National Black Law Students Association
Midwest Region
Second Annual Midwest Recruitment and Retention Conference: Focus on Retention — Strategies that Work

Northern Illinois University
College of Law
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Table of Contents

Introduction ................................................................. 257
Welcome ..................................................................... 259
    Judith A. Browne, National Chairperson, Black Law Students Association
Keynote Address .......................................................... 262
    Honorable Nathaniel R. Jones, United States Court of Appeals for the Sixth Circuit
Preparing Minority Students for Law School: The Program for Minority Access to Law School ....................... 267
    Mark Cordes
Preparing American Indians for Law School: The American Indian Law Center's Pre-Law Summer Institute .......... 278
    Heidi Estes and Robert Laurence
The Role of CLEO in Successful Recruitment and Retention of Minority Students .................................................. 287
    Denise W. Purdie, Esquire
Financial Aid and Recruitment ........................................ 292
    Ruth A. Witherspoon
The Connection Between Recruitment and Retention .......... 299
    Frank Motley
The Role of Minority Faculty in the Recruitment and Retention of Students of Color ............................................. 313
    Paula C. Johnson
The Role of Student Services Professionals in Promoting and Supporting a Diverse Student Body ....................... 325
    Edwin R. Hazen
Draft Statement of Student Services Administrators Good Practices ................................................................. 332

The LSAC Academic Support Program Workbook from the Perspective of a Novice User ........................................... 341
  Kathleen Patchel

The Chicago Bar Association’s Minority Clerkship Program... 367
  Mark Latham, Esquire
Introduction

In 1990, the Midwest Region of the National Black Law Students Association ("BLSA") initiated an annual conference on law school minority recruitment and retention. The Conference arose out of the recognition that, while issues related to recruitment and retention of law students of color are addressed institutionally at many levels, and by many groups, too often those dealing with these issues work in isolation from one another. With the Conference, the Midwest Region hoped to foster a more holistic approach to recruitment and retention by bringing together all interested parties — pre-law advisors and individuals interested in legal careers, law school faculty and administrators involved in recruitment, retention and placement, the practicing bar and professional organizations, law students and law student organizations — to share ideas and develop strategies for successful minority recruitment and retention in Midwest law schools.1

What follows are the Proceedings from the second of these annual conferences, "Focus on Retention — Strategies That Work," held in September, 1991, at Northern Illinois University College of Law.2 As its title suggests, the focus of the Conference was on the complex of issues surrounding successful completion of law school by persons of color, and the programs and ideas being developed to deal with those issues. As one looks at the Table of Contents, however, one sees that included in these Proceedings are a wide range of topics going far beyond what one perhaps traditionally thinks of as issues of "reten-

1. The Midwest Region of BLSA includes 42 law schools located in ten states: Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, North Dakota, and Wisconsin.
2. The Conference was hosted by the Midwest Region of BLSA and its Northern Illinois University Chapter in conjunction with Northern Illinois University College of Law. The members of the Midwest Region board were Paul J. Robertson, Regional Director, University of Illinois College of Law; Robert R. Simpson, Vice Chairperson, Case Western Reserve University School of Law; Karen A. Davis, Treasurer, Northwestern University College of Law; Teri Cotton, Recording Secretary, Washington University School of Law; Ken Jones, Corresponding Secretary, University of Wisconsin College of Law; Vanessa A. Hopkins, Sub-Regional Director, Northern Illinois University College of Law; Jared Bartie, Sub-Regional Director, Northwestern University College of Law; Barbara A. Harris, Sub-Regional Director, Ohio State University School of Law; Gwendolyn D. Hodge, Sub-Regional Director, University of Arkansas at Little Rock School of Law; Brian Roberts, Director of Community Services, University of Minnesota School of Law; Gloria Materre, Director of Public Relations, University of Illinois College of Law; and Robert Johnson, Executive Director, University of Illinois College of Law.
tion." The theme of the Second Annual Conference was that "retention" — successful completion of law school — is a process that must begin before students enter law school, and may not be considered successfully completed until those students have become practicing members of the legal profession. Accordingly, panelists at the Conference discussed topics ranging from pre-law summer programs to minority clerkship programs, from academic support to financial aid, from the role of administrators to the role of minority faculty.

As one reads these Proceedings, one will find many voices and many perspectives. Some of the authors are faculty, some administrators, some students, some members of the practicing bar. There is bluntness, politeness, dignity, anger, challenge, descriptive neutrality. These different perspectives and different views are a large part of what the Conference is all about. The hope is that the participation of members of all interested groups, each bringing his or her own views and ideas, will enrich the work of all towards the common goal of increased diversity in the legal profession.

The time and energy (not to mention financial assistance) of many people went into the Second Annual Conference; it would be impossible to thank them all. Five who do not appear in the Proceedings, however, must be mentioned. First, Daniel O. Bernstine, Dean of the University of Wisconsin College of Law, who served as moderator of the morning panel for the Conference, and has been a supporter since its inception. Second, Professor Daniel S. Reynolds, Northern Illinois University College of Law, who served as moderator for the afternoon panel, and, as Acting Dean of the College of Law, was instrumental in the development of the first of these conferences. Third, Vanessa A. Hopkins, who as the BLSA Midwest Region Sub-Regional Director from Northern Illinois University was the person with primary responsibility for the Second Annual Conference. She did a wonderful job — and lived to tell about it. Fourth, James Alfini, Dean of Northern Illinois University College of Law, who, in the summer before coming to Northern, devoted a considerable amount of time to assisting with the planning of the Second Annual Conference. And fifth, Vincent R. Williams, Esquire, who, as a Midwest Region Sub-Regional Director from Northern Illinois University came up with the idea for the BLSA conference, and, through his considerable powers of persuasion, foisted it on the rest of us. Thank you, Vince.

Kathleen Patchel
Welcome

JUDITH A. BROWNE*

I would like to say "good morning" to my sisters and brothers of the National Black Law Students Association, to the panelists, faculty and recruiters who are here. First, I want to begin by commending Vanessa Hopkins and Paul Robertson and the Northern Illinois University BLSA chapter on their successful coordination of this conference. This conference will provide an opportunity for the discussion of very important issues that BLSA is committed to dealing with. I would like to thank Dean Alfini and Professor Patchel for their efforts. Thank you panelists for your participation. Also, thank you to Linda Abrahamson, of the Northern Illinois University Law Review, who has agreed to publish this conference as a symposium in the Northern Illinois University Law Review. I would also like to acknowledge Associate Dean Frank Motley. Thank you for your candidness, you are always candid and I love it. Hello to Denise Purdie. CLEO is a program that is very important to BLSA. Because many of our students come through the CLEO program, we are working to ensure that federal funding remains available for CLEO; we cannot forget that program.

This conference is very important to us, because of the unique experiences of African-American students in law schools. It is an experience that can be very frightening and dehumanizing. We go to a classroom and instantly a professor has singled us out as a black student; we feel that we have to speak for all the black students in the classroom. We are looked upon as a group of "black students" and not as individuals. We are in institutions that are not conducive to our learning because they fail to try to understand our experiences and our culture. We are in classrooms that fail to teach students about the "real world," but instead rely only upon what is written in textbooks. It is important that we talk about these issues and bring these issues to the attention of our universities, law students, and faculty members.

* Judith A. Browne graduated with a B.S. in Economics from the Wharton School of Business at the University of Pennsylvania. A May, 1992, J.D. candidate at the Columbia Law School, she was elected to the position of National Chairperson of the National Black Law Students Association, serving for the years 1991-92. Ms. Browne has been awarded a Skadden Arps Fellowship and will practice in the Washington, D.C., office of the NAACP Legal Defense Fund.
There is a unique experience in law school for black students and other students of color. To begin with, we must work together so that students are admitted into these institutions, feel comfortable in these institutions, and graduate from these institutions. Next, we have to talk about passing the bar, which is an important step in this process. BLSA is very committed to these issues. For instance, we are working with the CLEO program. We also have the Nelson Mandela Scholarship program, under which we will award for the first time this year, six scholarships of $1100 each to incoming black law students. We are also involved in recruiting through the Law Day programs of different chapters. Please call upon BLSA students to help you out with recruitment. If a person attends a Law Day and sees no one but a white recruiter standing there saying, "Yes, we have a very good environment for black students, and let me tell you what it's like to be a black student at my school," you can forget it; they will not listen. This recruiter has no way of understanding what it is like to be black at that institution. Additionally, our BLSA chapters also have retention programs which vary from school to school. Financial support to BLSA students is also provided by National BLSA through the Sandy Brown Scholarship. Chapters are encouraged to establish their own scholarships by tapping into their Alumni Associations. Academically, we are there for students, we make sure that they have outlines, review sessions, etc., in all our chapters.

We also need to acknowledge that there is a certain mind-set that goes along with being the so-called "minority." National BLSA does not use that word anymore; it is out of our vocabulary because people of color are truly not the minority when we look at the world population. We must acknowledge that when we use the term "minority" it places us in a mind-set in which we are not equipped to deal with the frustration of the law school experience. BLSA also achieves job placement for black students through BLSA Job Fairs. But, we still need help; we need to get more employers at our job fairs. There have been decreasing numbers of employers coming to our Mideast and Northeast Job Fairs. The Southern Region, for example, does not have a job fair because it is very difficult to raise money to sponsor a job fair. We need help from our institutions to rectify this. In addition, the EEOC published a memorandum asserting that it is unlawful to have minority job fairs, but then retracted the statement. This is a problem that we are dealing with and it is an ongoing battle for us. We must deal with these issues.

The final thing we are dealing with is the bar passage rate of black students. Black students are not passing the bar in large numbers and we must address that. We must encourage BLSA chapters and
institutions to help out with bar review courses for black students and other students of color. Black students need assistance with the bar, because it is a standardized test, and as such is usually a culturally biased exam.

In closing, national BLSA is committed to educating and changing those legal institutions which do not accept black students as individuals and do not understand our experience. I hope that National BLSA can help in any way at any institution to remedy these problems. As a result, we will recruit more blacks into law school, we will produce more black lawyers and, ultimately, we will ensure that there are more black attorneys doing progressive work in the black community.
Keynote Address

Presented by
HONORABLE NATHANIEL R. JONES*

Your program is rich with emphasis on a most timely subject. For minorities today I can think of little else that surpasses the importance of recruitment and retention of minorities in the nation's law schools. For it is to this pool of legal expertise that the black community, in the main, will turn in its efforts at achieving the equality promised by the American Constitution and the American Creed.

I will leave to those superbly qualified and deeply committed experts you have assembled to discuss with you the "nuts and bolts" of retention and recruitment. In the time allotted to me, I would like to speak more globally about the importance of the careers upon which you have embarked, to the destiny of African-Americans and, indeed, the entire nation. My hope is that this emphasis will give you added incentive to not only "hang in," but to push harder to excel.

In pursuing a legal career, you are walking on the path blazed by giants. It was the brilliant and dedicated pioneering of Charles Hamilton Houston, aided by William Hastie, Thurgood Marshall and Clarence Mitchell, that has made it possible for you to be in law school today. As I trust you already know, it was the litigation strategy developed by Dean Houston, the first NAACP Legal Counsel, that laid the groundwork for the frontal attack on Plessy v. Ferguson's "separate-but-equal" doctrine. The success of that strategy is seen in the virtual adoption by the Supreme Court in Brown v. Board of

* Educated at Youngstown State University, receiving his A.B. in 1951 and his LL.B. in 1956, Judge Jones was admitted to the Ohio Bar in 1957. Prior to his presidential appointment in 1979 to the United States Court of Appeals for the Sixth Circuit, he served in numerous positions including general counsel of the NAACP from 1969 to 1979. In addition to his judicial duties, Judge Jones is an adjunct professor at the University of Cincinnati College of Law, instructor in the trial advocacy program at Harvard Law School, and adjunct professor at the Criminal Law Institute of Atlanta University. He also has received many honors and awards including honorary degrees from several Universities and the National Bar. Judge Jones has authored many articles and papers.

1. 163 U.S. 537 (1896).
Education of Houston’s theory of the Fourteenth Amendment’s equal protection clause.

That momentous decision not only set the stage for the judicial dismantling of state-imposed school segregation, but also was the launching pad for assaults on a broad array of discriminatory practices through litigation and direct action campaigns. These campaigns awakened America and led to the enactment of further civil rights laws, such as the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 Omnibus Civil Rights Act with its Fair Housing component. While all of these developments were occurring, the executive branch was initiating reform through the various executive orders it issued mandating affirmative action with goals and timetables. This history is irrefutable, as are the transforming gains. Though there are now attempts, even by blacks of high visibility, to demean the Houstonian Jurisprudence and the strategies that evolved in its wake through an historical rewrite, it is important for you, law students and future lawyers, to clearly understand that history and to interpret it for the black community and those beyond. Frankly, it has been the failure on the part of the black legal community and our nation’s law schools to understand and articulate the role that law played in reenforcing the second class citizenship status of black Americans, and the way in which the brilliance of civil rights lawyers turned the law and the Constitution into instruments of correction, that so much confusion exists today. One result has been the confusion recently evidenced over the Clarence Thomas nomination to the Supreme Court. There has been a “disconnect” effected so that the nexus between historical discrimination and current remedies is misunderstood.

Persons with media access thus have argued that, because the pervasiveness of historical discrimination directed against minorities continues to trap a significant number of African-Americans in inferior schools and poverty, the strategies that facilitated many others in escaping from the most egregious of circumstances must now be rejected. Thus, many blacks join their oppressors in condemning voluntary affirmative action and goals and timetables, as well as judicially fashioned remedies, as being racial quotas and worse. Blacks, with access to wide media coverage, argue self-help as though that is something new to blacks. Even more insultingly, persons in control of government, who by their votes and rhetoric consistently trash programs designed to end poverty, suddenly have discovered

virtue in a black man who overcame poverty and economic and social deprivation. As you and your parents well know, a considerable number of African-Americans are barely more than a generation away from an out-house, or from "the projects," or the tenant farm, and recall only too-well having been called "boy," having been turned away from restaurants, having been denied admission to medical schools and law schools, or having been discriminated against in their attempts to obtain housing. In fact, this all still goes on. Let us be clear that the students who matriculate at the nation's law schools, medical schools, engineering schools, or business schools, are not the first generation of black people with brains. Our mommas, daddies, grandmas and granddaddies were very, very smart.

Because of present day reality, the need for sensitive lawyers in greater numbers remains acute. Fortunately, the enrollment of African-American students in the nation's law schools is much greater than it was in the days of Charles Hamilton Houston. Unfortunately, due to the state of the economy, the numbers have not increased at the rate we would like. As a member of the ABA Law School Accreditation Committee, I have been closely monitoring minority recruiting, retention and placement policies of the nation's law schools. On the whole, I am pleased with what I see, although, with a number of schools there is considerable room for improvement. There can be no letup.

One of the most exciting developments I note is occurring with respect to summer clerkships and job placements. I think that the strategies to enhance these opportunities are seminal, but I am convinced that with some persistence, progress will be made. You students constitute the pool from which the clerks and future lawyers will be drawn. It is important that you apply the pressure which results from honing of strong writing and analytical skills.

The American Bar Association created a Commission on Opportunities for Minorities in the Profession which has embarked upon a program to facilitate the participation of African-Americans and other minorities and women in broader phases of the legal community. In particular, the Commission has encouraged the development of affirmative outreach programs in a number of cities. This is a strategy with three objectives. First, there is a component aimed at recruiting more minorities to enroll in law schools, assisting in retention efforts, and placing students in summer clerkships, law firms and corporate and governmental legal departments. Another strategy is aimed at dealing directly with the under-representation of minorities in majority white law firms. Efforts at direct-hires of law school graduates as well as lateral-hires are involved. A third thrust is the Minority
Counsel Demonstration Project in which corporations directly challenge their retained law firms to assign a portion of their particular legal business to minority partners and associates. These programs are being carried forth in Atlanta, Columbus, Cincinnati, Kansas City, Seattle, St. Louis, Phoenix, Detroit, Baltimore, and most recently, New York City. Thirty-five of the most prestigious law firms in New York City, in an effort to counter persistent under-representation of blacks, Hispanics, Asian-Americans and American Indians, have set a goal of hiring one minority lawyer for every ten new lawyers they recruit over the next five years.

In announcing the program, the president of the City Bar Association, Conrad Harper, declared that the firms have pledged themselves to address systemic problems that have negatively impacted minorities who join the majority firms. Mr. Harper, who was an NAACP Legal Defense Fund lawyer before joining Simpson, Thatcher and Bartlett, where he is now a partner, noted: “There are problems at every level — at recruitment, at retention and promotion, and the only way to make sure that changes occur is to address them all at the same time.” He further stated that “Bleak as the situation is, it has gotten better in the last few years. I expect it to get better still.”

This presents a challenge for all of us. As these opportunities increase, it is important for minority law students who constitute the pool of potential hires to be ready to assume a full range of responsibilities. There will be problems — many of the kind encountered by Jackie Robinson. It is necessary for support systems to be developed so coping strategies can be shaped. At the same time, we have a duty to be sensitive to the obligation that Charles Houston declared rests upon the shoulders of black lawyers and is ever-present — we must be social engineers. His definition of a social engineer was a “highly skilled, perceptive, sensitive lawyer who understood the Constitution ... and knew how to explore its uses in solving problems of the underprivileged citizens.”

So as I leave you with Charles Houston’s challenge, let me also add another. You may have heard of the family who lived on a farm and decided that it was going to move to the city. The father had decided that he wanted to try his hand in an urban setting in order to enhance the opportunities for his children. He loaded his family up on an old truck with all their possessions and proceeded to leave the farm. They travelled down a dirt road and came upon an old wooden bridge. As they approached this old bridge, he noticed that some of the boards were broken and loose. He crossed the bridge, but upon reaching the other side, stopped. Taking out his hammer and his nails he went back to the bridge. His children, who were
restless and tired, urged him “let’s go, let’s go, Daddy, it’s getting late and it’s going to rain.” The father continued to pound nails into the floor of the bridge. When he returned to the truck, the father decided to use this experience as a teaching lesson for his children because they could not understand why, after he had crossed the bridge, he took the time to go back and to secure those boards. The father said, “Children, let me tell you something. Back in that little community we just left, there are a number of families still farming; they didn’t have as good a year with their crops as we did, and they don’t have jobs waiting for them in the city, as I do. When I drove across that bridge and saw the shape of those boards, I knew that unless somebody secured that bridge, when the time came for those more unfortunate people to cross, they wouldn’t be able to. I thought it was my responsibility, as the one who had a good crop, and a job waiting, to go back and secure that bridge so that some of those we left behind on their farms could also get over.”

And that is what we lawyers are about. You students are going to be in a position to nail down some boards, to secure some bridges, so that people who are living back in the ghettos, unwed mothers, pregnant teenage girls, coke and crack babies, people left in poverty, dropouts, high numbers of people detained in our prisons, at-risk black males, all of these disadvantaged people — those who need someone to nail down boards and secure bridges — can get over. And that is the responsibility of lawyers, in particular black lawyers. It was that kind of spirit that lead Charles Houston in the 1930’s to travel this country addressing and organizing cadres of lawyers to challenge institutional segregation and discrimination. By meeting that challenge — squarely — you will become bridge builders, making it possible for many of those left behind to “get over,” just as you are doing.
Preparing Minority Students for Law School: The Program for Minority Access to Law School

MARK CORDES

I. INTRODUCTION

Students of color traditionally have been under-represented in law school admissions,¹ and those admitted have higher attrition rates² than their white counterparts. In response to these concerns, law schools have instituted a number of programs in recent years designed to increase minority enrollments and retention rates.³ Most of these programs target minority students immediately before or during their time in law school. Receiving less attention have been programs designed to provide instruction and motivation to minority undergraduates interested in law early in their college careers.

This past summer (1991), the law schools at Northern Illinois University, the University of Illinois, and Southern Illinois University co-sponsored a pilot instructional program for minority undergraduate students. Entitled the Program for Minority Access to Law School (PMALS), the project involved six weeks of on-campus instruction at Northern Illinois University from June 17 to July 26, 1991. The primary

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¹ Despite significant progress in recent years, minorities remain under-represented in law school admissions. Nationally, African-Americans and Latinos represented 9.2% of entering law school classes, less than one-half their percentage of the overall population. See Dannye Holley & Thomas Kleven, The Bar Examination and Other Barriers to African and Hispanic American Fair Representation Among American Lawyers: A 1990 Update — Perspectives — and Recommendations, 16 T. MARSHALL L. REV. 477, 481-83 (1990-91).

² Throughout the 1980's the national attrition rate for African-Americans and Latinos was more than twice that for other students. See id. at 485 (“During the second half of the 1980's the attrition rate for African-Americans was 27.0% and for Hispanic-Americans was 22.1%, as against an attrition rate for all others of only 11.3%.”).

³ For a listing of special minority recruitment and retention programs, see LAW SCHOOL ADMISSION COUNCIL, MINORITY DATABOOK (1990).
goals of the program were to stimulate interest in the legal profession and to enhance the analytical and writing skills necessary to success in law school, thereby increasing the pool of qualified minority law applicants.

This article will describe the purpose, structure, and evaluation of the pilot PMALS program. Part I will discuss the background and goals of the program. Part II will discuss the program's structure, including student recruitment and curricular design. Part III will discuss the evaluation of the program. Finally, the conclusion will discuss the role that programs such as PMALS might play in the minority recruitment and retention process.

II. BACKGROUND AND PURPOSE

The Program for Minority Access to Law School grew out of the sponsoring schools' difficulties in both recruiting and retaining qualified minority law students. The schools perceived two basic problems in their efforts to recruit and retain African-American and Latino law students. First, many minorities had poor undergraduate records and low LSAT scores which precluded their admission to law school. Further, those actually admitted had a much lower success rate than the general law school population. Second, the schools perceived that among those minorities clearly qualified for law school, only a small percentage actually chose to go to law school.4

To address these concerns, the sponsoring schools proposed a collaborative pre-law program for undergraduate minorities to increase the pool of qualified law school applicants.5 As originally contemplated, the program would involve two summers of on-campus instruction to prospective law students.6 The program was not designed as a specific recruitment device for the sponsoring schools, but rather as an effort to increase the pool of qualified minority law school applicants.

4. The accuracy of this perception might be debatable, because the percentage of students of color applying to law school exceeds their percentage share of college graduates. Similarly, the number of students of color applying to law school in the 1980's increased faster than the number of students of color actually admitted to law school. See Holley & Kleven, supra note 1, at 481-82.

5. The PMALS program was actually the vision of former Dean Leonard Strickman of Northern Illinois University College of Law, presently Dean at the University of Arkansas at Fayetteville College of Law.

