  
14 things. Is that basically what you're --

15 MS. HAWKINS: I will let you put words in  
16 my mouth.

17 CHAIRPERSON BERRY: But now I will go back  
18 and start over again, unless you want to comment on  
19 that. If we're going to start over again and let you  
20 ask whatever you like.

21 COMMISSIONER EDLEY: Well, I'll start with  
22 the same subject matter. First, thank you very much  
23 to all of you; wonderfully helpful. Let me just say,  
24 I've been a long-time member, indeed the -- of the  
25 Board of Testing and Assessment of the National

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1 Research Council, National Academy of Sciences, and  
2 indeed the longest serving member in the history of  
3 the Board of Testing and Assessment; I can't seem to  
4 get promoted out of it.

5 So for starters, I'm concerned with the  
6 problem of including accommodation of students with  
7 disabilities and the absence of consistency from state  
8 to state that many cases from district to district  
9 within a state, as to what the rules are, what the  
10 protocols are -- for who gets included or what kinds  
11 of accommodations are provided. So I'm wondering for  
12 either of you -- this just strikes me from a psycho-  
13 metric standpoint or from a standpoint about making  
14 valid inferences about improvements in test  
15 performance -- doesn't there need to be some concerted  
16 and centralized inclusion and -- right now the only  
17 thing that is systematic is this prospect of a 95  
18 percent inclusion requirement. Do you have a response  
19 to that?

20 MS. QUENEMOEN: I'll go first. NCEO has  
21 been checking that theory closely. When I first came  
22 on four years ago, I was approached by nine states,  
23 all of which used one particular vendors test, adapted  
24 somewhat for their state, and all nine had very  
25 different accommodations policies, and essentially,

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1 I'm going start with the system end.

2 Different decisions had been made about  
3 what kind of changes to the test administration or the  
4 way the student responded to the test items that would  
5 or would not invalidate the results. In other words,  
6 did the use of a screen reader change the -- what was  
7 being measured or not. And they found out it's the  
8 same test. We were getting very different answers, so  
9 we went diving back into the research and the body of  
10 research on the effect of accommodations on the  
11 performance of items and the inferences is very, very  
12 murky. And because of the nature of the variation of  
13 the kind of student who may use a particular  
14 accommodation, it's very hard to get large group  
15 coherent data. So, the last three years, really, we  
16 have been working with the federal government and with  
17 states on developing a better data base, so that we  
18 can know which children are using which  
19 accommodations, where we can look at the way the items  
20 function with the particular kind of accommodations.

21 So part of it is in state policy. Most  
22 states now have stepped back to say -- we will be more  
23 thoughtful about how we set our accommodations  
24 policies for particular parts of our examinations.  
25 And I think states have a come a long way in trying to

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1 clarify that, but the research base is slim.

2 On the other hand, the IEP team determines  
3 how a student will participate in assessments and what  
4 accommodations are needed. Many states are trying to  
5 provide training to IEPs, and so one of the factors  
6 that's usually included is if the student benefits  
7 from that accommodation in learning the materials, in  
8 other words, if the accommodation is provided in  
9 instruction, then -- unless it is something that  
10 because of what you're assessing wouldn't be  
11 appropriate -- then we would recommend that you use a  
12 different assessment as well.

13 What we found is that that began to drive  
14 an increase in the amount of accommodations being  
15 allowed for instruction, and in fact we found out very  
16 few accommodations were allowed. A 14 year-old  
17 student who is not reading, who is not getting the  
18 accommodation of some kind of taped text so they can  
19 keep up with the content, for example, is a big flag  
20 that something has gone awry. But the good news is  
21 that by focusing on testing accommodations we've  
22 actually seen an increase in the amount of  
23 instructional accommodation.

24 The problem is, is that that's IEP by IEP,  
25 and there's assuming an understanding of what the

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1 construct being measured is, so you know what kinds of  
2 accommodations they are providing --

3 COMMISSIONER EDLEY: Which is an  
4 enormously heroic assumption --

5 MS. QUENEMOEN: Learning curve is very  
6 steep.

7 CHAIRPERSON BERRY: Christopher, why don't  
8 you quickly tell them what NCLB is.

9 COMMISSIONER EDLEY: I'm sorry. "No Child  
10 Left Behind".

11 MS. QUENEMOEN: I'd like to make just two  
12 basic comments. One of the issues, the practical  
13 issues at the state level, is the creation of these  
14 tests as we go. North Carolina had a computer-  
15 assisted tests for students with disabilities that  
16 would allow the student to kind of go up and down on  
17 grade level as they did context. It didn't validate -  
18 - we had to change 30,000 IEPs this year -- and the  
19 child's impact was that their two choices were -- the  
20 IEP team choices were to either go to a accommodation  
21 that probably didn't work because they'd already tried  
22 it, or to push the student from an accommodation to  
23 alternate assessment, which changed whether they were  
24 given on a diploma track or not.

25 So that's one comment. And what we're

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1 doing is, we're doing this, we're learning as we go,  
2 which is strengthening the knowledge of the field, but  
3 it's also impacting kids.

4 COMMISSIONER EDLEY: I'm sorry. Let me  
5 stop you there if I may, because we need to move on,  
6 we're going to run out of time here. If I could ask  
7 Mr. Pittman and Dr. Pughsley, I don't get it. Explain  
8 to me why, Mr. Pittman, in your comments and Dr.  
9 Pughsley in your prepared -- Dr. Pughsley in your  
10 prepared remarks, you're both supportive of high-  
11 stakes for students. Explain to me why on God's earth  
12 it makes any sense educationally to have the retention  
13 in grade that's been described for these two children.

14 DR. PUGHSLEY: Retention in grade, it's  
15 based on -- so that I fully understand your question,  
16 sir.

17 COMMISSIONER EDLEY: We've heard, in  
18 particular if I can focus on -- what was it, Mrs.  
19 Miller, the first one?

20 CHAIRPERSON BERRY: We're going to have  
21 you check on them please, sir, my staff will be in  
22 touch with you to find out exactly what --

23 DR. PUGHSLEY: Be more than happy to.

24 COMMISSIONER EDLEY: Talked about her  
25 child being retained in grade twice. The suggestion

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1 of an IDP plan that isn't working. And I'm trying to  
2 figure out who you think -- who you think is being  
3 appropriately incentivised as a result of what -- what  
4 the economists call it and they're too many of them,  
5 but by retaining a child like that in a grade.

6 DR. PUGHSLEY: Well, let me just speak in  
7 part to this as best as I understand your question. I  
8 think the -- in part what the statement that was made  
9 by Ms. Hawkins referenced a teacher of someone who  
10 said, now I'm being pushed to teach reading, I'm an EC  
11 teacher. That's an indication of the change that  
12 taking place in the CMS and I would agree with that.

13 COMMISSIONER EDLEY: But fine, but what  
14 does have to do with retaining the student in grade?

15 DR. PUGHSLEY: Allow me to - if I may --

16 COMMISSIONER EDLEY: You can tell that  
17 there's a problem by just looking at the testing  
18 results of what's happening with education of the  
19 child without then punishing the child, or imposing a  
20 sanction on the child.

21 DR. PUGHSLEY: Well, let me assure you, I  
22 have no desire to punish any child. But let me give  
23 you the big picture, if I may.

24 CHAIRPERSON BERRY: Proceed.

25 DR. PUGHSLEY: Thank you. Now, there was

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1 a transition that's taking place in CMS and that  
2 situation which was described occurred all too often.  
3 The shift has to do with our becoming more  
4 instructionally oriented in our EC program, and we  
5 have demonstrated that by standards as it relates to  
6 resources available to the kids, and yes we are  
7 pushing for instruction, the teaching of reading in  
8 our EC program, okay. That in and our itself will  
9 make a difference as it relates to this child being  
10 retained a number of times or not. Unfortunately,  
11 this youngster is 14 years-old, I understand that, and  
12 certainly it's my privilege to follow up on it and  
13 will do so.

14 COMMISSIONER EDLEY: I guess I'm not being  
15 clear here. Let me try again. I'm trying to  
16 distinguish on the one hand between systemic  
17 accountability and student accountability. I'm also  
18 trying to distinguish between assessment out the  
19 wazoo, with whatever kinds of instruments, the best  
20 instruments you can design, do it every other Tuesday,  
21 for all I care. Plenty of assessments to diagnose  
22 what kind of achievement, what kind of learning is or  
23 isn't occurring; fine. Measure it, figure out what's  
24 going on, period, paragraph.

25 Then comes the question of what kind of

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1 intervention and who's going to be held accountable  
2 when there are deficiencies in the achievement. Now,  
3 I'm referring from something in your written  
4 statement, that's something that you, Mr. Pittman,  
5 were completely explicit about, and that is if there  
6 are problems with performance then students, not only  
7 students, not only students, but students must be  
8 among those who are held accountable by retention in  
9 grade, by, if it comes to that, diploma or not. So  
10 what I'm trying to ask is, I understand politically  
11 why it might be desirable to hold students  
12 accountable, but I'm trying to understand why this is  
13 a benefit to the individual student to deny promotion  
14 or to deny a diploma. Particularly why is it  
15 beneficial to the student in a situation in which the  
16 student has not been given a full opportunity to learn  
17 and to achieve. Has not been given a full opportunity  
18 to learn and achieve either because in the cases of  
19 students with disabilities, the IDP may be poorly  
20 crafted or poorly implemented. Or in the case of  
21 ordinary students, they're in a building or they're in  
22 a district which has inadequate resources or, to be  
23 pointed, if the problem is that the district and the  
24 state school has not yet achieved the goals stated in  
25 the NCLB Statute, of seeing to it that every student

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1 has access to a high quality teacher. So, help me  
2 please understand why you believe under those kinds of  
3 circumstances you need to punish students in order to  
4 drive system reform?

5 MR. PITTMAN: Let me take a crack at that.

6 COMMISSIONER EDLEY: Thank you.

7 MR. PITTMAN: And we may have to agree to  
8 disagree as I had heard you say earlier. One of the  
9 reasons that I distributed this sheet to you that says  
10 student accountability standards, because as I was  
11 asked to take part in this discussion this morning, I  
12 kind of figured out that this particular topic would  
13 be part of our discussion. As I referenced earlier,  
14 one of the things that happens in North Carolina is  
15 that people misunderstand what we were trying to with  
16 the student accountability standards policy. It is  
17 not to end social promotion. Just to hold a student  
18 back is not going to help the student, so it's  
19 critically important to understand what we're trying  
20 to do in North Carolina. One of things that we did,  
21 we did not call this policy a promotion policy,  
22 because the minute you call it a promotion policy then  
23 you begin thinking about retention. The goal of this  
24 policy is to improve student achievement and to get  
25 more students functioning at grade level; to get

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1 students to grow. The process as to how we're going  
2 to do that, we are going to hold students accountable.  
3 We are holding teachers accountable. But also if you  
4 look at that sheet, we're going to provide focused  
5 intervention to students. I think one of the things  
6 that people misunderstand sometimes that they believe  
7 that testing is the end result in itself, and it is  
8 not. You use testing to identify where your problems  
9 are and then put your resources where there's fiscal  
10 or human resources, so children who are functioning  
11 below grade level in our policy have to get focused  
12 intervention. We send school districts additional  
13 monies to do that. The focused intervention piece is  
14 critical. The policy, and we wrote the policy with  
15 this in mind, that if it is not a retention policy  
16 then students have to have some sort of review  
17 process. So even though a child may not be performing  
18 at grade level, the policy looks at that issue and  
19 gives the school and school district the flexibility  
20 to bring the parent in to talk about this child in a  
21 very formal or informal way and it's not based totally  
22 on test performance. We have students who are not  
23 performing at grade level, who went through the review  
24 process and if, in fact, the child just can't score at  
25 Level III, but is able to do work in a classroom, some

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1 of those children were promoted. I think, personally,  
2 and the state believes, but I'm talking about, I guess  
3 now, personal, we send too many children -- we can  
4 just as much damage with sending children to the next  
5 grade who cannot perform and they struggle. This  
6 policy is designed at trying to get the resources,  
7 whether it's fiscal or human resources to those  
8 children. One other thing that's important, then I'll  
9 stop after this, because you probably need some time  
10 to talk back to us. One of the things that we have  
11 said, it benefits no one just to retain the child and  
12 to send the child through the very same program again.

13 That's why I mentioned earlier to you that our policy  
14 dictates that those children who are retained, or even  
15 if they are promoted and are below grade level, they  
16 have to have what is called a personalized education  
17 plan, much like an IDP. What then has to happen, the  
18 school has to look at that child individually and then  
19 begin to form or fashion or program that's going to  
20 address this child's deficiency. But just to send the  
21 child through the very same program, I would agree  
22 with you, would be of no benefit. So, you have to  
23 look at how you retain a child.

24 CHAIRPERSON BERRY: Let me just say -- you  
25 want to ask some questions?

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1 VICE-CHAIRPERSON REYNOSO: Not at this  
2 time.

3 CHAIRPERSON BERRY: Let me try to follow-  
4 up a little bit then I'll see if the Vice-Chair has  
5 any questions, because I have a lot of them. There's  
6 something rotten in Denmark and I don't know what it  
7 is in all of this discussion that we have been having  
8 here. I felt pretty good when we left the first  
9 panel. I felt, gee, everybody solved all these  
10 problems. This one guy was here and he solved most of  
11 them, now there's another guy and he's solved most of  
12 them, states solved most of them, and we were told by  
13 the staff, and one of the reasons why we we're here  
14 that North Carolina's done about 24 of 25 other things  
15 under NCLB, as you call it, "No Child Left Behind" and  
16 that was interesting to hear and then we'll see what's  
17 going on. And now I feel really awful, because there  
18 are a lot things that don't make sense here. The  
19 first thing that doesn't make, in looking at your  
20 recommendations -- could you please turn off your cell  
21 phone, whoever that is. Could everyone please turn  
22 off their cell phones. The recommendations of your  
23 Commission on Grades and Achievement, Closing Gaps,  
24 sounds terrific. If I were to read of it, how many of  
25 these have been funded throughout the state?

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1 MR. PITTMAN: It varies.

2 DR. BERRY; And how much money has been  
3 appropriate by the state to fund, for example -- if I  
4 want to go through, is there a publicly designed  
5 public information campaign initiated statewide, and  
6 how much money's put into that? Has there been a  
7 recommendation, you get my point. That if I were to  
8 read all of these recommendations I would find out  
9 that most of them probably haven't been funded or  
10 could not have funded at all. How about classroom  
11 teachers getting money to update their skills and  
12 getting paid under the contracts once during every  
13 four year period, is that funded?

14 MR. PITTMAN: No.

15 CHAIRPERSON BERRY: So we go down the list  
16 here, what we have is, with all due respect, I know  
17 it's not your fault, I'm not picking on you; pie in  
18 the sky. Nice sounding, but not being done. Even if  
19 we thought these things would do something. It says  
20 monetary incentives to identify high school and  
21 community college graduates who want to teach, put  
22 them in high-needs schools teaching areas which may  
23 not have anything to do with having the best quality  
24 teachers there, but I bet you there's not a big  
25 program funding that at the state level, is there?

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1 MR. PITTMAN: Not at this point.

2 CHAIRPERSON BERRY: That's right. I'm not  
3 saying it won't happen, but at this point it hasn't  
4 happened. Okay, then we have a report from Ms.  
5 Jenkins --

6 MR. PITTMAN: You want me to address those  
7 now?

8 CHAIRPERSON BERRY: Let me do all the  
9 pieces and then you guys can address them. The report  
10 on math that you did for us, you tell us after giving  
11 us all the good news, the bad news. About the chart  
12 you showed us and the information you gave us about  
13 the disadvantaged minority students, and then you tell  
14 us what we already know, that there is a shortage of  
15 highly qualified devoted, experienced, professional  
16 math teachers, which means you don't have enough just  
17 like nobody has enough. And then, what kind of  
18 support systems and resources and so on, is there some  
19 major funded initiative that I don't know about here  
20 in the state or in the city to fund the education of  
21 math teachers, to give incentives to people to come  
22 here from wherever they are to teach math and to go  
23 into these under under-performing schools and how much  
24 money is being put into that?

25 MS. JENKINS: Yes.

1 CHAIRPERSON BERRY: How much?

2 MS. JENKINS: I'll tell you I don't think  
3 it's enough, but the professional development  
4 institute we had last summer our district put 1.7  
5 million dollars in it.

6 CHAIRPERSON BERRY: Okay.

7 MS. JENKINS: They paid teachers their  
8 salary for their time that they came. We paid their  
9 tuition to UNCC so they could get credit, if they  
10 needed those credits and we paid for their materials;  
11 that's quite a commitment from a single district.

12 CHAIRPERSON BERRY: Are you talking about  
13 teachers who are teaching?

14 MS. JENKINS: Well, yes, the ones of  
15 Charlotte-Mecklenburg, the ones that we had to allow  
16 entry that hadn't had the credits to continue teaching  
17 who hadn't had the math credits to work towards  
18 licensure. But we also paid any math teacher who  
19 wanted to come and just upgrade their skills, if even  
20 they didn't need the tuition.

21 CHAIRPERSON BERRY: How about -- I'm  
22 talking about -- that's good -- how about teachers  
23 from elsewhere, not from Charlotte-Mecklenburg.

24 MS. JENKINS: This school --

25 CHAIRPERSON BERRY: Who did you attract to

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1 come to add to your pool? Do you have a program  
2 running to incentivize, or --

3 DR. PUGHSLEY: May I speak to that,  
4 please?

5 CHAIRPERSON BERRY: -- whatever it's  
6 called, people coming from somewhere else.

7 CHAIRPERSON BERRY: You may, please.

8 DR. PUGHSLEY: We have signing bonuses in  
9 place in the district for areas that we refer to as  
10 critical needs; math, science, EC, foreign language  
11 and then we pay a signing bonus of some \$2,000. We  
12 are already thinking about expanding that. I am now  
13 promoting the proposal that has a number of different  
14 components to it and has to do with recruiting,  
15 retaining and employing quality teachers.

16 CHAIRPERSON BERRY: And how successful has  
17 the \$2,000 -- how many new bad teachers have you  
18 gotten out of that?

19 DR. PUGHSLEY: I can't give you a count of  
20 the exact number. I can say to you that this year was  
21 the best year ever as it relates to the number of  
22 teachers that we had in place for the opening of  
23 schools. It was less than 1 percent of our vacancies  
24 of our teaching positions that were vacant when we  
25 opened schools here. But quantity is not the only

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1 focus. We have to focus on quality as well, and  
2 that's what we're attempting to do.

3 CHAIRPERSON BERRY: And -- but you don't  
4 know how many quality or quantity?

5 DR. PUGHSLEY: Oh, I can determine that.  
6 I don't have that information with me.

7 CHAIRPERSON BERRY: Could you provide that  
8 to us, please?

9 DR. PUGHSLEY: I'd be more than happy to.

10 CHAIRPERSON BERRY: And then us know also  
11 your new plan and how much incentive, what incentives  
12 are in it and so on, and how you compare with places  
13 across the country and are they all offering \$2,000 or  
14 are you ahead of the pack or behind the pack?

15 DR. PUGHSLEY: Well, I can tell you that  
16 we're not ahead of the pack.

17 CHAIRPERSON BERRY: Oh.

18 DR. PUGHSLEY: We need to do a great deal  
19 more.

20 CHAIRPERSON BERRY: I see.

21 DR. PUGHSLEY: But we do -- we have  
22 programs in place. If I may continue.

23 CHAIRPERSON BERRY: You may, but I have  
24 another question that I want made and maybe you can  
25 address all of it at once. In your written testimony

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1 you tell us about the progress been made in CMS, but  
2 then on the "No Child Left Behind" legislation you  
3 have a number of points of serious concerns about it  
4 in your written testimony. And I read the serious  
5 concerns and it seems that on many measures it is  
6 inconsistent with your program in Charlotte-  
7 Mecklenburg. In other words, there are grave  
8 inconsistencies between what you're already doing,  
9 which seems to be working, as far you tell us as we  
10 can understand, or it's mostly working or it's working  
11 to reduce some of the gaps, large numbers of them and  
12 "No Child Left Behind" according to the testimony.  
13 And in many ways it may trip you up, and delay  
14 progress in some fronts. Am I reading your testimony  
15 correctly?

16 DR. PUGHSLEY: Well, if you'd point out  
17 the inconsistency, it might be helpful.

18 CHAIRPERSON BERRY: Okay. You seem to  
19 have about -- raises serious concerns. I'm reading  
20 for us, on page four. Absence of responsibility of  
21 student and parent in the community in educating the  
22 students. Shows you have a balance in testings, your  
23 schools may be judged on percent of students that show  
24 up for tests, and you don't think that's good, a  
25 single baseline for average performance, all need to

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1 be held to this standard this very first year without  
2 adequate time, and all the years and efforts you've  
3 been making, what purpose does it serve to label a  
4 school low performing when it achieves almost all of  
5 its goals, and misses only one, having to do with  
6 tests. I'm just reading all these things that are  
7 problems. It's better instruction, achievement, and  
8 it doesn't say, you know, how to do anything about  
9 NEA, flexibility, all of this is in your -- where we  
10 get the resources. So what I'm trying to find out,  
11 after having said all that, why do you begin by  
12 saying, it is a wake up call, "No Child Left Behind"  
13 is a wake-up call for many in education. The notion  
14 that children can learn is the school's responsibility  
15 -- why do you think it's so great. You're already  
16 doing all this stuff, North Carolina, in Charlotte  
17 which I will accept that you're doing and much of it  
18 is working, and then you got these things that are  
19 problematic, why do you need a wake up call?

20 DR. PUGHSLEY: Well, I don't think that  
21 "No Child Left Behind" is a perfect piece of  
22 legislation, first of all. But certainly conceptually  
23 I'm in agreement with it, and yes, in fact we are  
24 doing quite a few of those in North Carolina. In  
25 fact, I believe we served as a model for it. Let me

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1 speak to one point, if you will, having to do with  
2 when there's one situation that causes a school to be  
3 determined to be low performing. Recently, it was  
4 determined here in North Carolina that the  
5 comprehensive tests for math and reading be put back  
6 in place when, in fact, prior to this time, prior to  
7 "No Child Left Behind", that was taken out so that we  
8 could reduce the amount of testing that was taking  
9 place. But on the basis on that one test, a school  
10 could be declared low-performing. Now, I think that  
11 that's a difficulty that we are now faced with that we  
12 didn't have previously. But the concept itself does  
13 remain good, in my mind.

14 CHAIRPERSON BERRY: But you already had  
15 that concept here, even before the law was passed.

16 DR. PUGHSLEY: That's right. And I think  
17 it's because of that concept that North Carolina, and  
18 Charlotte-Mecklenburg in particular, have been able to  
19 move its population forward, in terms of student  
20 achievement.

21 CHAIRPERSON BERRY: Okay. All right. Let  
22 me ask, my last question is what about school  
23 resegregation? You were talking about choice plans.

24 DR. PUGHSLEY: Yes.

25 CHAIRPERSON BERRY: And you read some

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1 stuff about it and you said that some people said it  
2 resegregates schools, but the you believed that  
3 parental choice was really important or words to that  
4 effect. And, you have had some significant progress  
5 in the gap-closing area here. Do you think school  
6 desegregation is relevant to the effort to improve  
7 education or do you think it's a distraction.

8 DR. PUGHSLEY: I think it's relevant. If  
9 I have my druthers, we would be desegregating schools,  
10 rather than resegregating schools.

11 CHAIRPERSON BERRY: But you don't have  
12 your druthers, is that the point?

13 DR. PUGHSLEY: No, I don't.

14 CHAIRPERSON BERRY: And to Mr. Pittman who  
15 said that there were a lot of things to learn from  
16 black schools, according to this commission, and the  
17 commission has asked for a history of work of Indians  
18 and Af-Am's. Is that funded, is that study underway?

19 MR. PITTMAN: Part of it, yes.

20 CHAIRPERSON BERRY: Who's doing it, do you  
21 know?

22 MR. PITTMAN: Our agency, and we're  
23 looking at some external systems from our university  
24 system.

25 CHAIRPERSON BERRY: I see. But it's

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1 underway?

2 MR. PITTMAN: Yes. Let me just address  
3 the issue of funding. When the commission did its  
4 work, one of things that they decided up front, is  
5 that they were not going to let funding dictate what  
6 they thought would address the root causes of this  
7 gap. If you read the entire report, that's why I gave  
8 you a copy of the entire report, when you give people  
9 just the letter of recommendation and read the letter  
10 of recommendation and then they say this is pie in the  
11 sky. If you read the report thoroughly, what it says  
12 on the first five pages, is much of this gap closing  
13 can be done without money. There's some things that  
14 are called belief systems, there's some things called  
15 expectations, there's some things called building  
16 relationships with students that don't cost money.  
17 Now just as quickly as I say that, certainly there are  
18 some things in that plan that are expensive and will  
19 require some money. But the foundation of this  
20 report, if you read those first opening pages, really  
21 deals with belief systems and how we as educators and  
22 how parents feel about how students can achieve.