6. Although the original grant contemplated a two-summer program, it became apparent even before the 1991 session began that long-term funding would probably support only a one-summer program. Thus, the actual implementation of the program was premised on a one-summer model.
The proposed program specifically targeted undergraduate students entering their sophomore or junior years of college. This distinguished it from other types of pre-law programs, such as CLEO and law school summer orientation programs, which occur in the summer immediately before law school. The targeting of undergraduate students several years before graduation reflected the "early intervention" rationale of the program.

Several rationales arguably existed for such an "early intervention" program. First, the potential to stimulate student interest and redirect career paths was greater at that time. Second, skill enhancement could more fully occur by allowing students to take advantage of their remaining undergraduate years to work on specific skills. Third, early exposure to the demands and expectations of law school would hopefully motivate students to take full advantage of their remaining years, including the development of as strong an undergraduate record as possible to help ensure admission into law school.

The three sponsoring law schools sought funding for the program from the Illinois Board of Higher Education through what is known as a HECA grant. The Board approved the proposed grant with the expectation that the program, if successful, would eventually be privately funded. Indeed, the initial grant proposal included provision for student stipends of $100 per week, the money for which was raised from several law firms in Chicago. It is the intention to eventually have full funding come from the private bar.

III. STUDENT RECRUITMENT

The initial, and in many respects most critical, part of implementing the program was student recruitment. Recruitment efforts began in

7. The Council of Legal Education Opportunities (CLEO) has for more than twenty years operated a highly successful program for students in the summer immediately preceding the first year of law school. A number of law schools have recently also begun to offer summer orientation programs for minorities immediately before law school. For a summary of some programs, see generally LAW SCHOOL ADMISSION COUNCIL, MINORITY DATABOOK (1990). For a discussion of CLEO, see Denise W. Purdie, THE ROLE OF CLEO IN SUCCESSFUL RECRUITMENT AND RETENTION OF MINORITY STUDENTS, 12 N. ILL. U. L. REV. 287 (1992).

8. HECA stands for Higher Education Cooperative Act, which is a special Illinois Board of Higher Education grant program that provides grant money for collaborative projects by Illinois colleges and universities.

9. The grant proposal anticipated that state funds would be phased out after three years. Total expenditures for the first year of the program were approximately $123,000.

10. Chicago law firms contributed about $21,000 for student stipends.
the fall of 1990, with the identification and compilation of a list of contacts at colleges throughout Illinois and work on a brochure. Letters describing the program were mailed in December and January to about 275 contacts on college campuses. About 5,000 brochures were distributed in early 1991.11

Student response to the program was quite strong for a first year program. More than 130 students applied to the program, and represented more than 30 different undergraduate institutions. Although the quality of applicants varied, the overall applicant pool was quite strong. Thirty-eight offers of admission were made, with 34 students accepting the offers and actually participating in the program. The students came from 17 different undergraduate institutions and included 19 African-Americans and 15 Latinos.

Overall, the recruitment process indicated a strong interest in this type of program. A number of faculty and counselors at undergraduate institutions expressed enthusiasm for the program when initially contacted. Moreover, the large number and high quality of students who applied to the program suggest a significant interest on the part of minority students in such a program in Illinois.

IV. PROGRAM DESCRIPTION

The 1991 session of the Program for Minority Access to Law School took place at the College of Law at Northern Illinois University. The 34 participating students were housed in a dormitory about a half mile from the law school where the classes occurred. Four teaching assistants, including two law students, also resided in the dorm and functioned as resident assistants in addition to their TA responsibilities.

The curriculum for the 1991 session was divided into two three-week units. The first three-week unit consisted of courses entitled Law and the News12 and Criminal Law. The second three-week unit consisted of courses on Student Rights and Minorities and the Law.13 A writing seminar, taught by an English professor, ran the entire six weeks of

11. Recruitment efforts were made at all public and private colleges and universities in Illinois, including two-year colleges. Contacts on campuses included pre-law advisors, directors/deans of minority affairs, counseling offices, honors programs, and minority student groups.
12. The Law and the News course examined several legal issues that make headlines, such as capital punishment. It also examined the way the media addresses some of those issues.
13. Minorities and the Law primarily examined United States Supreme Court decisions that affected the rights of minorities.
the program. Factors considered in selecting instructors for the program were teaching ability, racial diversity and the desire to have a balance of undergraduate and law professors. The actual faculty composition included two law professors and three undergraduate teachers, one of whom was a lawyer.

The four law-related classes met five mornings a week for 75 minutes each. The writing seminar met for 75 minutes a day, four afternoons a week. The total in-class time was approximately 21 hours a week. Although this proved to be a reasonable work load for the most part, the combination of extensive reading assignments and the unfamiliarity with legal analysis, especially briefing cases, made the first week extremely difficult for the students.

The above curriculum was selected primarily because of its potential to stimulate interest in the law, which was one of the two stated program objectives. We decided to have four separate courses in order to introduce the students to the societal impact law has in a number of different contexts. The particular subjects were chosen both because of their inherent interest and to demonstrate the significant role law plays in our society.

The other stated program objective was the enhancement of writing and analytical skills necessary for success in law school. The writing seminar was, of course, the primary mechanism for enhancing writing skills. It was decided that the seminar should not focus on legal writing, but instead attempt to enhance basic writing skills. For this reason, the course was taught by an English professor and consisted of more traditional writing assignments with regular feedback from the instructor and the English teaching assistants.14 Although most students eventually perceived the seminar as being beneficial, there was some resistance to it throughout, with the feeling by some students that there should have been a legal focus or at least some integration with the other law-related courses.

On the other hand, the program attempted to enhance analytical skills by replicating the law school experience in most of the substantive curriculum. Three of the four substantive courses — Criminal Law, Student Rights, and Minorities and the Law — were modeled on a law

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14. The writing seminar involved a number of different assignments designed both to analyze and improve basic writing skills and also to develop skills for different writing forms. Students were initially given diagnostic tests. Other assignments included two impromptu writing assignments, writing a personal statement for admission to law school, a critical essay, and a persuasive writing assignment. A computer lab was set up for the students and basic instruction in word processing was given to the students as well.
school format, employing law school materials and, to varying degrees, using a "Socratic" method of teaching. The students were introduced to case briefing and critical case reading in these classes. The Law and the News course was also discussion oriented, but did not use legal materials or a Socratic style.

Of course, exposing students to law school teaching with its emphasis on analysis does not necessarily develop or enhance the basic analytical skills which are a prerequisite to success in that process. As a practical matter, however, using a law school format provided a structure in which to demonstrate the type of analytical thinking process required in law school and required the students to begin to use some of those skills. We assumed, or at least hoped, that through immersion in a process comparable to law school, students would begin to develop the necessary skills.

This "hands on" approach to analytical skill enhancement was further reinforced by giving law school type examinations on a weekly basis. Exams were given every week in Criminal Law and Student Rights, and final exams were given in Law and the News and Minorities and the Law. Thus, the students had a law school examination at the end of each week. This provided not only a basis to evaluate student progress, but a means to further reinforce the basic analytical skills developed in class.

The exams, together with in-class performance, also served as the program's primary evaluative tool. Although students did not receive grades for the courses, they were provided a written evaluation of their performance with suggested areas where work was needed. As program director, I prepared composite evaluations for each of the students reflecting their overall performance in the program.

Although the primary focus of the program was the coursework, minority attorneys and a judge were brought in to speak to the students one afternoon or evening each week from the second to the sixth week of the program. The speakers represented a variety of backgrounds and generally were very well received by the students. The students also took field trips to see a Chicago White Sox game and to the Daley Center to observe a trial in progress.

The actual implementation of the program generally went as described above, with some minor adjustments and despite some problems. The first week of the program proved to be unnecessarily intense for both the students and instructors. In addition to several lengthy reading assignments, students were introduced to case briefing and analysis. This resulted in little sleep and significant frustration as the students attempted to master foreign material.
Instruction went well after the first week, however. Most students were quite motivated in their work and were eager to participate in the law school experience. As is often true in law school, case briefing and analysis continued to be a struggle for the students, but arguably a productive struggle. Class discussion was active and students showed some progress in their ability to both brief and understand cases. As will be discussed below, both student and instructor response was very positive, especially regarding those aspects of the program replicating the law school experience.

As might be expected, the extracurricular dimensions of the program also occupied significant time and energy. Particularly important was the residential component, which required supervision of the students as well as opportunities for recreation. The teaching assistants ultimately played a vital role in this respect, much greater than originally contemplated. Although matters remained under control, there were some discipline problems that had to be addressed, as well as the necessity for informal counseling to help students make the adjustment to the program. Future programs will need to pay additional attention to this very important part of any pre-law program involving undergraduate students.

Despite these and other problems, the program went quite well and both student and instructor response to it was very positive. The next section of the article will discuss evaluation of the program.

V. PROGRAM EVALUATION

A. STUDENT/INSTRUCTOR EVALUATIONS

Students were given an attitudinal assessment at the start of the program and a comprehensive evaluation at the end, which both reassessed attitudes and provided students an opportunity to evaluate the program. Although students had some criticisms and suggestions for change, they generally were very positive about the program and their experience. Almost all of the students perceived the program as enhancing their writing and analytical skills. They also thought the program gave them a better understanding of the demands of law school and better prepared them for that undertaking. Perhaps most

15. However, there were two or three students who did have some motivation problems at times. Also, several students although motivated, lacked sufficient study and time management skills to complete the required work.

16. For a discussion of some of the issues concerning pre-law programs for undergraduates see Brenda Saunders Hampden, Preparing Undergraduate Minority Students for the Law School Experience, 12 SETON HALL LEG. J. 207, 220-21 (1989).
significant is that every student who responded said they would recommend the program to others, in most cases saying so with enthusiasm.

Students appeared to most appreciate those aspects of the program that were demanding and comparable to the law school experience. Although student response was positive for all the classes, those that were the most Socratic were the best received. Similarly, students struggled enormously with case analysis and case briefing at the beginning, but often identified that as one of the most important aspects of the program.

Instructor evaluation of the program also was favorable. The instructors found that most of the students were motivated and believed that the program was at least partially successful in developing the skills necessary for law school. The law professors teaching in the program also believed that it served a very important function in exposing students to the demands and particular mode of thinking found in law school.

B. STIMULATION OF INTEREST

The program's first stated objective, the stimulation of student interest in the legal profession, was evaluated by attitude assessments given at the beginning and the end of the program. Two questions in both instruments asked about student interest in attending law school and becoming an attorney. Responses indicated that most students were already planning to attend law school and become attorneys at the start of the program, with a slight increase in the composite score appearing at the end.7 This result is consistent with impressions from the application/selection process, where it appeared that most of the qualified applicants to the program were already seriously thinking about law school.

At the same time, however, it would appear that even for those students already planning to go to law school the program solidified their commitment. Almost everyone said that the program had increased their desire to go to law school. In two instances, however, students indicated that they might consider another field now that they knew how demanding law school could be.18

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7. Students were assessed on whether they hoped to attend law school (Question 9) and hoped to become an attorney (Question 10) on both the pre- and post-program evaluations. Students could respond on a scale from 1 to 5, with 1 being very little and 5 being very much. The composite score for hoping to attend law school was 4.42 on the pre evaluation and 4.73 on the post evaluation. The composite score on hoping to become an attorney was 4.33 on the pre evaluation and 4.68 on the post evaluation.

18. Another consequence of the program was to raise the students' anxiety
C. ENHANCEMENT OF SKILLS

The primary evaluative tools for the program's second objective, the enhancement of writing and analytical skills, were the law school type exams administered at the end of each of the six weeks and the various writing assignments. It was assumed that the law school exams would reflect not only substantive knowledge of the areas covered, but also the student's ability to synthesize, identify issues, and reason — skills that are critical to success in law school. Although such exams are a very imprecise evaluative tool, they provide some basis to assess skill development and have the advantage of being the evaluative tools used in law school itself.

Instructor evaluation of the students' exams indicated that they saw analytical development on the part of most students as reflected in the exams. In particular, students improved in their ability to identify issues and analyze how the law should apply to relevant facts. My own, albeit cursory, reading of many of the exams also suggests that students made some limited progress in the development of analytical skills over the course of six weeks. Although any such review is somewhat impressionistic and subject to variables, it suggests some progress in the development of the analytical reasoning necessary for success in law school.

Any skill development that will occur in six weeks will be, at best, quite modest. For this reason a related, but probably more important, purpose served by the program was exposing students to the culture of law school. Although the first year of law school is a major adjustment for almost everyone, it is particularly difficult for minority students. Among the reasons often given for this difficulty is that the American legal system in general and law schools in particular involve ways of thinking that are foreign to the experiences and culture of many minorities. Therefore, an even more significant goal than skill development for a program like PMALS might be to sensitize minority students to the demands of law school and its particular mode of thinking.

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about attending law school. Question 11 on the pre- and post-program evaluations asked whether the thought of going to law school was anxiety producing. The composite score was 3.52 on the pre-program evaluation and 3.82 on the post-program evaluation.

In this respect the program probably was quite successful. The pre- and post-program evaluations indicate that students’ own perceptions of their familiarity with law school, law school exams, case analysis, case briefing, and legal thinking greatly increased. Whatever else, the students gained a significant exposure to and understanding of the demands of law school. Moreover, they were also introduced to the particular type of analytical reasoning that dominates law school classrooms. This should not only help students to prepare for law school in their remaining undergraduate years, but also allow them to more adequately make the adjustment to law school when the time comes.

VI. CONCLUSION

The Program for Minority Access to Law School was designed to expose undergraduate minority students to the law school experience and stimulate interest and enhance the skills necessary for success in law school. Unlike other recruitment and retention programs, it hopes to reach undergraduate students relatively early so as to allow time for change. The initial experience was quite positive and suggests potential as a component in a more comprehensive strategy of increasing diversity in the legal profession.

Although PMALS is only one year old, several other law schools have operated similar programs for several years with success. The University of Illinois law school, although a co-sponsor of PMALS, has also offered a similar program for select University of Illinois minority undergraduates for the past two summers. In addition to teaching a Contracts course and legal writing, the program also has included an intern component in which students are placed with law firms for hands-on experience with the legal profession. Student and instructor response to the program has been very positive.20

Perhaps more significant is the experience at Seton Hall Law School, which has run an early intervention program for minority undergraduate students for more than ten years. Professor Brenda Saunders, director of the Seton Hall program, recently wrote an

20. The 1990 session of the University of Illinois Program was six weeks long, with the two classes meeting in the mornings and the students in internships in the afternoon. The 1991 session involved four weeks of instruction only at the Champaign campus and then four weeks of internships with Chicago law firms. Student and instructor response to the program has been very positive both summers. Professor John Colombo of the University of Illinois law faculty has been the program director both summers.
article describing the program. Although varying in certain respects from PMALS, the Seton Hall program has attempted to provide a law school experience for undergraduates to facilitate their entrance into and success in law school. The tracking of students over the years indicates that the program has been successful.

Programs such as PMALS and those described above can potentially be an important component of minority recruitment and retention efforts. Their unique contribution is to provide students of color with an early introduction to law school in a way that hopefully will stimulate interest and enhance skills. More significantly, student exposure to the demands and expectations of law school should help them in both preparation for and adjustment to law school.

21. Hampden, supra note 16.
22. Id. at 225-27.
Preparing American Indians for Law School: The American Indian Law Center’s Pre-Law Summer Institute

HEIDI ESTES*
AND
ROBERT LAURENCE**

I. INTRODUCTION

In 1967, at a time when only a handful of Indian attorneys could be identified nationwide, the Pre-Law Summer Institute for American Indians originated under a grant from the Office of Economic Opportunity as a component of the larger Special Scholarship Program in Law for American Indians. In 1971, the Bureau of Indian Affairs began funding the program; this funding continued until 1986 when BIA consolidated its post-graduate educational funding into one source in the hope of saving administrative costs. Unfortunately, its primary means of saving money was to terminate the Pre-Law Summer Institute. An outcry from Institute alumni/ae and tribes led Congress to appropriate funds specifically for the Institute in 1988, and the Institute has been conducted each summer since. The Pre-Law Summer Institute has always been administered by the American Indian Law Center, Inc. (AILC), located at the University of New Mexico School of Law in Albuquerque, New Mexico.

The Institute’s goals are to identify and overcome the obstacles that keep American Indians and Alaska Natives from law school, and to create a network of Indian law school graduates nationwide.

Three obstacles were immediately apparent to the founders: 1) Indians were not aware of opportunities in law, 2) they could not afford law school, and 3) their academic backgrounds often were not sufficient to prepare them for admission or, if they were admitted, for success in law school. The Special Scholarship Program addressed

* Director, Pre-Law Summer Institute, American Indian Law Center, Inc., Albuquerque, New Mexico. (505) 277-5462.
** Professor of Law, University of Arkansas, Fayetteville. (501) 575-5601. Professor Laurence attended the Midwest BLSA Recruitment and Retention Conference at Northern Illinois University, and graciously offered this overview of the AILC program.
the first two obstacles through recruiting and providing academic year funding for Indian students in law school.

The Pre-Law Summer Institute addresses the third obstacle. When evaluating the possible avenues the Institute should pursue, the founders decided that the primary goals were to gain access for Indian law students where it would otherwise be denied and to produce quality law students. Our goal to produce quality law students is particularly important because it veers from the more often chosen path of creating an ideological training ground or cultural studies forum. Further, we recognize it is impossible to train students to be lawyers in only eight weeks. So the Institute leaves the political and cultural training to the students' families and communities and the creation of good lawyers to law schools; it focuses instead on the narrow task of producing high quality law students capable of taking advantage of what law schools have to offer.

We also decided the Institute was the appropriate place to address the goal of creating a network of Indian law school graduates by bringing students together from across the country, subjecting them to an extremely vigorous eight weeks, and then sending them out to law schools nationwide. The difficulty of the program encourages development of relationships that last for decades, and links the participants of Institutes separated by decades. We will discuss below ways in which the academic program is structured to advance this goal of creating a network.

II. PARTICIPANT SELECTION

The criteria for admission to the Institute are that the applicant must: 1) be an enrolled member of a federally-recognized tribe, or be at least one-quarter degree Indian blood; 2) have completed a bachelor's degree; 3) have taken the LSAT; and 4) have applied to one or more ABA-accredited law schools. Further, applicants must provide a Certificate of Degree of Indian Blood, an official undergraduate transcript, a copy of their LSAT results, and two letters of recommendation with the application. Once these basic requirements have been fulfilled, Institute staff begin the review process.

Our first step is to evaluate whether the students' LSAT scores and undergraduate grade point averages are such that they have a real chance of being admitted to law school, irrespective of their performance in the Institute. We counsel students whose LSAT/UGPA indices will absolutely preclude them from being admitted to any ABA-accredited law school to prepare for and retake the LSAT if they are committed to a career in law.
Once those students who cannot be admitted have been removed from the pool, we evaluate individual applicants. Those students who receive conditional admission to law school based on their performance in the Institute are our top priority and are admitted to the Institute immediately. We rank the remaining qualified applicants, taking into consideration their LSAT/UGPA indices, educational and work backgrounds, and the geographic locations of the students' tribes or Alaska Native villages.

Because our goal is to replicate an entering law school class, it is important that there be students with top LSAT/UGPA's, as well as middle and low numbers. Further, students helping one another individually and in study groups form even stronger relationships, and students across the academic spectrum attend a broader range of law schools. Both these factors help to extend the network.

Geographic distribution also is important. Although all the participants are Indian or Alaska Native, there is great diversity among Indian and Alaska Native cultures. To say, "Indian" is as vague as saying, "European." Metlakatla, Navajo and Passamaquoddy are less culturally similar than Germany, England and Italy. And, while the Institute takes no political or cultural positions, we do assert that exposure to as many of these cultures as possible is valuable to Institute participants.

A final point about the selection process is what it does not include: there is no financial means test. Our rationale for eliminating this criterion is that there is no equivalent program which the student may pay to attend. Simply because a student is financially solvent should not preclude him or her from receiving the benefits offered by the Institute.

III. Administrative Logistics

The logistics of the Pre-Law Summer Institute are similar to that of most pre-professional programs. It is structured to accommodate a maximum of 40 students (although current funding levels allow only 26-28). Students receive a small living allowance, travel cost assistance, and text books and other instructional materials. They are responsible for their own housing and travel arrangements. The Institute enjoys the hospitality and support of the University of New Mexico School of Law, which provides classrooms, moot court room, law library, faculty offices, and videotaping.

Role models are an important part of the Institute. We employ four or five of the top students from the previous summer's Institute as tutors and teaching assistants. In addition, we bring in to speak to
the class each week successful past participants, experts in fields of law of particular interest to the Indian community, Senators and Congressmen, and tribal, state and federal judges.

IV. THE ACADEMIC SIDE

Summer programs designed to lure minority students into the law and to prepare them for its study are of two general types. There are those, like PMALS, which is described elsewhere in this Symposium,¹ that aim to reach undergraduates and serve to stimulate interest in the legal profession and increase the pool of qualified minority applicants. Then there are those like CLEO, also described herein,² that take students admitted to law school and try to increase their chances of success. The AILC's Pre-Law Summer Institute is of the latter type, and actually is one year older than the CLEO program.

There are three components to the Institute's academic program: 1) the law school "Simulation" component; 2) the "Network" component; and 3) the "Headstart" component. We will describe the elements of these components in detail in a moment, but first, about the categorization itself. The Simulation component seeks to replicate the typical first semester experience. The first semester of law school is hard enough for all students, but many Indians find their initial entry into these most Anglo-American institutions to be especially challenging. The rules are different from the reservation environments and small colleges from which many of them have come. The Socratic method itself is usually quite foreign — we might say that it is almost "Greek" to them — and requires what some Indians would consider un-Indianlike behavior, such as singling themselves out in front of their classmates for individual recitation. For whatever reason, many Indians enter law school with some serious misgivings.

The Institute addresses that issue head-on, not by seeking a reformation of law schools along Costnerian lines, but rather by letting the students confront the Socratic method first, before law school, while surrounded by the support that the staff and other Indian students can give. Hence the professors are mostly white — as most of their fall professors will be — and are experienced classroom teachers at various national law schools. They are told to replicate the first year classroom and, in the main, they do so. We admit,

though, that both the small class size and the professors’ enthusiasm for the Institute make the summer’s classes somewhat atypical.

In order for this Simulation component to work well, one small, but important message is given by the AILC’s staff to the classroom teachers. Occasionally, a student will play his or her “Indian card” with a white professor by saying, in essence, “Indians don’t do this. Restructure your class. Change your expectations.” This raises a nice pedagogic question and a debate about what should and does go on in law school. But the AILC feels that the summer program is not the place for this debate to go on, at least not in the classroom or office of the non-Indian professor. Hence, the classroom teachers are told to refer students taking such positions to the staff for discussion about what exactly it means to be an Indian, and to go on teaching until the staff suggests a change. That is not to say that the white teachers are taught to be insensitive to their Indian students’ concerns; rather it is to say that the staff is in the better position to talk these things out with the students.

The Network component addresses a problem that, among racial minorities, is nearly unique to American Indian law students. Except for students attending a handful of law schools around the country, most Indians will find themselves to be the only Indian in the class, or one of only two or three. The Institute seeks to let the students know that they are not, in fact, alone in their study of the law. By gathering in New Mexico for the summer, they identify themselves as the “Class of 19xx” and retain some of that identification as they disperse across the country. The fact that a national Indian bar exists with any kind of cohesiveness despite its small numbers is due, we think, in large measure to the Pre-Law Summer Institute.

The Headstart component, of course, is intended to give the students an increased chance of doing well in law school. We note that the Headstart component is simultaneously related to, and inconsistent with, the Simulation component. It is of course true that merely teaching students with the Socratic method in the summer is a Headstart function, helping, if not ensuring, success in law school. If a course that is simulated is also taught in the first semester — for example, Torts — then the Headstart function is served even better. Perhaps the best Headstart course would be a quick, topical review of the Torts course, a once-over-lightly look similar to a bar review course. This much Headstart, though, would seriously imperil the Simulation component.

There is another danger inherent in the Headstart component, which we call the “Call Me When We Get To Page 162” Syndrome. If we simulate Torts, even to the extent of using a standard Torts
textbook, and start at the beginning, we may be covering exactly the same cases that will be covered in the fall. In the fall, then, a student might be tempted to think that he or she has covered this in the summer and concentrate only on other first year courses. We both warn the students against this syndrome and try to avoid it by structuring the Simulation component to avoid actual overlap with the early part of the fall semester.

With that introduction, we will now explain the three components in more detail. We note in advance, however, that the curriculum changes from summer to summer as different teachers arrive and different choices are made. What is described is a fair composite of the past several programs.

A. SIMULATING THE FIRST SEMESTER

The students enroll for eight weeks in three substantive courses and a course called Advocacy. One of the former is always Indian law, discussed below, and another within recent memory has been Torts. The third varies, depending on the faculty, and has recently been Contracts, Constitutional Law or Property.

These courses are taught based on first semester class models. The structure is Socratic; the emphasis is on case analysis; the demands are rigorous. The principal departure from the simulation is in what might be called, in Computerspeak, "REVEAL CODES" — that is to say, when the professor discusses with the class what is going on in the class and why. This includes time spent talking about the Socratic method and case analysis — what the professor is looking for with his or her questions, and why. Otherwise, the classes proceed pretty much as do first semester classes.

The Advocacy course is patterned after the typical first semester writing and analysis course, except much compressed. The students work on a legal problem and take the case from a first interview of the client, through memoranda of law and briefs, to an oral argument before an appellate court. Lately, the law on the problem has been "closed" — that is to say, the students are given the cases with which to state the law and on which to base their legal arguments. In an eight-week program, this closed law format seems the best format to allow concentrated attention on relatively few cases and statutes.

Furthermore, in recent programs, the cases on which the closed problem has been based have been the cases the students were studying in their substantive law classes. To give an example, a recent Advocacy problem involved free speech on an Indian reservation. One Indian sued another in tribal court for defamation and the defendant raised the Indian Civil Rights Act’s free speech protection as a defense.
(Indian law dogma holds that the United States Constitution does not bind the action of Indian tribes, so this defense must be statutory.) In Torts, the students were studying defamation and the constitutional limits on the common law action. In Indian law, the students were studying the Indian Civil Rights Act and its relation to the constitutional standards. Thus, Advocacy served to pull a good part of the curriculum together and show the students as clearly as possible that what they do in writing class is intimately related to what they do in their substantive law classes.

B. ESTABLISHING A NETWORK OF INDIAN LAW STUDENTS

As mentioned above, the principal aspect of the Network function is the actual gathering together of Indian law students in one place for eight weeks to get to know each other. The Institute traditionally has a very diverse group of Indian law students: young and old, eastern and western, northern and southern, full bloods and less-than-full, high scores and not-so-high, prestigious undergraduate colleges and not-so-prestigious, reservation Indians, urban Indians and suburban Indians with a wide variety of educational and life experiences. In particular, the students are always from a large number of different tribes. This diversity adds an excitement to the summer and, at the same time, makes the teaching challenging.

In addition to the very existence of the summer program, two segments of the curriculum add to the Network function. First, there has always been a course in Federal Indian Law. Many of the students will be attending law schools where such a course does not exist; yet, at the same time, many will wish to return home to practice Indian law in one of its many forms. For many students, the course in the summer will be their only exposure to the subject. It is true that the Indian law course also serves the Simulation component, for it is generally run in a Socratic dialogue. It also has a Headstart component, because it is a good course to hone the skills of case analysis. But its principal function is the establishment of the Network.

The Advocacy course, with primary functions in the other components, also helps the Network. For more than a decade, Institute Advocacy students have struggled with the legal problems of Frank Brave Eagle and his various conflicts with the Sycamore Tribe, on whose reservation he lives, although not a member. This may seem a matter of great insignificance, but if one attends a meeting of Indian lawyers anywhere in the country these days, one is apt to see Frank Brave Eagle T-shirts, and Indian lawyers who are otherwise strangers can fondly (we hope) recall the trials of Frank and the role he played in their legal education.
C. HEADSTART

As mentioned above, the clearest headstart on a law school career comes from the very fact that the students are having it simulated for them in a friendly environment. There are two elements of the program, though, that are more frankly designed for the pure task of introducing the students to certain subjects. The first of these is legal bibliography. The Advocacy course, built as it is around a closed problem, does not require the student to learn about legal bib. In fact, there are those who think that legal bib gets in the way of the early forms of legal analysis; the very students who need the most work at reading the cases they have, are the students who spend the most time in the library following tangents and deadends. Thus, we exclude legal bib from the Advocacy course. However, alumni/ae tell us that seeing the books for the first time in the summer provides an easier time with the legal bib course most of them get in the fall. Hence, we have taught a legal bib segment separately from the Advocacy course.

Second, there is Future Interests, traditionally a stumbling block for all first year students, Indians included. Contingent remainders, executory interests, possibilities of reverter and so forth; these are all ideas much easier learned the second time around than the first. So, if Property is the substantive course being taught, we almost always include a section on Future Interests, taught with lecture and problem solving rather than in the Socratic method. This may not simulate the usual first semester approach, but our students tell us that they have an easier time with Future Interests in the fall than their classmates who are going through it for the first time.

V. EVIDENCE OF THE BENEFITS OF THE INSTITUTE TO THE PARTICIPANTS

A detailed study of the Institute was conducted in 1986 to evaluate its benefits. This question was presented: ‘‘Is the probability of success in law school (that is graduating with a Juris Doctorate) after having attended the Pre-Law Summer Institute greater than the probability of success not having attended, given the impact of eight variables?’’ We studied two classes: those entering law school in 1981 and 1982, and graduating in 1984 and 1985. We chose these classes because relatively complete information was available, and they were both average-sized classes. Given time and money constraints, we could not consider every variable affecting a law student’s results. Therefore, we pared the list of possible variables from thirty to seven, which historically had appeared to affect success, and used the control
variable of "gender," which had not appeared to have made a significant difference.

We discovered that the Institute was significant in its effect on Indian students' successful completion of law school. The results of the overall group demonstrated a success rate for those students who attended the Institute of about 70%, while the rate for those who did not was about 50%. Students with low to mid-range LSAT scores significantly benefitted; where the LSAT ranged from 15-24 (10-48 scale), we found 65.2% succeeded while 25% was the success rate for those who did not attend. Similarly, for the LSAT range of 25-29, we found 85.7% succeeded, as opposed to 30.8% of those who did not attend. Further, those who had been out of college for as little as one year had much higher success rates after attending an Institute, with benefits being felt more strongly with each passing year. Thus, we found strong evidence to support the proposition that the Pre-Law Summer Institute greatly enhances students' probability of successfully completing law school.

VI. CONCLUSION

We have described here one of the longest-running retention programs for minority law students in the country. We hope we have conveyed to you that, for all the uniqueness of the position of American Indians in American law schools, the design of the AILC's Pre-Law Summer Institute could serve as a model for similar non-Indian programs around the country. We end here with one plea: don't forget our network function. The summer retention program you design for your own law school may serve your students — even your Indian students — well. But the benefit that Indian students receive from spending the summer with their fellow Indians in Albuquerque is not to be gainsaid. You might consider releasing your Indian admittees from your own summer program so that they can attend the Institute. It is, we think, for the good of both the student and the American Indian bar. And, we hope you see your school will not be harmed by such a release to a program as carefully structured as the Pre-Law Summer Institute for American Indians.
The Role of CLEO in Successful Recruitment and Retention of Minority Students

as presented by

DENISE W. PURDIE, ESQUIRE*

In thinking about the order of selection for our speakers today, I am probably second because the CLEO program focuses on the next phase of recruitment for students into law school. The Counsel on Legal Education Opportunity Program (CLEO) began in 1968 and was initially started as a program designed to enhance and increase the number of minority students in the legal profession. It originally began as a result of a grant from the Ford Foundation, and, since 1970, the program has been funded by the Department of Education.

CLEO is a program designed to assist students in gaining admission to law school. We do that by providing a number of services, with a focus on assisting students whom I would describe as "middle-of-the-road" candidates for law school. First, we are a pre-law program because part of the CLEO focus is a six-week pre-law summer institute that is held in one of seven locations across the country. Part of that summer institute process is a summer orientation for those students to help them understand the nature of the environment that they will enter in the fall. Second, we address financial aid issues because, if our students are successful in being certified as CLEO fellows, they will receive a living stipend for the time during which they are in law school. Finally, we address recruitment issues, because we have to go out and recruit students to participate in the program.

I am going to begin by telling you a little more about the structure of the program and the students we select. Our view has been that students who have performed exceptionally well in an academic arena, and have been provided with appropriate counseling, are going to be admitted to law school. However, there is a group of students who have the potential to succeed in law school, but who may have had an obstacle to overcome in the process of obtaining their undergraduate degree, or have had a historically difficult time in taking stan-

* Executive Director for the Counsel on Legal Education Opportunity; M.A. City University of New York; J.D. Syracuse University.
standardized tests. Our program is designed to focus on those students. We are interested in increasing the pool to the extent that students have already self-selected law as a career. We are not looking for students with LSAT scores in the 99th percentile, or in the 1st percentile, because we recognize an obligation to provide students with a realistic expectation of what their opportunities will be in law school. We are looking for those students who sort of “fit-in-the-middle,” which also includes a mid-range GPA.

In determining the eligibility for the CLEO program, because we are federally funded, our first criteria is an economic one. As a result, in addition to looking for students with average undergraduate performance and LSAT scores, we also require the students to have some economic need. I know, students always claim, “I’m poor! I need some money!” Nearly every student claims to have economic need. However, the CLEO financial needs test is based on the Federal Poverty Guidelines, although it does not adhere strictly to those guidelines.

CLEO has seven institutes, thirty students at each of those institutes, for a total of 210 places for which we generally receive 2100 applications. The first criteria, as I mentioned, is economic. Then we look to academic factors. There are students who we have determined, based upon their LSAT, GPA, college transcript and personal statement, that we cannot help; therefore, some students are disqualified from the program based solely upon academic performance. However, this has not always been the case. The academic performance criteria for participation in the CLEO program came as a result of the recognition that there are some students who need much more than we can offer them in a six-week program. We do not, however, discourage those students from continuing to seek a program in law; we simply recognize the limitations of our program for them.

The result of this process is a pool of applicants who do qualify economically, and do qualify based upon their academic performance. Beyond these factors then, we read all personal statements, we look at each student’s educational background, their curriculum, their grade trends and employment history. We read every application in extreme detail to determine which students will fill one of the 30 seats at those seven institutes. The process goes on both at the national office and at the regional office.

Another piece of the CLEO program which makes it unique is that law schools across the country participate in the program. Every September, we send out a letter of solicitation to each of the 175 ABA-approved law schools to inquire whether they are interested in
hosting the summer institute. In addition to carrying on the actual institute, the host schools raise funds from the other law schools in order to carry out their program. All student costs in the institute are paid, including transportation to and from the institute, and a stipend is paid. In addition, the students receive the benefit of exposure to the law schools located in their regions. In making student selections, the regional CLEO director enlists input from the regional law school. This process provides an additional opportunity for students who have not yet been admitted to a law school to have their personal statements and credentials reviewed again by the admissions staff at a law school to which they may have applied. Although our job would be easier if all of our students had already been accepted into law school at the time they begin the CLEO program, given our applicant pool, this is not very often the case. We do, however, try to place the students into law school as soon as they are admitted into the CLEO program, because we believe that students who go directly from the program into law school benefit most from the program.

What then, is the summer CLEO program? The CLEO program utilizes substantive areas of law to focus on legal writing skills, with legal writing being the main component of the program. We begin the process by teaching our students legal writing skills. We use substantive areas of law to enable our students to begin to learn how to spot issues, analyze cases, brief cases, respond in class, develop outlines and to know what issues to focus on when reading fact problems. We also begin the process of assisting the students to develop good exam-taking techniques, which is essential. Our students receive a mid-term exam and a final exam on the substantive areas taught, and are evaluated for CLEO certification based upon their performance on those exams. It is a rigorous program to go through in a six-week period.

The certification process can be looked at from a number of different perspectives. First, it says that a student is certified; it means that based upon the faculty evaluation of that student, this is someone who, in spite of unfavorable numerical predictors, can perform at a level that would make them a successful candidate for law school. In many cases it is the CLEO certification that affords students admission to a school at which they had been previously either wait-listed or rejected. Beyond admission, the CLEO program also provides students with a validation of their abilities. Knowing that a faculty member (all of our teachers are law school faculty) has determined that they are qualified and can be successful in the law school environment means a great deal in building the self-confidence that the students
need when they finally enter that environment. Too often I want to describe it as a hostile environment. The CLEO faculty applies the same grading standards during the summer that they use to grade their law students during the regular academic year.

How does the CLEO program fit into the entire picture of recruitment and retention? It fits because it is a program that has provided opportunity and a pool for diversity. Unfortunately, it is also a program that is under attack from the federal government at the present time. The CLEO program, as I have said, is funded by the Department of Education; but the Department of Education does not always share CLEO's view of the applicant pool that we should be serving. But we have found that our students are successful. The attrition rate of CLEO fellows seems to be lower than non-CLEO students with the same numerical predictors. The six-week program makes a significant difference because our students are being successful in law school and are graduating. Over 5000 students have gone through the CLEO program, have graduated, have passed the bar and have gone on to become productive members of the legal profession.

The final point I wish to discuss with you concerns money. The current student stipend level is $3,700 per year. We anticipate that the amount will be increased, as it has been increased for the last few years. As long as the program is in existence and funded by the federal government, and as long as the students continue to remain in good academic standing, they are eligible to receive that stipend during the time they are enrolled in law school.

I would like to end by giving you some information about the crisis that CLEO is undergoing so that you can take a message back to your respective law schools, not only about retention and recruitment issues, but also about programmatic issues which face us on the national level. I believe everyone here is aware that the Department of Education has been focusing on race as a criterion in the selection process for different programs within the Department of Education. The Department is also reviewing whether considering race as a factor for law school admission makes a school ineligible to receive federal funds. We at CLEO have been told by the Department of Education that we can no longer collect data on race; we must strike it as an element of our application and cannot include it in any publications we issue. We are not to promote our program as one designed to assist minority students. This is something we all need to be concerned about because I believe it is taking away what is an entitlement for students who have historically been viewed as in-need of some extra assistance as remediation for historical practices. This entitlement has
not been taken away by Congress, but by those with administrative authority. I feel that we need to motivate ourselves in a political way to contact our Congressmen — to be in touch with them to let them know how we feel about this issue. Senators and representatives do respond when they hear from their constituents. We can truly make a difference.
Financial Aid and Recruitment

as presented by

RUTH A. WITHERSPOON*

Thank you and good morning. I was asked to talk about financial aid and its relationship to recruitment and retention strategies. I tend to be a little long-winded so I am going to ask for your help to keep me on track.

I should first try to give you some general idea about what is happening in the area of financial aid, and then try to bring your attention to some serious concerns about debt management. Pre-law advisors, law school admissions officers and others who advise and counsel students must begin to seriously alert students to the benefits of debt management.

Before I get started though, I think it is important for me to point out that when you talk about financial aid, it is not unlike dealing with the question “which came first, the chicken or the egg?” This is so because the financial aid process requires planning and taking action before law school, during law school and after law school. Most of you are aware that attending law school can be a very expensive proposition and paying for it is becoming increasingly more difficult. The cost of attending different law schools varies greatly. If you attend a public, state supported school, the tuition alone can cost a state resident approximately $3,000 a year. If you attend a private institution, the average tuition can cost approximately $10,000 a year. When you add tuition to all of your living expenses and the other costs of education — including room, board, transportation, personal expenses, books and supplies, — your total educational budget can be as much as $11,000 a year for a state supported institution and as much as $18,000 a year for a private institution. Now, when you consider the fact that a full-time course of study at a law school involves a three year program, the average cost at a public institution will be $33,000 over that three year period. At a private institution the cost will be $54,000 for that same period.

Unfortunately, most law schools have been increasing tuition at the rate of 10% per year for the past decade, which means that

* Associate Dean, Student Affairs, Florida State University College of Law; Member of Law School Admissions Council Financial Aid Services Committee. B.A. Hamilton-Kirkland College, Clinton, N.Y.; J.D. University of Cincinnati College of Law; LL.M. University of Wisconsin.
whichever law school a student is now considering, he or she can expect that the tuition will have increased substantially by the time he or she is ready to enter. When students ask for advice regarding how they will meet those costs of education, how do you advise them? Many of us attend recruiting conferences such as the one most recently sponsored by the Law School Admissions Council held in Atlanta, Georgia, at which 117 law schools were represented. We speak with students, invite and encourage them to consider our programs and try to convince them that our cost, whatever it may be, is affordable. So I ask you, how does one “afford” a $54,000 legal education?

To answer that question we must realize that there are five variables of great importance in financing the costs of an education: resources from family, resources from personal savings, resources from loans, resources from grants and scholarships, and resources from work. Those five variables can be divided into three different categories: money given to the student, money borrowed, and money earned because of services performed. Now, all of those variables must be used and considered together when the student is putting together a financing scheme. But again, keep in mind that it takes a great deal of planning to implement a financial scheme. It requires planning before law school, during law school and after law school. First, the student must begin financial planning before law school. During that period of time the student should be actually trying to devise a strategy for meeting the costs of his or her education. The student must examine his or her personal assets and determine how much of the costs can be met with personal savings. For most students, that amount will be little or nothing. As Ms. Purdie just indicated, a number of students applying to law schools are financially at what is referred to as the poverty level. These students do not have many personal assets or accumulated savings, nor do they have family members who can make significant contributions toward the cost of their education. Therefore, these students must look to the other resources such as loans, grants, scholarships and work.

Let me address grants and scholarships first, and then focus primarily on loans, because loans are the most common form of financial aid. The two words, grants and scholarships, are used interchangeably, but there is a distinction between the two. Scholarships are awards that are based entirely, or in part, on academic merit. Grants are awards that are based on financial need. Both are forms of financial aid that do not have to be repaid. It is in one’s best interest to have as much of his or her financial aid packaging take the form of grants and scholarships as possible.

Most scholarships and grants will come as awards directly from the law school’s funds. There are, however, several other places from
which one can seek a grant. It is becoming increasingly more important for those of us who advise and counsel students to help focus students' attention on those other outside sources. The key is really to consider all groups and all affiliations that the student or the student's family may have and use that information to assist in the search for outside aid. The financial aid office is a very good place to start. Some financial aid offices have scholarship listings on computer data bases. The student may want to conduct a computerized search to identify local scholarships or other scholarships that are peculiar to a particular university or city.

Another place to research information about scholarships is at the local library. Students should make use of such reference materials as the grant or scholarship registers. For example, there is one book called the Annual Register of Grant Support. Another is called the College Blue Book: Scholarships, Fellowships, Grants and Loans. To use these guides, the student would first identify factors specific to him or her. For instance, the student may be the daughter of a union representative or the son of a veteran. The student may search through these guides and find that there are several foundations out there which have scholarship assistance to award to people who fit his or her category. Students should not limit themselves when trying to identify key phrases to describe themselves. They should brainstorm and think of every conceivable connection including social or religious affiliations; a number of the fraternities and church denominations have scholarship funds.

Although this is an excellent way of identifying outside sources for awards, too few students make the effort to go through the search process, and then through the competitive application process. Many students simply ignore the grant variable and believe that they will make up the difference in the form of loans.

Before discussing loans, let me first say something about student work. I have become increasingly concerned with the fact that many of our students are spending a great deal of time working. Florida State University, in Tallahassee, Florida, is located in the state capitol. In the recruiting process we promote the fact that we are centrally located and can afford our students a great opportunity to work. However, the extent to which students rely on work is very alarming, and we should be concerned that some of this work may be in violation of ABA rules. First-year students are discouraged from working at all, and should not consider work as part of their financial package. They should leave work for their second and third years. However, even second and third year students should not work more than the 20-hour per week limit imposed by the ABA for full-time
students. Over one-third of the ABA approved law schools offer part-time and evening programs, and I believe that those of us who advise students should counsel those students who are in serious financial straits to consider some of the part-time or evening programs. Their enrollment in part-time programs will enable them to work full time.

Unfortunately, not every student in need of a grant or a scholarship will receive one. In addition, a heavy work schedule may be both in violation of ABA rules and prevent the student from truly benefiting from his or her legal education. This dilemma leads us to loans.

There are three loan programs available to law students. The Stafford Loan (formerly known as the Guaranteed Student Loan or GSL), the Supplemental Loan to Students, or SLS, and private loans. The private loan program most frequently used by law students is the Law Access Loan Program, offered through the Law School Admissions Council (LSAC). Let me begin by outlining some of the problems or concerns created by financing a $54,000 debt primarily with loans. First let me describe the terms of the program, and then discuss what those terms mean after graduation. Presently, the Stafford Loan is the most popular as well as the oldest loan program in this country. The Stafford Loan Program offers loans to law students as well as to others. A major feature of the Stafford Loan is that the federal government pays the interest while the student is enrolled in school. The federal government also guarantees the loan against default. Further, no payment is due on the loan until six months after graduation, and the student has up to ten years to repay the Stafford Loan. To qualify for a loan under the Stafford Loan Program, a student cannot be in default on any previously borrowed federal student loan, and eligibility is based on financial need. The current interest rate is 8% through the fourth year; the rate can then vary, but cannot exceed 10%. The Stafford Loan Program is financially the most favorable loan program out there. However, the maximum amount of money that a student is able to borrow in any given year is $7,500. Therefore if a student plans to attend a law school where the annual cost is $18,000, he or she cannot meet the full tuition by borrowing the allowable annual maximum under the Stafford Loan Program. This will require that the student look to another loan resource, particularly if nothing is available in one of the other categories for support.