23 CHAIRPERSON BERRY: Well, let me ask you,  
24 just about teaching. In "No Child Left Behind" and  
25 then in policy statements made by people in the

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1 Education Department, there seems to be the belief  
2 that teachers don't necessarily need to be educated in  
3 how to teach. If I understand it correctly, that the  
4 old battle and struggle that's been going on for years  
5 about whether you need schools of education and is  
6 there something they teach and is there something  
7 about, you know, how to teach as opposed to  
8 substance, that it seems -- the battle seems to be won  
9 by those who say that what teachers really need is  
10 content. And we have long said, people who study  
11 education issues, said that there are some people who  
12 know how to teach and don't know anything and there  
13 are a lot people, who know a whole lot and can't  
14 teach, and then that the real desire is try to get  
15 somebody who could do both. Has the balance now  
16 shifted to looking at subject matter content and not  
17 being worried about whether the people can teach and  
18 while I wasn't paying attention, has that become the  
19 new received wisdom among people who run school  
20 systems and are we looking for these quality teachers  
21 who are going to be in every classroom, by how soon is  
22 it, every class is going to have a quality teacher by  
23 --

24 MR. PITTMAN: Five years.

25 CHAIRPERSON BERRY: In five years. Are

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1 these going to subject matter, prepared teachers  
2 taught without teaching credentials from, you know,  
3 internships, what is that, practice teaching or  
4 whatever that is, stuff that they teach in schools of  
5 education, and are they going down the tubes? And is  
6 North Carolina prepared to shut down its schools of  
7 education and its institutions or what's going on  
8 here, does anybody know? Let's have the  
9 Superintendent answer first.

10 DR. PUGHSLEY: Well, let me say this --

11 CHAIRPERSON BERRY: Sure.

12 DR. PUGHSLEY: Charlotte-Meck is looking  
13 for fully certified teachers who are graduates with  
14 college-level education.

15 CHAIRPERSON BERRY: Okay. All right.

16 DR. PUGHSLEY: And as far as content, we  
17 want them to be as strong as possible. Now we have  
18 content coaches in our secondary schools and they work  
19 primarily with first year teachers and some lateral  
20 entry teachers that don't know how to handle the  
21 subject matter. So, you know bottom line, we want  
22 fully certified teachers from colleges of education.

23 CHAIRPERSON BERRY: Okay. Yes, Mr.  
24 Pittman, did you want to say something?

25 MR. PITTMAN: And just in addition to

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1 that, I mentioned earlier in recommendation number  
2 five, it talks about the teachers having to have  
3 knowledge, skills, but the piece that missing so often  
4 is the disposition to work with adverse learners to  
5 get them to become successful. You can be very smart  
6 in the content area, and you can have all of the  
7 instructional strategies, but if you don't believe  
8 that certain children can learn, I'm not sure if  
9 you're going to teach that child in such a way that  
10 the child will learn. So I think a very important  
11 component is the teacher's disposition and we also  
12 have referenced the fact that teacher ed programs in  
13 North Carolina need to have people working in the  
14 teacher ed programs who also have knowledge, skills  
15 and dispositions. Because if, in fact, at the college  
16 level if you're working with students for three and  
17 four years and as the person working with that  
18 potential teacher you've not set foot in a diverse  
19 classroom in years or ever, and you yourself don't  
20 have a disposition that poor children can learn the  
21 standard course of study, we are afraid that when  
22 those teachers come to those classrooms in Charlotte-  
23 Mecklenburg, they may bring that same baggage with  
24 them. So we're saying that we need to work very  
25 collaboratively with the university system to make

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1 sure that they, too, take on this whole issue of  
2 working with diverse learners.

3 CHAIRPERSON BERRY: Ms. Hawkins. Ms.  
4 Hawkins was trying to talk.

5 VICE-CHAIRPERSON REYNOSO: Well, I wanted  
6 to say a couple of things. One that I've been very  
7 impressed by the progress that's been made in both  
8 states, and so I would hate to have our discussion in  
9 the last half-hour or so detract from that. I can't  
10 help but compare what's been happening here with my  
11 own state of California, where we see the figures that  
12 indicate there's been quite a bit of progress the last  
13 two, three or four, generally, in education. And yet  
14 that doesn't mean that we should withdraw from the  
15 problems that we see even as we see that progress. I  
16 guess one of the problems with the discussion we've  
17 been having is that, now we've been dealing with the  
18 ideals that we have and obviously we're not quite  
19 there, I can't help but think of one of my daughters  
20 who has a child who's partially autistic, mild autism,  
21 and she's had a terrible time trying to get schools to  
22 deal with that issue. But she's smart enough to know  
23 the rights that she has, so then has to make demands,  
24 for example, the child be sent to private school, then  
25 all of sudden she discovers there is a public school

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1 program for her and I keep wondering what happens to  
2 those who don't make that demand. Or another school  
3 teacher daughter that I have who has children, her own  
4 children who are slow on reading and she knows from  
5 her own experience that subject matter will be taught  
6 to the reading ability of the child, but she knows  
7 that their interest is age specific as she says, not  
8 reading capabilities, so she's been doing home-  
9 schooling for the last few years for example. So, we  
10 have a lot of problems even as we make progress. And  
11 we've been dealing with many of the problems here, so  
12 I'm just concerned that none of you take the tough  
13 questions that have been asked as not recognizing  
14 tremendous work that has been done in the local school  
15 district and in those states. Nonetheless, we  
16 obviously have a continuing responsibility to put  
17 pressure on the state legislature to provide the  
18 resources that are needed. It's not impossible, it  
19 seems to me, to encourage folk to become math  
20 teachers, but it takes incentives. It takes a  
21 statewide, even a nationwide program to do that and  
22 perhaps with the discussion that we've had the last  
23 few minutes just reminds us that we've made a lot of  
24 progress, but we have a long ways to go. So, I just  
25 wanted to thank you for the frankness of the

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1 discussion.

2 CHAIRPERSON BERRY: Yes. All right. We  
3 want to --

4 COMMISSIONER EDLEY: May I -- since I may  
5 be a source of so much of the unpleasantness, I don't  
6 want to look like -- I don't want to leave without  
7 being unpleasant just a little bit more. First I want  
8 to say, I think that -- I suppose what I find  
9 troubling as I look around the country is that in so  
10 many of the districts and states that have implemented  
11 high-stakes testing they quite knowledgeably identify  
12 15 ingredients for closing achievement disparities,  
13 from looking at the resources to looking at the  
14 quality of teachers to looking at expectations, such  
15 as -- and number 15 of course, is that high-stakes  
16 accountability for the students. But the difficulty  
17 is that of those 15, the only one that you can be sure  
18 is going to be implemented is number 15.

19 CHAIRPERSON BERRY: And that's true.

20 COMMISSIONER EDLEY: But the problem with  
21 that, and the problem with the expectations issue or  
22 the teacher credential issue or the whatever is that  
23 they maybe it's there, maybe it's not, partly there  
24 and just need more appropriations, whatever it is.  
25 And I find that deeply troubling, especially,

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1 especially, when the high-stakes testing has a  
2 disparate impact that burdens the communities that  
3 have the least political power to defend themselves.  
4 Second, I just want to observe that, Mr. Pittman, on  
5 just the small statement that you made in passing that  
6 it may be that when you promote somebody, promote a  
7 student to the next grade if they're not prepared for  
8 it, that it can lead equal or even more trouble than  
9 retaining them in grade. Well I just want to suggest  
10 to you sir, that that is, while I recognize there's a  
11 substantial amount of classroom teacher focus to that  
12 point, and it certainly may be a widely held political  
13 view, it's not borne out by the research literature,  
14 which is clear about the greater educational loss to  
15 the student of promoting them as opposed to retaining  
16 them. And just as it is possible to argue that we'll  
17 retain them, but there will be all kinds of  
18 interventions and it's going to be a brave new world,  
19 it's also possible to say, we'll promote them, but  
20 there will be all kinds of support and enrichment to  
21 help them catch up. So I'm just saying I think that  
22 there may be a difference here between the folk wisdom  
23 and the research and literature. I hope we could all  
24 agree that education policy ought to be as driven as  
25 much as possible by the science when it's available.

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1 Finally, there's been a lot of discussion, as there is  
2 everywhere, about the importance of parental  
3 involvement and community engagement, and I'm sure we  
4 can all agree that those are important ingredients and  
5 they ought to be on the list of 15. But I just want  
6 to make sure I didn't misunderstand anybody, I guess I  
7 put this particularly to Mr. Pittman and to the  
8 Superintendent, do either of you mean to suggest that  
9 if in the case of a particular student or a particular  
10 building that parental involvement, that community  
11 engagement is missing that somehow the system, the  
12 leaders in the system, the educators are off the hook  
13 for delivering world class opportunities to children?

14 DR. PUGHSLEY: I don't think --

15 MR. PITTMAN: I don't think --

16 COMMISSIONER EDLEY: You didn't mean to  
17 suggest that?

18 MR. PITTMAN: I don't believe I even came  
19 close to saying that.

20 COMMISSIONER EDLEY: No, no -- I just  
21 think it's important to underscore that while we  
22 champion the value of having those things, we still  
23 feel as though we have an obligation to each child  
24 even if their circumstances are such that that kind of  
25 support system isn't available for that child, but you

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1 would agree with that?

2 MR. PITTMAN: I would. But I would like  
3 to ask if there's something that I said, that would  
4 even bring one to --

5 CHAIRPERSON BERRY: Now, don't go there.  
6 Just say you didn't say it and didn't mean it.

7 COMMISSIONER EDLEY: You know there's  
8 always finger pointing, you know it's not up to us,  
9 it's up the parent, or it's not up the us, it's up to  
10 the social services system or something like that, and  
11 I think that's not what we're about, we're about  
12 accountability and producing the perfect child.

13 VICE-CHAIRPERSON REYNOSO: The problem  
14 very often is truly systemic. If the school district  
15 doesn't have the resources, they can't implement many  
16 of those 15 points, but they can implement not  
17 elevating the kids, not letting them graduate and that  
18 becomes the easiest thing to do. And sad to say I've  
19 seen that happening in my own state, and I think I see  
20 it happening other states and that turns out to be a  
21 disservice to the very students that we aim to help,  
22 and so many of us have real concerns about that aspect  
23 of it. That's one thing that the local school  
24 district does have control over. They don't have  
25 control over whether the legislature will actually

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1 give them the money to do the things that they need to  
2 do, and for political reasons in my view, then they  
3 will actually implement that, where as they don't have  
4 the political power to make sure that the other good  
5 things happen. We have to be a little bit careful  
6 about that, and I think that's the point that's being  
7 made.

8 CHAIRPERSON BERRY: As we close this,  
9 because we're out of time and as my colleagues have  
10 said, politically the easiest things to do are to  
11 either say you don't need to throw money at the  
12 problems because throwing money at problems doesn't  
13 help, that's politically easy to do. And then the  
14 point -- all the good things you could do if you  
15 didn't have any money. Another politically easy thing  
16 to do when that doesn't work is to stay well the  
17 teachers are just crummy, you know, they've been  
18 around, they're lazy and they don't do what they ought  
19 to do, we've got to have more teacher accountability,  
20 that's politically easy; depending on how strong your  
21 teachers are in the state and who they vote for. The  
22 third thing that is politically easy and the easier  
23 thing of all is to blame the kids which is the what  
24 Commissioner Edley is talking about. Blame the kids.  
25 And when you blame the kids -- as he was talking I

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1 was thinking, suppose my physician told me to lose  
2 weight and he was going to weigh me every week to see  
3 if I did, and that I was supposed to be on a diet to  
4 do this and then somebody locked me up in a place that  
5 I had to go where all they fed me was biscuits and  
6 gravy and all kind of things --

7 COMMISSIONER EDLEY: All those good  
8 things.

9 CHAIRPERSON BERRY: -- and I was eating  
10 and then all they did is at the end of the week is  
11 weigh me to see if I lost weight, and then say a ah-  
12 hah, you didn't lose weight again. And then I said  
13 well gee, but there's not fruit, there's no any of  
14 this and then everybody just pointed to me and said I  
15 didn't lose weight. Well, that's what you do to kids,  
16 when the kids said -- Commissioner Edley says, I'm not  
17 responsible for what's happening to them, when  
18 everyone knows what they should be doing to them.  
19 That all you do is just measure and said a ah-hah,  
20 they didn't learn, kick them out, ah-hah they didn't  
21 learn. Well, I already know they won't learn and you  
22 already know it too. Nobody's picking on anybody in  
23 particular, but we all know that as adults and so it's  
24 okay to have "No Child Left Behind", I have in my time  
25 running education and doing education seen so many

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1 different pieces of legislation and so many speeches  
2 from "Nation at Risk" to gosh knows what, I've  
3 forgotten, and I was present at creation of the  
4 Education of All Handicapped Kids Act; followed that.

5 And so, rhetoric is good, policy statements are good,  
6 analyses are good, commissions are good, all these  
7 things are good, leadership is good. But until we  
8 really start to do what we know needs to be done, your  
9 job is going to be hard and everybody's job will be  
10 hard. We thank you very much for coming and we have  
11 to adjourn this now and we'll reconvene at one-thirty.

12 Thank you.

13 (WHEREUPON, A RECESS WAS TAKEN.)  
14  
15  
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25 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

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(1:30 P.M.)

1  
2 CHAIRPERSON BERRY: We'll start off with  
3 the panel on Accountability Measures. We have had a  
4 very interesting morning here listening to issues and  
5 problems relating to "No Child Left Behind." I'm not  
6 calling it NCLB yet, Christopher. I'll think of some  
7 other thing to call it, and every time I think of it,  
8 I think of the Children's Defense Fund and how that's  
9 been their trademark all these years. A lot of people  
10 don't know that and that's where that name came from.

11 In any case, let me ask the sign interpreter to ask  
12 if anyone requires sign interpretation; I keep  
13 forgetting to do that. Not at this time, we'll try  
14 this later.

15 This is the third panel of the education  
16 reforms. I notice the witnesses are already seated  
17 and I want to thank you for coming to talk about the  
18 various rewards and sanctions aimed at improving  
19 student performance and our first panelist will be Dr.  
20 Helen Ladd, who is Professor of Public Policy Studies  
21 and Economics at Duke University. Her current  
22 research focuses on education policy and she is the  
23 editor of Holding Schools Accountable: Performance  
24 Based Reform in Education; Brookings Institution, '96  
25 and is co-author with Edward Fiske of When Schools

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1 Compete: A Cautionary Tale, from Brookings in 2000.  
2 She is also focused on North Carolina and participates  
3 in a consortium of university educators working to  
4 assess North Carolina's education reform. Welcome.

5 And we have Mr. Evan Myers, who has been  
6 principal of Tyro Middle School in Davidson, North  
7 Carolina for the past seven years. Mr. Myers spent  
8 six years as a social studies teacher and coach at  
9 Ledford Senior High School, and nine years as  
10 Assistant Principal at East Davidson High School,  
11 subsequently he was principal at Davidson County  
12 Extended Day School before he came to Tyro. He is on  
13 the Boards of National Association of Secondary School  
14 Principals and the North Carolina Principal and  
15 Assistant Principal Association. He is also a member  
16 of the State Superintendent's Principal Advisory  
17 Committee. He was educated at North Carolina  
18 Agriculture and Technical University and at the  
19 University of North Carolina, Chapel Hill.

20 Ms. Margaret Carnes is Managing Director  
21 of the Charlotte Advocates for Education and she  
22 served since June, 2001 in that position, which was  
23 formerly the Charlotte-Mecklenburg Education  
24 Foundation. What happened to Mecklenburg? Anyway,  
25 she was an active member of the Charlotte-Mecklenburg

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1 schools PTA council for 10 years and served as its  
2 president. She served also as a consultant for  
3 Reading Compact Project, a parent-teacher  
4 administrator and community initiative for improving  
5 and sustaining literacy achievement. She was chair  
6 for Curriculum and Equity Committee for Advantage  
7 Carolina CMS Partners for School Reform and helped to  
8 create the high achievement levels for all kids  
9 programs, and she's on several state level education  
10 committees and is among 72 national reading and  
11 education experts recently appointed to the Reading  
12 First review panel.

13 Dr. Gary Sykes comes to us from East  
14 Lansing, the green and white, the State of Michigan,  
15 Professor of Educational Administration and Teacher  
16 Education College of Education in Michigan State  
17 University. He specializes in educational policy  
18 relating to teaching and teacher education. His  
19 research interests center on policy issues associated  
20 with the improvement of teaching and teacher  
21 education, on the development of leadership  
22 preparation programs, and on educational choice as an  
23 emerging policy issue. He is co-author with Linda  
24 Darling-Hammond of the publication Meeting the Highly  
25 Qualified Teacher Challenge: Developing a National

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1 Labor Market for Teachers. We will being today with  
2 Dr. Ladd; please proceed.

3 DR. LADD: Thank you very much for giving  
4 me the opportunity to talk with you today. Most of my  
5 discussion will be based on the North Carolina ABC's  
6 program about which I've been doing quite a bit of  
7 research, but I also bring insights from my knowledge  
8 of accountability systems in other states. I'd like  
9 to make four main points. The first one is that North  
10 Carolina's ABC's program is really quite a  
11 sophisticated and well-designed accountability system  
12 especially compared to those in other states, and I'm  
13 sure you're aware of this and that's one of the  
14 reasons you're here in this state. But I'd like to  
15 spell out some of the reasons I think that's true.  
16 First, North Carolina has a statewide curriculum.  
17 It's had a state wide curriculum for many years so it  
18 has made a clear statement of what it wants children  
19 to know and be able to do. Second, the state's tests  
20 or assessments, which were introduced 10 years ago,  
21 are aligned with that state curriculum and that  
22 alignment is extremely important. As a result,  
23 teachers know what's expected of their students and  
24 have strong incentives to teach that state curriculum.  
25 Moreover, the end-of-grade tests which are given in

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1 math and reading every year for students in grades  
2 three through eight are reported on a developmental  
3 scale, so it is possible to look at gains and  
4 achievement from one year to the next. And that  
5 ability to look at annual gains of individual students  
6 makes this really a very important component of the  
7 system. Third, until recently the program has focused  
8 on holding schools, rather than individual students  
9 accountable, and this way the state has tried -- has  
10 been trying to change the behavior of the adults in  
11 the system before it has put pressure on the students,  
12 and I think that's an extremely important complement  
13 of an accountability system. Forth, in measuring the  
14 effectiveness of individual schools, North Carolina  
15 places a lot of emphasis on the gains in learning for  
16 the same groups of students from one year to the next.

17 So it really has tried to develop a value-added type  
18 approach, so it's been trying to measure the  
19 contributions of the schools to student learning. The  
20 alterative of focusing levels of student -- on levels  
21 of student performance such as, for example, average  
22 test scores or percentages of students at or above  
23 grade level would excessively privilege schools who  
24 are serving students from more advantaged backgrounds,  
25 and I'm sure you're well aware of all the evidence

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1 that shows the correlation between test scores and  
2 student background. So North Carolina's focus on  
3 gains is preferable to that. It's also preferable to  
4 the method used in some other states of comparing test  
5 scores of, say, students in fifth grade one year with  
6 the test scores of students in the fifth grade the  
7 next year. That measure is problematic as a measure  
8 of accountability because the gains in student  
9 learning are confounded by the changing mix of  
10 students in the grades from one year to the next, so  
11 North Carolina's approach is not subject -- does not  
12 have that problem. Fifth, under the North Carolina  
13 system any school can be deemed exemplary. Schools  
14 are not competing against each other for the category  
15 of exemplary school. In effect each school is  
16 competing against itself. A school is deemed  
17 exemplary if it more than meets its growth standard,  
18 but it meets its growth standard by more than 10  
19 percent and as you're probably aware the teachers in  
20 schools that are deemed to be exemplary receive  
21 bonuses of \$1500. The sixth characteristic is that  
22 low performing schools, those schools officially  
23 labeled as low performing are defined both by growth  
24 standard and a performance standard. Any school with  
25 less than 50 percent of its students at grade level,

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1 that's the performance level, and which does not meet  
2 its growth standard, which is expected growth given  
3 the students it serves, is officially labeled low  
4 performance schools and those schools are the ones  
5 that receive increased scrutiny and attention from  
6 state assistance people. The second point I want to  
7 make is based on my surveys of school principals,  
8 elementary school principals, during the summers of  
9 1997. There were two waves of the survey, one is in  
10 1997, which is right at the end of the first year of  
11 the accountability system, and again in 1999, and the  
12 point here that emerges from these surveys is this  
13 ABC's program, this accountability system of North  
14 Carolina has been a very powerful tool for changing  
15 the behavior of this one set of key adults in the  
16 system; school principals. The surveys show first  
17 that the principals in North Carolina generally  
18 supported the goals and objectives of the ABC's  
19 program. Over 60 percent had a positive view and  
20 about 20 percent had a neutral view and 19 or 20  
21 percent had a negative view. This positive attitude  
22 toward the program I think is important, and I think  
23 reflects or it's largely attributable to the strong  
24 educational leadership on the part of the government,  
25 the governor of the state and the state's efforts to

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1 communicate with local school officials, and it didn't  
2 happen overnight. North Carolina introduced this  
3 ABC's program after -- as a part of decade long  
4 movement under Jim Hunt and others to reform education  
5 in the state. Now the surveys do show that the ABC's  
6 program changed the behavior of school principals in a  
7 number of important ways. The school principals  
8 increased the use of the end-of-grade tests for the  
9 purposes of diagnosing problems with student learning.

10 The principals increased the -- or they developed new  
11 extra-curricular programs that focused on math and  
12 reading which was at the heart of this program. They  
13 spent --the principals spent more time with teachers  
14 in the classroom working on instructional sorts of  
15 issues and finally, the ABC's program encouraged the  
16 principals to put a greater focus on math and reading  
17 in some of the other subjects taught in schools. Now  
18 all of those changes that I just mentioned that we  
19 documented on paper that I've distributed to you seem  
20 to be fully consistent with the state's goals of  
21 trying to improve achievement in reading and math.  
22 Now there are other things that principals did as  
23 well. There is evidence that they redirected some  
24 resources from other subject areas toward math and  
25 reading, and they did put more focus on the teaching

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1 of test-taking skills. And we can agree or disagree  
2 about the desirability of these changes, but  
3 nonetheless, those changes did occur. Now, one point  
4 I want to emphasize is the incentives of the ABC's  
5 program were sufficiently strong to induce even those  
6 principals who didn't agree with the basic goals of  
7 the ABC's programs to change their behavior. So in  
8 the 1997 wave of survey results we found that those  
9 principals who were fully supportive of the goals had  
10 undertaken a lot of these changes and moved  
11 aggressively to implement some of them. But by 1999  
12 all principals or most principals had whether or not  
13 they supported the goals, so it is, the incentives  
14 built in are strong. Within schools principal  
15 overwhelmingly said they focused new attention as a  
16 result of the program on the low performing students.  
17 Some of the principals said they focused additional  
18 new attention on high performing students. The group  
19 that seems to have been left out or that didn't get  
20 any new attention or less attention was the group at  
21 the middle of the distribution who were at grade  
22 level. From some of the responses to the open-ended  
23 questions on our telephone surveys, we learned that in  
24 some cases principals did have access to some  
25 additional funding that they could use to assist the

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1 lower performing students. But in many cases it  
2 appears that school principals had to shift resources  
3 from other activities or other groups of students or  
4 had to ask teachers to "volunteer" hours after school  
5 or on Saturdays working with these students. The  
6 third point I'd like to make is that despite all the  
7 good characteristics of this ABC's program that I've  
8 already mentioned, the program has had the unintended  
9 effort of making it more difficult for low performing  
10 schools, broadly defined low performing schools, not  
11 just those officially labeled as low performing to  
12 retain teachers. This conclusion emerged in suggested  
13 form from the 1997 and '98 surveys that I mentioned,  
14 but it has emerged much more thoroughly in recent work  
15 that I've been doing, of an empirical nature looking  
16 at all teachers throughout the state, and I see the  
17 yellow light is on, so I don't have time to tell you  
18 much about this. But we are finding reasonably clear  
19 evidence that the schools that are low performing that  
20 after the accountability system are finding it harder  
21 to retain teachers and this is based on comparisons of  
22 cohorts of teachers and then some pretty sophisticated  
23 hazard models based on the skills of individual  
24 teachers. So we can go into that more in the question  
25 and answer session if you would like. The point here

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1 is there's no doubt that any school-based  
2 accountability system is going to provide incentives  
3 for teachers to move from one school to another in  
4 search of the bonuses or in hopes of getting bonuses  
5 or public recognition. The problem arises when this  
6 movement of teachers is away from schools serving  
7 large proportions of disadvantaged and low performing  
8 students to other schools. North Carolina's system is  
9 designed to minimize some of that because of its focus  
10 on gains, but nonetheless it still happens. Let me  
11 now turn to my last point which is just a summary of  
12 four lessons that I think emerged from my  
13 investigation of North Carolina's accountability  
14 system and my knowledge of other states. First is the  
15 need for caution. High-states accountability systems  
16 can be powerful tools to change behavior, that's what  
17 I was emphasizing as I talked about the principals.  
18 To me that means the policy makers need to use them  
19 cautiously. I like the image presented by Tony Bright  
20 and Kim Hermanson of education and schools being like  
21 a rich tapestry, and one of the problems with an  
22 accountability system is you may be pulling on just a  
23 couple of strands in that tapestry and in the process  
24 what you're doing is introducing distortions and  
25 stresses and constraints. The second point is the

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1 lesson that comes out of this is the importance of  
2 context. To the extent that North Carolina's  
3 accountability system has been successful in raising  
4 student achievement, and my own view is based on the  
5 evidence is that it has been relatively successful,  
6 that's attributable largely to the fact of the  
7 accountability system is embedded in a much larger  
8 system of educational reforms that I alluded to  
9 earlier. The third lesson that comes from this is the  
10 unintended side effects, and the one that I've  
11 emphasized my comments here are the movement of  
12 teachers away from the lower performing schools in  
13 other sessions and later this afternoon we'll hear  
14 other unintended side effects. But even the best  
15 designed system has these effects and one needs to pay  
16 attention to them. And finally, I'd like to end on  
17 the note that you ended the previous panel on and  
18 that's the need for adequate resources. The logic of  
19 accountability systems presupposes the districts and  
20 schools have adequate resources to meet the needs of  
21 the students they serve. And that's an important  
22 point here that adequate resources for disadvantaged  
23 students or the amount of resources needed to educate  
24 disadvantaged students are likely to be greater than  
25 those for other students because such students come to

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1 school less ready to learn in many cases. In the  
2 absence of adequate resources in the professional  
3 capacity within a school, it's neither fair nor  
4 appropriate to hold teachers or students accountable  
5 for ambitious educational outcomes. Thus, in my view  
6 any effort to use accountability to promote better  
7 educational outcomes must be closely linked to school  
8 finance reform efforts designed to assure that all  
9 schools have the resources and the capacity needed to  
10 carry out the tasks for which they are being held  
11 accountable. Thank you.