The next program to turn to is the Supplemental Loans to Students Program (SLS). This program is also federally sponsored, but not subsidized. This means that the federal government does not pay the interest while the student is in school, nor does it insure the
loan against default. However, the interest payments may be deferred by the student while in school, or the student can elect to make quarterly interest payments. The problem with deferring the interest payments is that the deferred interest is capitalized and added to the principal at the time of repayment. What this means, then, is that assuming a student borrows the maximum SLS amount annually of $4,000, by deferring the interest over the three years, the student will end up repaying much more than the $12,000 borrowed. Repayment on an SLS loan begins 60 days following graduation — ironically, just about the time that the student is finished taking the bar exam. This period also coincides with the time that many students, particularly minority students, are just beginning to arrange interviews for employment.

Under the SLS program, eligibility is not based on financial need, but students must apply for and exhaust eligibility under the Guaranteed Student Loan program before going to SLS. Interest rates under the SLS program vary annually and are based upon the treasury bill rate plus 3.25%, but not to exceed 12%. Again, this program is not as favorable as the GSL, but is still much better than a private loan program.

Assume now that toward an annual bill of $18,000 the student has borrowed the maximum annual amounts under the GSL of $7,500, and the $4,000 under the SLS. The student is left with a remaining need of $6,500 annually. Where does one go then? At this point the student must resort to a private loan program. The private loan program that does the largest volume of business for law school funding is the Law Access Program. The Law Access Program is a privately-sponsored program; it is not subsidized by the federal government. The interest is deferred while the student is in school and is capitalized and added to the principal at repayment. Additionally, like the SLS, the student can elect to make quarterly interest payments while in school. Most students, however, are not in a position to meet interest obligations while in school and therefore usually elect to defer interest. The interest rate varies quarterly and is based on the treasury bill rate plus 3.25%, but there is no maximum limit. We are proud of the fact that the Law School Admissions Council has been able to initiate a program that will help meet the needs of financing a legal education by developing the Law Access Program.

Remember though, that once again this program provides help in the way of a loan. For those students who must finance their legal education solely by relying on loans, their indebtedness upon graduation will be tremendous. Upon graduation, many students will have a $54,000-plus loan balance to be repaid. Unfortunately, many stu-
dent who must rely on educational loans fail to focus any attention on the practical considerations for repaying those loans. For example, many students are surprised by the impact that repayment has on their lifestyle choices. I am personally aware of situations where after graduation, law students seek roommates to help share housing expenses because they are unable to simultaneously meet living expenses, repay loans, and search for a job. This indebtedness will dictate what type of job a student will be able to take, and where a student will be able to live.

How does this relate to the subject of recruitment and retention? Realistically, I believe that there is no way to get through law school without borrowing for most students. However, we must advise students before law school to bring as many resources with them as possible to law school in order to limit that borrowing. They must look seriously to resources such as family and friends. Many students believe that they are “adults” now that they are in law school, and therefore do not feel that they can ask their father or aunt to help them out with expenses. “Don’t be too proud to beg!” When I went to law school I wrote to a great-aunt and asked her if she would please send me $100 every two months. Although it was a strain on her fixed Social Security and retirement income, it was her way of investing in my education. Students will be surprised at how many family members will be proud to help.

In the meantime, however, students need to develop a plan regarding how much they will borrow and how they will repay. During law school their goal should be to limit borrowing, and live within their budget; live like students and not like lawyers, and save that lifestyle for after graduation. If after graduation a student finds that he or she is not employed and it is time to repay loans, he or she should contact the bank or lending institution and make arrangements with them. Most of them are willing to work with students to help them maintain their good credit, and credit history will effect a student’s long-term career. Students should not get into default! Following law school, students should not let a short-term unemployment situation have a long-term effect on their career.

Let me close with a few short comments. I believe that there are a few things of which we need to be consciously aware. Many outside variables can effect the cost of a legal education and the availability of financial aid. Think for a moment about how the political climate can impact these factors, as evidenced by the positions taken by the Department of Education regarding the legality of scholarships for minority students; by the positions taken about funding programs such as CLEO; and by positions taken by Congress when it considers
the reauthorization of the bill which authorizes the Federal Student Loan Programs. In addition, during recessionary economic times, an atmosphere is triggered in which it is very difficult for anything that happens not to have an effect on everything that happens. State budget problems may result in increased tuition costs, but there is less money available to help meet those costs. Individual fund-raisers at the respective schools will continue to try to raise as much money as possible for their institution, but in the process they increase the demand on limited dollars. The result is less money going into the scholarship pot. All these issues are related, and I look forward to the impact that this Conference will have on their resolution.
The Connection Between Recruitment and Retention

FRANK MOTLEY*

INTRODUCTION

What I am about to say is probably not the conventional or accepted wisdom among others who have, and will, address you during this conference. If you detect a little testiness in my voice, you are an attuned listener. If you are a minority in America there is a certain amount of testiness — anger even — that one brings to any discussion about race and educational opportunity. Often, my candor and compulsive truth-telling are unwelcome visitors in the legal education community.

SELECTION, NOT RECRUITMENT, IS THE PROBLEM

Good lawyers start with the facts. So let me start by drawing your attention to the central fact — I call it a tragedy — to which few in legal education pay much attention:

Fact: about half the minority applicants to law school are not accepted.¹

That is an awesome fact to consider in light of all of this morning's talk about the problems of minority recruitment. There are lots of minority people who want to go to law school. Getting minority people interested in law study is not the problem. Then what is the problem? The answer to this question brings me to my first heresy:

Getting law schools to select students is the problem.

Law schools need to re-evaluate their selection criteria if they truly want to recruit more minorities. There are qualified students out there who want to go to law school and we turn them away every year!² One of the reasons we turn them away is because they have low LSAT scores. Most people who score below 20 on the LSAT have a very difficult, if not impossible, time being admitted to law


1. LAW SCHOOL ADMISSION SERVICES, MINORITY DATABOOK 47 (1990) [hereinafter MINORITY DATABOOK].

2. Id. at 48-56.
school. Most of you know that the average LSAT score for black test takers is 22. So to some extent the average black applicant will not be admitted to law school in America. However, that is not true of the average white applicant. He or she has a 61% chance of being accepted to at least one law school in America. We do not advertise this fact, but it is a fact. Unless a minority scores above a 22 on the LSAT, it will be very difficult to get into law school. I am not saying it is impossible; we all know students who have been admitted to law school with a low LSAT, but most law schools take pride in the fact that their average LSAT for minorities is well above 22, not below.

The second issue we are charged to talk about today is retention. I bring a similar heretical view to this topic:

Retention is not the problem, teaching is.

I think what some schools label “retention problems” are actually teaching problems in disguise. Those of you who have sat in law classes well know what I am talking about. If you were to sit down and draw up a list of the five worst teachers you have had in your more than nineteen years of education, I would be surprised if most of you would not place the names of at least two law professors on that list. Not until one is about to graduate from law school or about to take the bar does the law student realize what poor teaching he or she experienced in law school. Often, the least effective law teachers are placed in the first year classes. The first year students do not know any difference and are generally too easily intimidated by the law school process to complain even if they did know the difference. Pointing to retention as a minority recruitment problem is to play the “blame the victim game.” My own experience suggests that most problems of minority student performance in the first year have also involved a faculty member whose strengths are often outside the classroom. While most law schools place their best teachers in the first year classes, this is not always done. When it is not, the minority students fall victim to this error in disproportionate numbers.

3. *Id.* at 47.
4. *Id.*
5. *Id.* at 52.
6. With scores of 10-13, Black acceptance ratios were 3%, from 14-17 the acceptance ratio was 15%, for 18-21 the acceptance ratio was 35%. See *Law School Admissions Services, National Decision Profiles* (1988-1989); *Minority Database, supra* note 2, at 51 (1990).
Like many of you, I am a law school recruiter. I do many other things at Indiana, but I primarily do law school recruiting. As such, I am expected to be a miracle worker, someone who (a) can identify good minority students who (b) will attend the law school despite our modest financial aid resources and (c) will do well in law school despite the sometimes insensitive and racially hostile law school environment. The faculty think: “If only we could bring in the right kind of minority student, retention would not be a problem.” Finding these students would not be difficult. Getting them to come would be the miracle. I imagine that many of you are waiting for me to tell you how to perform this miracle, because I am supposed to be a quasi-expert on the matter of minority recruitment and retention.

Modesty aside, minority recruiters like myself have become good at doing that: identifying minority students who have modest scores but who will have few problems in law school. Regrettably, we find them and bring them to the door of the law school only to discover that the door is locked. Faculties who mandate LSAT cutoffs lock the doors. Deans who do not set aside sufficient minority financial aid lock the doors. The goal of this Conference is to help us to learn how to unlock these doors.

**LAW SCHOOL INVENTORY**

Good recruiting, like everything else, is planned. I do not think that you can have a good minority recruiting program unless you have a good overall recruiting program. Step one to a good recruiting plan is to take inventory. Whenever you start out on a new venture you must take inventory of where you have been and where you want to go. Those of us who are recruiters must take inventory of our schools. New admissions recruiters often make the mistake of starting out to recruit with no methodology. They do not know their schools well, and they do not know where to find the kind of student who will do well at their institutions.

I have three themes to share with you today. The first theme I borrowed from my wife, who accuses me of murdering the family plants. She always says to me, “right plant, right room.”

**THE RIGHT ROOM, THE RIGHT PLANT**

Imagine that your law school is a room. If you put a plant in that room that needs light but your room has no light, you are going to have problems. Nothing is wrong with the plant, but something is wrong with the room. The same thing can be said of minority students at your institution. Some minority students will thrive and some
minority students will barely survive. It is the recruiter’s responsibility to figure out which ones, thrivers or mere survivors, your law school is recruiting and selecting. What kind of school are you promoting? If you have a student who is going to need a lot of hand holding and your school has no warm, fuzzy people, that student is going to walk around needing something your school cannot provide. You have to take inventory of yourself, your school, its personality and commitment. You cannot provide everything, you cannot be everything to everybody. As wonderful as I think I am, all of the students do not like me. That is one of the reasons why there has to be more than one minority on the faculty and staff. Different in our personalities and approaches, minority faculty and administrators can share the responsibility and the burdens of helping diverse minority students adjust to law school.

Does your school, as Dean Witherspoon said, “provide money and an opportunity, or just an opportunity?” Law schools cannot admit a minority applicant whose only chance of survival is if she devotes all her available time to law study, yet then require that same student to work 15 to 20 hours a week in non-law related employment. When that student flunks out, it will be the product of the collusion of school and student. Planned failure. While the student should have the common sense to know that he or she should not work that much in his or her first year, once aware that work is the only way the student can finance their education, the law school has a responsibility to provide alternative funding assistance. Many law schools admit minority students and then say, “Well, we admitted them; they’ll figure out how to get money. . . .” I think that this is irresponsible. I think that you, as a recruiter, have to make a decision about who can survive in your law school’s environment and you have to ascertain your school’s level of commitment to minority needs. You have to do whatever it is to get your school to provide the resources for the students you bring to the institution.

NEED FOR A CRITICAL MASS

Minority students perform best when there is a critical mass of minority students. What is a critical mass? It will depend, but few would suggest that “one” is a critical mass. A critical mass is reached when there are enough minority students on campus who can have the luxury of not liking each other without being called “an uncle Tom.” On some campuses minority students are forced into an artificial affiliation because there are so few minorities on the campus that any lack of affiliation is viewed as a lack of ethnic solidarity. Is
your school willing to support and sustain the number of minority students needed to create a critical mass? Without that critical mass, minority students will feel isolated, alone, and unwelcomed.

**Expectation Theory**

In your inventory, you must be sure to look at faculty expectations. We have all heard of the teaching experiment where the elementary school instructor is told that the left side of the classroom is not as bright as the right side of the classroom and throughout the rest of the semester the teacher unintentionally finds himself or herself grading in this kind of pattern. If these same students are told that their side of the room is not as smart as the other, they will also tend to perform less well. Eventually, studies have shown that the left side of the class will perform worse than the right side of the class.

A similar result occurs in most law schools. If your faculty believes that minority students cannot perform well, at the end of the semester that is what you (and they) will find posted on the grade board. As important as it is to change this faculty expectation, I do not have a magic wand that will change the stigma that years of white male hegemony and discrimination have caused. White law professors do not expect good performance from minority students because, not immune to the mores of the larger society, they share society's belief in the stigmatized and denigrated status of minorities. Their belief usually translates into some behavior, perceptible to students, and the self-fulfilling prophesy repeats itself with professor and pupil playing out their ritualized parts. We all want to do the right thing and if we are told that we are not supposed to do very well and that “passing is acceptable for minorities,” those of us who do not flee this monstrous situation by dropping out will often collude in this expectation by saying, “Okay, I will meet your expectations because it will be fruitless to try to overcome them.”

In schools where the expectation is the reverse, where minority students are expected to perform well and are encouraged by the faculty, the students bolster their confidence and strive to meet the

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7. Criticism of the law school professorate has grown in recent years. Most notably, the recent book by Professor Patricia Williams, *The Alchemy of Race and Rights* (1991), describes the white male hegemony most graphically. Additionally, the ongoing protest by Professor Derrick Bell to get Harvard Law School to hire its first woman of color underlines the continuing problem in legal academia. See generally, *Complaint on Harvard Law's Hiring*, N.Y. TIMES, March 4, 1992, at B6; Mark Muro, *For Harvard Professor, Struggle is a Way of Life*, BOSTON GLOBE, March 25, 1992, at Living 69.
expectations of success. Believing in themselves, they overcome this initial adversity and rise to the top of their classes, taking part in the academic and social life of the law school.

This inventory must consist of answering tough questions. What is your institution going to do in the way of financial aid for students? After you take inventory of your school’s commitment, a profile of the successful student at your institution will emerge. If your school is not warm and fuzzy then you cannot go out and get students who want warm and fuzzy. You are going to have to recruit students who are hard nosed, determined and self-reliant. If you feel that your institution is not going to be able to provide generous financial support, then you cannot, in good conscience, recruit minority students who will need generous financial aid. From that inventory you will get a profile of the ideal students for your law school. With that profile, you will be better able to identify what undergraduate colleges and what communities will provide you with the type of students best able to thrive at your law school.

PROFILE OF THE SUCCESSFUL MINORITY STUDENT AT YOUR SCHOOL

There are other qualities that an admissions recruiter should look for in applicants in addition to those unique to his or her institution. The first thing I look for, beyond LSAT and GPA, something that we rarely talk about in the law school admission world, is character. Nobody talks about it, but that is one of the most important things to consider, especially in minority admissions. It is hard to talk about. It is like love or pornography; you know it when you see it. Another way of talking about character is to talk about self-concept. Maybe you talk about character and call it “ego” or maybe you call it “pride.” You see it when a student gets his or her first law school C and says to themselves, “all my life I’ve gotten B’s and A’s. I don’t understand why I got this C.” The person with character will not say “Well that’s my lot in life, that’s what I’m going to do in law school.” If they have a strong self-concept, they will say, “I am not this C quality student. I am not this grade. I am better than this, I will do something about this.” What you have to find is the person who believes “I am somebody.”

That kind of person is hard to find. However, if you are a good recruiter who has been at this business for some time, you get a little better at finding them. You know the places that produce these students and you can recognize this trait in applicants. There is a good reason that more and more law schools are hiring admissions professionals instead of simply buying a new computer. Good scores
alone do not make good law students, loyal alumni, or courageous and responsible lawyers. Someone must be able to look beyond the raw numbers and make a judgment on the person who is represented by the mounds of paper in those files back at our law schools.

It is equally important that you take an honest inventory of the students you recommend for admission. Beyond the raw stats, do they have common sense? Is their thinking grounded in reality or fiction? There are many minority students who have no perception of the odds against them. They walk into a law school unaware that the average entering LSAT and GPA of their white classmates may be a 40 and a 3.4. If their LSAT is an 18 and their GPA is below 3.0, they should not be surprised that old methods of study do not work in law school. They have to have some realistic appreciation for the fact that they have reached a higher, tougher level of competition. There is some significance in the differences between a 40 LSAT and an 18 LSAT, a 3.4 GPA and a 2.4 GPA. If a student does not have money and is accepted to a law school, how wise is it for that student to show up at registration not having filed for financial aid, scholarships, or loan resources? I remember one student who came to me in the middle of exam week and said, “I have not been paying my rent for about four months. I’m about to be evicted from my apartment. Can I stay at your house for a few days?” You have to have people with a reality base because there are often unanticipated difficulties in law school.

You need to recruit students who will listen. Many students think that they know it all. They have gotten this far on their own, they have good grades, they are smart and they know it. But one of the things that happens to all of us in law school is a great leveling process. There are hundreds of students, and the majority of them graduated at the top of their college class. Regrettably, law schools have not figured out how to put everybody in the top 10% of their class in law school. So it is a leveling fact of almost everyone’s law school experience that when first year grades are posted, almost everyone gets smacked into a new reality.

What to Look for in Minority Applicants

Here, two metaphors may help. Anyone here ever run a marathon? You can look at me and see I never run marathons. My understanding of how one runs a marathon is that you first have to get into shape. You cannot just walk in off the street and run 26 miles. The same thing can be said of those desiring law school. It is like a marathon; you have to be in shape — academic good shape.
As much as I might want to run a marathon, I would kill myself if I attempted to do it when I was not in shape. The same thing applies to students; they cannot wait until their senior year in college to "get in shape" for law school. It takes a lot more than that. Therefore, what you have to look for in students are people who have been in training. You have to find minority applicants who have been in training or who have the background, skills and willingness to put in the extra time that will be needed to catch-up and to tone up for the law school marathon. That is what it is all about, not how much the applicant wants to go to law school, but how prepared — in shape — the applicant is for the rigors and discipline of law study.

The other metaphor that guides me is the metaphor of the aging boxer. Even the best boxers get knocked down; that is not the issue. I think we have all been knocked down, academically and otherwise. The entire first year of law school, as I suggested earlier, is a preface to getting knocked down. Hitting the canvas is not the central issue about boxing; the central issue is taking a punch and getting back up. Too many minority students get knocked down and do not get up. The first year at any institution can be difficult. In assessing the minority applicant’s credentials for admission, look at the transcripts to see how well they did in their first year of college; compare it to their last year in college. The student entering college with a 740 combined SAT who got C's and D's in the first year but graduated with B's and A's may be the type of long-distance runner or fighter who will thrive at your law school. Did the applicant overcome the challenges, academic and otherwise, that they faced? If so, the applicant may well be worth the risk.

A HISTORY OF ACCOMPLISHMENTS

The other intangible I rely upon in selecting applicants is to see if they have a sense of excellence, a sense of accomplishment, a history of success. If a student gets to law school and has never had a sense of academic excellence, for example on the transcript or other honors, it will be very difficult for them to achieve competence, much less success, in law school. If they have never mastered an academic area in four years of college, the academic demands and intellectual rigors of law school may be too much for these applicants. One needs that sense that "I have been successful in the past. I will be successful in the future." Sometimes it is only that sense of past success that will keep one going when things look bleakest in law school. If a student does not have those experiences, if he or she does not have that sense of success, of excellence, he or she is going to have great difficulty in law school.
SEEKING OUT THE GOOD MINORITY APPLICANT

How do you find all this out about an applicant? You will not find this all out just by reading the transcript, however you will find some of it out by reading the transcript. You will find out more by what I call “wandering around college campuses.”

I think too many law schools indulge in “passive recruiting.” Recruiters sit in their offices and expect students to come to them. Some may have the luxury of doing that: sitting in their offices, reviewing files, making decisions, and getting a great class of students — minority and otherwise. That is wonderful, but most of us cannot afford to do that. In order for us to find the kinds of students who have character, confidence and motivation, we have to get out of our offices and do “active recruitment.” Sitting in your office is the surest way to get retention problems. You have to go out — and I would paraphrase the line bank robber Willy Sutton used when he was asked by a reporter why he robbed banks: “Because that’s where the money is!” So I tell you the same thing. Go recruiting at colleges and universities because that is where the students are!

There comes a time in every admissions cycle, generally in the middle of a heated debate about a group of minority files, when a member of the admissions committee will clear their throat and turn to me and ask, “Frank, would you put your reputation on the line for this applicant? Would you bet a year’s salary on this person?”

If all I had to go on were the fifteen pages in the applicant’s file, I sure would not bet an hour’s salary on that applicant. But if I had met the candidate, met his or her department chair, talked to his or her pre-law advisor, sat in classes at the applicant’s school, talked with his or her recommenders on a previous school visit, etc., I might bet a year’s salary. I might stake my reputation on that student. Too many law school recruiters know schools only superficially. We look at U.S. News and World Report and conclude that X is a good school or Y is a bad school. Yet, we do not have any notion about the school except the “hearsay” of a business-focused magazine. We do not know anything about the faculty, the students or the curriculum. It is very important that recruiters visit campuses, attend classes, and talk with the faculty about their curriculum. I have been associated with Indiana University for over fifteen years. I have taught courses in the undergraduate program. I have a sense of what the curriculum is like. But there are many colleges and universities about which I know nothing of their curriculum or the quality of their plant and programs. That is why I visit colleges. That is why I wander around.

A good recruiter has to be a predatory people person. You have to go out and continue past well-meaning, but sometimes overly
protective or biased, pre-law advisors who might tell you, “Well I’ll talk to the students about your program.” You have to get to the students — directly! It is very important that you meet the students because you can then get to know them, their personalities, and if you are lucky, get a glimpse of their character. And since this is a two-way courtship, they can get a sense of you and the law school you represent.

**Early Intervention**

We are all trying to compete for the best students who are coming to us as seniors. It is crucial that we get the message out to minority freshmen, sophomores and juniors, not only to those in college but also to those in high school. On first blush one might ask, “Why do that so early?” It is imperative that we begin to invest in the future of these minority students who have escaped the slums and turmoil of poverty and racism. We have to provide them with information early because they need to do better in school. They need to take tougher, more challenging curricula, and they need to get better advice about support services, financial aid and career opportunities at the schools to which they are applying. While we hope that they will be better prepared for law school than our generation was, we cannot be certain. The public educational system appears stacked against them and private education resources seem to be drying up. We need to warn these young minority men and women what is coming down the pike. We have to tell them about preparing for the LSAT, the MCAT, and the GMAT. These tests are becoming more, not less, important in our lives. We have to alert the young to the need to be well-advised about declaring majors, to apply to a wide variety of schools, and to be sure to secure sufficient financial assistance.

You need to “grow your own” as well. Recruiting starts at home, on your own local undergraduate campus. Undergraduate schools and pre-law advisors need your help in creating, supporting, and nurturing general and/or minority focused pre-law clubs. You ought to talk to undergraduate classes and political science departments so that you

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8. President of the Ford Foundation, Franklin Thomas reported the following figures: “At 75%, the black graduation rate is still 10 points below that of whites. Black dropout rates are reported to be running 50% more in many inner city schools. The average black seventeen year old reads at the same level as the average white thirteen year old, a four year lag. College attendance for Blacks has declined in the past ten years.” FRANKLIN THOMAS, THE NEW DEMOGRAPHICS (June, 1986) (reprint of remarks Franklin Thomas made at the ninth annual dinner of the Joint Center for Political Studies in Washington, D.C., on March 26, 1986).
encourage your own campus to begin to cultivate a group of minority students who are interested in and knowledgeable about the law. If you and I do not cultivate the talent on the local campus, we are never going to bring well-prepared minority students to our law schools.

**DEMYSTIFYING THE PROCESS**

The study of law, in all of its majesty, can be a mysterious and intimidating process. It is important that we demystify it for minority students because they cannot do it by themselves. Many of them have great skills and abilities and, when faced with the intimidating aspects of the Socratic method, they will need to be reassured of their abilities, skills and talents. At times, that is our most important role on these campuses: to be cheerleader for our students.

The second thing we need to do is to demystify the admission process for our faculty colleagues. Some of them believe that the LSAT is the be-all and end-all to the selection process. The LSAT is important; it serves a vital and necessary function. It is one way we can economically and statistically compare diverse applicants. Proper use of the LSAT can be helpful to narrow an extremely large applicant pool, but even the proper use of the LSAT is flawed when used to predict much about innate intelligence or a student's aptitude, ambition or character. It is an imperfect measurement used (all too often) imperfectly to arrive at easy answers to tough questions. The test is flawed because it measures intelligence as a variable of time. If I were to ask you what is 2 and 2 and you told me 4, and I were to ask the person next to you the same question and she, too, told me 4, would I be correct to draw the inference that one or the other of you were brighter because of the speed with which you answered "four"? Of course not. The fact that the second person was two seconds slower than the first does not indicate that the quicker responder is more intelligent than the slower one. Standardized tests are no more than a timed series of questions. Because of the way in which they are scored, those who can answer the questions correctly and quickest do better than those who cannot. Correctness and speed are premiums. A slow Socrates would score pitiably on the LSAT.

For these reasons the LSAT should not be given as much weight as should be given to one's grades. But my experience is that more weight is almost always placed on the LSAT than on grades because in comparing grades we have to compare institutions in which the students earned the grades, and we do not have a way of neutrally comparing colleges and universities in America. I would like to believe
that if a student got a straight A average from Harvard but scored modestly on the LSAT, that a law school would look at the average from Harvard as a better indicator of success than the LSAT. I think Harvard should be put up for auction if an A average at Harvard does not mean more than a 31 LSAT. But that is not my experience. Despite the cautionary policy of LSAC, the LSAT has, for years, taken on a life of its own.

TRUTH-IN-ADVERTISING

Truth in advertising requires us to be candid with minority applicants. We cannot bring these students to the campus without providing the support we advertise in our brochures and bulletins. If a support program has ceased to exist take it out of your recruiting literature! Programs and people change. A school has a great person running the support program, but if he or she leaves, you have an obligation to inform your recruited minority students that some material change has occurred at your law school.

NO PAIN, NO GAIN

I guess the last thing I would say is not so much a confession as another dose of honesty. Admission is not a thing of the heart. We are going to turn down more people than we admit. We are in the people business, but it is still a business. The decisions we make will have a great impact on our society and on the people we admit and on those whom we reject. Do not lose sight of the fact that it is people’s lives we are dealing with. These are not just so many pieces of paper that we are rejecting. If you represent a state law school and deny a student, that student probably cannot afford to go elsewhere. That decision has effectively stopped him or her from ever going to law school. Awesome responsibilities. A sacred public trust. We must judge and compare wisely.

Nonetheless, I hope I am not alone in believing that there are better fates than going to law school. But there are many students who believe going to law school is the be-all, end-all to their existence. And there are others who apply and go to law school without ever thinking about all the other wonderful options available to them. Each group produces its share of casualties in law school. This is also true with minority recruitment.

CASUALTIES AND RISKS

There will be casualties. You cannot fight a war without casualties. Find me the general who has no casualties and I will show you a general who has not fought a war. You cannot recruit students, you cannot challenge your institutions, without causing some casualties. Do not suffer from the illusion that there can be gain without pain. A computer could be programmed to select a law school class but what it would produce would lack the vitality that gives soul to this whole enterprise. If law schools are going to expand opportunities for minority students, law schools are going to have to take risks. Even with our best efforts and with all the academic support and financial aid possible, some minority students are going to become academic casualties. But you and I have to feel that we, as recruiters, have done all we can to assure that the minority student has been given a fair chance. If we have taken the right inventory and recruited our best, we will know that those who do not succeed have chosen this path on their own. We will know that the institution did not fail them, that the professors did not fail them, that there was academic support that they did not use and financial aid that they squandered. We have to feel that we brought them to an institution where they could succeed and where there were tools available for them to succeed if they wanted to. It is rare that I ever feel as though we admitted someone who could not do the work. Despite our best efforts, there will be casualties, but not usually due to academic difficulties. Law school affects each person differently. People go through changes, and as a result of those changes some just do not, or will not, finish.

As I conclude, permit me to make a parting suggestion. If you do all these things: you go out and talk with the students, you do not let the pre-law advisor keep you from them; you do not just look at the LSAT and GPA, you look at things like character, determination, self-confidence and resilience; you look at the transcript, you talk with the students, faculty, and pre-law advisors; maybe even you interview some of the students; if you can find time to do all these things, that will be the miracle.

But if you do manage to do all these things, you will, in effect, reach your goal. You will find and bring good students to the campus, and place the proper plant in the proper room. The key issue for many schools, and many recruiters, is to ask yourself whether you want students to just survive at your school or whether you want them to thrive. If you aim for retention, you are playing with survival and you are going to deal with problems of retention. If your goal is for minority students to thrive and you plan accordingly, retention
will not be a problem. Thank you for inviting me to participate in this important conference.
The Role of Minority Faculty in the Recruitment and Retention of Students of Color

PAULA C. JOHNSON*

It is a distinct pleasure for me to be before you and to speak as a faculty member of the school that is hosting this event. I speak from a number of vantage points: former law student, law student of color, former Vice President of BLSA at my law school, and as a member of the profession with a varied practice background.

I came into legal education with all of these experiences and the commitment to bring my knowledge, experience and assistance to the particular arena in which I was engaged in the law. Therefore, although the legal environment may differ, my commitment to public service through the profession, particularly in teaching and to the subject of this conference — recruitment and retention — does not vary.

In many ways the experiences of law faculty of color and law students of color are parallel. We are often subject to the same sense

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* Assistant Professor of Law, Northern Illinois University College of Law; B.A., University of Maryland, College Park; J.D., Temple University; LL.M., Georgetown University.

1. An examination of the demographics of the profession reveals a disturbing dearth of people of color on both sides of the student-teacher aisle. Overall, the total number of African-American and Hispanic-American attorneys in 1990 was less than five percent of the estimated 825,000 lawyers in the United States in that year. Dannye Holley & Thomas Kleven, The Bar Examination and Other Barriers to African and Hispanic American Fair Representation Among American Lawyers: A 1990 Update — Perspectives — and Recommendations, 16 T. MARSHALL L. REV. 477, 478 n.7 (1991).

The subject of minority recruitment and retention is critically important in view of the fact that attrition rates for African- and Hispanic-American students are substantially higher than for other (mostly Anglo) law students.

In the first half of the 1980's African-Americans comprised 5.1 percent of law school enrollees but only 4.2 percent of graduates; and in the second half of the 1980's African-Americans comprised 5.4 percent of enrollees but only 4.5 percent of the graduates. Similarly, Hispanic-Americans comprised 2.8 percent of law school enrollees but only 2.3 percent of the graduates in the first half of the 1980's, and 3.2 percent of the enrollees but only 2.8 percent of the graduates in the second half of the 1980's. Together African-American and Hispanic-Americans comprised 7.8 percent of law school
of isolation, alienation and doubt as to our abilities that law students of color frequently encounter. Also, like incoming law students, new faculty members often enter into a new environment facing new challenges, new colleagues and a desire to excel. In significant ways, however, our experiences and responsibilities differ.

Faculty members standing before a class, as I stand before you now, have tremendous influence and authority to communicate to students our beliefs about students’ potential to achieve their stated goals. Some faculty members at my law school communicated their lack of confidence in the abilities of students of color in verbal and non-verbal ways. However, from my experiences as a law student, practitioner, and now professor, I am convinced that graduation from law school and membership in the profession is an attainable goal for enrollees in the first half of the 1980’s but only 6.6 percent of the graduates, and 8.6 percent of the enrollees during the second half of the 1980’s but only 7.3 percent of the graduates.

Id. at 484 (citations omitted).

Statistics for the presence of faculty of color in the academy are correspondingly disturbing. In an oft-cited study, Prof. Richard Chused found that two-thirds of the nation’s law schools have one or no minorities on their faculties. Only a third have more than one faculty member of color. Richard Chused, The Hiring and Retention of Minorities and Women on American Law School Faculties, 137 U. Pa. L. Rev. 537 (1988).

2. Professor Linda Greene provides examples from the familiar litany of concerns that often accompany the hiring of African-American women professors:

“Why her?”
“Why now?”
“Was this special treatment?”
“Wasn’t there a white woman or white male more qualified?“
“Can she teach?”
“Will she write?”
“Is she too black?”
“Is she black enough?”
“We don’t want to make a mistake! It wouldn’t be fair to her or the others.“

And so on.

Linda S. Greene, Tokens, Role Models, and Pedagogical Politics: Lamentations of an African American Female Law Professor, 6 Berkeley Women’s L.J. 81, 90 (1990-91) (emphasis in original). (I highly recommend this entire volume of writings by African-American women law professors who discuss their shared and diverse experiences in the legal academy.)


those students who are willing to put forth the effort and who receive the necessary assistance from their institutions.5

In preparing my remarks for today, I recalled hearing Jesse Jackson’s response to someone’s remark that “he was a Presidential candidate who happened to be black.” He had corrected, “No, I don’t happen to be black; it was no accident that I’m black. It was very deliberate.” As an African-American woman law professor, my identity is no accident either; it is a great source of pride and determination, as well as vulnerability. It is the singular, collective and cumulative effect of my identity and experiences, those things that make me who I am, that give me a particular focus on the law.6

5. Clearly, students must be self-motivated in order to succeed; however, this does not suggest a minor role for law schools in providing programmatic support for effective educational intervention. As Professor Vaughns observes, comprehensive writing programs that develop critical problem-solving skills through the application of legal reasoning and analysis, offer the most promise for long-term academic improvement. See Vaughns, supra note 3, at 456, 469; see also, Lawrence D. Salmony, Academic Support Program Workbook: A Report to the Law School Admission Council (Working Draft, Oct. 15, 1991) (comprehensive model of effective academic support programs). This Workbook is discussed elsewhere in this Symposium. See Kathleen Patchel, The LSAC Academic Support Program Workbook from the Perspective of a Novice User, 12 N. ILL. U. L. REV. 341 (1992).

6. In this regard, I believe, as Professor Christopher Edley has stated, that “We teach what we have lived, and this may be particularly true in a field like law, which is, after all, about life and how it is or ought to be ordered.” Rachel F. Moran, Commentary: The Implications of Being a Society of One, 20 U.S.F. L. REV. 503, 511 n.30 (1986) (quoting Professor Edley) (emphasis in original).

In 1989, Herma Hill Kay, Dean of the University of California at Berkeley and then-President of the American Association of Law Schools (AALS), established a priority to “undertake a more concrete and sustained effort to bring women, minorities, and gay and lesbian law professors into the mainstream of legal education, so that these colleagues can offer our profession their unique insights without the fear of being marginalized.” Herma Hill Kay, President’s Address: An Agenda for a Shared Future, ASSOCIATION OF AMERICAN LAW SCHOOLS, No.89-1, Feb. 1989, at 2. Indeed, a number of educational movements have emerged in recent years to challenge suppositions of neutrality in the theory and operation of law and to incorporate the particular perspectives of distinct groups into legal discourse. Notable among these movements are Critical Legal Studies, see, e.g., Mark Kelman, A Guide to Critical Legal Studies (1987), and David Kairys (ed.), The Politics of Law: A Progressive Critique (1990); Critical Race Theory, see, e.g., Richard Delgado, Storytelling for Oppositionists and Others: A Plea for Narrative, 87 Mich. L. REV. 2411 (1989); Robin D. Barnes, Race Consciousness: The Thematic Content of Racial Distinctiveness in Critical Race Scholarship, 103 HARV. L. REV. 1864 (1990); Feminist-Critical Legal Theory, see, e.g., Symposium, Women in Legal Education — Pedagogy, Law, Theory and Practice, 38 J. LEGAL EDUC. (1988); Angela P. Harris, Race and Essentialism in Feminist Legal Theory, 42 STAN. L. REV. 581 (1990); and
In teaching, I try to share my perspectives with my students, while encouraging them to formulate and to examine their own. So, with respect to the topic of recruitment and retention, I would like to share some of my thoughts about the spheres of influence and responsibility that I have as a faculty member, and more particularly, as a faculty member of color.

Let me begin first of all, in the classroom. Again, professors wield a tremendous amount of power in the classroom; used irresponsibly and autocratically, it can be devastating to students. We are only beginning to realize the damage that may be done to students who experience assaults on their self-worth under the guise of classroom education.7 Moreover, instilled feelings of low self-esteem undoubtedly reverberate throughout the communities that we serve as attorneys.8 As a law professor, I believe in the imperative to create a

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7. Professor Toni Pickard has examined the effects of the hierarchical dynamic that exists between law professors and students which is rarely acknowledged by professors. According to Pickard:

We don't live with the consciousness of ourselves as power-wielders.... But one of the ways we allow ourselves to get away with our own part in life's millions of minor tyrannies over others is to focus off our own power, to think of power as something out there, external, something that exists on a social political level but which has no important personal dimensions except perhaps in those who “rule the world.” We don't see how nasty moments in the classroom bear lessons about power. We may regret them, but they're lapses, not abuses of power. But the other people there, the “students” who often feel abused, humiliated, inadequate, ill-done-by in some way by what a “teacher” is doing to them or to others in the classroom, are silenced.... And we get away with what we do. Those things we get away with, things we personally can avoid doing, are important even if their scale bears no comparison to the oppression of dissent, for example, on a statewide basis. We mustn't fool ourselves. The dynamics of small and large oppressions are similar, very similar — only a law professor's caution prevents me from saying they're the same. Tyranny is tiny tyranny writ large.

Pickard, supra note 4, at 282-83.

8. Speaking on this issue, Professor Devlin asserts that:

By deliberately decomposing our students’ pre-law experiences, by denying a past that is constitutive of their very identities as persons, we encourage the role to swallow the person. As a result, law teachers frequently cripple students both intellectually and politically and even induce significant psychological distress.... As a central component in the training, controlling, and disciplining of students, legal education plays a vital role in molding
classroom environment that motivates and challenges students without destroying their self-confidence. With particular respect to students of color, I also believe that it is necessary to view them not solely by their most obvious characteristics, but as individual students.9 In

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9. In addition to being regarded as unindividuated, many of the unsettling experiences of students of color in the classroom can result from the twin stresses of objectification and subjectification. As defined by Professor Kimberle Crenshaw, the problem of objectification occurs when "instructors narrowly frame classroom discussions as simple exercises in rule application and [do] not giv[e] students permission to step outside the doctrinal boundaries to comment on or critique the rules." Kimberle W. Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1, 3 (1989). The following example is illustrative:

A discussion in Property where the class is instructed to identify and apply a rule involving a lessee's responsibility for damage suffered by the lessor's property during the term of the lease. The professor has asked the class to discuss the application of the rule in a suit for damages by the owner of a deceased slave against a lessee who was responsible for supervising the slave when he was killed. The ambiguity that the students are asked to resolve is whether the slave should be treated as mere chattel, in which case the slave owner will recover, or whether the slave should be treated as a human agent, in which case the lessee's responsibility will probably be mitigated. If the instructor does not open the door for students to question the very legitimacy of this doctrinal framework, the African-American student is faced with a difficult choice. To participate correctly in the discourse, she must abstract herself from her identity as an African-American, a descendent of the very people who were enslaved under the fiction of human chattel. She must ignore her personal perceptions and judgments about the illegitimacy of the doctrine under consideration and become a colorless student attempting to demonstrate her legal talents by manipulating the legal abstraction within the narrow boundaries already established.

*Id.*

Professor Crenshaw acknowledges that the above illustration is unlikely to occur in a law school classroom, however, primarily because few law school courses address the law of slavery. Therefore, a more likely scenario might be found in the criminal law involving a discussion of probable cause where the reasonableness of an officer's suspicion requires students to view the situation through the eyes of the arresting officer. Citing *Kolender v. Lawson*, 461 U.S. 352 (1983), as an example, Professor Crenshaw posits the circumstance in which it is necessary to determine the existence of probable cause to arrest a black man who is walking at night in an all-white neighborhood. She explains, "When the instructor has not opened the dialogue to allow students to question the potentially discriminatory effects of determining reasonableness from the perspective of the arresting officer, the minority student is essentially required to look back at herself to determine whether her own presence in a white neighborhood would be sufficient cause for her to arrest herself." Crenshaw,
classroom interaction, it is essential that faculty members communicate to students of color a belief in their ability to excel, not just to survive.10

In another sphere, I see my responsibilities within my relation with my colleagues. It is gratifying to see several of my colleagues here today; I believe that their presence bespeaks their recognition of

**supra** at 4.

The phenomenon of subjectification of minority law students in the classroom is often more difficult to recognize. As defined by Professor Crenshaw, this is experienced by minority students when, after learning to leave their race at the door, their racial identities are unexpectedly dragged into the classroom by their instructor to illustrate a point or to provide the basis for a command performance of “show and tell.” This amounts to pigeon-holing minority students to provide special testimony narrowly focussed on the students’ particular feelings in a similar situation. The objection to the practice is that
to raise race in this way imposes multiple burdens upon minority students. First, it reinforces the view that racial differences and minority students’ distinct racial experiences are essentially peripheral to the main course of law. Such efforts to compartmentalize racial experiences present racism as a series of individualized anomalous occurrences rather than systematically connected to larger institutional practices and values which are reflected in and reinforced by law.

*Id.* at 6-7.

10. See generally Nerissa B. Skillman, *Misperceptions Which Operate as Barriers to the Education of Minority Law Students*, 20 U.S.F. L. REV. 553, 554 (1986) (“The standard which should be communicated to all law students is one of excellence. To promote excellence, we must articulate the standard for achievement in terms of excelling.”)

Of course, many law students are under pressures of all kinds; the joys and vicissitudes of life do not end because one enters law school. However, unlike the pressures faced by Anglo-American students, law professors and other students often question the basic abilities of students of color to succeed in law school. Moreover, students of color often are unfairly credited (blamed) for diminishing the overall quality of the law school.

On the subject of faculty expectations of students of color, I share Professor Odeana Neal's intrigue and dismay at the characteristics which our society generally associates with intelligence. Recounting the surprised reactions of friends who learned of her acceptance to Harvard, one student said, “I didn’t know you were like that, Odeana. . . . You know, smart.” Odeana R. Neal, *The Making of a Law Teacher*, 6 BERKELEY WOMEN'S L.J. 128, 129-30 (1990-91). As Professor Neal explains, her family embraced a broad definition of what it meant to be “smart,” including academic, musical, artistic, and even domestic talents. *Id.* at 130. She encountered a narrower definition of “smartness,” however, when her family moved to the suburbs. There, she discovered:
The smart people didn't look or act like me. They were not black, they were not fat, and their hair was always neat. They never cursed, their grammar was impeccable, and they never questioned authority. They took school quite seriously, made sure that everybody knew they took it seriously, and, most importantly, took themselves quite seriously. They were the ones
the importance of all faculty members’ involvement in matters of the recruitment and retention of students of color. Having recognized the importance of their participation in this regard, there is a related issue that our faculty must address as well — the need for a more diverse faculty.11 Through the sharing of diverse perspectives and expertise,

admitted to elite colleges, not people like me.

Id.

Despite the achievements of many, it is the sad and continuing legacy of racism in the United States that consigns so many students of color to educationally disadvantaged backgrounds. Such is the unfulfilled promise of Brown v. Board of Education, 347 U.S. 483 (1954), the landmark Supreme Court decision that pronounced equal educational opportunities for all members of society. The disparate allocation of financial, physical and human resources that Brown denounced remains painfully unchanged in many predominantly minority communities. Ignoring this truth, however, it is instead propagated that racial inferiority rather than educational inequality accounts for the disparity in academic achievement by many students of color. See Vaughns, supra note 3, at 457.

Too often, law professors harbor low expectations of students of color based on stereotypes and misguided reliance on standardized measures of potential. As Professor Vaughns notes:

[Law faculty] tends to make assumptions about the relative abilities of these students based on their comparatively inferior paper credentials. Because legal educators are not, in fact, educators in the true meaning of the term, they do not fully comprehend that paper credentials are not synonymous with academic ability or intelligence.

Scores on standardized tests merely reflect student educational attainment, not potential. . . . Thus, the gap in LSAT scores between students of color and their white counterparts should not be viewed as anything more than an indication that academic intervention is needed. In effect, LSAT scores predict nothing about capability to surmount past educational barriers if appropriate assistance is provided.

Id. at 430-31 (citations omitted).

Thus, law teachers must embrace broader notions of intelligence and intellectual potential, as well as perceptions of those who possess those characteristics. They also must become knowledgeable in educational theory. According to Professor Vaughns, "As learning theorists, legal educators are novices, they do not necessarily understand how students learn, and are generally unaware of the large gulf in understanding between instructor and students." Id. at 470. In this regard, law professors, too, are advised to consider the observations of Dr. Lisa Delpit, a MacArthur Foundation winner whose research explores better ways of teaching multicultural student populations:

One of the things we do [in public education] is assume that everybody learns exactly the same way. We don’t try to understand how children may be different culturally as well as individually. . . . To be a good teacher you have to be sensitive to whatever culture the children are from.