12 CHAIRPERSON BERRY: All right. Thank you.  
13 Any questions? Mr. Myers, please.

14 MR. MYERS: Thank you, ma'am. My name is  
15 Evan Myers, I am principal at Tyro Middle School in  
16 Davidson County. We're located in the Piedmont  
17 section, North Carolina; we are a rural community. I  
18 am here today to speak to you and I'm going to  
19 piggyback a little bit on what Dr. Ladd was saying,  
20 because I'm going to talk a little bit specifically  
21 about an individual school because I am the  
22 instructional leader of that school. I am the person  
23 that's got to take the accountability regulations,  
24 bring it down to the school, sit down with my  
25 teachers, address the issues, talk to my community, my

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1 parents.

2           And the key thing, Madame Chairperson and  
3 committee, is communication. We ensure to make sure  
4 that everybody -- that all the stakeholders are  
5 involved in the decision making and also being able to  
6 communicate what needs to be done. Because a child's  
7 education is not the school's responsibility; it is  
8 everybody's responsibility. It is the school, the  
9 community, the parents. It is everybody's  
10 responsibility.

11           Today, let me say this, and you've heard  
12 about the North Carolina model, and I have looked at  
13 other models throughout the country. I have a good  
14 communication amongst principals throughout this  
15 country, and I can say this, that North Carolina's  
16 model, and of course it is a growth model and also  
17 it's a performance model, it's proven that it works.

18           Let me talk to you a minute about -- a  
19 little bit about the growth model itself. Like Dr.  
20 Ladd had said, we're taking individual students rather  
21 than large number of students. We're looking at that  
22 individual student, and basically the responsibility  
23 is that that child should be -- a year's growth equals  
24 a year's of instruction; that's the key. That  
25 individual student, a year's growth is equal to a year

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1 of instruction.

2 And, so we're looking at the individuals,  
3 but also, we're looking at performance too. We're  
4 looking at the individual, we're looking at the total  
5 picture too, of the individual school. As it's  
6 already been said, a child that reaches Level III on  
7 the end-of-grade test is classified as being at grade  
8 level.

9 And also let me say this, we talk about  
10 the test, but the key, like Dr. Ladd had said, the key  
11 though is that North Carolina has a standard course of  
12 study. Our teachers teach that standard course of  
13 study whether you're in kindergarten all the way up to  
14 a senior in high school. Every course has a standard  
15 course of study. A set of goals that that child  
16 should learn during that period of time that they're  
17 in that particular grade level.

18 Now then. Let me talk to you a little bit  
19 about the award system, and that's something that we,  
20 according to this panel, need to discuss. In North  
21 Carolina, and this has changed, as we get better and  
22 it seems we're not, everything's not set in stock,  
23 you're capable -- we've got flexibility where a state  
24 board made some changes from time to time. This past  
25 year the State Board of Education had its schools of

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1 excellence, and we've had schools of distinction based  
2 on performance. School of excellence is one of -- a  
3 school 90 percent of their student body is performing  
4 at grade level, a school of distinction is performing  
5 80 percent.

6 Well, this has changed. We have as now,  
7 to be recognized as a school of excellence and a  
8 school of distinction, the only thing you've got to  
9 meet your performance goals of 90 percent and 80  
10 percent, but you also got to make your growth levels.

11 Also, it has already been said, those  
12 schools that are classified as low performing are  
13 given assistance teams. And these assistance teams  
14 are made up of teachers that go into these schools,  
15 work with other teachers that -- and develop  
16 instructional strategies that best meet the needs of  
17 that particular school's students. You got to realize  
18 folks, every school is different. Every student  
19 population is different. One shoe does not fit all.  
20 So you've got to design your instructional program  
21 that best fits the needs of the individual kids within  
22 that building.

23 Also, there's some monetary rewards in  
24 North Carolina that the -- and this is changing too  
25 with "No Child Left Behind". The state board has

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1 passed and will ask the state or the state general  
2 assembly this year to revise the reward, the monetary  
3 reward system for licensed personnel and also teacher  
4 assistants in individual schools that meet their  
5 growth goals, that meet their adequate yearly progress  
6 goals. That would mean that if a school meets its  
7 growth goals, every licensed teacher or personnel in  
8 that school will receive \$600, every -- if they meet  
9 their high growth goals, they've changed the  
10 terminology, it's not exemplary anymore, it's high  
11 growth, and that will be \$600 for that.

12 And then with the new -- the latest thing  
13 to come down the pike, of course, is with "No Child  
14 Left Behind" the average yearly progress of the school  
15 and that would be an additional \$600. So what we're  
16 going to have now is, as Dr. Ladd said, \$1,500 has  
17 been going on with the exemplary high growth schools,  
18 and now we're going to add a little bit more to it to  
19 entice -- or to show a reward for our licensed  
20 personnel in our schools with an additional monetary  
21 amount made at yearly progress. And then when teacher  
22 assistants it's going to be \$300 blocks.

23 But let me remind you, this is pending.  
24 The State Board of Education has approved this, but  
25 they approved it with the understanding that it's not

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1 funded; the state general assembly will be asked to  
2 fund this.

3 I've read many articles on "No Child Left  
4 Behind". Since I was asked to appear on this  
5 committee, I have tried to read and make myself aware  
6 of as much material as I possible can on "No Child  
7 Left Behind". And I feel like that North Carolina  
8 will meet the goals that are set, just for the fact  
9 that we have been involved with this accountability  
10 program for a number of years. As has already been  
11 said, we go back to the early '90's with our actually  
12 state testing, but in 1996 when we started the ABC's  
13 of education. So we've been involved with this for a  
14 long, long time. Well, not a long, long time, but for  
15 a number of years; more so than a lot of other states.

16 The biggest difference that I see with "No  
17 Child Left Behind" is going to be brought down with  
18 the sub-groups when we come to the accountability  
19 program. Let me say this, that of course we -- every  
20 state had to have their "No Child Left Behind" plan to  
21 the Department of Education by last Friday. I will  
22 say this, that the State Board of Education is  
23 continually monitoring and making changes as time goes  
24 on. I think they're meeting today and I think they're  
25 even talking about making some changes about -- one of

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1 those changes was this.

2 Originally under the state plan, they  
3 would classify -- each sub-group from the "No Child  
4 Left Behind" would be 30 students. Now the State  
5 Board of Education has decided that they would --  
6 based on some information that's come from them from  
7 testing people -- that they would now say that the  
8 best data would come if a group of at least 40  
9 students has to be tested in each one of those areas,  
10 sub-groups. But again, like I said, one of the things  
11 that they're looking at is for this year of 2003,  
12 they're going to stick with 40 students, but this  
13 could change as time goes on.

14 Let me say this about "No Child Left  
15 Behind". When we talk about sanctions -- and as  
16 studying "No Child Left Behind" I have found out  
17 basically the way Congress designed this is that you  
18 will -- most of the sanctions that will be applied to  
19 "No Child Left Behind" will be in Title I schools.  
20 Let me remind the committee, not every school gets  
21 Title I money. Historically, elementary schools are  
22 the Title I schools, and not every elementary school  
23 is Title I. That's based on -- Title I monies is  
24 based on a lot of things and primarily economically  
25 disadvantaged. Most middle schools and most high

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1 schools, and I can only speak about North Carolina, do  
2 not receive Title I money.

3 This means that some of the some of the  
4 sanctions that "No Child Left Behind" will not apply  
5 to middle schools and high schools. Let me tell this  
6 committee one further thing. Even though we might not  
7 be sanctioned, it's going to be out there. It's going  
8 to be imposed. It's going to be in the newspaper and  
9 our feeling is that it's going to be a reflection of  
10 what we get off of "No Child Left Behind" and to our  
11 progress, it's going to be a reflection on our  
12 students, our teachers and community.

13 I can only speak to what we do in Davidson  
14 County Schools about solving the achievement gap. Six  
15 years ago, I, along with five other principals, middle  
16 school principals, asked for special remediation  
17 teachers to work with our students who were not  
18 performing at grade level. Students are scheduled to  
19 attend class for reading, math, or both. We do not  
20 remove them for the core area teacher -- classes.

21 CHAIRPERSON BERRY: You have to sum up  
22 now, Mr. Myers.

23 MR. MYERS: Okay. Thank you, ma'am. Let  
24 me say this. Another thing that we're doing for  
25 cutting down the achievement gap is we have after

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1 school tutorial programs every day. Every teacher at  
2 Tyro Middle School teaches one hour a week in reading  
3 and math, in all -- I'll share this with you. We  
4 talked about -- I think you asked the question of Mr.  
5 Pittman a while ago, Madame Chairperson, this is a  
6 state-run program. The state is putting some money  
7 into at-risk programs and also making sure that  
8 children achieve.

9 I'm going to stop right there. There's a  
10 number of other things. I want to also bring the  
11 attention to the committee and we can talk about this  
12 later, is that if you'll look on page three, you'll  
13 see a breakdown of "No Child Left Behind" that based  
14 on last year's test data -- you've got to realize,  
15 folks, we're treading on new ground now, and this is  
16 brand new stuff and it took me a while to get this.  
17 And so if you have any questions about any of this  
18 data, and about "No Child Left Behind" and end-of-year  
19 progress, I'll be happy to answer anything this  
20 committee would like at the appropriate time. Thank  
21 you, ma'am.

22 CHAIRPERSON BERRY: Why don't you just --  
23 before you stop, why don't you just say on the record  
24 what the data show on this chart.

25 MR. MYERS: Okay. If I can only state

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1 that -- at Tyro Middle School, I'll give you an  
2 example of what average yearly progress is going to  
3 look like. Number one, let me say this, that  
4 according to North Carolina performance model, last  
5 year, 2002, our test data showed that 87.1 percent of  
6 our students are performing at grade level.

7 Now then, if you'll look at the bottom and  
8 you'll see that now the state has come back and has  
9 set some standards with "No Child Left Behind" in 3-8.

10 You'll see that the state has set a baseline of 65  
11 percent for reading and 75 percent on math. At Tyro  
12 Middle School we only have four sub-groups, and  
13 basically they are the total group, the white  
14 students, students with disability and free/reduced  
15 lunch. If we use the last year's data, we did not  
16 meet our adequate yearly progress in students with  
17 disability in reading and math, and then student  
18 free/reduced lunch in reading. And so you can see  
19 we're treading on new ground here.

20 And I also wanted to say this. Most of  
21 the middle schools in Davidson County met that  
22 adequate yearly progress last year, and two of those  
23 schools were schools of excellence and two of them  
24 were schools of distinction according to the state  
25 recognition.

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1 CHAIRPERSON BERRY: And could you say also  
2 what the data shows for White, Black, Hispanic and  
3 Asian? What roughly did you gather for Black,  
4 Hispanic and Asian, on this chart?

5 MR. MYERS: Okay. You can see that at  
6 Tyro Middle School we have only -- we do not have 40  
7 minority students in each one of those groups. You  
8 can see that our African-American kids are doing well  
9 in math; they need improvement in reading. And like I  
10 said, we're dealing with a small number of students  
11 here, less than -- I think we've got 10, 10 minority  
12 students, African-American students that we're dealing  
13 with.

14 And so you see, that's what I'm saying.  
15 The scores kind of -- the data is kind of distracted  
16 because if you could see that there's a big difference  
17 between math and reading, which doesn't make a lot of  
18 sense because reading is very important. You've got  
19 to be a good reader to do the math part because a  
20 lot of this is reading, so that's what I'm saying  
21 about test data. That it could be kind of distorted  
22 if you don't have a good equal number to base your  
23 data on.

24 CHAIRPERSON BERRY: Okay. All right.  
25 Thank you very much. There will be some questions.

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1 Now we will go to Ms. Carnes, please.

2 MS. CARNES: Yes, ma'am. Thank you very  
3 much for inviting me to testify before you today on  
4 the topic of parent involvement in state and local  
5 accountability initiatives. First of all, I want to  
6 commend to you for involving parents and the subject  
7 of parents in your research as you're traveling across  
8 the country. It's extremely critical, as I'm sure  
9 you'll agree, and I really appreciate the fact that  
10 we've acknowledged the parents.

11 My name is Margaret Carnes and I'm  
12 Managing Director of Charlotte Advocates for  
13 Education. We are one of the 77 LEF's or Local  
14 Education Funds across the country and are in  
15 membership with the Public Education Network or PEN.  
16 In partnership with our communities, we're all working  
17 to improve the public education system for all  
18 children in our communities. Our mission is -- let's  
19 see if I can work this -- our mission is to define the  
20 issues and advocate for changes required to  
21 permanently improve the quality of public education in  
22 Charlotte-Mecklenburg. We do that by focusing on the  
23 four things that converging research tell us matter  
24 most: effective teaching, rigorous standards, rigorous  
25 grades, high standards and goals, targeted and

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1 adequate resources, and we'll get to this page seven  
2 in just a minute.

3 I've been associated with Advocates for  
4 Education for six years now, first as a Board Member,  
5 then as the Managing Director. But prior to that for  
6 15 years, I have been a volunteer parent leader, a  
7 community activist and an advocate for our children.  
8 I've had wonderful experiences and opportunities  
9 working with all different parents in efforts to  
10 really focus on accountability, and they've been  
11 successful and really have made a difference for our  
12 children.

13 One of the things that I have learned over  
14 the years is parents are the most important factor in  
15 accountability in modern-day K-12 education. I was  
16 asked to speak to you today about state and local  
17 efforts to involve parents in this impressive cutting  
18 edge accountability system that you've been hearing  
19 about, the North Carolina ABC's. By most definitions,  
20 North Carolina has done an outstanding job in building  
21 an accountability system that has standards aligned  
22 with the assessments and then an entire cycle that  
23 aligns and recognizes all of those pieces

24 Unfortunately, most people involved with  
25 the process at the ground level, working very closely,

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1 will tell you that parent education and -- that parent  
2 education and engagement component is the weakest link  
3 and has basically been left to chance. As a result,  
4 parents are nowhere near being ready to deal with "No  
5 Child Left Behind", the implications and the  
6 information, the very honest, clear information that  
7 will be very public in a very short period of time.

8 Perhaps the largest gap in parent  
9 understanding -- and there are many things I could  
10 talk to you about. Superintendent Smith talked about  
11 some of the things that we've done together in  
12 partnership in this community that have been  
13 incredible and I could focus on those success stories,  
14 but I think there's a more important story for you to  
15 hear today, and that's generally what we're doing in  
16 this state around parents, engagement and parent  
17 education and involvement.

18 One of the largest gaps and areas of  
19 misunderstanding in closing the gap is our  
20 assessments. In general parents lack understanding  
21 about what's tested, precisely what the results mean.

22 In addition, there are pertinent pieces of  
23 information related to the assessments that parents  
24 never see. I'm putting on my parent hat. I walked  
25 into the school system in 1986 as a mom, and I've been

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1 at ground level ever since, so you've got a parent  
2 talking to you today.

3 I want to illustrate my point with some pieces  
4 of information here that parents may be unaware, and  
5 the general public as well, they are unaware. There's  
6 a story that goes behind each one of these data sets,  
7 but because of time, I'm going to hold off on the  
8 story that goes with it. What I have today before you  
9 is the basis of what we've been talking about all day,  
10 which is what does grade level mean. What does that  
11 mean to me as a parent to all of us? Does it mean if  
12 my child scores a Level III on the state test, they  
13 will definitely be prepared to be successful next  
14 year? Does it mean that if they do that subsequently  
15 year after year they will be prepared to be successful  
16 in higher education or in a work place?

17 What we have here on this chart is the --  
18 are the cut scores, so to speak. What percentage of  
19 all the test items on the state test do our children  
20 have to get correct to be considered grade level? As  
21 you'll see, for third graders to be on grade level in  
22 reading, they only have to get 51 percent of the items  
23 correct on the test. In math it's 60 percent. For  
24 fourth graders -- I mean for Level IV, it's 75 and 81.  
25 Look down to eighth grade. To be considered on grade

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1 level in reading again it's 51 percent. On  
2 mathematics it's 34 percent of the items correct.

3 Does this assure me that my child, that  
4 our children, have actually learned what they are  
5 supposed to learn in a year? I think that that's a  
6 key piece of information that is not reported on the  
7 tests, but it's something that parents need to know  
8 and I'm going to tell you why. When I look at this  
9 and I see that to be on Level III you only have to get  
10 34 percent of the questions correct, I've talked to my  
11 three Carnes' children and I have three Carnes'  
12 children and 190,000 CMS children by the way and I  
13 say, I expect you to be on Level IV. So parents need  
14 to be aware of that cut score so that we can adjust  
15 our expectations and help our children believe in  
16 themselves and believe in what they can do.

17 Okay, the second data set that I want to  
18 share with you concerns our writing tests in the  
19 state. Again, that is something that is not shared  
20 with parents in any kind of a formal report. And  
21 actually when I went in to find out how my child did  
22 on this 10th grade writing test, I was asked, why do  
23 you want this information. What we have here is a  
24 portion of our 10th grade writing test that's called  
25 the analytical skills or the analytical portion of the

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1 test. In this portion conventions are measured with  
2 an objective ruler, by the way. The other portion of  
3 the test is a holistic score that grades just writing  
4 composition.

5 What we see here is that over a course of  
6 seven years in the analytical part of the test on  
7 grammar usage, we had about a 30 percentage point drop  
8 in students that showed proficiency or grade level  
9 performance in grammar usage. This is not something  
10 that's reported, it's not included in the  
11 accountability and it is something that we're all  
12 concerned about. It's something that employer's are  
13 concerned about, it's something that parents are  
14 concerned about, and it is something that teachers  
15 that are teaching our children at this level are  
16 concerned about.

17 Beyond testing, I want to talk just a  
18 second about laws and policies. There have been some  
19 very strong laws and policies written in North  
20 Carolina addressing new and important parent roles,  
21 but the policies have not been monitored, enforced or  
22 executed to succeed. An example is the 1996 state law  
23 requiring that parents elected by their peers and  
24 reflective of the diversity of the student body serve  
25 on site-based improvement teams in every school. In

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1 CMS our school board took it a step further and  
2 actually required that parents and educators learn how  
3 to work together collaboratively to focus on improving  
4 student achievement and the achievement of every  
5 child, not just a few.

6 For a much more effective model, I would suggest  
7 that you look at Kentucky. If you have an opportunity  
8 to talk to our leaders and then talk to Kentucky  
9 leaders about how they really have involved families  
10 in the school improvement planning, you'll quickly  
11 pick up the different in commitment and intent. So, I  
12 would really suggest that you do that.

13 CMS, like most other school systems is  
14 doing commendable things with parent involvement. In  
15 fact, I would say and I've got some samples of  
16 products, written products, print products that I will  
17 leave as part of your file -- in fact, I would say  
18 that we're probably like most places in the state who  
19 have just about a little bit of everything that has  
20 ever been done and, unfortunately, we're getting the  
21 same results we've always gotten.

22 I think my message to you today, and I'm  
23 running out of time. Hopefully through the question  
24 and answer we can have more exchange. The message  
25 today is that the model for parent involvement that

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1 we're using is antiquated. It's not going to work.  
2 It's not going to support high-stakes accountability.

3 But the good news is there are incredible  
4 models for what we need to do differently. We need to  
5 blow up the old model of parent involvement and  
6 rebuild it, and I would suggest that you look to,  
7 again, the Commonwealth Institute for Parent  
8 Leadership in Kentucky, the Pritchard Committee. It's  
9 not delivered by the system, it's outside the system;  
10 outstanding program. It actually works with parents  
11 over time to teach them about standards, about  
12 assessments, about what all this means, what does  
13 grade level mean, and then also supports them as they  
14 use that knowledge constructively.

15 They go back to the schoolhouse, sit down  
16 with their principal, look at performance data of  
17 children and decide on a project that they can put in  
18 place in the school that would do three things; grade  
19 student achievement, involve other parents and it has  
20 to be something sustainable. What that does is over  
21 time parent by parent we're changing the culture of  
22 what it means to be an informed and involved parent,  
23 so that hopefully, maybe ten years from now, which is  
24 a long time, we'll have that critical mass to begin to  
25 start changing that culture. Thank you.

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1                   CHAIRPERSON BERRY: All right. Thank you  
2 very much. Dr. Sykes.