Id. at 470 n.220 (citing Steinbach, Bridging the Nation’s Multicultural Gap, BALTIMORE SUN, March 10, 1991, at 4H, col. 3, quoting Dr. Lisa Delpit of Morgan State University.).

11. See Chused, supra note 1.
we as a faculty can shape the aspirational and operational success of
the law school and its members.

In suggesting that a more diverse faculty may produce positive results in regard
to the recruitment and retention of law students of color, it should be clear that this
ought not be the only or even the primary purpose for which faculty of color are
hired. As the recent events surrounding the demand for an African-American woman
law professor at Harvard University Law School indicates, much of the discussion
about the need for law faculty of color centers on the necessity for "role models." See
Butterfield, Harvard Law Professor [Professor Derrick Bell] Quits Until Black
Woman is Named, N.Y. TIMES 1, col. 1 (Apr. 24, 1990).

Professor Anita Allen, who was a visiting faculty member at Harvard Law
School during 1990-1991, has discussed the problematic aspects of faculty of color
being hired to fulfill the role-model function:

I believe there are good reasons for hiring black women that have little or
nothing to do with role modeling. It is abundantly evident that black women
can teach, write and do committee work as well as anyone else. Individual
black women in fact often excel at one or more of these tasks. To be sure,
individual black women also often excel as role models.

Role models can be extremely important, especially in the lives of young
adults. But . . . the role model argument is problematic. It mischaracterizes
black women's actual and potential contributions. The argument encourages
the inference that black women are inferior intellectuals and that white
teachers have no role to play in addressing the special needs of black
students. The quest for "positive" minority role models demanded by the
role model argument risks stereotyping minorities on the basis of race and
gender, imposing upon black women teachers the felt obligation to be
perfectly "black" and perfectly "female."

Anita Allen, On Being a Role Model, 6 BERKELEY WOMEN'S L.J. 24, 25 (1990-91).

Recognizing the problematic aspects in being viewed as a role model, the presence
of faculty of color cannot be undervalued; their roles simply should not be circum-
scribed as such. Speaking to some of the important qualities that faculty of color
offer, Professor Gomez asserts, "Minority faculty are more than mere role models.
They may contribute to minority students' sense of belonging; a sense that the system
may tolerate, or even appreciate, a different world view, an alternative reality."

Placido D. Gomez, White People Think Differently, 16 T. MARSHALL L. REV. 543,

And, as to the teaching aspect of a law professor's responsibilities, I am in
accord with Professor Lani Guinier's position:

[A]n effective teacher is less a role model than a mentor, an educator who
empowers through feedback, guidance and sharing rather than one who
commands through example, visibility or physical stature. I find meaning in
this alternative view of the role model relationship: the role model as an
"interdependent" or "coproductive" mentor. Mentors are not simply cul-
tural icons, but rather, are continuously legitimated and reinforced by an
interactive, communicative process that monitors student performance and
holds those who follow to high expectations.

Lani Guinier, Of Gentlemen and Role Models, 6 BERKELEY WOMEN'S L.J. 93, 103
(1990-91) (citations omitted).
A third sphere within my responsibilities in the profession is the participation in professional activities that are directly or indirectly related to the law school. In addition to the personal and professional rewards of such activity, I believe that the law school and law students benefit from my continued professional development. I find that this commitment must extend to the communities outside of the law school, and often, must involve the effort to bring others into the law school.  

12 Along these lines, I taught in the Program for Minority Access to Law School (PMALS), last summer at our law school. 13 I considered my participation in PMALS to be an opportunity to contribute to the preparation of undergraduate students of color for the study of law. I also saw it as an opportunity to serve the community by encouraging others to realize their potential, and to begin to serve the community and the society at large.

The last sphere of responsibility and influence that I will discuss is that which I have to myself. Frank Motley mentioned earlier today that in fulfilling our roles as faculty and administrators "we cannot

12 In this latter sense, I routinely invite students from high school and undergraduate school to sit in my classes when they express an interest in law school. I find that these students' experiences are enhanced by having the course material to be covered in advance. In fact, I have been pleased that some "visitors" have readily volunteered in class.

13 The Program for Minority Access to Law School (PMALS) was a new endeavor designed to expose undergraduate students of color to the law school curriculum. The program was jointly sponsored by the three public law schools in Illinois — Northern Illinois University College of Law, the University of Illinois College of Law, and Southern Illinois University College of Law. The students resided in the NIU dormitories during the six-week period and received a modest stipend. The six-week program included substantive law courses, intensive critical reading and writing courses, and regular lectures by minority attorneys and judges. I taught a condensed version of my first-year criminal law course. PMALS is discussed elsewhere in this Symposium. See Mark Cordes, Preparing Minority Students for Law School: The Program for Minority Access to Law School, 12 N. Ill. U. L. Rev. 267 (1992). In my view, concerns about minority student recruitment and retention necessitate involvement on the undergraduate level. This view is endorsed by the conclusions of Professors Holley and Kleven:

We strongly recommend that state bar organizations and the American Bar Association devote resources and talent to starting and expanding introduction to law/legal profession programs in the primary and secondary schools. We recommend that state bar organizations and the American Bar Association devote resources and talent to the development of "mentor" programs that seek to reach college and high school students from all segments of our population, and particularly those currently underrepresented in the legal profession.

Dannye Holley & Thomas Kleven, supra note 1, at 493.
be all things to all people." This important truth often presents difficulties for law faculty of color, however, particularly if you are a "society of one." As one person, I cannot be all that every student of color needs; nor will every student of color have an interest in the courses that I teach or those things that interest me professionally and personally. These concerns may or may not be trivial; however, in spite of, or because of, our individualities, faculty and students of color must also actively contribute to each other's pursuit of excellence.

14. This phrase was coined by Professor Rachel Moran, whose seminal work, Commentary: The Implications of Being a Society of One, so aptly explains the unenviable situations in which faculty of color often find themselves in academia. According to Professor Moran:

[T]he psychological and social consequences of membership in a Society of One are pervasive and severe. The lone minority or woman professor is likely to encounter two extreme reactions. Some students and faculty will expect the minority or woman professor to serve as a representative of all minorities and women. These expectations will manifest themselves in demands for compliance with an impossible standard of performance. Another group will stigmatize the isolated minority or woman professor by assuming that he or she is inherently less capable than white male colleagues and was only appointed because of affirmative action. These dehumanizing views ignore the unique individual characteristics of minority and women law professors by either elevating them to superhuman symbol or reducing them to substandard political appointment. Both reactions have devastating consequences.

Moran, supra note 6, at 512-13.

15. I believe that Professor Douglas Whaley provides wise counsel on this score. Providing advice about the proper perspective in which to view student evaluations, he commends new law teachers to "[s]teel yourself for this idea too: Whatever you do, you will not be liked or appreciated by all your students. Human nature is too variable for that." Douglas J. Whaley, Teaching Law: Advice for the New Professor, 43 Ohio St. L.J. 125, 141 (1982).

16. In this vein, even in the desire to be recognized individually, I believe it important that faculty and students of color attend to the commonalities of our experiences and existence in the legal academy. I think that Professor Harlon Dalton sums up this sentiment quite accurately when he cautions:

[As we struggle to give intra-group differences their due and to harmonize individual and group interests, we must also recognize that a group voice is a political necessity, even when not backed by consensus. If intra-group disagreement means that no one can purport to speak on behalf of the community, then there can be no lesbian and gay, or feminist, or African-American politics. We therefore need to develop conceptions of community that do not falsely trade on unrealistic notions of unanimity or identity.

Thus, I have outlined some of the responsibilities and efforts that I find necessary to contribute to the recruitment and retention of students of color: commitment of time; sharing of experience and expertise; communication with colleagues; commitment to my own professional growth; involvement in the community at large; and recognition of the ties that bind between students and faculty of color.

I would like to end by sharing an anecdote from my own law school experience. When I was in law school, I once took an independent writing seminar with an African-American woman professor. When this African-American woman professor came to our law school, I wrote a note to her to say how glad I was that she was there. Her presence gave me pride and inspiration; in her, I saw excellence and a likeness of myself and my own possibilities. For many reasons, not the least of which was because she was an African-American woman professor with those attributes, I worked extremely hard on this paper. As required, I showed her my preliminary outline, subsequent outlines and early drafts; each submission was returned with lots of editorial ink.

With each writing and with each meeting, she continued to tell me “this is better, but you should do it right.” I reached a point where I got fed up. I was discouraged and I was tired. At one meeting, I handed in what I had resolved for myself to be the last draft of the paper. I had shown this paper to friends who attested to its completion. I was self-assured: “This will be the one,” I thought. I handed it to her and it came back with more suggestions.

My friends assuaged my feelings of indignation and dejection. “This is ridiculous,” they said. “You should complain; it is so well-written; how can she hand this back to you with more commentary?” So I went to her again and said, “Look, I have done this, this and this, and I’m really tired of this paper.” I was hurt and I was angry and, as I said, I was tired. For what seemed like a very long time, we sat there and she said to me, “Paula, this can be better if you write another draft.” The choice was squarely mine. I swallowed hard and digested a lot of pride.

I took the paper and worked on it again.

The grade I got was most gratifying; however, it pales in comparison to the lasting lessons that I derived from the experience. There are several that I would like to share with you: I learned that individuals surely make a difference in other individuals’ lives; I learned that criticism can be honest and incisive without being malevolent; I learned that the woman who looked so much like myself saw commonality in our respective strivings; I learned that while she could not guarantee my success or the grade that I strove for, she asked me
on my own behalf not to compromise when compromise was not called for, and to recognize the difference. She saw my possibilities and asked me to exceed my own expectations and the limitations that others had placed on me. I learned that education is a partnership and I learned to accept my share of the responsibility for my education. I learned to reach deep inside and to maintain a clarity of purpose.

After that experience, I knew much more about myself, and more importantly, I knew much more about what it meant to work, and work *effectively*, not just to work, and work *hard*.

The things that I will leave you with, then, are the things that I received from those educators from whom I learned the most and whom I respected most: create an expectation of excellence; have a commitment to assist those students with whom you share an identity; and continue your own personal and professional growth so that when you encourage students, you continue to strive for higher ground as well. Thank you.
Role of Student Services Professionals in Promoting and Supporting a Diverse Law Student Body

EDWIN R. HAZEN*

I. FORMAL DIVERSITY EFFORTS OF MAJOR LEGAL EDUCATION GROUPS

The history of the efforts of legal education and the legal profession to formally promote diversity in law schools and the profession started with the establishment in 1964 of a policy of fair and equal admissions by the Association of American Law Schools (AALS), the establishment of the Council on Legal Education Opportunity (CLEO) in 1970, and the adoption in 1979 by the American Bar Association (ABA) of Goal IX "to promote the full and equal participation in the profession by minorities and women."

CLEO has been in existence for more than twenty years and, with the support of the ABA, the Department of Education, and many law schools and individual faculty members, has operated summer regional clinics that introduce minority and other disadvantaged persons interested in attending law school to some of the traditional first year substantive courses and to legal writing and research. The CLEO summer institutes have helped many minority persons gain admission to law school and have facilitated their completion of law school by helping them compensate for the educational disadvantage they have experienced. Recent attempts by the Department of Education to have other potential providers competitively bid on the CLEO program (rather than CLEO being accepted as the "sole source" provider) have raised concerns that continued Departmental funding of either CLEO or the program it presents may be in jeopardy.

The ABA has created its Commission on Opportunities for Minorities in the Profession to further the implementation of Goal IX. The Commission has developed a comprehensive series of model programs to assist state and local bar associations and law schools in

* Associate Dean, Student Affairs, American University, Washington College of Law; Chair, AALS Section on Student Services Drafting Committee for Draft Statement of Student Services Administrators Good Practices.
their efforts to implement Goal IX. One of the more successful model programs is the Minority Clerkship Program, which is a cooperative venture between a law school, local legal employers, and local bar associations to place minority law students in legally-related employment after the first year of law school. At least three law schools (Tulane, Boston University, and Rutgers-Newark) have such programs, although there may be more. The other major program developed by the Commission is the Minority Counsel Demonstration Program through which corporate legal departments, law firms, and state and local bar associations stimulate the hiring and retention of minority lawyers. A participating corporate legal department, for example, would specifically refer some of its work to a minority law firm, or require that a firm to which it had referred work have it performed by minority lawyers in the firm.

The Executive Committee of the AALS has sponsored several roundtable discussions on academic support programs for minority law students at the three most recent annual meetings of the Association. These programs are in existence at many law schools. In 1988, the Law School Admission Council's (LSAC) Minority Affairs Committee issued its Summary Report on the LSAC Questionnaire on Special Law School Programs for Minority Students. Of the 97 law schools responding to this survey, 54 reported that they had academic support programs. At its 1992 meeting, the Law School Admission Council presented its Draft Academic Support Program Workbook prepared by its Minority Affairs Committee. The LSAC plans to conduct a several-day training session in the use of the Workbook for law schools in the summer of 1992.

The work of the AALS Executive Committee and the LSAC Minority Affairs Committee is a direct result of a unique event in legal education. In 1988, AALS joined with the LSAC, the ABA Section on Legal Education and Admission to the Bar, and the Council on Legal Education Opportunity (CLEO) to present a national conference to exchange experiences and formulate strategies to accelerate the achievement of diversity in the legal profession. The conference, entitled Access 2000: The Challenge to Assure Diversity in the Legal

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Specific minority outreach efforts have also flowed from the energy of AALS and LSAC. In 1990, LSAC and the Historically Black Colleges and Universities sponsored the HCBU/LSAC United Conference: A Conference to Increase the Number of Black Lawyers in the Next Century. Representatives of 114 law schools attended the conference and discussed the full range of initiatives needed to attract, admit, and retain African American law students. A similar event apparently is under consideration to encourage Latino persons to consider law as a career. Recent analyses by LSAC indicate that the percentage of Asian and Latino persons attending law school has increased substantially in the last decade.

II. ROLE OF STUDENT SERVICES PROFESSIONALS

The AALS Section on Student Services received permanent section status in the summer of 1991. It was formed to provide a forum within AALS for law school professional staff and faculty holding student service positions in law schools (i.e., placement, admissions, financial aid, deans of students/directors of student services). The section has charged itself to develop a statement of good practices; two committees have produced, seriatim, the attached draft Statement of Student Services Administrators Good Practices. For purposes of this discussion, the section entitled "Tier 3, Standards Applicable to Enhancing and Supporting a Diverse Law School Community and a Diverse Legal Profession" is the most relevant part of the draft statement. Tier 3 was included in response to the increasing frequency and severity of the attacks currently being made on the entire range of legal education's efforts to promote diversity. Many of us who have worked in this area for some time believe that the increasing insistence on strict equality of opportunity and services, when viewed against the societal backdrop of actual inequality of opportunity and disadvantage, is misplaced and must be answered comprehensively and emphatically — hence, Tier 3.

The essential feature of Tier 3 is the creation of an obligation on the part of all student services professionals to advocate for strong institutional commitment to enhance the diversity of the student body of our nation's law schools and to develop specific programs where these professionals have discretion and ability to do so. The emphasis is placed on services provided to enrolled students. Although much can be written and said about minority admissions programs, these programs are not discussed here. The obligations addressed are ex-
pressed both generally and in specific terms relating to the major student services areas: placement, financial aid, academic support services, and classroom and faculty. It should be noted that diversity is given a very expansive definition which encompasses bases of diversity beyond gender, race, and ethnicity, and includes religious preference, sexual orientation, age, marital status, economic status, and handicap. Without repeating the text of each provision of Tier 3, the essential features are:

A. PLACEMENT AND CAREER SERVICES

Placement and career services offices should develop programs designed to assist diversity students to successfully meet the challenges that they alone will face. Specifically, minority lawyers and alumni of the institution should be asked to assist; by discussing career options in the profession, acting as mentors to individual students, helping students build networks of supportive and interested attorneys, and providing guidance on how best to present themselves (by resume, interview, etc.) to a profession that is overwhelmingly male and caucasian. The job-hunting skills development component should be comprehensive and frank in its coverage, and should include simulation exercises to allow practice in handling difficult situations and questions.

To the extent not done so formally, the placement and career services office should design and implement a comprehensive grievance mechanism to resolve any student’s concerns of insensitive, offensive, or derogatory conduct by employers who use the office either to interview or advertise for employment. This grievance mechanism should be developed with full faculty and decanal support. Part of the mechanism should be a clear and precise statement of the standards to which all employers using the office’s services are expected to adhere.

B. ACADEMIC SUPPORT PROGRAMS

The work of the LSAC Minority Affairs Committee in producing a draft of a model academic support program has made the task of the student services professional easier. Research into differences in learning styles and the experiences of similar programs at the law school and undergraduate levels has occurred; the results have been digested and presented in a model format. While it appears many law schools have such programs in various forms, apparently all do not, and some existing programs may need improvement for a number of reasons.
Thought should be given to a special orientation program for entering minority students utilizing the combined resources of faculty, staff, upper level students, and minority alumni. Existing orientation programs apparently vary widely, ranging from an informal reception, through a 2-3 day program, to a two week program. Cost is a major factor governing the scope of any given school’s offering. To some degree, CLEO regional institutes and similar programs offered by individual law schools can be used as alternatives. But, it seems essential that each institution must do something specific to mark its awareness of the annual arrival of minority students it has worked so hard to recruit, by recognizing their unique needs and abilities, and by having an institution ready to respond to those unique needs and abilities.

C. FINANCIAL AID

Because so many minority students come from families that have been denied access to the economic mainstream of the country, the student services professionals must be diligent in their efforts to find sources of financial aid sufficient to provide the necessary assistance to their minority students whose need will generally be greater. One method is to lower the degree of reliance on student loans by increasing the amount of grants and scholarships. Since there are no federal grants beyond the undergraduate level, this form of aid will most likely have to come from law schools’ operating budgets and alumni contributions. 3

The Department of Education’s recently released Notice of Proposed Policy Guidance concerning minority scholarships appears to give law schools some flexibility in (1) maintaining or creating programs funded by institutional monies designed to create diversity in the student population (race may be a factor but not a condition of eligibility) or designed to compensate for “disadvantage” in a race-neutral way (financial need apparently is not the only measure of “disadvantage”); and (2) maintaining or creating privately funded race-exclusive scholarships (subject to some limitations for merit scholarships). The latter class of scholarships could be funded by alumni contributions. The essential conclusion seems to be that a law school has some latitude to work creatively in this area.

Other solutions that can be pursued by student services professionals include increasing the amount of College Work Study funds

and Perkins loan funds allocated to law students by the parent university. Because of the expected decline in undergraduate applications and the poor current economic situation, this will most likely prove to be a difficult solution to implement.

Handicapped students may also require special services to reasonably compensate for their handicaps. Examples of adaptations for handicapped students include readers, braille texts and braille examinations for visually impaired students; and sign-language interpreters for hearing impaired students. These services can be expensive, and the precise allocation of financial responsibility among student, law school, university, and state rehabilitation agency can be difficult to calculate. It would appear that the obligation of the student services professional is to assist each student to exhaust all possible sources of assistance.

III. ROLE OF STUDENTS

Students can be of great help to an institution as it implements its diversity promotion policies. It is essential that students commit to taking direct action. Although lobbying the faculty and the dean for specific programs or actions are always popular ideas, they are probably not needed on a regular basis and may not be related to the day-to-day needs of the law school, however. An excellent form of effective direct action is to encourage students to form positive working relationships with relevant student services offices.

If the dean of students/director of student services is administering an academic support program, he or she should gladly accept student offers to act as peer tutors, researchers, or generators of general law school feedback. Financial aid officers may use student members to sit on an aid advisory committee to help formulate policy or handle appeals from aid decisions. Placement offices can always use student peer counselors, panelists, simulation role players, and alumni contact persons. Development officers can always use law students to contact alumni when raising money for scholarship programs.

Minority students are a critical component of any minority recruitment and admissions program because prospective students always want to ask current students about the school’s environment for minority students and about the level of commitment to diversity exhibited on a daily basis. Multiple points of contact between minority applicants and minority students are essential parts of an aggressive minority admissions program. Existing students can respond to initial inquiries from minority persons while they decide whether to apply;
they can call admitted minority applicants to encourage a decision to pay an admissions deposit, and can participate in formal events designed to urge the admitted, deposit-paying minority applicant to actually matriculate.

IV. Institutional Posture in Responding to Criticism

At the risk of generalizing from a small sample, and on the basis of anecdotal evidence gleaned from conversations with student services professionals and faculty over what constitutes appropriate assistance to diversity students, there seems to be some consensus. First, the law school must make certain that there is a rational and supportable reason for each facet of its support program, the support program must comport with applicable state, local, and federal law, and full disclosure must be made to the law school community of the school's diversity promotion goals and the programs and strategies the school will implement to achieve those goals.
Draft Statement of Student Services 
Administrators Good Practices

EDWIN R. HAZEN

I. Preface

During the past ten or fifteen years, the student services in legal education have become increasingly complex, reflecting the dynamics of a changing legal profession and a more diverse student body. Schools have recruited groups underrepresented in the legal profession, and have increased the scope of legal education to include discussion of the basic values and goals of the legal profession. Yet, even as academic horizons have expanded, career opportunities have narrowed in the recent recession.

Because of these events, anxious students expect more of legal education and student affairs administrators, whose roles and responsibilities have increased accordingly. If student services are to be effective, Deans, faculty members, and other administrators must be fully aware of these changes and their significance. Formal guidelines or standards would help meet this requirement by educating all members of the legal education community about the changing mission of student affairs professionals. What follows is a three-tiered statement addressed to that purpose.

The first tier sets forth general standards of practice applicable to any student affairs professional and consistent with the good practice guidelines of existing specialist groups (e.g. LSAC, NALP and GAPFAC). Those existing statements of good practices are incorporated by reference. The second tier focuses on student affairs generalists who look to this AALS Section as their primary professional organization: those with titles such as Associate Dean for Student Affairs, Assistant Dean for Student Services, and Director of Student Services. The third tier is restricted to diversity standards because of their importance and because their implementation depends upon generalists and specialists alike.

II. Tier 1, Standards Applicable to All 
Student Affairs Professionals

A. Students should be treated as individuals who possess dignity, self worth, and the capacity to direct and take responsibility for their personal and professional development.
B. Student affairs professionals should act as role models of competent, sensitive, and committed professionals whose actions and decisions mirror the highest standards of their parent profession and the values of the institution of which they are a part, and who demand the same behavior and adherence to standards from the students they serve.