3                   DR. SYKES: Thank you commissioners for  
4 allowing me to testify. I have to begin with a moment  
5 of reflection. About 20 years I was serving on a  
6 California State task force on the teaching profession  
7 and one of the commissioners was the Honorable Cruz  
8 Reynoso. Nice to see you again, and here we are still  
9 at it 20 years later. A change of focus in two ways,  
10 back to teachers, I've heard a little bit about  
11 teachers in the panel, and a shift from the North  
12 Carolina story that you had I will gallop through  
13 eight points with some sub-points. Recognizing these  
14 come from an overly long paper that I wrote with Linda  
15 Darling-Hammond, whom most of you will recognize as  
16 the preeminent authority on teachers and teaching in  
17 the country. Point one, teacher quality has emerged  
18 as a critical resource for student's learning, a point  
19 recognized both in "No Child Left Behind" legislation  
20 and in the Secretary's report on teacher quality.  
21 Point two, what qualifies or what qualities or  
22 qualifications matter. The evidence supports the  
23 position that teachers, one, who have high measured  
24 academy ability. Two, strong content knowledge,  
25 particularly related to the student curriculum that

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1 they teach, and three, who have undertaken a rigorous  
2 and extended course of teacher education, including  
3 opportunities to practice under expert guidance. And  
4 then we see the continued support which is mentoring  
5 in the early years of teaching are the most highly  
6 qualified; that's the standard. Point number three, I  
7 should also say and this we can pursue, this is not  
8 the standard, however, recommended by the Secretary in  
9 his report. In our paper we take strong issue with  
10 the Secretary's position. Point three, this assertion  
11 I've just made supports the establishment of strong  
12 teacher licensure requirements in the states as  
13 exemplified in such states as North Carolina and  
14 Connecticut, both of which states we review in our  
15 paper as representing exemplary practice, but many  
16 other states lag in developing and investing in such  
17 licensure systems. Point four, with this as a  
18 baseline we can then ask about the current status.  
19 Does every child in the United States have access,  
20 fair access, to such teachers? And point five, in  
21 response to this question, we can make the following  
22 research-based observations. First, the overall  
23 supply of teachers in our society is sufficient to  
24 meet the demand; we are producing enough teachers.  
25 Second, certain areas, including math and science, bi-

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1 lingual education, special education, experience  
2 chronic shortages which must be remedied with  
3 incentives and recruitment programs and efforts.  
4 Third, the great problem crying out for attention is  
5 the distribution of teachers as affected by patterns  
6 of attrition including both exits and transfers which  
7 -- attendant to which are huge costs. A distribution  
8 of qualified teachers correlates closely with the  
9 social status of children in our society. Children  
10 who are poor and in the minority increasingly cluster  
11 in resegregated schools, both urban and rural, are  
12 less likely to be taught by a qualified teacher than  
13 others, and this fundamental condition is due largely  
14 to patterns of attrition from schools, not from the  
15 inadequate supply overall. We can inquire into the  
16 reasons for this, but the finding is uncontroverted.  
17 Point six, some states and some districts have beaten  
18 these odds in recruiting qualified teachers and in  
19 staffing hard to staff schools with such teachers, and  
20 these exemplars are worth studying for the policies  
21 that work. Again there is more detail to be  
22 referenced on this point at both state and district  
23 levels. Our paper does treat some of these exemplary  
24 policies which I think point the way to making some  
25 inroads of the fundamental problem of the mal-

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1 distribution of qualified teachers. Point seven, one  
2 method for producing teachers for hard to staff  
3 schools is to create so-called alternative route  
4 programs that speed recruits into classrooms.  
5 Currently there are several hundred such programs in  
6 operation around the country, many of them affiliated  
7 with universities and partnership with districts. The  
8 research evidence on the effectiveness of these  
9 training programs is mixed and inconclusive at  
10 present. But one conclusion stands out, quickie  
11 programs are not effective, while more carefully  
12 designed and extensive alternatives may well be  
13 effective, particularly in hard to staff situations.  
14 That is to say, if as the Secretary contends there is  
15 a quality distribution of teacher education programs  
16 in this country, it is, if you'll excuse my vehemence,  
17 absurd to assume that there would not be a quality  
18 distribution of alternative programs. And so to issue  
19 a blanket recommendation that the country shift to  
20 alternatives which have been far less tested even than  
21 conventional university bases alternatives within a  
22 regime arguing for research-based practice, is a  
23 blatant contradiction in terms. The only responsible  
24 and defensible position on this issue is to insist on  
25 some set of common quality standards for programs,

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1 even as we encourage experimentation with  
2 alternatives. So I'm not arguing that alternative  
3 programs which are staffing many urban and rural  
4 districts carte blanche ought to be eliminated, but  
5 rather that we develop and apply some set of  
6 reasonable quality standards for all such programs.  
7 Therefore, in this paper, we make the following policy  
8 recommendations: First, all programs and training  
9 should meet the same set of minimal standards which  
10 can be established at least in broad outline. Second,  
11 significant provisions of "No Child Left Behind" must  
12 be amended to meet the fully qualified challenge.  
13 These include tighter regulations on the definition of  
14 qualified teachers, attention to the growing perverse  
15 incentives that drive teachers out of hard to staff  
16 schools. This is a point that echoes what Sonnie Ladd  
17 said a moment ago with respect to North Carolina but  
18 which is occurring, we suspect, all over the country.

19 I hasten to add, however, that we don't have strong  
20 evidence of this. We have anecdotal evidence coming  
21 out of Florida, coming out of North Carolina and  
22 elsewhere, but the strong guess among many close  
23 observers is that, as more and more schools under  
24 tight accountability pressures from state and federal  
25 levels are labeled as low performing or failing or

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1 inadequate, that those schools by that very fact will  
2 prove very difficult to staff, because it will hasten  
3 the departure of teachers out of those schools who  
4 simply don't want to teach under those circumstances.

5 That as Sonnie says is an unintended consequence of  
6 fierce accountability that has in some got to be  
7 remedied. And third, we have got with respect to No  
8 Child to create recruitment incentives and programs to  
9 help to staff these schools. That is to say, it looks  
10 very much to me right now that No Child is all  
11 regulated on capacity building. But, I think if  
12 there is a tenet of policy analysis it is that the  
13 right combination for school improvement brings  
14 together pressure and support. You need to get the  
15 balance and the mix of pressure on schools and support  
16 for them right. All pressure without support is a bad  
17 -- is a faulty policy; that's unfortunately where we  
18 may go. And then third, in addition to amendments to  
19 No Child, we argue for the establishment of a federal  
20 manpower policy. Essentially the creation of a  
21 national labor market for teachers which would break  
22 the historical pattern of teacher labor markets that  
23 are resolutely vocal in their operation through first  
24 the consolidation of current federal scholarship and  
25 fellowship and loan forgiveness programs into a new

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1 service scholarship program with appropriate targets.  
2 Second, a new program of grants, states and  
3 localities to concentrate on the problem of retention  
4 in target schools and areas. And third, efforts to  
5 facilitate a national labor market for teachers by  
6 developing a common licensure examination, creating  
7 pension portability across the states and providing  
8 better labor market data for federal and state  
9 planning. The SAC surveys go somewhat towards this,  
10 but have inadequacies that need to be remedied. Thank  
11 you very much.

12 CHAIRPERSON BERRY: Thank you, Dr. Sykes.  
13 You have any questions for the panel?

14 COMMISSIONER EDLEY: Yes. I have a  
15 comment. We have a fabulous staff. This panel,  
16 again, I mean three for three this has been great, I  
17 can only assume that the fourth panel must be truly  
18 miserable, average -- never mind. So thank you to all  
19 of you for your testimony. Let me, first just  
20 quickly, Professor Sykes, on your last set of points,  
21 so if you all -- NCLB's all regulation and no capacity  
22 building --

23 MR. SYKES: NCLB, I hadn't heard that, I  
24 like that.

25 COMMISSIONER EDLEY: It does strike me

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1 that the statute doesn't preclude states doing the  
2 capacity building and many of the other things that  
3 you think are necessary that you and Linda recommend.

4 It doesn't -- correct me, it doesn't seem to me it  
5 operates as a bar. It's simply not prescriptive in  
6 that respect. Moreover you could argue that the gaps  
7 in how to get it done, left by NCLB are complimented  
8 with an accountability structure so that unless states  
9 figure out to how to handle the allocation problem,  
10 the distribution program, the recruiting problem, the  
11 capacity building problem, they're not going to be  
12 able to meet either the teacher elements of the  
13 statute or the AYP elements of the statute. So I just  
14 want to take a step back and say, would you agree  
15 first that the statute doesn't create obstacles to  
16 what you and Linda are recommending, and moreover,  
17 there are certainly some prods in the statute to try  
18 to push the states to figure out what the --  
19 understand the exemplars and adopt the promising  
20 practices on their own volition.

21 MR. SYKES: I agree on the first point and  
22 disagree on the second. The second point is a train  
23 moving too slowly.

24 COMMISSIONER EDLEY: Got it. Okay. The  
25 knowledge diffusion and so forth it's just not going

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1 to --

2 MR. SYKES: No, what I mean is before the  
3 states discover --

4 COMMISSIONER EDLEY: Right.

5 MR. SYKES: -- that the reason that  
6 they're not getting the outcomes that they want it's  
7 because they don't have adequately qualified teachers  
8 in classrooms, you've got a tremendous lag.

9 COMMISSIONER EDLEY: Okay.

10 MR. SYKES: And the deepest fear, I  
11 believe that Linda and I have is that we are in danger  
12 in this society of creating a two tiered staffing  
13 system, in which poor schools serving poor kids  
14 systemically get staffed with under and unqualified  
15 teachers, tacitly sanctioned by No Child and while  
16 more demanding schools serving more advantaged  
17 students also receive the more highly qualified  
18 teachers. That is to say that teachers who have the  
19 qualifications I mentioned will go into the affluent  
20 suburban schools, and urban and rurally poor schools  
21 will be forced to utilize weakly defended alternative  
22 programs to staff their schools, and will have this  
23 constant turnover staffing problem that undercuts the  
24 stability that you need to create a school community.

25 COMMISSIONER EDLEY: That's very helpful.

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1 I think I mentioned to Madam Chair before that I  
2 think we can all hope and pray that in Congress's  
3 efforts to reauthorize the Higher Education Act they  
4 will take advantage of the opportunity in that statute  
5 to strengthen the teaching relating titles of that  
6 statute to do some sort of capacity building.

7 MR. SYKES: One can only hope that the  
8 current Congress will do so.

9 CHAIRPERSON BERRY: Well, we've got a  
10 problem guys, if I may interject this thought. You  
11 need to add a sentence to what you said, Dr. Sykes and  
12 Commission Edley. The poor schools where the poor  
13 kids go is described having these teachers that don't  
14 meet the qualifications standards you've laid out. It  
15 will be argued that they have qualified teachers  
16 because by the policy statement of the Secretary, if  
17 they get people from some jerry-rigged temporary  
18 program out there, that he thinks is better, is an  
19 alternative --

20 COMMISSIONER EDLEY: But that gets back to  
21 --

22 CHAIRPERSON BERRY: -- they will be  
23 described as being, to the parents and to everybody  
24 else involved, as these are perfectly fine teachers  
25 that you have there from this alternative short-term

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1 or whatever it is kind of program, at the same time  
2 that they don't keep the standards that you're talking  
3 about.

4 COMMISSIONER EDLEY: That's really a  
5 problem that it's too content-free.

6 DR. SYKES: That's the reason that the  
7 academic argument concerning the relationship between  
8 teacher qualifications and student achievement matters  
9 a great deal. That is to say, the research efforts to  
10 try to pin down just exactly what characteristics of  
11 teachers may be reliably related to student  
12 achievement is really quite important, and Linda has  
13 been laboring mightily to try to get the best  
14 available information before the public on that point  
15 because it's too easy to pass off as a truism that all  
16 a teacher needs is high verbal ability and a good  
17 liberal arts education and that's it, and that  
18 absolutely is not the case.

19 CHAIRPERSON BERRY: And it also segues  
20 into the concerns that Ms. Carnes has, because the  
21 parents won't be able to tell the difference. They  
22 will be told that these folks are being brought into  
23 your school because they came out of this alternative  
24 model are better than the folks that came out of the  
25 standards and qualifications that Dr. Sykes is talking

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1 about, and these are perfectly fine, good verbal,  
2 articulate teachers, young and feisty and in your  
3 school and isn't this great. And the teachers -- I  
4 mean the parents, won't know the difference unless  
5 they listen to this kind of discussion or unless they  
6 know or have some way to figure out that this is  
7 what's going on and the schools systems under the  
8 systems of sanctions and rewards may be in a position  
9 of having to accept and adopt and pretend that it all  
10 works just fine and this is all good until the results  
11 are shown and there's the mark -- it's really quite  
12 alarming in a sense.

13 DR. SYKES: One useful future of No Child  
14 is that it does require reporting on the incidence of  
15 emergency credential out of field teaching back to  
16 school. And if I were a parent, I would be just as  
17 interested in asking questions about the  
18 qualifications of a school staff as I would be  
19 interested in looking at the student achievement data.

20 I would want to know both of those things, and  
21 historically parents have had no access at all to data  
22 on qualifications of school staffs; that's highly  
23 relevant.

24 COMMISSIONER EDLEY: Professor Ladd, can I  
25 ask you generally about the relationship between the

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1 accountability structure under ABC on the one hand and  
2 the design of NCLB on the other. Are there tensions,  
3 can the two co-exist? Is the value-added model in  
4 ABC, can it survive in light of the frame work that  
5 NCLB has established, and then I suppose more  
6 generally, given not only your study of the North  
7 Carolina accountability structure, but those in other  
8 states, what kind of a grade would you give the  
9 accountability design in NCLB?

10 MS. LADD: To answer your first question,  
11 can North Carolina maintain what it's got and bring in  
12 some of the elements of the "No Child Left Behind"  
13 legislation, I think Mr. Myers described what the  
14 state's doing. The state will find a way to bring in  
15 these elements and it's interesting that what they're  
16 thinking of doing, what they propose doing is they  
17 have schools try to meet the standards under the  
18 current ABC's program and then on top of that schools  
19 would get -- teachers in schools would get additional  
20 rewards for meeting the adequate yearly progress  
21 goals. I'd like to pick up though on one aspect of  
22 the "No Child Left Behind". The accountability  
23 provision which has not been discussed in this panel  
24 or in the end of the previous panel and that's the  
25 requirement that Mr. Myers talked some about, this

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1 very important requirement that within a school, each  
2 of the sub-groups, defined by race and economic  
3 disadvantage, meet the requirements. I think this  
4 needs a lot more attention and I'm opposed, strongly  
5 opposed to that requirement when it applies to the  
6 individual school, which is where it is being applied.

7 As Mr. Myers mentioned, lots of schools have small  
8 numbers of students, so if you only have ten African-  
9 American students then you're under the radar screen.

10 If you have more than that if you have 40 students  
11 there are still issues, large issues related to the  
12 statistical validity of the change, there's some so  
13 much random error from year to year and Tom Payne has  
14 written a lot about this and I agree with it fully.  
15 The mistake in my view though is putting that pressure  
16 at the school level. My own view is that legislation  
17 should apply to the district level or to some broader  
18 level. Think about that in the North Carolina context  
19 or any state context, but here we have quite a big  
20 district. There are lots and lots of decisions that  
21 districts make, that are going to effect the  
22 performance of students. The districts play a large  
23 role in deciding which students go to which schools  
24 and how much segregation there is in schools. The  
25 districts play a large role in influencing which

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1 teachers are going to be in which schools. Their  
2 internal transfer policies influence that as well.  
3 Now, let's start with the presumption that children  
4 from disadvantaged families might do better if they're  
5 in schools that are generally middle class schools.  
6 Then it's the district that can redistribute students  
7 among schools in a way to lead to greater achievement  
8 among disadvantaged students. So the pressure should  
9 be put on the district policy makers who have those  
10 additional tools for leading to increased achievement,  
11 not at the individual school level. And that would  
12 solve this problem of some of the minority students  
13 being below the radar screen because you can tell the  
14 district they're responsible for all of the minority  
15 or disadvantaged students in the district, so that's a  
16 big difference that I think needs a lot more  
17 attention.

18 CHAIRPERSON BERRY: Cruz is trying to  
19 saying something.

20 VICE-CHAIRPERSON REYNOSO: All of you  
21 approach the issue of accountability in sort of a  
22 global sense -- system, states systems, then local  
23 system and so on, but much of what I fear, at least in  
24 California has to do with accountability, not only in  
25 the local school but the local classroom. So there is

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1 monetary incentives to a teacher who in his or her  
2 classroom that students will reach a certain standard  
3 and I wanted to ask the whole panel your opinion about  
4 that sort of effort to reward the teacher for the  
5 increases in that classroom, reward the school for  
6 increases among the students and the thoughts that I  
7 have, beside the one that you just mentioned, that  
8 there is such variables in the students that attend  
9 those schools that level of accomplishment, how they  
10 get that school teacher and so on. I just -- I can't  
11 say I know that much about how it's done, but I know  
12 that the reports in the literature all speak, at least  
13 in California, about being that precise, and I've  
14 heard about schools getting \$25,000, the grammar  
15 school, because the school did well last year, another  
16 school not getting any money. Have you folks looked  
17 at that sort of system, does that work, does it not  
18 work?

19 MR. MYERS: I will assure you of one  
20 thing. Teachers are very concerned about the  
21 achievement of their kids. When we disaggregate data,  
22 they look at that. As far as the rewards go, the  
23 monetary rewards in North Carolina, it's for each  
24 individual licensed personnel in a school whose school  
25 meets the growth goal will be rewarded a monetary

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1 amount; that's everybody.'

2 VICE-CHAIRPERSON REYNOSO: Does that work?

3 MR. MYERS: Yes sir, it does.

4 VICE-CHAIRPERSON REYNOSO: Because in  
5 California there were some teachers who refused to  
6 accept that money.

7 MR. MYERS: Not in North Carolina.

8 VICE-CHAIRPERSON REYNOSO: Feeling that it  
9 wasn't a fair way of accessing whether they had done  
10 well or not. I guess --

11 MR. MYERS: Is there a growth model in  
12 California, though?

13 VICE-CHAIRPERSON REYNOSO: I don't think  
14 it is.

15 COMMISSIONER EDLEY: It's not, so that's  
16 the difference. So they're getting rewards based upon  
17 the value added to this group of students.

18 VICE-CHAIRPERSON REYNOSO: Oh, I see now.  
19 You're thinking the students you find -- Okay, I'm  
20 with you. Then in your system if the school does well  
21 then each individual teacher, for example, will get a  
22 certain --

23 MR. MYERS: That's correct.

24 VICE-CHAIRPERSON REYNOSO: -- addition to  
25 his paycheck.

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1 MR. MYERS: That's correct.

2 VICE-CHAIRPERSON REYNOSO: And that's  
3 worked pretty well?

4 MR. MYERS: Yes sir, it has. And that  
5 brings -- you've got to realize we're only teaching --  
6 a lot of times our teachers of math and language arts  
7 are given the brunt of success or not. But what it  
8 does though, it brings ownership to everybody else.  
9 Like I said in my presentation, that's important.

10 VICE-CHAIRPERSON REYNOSO: I've always  
11 been a little bit puzzled, frankly, by the structure  
12 in schools, individual schools and school districts.  
13 Like many other folk I've been in charge of  
14 organizations and when you have an organization you  
15 sit down and you figure out who could do the best  
16 under what conditions for what purpose, and school  
17 districts so often seem to go by seniority. For  
18 example, I'm aware that teachers who go on so long and  
19 not have a real assessment about which teacher would  
20 do the best job in which school and it seems to me  
21 that what you described as the potential, at least  
22 within the school, to say okay, we've got this set of  
23 teachers, we've got this set of students. Which  
24 teacher could do best with which students. And if you  
25 do that assessment and assign properly then you have

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1 the possibility that there'll be no evasion of  
2 attainment by the entire student body of that school.

3 Does it have that sort of effect?

4 MR. MYERS: That's correct. I, as  
5 principal of the school, grade and classify students  
6 under state law. Students are placed in teacher's  
7 classrooms at random. I am responsible not only for  
8 my kids, but I'm also responsible for hiring my  
9 teachers. That's one thing I'll say about Davidson  
10 County School, we're a little bit smaller than  
11 Charlotte-Mecklenburg; we only have 20,000 students.  
12 The principal is still the person in charge of that  
13 school building. He or she hires his personnel or  
14 makes recommendations to the superintendent, the  
15 superintendent allows us to do that, so basically what  
16 we do is, we're able to, of course, you've got to  
17 realize that we're faced just like everybody else is  
18 with teacher shortage, but we're able to select our  
19 teachers who we feel like will serve the best interest  
20 of our students, rather than somebody from a central  
21 location saying you are assigned to Tyro Middle  
22 School.

23 MS. LADD: Let me just pick up on this. I  
24 think this, there are a lot of good arguments for  
25 having the school being the unit of accountability

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1 rather than individual teachers for precisely this  
2 reason. You want to follow the lead of the business  
3 world, which is emphasize group interaction and  
4 cooperation within the appropriate organizational  
5 unit, rather that competition among teachers, which is  
6 what you get when you have accountability in the form  
7 of merit pay for individual teachers. But then, as I  
8 said, for some purposes the school makes sense, not  
9 only that you're trying to encourage cooperation, but  
10 as long as you give the school some authority to make  
11 decisions on how to use resources, but then there's  
12 some decisions that are going to be made, or strong  
13 influence of the district level, so some of those  
14 decisions ought to be pushed up to the district level.

15 CHAIRPERSON BERRY: I was interested in  
16 this whole discussion because I read about -- and I  
17 read the article about unintended consequences which  
18 went into more detail and about the principals in the  
19 North Carolina system than we had time for in your  
20 discussion. But you said caution. But you say that  
21 because the tool is very powerful, the accountability  
22 in that it works, why should we be cautious if it  
23 works and if the goals of it seem to be good?

24 MS. LADD: As I emphasized at the  
25 beginning of my remarks, North Carolina system has

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1       been quite carefully designed, it's not global for all  
2       sorts of reasons. The tests relate to the curriculum,  
3       all the things that I was arguing before. There's  
4       support, maybe not as much support as some of us would  
5       like. It's not a punitive system, it's designed to be  
6       constructive as a system, so you've got all of that in  
7       place. With all of that in place, the system seems to  
8       have worked quite well in North Carolina. What my  
9       worry is, that when there is federal legislation  
10      telling all states they have to go down this  
11      accountability route, my worry is that the states that  
12      aren't prepared to spend the time and effort to be  
13      flexible and to adjust the policy over time, as  
14      problems arise or to put in additional resources, that  
15      those states will be in big trouble. So that's the  
16      caution that I'm introducing here.

17                   CHAIRPERSON BERRY: Okay. Then I had a  
18      question for you, Mr. Myers.

19                   MR. MYERS: Yes, ma'am.

20                   CHAIRPERSON BERRY: You say that on the  
21      adequate yearly progress, the state board has asked  
22      for the money from the state legislature, but they  
23      haven't gotten it, is that correct?

24                   MR. MYERS: That's correct.

25                   CHAIRPERSON BERRY: So that money, that

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1 incentive money will be there if the state legislature  
2 appropriates it. I don't know what kind of budget  
3 problems North Carolina has, but maybe it's the only  
4 one that doesn't have any, but if it does, I'm not  
5 sure how that would work, but anyway, I understand.  
6 You say that on testing for students who don't make a  
7 Level III and we know what those numbers mean, that  
8 there are other ways they can waive the standardized  
9 test and take some other -- present a portfolio or do  
10 something else in order to meet the standard, is that  
11 what happens?

12 MR. MYERS: Those mechanics -- the state  
13 has always set a minimum standard. Here three years  
14 ago, our school system went beyond the minimum  
15 standard. We have three standards. We have teacher  
16 standards, that's what the student actually does in  
17 the classroom, we have attendance standards and of  
18 course you can't teach the children unless they're at  
19 school, and the third standard which personally from a  
20 principal standpoint, probably the least important,  
21 but probably the one that's given the most publicity,  
22 you might say, is the test standard. And the student  
23 in order to be promoted to the next grade must achieve  
24 all three of those standards. Now then, state law  
25 says that I cannot -- they changed the state law here

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1 two years ago, was that it used to be, if the child  
2 did not pass the test, the child was not promoted, but  
3 still though the principal in North Carolina still has  
4 the authority to grade classify students. Well a  
5 couple of years ago they decided that now the law says  
6 you cannot base non-promotion solely on end-of-grade  
7 tests. Okay. What we do though is again, like what's  
8 been said, it's not supposed to be punitive. But on  
9 the other hand too, we're here to help the kids to do  
10 their very best. There's all kinds of things that go  
11 wrong with kids. They may not be able to pass that  
12 test on the first try, so what we do is remediate, we  
13 retest, we also can go to summer school and retest.  
14 So that child has had the opportunity to take that  
15 test three times, and as you well know, there's a lot  
16 of kids out there who just cannot pass standardized  
17 test, but they're good kids, they do well in the  
18 classroom, they have good attendance, and so what do  
19 we do? There's still that last option. The last  
20 option is the parent and teachers can ask for a waiver  
21 of the test scores and they appear before a school-  
22 based committee. The school-based committee in turn  
23 will look at the student's portfolio. This is made up  
24 of what that student actually did in class that year  
25 and then make a recommendation to the principal, and

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1 nine times out of ten the recommendation is that child  
2 has successfully completed and mastered what needs to  
3 be done in that particular grade level and is  
4 promoted. So, there is, you know, I hope that helps  
5 you to understand.

6 CHAIRPERSON BERRY: How often does that  
7 happen? Is that rare? I mean you have a small school  
8 system. I don't know; we should have asked the  
9 Charlotte-Mecklenburg folks.

10 MR. MYERS: Well you've got to realize  
11 that that is a local decision. Charlotte-Mecklenburg  
12 might not have those three standards. There's a lot  
13 of schools across the state of North Carolina that  
14 have adopted those standards and we are one of them.  
15 How often it happens? After, I would say that we  
16 probably last year alone, we probably had, my school  
17 size is 690 students, 6th, 7th and 8th graders, we  
18 probably had about 20 students that went through the  
19 waiver process and out of those, probably three-  
20 fourths of those students were recommended to be  
21 promoted.

22 CHAIRPERSON BERRY: Okay. Well maybe we  
23 should ask this question of the next panel. But I did  
24 read somewhere in the materials and I thought it was  
25 this panel, maybe some of the other ones, that the

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1 school systems in which there are large numbers of  
2 Latinos and African-American students are the ones  
3 most likely to have high-stakes testing regimes and  
4 least likely to have waivers, and I don't know if  
5 that's true or not, but if it is true then it raises a  
6 very interesting kind of issue in terms of civil  
7 rights and it's interesting -- I think that makes  
8 sense, because all of us know people who don't do well  
9 on standardized tests and the brightest students I've  
10 had were people who had outstanding records and  
11 brilliant and gone on to do all kinds of stuff and  
12 they couldn't take a test. Dr. Sykes, I just have one  
13 thing, and then we have to end this for you. Do you  
14 think that schools of education will be forever  
15 changed by the way the "No Child Left Behind" and the  
16 Secretary's policy statements and all these things  
17 have treated the whole issue of the role of those  
18 schools and the role of teacher education, or do you  
19 think this is like everything else that has happened  
20 over the years, just another battle to be fought?