C. Students should be informed of the nature and/or limits of confidentiality applicable to their interactions with student affairs professionals.

D. Student affairs professionals must:

1. Support the goals, mission, and policies of their institution.
2. Resolve substantial and significant conflicts between their professional and personal values and those of their institution.
3. Not diminish appropriate obligations to any party to a conflict when resolving one that involves students, faculty, staff, and the institution.
4. Make explicit the limits of confidentiality applicable to such interactions with students and other parties.
5. Master the knowledge and skills appropriate to their positions, furthering professional development by attending workshops and other continuing education events.
6. Discharge their duties in accordance with both the spirit and letter of all applicable federal, state, and local non-discrimination statutes, ordinances, and regulations.
7. Advocate and nurture diversity in the modern law school community in terms of racial, ethnic, and religious status; age; gender; sexual preference; marital status; economic status; and handicap, recognizing that the profession needs to more accurately reflect the diversity of our society.

III. TIER 2, STANDARDS APPLICABLE TO STUDENT AFFAIRS GENERALISTS

Student affairs generalists have varied backgrounds and responsibilities. Some have advanced degrees in fields such as law, counseling and educational administration. Some, in addition to their general mandate to "serve students in the legal education process," have specialized responsibilities in areas such as admissions, career development and financial aid. This tier sets forth a more concrete description of their duties while recognizing that these duties will be executed...
in various ways depending upon the administrator's training and setting.

A. The student affairs generalist should work to ensure that the physical, administrative and emotional environments of the law school and the university are supportive for law students.

1. Student affairs generalists must be aware of physical plant problems which affect law students adversely, and advocate for their resolution both within and without the law school. Inadequate housing, security, and facilities for disabled students require special vigilance.

2. Administrative inefficiency or discourtesy impairs a student's academic concentration: for example, unreasonably delayed financial aid administered by indifferent staff, or housing and food services operations that do not take into account the peculiarities of the law school academic calendar. Student affairs generalists must use their substantial opportunities to resolve such problems, keeping students informed about administrative procedures, and keeping administrators informed about student concerns.

3. Providing emotional support begins with insuring good physical and administrative environments, but must also include support for student activities, and counseling for specific problems that affect students' professional and personal development: career choice, academic difficulties, financial stress, personal conflicts and health problems, including alcohol and substance abuse. Student affairs generalists must assume oversight for this process and actual counseling responsibilities within the limits of their roles and capabilities.

The duties involved in the three kinds of support are elaborated in the following standards.

B. Student affairs generalists are seldom directly responsible for the physical plant, but they must maintain good communications with those responsible for buildings and grounds operations, advising them of student problems and helping them in their relations with students.

C. Student affairs generalists must insure that students are well-informed about the plethora of policies and regulations, within and without the university community, which affect their lives and aspirations.

1. Student affairs generalists should monitor relevant federal, state, and local statutes, ordinances, and regulations; university and law school policies, practices, rules, and pro-
cedures; accreditation agency requirements; and statements of good practices applicable to student affairs specialists. As these areas change frequently, every effort must be made to keep students updated.

A partial example of this information includes non-discrimination and affirmative action standards, prevailing notions of confidentiality, ABA residency requirements, required course loads, curricular requirements and offerings, and disciplinary procedures.

2. Student affairs generalists should insure that students are informed of law school rules, policies, practices, procedures and regulations; the educational program requirements; financial aid requirements; student activity charters; dormitory rules; access to counseling; the placement process; and availability of professional and personal development opportunities such as student awards, writing competitions and scholarships.

Generalists should promulgate information within the scope of their job descriptions, and urge others within the law school and university communities to be attentive to the need for good communications. Mechanisms that can be used to disseminate information include law school and university publications such as admissions materials, school catalog, student handbook, school newsletter or paper, bulletin boards, personal announcements in classes and specially scheduled workshops and lectures.

D. The generalist regularly should evaluate the impact of policies, practices, rules, and procedures and advise those who make or implement them of their success or failure. Generalists are among the few people in the law school community situated to identify the relationships between policies and events. Their participation is critical to the development of any effective law school policies or regulation.

E. Student affairs generalists should promote a service-oriented attitude in all units of the law school community and university with which law students come into contact, but should not urge these units to diminish or abandon their professional standards or the requirement that students adhere to professional standards - see Tier I standards II. A and B. The generalist is in a good position to act as facilitator and mediator between students and other administrators, working towards a mutual understanding which will insure good service.

F. The student affairs generalist should insist that appropriate institutional support is available for student activities, and that these activities are designed and implemented in a professional, non-discriminatory, sensitive, and appropriate manner.
1. Student activities are varied and cover all manner of professional and personal interests. The student affairs generalist is ideally positioned, indeed required, to assist student organizations in meeting their legitimate expectations and in obtaining resources such as financial assistance and the use of law school and university facilities. This supportive role contains a complementary responsibility to ensure that law school funds, facilities, etc., are provided only to groups that do not impermissibly discriminate against those wishing to participate; and to ensure that these groups are sensitive to the rights and needs of individuals who may be affected by their activities. Nor should student's activities be allowed to degenerate into impermissible personal and professional behavior injurious to the community, such as abuse of alcohol or controlled substances at student, law school, or university functions; or misuse of funds or other resources.

2. To the extent the generalist does not have budgetary responsibility for student organizational support, s/he must advocate for the creation of a budget of reasonable proportions as a function of both historical and evolving student activism and need.

G. It is inappropriate to expect all generalists to personally provide the individual counseling many students require. Even when training and inclination allow it, individual counseling can be unreasonably time consuming. Thus, generalists should be prepared to limit their counseling involvement to matters for which they are directly responsible. When possible, after listening to students' non-educational problems and acknowledging their impact, generalists should refer the students to appropriate providers of the needed services. They should, however, follow up on the referral and, when wanted, keep contact with the students, for whom they may be important role models.

1. In order to refer students for counseling, or other advice and assistance, generalists must know the range of services providers available in the law school, university, and municipal communities. These include physicians, psychologists, career counselors, faculty members, law student tutorial groups, legal writing instructors, or other education professionals. In making referrals, the generalist must give students advance notice of the degree of confidentiality that s/he can provide - see Tier I Standard II.C. Exceptions to established policies, practices, rules, and procedures should be justified
by the circumstances of each case and should be granted on a consistent basis.

2. Through professional development, generalists should acquire enough familiarity with psychological assessment and counseling techniques to make referrals appropriately and effectively.

3. Because stress is normal in any graduate school, student affairs generalists should explore effective means of providing workshops, discussion groups and other forms of group outreach activities which will help alleviate stress in those students who do not seek individual counseling. Efforts in this direction should include classroom collaboration with faculty in providing opportunities for processing emotionally laden curricular subjects such as rape or ethnic violence.

IV. Tier 3, Standards Applicable to Enhancing and Supporting a Diverse Law School Community and a Diverse Legal Profession

A. General Standard

The student affairs professional should play a major role in any school’s effort to create a community enriched by diversity, tolerant of differences, rejective of destructive stereotypes and sensitive to the needs of a varied student body. The term “diversity” refers to diversity by reason of race, ethnicity, religious preference, gender, sexual preference, age, marital status, economic status, and handicap.

B. Supporting Narrative

Since 1869, when George Lewis Ruffin became the first African American to graduate from an American law school, racial and ethnic minority groups have historically been underrepresented in the legal profession. Women were likewise underrepresented in the profession from 1872, when Belva Lockwood became one of the first women admitted to the study and practice of law, until 1972 when the number of women entering law school began to increase dramatically. For the first 150 years of legal education, only one percent or less of the lawyers and law students came from the Black population. Other racial and ethnic groups were similarly underrepresented.

In 1964, AALS established a policy of fair and equal admissions practices for its member law schools. A year later, minority students made up less than 2% of the total law school population. By the mid-
seventies, there was a dramatic increase: of 85,000 students, 6,750 were minority. Today, minority students are approximately 12 percent of the enrollment of American law schools. Despite these improvements, many students still feel the ambivalence, isolation, and alienation of past generations of minority law students. Because minorities account for only a handful of members of law school faculties and administrations, a scarcity of minority role models contributes to the alienation that students of color encounter in adjusting to most law schools.

These experiences combine to create roadblocks to success. Any law student who feels, or is made to feel, painfully different — whether because of race, ethnicity, gender, class, marital status, sexual preference, or disability — will run a significant risk of underachievement on this factor alone. To combat low self-esteem, student affairs professionals can identify potential and actual obstacles, direct students to the appropriate institutional resources, provide counselling where appropriate, and design programs to improve the delivery of services to students of color and of other underrepresented groups. Minority academic enhancement programs, minority placement workshops, minority alumnae/i mentoring programs are just a few of the examples that some schools have used.

Student affairs professionals, generalists and specialists alike, are uniquely situated to assist students of color and other underrepresented groups to negotiate more successful law school careers. They develop and implement policy on issues affecting the quality of student life. They can educate law school communities about the richness of different traditions and the different student needs that often arise from those traditions.

C. SPECIFIC STANDARDS

1. Placement.

While the 1980s were an era of unprecedented growth for law firms, the largest single employer group of law school graduates within the profession, no significant increase in opportunity was presented for racial and ethnic minority lawyers. The overwhelming majority of women lawyers still face barriers to advancement in the profession. In a recent survey, less than 2 percent of lawyers employed in the largest law firms were African American, and less than 5 percent were racial and ethnic minorities. This underrepresentation creates a cynicism in minority students about the placement process.

Student affairs professionals should work with the placement office to create programs that will assure students of color and other
diverse and underrepresented groups that they are sensitive to minority placement issues. Students of color often perceive all-white, majoritarian placement offices as places in which they are uncomfortable discussing career preparation, access to the profession, and academic performance.

Student affairs professionals should suggest several concrete solutions, including developing panels with minority lawyers to discuss career strategies; developing minority alumni mentoring networks, either singly or in conjunction with other schools; developing minority resume books; developing minority placement sources, including directories of minority lawyers, judges, and other employers committed to diversity; developing minority clerkship programs with the assistance of the ABA Commission on Opportunities for Minorities in the Profession; developing workshops to assist students in handling insensitive and inappropriate employer interviewing situations; and developing standards of appropriate on-campus interviewing conduct and grievance resolution mechanisms using the resources of the National Association for Law Placement.

2. Academic Enhancement Programs.

Student affairs professionals can help remove some of the barriers to successful academic performance by advocating more institutional support for students at risk. The educational and cultural experiences of students must be assessed in order to design programs for minority students which are affirming and inspiring. Such programs should consist of academic support programs in the first year, with strong consideration given to a pre-enrollment orientation program shortly before the start of the academic year, using the experience and resources of the Council on Legal Education Opportunity and other law schools. Evidence suggests that, indeed, all students might benefit from such measures.

3. Classroom and Faculty.

While the percentage of full-time faculty of color has grown to just under 9 percent, it is far behind the proportion of minority students entering law school, thus creating a scarcity of minority role models in the classroom. While the number of women faculty members has increased significantly, disregarding racial or ethnic status, their numbers are also proportionally much smaller than the number of women law students. Students learn best in situations where their experience is validated and role models are available. Student affairs
professionals can bring the need for role models to the attention of the institution by advocating the hiring and retention of minority and female full-time and adjunct faculty. Student affairs professionals can also promote the use of minority alumni and members of local minority bar associations as speakers and guest lecturers in courses and as moot court judges.

Student affairs professionals must advocate for the creation and maintenance of a stimulating and productive learning environment. They must assist in building communities where different learning styles and experiences are welcomed and valued. Classroom settings must be responsive to a variety of cultures, backgrounds, and personal characteristics in the student body. Student affairs professionals should be mindful that in this process students of color and of other underrepresented groups will look beyond the faculty to the staff and the community at large for support.


Students of color often require high levels of financial assistance to meet the high cost of a legal education. The vast majority of minority students come from families that have been denied access to the economic mainstream of the country and possess substantially fewer family assets to contribute to a legal education. Therefore, students of color have to be educated and have to educate their families about the value of a legal education.

Student affairs professionals should assure that the institution explores all possible mechanisms in creating additional resources in the institution's total financial aid budget to address increased financial need of minority students, e.g. an increase in scholarships to reduce the excessive reliance on federal and private loans and the consequent high level of indebtedness at graduation. An additional support of economic diversity should be encouraged: a program which fosters public interest careers through assistance with repayment of student loans. The institution should seek an equitable proportion of its parent university's College Work Study and federal Perkins Loan Program funds, thereby increasing the proportion of both non-loan aid such as College Work Study and law school scholarships, and federal loan programs that contain 100 percent in-school interest subsidies such as Stafford and Perkins loans.
The LSAC Academic Support Program Workbook from the Perspective of a Novice User

KATHLEEN PATCHELE

I. INTRODUCTION

In the fall of 1991, the Academic Assistance Program Workgroup, a subcommittee of the Minority Affairs Committee of the Law School Admission Council ("LSAC"), issued a working draft of an Academic Support Program Workbook. The LSAC undertook the Workbook project because of its perception that there was a significant need among law schools for assistance in setting up and operating academic support programs. In the past, the LSAC had developed data on support programs in U.S. and Canadian law schools by conducting surveys as to what the various law schools were actually doing in this area. With the Workbook, the LSAC Workgroup made a conscious decision to reject this purely informational approach in favor of actually developing a proposed academic support program, based on those academic support program components that the Work-

* Associate Professor, Northern Illinois University College of Law. J.D. 1981, University of North Carolina at Chapel Hill School of Law; LL.M. 1987, Yale Law School.

1. Lawrence D. Salmony, Academic Support Program Workbook: A Report to the Law School Admission Council (Working Draft, October 15, 1991) [hereinafter Workbook]. The members of the Academic Assistance Program Workgroup are Leo M. Romero, Dean, University of New Mexico School of Law; Janice L. Mills, Associate Professor, North Carolina Central University School of Law; and Keith C. Wingate, Professor, University of California Hastings School of Law. The Working Draft was produced by the subcommittee's consultant, Lawrence D. Salmony, Ph.D., J.D.. Dr. Salmony is a former director of the academic support program at the University of Oregon. See AALS Executive Committee Program: Academic Support Programs Roundtable, Tapes No. 114 & 115 (1992 AALS Annual Meeting, January 3-7, 1992) (remarks of Dean Romero) (transcript on file with the author) [hereinafter Romero Remarks].

2. Romero Remarks, supra note 1.

group identified as common to effective academic support programs.  

Dean Leo Romero, Chair of the Workgroup, has stressed that the proposals contained in the Workbook should not be taken as an attempt to set out a "model" academic support program. Although the Workgroup began its task with that goal in mind, they soon discovered that this was impracticable because everyone had their own version of what a model workbook would look like; therefore, they abandoned that idea in favor of describing the features and components that successful programs have. In doing so, the Workgroup wanted to set out those features "in such a way that schools could pick and choose those particular components that they thought would work at their particular law schools — that would fit their particular school's budget, that would fit their culture, their profile of the student body."

The Workbook is thus very much what its name implies — a manual about how to set up and operate an academic support program. It contains chapters on program implementation, education theory, summer and school-year support programs, and program evaluation. It discusses curricular components, teaching techniques, and administrative features of an academic support program, and provides lists of issues that need to be addressed in setting up and operating an academic support program.

In describing how to develop and operate an academic support program, however, one of its primary goals is to ensure its adaptability by law schools that come to that task with differing resources, goals, and student bodies. It is designed to serve as a guide for faculty and academic support program administrators at law schools "interested in developing or improving academic support programs for culturally diverse students or students who, based upon undergraduate school performance, LSAT scores and other indicators, might be predicted to face academic difficulties." But the proposals that it makes are

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4. Workbook, supra note 1, at 1. Dean Romero has indicated that the survey approach was inadequate because it was too cursory, providing insufficient detail to be of much assistance in setting up a program. Romero Remarks, supra note 1. He considers its major value to be the listing of a contact person at each law school that has an academic support program. Id. The Workgroup states that the Workbook "builds upon law school responses to LSAC surveys, AALS workshops and the LSAC-AALS Access 2000 conference, co-sponsored in 1988 by the American Bar Association, the Association of American Law Schools and LSAC." Workbook, supra note 1, at 1.

5. Romero Remarks, supra note 1.

6. Id.

7. Workbook, supra note 1, at 2.
set out with the caveat that its discussion of recommended program components is intended to be neither exhaustive nor exclusive of other approaches to academic support, and with the expectation that schools will modify and expand upon its recommendations "to address their particular interests, abilities and needs." 8

The remarks that follow focus on three features of the Workbook that seem particularly useful to faculty and administrators who are developing an academic support program: (1) its description of support program structure; (2) its list of policy issues that must be addressed in developing and implementing an academic support program; and (3) its discussion of educational theory. I first describe briefly the proposals that the Workbook makes with regard to each of these issues, and then provide some general comments as to my initial impression of how helpful the Workbook is with regard to each of these areas, as well as in meeting its overall goal of assisting law schools in their development of effective academic support programs.

My analysis of the Workbook is from the perspective of a novice in the area of academic support programs and, I might add, in the area of educational theory as well. In light of the overall goal of the Workbook, however, my relative ignorance of the subject matter may be my primary qualification for the task at hand: it is primarily for those like myself, who are struggling for the first time with the complex of issues, both practical and philosophical, involved in developing effective support programs for whom the Workbook seems primarily to have been designed.

II. THE WORKBOOK PROPOSALS

A. PROGRAM STRUCTURE

The core of the Workbook is its description of the components of a successful academic support program. It identifies two features common to effective academic support programs: (1) a summer component and (2) an academic year component. Because of the demands on student time during the school year, the Workbook finds a summer component "critically important," as an academic year program alone will not be able to provide students with sufficiently comprehensive academic support services in most cases. 9 Therefore, the Workbook's discussion of program structure is based on a program with both a summer and academic year component. The focus

8. Id. at 3.
9. Id. at 8.
of the summer component is on skills development and orientation to
the study of law, leaving the academic year program free to build on
these previously acquired skills and knowledge through a focus on
the substance of first year courses. 10

1. The Summer Component

The discussion of the summer program is the most detailed part
of the Workbook. The Workbook contemplates that the

summer component will: present a structured overview of the
substantive law that is taught during first year classes; provide
exposure to the Socratic teaching method and law school
exams; and teach the reading, analytical, writing and exam
taking skills essential for success in law school. It will also
provide an opportunity for students to develop a support
network, establish mentoring relationships and become famil-
lar with the school and immediate community. The summer
component should prepare participants to effectively utilize
the law classes and support program services that will be
offered during the school year. 11

To carry out these goals, the Workbook recommends an intensive
six-week, six-day-a-week summer program, designed to be conducted
in the six weeks immediately preceding the start of the regular school
year. The program is very comprehensive, including sessions dealing
with (1) overall orientation to the study of law; (2) writing, reading
and research skills assessment and instruction; (3) casebook instruc-
tion; (4) casebook reading; (5) case briefing; (6) notetaking; (7)
outlining; and (8) exam preparation. The program also includes actual
classes in two substantive courses as an introduction to traditional
first year courses and a vehicle for applying and evaluating skills,
followed by practice exams. Although this summer curriculum is quite
extensive, the Workbook states that this schedule is the minimum
required to address the educational needs of academic support students
prior to the beginning of their first year of law school. 12

The Workbook contains detailed descriptions as to what should
be included in each of the sessions, often recommending specific
teaching techniques and providing other pedagogical information as
well, and provides sample program schedules. 13 It also provides a list

10. See id. at 60.
11. Id. at 7.
12. Id. at 59.
13. The Workbook provides sample schedules for a four-week and two-week
of nonacademic activities that should be included in the summer program, such as orientation to the campus and the community; assistance in locating housing and securing additional financial aid; support for spouses or partners in dealing with issues that often must be addressed by the families of first year law students; social activities to provide opportunities for students to meet former program participants, law school faculty and administrators, and members of the local bar who subsequently may provide mentoring support; social events for the students and their families; counselling services for the students and their families; and sessions addressing the unique pressures faced by nontraditional students in professional schools. For a summer program with 24 students, the Workbook contemplates a staff consisting of a director, two law faculty, and four student assistants.

2. The Academic Year Program

The Workbook’s academic year program is designed “to clarify and supplement materials presented during first year classes, while continuing to support the development of sound study skills.” The Workbook states that

The absence of sufficient contextual information is one of the principal education weaknesses found in first year legal education; this is particularly problematic for students who do not bring to their legal studies substantial reading, analytical and writing skills. A principal goal of an effective academic support school year program should be to ensure that partic-

summer orientation program as well, but states that the six-week program should be provided “whenever possible,” Id. at 55, and stresses that, if the program is shortened, this should be done by reducing the number of hours spent on particular areas of instruction rather than by completely eliminating any area of instruction. Id. at 59. For schools that cannot afford the full-blown summer program, these alternative schedules should be very helpful in determining how best to reduce the length of the program while at the same time retaining maximum coverage.

14. The term “nontraditional student” is that most often used in the Workbook to describe those for whom its academic support program is designed. The Workbook does not define what it means by “nontraditional student.” In an earlier draft, it suggested that this category might include not only those of an ethnic group that has minority status in the United States, but also such groups as older students, disabled students, and single parents. Lawrence D. Salmony, Academic Support Program Workbook: A Report to the Law School Admission Council 24 (Working Draft, September 9, 1991). The current draft of the Workbook is silent on this issue.

15. Workbook, supra note 1, at 33-34.
16. Id. at 18.
17. Id. at 8.
ipating students are continuously exposed to legal issues within a logically developed, comprehensive analytic framework.\textsuperscript{18}

Thus, one purpose of the academic year component is to provide a contextual background within which cases, legal issues and areas of study can be organized and understood as a supplement to classroom discussions.\textsuperscript{19} The academic year component also is designed to provide "ongoing exposure" to hypotheticals requiring written analysis as a preliminary to a series of exam preparation sessions to enhance reading comprehension, analytical abilities and writing skills.\textsuperscript{20}

As with the summer program, the Workbook provides a fairly detailed description of the structure and content of the academic year program, although it does not provide as much pedagogical information concerning this component as it does with regard to the summer program. The focus of the academic year component is on the substantive first year courses. The program is structured to provide substantive review of each first year substantive course at four levels: (1) bi-monthly seminars in each subject area designed to clarify and expand upon class discussions; (2) monthly small group sessions in each subject area to allow students to engage in a more intensive analysis of a larger block of information; (3) individual sessions to address specific learning difficulties; and (4) exam preparation sessions.\textsuperscript{21}

The program relies heavily on student teaching assistants. It is staffed by a program director and eight student teaching assistants for a program for twenty-four students.\textsuperscript{22} The Workbook recommends that a ninth teaching assistant be included if supplemental writing resources are not available.\textsuperscript{23} Teaching assistants should be selected for their competence in their assigned subject matter area, their ability to relate to students in the program, and their prior training and experience in the field of education.\textsuperscript{24} The program director trains the student teaching assistants, providing them with instruction in the learning strategies and techniques to be used in the program, but it is the teaching assistants, two in each first year subject matter area, that actually conduct the various sessions that make up the academic year.