21 DR. SYKES: Well, once upon a time I  
22 participated centrally in something called the Holmes  
23 Group, which was an effort by the leading schools of  
24 education in the country to reform themselves and we  
25 labored for a decade or so on that, so I don't have

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1 illusions about how easy it is to change institutions.

2 On the other hand, we made the claim in our paper,  
3 that I think can be substantiated, that there has been  
4 slow but significant improvements in schools of  
5 education and the work that they do, and there are  
6 improvements yet to be made that might more tightly  
7 couple the curriculum, teacher education to some of  
8 the other systemic tools that states are using to  
9 develop their systems. So there's further room, I  
10 think, for regulatory improvements that would put some  
11 pressures on ed schools in conjunction with some  
12 additional capacity-building work. That said, I also  
13 tend to believe that alternative route programs are  
14 useful and necessary; they're strategically necessary.

15 Ed schools participate in a lot of those programs,  
16 but I think we just have to take great care that those  
17 routes into teaching meet the quality standards; take  
18 great care of that.

19 CHAIRPERSON BERRY: Then finally, I think,  
20 the panel on parental involvement I sometimes think  
21 it's one of those things too that everybody says they  
22 love, parental involvement, but in fact, sometimes all  
23 they really want parents to do is to present children  
24 who are clean and ready and willing and able to learn  
25 and be disciplined, and that's about all the

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1 involvement anybody really is interested in, although  
2 they talk about all kinds of parental involvement and  
3 they also want parents who fit their model of the  
4 parent who's ready, willing and able to learn and  
5 behaves the way they behaved and articulates things  
6 the way they do. And so the parental involvement is  
7 not an unmixed bag either and there's sometimes some  
8 difficulties, but I think that what you're doing here  
9 is very interesting. Let me thank the panel very much  
10 for coming and you may leave now or stay and listen to  
11 the other panel which I think will be very interesting  
12 too. This has been wonderful, thank you very much.

13 (WHEREUPON, A BRIEF RECESS WAS TAKEN.)

14 CHAIRPERSON BERRY: Since students with  
15 disabilities are among those who are most often  
16 educated poorly, they have therefore the most to gain  
17 from high standards and high-stakes testing.  
18 Opponents of that view argue that, of course, they  
19 have a lot to gain from standards if their needs are  
20 met but that schools do not expose these children to  
21 the knowledge and skills they need to pass the test;  
22 they don't always do that. Therefore, they are  
23 disproportionately detained in grade and not promoted  
24 or denied high school diplomas, both which have major  
25 consequences of students. And this is a major problem

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1 in education and other than "No Child Left Behind"  
2 statute and accountability statues and all the rest.  
3 So the panel has come here today to discuss this with  
4 us as we try to learn more about this and come up with  
5 our own reports on the subject of educational  
6 accountability. Jay Heubert is with us again, and we  
7 appreciate your coming from Teachers College of  
8 Columbia University where he is an Associate  
9 Profession of Education and coordinator of the  
10 Education Leadership Program. He's directed a  
11 Congressionally mandated of study of high-stakes  
12 testing for the National Academy of Sciences. He's  
13 been a Carnegie Scholar, researching what is known  
14 about the effects of promotion testing and graduation  
15 testing for students of the type we are concerned with  
16 today. So he has made outstanding contributions to  
17 education, authored several publications on this  
18 subject at hand. Lindalyn Kakadelis is the Direction  
19 of the North Carolina Education Alliances and serves  
20 as director. The Alliance is a program that seeks to  
21 unite reform-minded educators and citizens on public  
22 policy matters, such as student achievement, school  
23 choice and merit pay. She also serves as the director  
24 of Children's Scholarship Fund of Charlotte. This  
25 privately funded charity assists family with financial

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1 need choose and send their children to schools which  
2 they believe are best for them, but cannot afford.  
3 She has also recently concluded her second term as an  
4 elected member of the Charlotte-Mecklenburg's Schools  
5 Board of Education. Sheria Reid, is a Director,  
6 Education and Law Project, North Carolina Justice and  
7 Community Development Center. Ms. Reid's work as an  
8 advocate for quality education for all children  
9 includes serving on a legal team that represents at-  
10 risk children, as amici curiae, in North Carolina's  
11 school resource case, known as Leandro, that Judge  
12 Manning was here to talk about. The Education and Law  
13 Project that she directs is one of several projects  
14 under the auspices of the North Carolina Justice and  
15 Human Community Development Center. The Education and  
16 Law Project focuses on the significant role that a  
17 quality education plays in providing an avenue out of  
18 poverty and uses political advocacy, litigation, and  
19 parent and community education to further its mission  
20 of ensuring that all children have equal access to a  
21 quality education. Paul Reville is a Lecturer at  
22 Harvard Graduate School of Education and an Executive  
23 Director of Center on Education, Research and Policy  
24 for Massachusetts State, where he conducts research  
25 and convenes policy makers, through media and

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1 philanthropists - hmm, philanthropists -- to consider  
2 evidence on the progress of various strategies for  
3 improving the Commonwealth of Massachusetts public  
4 education system. Before created the center, he was  
5 the Executive Director of the Pew Forum on Standards-  
6 Based Reform, the national policy think-tank that  
7 conducted research in key states and cities. He was  
8 also a co-founder and Executive Director of the  
9 Alliance for Education, a privately supported, multi-  
10 service education foundation dedicated to improving  
11 public elementary and secondary education in Worcester  
12 and Central Massachusetts. He was also co-founder and  
13 Executive Director of Massachusetts Business Alliance  
14 for Education that supported the Massachusetts  
15 Education Reform Act in 1993, and you will hear why he  
16 is pleased with his handiwork in that. He was a  
17 member of the Massachusetts State Board of Education  
18 and serves as Chair of the Massachusetts Education  
19 Reform Review Commission. And finally we have Jack or  
20 John Charles Boger, Deputy Director, University of  
21 North Carolina, School of Law, Center for Civil  
22 Rights. He is also Chair of the Poverty and Race  
23 Research Action Council, a Washington, DC-based  
24 federation of civil rights, civil liberties and legal  
25 services groups that encourages national coordination

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1 of social scientific research and legal advocacy on  
2 behalf of the poor. I have a paper that he wrote on  
3 this subject that I use in my seminar on the history  
4 of law and social policy at Penn, and I put it to good  
5 use. He taught as a lecturer, adjunct professor at  
6 Harvard Law School, New York Law School and Florida  
7 State. Teaches civil procedure, common law, ed law,  
8 race discrimination and poverty law. Thank you all  
9 very much for coming and we will begin with Jay  
10 Heubert.

11 MR. HEUBERT: Good afternoon, Chairperson  
12 Berry and members of the Commission, it's a pleasure  
13 to be here with you here today. I want to begin by  
14 making clear that I'm speaking about a narrow subset  
15 of what we often refer to as high-stakes tests. Tests  
16 that have high-stakes for individual students through  
17 their use in decisions about who will be promoted or  
18 held back, who will receive a high school diploma and  
19 who will not, whether -- where children will be placed  
20 in terms of levels or tracks within schools. Much of  
21 what I say will be drawn from the study that you  
22 mentioned, Chairperson Berry, High-Stakes Testing for  
23 Tracking Promotion and Graduation which is produced by  
24 the National Research Council. Basically, that study  
25 took the position that with respect to tests that have

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1 very high stakes for individual students they can be  
2 either very, very good or very, very bad, depending on  
3 whether you use it properly. And Joy, if you would  
4 just put the first overhead on. When used appropriate  
5 high-stakes tests can help for the very reasons you  
6 mentioned, Chairperson Berry, in the beginning. Low-  
7 achieving kids, especially have been denied  
8 opportunities, had a demand in curriculum, we can  
9 identify problems, strengths and so forth if we use  
10 them properly. On the other hand, if we use them  
11 improperly they can undermine the quality of education  
12 and produce denial of equal opportunity in ways that I  
13 would like to discuss today. So, after a very brief  
14 overview about the scope of promotion and graduation  
15 testing in the United States, I'm going to focus  
16 briefly on some of the evidence in the debate over  
17 disparate impact for the different groups we are  
18 speaking of and concerned about today. As you said,  
19 the argument is that it can be very helpful. No one  
20 needs a good education more than the kids who have  
21 always been denied it and to the extent the tests help  
22 us identify those needs and get services, high quality  
23 services to the kids who need them the most that can  
24 be very helpful. On the other hand, the danger is  
25 that if we adopt individual high stakes for students

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1 before we have taught them the kinds of knowledge and  
2 skills the tests measure, this of course particularly  
3 a danger for children of color, English language  
4 learners, students with disabilities, disadvantaged  
5 children, all of whom rely on schools more for their  
6 academic learning than high SES children do for  
7 example. What we will be doing in essence is  
8 punishing kids for not knowing what we have never  
9 taught them, and that is something that raises a  
10 legal, educational, ethical and perhaps even moral  
11 questions for some of us.

12 I would like to say a little bit about a  
13 few of the principles of appropriate test use that  
14 came out of the high stakes study and some examples of  
15 fairly widespread test use policies that violate those  
16 long-standing laws of the testing profession and then  
17 briefly what we can do to address some of the  
18 problems. In terms of the scope and nature of  
19 graduation and promotion testing, sometimes it seems  
20 as though this is a juggernaut, moving forward at  
21 greater and greater speed. At least with respect to  
22 graduation testing, the number of states with  
23 statewide graduation test policies has been constant  
24 between 1998 and the present. There are plans for a  
25 number of additional states to adopt the exit test,

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1 tests students have to pass to get a standard school  
2 diploma, but there's also some evidence of a slow down  
3 in implementation. Perhaps in part because students  
4 are not reaching the standards in fairly high numbers  
5 in some states and perhaps as well because many states  
6 are now suffering cutbacks and the very funds that  
7 were designed to help enable low achieving kids to  
8 meet the most demanding standards. The second is  
9 promotion testing. Promotion testing is a real big  
10 growth industry. Between 1999 and 2001, the number of  
11 states and state wide promotion test policies went  
12 from 6 to 17 and at least 13 have promotion test  
13 requirements at least two grade levels. In addition a  
14 number of the country's largest urban districts have  
15 adopted promotion test policies even where their  
16 states don't have them. Boston has, but Massachusetts  
17 does not, New York City has one, when New York does  
18 not, Chicago, the National Foster Child for Ending  
19 Social Promotion has one, though Illinois does not.  
20 Thus, increasing numbers of our children of color, our  
21 immigrant students and disadvantaged students are  
22 subject to promotion test policies -- which is, as I  
23 will elaborate on a little more, a serious concern  
24 because there is now agreement among social scientists  
25 that the single strongest predictor of who drops out

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1 of school is who is retained in grade. It's a  
2 stronger predictor than mother's highest earned  
3 degree, than family income, than race; in short, very,  
4 very strong connection.

5 With regard to "No Child Left Behind", I  
6 will not be speaking about it specifically. In part  
7 because neither "No Child Left Behind" or any other  
8 federal statute either requires nor forbids the  
9 attachment of individual high-stakes for students to  
10 any tests. That is purely a matter of decision for  
11 states and local districts. But having said that,  
12 there at least two ways in which "No Child Left  
13 Behind" is likely to effect high-stakes tests  
14 indirectly. One is that since "No Child Left Behind"  
15 requires that all children, including English slow  
16 learners and students with disabilities, populations  
17 that had been exempted for earlier generations in  
18 tests, now must be included and there results are  
19 reported in disaggregated form. It is much likelier,  
20 though not required by federal law that students with  
21 disabilities and English language learners will be  
22 subject to whatever individual high-stakes  
23 consequences the state's already attached for other  
24 children in the states.

25 Second, as you know, the testing required

1 under the "No Child Left Behind" in grades three  
2 through eight and in the states that are inclined to  
3 do promotion testing, it is very predictable and  
4 already happening in those states, are using the tests  
5 developed in response to "No Child Left Behind" for  
6 promotion purposes as well.

7 Okay, in terms of disparate impact,  
8 basically the overall conclusion is that high-stakes  
9 tests have always had disproportionate impact at the  
10 time of their initial implementation. In Florida, 20  
11 odd years ago, the Florida Minimum Competency Test  
12 that have a white failure rate of 2 percent and a  
13 black failure rate of 20 percent, now this is one of  
14 the other big differences with the earlier tests.  
15 Most states are going to higher standards, standards  
16 that are comparable to reflect both the National  
17 Assessment of Educational Progress, TIMS and so forth.

18 So most states are showing much, much  
19 higher initial failure rates than is true from the  
20 earlier generation of low level basic skills test.  
21 Disproportions by race, by language, by disability and  
22 income that are much higher initially, then  
23 disparities that are closing much more slowly than was  
24 true for the earlier generation of tests.

25 In essence we have a combination of a much

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1 larger pool of low achieving students taking the tests  
2 and much higher standards; a much larger gap that  
3 needs to be closed.

4 You have in your materials several  
5 articles that give you statistics from some of the  
6 different states. In California which has a ninth  
7 grade level test in the first year of implementation,  
8 42.2 percent of all test takers passed both tests.  
9 But among Blacks and Hispanics it was 22.8 percent  
10 compared to 61.4 percent for whites. Students with  
11 disabilities and English learners and in California,  
12 35 percent of the public school population are  
13 immigrant students, passed both tests at far lower  
14 rates, 10.3 percent and 11.9 percent respectively, and  
15 this is a relatively low level ninth grade level test.

16 Other states, as the standards get higher  
17 we see the numbers get higher and the disparities get  
18 higher. In Alaska which has a world class standard,  
19 the initial failure rates for whites were 46.5  
20 percent, they were 79.9 percent for Black students, 70  
21 percent for Hispanics students, 91.1 percent for  
22 students with disabilities, 84.1 percent with English  
23 language learners. Perhaps not surprisingly, Alaska  
24 has postponed the effective date of its exit  
25 examination.

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1           In Massachusetts there has been enormous  
2 improvements in the pass rates for all groups. But as  
3 of September, the eleventh grade members of the class  
4 of 2003 who had not passed both parts of the MCAS  
5 test, which they need to be able to graduate, were  
6 84.4 percent of English language learners, 54 percent  
7 of students with disabilities, 52 percent of blacks,  
8 59 percent of Hispanics and 18 percent of whites, so a  
9 very large discrepancy. If you would change the  
10 slide, thank you.

11           Now, some of the most important principles  
12 of the appropriate test use that came out of the high-  
13 stakes study. One is, that it is permissible,  
14 legitimate educationally, to use tests to bring about  
15 changes in teaching and learning that will change the  
16 curriculum and change instruction. But, and a very  
17 important but, the test should be used in making high-  
18 stakes decisions about individual students only after  
19 students have actually been taught the knowledge and  
20 skills on which they will be tested.

21           The bible of the testing profession, Joint  
22 Standards of the APA, NCME and AERA, say very much the  
23 same thing, when test results are used to make  
24 promotion or graduation decisions, evidence that the  
25 test covers accurately only the content and skills

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1 that the curriculum has afforded the students an  
2 opportunity to learn. Unfortunately, however, there  
3 is pretty good evidence that in a lot of places,  
4 including a lot of places that have high-stakes  
5 testing policies, it is not yet the case that we can  
6 say we are already teaching most kids the knowledge  
7 and skills that they need to be able to pass demanding  
8 state tests.

9 One piece of evidence is the high failure  
10 rates that I have already cited for you. If we  
11 believe as we say, that all students are capable of  
12 learning at high levels when you have failure rates of  
13 50, 60, 70 80, 90 percent, that it simply strains  
14 belief to say that some part of that is not related to  
15 the failure of the school to provide the knowledge and  
16 skills. How rigorous are we being with the red light?

17 CHAIRPERSON BERRY: You have a minute.

18 MR. HEUBERT: A minute. Andrew Porter,  
19 who's on the high-stakes committee and a former  
20 president of the AERA, asked teachers in 11 states how  
21 much overlap there was between what they teach and  
22 what is on their state tests. And he found depending  
23 on the subjects overlaps of as high as 45 percent and  
24 as low as 5 percent. And of course, saying not 5  
25 percent means 95 percent of what's on the test, the

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1 teacher is not teaching.

2 . Two other policies that are important -- I  
3 can skip one, is retention in grade -- and you skip  
4 through two slides and go to grade retention policies.

5 We now have decades of high-quality research showing  
6 that students who are required to repeat a grade are  
7 much worse off than similar low performing students  
8 who are allowed to go to the next grade. Similar low  
9 performing kids who go forward are in better shape  
10 academically, much better shape socially and are much  
11 less likely to drop out.

12 The single strongest predictor of who  
13 drops out is who is retained in grade. Despite the  
14 common sense notion that we shouldn't put forward into  
15 the next grade, students who we think are not yet  
16 ready, the evidence is that holding kids back is even  
17 worse. And the best approach, and I will probably in  
18 response to questions give you some suggestions and  
19 alternatives that are better, we don't have to wait  
20 until the kid fails the promotion test to know that  
21 that kid needs help. I've never met a kindergarten  
22 teacher who couldn't tell you by October who was going  
23 to have trouble on the third grade promotion test.  
24 And if we're serious about identifying who needs help  
25 and getting them the help earlier, we can reduce

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1 dramatically the proportionate number of kids for whom  
2 we have this Hobson's choice. Thank you.

3 CHAIRPERSON BERRY: All right, and thank  
4 you. Ms. Kakadelis.

5 MS. KAKADELIS: Thank you, and first of  
6 all I just want to thank the Commission for being  
7 interested in these very, very critical and important  
8 issues that are facing our country. High-states tests  
9 has linked student achievement, communities opinions  
10 and what a teacher does in the classroom. And I'm  
11 sure based upon the conversations that I heard earlier  
12 today that this panel will be the most exciting panel  
13 of the day.

14 I am a school teacher, a mom, and know  
15 that we all have had branding experiences of  
16 discrimination and racism and I just wanted to reflect  
17 very quickly on mine. I was a 20 year-old student  
18 teacher, just entered my first second grade classroom  
19 and was very excited about an assignment teaching  
20 double digit addition and subtraction. And as I went  
21 into the classroom I was committed that every child in  
22 my classroom would learn that concept. A couple of  
23 weeks into it, children, their lights were going on in  
24 their head, they were getting the concept except for  
25 one black child. I went to the teacher a couple of

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1 times, what could we do -- lay in bed, what can I do  
2 to make it alive for that one child. I'll never  
3 forget, and I say it became a branding experience,  
4 when finally that teacher showed me what her real  
5 perspective was. She said to me, don't worry about,  
6 he'll probably just grow up to be a garbage man.

7 COMMISSIONER EDLEY: Second grade?

8 MS. KAKADELIS: Second grade. I decided  
9 at that point in time there were much bigger issues  
10 than mathematical concepts to get across. So, I  
11 started teaching and I wanted to make sure that every  
12 child got every concept and committed to that. So,  
13 past racism and discrimination attitudes -- we've all  
14 had it -- had those experiences like I told you about.

15 It's hard if you try to monitor all of it, I'm afraid  
16 you won't get it all. Civil Rights Act did a great  
17 job of -- good job of trying to changing institutions  
18 and systems. I'm afraid it will never change hearts  
19 and attitudes and we find the cure for rape and  
20 murder, we'll find the cure for racism and  
21 discrimination.

22 I'm not going to spend a lot of time on  
23 the current findings, I think everybody's talked about  
24 that today. They're not acceptable. When I hear that  
25 17-year-old African-American and Latino students do

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1 math and reading at the same level as 13 year old  
2 Caucasians, we cannot allow that to continue, period.

3 I saw a bumper sticker once, I won't -- well, it was  
4 in California, Newport Beach, it's not relevant to  
5 everybody in California. But I'll never forget it,  
6 many years ago. It said, "It's better to live in  
7 denial than not to live at all," and I thought how  
8 sad, living in denial is not living at all. So, what  
9 I'd like to do is take our efforts and let's pull off  
10 the veneer and let's look at some things.

11 High-stakes testing is simply the  
12 consequences and rewards we're giving to stake holders  
13 and they're based upon results. We may not like this,  
14 but we live in a world of high-stakes tests. Whether  
15 it's the electrician certification or the medical  
16 schools entrance exam or a driver's license, we have  
17 gateway tests. They all disappoint and then you go  
18 back and you go back and study and do it until you  
19 achieve what your goals are. Many of us, especially  
20 that electrician, we're glad that gateway tests exist.

21 One reason that the academic performance  
22 gap is so pronounced can be attributed to school  
23 systems. We have -- especially that have no clear  
24 measurement of academic performance and no  
25 consequential motivation for change. Data tells us

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1 that the quality of the instructor is most important  
2 to learn. If the student has a poor instructor for  
3 one year, you can expect two years of catch up. If  
4 they have a poor instructor for two years, catch up is  
5 almost impossible if that instruction's been two years  
6 in a row.

7           Minority students are -- everything tells  
8 us they have the less qualified teachers teaching  
9 them. And so you say why. This comes from my  
10 experience and I don't have a lot of data to show you,  
11 but this is what I think and what I've seen.  
12 Empowered parents will not stand for poor quality  
13 instruction. Less educated parents may not know how  
14 to determine quality instruction or know how to work  
15 the system to get quality instruction.

16           Remember what I said, that the parents,  
17 the customer with the authority to change -- or to  
18 cause change, I believe they have been our quality  
19 control device in schools. High-stakes testing  
20 changes the quality control piece to data on what was  
21 taught, the focus on outlets for this inference. This  
22 type of quality control needs to be as objective as  
23 possible because if it's not objective you'll rely on  
24 emotions and when you rely on emotions many times  
25 you'll get low expectations and great inflation.

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1           And I just need to re-emphasis what  
2 Margaret Carnes said up here, the parent piece, I  
3 agree with her, probably needs to be blown up and  
4 reorganized, because we've got to get parents  
5 involved. We make this very clear, high-stakes  
6 testing is not a cure. It is an instrument, a  
7 catalyst, if you will, to force change. It is a  
8 changing agent. The solutions are found in small  
9 pockets around this country. What works with one  
10 child or one population will not work with another.

11           The quality control piece must reveal  
12 what's learned and the high-stakes test that we're  
13 looking at can reveal the outputs of students. The  
14 other important factor is, exactly what my colleague  
15 here on the panel has said, they've got to be  
16 implemented correctly. We can continue to study the  
17 gap, we can do more staff development and we can  
18 excuse the situation based on the child's environment,  
19 but we cannot continue that way. Are there unintended  
20 consequences? Whenever you implement change there's  
21 unintended consequences. But I want to just look at  
22 several possibilities and I hope that we'll have time  
23 to elaborate on these.

24           First of all, folks will say high-stakes  
25 tests will narrow what is taught. This is not

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1 necessarily true. Standards and assessment will  
2 always need to be monitored and evaluated. Teaching  
3 to the test is what you want if you have quality  
4 standards and tests that are aligned to it. When 5  
5 percent of the test is aligned to what's taught,  
6 that's ridiculous, and that needs to be evaluated and  
7 changed.

8 The second thing is, high-stakes test  
9 penalize the most vulnerable, and you stated,  
10 Chairperson, very well, it does, because they have the  
11 most to gain from it also. It will take courage and  
12 commitment to end low performance, but we will have to  
13 do it.

14 Schools are held accountable for what they  
15 cannot control or simply do not have the resources to  
16 control. Money does matter, but what matters even  
17 more is the way you spend the money. The high-stakes  
18 test will shine the light where we need to look at  
19 what needs to be changed, what needs to be fixed and  
20 what we can do to make success happen. Each program  
21 of the school and every minute of the day needs to  
22 constantly evaluated. Adults must examine the  
23 barriers that exist to learning and conquer the  
24 barriers.

25 There are school that have beaten the

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1 odds. How does achievement happen? It takes hard  
2 work, thinking outside the box and the freedom to do  
3 that. Students having dreams and goals and teachers  
4 believing they can it done. Rolan Parks states,  
5 "Ultimately there are two kinds of schools, learning  
6 in great schools and learning in impoverished schools.  
7 Teachers and students go hand and hand as learners or  
8 they don't go at all."

9 Another unintended consequence that will  
10 frustrate the students currently in the pipeline  
11 without the basic skills and you're holding them  
12 responsible for what they haven't been taught. Or the  
13 bigger issue is they haven't been taught, and the same  
14 students are going to leave the system without the  
15 basic skills and begin a world of high-stakes tests  
16 and then repeat the cycle of welfare. And repeat the  
17 cycle of not being able to get out of what maybe their  
18 families were in. Education will break that cycle.  
19 Retention will not help students succeed and that is  
20 exactly correct.

21 We need to look at what we can do to  
22 remediate, and do it correctly, not just give the same  
23 stuff over again in a different voice. Administering  
24 and publishing the results of the test would simply  
25 reinforce the negative stereotypes and exasperating

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1 problems that already exist. Well sadly, if the  
2 system and those responsible do not make changes,  
3 empowered parents just find other options. If the  
4 school's leadership does not use the data for  
5 diagnostic purposes and overcoming barriers that exist  
6 to learning, low performance will continue. That is  
7 why there must be stringent consequences for inability  
8 to achieve success.

9 North Carolina implemented high-stakes  
10 testing in 1996, we've heard lots about it today, and  
11 while there are specific issues that I want to see  
12 evaluated, and I don't agree with every bit of it, the  
13 method is working. The past is a place of reference  
14 and not a place of residence and the future will bring  
15 hope and change. You can see we no longer can expect  
16 what is right to happen if it is not measured.  
17 Secretary Rod Paige does state this, "For folks who  
18 just want to achievement gap quickly, I know how it  
19 could done, just quick testing and they'll be no gap."  
20 Remember the bumper sticker? Our country is fortunate  
21 that we have people who refuse the live in denial.

22 We can no longer can expect results to  
23 change if consequences and rewards are not associated  
24 to motivate; it's simply human nature. High-stakes  
25 testing keeps the focus on student achievement and

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1 academic preparation. You can live in Afghanistan  
2 where the dictatorship purposely keeps you ignorant,  
3 or you can live in a country that spends over \$350  
4 billion on education, kindergarten through 12th grade  
5 and it is not effective with all groups of children.  
6 The effect is the same, ignorance. If children do not  
7 learn to read, they live as slaves no matter what  
8 country they live in, and as Jefferson reminded us a  
9 democracy will not continue if all its citizens are  
10 not able to read and reason. Thank you for you time.

11 Thank you for your determination to find solutions.

12 CHAIRPERSON BERRY: Thank you very much.  
13 Ms. Reid.

14 MS. REID: Thank you very much for having  
15 me here this afternoon. Unfortunately or fortunately,  
16 my friends always say I'm contrary; I'll probably be  
17 contrary right now. The first thing I'd like to say  
18 is high-stakes testing is perfectly useless, flat out  
19 useless and it's very harmful. At this point  
20 supporters always argue that we need to have high-  
21 stakes testing because without it we wouldn't know  
22 that we had an achievement gap. Well guess what, we  
23 know we have it. Now, high-stakes testings isn't  
24 doing a thing to fix that achievement gap. All it's  
25 doing is punishing students who are not being served

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1 by the school system. Students who traditionally have  
2 not been served by the school system, because this is  
3 really nothing new, the only thing new is now we have  
4 a measurement to tell us what most of us already  
5 suspected for a very long time, anyway.

6 Now, if we want to truly help these  
7 students, we do need to throw the baby out with the  
8 bath water. Public education in this country is so  
9 sick that I don't think it can be saved. It's got  
10 terminal cancer. Right now school's have a culture.  
11 Everything in this society has a culture, and the  
12 culture of school is white majority culture. It's not  
13 just poor little black kids living in projects that  
14 don't do well in public schools, it's middle class  
15 black kids who live in really nice neighborhoods and  
16 whose father's work at IBM, they don't do well in  
17 public schools either. It's Latino children whose  
18 parents work in good jobs, have good families, two  
19 parent homes and they still don't well in schools  
20 either. It is not about the family, we cannot correct  
21 all the family ills. But if we say if you come from a  
22 poor home and you don't have a lot of money and you  
23 only got a single parent, well my goodness, that's why  
24 it's so hard to educate you. We'll work at because  
25 we're good people and we believe in you, but it is

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1 harder to educate you, bull. That's pure bull.

2 When I first started teaching, it's before  
3 I got this esquire after my name. I'm kind of  
4 embarrassed. I promised my friends I would never use  
5 that term, but I was a teacher for 10 years and I  
6 taught at Chapel Hill High School, Chapel Hill, North  
7 Carolina. The first year I was a teacher, I was a  
8 teacher in English, and I suggested that we needed to  
9 expand our curriculum because we didn't really have  
10 any works by any women authors or minority authors,  
11 and I proposed a few books. And one of the teachers,  
12 a white teacher said, all sincerity, she says, you  
13 know, I would love to teach Richard Wright's Black  
14 Boy, but quite frankly, I don't have the cultural  
15 experience I believe I need to teach it. And I said,  
16 you know, quite frankly, I don't feel like teaching  
17 The Great Gatsby this year because I certainly don't  
18 have the cultural experience to teach it. And this is  
19 the type of mentality we have in our schools. She's  
20 perfectly well intentioned, I'm not saying she's a bad  
21 person, but she thought this was perfectly  
22 justifiable.

23 Now, African-Americans, who with other  
24 minorities who have been teachers have been expected  
25 to educate the majority students for a long time,

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1 whether or not we understood their culture, whether we  
2 had experienced it. Otherwise, we don't need jobs in  
3 the school system. So, this is ludicrous that because  
4 these children have certain backgrounds that we cannot  
5 educate them.

6 The high-stakes testing does nothing to  
7 help children learn. The only kind of effective  
8 testing that helps children learn is you generate a  
9 test based on what you taught, you pick out the  
10 children who don't seem to do well on that test and  
11 you give them some additional attention to help them  
12 do better. You don't punish them for not doing well,  
13 this is ridiculous.

14 When I was teaching, the writing was part  
15 of the English curriculum and I got in trouble with my  
16 entire department because with my students I had them  
17 write essays. And when they didn't write essays that  
18 met just the minimal standard I gave it back and I  
19 said you have to do it again, we'd have our writing  
20 conferences. And when they finally wrote one I liked,  
21 I gave them a grade on it and in my department they  
22 said, you can't do that, what about the kids who made  
23 an A the first time, you can't give some child an A  
24 who had to write the paper three times. And I said, I  
25 thought the whole purpose was to make them better

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1 writers and if that's the purpose then don't you want  
2 them to do it until they get it right? Do you really  
3 want to take a paper and say hmm, F and you just keep  
4 it. This to me made no sense, none whatsoever, it  
5 still doesn't make sense.

6 But schools are predicated on the notion  
7 that somebody has got to fail. Somebody can't do  
8 well. This is the only well you can have a bell  
9 curve, there has to be someone at the bottom. Our  
10 State Board of Education Chair recently spoke out and  
11 was quoted in a couple of newspaper stories, he's very  
12 concerned about the waiver process because too many  
13 children receive waivers and they were not retained,  
14 and he thinks this means that the student  
15 accountability standards are not working. I'm not  
16 sure if he realized, possibly he was just a little too  
17 dense to get it, but what he essentially was saying is  
18 we didn't have enough children who didn't pass, we  
19 need to fail more students so we'll know the system is  
20 successful. This doesn't make sense, this is like  
21 borderline insanity.

22 If we want to help students, we have to  
23 change the way we educate. We have to think of  
24 education as being about helping students fulfill  
25 their potential, making them thinkers, making them

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1 analytical thinkers, making them creative, finding out  
2 what's the best in every child and bringing it out,  
3 and it's not impossible.

4           There are some models for doing this, but  
5 we ignored those models. We've had this Ted Sizer  
6 Coalition of Essential Schools going very well with  
7 minority students. Margaret Collins, doing her own  
8 thing and doing very well with minority students. A  
9 lot of parochial schools do very well with minority  
10 students. But we don't want to replicate those things  
11 as most of them require some funding. So instead we  
12 give them tests.

13           And I'm kind of reminded of someone once  
14 said, I believe let them eat cake and I think they cut  
15 her head off eventually.

16           If this is the only thing we can with this whole  
17 business with this accountability system and high-  
18 stakes testings -- it's make no sense to take a child,  
19 who has not had the benefit of a proper education, not  
20 had the benefit of quality teachers, and that child  
21 cannot pass this test and, therefore, that child is  
22 labeled as you are not up to par, you need improvement  
23 and therefore you will be retained.

24           Retention doesn't work. Everybody has  
25 told us that retention doesn't work, all statistics

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1 say retention doesn't work, but we keep doing it.  
2 Now, there are solutions. I don't know why nobody  
3 seems to think about this, there are some places where  
4 they actually have ungraded primaries. Because a lot  
5 of the problem with retention is about social stigma,  
6 demoralization for the student. If you are retained,  
7 then you are not up to the appropriate grade level.  
8 Not only do you know this and the teachers know this,  
9 all the others students know this, that Johnny was  
10 left behind. There's a stigma attached.

11 The next year you're also going to  
12 probably have the same stuff repeated as someone on  
13 the panel said earlier, just louder. It's not going  
14 to be anything significantly different. If I didn't  
15 understand how to do it the first time, I'm not going  
16 to understand how to do it the second time if you use  
17 the same methods.

18 Ungraded primaries work like this, it's a  
19 fairly simple concept. K through 4 you have teachers  
20 and students and they move during the day. They're in  
21 various groups during the day. The groupings are  
22 fluid, it's not tracking because no child is kept in  
23 the same group for a whole year. Instead all the kids  
24 who need work on addition and subtraction work  
25 together. The ones who've mastered that work on

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1 multiplication, the ones who can read words, work on  
2 practicing reading sentences, the ones who still can't  
3 master the letters, work on that. But when you master  
4 it you move on. And it doesn't really matter about  
5 grade levels because every year they mix up the kids,  
6 they're all mixed up in different little pods, nobody  
7 cares. And at the end of the first of K through 4,  
8 those first five years, every child should be where he  
9 or she needs to be.

10 Now, even students with disabilities,  
11 learning disabilities, have learned. There's no such  
12 thing as a child that can't learn. Everyone can learn  
13 something. The point is, we have to let people learn  
14 to the best of their ability, but you have to give  
15 them the opportunity to do that. If you don't give  
16 them the opportunity then you are denying them their  
17 civil rights. You're taking away from them, not just  
18 the right to do well in school, but the right do well  
19 in life.

20 We all know if you don't get an education  
21 you're opportunities for earning a decent living are  
22 severely curtailed. We know if you don't get a decent  
23 education, that the likelihood of your being in a  
24 financial life of poverty is much stronger. We know  
25 that there's a connection between poverty and crime.

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1 We know that there's a connection between poverty and  
2 poor health.

3 So, essentially what we do for that little  
4 child in the third grade is determining whether this  
5 child has an opportunity to actually reach for the  
6 American dream and if that's not a violation of civil  
7 liberties, I don't know what is. To me, this is  
8 essential, it's fundamental.

9 And at this point, I'm tired. I'm tired  
10 of the rhetoric. I'm tired of the nonsense. I'm  
11 tired of well-meaning people talking about what we can  
12 do to help these children instead of doing something -  
13 - instead of changing the curriculum, instead of  
14 changing the methods and practices in the classrooms,  
15 instead of having schools that reflect the diversity  
16 of the American culture.

17 We are not monolithic. As adults we  
18 experience it. I know as a minority, the populations  
19 that I generally work within are predominately white.  
20 And in my entire life it has been a case of, you adopt  
21 and adapt to this structure, rather than anybody  
22 adapting to your structure. That's ludicrous; I don't  
23 do it anymore. I use to when I much, much younger,  
24 but I'm far too old now to do that. So now, I'm the  
25 one that people says, she's difficult. She gets all

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1 upset about the littlest things, I just don't  
2 understand why. She's intimidating. I'm like,  
3 intimidating is if I threaten to hit you. When I just  
4 tell you what I think, I'm just speaking up. There is  
5 a significant difference.

6 Now all of this, you know, we have a court  
7 decision in North Carolina that should resolve these  
8 issues. We have a court decision that every single  
9 children is entitled to equal opportunity to a sound,  
10 basic education. And it's seems so very simple that  
11 you would think that no one would object to it. But  
12 the state of North Carolina does. It says, not our  
13 responsibility. No, that doesn't really mean they all  
14 have to have equal education. As a matter of fact, we  
15 don't even know what basic education is, we're not  
16 sure. Maybe it's a Level II, it's definitely not a  
17 Level III, I know you can't be promoted without a  
18 Level III. But hey, Level II is good enough for a  
19 sound, basic education and nobody's not getting a  
20 sound, basic education; end of story.

21 If you want some entertaining reading,  
22 read the state's brief in the Court of Appeals case in  
23 Leandro. And first you laugh, then you cry. Because  
24 at first you think, oh they can't be serious, then you  
25 realize that they are, and that's what's truly

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1 frightening. In 1954, you know our federal supreme  
2 court set us on the path to break down system of  
3 racial segregation. I was born in 1955. I went to  
4 segregated schools until I was 15 years old, so it  
5 didn't work real well. Now, my nephew and my god  
6 children are going to schools where they're not  
7 getting a sound, basic education. Schools where  
8 they're not appreciated, schools where they are still  
9 dealing with the ills that the Brown decision at least  
10 should have resolved. This is unacceptable.

11 Living up to high-stakes is not going to  
12 fix this problem. If I sound emotional, it's because  
13 I am. And at this point I appreciate the opportunity  
14 to come here, because I hope some of you will get  
15 emotional too. Because the more of us that do and say  
16 that this is unacceptable, then there's a good chance  
17 that we put an end to it so that my nephews' children  
18 will have their equal opportunity. Thank you very  
19 much..

20 CHAIRPERSON BERRY: Thank you. Mr.  
21 Reville.

22 MR. REVILLE: Thank you, Madame  
23 Chairperson. I appreciate the opportunity to address  
24 the commission today on the controversial issue of  
25 high-stakes testing and it's role in systemic school

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1 reform. I feel like I'm about to make the basic  
2 argument rationale for this, which is that this late  
3 in the day seems somewhat out of order. But  
4 nonetheless that's what I committed to do, that's what  
5 I going do. I'm going to give you the basic rationale  
6 which is a counterpoint, I guess. And then secondly a  
7 quick snapshot of what we've seen thus far in  
8 Massachusetts.

9 I'll commence with my opening with just  
10 qualifies me as a teacher, a principal, a policy maker  
11 and also a parent of six children who are variously  
12 effected by policies that I'm about to describe. And  
13 I'll share my view that high-stakes testing is a  
14 powerful strategic instrument which when properly  
15 employed has an element of standards based school  
16 reform can be a vital lever for achieving equity in  
17 American public education. I would unabashedly join  
18 William Taylor, one our nation's most distinguished  
19 civil rights advocates, who has stated that while the  
20 standards movement could be the most important vehicle  
21 for the educational progress of minority and poor  
22 students since Brown v. Board of Education.

23 CHAIRPERSON BERRY: Who was that?

24 MR. REVILLE: Bill Taylor.

25 CHAIRPERSON BERRY: I just didn't hear

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1 what you said.

2 MR. REVILLE: Okay. Let me explain the  
3 basis for this view. Standards based school reform,  
4 an approach to school improvement is driven by its  
5 focus on equity, is now our national school reform  
6 strategy. It has been adopted independently by  
7 virtually all the states which recently been adopted  
8 and implemented as federal education policy through  
9 the "No Child Left Behind" Act. This reform strategy  
10 which has been rapidly developing since its first  
11 articulation and appearance in the early '90's is  
12 based on a simple set of principles and practices.

13 The strategy calls for high standards for  
14 all students, standards that are likely for  
15 requirements entry level success in higher education  
16 and employment and some areas of citizenship. Regular  
17 assessment to track progress for diagnostic and  
18 accountability purposes has set up consequences, i.e.,  
19 an accountability system for educators which is based  
20 on performance.

21 Equally important and, too often  
22 forgotten, the strategy calls for both capacity  
23 building -- providing the teachers the training and  
24 support they need to assist students and meeting the  
25 new higher education goals and opportunity to learn.

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1 By which has meant providing each student with quality  
2 teaching, a curriculum that aligns to the standards,  
3 regular feedback on performance and extra help when  
4 needed. In addition, students can get access to other  
5 supports we know are crucial, such as quality pre-  
6 school, full day kindergarten and smaller classes in  
7 early grades.

8 Underlying this basic strategy is a  
9 radical set up where we subscribe these proposed  
10 changes for American education. Foremost among these  
11 is the revolutionary belief that all children, in the  
12 rhetorical reform all means all, no excuses, no  
13 exceptions, can learn at high levels. With the  
14 exception of the 1 or 2 percent of children who have  
15 been the victims of some form of brain damage and  
16 therefore may not achieve at the level prescribed for  
17 others, and these children too can be expected to  
18 perform steadily higher level than historically has  
19 been expected. The new standards offer challenging --  
20 are well within the intellectual grasp of our  
21 children.

22 The correlating to high expectations for  
23 all students is the belief that fairness requires us  
24 as a nation to have the same expectations for all  
25 students, irrespective of their backgrounds. These

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1 are reforms seek to realize the American myth is sadly  
2 so far from reality that public schools are the great  
3 equalizer. In pursuit of this goal, we refuse any  
4 longer to make the automatic assumption that we should  
5 have higher educational expectations for affluent  
6 children than we have for poor children. We know that  
7 the typical grade of A in the suburbs is usually  
8 represented far more learning than the typical grade A  
9 that is of learning in the city school.

10 These reforms say that those  
11 discriminatory expectations are now intolerable. Not  
12 only do we believe that all children can learn at high  
13 levels, but the knowledge now exists to make this  
14 happen. All students are entitled to graduate from  
15 school having achieved proficiency, that is being  
16 masters to the knowledge and skill they will need to  
17 be successful in higher education, future employment  
18 as citizens with families.

19 Under these reforms, performance matters,  
20 learning matters, not only for students, but for the  
21 adults in the educational system. No longer is trying  
22 harder good enough. Policy makers, administrators and  
23 teachers need to be sharply focused, putting in place  
24 the conditions that will lead to the attainment of  
25 high education standards by all students.

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1           Make no mistake, this is a monumental  
2 challenge for American education. It's changed  
3 forever the nature of the industry. We are far from  
4 having attained our ambitious goals, but we are making  
5 progress and learning as we go. Some critics would  
6 have us abandon ship because school reform strategies  
7 have not been immediately successful or perfected.  
8 Those of us who believe in these strategies see them  
9 as having already struck a lightning blow for the poor  
10 and disadvantaged. We want to build on that progress  
11 rather than letting the programs stay as they are.  
12 All of us in the world of education need to recommit  
13 to the goal of proficiency for all by doing our share,  
14 stooping our respect to responsibilities and  
15 accountability for providing each child with the  
16 opportunity to become proficient.

17           A return to status quo, the manifestly  
18 failing system of education that proceeded these  
19 reforms is simply unacceptable. Various demands, but  
20 can we seriously any longer, contemplate having  
21 standards that apply differently to our children? Can  
22 we have urban standards, and suburban standards, high  
23 for the rich, low for the poor, who will chose which  
24 group should be expected to achieve more, you or me,  
25 the teacher, the school, the state, the federal

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1 government? Who chooses and who loses?

2 Various commands would be set, challenging  
3 standards which reflect the knowledge and skills our  
4 children will need to be successful in this economy,  
5 this demographic society and a life of continuing  
6 learning in the sense of families. Fairness demands  
7 that we expect the same of all that we provide only  
8 the opportunity to learn, but if we hold all our  
9 students and our educators accountable for their share  
10 of the learning.

11 Fairness requires that we award every  
12 student a diploma that actually stands for the  
13 achievement of the defined body of learning.  
14 Government awarding the focus for social promotion.  
15 Fairness requires disciplining the system to deliver  
16 full learning opportunities for all children.  
17 Fairness means providing incentives for those who  
18 achieve, data to all parents and students and help to  
19 those who need it. Fairness demands not artificially  
20 shielding students from stress and judgement by  
21 society, since this is the reality of the world they  
22 inhabit. Fairness demands consequences for  
23 performance.

24 The high-stakes testings that we are here  
25 today to discuss is just one part of the complex web

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1 of strategies that make up systemic standards based  
2 reform. The task often confused with the reform are  
3 merely a tool of the reform, a yardstick with which  
4 progress is measured. An instrument of not only of  
5 accountability, but a diagnostic tool to provide  
6 valuable information to teachers.

7 Critiques are found to be complaining of  
8 the obvious, that education cannot be improved by  
9 tests. That "No one ever fattened the cow by weighing  
10 it". But, of course, no reform ever thought this.  
11 While tests were instituted to measure the degree with  
12 our educational goals were being realized, the degree  
13 to which students have attained proficiency to expose  
14 the weakness of the our current strategies, most  
15 importantly for us to take action for improvement.

16 The stakes associated with the test are  
17 separate and distinct policy intervention designed to  
18 create incentives for every performance. Much of the  
19 controversy surrounding the standards movement,  
20 concerns the stakes not the results. The stakes make  
21 the test results matter, they make performance count.

22 The stakes are the forefront of the accountability  
23 system and a essential central component. They create  
24 the urgency for push to dislodge the low expectations  
25 that characterize the status quo and create a widely

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1 disparate impact of our current ineffective and  
2 unequal system of public schooling.

3 Historically, tests without stakes itself  
4 have driven change or improvement. For example, in  
5 Massachusetts we've had countless standardized tests  
6 over the years that have demonstrated the widespread,  
7 very well known and commonly accepted inequity in  
8 education. Typically the results of these tests were  
9 accepted with a shrug of resignation and nothing  
10 changed.

11 Now we have the Massachusetts  
12 Comprehensive Assessment System, MCAS. The results  
13 demonstrates the same inequities, but this time there  
14 are stakes and that suddenly changes everything. More  
15 resources and attention than ever before are aimed at  
16 those children who have been historically least well  
17 served in education. Teachers are engaged in more  
18 professional development than ever before. Curriculum  
19 is changing the align the state's standards,  
20 pedagogical practice -- teaching has changed,  
21 everywhere being reconsidered and altered for greater  
22 effectiveness. In other words, stakes are the direct  
23 cause of substantial change in Massachusetts schools.

24 As a proponent of standards based reform,  
25 I acknowledge the limits of the tests and the cautions

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1 issued by virtually all testing experts and  
2 associations not to make life-altering determinations  
3 on the basis on a single test. I also believe that  
4 before we hold children responsible for their share of  
5 the learning we should engage in the difficult work of  
6 holding adults accountable for having given the  
7 children the opportunity to learn. Strategy requires  
8 an educator accountability with real stakes, needs to  
9 precede student accountability.

10 However, none of these cautions dispels my  
11 belief, there's a great teacher Adam Shank frequently  
12 argued, students must also have real consequences  
13 attached to their educational efforts. Question is  
14 how to fairly and appropriately administer the  
15 consequences.

16 Here's what we've done in Massachusetts.  
17 We have some of the nation's highest and best  
18 standards for learning. The state assesses student  
19 progress at separate intervals, as they progress  
20 through the education system. There are no student  
21 stakes attached to the MCAS performance, until grade  
22 10, when students must achieve a competency  
23 determination of MCAS in English and Math as a  
24 prerequisite to graduation. They must also meet all  
25 of their local graduation requirements in order to

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1 receive a diploma. Students have higher chances to  
2 pass the MCAS prior to graduation, soon there will be  
3 even more testing opportunities.

4 There's an appeals process that seeks to  
5 equate classroom performance with expected MCAS  
6 performance in instances where students feel that MCAS  
7 consistently fails to measure their general level  
8 of achievement. There's a certificate of attainment  
9 for those who met the graduation requirements but  
10 failed to achieve the MCAS competency determination  
11 and want to be recognized for their class on  
12 graduation day.

13 The test consists of multiple assessment  
14 modalities, essay, short answer, and multiple choice  
15 items. About 40 percent of the test score is based on  
16 open-ended items allowing consideration of a student's  
17 work process. The state has made massive investments  
18 for remedial opportunities which happen during and  
19 after school hours and in the summer.

20 The state is also committed to sticking  
21 with students for as long as it takes for each one to  
22 achieve competency. In other words, no one is  
23 guaranteed a diploma in four years, but you are  
24 guaranteed the help you need to achieve competency  
25 and the Commonwealth will support you throughout this

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1 process.

2 Stakes are high, no one should  
3 underestimate the severity of withholding a diploma.  
4 However, the problematic and financial supports are  
5 substantial. The process is fair. Massachusetts in  
6 an effort to build capacity has more than doubled the  
7 state's commitment in cost of dollars to education.  
8 We are making progress. Our goal of having everyone  
9 meet the new higher standards is within reach.

10 More importantly the results to date show  
11 that any kind of student from any background or  
12 ethnicity can achieve the standard if the learning  
13 conditions are right. In fact, substantial numbers,  
14 thousands of students representing virtual all sub-  
15 categories of students in the first class of 2003 have  
16 already attained the standard. This demonstrates that  
17 the standard is reasonable and well within the reach  
18 of all of our students. They are not prevented from  
19 attaining this standard by virtue of their DNA, their  
20 race, social class or their neighborhood. They can do  
21 it if we figure out how to assist each and every one.

22 Since time is short, I'm going to skip --  
23 you have in your testimony a number of pieces of  
24 evidence that I've cited. I've made some comments  
25 about what we need to do for those students who fail

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1 to graduate from high school as a result of their MCAS  
2 performance, using the data to hold their teachers and  
3 schools accountable, providing students with fair  
4 opportunities to appeal, and most importantly  
5 guaranteeing them continuing education -- and let me  
6 just close by my final paragraph here.

7 Standards based reform and the assessment  
8 in stakes that animated it into a conspiracy against  
9 the preface of soft-discrimination of low  
10 expectations. That is why this reform is premised on  
11 the belief that all students can achieve the high  
12 standards with efficiency. We know this to be the  
13 case. We have widespread evidence that it's true.  
14 The challenge ahead is to hold everyone in education  
15 responsible for providing the teaching of many  
16 conditions that will enable to all children to attain  
17 that standard.

18 There is a great temptation among many of  
19 those sympathetic to the plight of the poor, minority  
20 youth to shoot the messenger; to deny the evidence of  
21 the assessment, to dispute the stakes, to avoid the  
22 real issue, the failure our current educational system  
23 to provide all our children with what they need to be  
24 successful in life. We have had long had disparate  
25 impact embodied in the day-to-day operations of an

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1 educational system riddled with widespread inequities.

2 This system has persistently underserved low income  
3 and minority youth.

4 Poverty is a powerful and persistent  
5 obstacle to learn. Standards-based performance  
6 acknowledged the entry of poverty, rejected temptation  
7 to give up on children by declaring poverty as destiny  
8 and embraced the strategies needed to make education  
9 truly matter and improving the prospects of the those  
10 poor, needy, economically-disadvantaged.

11 As a nation we made a gigantic investment  
12 in schooling. We have an obligation to expect and  
13 deliver educational results. We know that education  
14 has been the ladder out of poverty for many. It can  
15 be done. Our challenge is the make the ladder work  
16 for everyone.

17 The stakes associated with the evidence of  
18 assessment provides significant incentives to all  
19 parties for education improvements, but the  
20 elimination of educational inequality. To remove the  
21 stakes undercuts the vital urgency of the reforms that  
22 would allow us to fall back into the pre-reform world  
23 governed by what many have called the tyranny of low  
24 expectations. By expending our energies, debating the  
25 instruments for accountability we should be waging an

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1 educational war.

2 CHAIRPERSON BERRY: Your time is up.

3 MR. REVILLE: Okay. Ten more seconds?

4 CHAIRPERSON BERRY: But you made the same  
5 point three times, but go ahead.

6 MR. REVILLE: We're pleading that our  
7 main strategies for educational improvement overwhelm  
8 the tyranny so that all our children can be proficient  
9 and prepared to succeed in life. This is what we must  
10 strive for and we encourage you to continue our quest  
11 on behalf of those children when we so need to be on  
12 task.

13 CHAIRPERSON BERRY: I just want to be fair  
14 to all participants. Jack Boger, please.

15 MR. BOGER: Chairperson Berry and  
16 distinguished members of the Commission and the staff  
17 who I've had such a pleasant time dealing with. Thank  
18 you all very much for having me here this afternoon,  
19 and even more so for your identification of powerful  
20 light that this initiative can shine on the issue of  
21 educational accountability as a civil rights issues.

22 Now since you have my paper Madam Chair,  
23 written statement, I'm going to take your invitation  
24 this morning to offer some relatively extemporaneous  
25 remarks on "No Child Left Behind", I wrote it --

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1 CHAIRPERSON BERRY: All papers will be  
2 included on --

3 MR. BOGER: I will say if you have looked  
4 at it it's somewhat foreboding in tone and full of  
5 sort of dire warnings for possible disaster, I think  
6 I'm going to begin my oral remarks on a different note  
7 sort of following my southern upbringing, if you can't  
8 say something nice, don't say anything at all.

9 Well I have actually seven nice things, I  
10 could say about the "No Child Left Behind" Act and  
11 I'll say them all very briefly and I hope at some  
12 point my co-counsel, Leandro, Sheria Reid doesn't kind  
13 of come brand me and remind me about what I really  
14 think. There are seven nice things about, as I sort  
15 of laid the out.

16 The first really, is the goal, the  
17 affirmation that all children can learn and that we  
18 are talking about all different racial and ethic  
19 minorities, and limited English proficient children,  
20 special ed children, that's the important aspirational  
21 goal that's in the statute.

22 The second is the requirement that we all  
23 actually measure the performance of all children.  
24 That we don't leave any behind as we measure to see  
25 annually how we're doing. Ed Koch used to say, the

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1 mayor or New York, "Well, how am I doing." I think  
2 it's important to ask ourselves that of all of our  
3 children every year.

4 The third is the basic response that once  
5 deficiencies are identified that some concrete steps  
6 must be taken to hold districts and schools,  
7 principals, and superintendents and teachers  
8 responsible. Thus far, it's seems to me this is all  
9 doing good.

10 Moreover it seems to me that there's built  
11 into the statute an intention -- professed intention --  
12 - that we not allow schools knowingly to play one  
13 group of children off against another. I'm worried  
14 when I have like seven bad things when I come back  
15 here because I'm worried that they're unintended  
16 features of the statutes that do just that. But at  
17 least in principle it doesn't work that way.

18 The fifth is the commitment to provide a  
19 fully qualified teacher in every classroom. I think  
20 that's the single most remarkable powerful thing that  
21 could happen under this statute, if it were in fact  
22 carried out.

23 The sixth is the provision to parents of  
24 children who are doing poorly of some practical  
25 redress. Although again, I'm worried about some of

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1 the nature of that redress and it's unintended  
2 consequences.

3 The seventh is the promise the underlies  
4 this spending strategy, this quid pro quo, that will  
5 be seriously substantial increased federal dollars in  
6 exchange for state commitment to undertake these new  
7 requirements. All those things seem to be good.

8 Now, before I start in on my sevens of  
9 critique -- the Joseph's note, interpreting the story  
10 of the seven good years, and seven lean years -- I  
11 can't resist the notion to comment on Mr. Edley's use  
12 of NCLB as the way in which he wants to deal with the  
13 acronym. Because first, it brings to everybody's  
14 mind, I think, Charles Dickens' great novel, Nicholas  
15 Nickleby and you remember in that novel that one of  
16 the central features of it is the school master,  
17 Wackford Squeers, from Yorkshire. This sort of  
18 terrible parent who sort of had short rations and even  
19 shorter education and he was the main sort of  
20 narrative. The triumphs of the novel is when Nicholas  
21 Nickleby comes to that school and frees what we would  
22 now called a special needs child, Smike, frees him and  
23 everyone else from this terrible place. I have decided  
24 yet, Chris, whether "No Child Left Behind" is a  
25 Squeers kind of statute or a Nickleby statute, a way

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1 to free children or a way to re-enslave them.

2 Let me go through my seven bad things  
3 about the statute. The first is the statute itself.  
4 It's a grotesquely complicated statute. It cost me  
5 \$49 to buy a copy in the government printing office.  
6 That's what it goes for these days. And I'm a lawyer  
7 and I love complexity, this is too much.

8 Indeed it sets up in more seriously than  
9 just it's length, a cross-current for states like  
10 North Carolina which have already committed themselves  
11 to an accountability program a whole different set of  
12 standards. And we heard Evan Myers, the principal  
13 from Tyro Middle School announce that he was going to  
14 be required with both North Carolina's ABC's and with  
15 the federal "No Child Left Behind". I think that's  
16 going to lead to some troubles, that I'll mention  
17 later.

18 The second of my critiques is the  
19 selection of your measures. Professor Ladd was  
20 talking about that earlier. North Carolina selected a  
21 growth or value-added measure in which you look at  
22 every school and ask what can we expect of the  
23 children in that school, in that class the next year,  
24 and then you decide whether they've made or not made  
25 that standard. The federal standard has no growth

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1 component to it. It sets a single, uniform state-wide  
2 metric that everyone must meet and every single group  
3 of children must meet. I think that's too inflexible.

4 The third is really the pace for remedy  
5 and I guess I'll join Sheria Reid with words like  
6 ludicrous or preposterous. We have the statute  
7 enacted in January of 2002 and before anybody can read  
8 through the statute, we have remedies that are  
9 starting to become due. We have obligations that are  
10 inflamed. Six percent of the North Carolina schools  
11 are going to be in need of improvement under the  
12 statute within a year. It seems to me too rapid an  
13 approach -- when I pointed out that North Carolina's  
14 ABC's took 12 years to implement. That's the kind of  
15 careful building of foundation that makes sense.

16 We're quite lucky in this case, as  
17 compared to others where's there no standard course of  
18 study from Grade K to Grade 12; where there's no  
19 accountability system already built. And yet the  
20 adverse consequences in those states are going to flow  
21 just as fast.

22 Finally, I suppose there's their 12 years  
23 to utopia, someone made mention of this. I imagine if  
24 we were to take our fire departments or police  
25 departments and say, we don't care how you do it, but

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1 in 12 years no crime, in 12 years no fires. We're  
2 going to be remarkably disappointed with you and start  
3 to punish you if at nine years out there still some  
4 crime and still some fires. I don't know why we're  
5 doing this to schools as opposed to doing something a  
6 little less American and a little more realistic and  
7 ask for meaning growth rather than growth towards  
8 utopia in 12 years.

9 The forth of my criticism is that some of  
10 the remedies provided as I indicated earlier have  
11 profound unintended consequences. The parental  
12 transfer program for example sounds promising on its  
13 face. I'm worried that it will threaten to set social  
14 classes, literally racial groups against each other.

15 North Carolina has just decided that you  
16 measure, as you heard earlier, that if you had at  
17 least 40 children in one sub-group -- well, a big  
18 yellow North Carolina school bus hold about 40  
19 children. If in southeast Raleigh, predominately  
20 lower income, predominately black, 40 children decide  
21 to get on buses and in fact they head out to a middle  
22 class school, those middle class parents are going to  
23 see those children as a school in need of improvement  
24 arriving, as they arrive, because of their low  
25 performance. In other words, I think it really sets

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1 us up and I would agree again with Professor Ladd, the  
2 district is -- the unit not the school that which we  
3 ought be measuring performance by these children.

4 The fifth critique I have, is it's a very  
5 substantially inadequate funding that I understand  
6 that the federal -- the promise is for \$31 billion. I  
7 think the federal delivery was for \$22 billion. We  
8 all read the newspapers, we have a \$303 billion budget  
9 deficit coming in from the administration. With no  
10 more paid for under that, North Carolina gets a \$1.3  
11 billion deficit this year. I am profoundly worried  
12 when the rubber hits the road what's going to happen  
13 with all those wonderful programs for focused  
14 intervention for addressing the needs of these  
15 children who are not doing well, are going to be the  
16 element that's not paid for.

17 The sixth, really, is the failure to  
18 consider the structural problem created by racial  
19 segregation, and my paper was devoted at least the  
20 first third of it to that. Racial segregation,  
21 resegregation in the south is a very profound problem  
22 with serious educational consequences, particularly  
23 because of the relationship between racial segregation  
24 and socio-economic isolation and stratification to the  
25 lower economic status of African-American and Latino

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1 and Native American peoples. As our schools become  
2 more segregated, they become more high poverty with  
3 challenging consequences.

4 The seventh really seems to me is that the  
5 parental strategies are largely absent strategies.  
6 Strategies to get people out of places towards what is  
7 hoped would be better places, rather than  
8 concentrating on schools everywhere as they are. I  
9 have a lot more to say about the high-stakes testing.

10 I have a lot more to say about the accountability in  
11 general. I'm tempted to close in this way. The  
12 article I gave you which was called the Perfect Storm,  
13 I love -- it was sort of a metaphor of several forces  
14 coming together.

15 I was actually starting the work on the  
16 article about "No Child Left Behind" and I'm finding  
17 myself drawn to another adventure story. I'm not an  
18 adventure guy and I don't know where this comes from,  
19 nor does my psychiatrist. But there's a book, Into  
20 Thin Air, by Jon Krakauer and it's a gripping story of  
21 how some novices who are not well trained are taken by  
22 professional climbers up Mount Everest, up into a  
23 place that literally has thin air. Air so thin that  
24 until you are acclimatized to it, until you have  
25 trained yourself to be adequately prepared for it,

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1 your body metabolism simply cannot survive.

2 Now, I don't suggest that the main part of  
3 the metaphor is that getting children to grade level  
4 is getting them to a Mount Everest. But it does seem  
5 to me, that it's just as fool-hardy to take children  
6 and give them high-stakes testing and accountability  
7 without preparing them adequately as it would be to  
8 take up these climbers and bring them up into the thin  
9 air of 28 or 29,000 feet with the same possible dire  
10 consequences. Lots of people are not going to  
11 survive, who literally are not going to make it  
12 through the experience.

13 Last week there was a foundation  
14 gathering, 10 or 12 leaders of North Carolina  
15 education and a couple of followers like myself. What  
16 the group was asked to do is to project ahead with  
17 North Carolina's situation in education and "No Child  
18 Left Behind". The terms that I heard in the breaks  
19 were terms like poison pill, terms like train wreck.  
20 There's a lot of apprehension about where this statute  
21 is taking us without very much consideration of the  
22 downside consequences. So, I close I suppose on  
23 another sort of note of doom. I'm happy to take  
24 questions.

25 CHAIRPERSON BERRY: Thank you very much.

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1 I think I'll just ask a question then turn to my  
2 colleagues, then come back. Jack, I don't know  
3 whether some days I think that those of us take  
4 seriously and try to analyze what all this means, the  
5 statute and all this stuff, are being incredibly  
6 naive. Because in reading a summary of it -- I  
7 haven't read that whole big, thick book yet, I've  
8 haven't had the time -- it did seem to me that if you  
9 take the seven good things you talked about, that with  
10 the bad things that are happening and are likely to  
11 happen that we've heard about and so on, that  
12 eventually it could be argued that there's a great  
13 desire among Latinos, African-Americans, kids who are  
14 left behind, those with disabilities, to have the gap  
15 completely closed. And it isn't because what needs to  
16 be provided isn't there. So there's total disgust  
17 which would mean then the crab would be general  
18 education and that there may be a possibility that  
19 some people who put together this policy might think  
20 that wouldn't be a bad idea.

21 So, it's good for people who've been  
22 locked out to see the data and to say well see,  
23 there's the gap, we need to do something about that  
24 gap. And here's the test and it's just a -- taking  
25 temperature, that's all it is, and let's work hard to

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1 do that. And then all the stuff we hear about, what  
2 isn't being done for the children who are involved and  
3 the consequences are always for the children. That  
4 ultimately -- and people trying to transfer into  
5 schools that they can't get in to, or they're too many  
6 of them trying to by failing schools and so on.

7 Eventually you do get a train wreck and  
8 you do get people saying, you know, we need some other  
9 kind of system, other than this system which might  
10 encourage moves to go in that direction. So I don't  
11 know, is that card possible at all?

12 MR. HEUBERT: Chairperson Berry, I think  
13 that's exactly what I think was worrying the group  
14 that I was reporting to you and it seemed to be so  
15 important. Therefore, for a commission with the  
16 visibility and respect to this one, to ask that  
17 question. Frankly, not necessarily to challenge  
18 anybody's political motives, but simply to say, I  
19 heard this warning. A lot of very earnest educators,  
20 teachers, and principals, standing out there saying,  
21 we're going to do the best we can to make this work.  
22 I hope -- gee I hope you're able to, but I have a  
23 feeling it may twisted quickly in the system. It's  
24 got some many rigid demands and so few resources that  
25 are being brought that assist you.

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1           Then the parents who may get this illusion  
2           that you suggested because of what they see as failing  
3           scores and grades, and parents saying please let me  
4           move somewhere else and other people saying, you're  
5           not going to come to where I am now. The regulation  
6           that says school over-capacity is not going to be an  
7           excuse for accepting children who move seems to me  
8           like an invitation to social discord.

9           In Charlotte, for example, let me quickly  
10          give those statistics we looked at. The schools that  
11          are 80 percent plus white are running at about 105 to  
12          110 percent capacity. The schools that are 75 percent  
13          plus non-white are running at about 70 percent  
14          capacity. And out of those low performing schools the  
15          children are going to be invited and their parents to  
16          come to the 110 percent capacity schools. I don't  
17          think that makes sense for either set of schools. But  
18          what it may do is create a kind of social discord,  
19          whether it's intended or not.

20                 CHAIRPERSON BERRY:        There was this  
21          question that I asked the last panel and I said it  
22          ought to be asked of this panel. The one about the  
23          waivers, and Mr. -- at Tyro -- Mr. Myers, I guess his  
24          name was, was talking about the waivers and somebody  
25          here mentioned waiver; you did Ms. Reid. But what I

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1 want to know is if it is the case that waivers are  
2 given in school systems where there are very few  
3 students of color, Latino and African-Americans, and  
4 in the systems where there are lots of them, either  
5 people don't know about the waiver or they don't get  
6 them, they're retained in grade, doesn't that raise  
7 some question of discrimination?

8 MR. REVILLE: I don't have state wide data  
9 or national data or anything like that. I have only  
10 one specific piece of data and that is in Chicago  
11 where the vast majority children who fail the  
12 promotion exam initially and are required to go to  
13 summer school and then retake the promotion test are  
14 African-American and Latino. The proportion of white  
15 kids who are promoted without ever having passed the  
16 promotion test is dramatically higher to the  
17 proportion of Black children or Latino children who  
18 are allowed to move onto the next grade without having  
19 ever passed the test.

20 CHAIRPERSON BERRY: And that could be  
21 argued to black parents. You ought to be happy that  
22 we're doing this to your kids because we're holding  
23 them to a higher standard than we are the other kids.  
24 Which is good for them and this is bad for your kid.

25 MR. HEUBERT: That of course is anecdotal.

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1 CHAIRPERSON BERRY: That's only anecdotal.

2 Yes, Mr. Reville.

3 MR. REVILLE: Just two comments. One is  
4 them is parent thing. I think it's really important  
5 because we're talking about a number of subjects  
6 simultaneously here to distinguish between, you know,  
7 the high-stakes testing as a general topic and those  
8 elements of high-stakes that are incorporated in "No  
9 Child Left Behind". I, for one, for example, don't  
10 want my remarks associated with an endorsement of "No  
11 Child Left Behind".

12 To the point of the waivers that you made,  
13 we in Massachusetts, we're a little subject to  
14 waivers. For example, I know in New Jersey, they have  
15 some problems in making waivers an alternative test,  
16 it was highly subject to local discretion available to  
17 districts for children who had failed once the state  
18 wide assessment. There was some evidence, at least  
19 that was called by a journalist that suspected there  
20 were large numbers of these local tests that were  
21 geared at a much lower standard. They were allowing  
22 urban kids to pass through at much lower gate, in  
23 effect undermining the whole purpose of the standards  
24 reform.

25 What we try to do in Massachusetts is to

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1 create a waiver process. It's a state wide waiver  
2 process, not up to one district or another district.  
3 It's open to anybody that fails the test, and it's  
4 just that there have only been two test of it  
5 recently. It attempts to equate the work that  
6 students are doing in class with how other people who  
7 have been in the same classes and performed at similar  
8 levels on the standardized tests. So if you find  
9 large number of students who have been in the same  
10 class, done the same level of performance in terms of  
11 work and passed the MCAS, but you didn't after  
12 persistent tries, there's reason to believe that maybe  
13 the exam doesn't accurately measure your level of  
14 mastery. So you're granted a waiver; a couple hundred  
15 of these are granted.

16 CHAIRPERSON BERRY: I had one question  
17 about Massachusetts and then I'll recognize anyone. A  
18 factual question about Massachusetts that I didn't  
19 understand what you were saying. We were talking  
20 about -- here we're talking about the stakes of  
21 students and you're explaining how that program works  
22 and you said there were stakes for everyone in the  
23 system. One of the punitive measures against the  
24 Massachusetts State Board, the State Superintendent,  
25 the specific superintendents and districts and

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1 principals and the teachers when they fail to do  
2 something -- we had some numbers that I think Jay or  
3 somebody gave us, how many students in Massachusetts  
4 at the tenth grade level -- did you give those Jack --  
5 are in fact in any position to pass these tests?

6 MR. HEUBERT: As of September, 52 percent  
7 of the class of 2002, 52 percent of the African-  
8 American students in the class 2003 had not yet passed  
9 both parts of the test they need to receive a diploma,  
10 and I have statistics for other groups too. 84  
11 percent of English learners, 55 percent of students  
12 with disability, 59 percent Hispanics and 82 percent  
13 blacks.

14 CHAIRPERSON BERRY: My query is, how are  
15 they punished? Not the students, because they'll be  
16 punished by not getting the diploma. How is the  
17 Massachusetts State Board punished since they are  
18 responsible for this system? How is the State  
19 Superintendent punished? How are the schools  
20 punished? How are the teachers punished? Do they take  
21 reductions in salary or do they get fired or do they,  
22 what happens to them?

23 MR. REVILLE: As I made the first point  
24 that the glass looked at half-full, I think is  
25 contained in some of the data I gave you in my report.

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1       There, as you know, it's one of the reasons that many  
2       of our states moved towards holding students  
3       accountable before adults, notwithstanding the theory  
4       of strategy crawling through reverse, is that adults  
5       are much better organized to resist accountability  
6       than students are. In so, in effect, what we wind up  
7       with in many instances is a strategy that in effect  
8       that's in to holding students hostage in some ways in  
9       the hope that adults will ultimately behave out of  
10      consideration of students. It's not pretty, but it's  
11      the way it is in a lot of places.

12                   Now having said that, I don't know of any  
13      place that has found ways to hold, other than the  
14      electoral process to hold state legislatures,  
15      governors, governor's appointees to State Boards of  
16      Education, responsible for their performance and doing  
17      what they're supposed to do with respect to this.  
18      Some of these systems have designed measures that are  
19      designed to hold superintendents, districts as a  
20      whole, principals, teachers accountable.

21                   We have what I would describe as a rough  
22      beginning of accountability in Massachusetts. We're  
23      not highly advanced in this regard. But there are  
24      some measures, you know, that go beyond simply -- that  
25      the most superficial measures just the exposure of the

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1 data, and making the data meaningful to the public.  
2 That has happened and people are making decisions  
3 based on that data --

4 CHAIRPERSON BERRY: Mr. Reville --

5 MR. REVILLE: But there are interventions  
6 for the State Department of Education for under  
7 performance schools in districts that do have  
8 consequences.

9 CHAIRPERSON BERRY: Mr. Reville, if you  
10 listened to what you said yourself, you would be  
11 amazed, I think. Because basically what we have here  
12 is, it's possible to give incentives. Recorded by  
13 books to date, the teachers who do it, schools who do  
14 a good job. They can get more money and there's even  
15 in North Carolina a proposal to -- if they meet the  
16 average daily, whatever that thing is, they would get  
17 even more money. They get \$600 now and they would get  
18 \$600 more for each person, if they did that. There  
19 are ways to give incentives to people to do this.

20 Just as there are ways to give incentives  
21 to people, there are ways to give disincentives when  
22 they do things and we all know this. It would be  
23 entirely possible to construct a system where if you  
24 wanted to punish everyone and not just the students --  
25 I don't mean you personally, but I mean a person who

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1 wanted to do that -- where you could construct a  
2 system where you dock the pay of superintendents of  
3 schools, of teachers, of everyone involved if they  
4 failed to provide the kind of education to students  
5 and if they didn't close the gap --

6 MR. REVILLE: I couldn't agree with you  
7 more, I didn't say it wasn't possible.

8 CHAIRPERSON BERRY: -- and of school  
9 boards? You don't have to just for an election or  
10 something or appointment, would you support such a  
11 system in Massachusetts?

12 MR. REVILLE: I would absolutely --

13 CHAIRPERSON BERRY: Would you propose one  
14 in Massachusetts?

15 MR. REVILLE: No, I would not. I, in fact  
16 -- I hope that because the students stakes and the  
17 high-stakes accountabilities is being challenged in  
18 court in Massachusetts. By own belief is that I've an  
19 opportunity to learn, the state is vulnerable on this,  
20 because we can't guarantee the universal opportunity  
21 to learn is going to take place for every student.

22 My hope is the remedy is not to say, let's  
23 go back to the status quo we had and just hand out  
24 meaningless diplomas to everybody, but because that  
25 seems to be better than what we're currently doing.

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1 My hope is the answer is, let's put a genuine system  
2 of balance of accountability that holds adults feet to  
3 fire for putting in place the opportunity to get all  
4 students to this standard because we know we can do  
5 it.

6 CHAIRPERSON BERRY: Otherwise I would  
7 think -- then I'll recognize you -- I would think that  
8 what has been described, if it doesn't change, would  
9 be that students would be regarded as collateral  
10 damage. Those who are harmed by this and who don't  
11 graduate, who don't pass the test, as collateral  
12 damage on the way to the hope that the adults will  
13 someday start doing what they should do, by the fact  
14 that the kids are being hostage. And in the meanwhile  
15 there will be students who've even dropped out or  
16 didn't get the diploma or -- but they're just, you  
17 know, collateral damage on the way to try and get  
18 success in this.

19 CHAIRPERSON BERRY: So what, yes.

20 MR. HEUBERT: I have had decision makers  
21 in New York State say to me when I say, 60, 70 80  
22 percent of the English learners in New York are going  
23 to fail. They say, yes there will be casualties. And  
24 in Wisconsin when 30 percent of the kids were about to  
25 be denied diplomas in the state that's overwhelmingly

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1 white, the legislature withheld funding for  
2 administration of the test. And our current Secretary  
3 of Health and Human Services had to back off from  
4 high-stakes for students' approach.

5 But you know, there, let me make an  
6 argument that may strike you as strange. If we did  
7 create the same punishments, let me say, for adults  
8 that we do for children, it's certainly hypocritical  
9 to do it only for children, we would have some of the  
10 problems that two of our previous panelists talked  
11 about. We have a nationwide teacher shortage. And a  
12 teacher would say, if I'm facing, you know, I'm going  
13 to go someplace else where the kids do well without  
14 any help or interference from me and I won't have to  
15 worry about this. I'm not a psychologist, I don't  
16 blame it on the television, but I've never heard of a  
17 theory of learning that says that low performing  
18 schools or low performing kids are likely to do better  
19 when their most marketable teachers have left.

20 So, any kind of disincentive system for  
21 adults has to be very sensitive as to how this is  
22 actually going to effect adult behavior. I wonder  
23 whether it might be more promising to think in terms  
24 of positive incentives which is what we're doing more  
25 with adults and they get rewards -- if have to avoid,

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1 of course what the business community does, which is  
2 pay the rewards whether people do well or poorly.

3 CHAIRPERSON BERRY: But Jay, don't you  
4 agree that we would no shortage of school board  
5 members or people to -- so maybe if we don't do that  
6 to teachers who really aren't responsible for what is  
7 provided to them in the classroom, but to those who  
8 make the policies and, in fact, don't have to do  
9 anything about it once they made them.

10 MR. HEUBERT: It may be harder then to  
11 find school board members. I mean how about then, if  
12 we think money talks, where adults are concerned, why  
13 don't we say to children, you pass the test or you  
14 improve by a certain amount, we'll buy you a car. I  
15 have a feeling that would motivate a lot of people to  
16 work a lot harder than some of the things we do now.  
17 So, I think we could -- but I don't mean to be glib,  
18 the basic question is, it is hard to put the pressures  
19 --

20 COMMISSIONER EDLEY: Nike's might be good  
21 enough.

22 MR. HEUBERT: What?

23 COMMISSIONER EDLEY: Nike's might be good  
24 enough. Something age appropriate.

25 CHAIRPERSON BERRY: Go right ahead,

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1 because we're just brainstorming.

2 VICE-CHAIRPERSON REYNOSO: I'm bothered by  
3 some of the discussion, and this point of view. Most  
4 of us here in this room have followed education policy  
5 more I would say than the average citizen. I run into  
6 a lot of people who do not believe that there's not an  
7 equal educational opportunity and that for those  
8 children who don't do well is because they haven't  
9 applied themselves. And these are generally good  
10 people, I think ill-informed, but good people. And  
11 one of the benefits I see that has come from some of  
12 the current efforts has been to put down in black and  
13 white the failures of the public school system. Then  
14 it becomes harder it seems to me for those good people  
15 to deny the reality.

16 Now, I've always, like Ms. Reid, I've seen  
17 these disparities all my life. I attended a  
18 segregated school, a Mexican-only school, when I was a  
19 youngster. I saw youngsters being encouraged to quit  
20 school at age 16 to work in the groves of Orange  
21 County, at a time when Orange County, California had  
22 orange trees, et cetera, so I have seen that. But I'm  
23 not sure that a majority of my fellow Californians saw  
24 that. So to a certain extent, even though I believe  
25 that we have these disparities, and if society were to

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1 do the right thing, it would require us to undo those  
2 disparities. But I do think in the last few years, we  
3 as a people have been forced to face those disparities  
4 a little bit more acutely than we did before. Am  
5 wrong on that? I mean that's an impression that I  
6 have. Ms. Reid, what do you think?

7 MS. REID: Well, respectfully, I think you  
8 are wrong, and I'll tell you why.

9 VICE-CHAIRPERSON REYNOSO: Okay.

10 MS. REID: I do a lot of work on  
11 education. I go to a lot of meetings, I talk to a lot  
12 of groups. And one thing that I encounter from groups  
13 that are predominately white is a very polite kind of  
14 questioning. It goes something like this: It is  
15 awful that all of these minority students are doing  
16 well, but what do you think the problem is? They're  
17 in the same classrooms and they're hearing the same  
18 material. Well I'm sure there's a reason.

19 Essentially what is behind the question is  
20 blame the students still. The disparities revealed  
21 just simply say, well why aren't they learning? Which  
22 is why I go back to my original point, is the culture  
23 of schools and that is the way things are taught, what  
24 is taught, the irrelevance of the curriculum to  
25 anything but mainstream culture that creates an

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1 environment where students who are not part of the  
2 mainstream culture do not feel that education has any  
3 relevance to their lives and, therefore, they don't  
4 learn. It's just that, to me, it's just that simple,  
5 that we make things relevant to students, they learn,  
6 when you don't they do not learn. That's what I  
7 learned when I was teaching for ten years, is how you  
8 make it successful. So, I do think there's -- we need  
9 to know about this disparity. But unfortunately I  
10 don't think it has created people to care or who are  
11 that concerned. I think it's created people who shake  
12 their heads and come up with solutions like let's have  
13 some high-stakes testing. Well, eventually everybody  
14 will get up to the standards, whether the standard  
15 means anything or not.

16 Also disturbing is that I keep hearing is  
17 the word punishment and consequences, and see I don't  
18 get why we need to punish students at all and the  
19 consequence of not doing well should be that you get  
20 to do it again, again and again. It's kind of like  
21 coaches. To me they're the best model for teaching,  
22 because if you are on an athletic team and you don't  
23 do well, you don't play a good game, the coach makes  
24 you run some laps, do some more practices and do some  
25 more drills, and he keeps doing that until you get up

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1 to par. He doesn't say you got an F and that's it.

2 And consequences for students -- we've got  
3 eight-year-olds and we're talking about consequences  
4 that we need to punish them and somebody needs to pay  
5 the price? They got to learn this lesson in the  
6 world, there are consequences. Well I think they can  
7 learn that, you know, at a later stage. I really  
8 don't think it's necessary that our elementary, middle  
9 schools and even high schools be filled with this  
10 notion that consequences are you have to pay something  
11 that's so substantial like I won't get promoted to the  
12 next grade, when the entire focus has to be on  
13 learning, and we keep forgetting about the learning.  
14 We're thinking about measurement but we don't about  
15 learning. And if you want someone to learn something,  
16 you have to have them practice it until they get it  
17 right. My piano teacher would have thrown me out  
18 after the first lesson otherwise.

19 CHAIRPERSON BERRY: It may be that to the  
20 Vice-chair's question, and I'm asking that, while it's  
21 empowering, it is empowering for people in the  
22 Hispanic Community, black Community and the rest of  
23 the -- Boger said this too, to see these data and say  
24 now we can show you this gap, you know, here it is,  
25 it's right here and our kids going to school and this

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1 is what's happening, and in communities where they  
2 have political power they may be able to demand  
3 changes at the local level to put in the reforms that  
4 we heard this morning and we heard elsewhere,  
5 everybody knows what to do, but people just don't do  
6 it. So maybe in those communities they can, in terms  
7 of priorities, get some of that done. In states where  
8 they don't have power, places where they don't have  
9 power or wherever they are and don't have power, all  
10 the numbers they do, is to just reinforce you've got a  
11 problem with your kids because they're not learning  
12 and that they need to learn, just like everybody else.

13 And so it may depend on, you know, where  
14 we are, but for this discussion we're having now  
15 leaves out of the equation the discussion we had  
16 earlier in the day. Because with the numbers you have  
17 in Massachusetts, the numbers that the rest of you  
18 were talking about, the numbers we have elsewhere, we  
19 heard this morning that everybody know what to do to  
20 reduce those gaps, but that it just isn't happening.  
21 Yes, Professor Boger.

22 MR. BOGER: Let me draw on some of the  
23 conversation this morning back to where we are now and  
24 I think basically alludes to Ms. Reid's frustration  
25 and is paramount as well. One of the things that the

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1 North Carolina's School of Finance lawsuit turned into  
2 under Judge Manning's direction was a look at whether  
3 children were succeeding or not on end-of-the-year  
4 test and you found that they were not and at-risk  
5 children especially were not. And, basically said the  
6 state is accountable not to have principals punished,  
7 the teachers, the State Board of Education, but simply  
8 to drive resources or other assistance to those  
9 children; that's what we appealed, but the State of  
10 North Carolina said oh no, we don't have to do that,  
11 and that's a kind of failure in accountability that  
12 absolutely astounding when somebody -- I think it was  
13 Judge Manning, talks about natural resource like the  
14 outer banks or something, you know, sort of thing you  
15 can rely on and what he says, you know, this district  
16 needs some assistance. It's profoundly troubling when  
17 there's not state accountability to provide the  
18 resources that are needed at that point.

19 CHAIRPERSON BERRY: Yes, Commissioner  
20 Edley.

21 COMMISSIONER EDLEY: First of all, it  
22 seems to be that that is a specifically enormous  
23 issue. I think that's one point underscoring the  
24 importance of federal efforts, such as NCLB, to simply  
25 say that even if the politics, the local and state

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1 politics will not work for these disenfranchised  
2 students and families that there will some effort at  
3 the federal level, as there is on civil rights  
4 matters, civil rights and civil liberties matters, to  
5 say that, no, there is going to be sort of  
6 constructural safety net. We're going to insist that  
7 the state pay attention to these disparities and act  
8 to narrow them or else. Now, in my view is the "or  
9 else" isn't strong enough and we've already heard  
10 about the -- the level of aggregation for ascertaining  
11 what disparities unacceptable may be mis-designed.  
12 But I think that underscores the importance having a  
13 federal law in this, that's number one.

14           Number two, is NCLB has lots of flaws, I  
15 have not question about it. But, you know, and Jack,  
16 my dear friend, and I've got to say this, this is to  
17 me -- this is like what -- this is like what I learned  
18 in environmental law, because I had to teach it. And  
19 it is absolutely true that when the Federal Work  
20 Pollution Control Act was passed in 1972 and Congress  
21 says we want to have swimmable, fishable, drinkable  
22 water by 1980, whatever they said, immediately the  
23 polluter said, it'll never happen, it's a disaster.  
24 The statute is ridiculous, it's going to set the  
25 environmental movement back a century; as well it

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1 should. Well, I mean people stumbled forward and the  
2 statute was amended and slowly streams and lakes  
3 improved and the same thing happened in 1970 with the  
4 Clean Air Act. The automobile industry said the  
5 aspirations are too ambitious, the timetables are too  
6 tight, it's going to destroy the auto industry, and  
7 all of the apocalyptic scenarios were played out.  
8 But, in fact, over a period of time extraordinary  
9 progress has been made, there's much more to do, but  
10 there's something good and noble about trying to  
11 encourage everybody in the system to stretch and be  
12 better than they are, and to reinvent themselves in  
13 ways that make progress faster than it has ever been  
14 before.

15 And I think that all can be said I think  
16 with added emphasis when we're talking about children.

17 So, I think that while it's valuable to be mindful of  
18 where things may go awry and were the unintended  
19 consequences may be and it's mindful to kind of try to  
20 start as soon as possible generating a list of needed  
21 improvements, changes, modifications, I think all of  
22 that is detailed under a broad heading of stay the  
23 course. Now, let me also say that --

24 CHAIRPERSON BERRY: Jay, needs to go I  
25 think.

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1 MR HEUBERT: At five.

2 COMMISSIONER EDLEY: I've been trying to  
3 listen and learn all day, and I think that I have a  
4 definitive list of six reasons for high-stakes tests--

5 CHAIRPERSON BERRY: Okay.

6 COMMISSIONER EDLEY: -- for students.  
7 High-stakes tests for students, and let me just say by  
8 preface that I think frankly, a couple of the -- it is  
9 in my view, I do not know of civil rights leaders,  
10 certainly not at the national level, who are against  
11 high standards, who are against having legitimate  
12 assessments that identify problems, and to suggest as  
13 I think you did, Paul, that somebody favors shooting  
14 the messenger or that there's situations -- it's not -  
15 - it's just not true.

16 I heard the same thing from President  
17 Clinton when I argued about social promotion with  
18 President Clinton. It borders on slander to say that  
19 people who care about what happens to minority  
20 children are doubtful about high-stakes testing  
21 because we want to shoot the messenger or because  
22 we're against excellence; it's just not true. It is  
23 also -- it is also not helpful to defend high-stakes  
24 testing for students, stakes for students by talking  
25 about the value of assessment or by talking about the

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1 value of accountability, because let's stipulate all  
2 of that.

3 The question is what is that added value,  
4 the added importance of having stakes that attach to  
5 the students, the least powerful people in the system.

6 Now as to that question, I've heard six explanations  
7 offered. Three of which are ridiculous, and those --  
8 we can put those aside quickly.

9 Those three are -- those three are, we've  
10 got to be tough on failure, just like we got to be  
11 tough on crime; that's kind of a macho thing. That's  
12 not a good reason to do. A second is, that the kids  
13 who fail in some sense deserve to fail because they  
14 are inferior or they don't want to learn or something.

15 Maybe that's true in a couple of case, but by and  
16 large I don't really think that's a real issue.

17 And a third one that I don't think is  
18 legitimate is that there's certainly incentive that  
19 some actors in the system have to have high-stakes and  
20 promotion denial and diploma denial and so forth, as  
21 part of a push-out or dumping strategy. Let's get rid  
22 of those kids so that in the aggregate the rest of the  
23 test scores will look better. So let's put that third  
24 one away as well.

25 So, we're left with three arguable

1 legitimate reasons. Number one, we can't think of a  
2 better way to motivate students other than to use this  
3 whip. We can't figure out how to get teachers to  
4 motivate the students, that in-class assessments that  
5 all other strategies for motivating students don't  
6 seem to work. The only way to get them to try to  
7 learn to these curriculum standards is to threaten  
8 them with these high-stakes: retention and diploma  
9 denial. Sad, it's true, that we can't think of a  
10 better way to -- that teachers can't think of a better  
11 way to motivate students.

12           Second thing I've heard is, that retention  
13 and diploma denial are somehow educationally  
14 beneficial for the students themselves. It's in their  
15 interests. God forbid we should promote them when  
16 they're not ready to perform at that grade level.  
17 Well I think that Jay actually summarized what I  
18 understand to be the research and literature on that,  
19 and there's decades of studies on this. And yet  
20 it's denied by many policy leaders, many politicians,  
21 that these policies are educationally  
22 counterproductive to the vast majority of students.

23           Which leaves me with a third explanation,  
24 for attaching high-stakes to the students, and that is  
25 the hostage theory; that's the hostage theory. That's

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1 kind of give me more resources and reform me before I  
2 kill this -- before I shoot this kid, before I shoot  
3 this hostage. That's the position of the  
4 superintendent in Boston, who's desperate to get more  
5 state financial aid and who thinks that if we  
6 sacrifice enough of these students somebody will care  
7 enough to provide the needed assistance. But of  
8 course, what we find in light of the fiscal pressures,  
9 we don't get the needed increases in resources. We  
10 don't even get, as the Chair suggested, we don't even  
11 get the structural changes that would hold adults in  
12 the system fully accountable for making reform.

13 So it seems to me that the hostage theory  
14 isn't even working, and I might add that as I think  
15 Jay's point about Chicago suggests, if the hostages  
16 were white, we wouldn't even play with the hostage  
17 theory. It's that the collateral damage, I think, is  
18 somehow acceptable. Now I'm sorry I'm getting I'm  
19 worked up, but I'm really left in a situation as  
20 though -- as though -- we've had a day of discussion  
21 and of course I've had years of looking at this and  
22 I'm not completely unintelligent, and yet I still to  
23 this day have not really heard a coherent argument as  
24 to why the drive system reform -- which I favor, and I  
25 favor accountability and I favor high standards -- why

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1 there have to be high-stakes for the students who have  
2 the least power, who may not even have been given the  
3 opportunity to learn.

4 I'm just -- and I'm left with this  
5 frightening -- this is the racial pessimist in the me,  
6 my wife accuses me of this all the time -- I'm left  
7 with the sense that we wind up with this strategy of  
8 high-stakes for students only because the political  
9 system at large frankly doesn't care enough about  
10 these populations of students who are going to suffer  
11 the disparate impacts that Jay's data describe. So  
12 please help me --

13 MR. HEUBERT: Let me try to respond, and I  
14 figure you put the worst possible cast --

15 CHAIRPERSON BERRY: Before you do that,  
16 just a second. Jay, do you need to leave?

17 COMMISSIONER EDLEY: I'm sorry, Jay.

18 CHAIRPERSON BERRY: Can you hold just hold  
19 up one minute and let's see --

20 MR. HEUBERT: Sure.

21 CHAIRPERSON BERRY: -- if there's anything  
22 you'd like before you go?

23 MR. HEUBERT: In 30 seconds, yes, thanks.

24 I don't there's a satisfactory response to your  
25 numbers one and two, Chris. The notion that we can't

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1 motivate students any other way certainly in terms of  
2 promotion and retention because we know that low-  
3 achieving kids who are promoted do better without any  
4 intervention than kids who are retained with all sorts  
5 of expensive and state of the art intervention. So, I  
6 don't think we need -- the kids do, in fact, do better  
7 if they're simply promoted, because the public school  
8 curriculum is redundant and so on. Then of course,  
9 that's also the response to the educational beneficial  
10 part, at least that's to the promotion testing. On  
11 the graduation testing, we don't have data that's  
12 quite as good, anyhow.

13 CHAIRPERSON BERRY: Thank you very much  
14 for coming.

15 MR. HEUBERT: Thank you very much. It's  
16 been my pleasure.

17 CHAIRPERSON BERRY: I'm not assuming  
18 others have to go either. We're going to finish this  
19 in no more than five minutes.

20 MS. REID: I have one last thing that I  
21 want to say. I think it's important to keep in mind  
22 the high price tag on high-stakes testing and of these  
23 rewards and incentives, and then think about the  
24 things that we do know that work, smaller class sizes  
25 and remediation, and every time it comes up they tell

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1 me they can't afford to pay for it. Well, I know  
2 where you get the money from. Cut out all that  
3 testing.

4 CHAIRPERSON BERRY: Thank you and we will  
5 not be long here. We're going to let Mr. Reville  
6 respond to -- Mr. Reville --

7 MR. REVILLE: -- Obviously so much longer  
8 conversation which we're having today we've sort of --  
9 You know, you've put kind of a negative spin on each  
10 of the constructive reasons and why, you know --  
11 obviously, there are different ways to positively  
12 motivate people to do better in school and at the same  
13 time having some consequences associated with  
14 performance makes a difference too, and we've seen  
15 that dramatically in the jumps in students performance  
16 in Massachusetts, for example, from before the tenth  
17 grade test countered to -- to after we counted.

18 So I think it's more of a set of scourges  
19 for educational improvement, but it's by no means a  
20 central strategy or a critical strategy. I think the  
21 most important thing that has happened at least as a  
22 process matter, and I agree with much of what you said  
23 about the conditions that have to be in place, is this  
24 is about a mastery. What Ms. Reid was talking about,  
25 I agree with, it's not about a bell curve, it is about

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1 achieving mastery, finding what mastery is. It's not  
2 about grade level or promotion or retention. We don't  
3 have promotion or retention policies in Massachusetts  
4 as a matter of policy. It's about sticking with a kid  
5 and giving them what they need in terms of the amount  
6 of time to get to the standard that defines  
7 competency. And this goes to the flip side.

8 Another part of your argument is that it's  
9 a punishment to withhold a diploma, that this is  
10 collateral damage, things of this nature. And I have  
11 to ask you, which is the punishment? Is it a  
12 punishment to say to something you're going to have to  
13 take more to achieve mastery here, or is it a  
14 punishment to say that we're going to give you a  
15 diploma anyway, you may read at the third grade level,  
16 but you've spent enough time in the system, we didn't  
17 want to hold you back and you go on and fail somewhere  
18 else in higher education and in the work place.

19 COMMISSIONER EDLEY: No, because -- here's  
20 what I don't get. There's so many things I don't get.

21 But you talked about the improvement in performance.

22 What I would say is, the MCAS is a terrific test.  
23 The standards are fine, and it's a good assessment  
24 tool. I understand that from -- I understand that.  
25 And to the extent the curriculum is aligned and to the

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1 extent the teaching is aligned with their curriculum,  
2 right, this is all wonderful. But having done all of  
3 that, then I would say these classroom assessments, to  
4 figure out whether or not there's been sufficient  
5 mastery and accountability of the teacher to ensure  
6 that there isn't grade inflation in the classroom  
7 assessment and so forth, you don't have to have high-  
8 stakes for the student imposed through the MCAS if  
9 you've got classroom assessments as we have since the  
10 mid-19th century, in this situation.

11 MR. REVILLE: They weren't effective in  
12 achieving goals.

13 COMMISSIONER EDLEY: That's because you  
14 didn't have the curriculum standards, you didn't have  
15 the alignment and you didn't have the MCAS as a way to  
16 measure what was going on systemically. But the other  
17 thing, Paul, is if you don't -- if you have 55 percent  
18 of African-American students and 60 whatever percent  
19 it was of English language learners students.

20 CHAIRPERSON BERRY: 84.4 percent.

21 COMMISSIONER EDLEY: In twelve grade now,  
22 you've taken the thing three times already, if not  
23 four times already, three times and still not passing,  
24 then it's not working; it is not working.

25 MR. REVILLE: But there are substantial

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1 numbers -- you have on this last MCAS and English  
2 language learners, two-thirds of the African-American  
3 students passed it the first time, that's huge, that's  
4 up, that's way up from what it was when this first  
5 started. We are making progress. It's working.

6 COMMISSIONER EDLEY: Excuse me, there's no  
7 evidence that the improvement is attributable to the  
8 high-stakes attached to students as opposed to being  
9 attributable to the higher standards, the curriculum  
10 alignment, to the investments in teachers, and to all  
11 of the other reforms that have been part of the  
12 Massachusetts experience.

13 MR. REVILLE: But two things, if I may  
14 quickly state. The stakes associated with this, while  
15 having the many of the disadvantages you talked about,  
16 make the performance count in ways that it didn't  
17 before, and that focuses the attention, and that's  
18 probably the biggest piece of this that we haven't  
19 talked as much about, which is the urgency that this  
20 provides. You know from looking at the state budgets  
21 an inordinate amount of money, time, attention, energy  
22 is going into classrooms for teaching summer school  
23 programs, after-school programs, all kinds of  
24 intensive interventions and bring the kids who have  
25 been historically ignored. We had these tests in the

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1 80's. We had minimum standard tests that show the  
2 same kind of disparities. You know, there were  
3 standards attached to those tests. Nobody paid any  
4 attention to them, because they didn't count, they  
5 didn't matter for anything. You know, they didn't  
6 matter for the teachers, they didn't --

7 CHAIRPERSON BERRY: Is what you're saying,  
8 so I can be clear about what you just said. Are you  
9 saying that the answer to Chris' question is, because  
10 the impact is the students won't get diplomas, the  
11 public mind is so focused on it and the political  
12 mind, that investments were made that weren't made  
13 before the stakes were as high? Is that your answer?

14 I just want to be clear.

15 MR. REVILLE: It has created an enormous  
16 sense of urgency. The fact that there are stakes here  
17 has made absence those stakes we go back to -- this is  
18 what we expected anyway.

19 CHAIRPERSON BERRY: I see. Well, all I  
20 wanted to say and maybe we could continue the  
21 discussions later once we close out this session, as  
22 my students do after class. That, in fact I don't  
23 think that we will -- anyone will think we're arguing  
24 against testing or high-stakes testing as a concept  
25 because the public mind, just as for years people

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1 argued against SAT testing used for all -- LSAT's and  
2 all that stuff, and even though we know what the  
3 people who produce the tests say about them, the  
4 public is addicted to such tests and believes in such  
5 tests and believes that they're magical, in effect.  
6 And so it's better I guess to argue in the realm of  
7 what should be done to students or with students in  
8 terms of investments, rather than making it appear  
9 whether what it is not, is that one doesn't want any  
10 tests, which is what you were saying.

11 So why don't we end that here and say we  
12 thank you very much, and this has informed us as we  
13 continue to struggle and grapple with these issues and  
14 come up with positions on them. We thank you very  
15 much for coming.

16 (WHEREUPON, THE BRIEFING WAS CONCLUDED AT  
17 5:00 P.M.)

18  
19  
20  
21  
22  
23  
24