\textsuperscript{18} Id. at 61. 
\textsuperscript{19} See id. at 8. 
\textsuperscript{20} Id. 
\textsuperscript{21} Id. at 63. 
\textsuperscript{22} Id. at 18. 
\textsuperscript{23} Id. 
\textsuperscript{24} Id. at 17.
program. The director supervises the teaching assistants and reviews their work, while the student teaching assistants develop their lesson plans and hypotheticals to be used in the seminars, have periodic discussions with the professor teaching the course for which they are responsible, and periodically attend that professor's class to clarify difficult legal issues and to assess student performance.

The "core instructional units" of the academic year component are the two hour bi-monthly seminars held by the student teaching assistants in each first year subject area. These seminars are designed to place material covered in the proceeding two weeks into the overall context of the course and to explore the relationship of the various legal issues involved to each other. Seminars begin with a brief presentation of the context in which the materials can be understood, followed by detailed discussion with the students of the relationships among the legal issues involved, utilizing a series of hypotheticals with regard to each legal issue, created primarily by varying the fact patterns of the cases studied. Students should be encouraged to create their own hypotheticals as well, and the social policies underlying the rules being studied should be discussed. Each seminar session concludes with a short written exercise that requires the students to apply the legal principles discussed to a new fact pattern. These practice exams allow the teaching assistants to evaluate student progress while offering opportunities for the students to develop exam-taking skills.

Each student also participates in a minimum of three hours per subject per month of small group sessions. These sessions are designed to encourage the students to synthesize increasingly substantial amounts of course material in a limited time and to a greater degree than is required to effectively participate in law classes and program seminars. They also provide teaching assistants with an opportunity to obtain a more in-depth assessment of individual student progress. The Workbook contemplates that these sessions will involve intensive questioning of students by the teaching assistants utilizing "a range of hypotheticals to explore and reinforce student knowledge of the principal legal issues covered in that subject area during the preceding month." The small group sessions are organized so that each student is engaged in a focused analysis of the material covered in each course during the previous month three times during the semester.

25. See id. at 62, 64.
26. Id. at 64.
27. Id. at 63.
28. Id. at 65.
29. Id. at 66.
The individual sessions are not structured; rather, the Workbook states that teaching assistants should reserve sufficient time during the week following each seminar session to provide individual assistance, focusing on development of individual learning strategies and analysis of substantive legal issues with which that individual student has difficulty. The exam preparation sessions are scheduled on each Saturday during the final four weeks of classes. Each session focuses on one subject area, with an initial discussion of recommended exam-taking techniques, followed by administration of a three-hour exam with questions drawn from the materials covered in both classes and seminar sessions. The Workbook recommends that administration of these practice exams simulate the real exam-taking process as closely as possible. After each exam, program staff lead a detailed analysis of the exam questions and distribute a model answer. During the following week, program staff evaluate and return the practice exams, and conduct small group and individual sessions as needed.30

As discussed above, the primary goal of the Workgroup was to set out a recommended curriculum and examples of successful teaching techniques to "provide a base from which law schools may develop new or improve existing academic support programs,"31 and to do so in a fashion that would allow different law schools to tailor the Workbook's recommendations to their particularized needs. From the perspective of the novice user, the Workgroup and their consultant, Dr. Lawrence Salmony, have succeeded quite well in this regard. The Workbook provides a very good starting point for the discussion and information-gathering process necessary to development of an effective academic support program — and having such a starting point can be the crucial factor in getting that enterprise underway. For some schools, of course, the document can be more than a starting point — for those schools that have substantial resources to devote to their academic support program and whose decisions regarding the policy issues involved in the development of an academic support program fit well with the program structure described in the Workbook, the Workbook can provide a fairly detailed blueprint for their program. But, even for the (one suspects) substantial number of schools for which this program in its full-blown form is not currently feasible,32 the Workbook can be utilized as a source of ideas to be

30. Id. at 70.
31. Id. at 2-3.
32. The Workbook's proposed budget for the academic support program is approximately $124,700. Id. at 19. As the Workbook states, "[t]he development of
adapted to a program that can fit the restraints on resources or the differing visions of those schools — and it is this adaptability that is the ultimate measure of the Workbook's success in carrying out its purpose.

It should be noted that producing a document describing the components of an academic support program in sufficient detail to make the document useful to a novice developing such a program, while leaving those components sufficiently flexible to allow for a myriad of particularized applications, is no small feat. One runs the danger of ending up with a document that pleases no one. I think, however, that time will show the Workbook has avoided this fate, and that, in particular, those law schools lacking significant experience with academic support programs will find it a valuable tool.

I have only two comments with regard to the program structure portion of the Workbook that might be characterized as critical of it. The first is a degree of skepticism as to whether the Workbook is being realistic with regard to the amount of time it asks of students. This concern relates both to the drain on time that it places on students participating in the program, and, with regard to the academic year component, the time requirements that it places on the teaching assistants working in the program as well.

Both the summer and academic school year components of the program are extremely intensive. For the summer component, this means that those students in the academic support program will begin their first year of law school with no break from what ideally will be a six-week, six-day-a-week summer program. As someone without experience in this area, I cannot say what effect this will have on the students. It may be that their summer experience will have generated in them a confidence in their abilities and an interest in pursuing their legal education that will propel them through their first semester of law school. On the other hand, it may leave them exhausted, with heads spinning, and in need of a break. All I can say for sure is that it means their first semester in law school will be one-third longer than that of their non-academic support program classmates.

an effective academic support program . . . is neither simple nor inexpensive." Id. at 2. Unless a law school is willing to commit time and money to this enterprise, it is not going to be very successful. Nevertheless, as the Workbook itself contemplates, many law schools may find the projected cost of this program beyond their current resources despite a high level of commitment, and, indeed, I suspect that many may find the actual cost of the program to be even more than the Workbook budget would suggest. Fortunately, the Workbook's adaptability provides a solution to this problem.
The time problem seems particularly troublesome with regard to the academic year program. The Workbook, of course, recognizes that the design of an academic year program must be sensitive to the demands imposed on students by preparation for their assigned classes. Nevertheless, I am somewhat skeptical of its time demand. For participants, the support program adds 7 hours of class time (four hours of seminars and three hours of small group discussion) per week to the participants' regular schedule, which the Workbook assumes to be 15 credit hours. This schedule does not include time spent in individual sessions, time spent in preparation for both regular classes and the academic support classes, or time spent preparing for and attending the special exam preparation sessions. If one looks only at the number of additional classroom hours, it is as though academic support students were taking seven classes instead of five. Presumably, the actual additional burden is somewhat less, as the substantive content of the academic support sessions overlaps with the students' regular classes, and much of the preparation for the academic support classes is similar to the sort of studying in which all law students should be engaged. Nevertheless, this is a significant time burden to place on these students.

In recognition of the heavy schedule that the academic year component places on support program students, the Workbook contemplates that the academic support program will "substantially replace" any student organized study group in which the students might otherwise have participated. Leaving aside the question of the merits of this proposal, I am somewhat skeptical that the time

33. Id. at 8. The Workbook states:
Time is the most valuable commodity available to first year law students... For this reason, at each point in the development and implementation of the school year support program, staff should ask, "Is this activity of sufficient benefit to warrant the interruption of a student's preparation for classes?" If the answer to this question is not clearly "yes," the program activity should be carefully evaluated and restructured, or eliminated. Id. at 61.

34. The Workbook provides sample schedules for both academic support program participants and teaching assistants. Id. at 67-69.

35. Id. at 66.

36. Dean Romero has indicated that there was disagreement among the members of the Workgroup as to the value of study groups, Romero Remarks, supra note 1, and the Workbook itself recognizes that study groups have some value in terms of "emotional and psychological support as well as small group educational experiences that would not otherwise exist," but states that students should not be encouraged to rely on such groups because of "the educational inefficiencies generally found to attend these sessions." Workbook, supra note 1, at 67.
students would have spent in study groups is anywhere comparable to the amount of time that they will be required to devote to the academic support program. It also concerns me that the comprehensive structure of this program is such that participants are unlikely to have much time for interaction with their classmates who are not in the program, a situation that will not only deny them the opportunity to make some of the long-lasting friendships that one forms in law school, but also one which has the potential to isolate them within the law school community.\textsuperscript{37} It is also unfortunately the case that many support program students already have additional burdens on their time, as they are often also the students that have the most outside demands on their time, in terms of both family responsibilities and outside work commitments necessitated by the need to finance their education. While some of these personal time constraints can be alleviated by provision of adequate financial assistance, the realities of the students' situations, and the financial resources actually available to them, often may dictate that an academic support program be sensitive to these additional aspects of a student's overall schedule.

For teaching assistants, the academic support program schedule contemplates that they work fifteen hours per week. Each teaching assistant has responsibility for a substantive seminar every other week (for which the schedule allocates six hours of preparation and two hours for the actual seminar), and for a small group session each week (3 hours for preparation and 3 hours for the session). In addition, the schedule contemplates that the teaching assistant will have devoted 7 hours to individual sessions during each two-week period, and allocates 3 hours during the week after a seminar for grading practice exam questions.\textsuperscript{38} The schedule does not allocate any

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\item See Kevin Deasy, \textit{Enabling Black Students to Realize Their Potential in Law School: A Psycho-Social Assessment of an Academic Support Program}, 16 T. MARSHALL L. REV. 547, 565 (1991) ("concerns about further separating underrepresented students from other students must be taken seriously"). Professor Deasy notes that, while all law students must adapt to a new approach to education and a new language when they enter law school, minority students may find themselves isolated by virtue of their differences from the normal institutional methods by which students tend to acquire information about how to function in their new role, such as advice from upper-class students and faculty. \textit{Id.} at 562-63. While, in recognition of this fact, an academic support program should provide this type of information, it does not seem to me that such a program can provide a very good substitute for the experience of informal information gathering, and developing that art is important to the success of law students as practicing lawyers. Thus, it would seem that a support program should be structured in a way that is sensitive to creating opportunities for peer interaction, rather than in a fashion that adds to isolation.

\item Workbook, \textit{supra} note 1, at 69.
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separate time for the discussions with the professors teaching in the substantive area for which the teaching assistant is responsible, for development of class materials, or for the periodic class attendance that the Workbook states should be part of the teaching assistant’s seminar preparation. Presumably, these items all are included in the 6 hours allocated on the schedule for seminar preparation.

Again, I wonder if this is a realistic expectation for these students, who, after all, still have their own classes to prepare for and attend, and who are likely to be involved in other law school activities as well. Fifteen hours, of course, is not an uncommon workload for a student assistant, but I am skeptical that the teaching assistants, who carry the main burden of the preparation of materials as well as the teaching of classes and grading and discussion of exams, actually will be able to do their jobs effectively in only fifteen hours a week.

These questions are more appropriately described as areas of uncertainty based on my lack of experience with academic support programs structured as is the one in the Workbook than as criticisms of that structure — I clearly do not have the necessary expertise to engage in criticism. But, with regard to the usefulness of the Workbook to the novice user, it seems that my uncertainty is the relevant point: it would be nice if the Workbook could provide those in my position with some source of further information, some means of gaining access to those with the necessary expertise to allay or confirm my fears, and, more importantly, to give me the benefit of their experience as to ways to alleviate the time pressures an academic support program places on students.

This wish brings me to my other comment with regard to the program component of the Workbook, which is really a comment that relates to the structure of the Workbook itself. The premise of the Workbook is to describe those features that are common to effective academic support programs, and, prior to drafting the Workbook, Dr. Salmony reviewed the LSAC Questionnaire on Special Law School Programs for Minority Students, which summarizes academic support programs at various law schools, as well as the CLEO experience over the past 20 years. He also visited approximately a half dozen law schools with different types of academic support programs, chosen on the basis of geographic and student diversity. Yet, while the Workbook describes features common to effective academic support programs, it never gives any indication as

40. Id.
to which law schools actually have programs that incorporate these different features. At least from the perspective of the novice user, it would be very helpful if, in addition to describing successful components, the Workbook also listed some of the law school programs that utilize those components, together with a contact person at those schools.

I believe that this information would be helpful for several reasons. First, it has been my experience that the most helpful information about academic support programs has come from the anecdotal discussions of programs by those who are actually running them. Clearly what works in theory does not always work in practice, and, even when it does, it may have some quite unexpected consequences, for better or worse. Thus, it would be extremely helpful for a law school considering adoption of particular components of the Workbook proposal to be able to discuss those components with law schools who are actually utilizing a similar program. Second, although the Workbook provides a good deal of detail as to structure and content of its proposed program, there are necessarily a number of items, such as actual course materials, that each school using the program will have to develop on its own. In this regard, it again would be helpful to be able to discuss with other schools utilizing similar programs what materials they use. Finally, particular questions that a law school has about the feasibility of the proposed program might be alleviated by the ability to talk to law schools actually using a similar program. Thus, for instance, my concerns about the amount of time required by participants and teaching assistants might be

41. In this regard, one of the most helpful sessions I encountered as I was beginning to become involved in developing an academic support program was the Roundtable Discussion at the AALS meeting in January, 1991, at which a number of panelists described the programs at their schools and discussed their struggles with some of the policy issues involved in developing and implementing an academic support program. See AALS Executive Committee Program: Academic Support Programs Roundtable, Tapes No. 126 & 127 (1991 AALS Annual Meeting, January 2-6, 1991).

42. For instance, one professor I talked with reported that her school had developed a support program very successful in terms of improving the academic performance of participating students; however, the students found the program structure sufficiently stigmatizing that the program ultimately was abandoned. On the other hand, a speaker that I heard at one of the AALS Roundtable discussions emphasized the importance of structuring academic support sessions in a fashion that allows the students to teach each other as much as possible. At first when I discussed this proposition with some of my colleagues it seemed counterintuitive, but once we thought about it in the context of our own law school experience, it made perfectly good sense.
alleviated by discussion with those involved in running a similar program at another law school.

B. ISSUES IN IMPLEMENTING AN ACADEMIC SUPPORT PROGRAM

In addition to providing a suggested structure for an academic support program, the Workbook also raises a number of the policy issues that those developing and implementing an academic support program must address and resolve. Most of these policy issues are discussed in Chapter 2, Program Implementation, but that chapter, as well as the chapters describing the summer and academic year components of the academic support program, also list questions for consideration at the end of the chapter, some of which raise policy considerations. Another important issue, program evaluation, is discussed in Chapter 6. The Workbook’s treatment of these issues varies from somewhat detailed discussion and recommendations to mere listing as a consideration. Not surprisingly, given its overall focus on describing the content of an effective academic support program, the Workbook generally provides more discussion of policy issues relating to the specifics of program structure than it does with regard to broader policy questions. The discussion that follows focuses primarily on the policy issues raised in the Workbook section regarding program implementation and those in Chapter 6 relating to program evaluation.

1. What Should Be the Purpose of the Academic Support Program?

The Workbook suggests two possible goals for an academic support program: (1) the “academic survival” goal; or (2) the “academic enhancement” goal. A program whose goal is academic survival will be designed to provide support to allow low predictor students to achieve passing grades. Its focus likely will be on remedial skill development. A program whose goal is academic enhancement — assisting students in achieving academic excellence — “will support academic skill development while emphasizing substantive legal analysis, and may provide comprehensive academic services, including preparation for law review and moot court competitions, and assistance in securing summer clerkships.”

The Workbook notes that the purpose and goals of an academic support program will determine to a great extent the structure and content of the program. Nevertheless, the Workbook does not take

43. Workbook, supra note 1, at 10.
44. Id. at 9.
an explicit position as to which type of program is preferable or indicate whether the program it proposes is based on one or the other of these goals. Instead, the Workbook suggests that these goals are not mutually exclusive, and that a support program can "achieve both goals by providing a full range of academic services that address the education needs of students who are performing at all levels within their class."45

2. Who Will Be Eligible for Admission to the Program?

The focus of the Workbook's discussion of the eligibility issue is on its relationship to the issue of program purpose. The Workbook states that "[p]rogram eligibility will be dictated by program purpose."46 Programs with an academic survival goal generally will be available initially only to those whose admissions indices entering law school indicate that they may have academic difficulty in law school; once grades have been awarded, then student performance will replace admissions predictors as the most accurate way to identify students in need of academic support services.47 If the purpose of the academic support program is academic enhancement, it generally will be made available to both low predictor and a designated group of higher predictor students.48 Selection of higher predictor students to participate in the program should be based upon "a well reasoned, clearly articulated, widely disseminated school policy" which states program goals and addresses the "potential concern that higher predictor students might receive an 'unfair advantage' from their participation in an academic support program."49 This type of program would continue to provide support services to participants without regard to their levels of performance.50

45. Id. at 10.
46. Id. at 11.
47. Id. at 9, 11. A subissue raised by this type of program is whether participating students who do well on their first set of exams should be allowed or required to leave the program to make room for those high predictor students who did not do well. Beyond noting that at this point actual performance will be the most accurate basis for identifying those in need, the Workbook takes no position on this issue. Id. at 9-10.
48. Id. at 10.
49. Id. at 12.
50. Id. at 10. A number of issues related to eligibility are merely listed as questions for consideration in the Workbook, including what response will be given to students desiring to participate in the program who do not meet the eligibility requirements (the Workbook frames this question in terms of excluded high predictor
3. **Will Participation in the Program Be Mandatory or Voluntary?**

The Workbook does little more with regard to this issue than summarize what it sees as the principal argument for and against mandatory participation: the principal argument in favor of mandatory participation is that "a well-structured academic program will provide a learning experience that consistently and methodically builds upon prior work" and "[s]poradic attendance in this type of program will be of limited value and will likely detract from the education of students who are in regular attendance;" the principal rationale for voluntary attendance is "that students learn best in education settings of their own choosing." 51

As with most of the issues raised by the Workbook, it takes no explicit position as to whether participation in the program should be required. It notes, however, that to the extent that the academic support program establishes a demonstrated record of success this issue will be obviated because an academic support program that provides "efficient, effective instruction" will alleviate program stigma and maintain a high level of attendance. 52

4. **Who Should Be in Charge of the Program?**

With regard to this more structural issue, the Workbook does take a definite position, stating that "[r]egardless of the structure and job classification that is chosen to provide program direction, a successful academic support program will require, at a minimum, a director whose principal responsibility is the ongoing development and implementation of an academic support curriculum." 53 An academic support program staffed with volunteer faculty members taking on these duties in addition to their regular teaching and administrative assignments, or with recent law school graduates hired at the instructor level, is not likely to have either a staff with the training, experience students); whether support should be given to higher predictor students who do not perform well and what form that support should take; whether excluded students should be allowed to participate in the program if space becomes available if, so, how they should be chosen; and how late students should be invited to participate. Another issue raised by the Workbook discussion, but not explicitly mentioned, is what students should be considered sufficiently "non-traditional" for inclusion in a program that defines eligibility in that fashion. See supra note 14.

51. Id. at 12. The Workbook notes that for more loosely structured programs, such as one-on-one or small group tutorial sessions, the argument in favor of mandatory attendance is not as strong. Id.

52. Id. at 12-13.

53. Id. at 16.
and time necessary to effectively address support students’ needs or the continuity of leadership needed for meaningful program evaluation and improvement. Thus, it is essential that the person in charge of the program — whether a tenure-track faculty member providing full or part-time direction to the program, a full-time contract faculty director, or a tenure-track faculty member providing part-time oversight to a contract faculty director — has this responsibility as a primary and ongoing part of her duties. The Workbook recommends that, where possible, the director should have training and experience in both education and law and states that the director should be compensated at a level that will make the position a meaningful career alternative for qualified attorneys with an interest in working with nontraditional students. Finally, the Workbook notes that the professional standing of the support program staff within the law school, and the manner in which they are recruited and retained, will play a large part in establishing a positive institutional environment with regard to the academic support program, and thus a large part in determining its success. 54

5. How Might Program Stigma Best Be Addressed?

The Workbook suggests that the most important factor in reducing stigma is a clear commitment on the part of the law school to the academic support program and to the goal of providing assistance to help redress imbalances in prior educational preparation that have historically existed between minority and non-minority students:

Where academic institutions demonstrate a clear commitment to provide the highest quality education experience to students with special needs, and place a high value on the type of education provided in a sound academic support program — that is, a carefully constructed, logically developed curriculum tailored to enhance individual student strengths and remedy individual student deficiencies — the stigma that may attach to the experience will be diminished. On the other hand, support program students who receive more individualized education services than the mainstream will more likely con-
sider themselves stigmatized when faced with institutional ambivalence toward the academic support they receive.

While it is recognized that schools cannot entirely shield students from internalized feelings of stigma, schools that formally recognize and embrace affirmative action values will have taken a major step toward establishing an environment in which academic support program stigma is minimized.55

The Workbook suggests that a positive, supportive environment for the program also will make it more likely that participants will see the advantages of the program as outweighing any stigma.56

6. How Might Institutional Commitment to an Academic Support Program Be Established and Maintained?

The Workbook sees the institutional commitment necessary to the success of an academic support program as a product of law school community discussions and participation. The decision to develop a program should be made by the dean and faculty through the regular law school governance process, and a clear statement of the program purpose, goals, and expectations should be adopted and made available, along with a program description, to the law school community. If the law school is part of a university, then the university's support for the program also should be obtained. Once the program is established, the Workbook recommends that an advisory committee composed of members of the principal law school constituencies be established to work with program staff to review and refine program policies and procedures. This committee should prepare annual reports on the status of support program efforts.57

7. How Should the Program Be Evaluated?

The Workbook suggests that both objective and subjective measures of success are important and should be considered in the evaluation process. It also indicates that to make full use of these measures, an academic support program must be maintained over a period of at least four years to allow a group of support students to complete the full academic cycle from matriculation through the bar exam and

55. Id. at 14-15.
56. Id. at 15. The Workbook does not explicitly address in this discussion the other side of the stigma problem — the perception of unfair advantage by those not in the program — though its discussion indicates a sensitivity to this issue as well.
57. Id. at 20-21.
on to employment. Four years also provides academic support staff with sufficient opportunity to fully develop, evaluate and refine program offerings. 58

Four objective measures are discussed. The Workbook states that the most significant indicator of program success is enhancement of student performance beyond predicted level. Thus, the first objective measure is comparison of actual student performance during the academic year with predicted performance based on LSAT and other objective admissions data. A second objective measure is comparison of student performance during the academic year with student performance in the summer program. While noting that this measure is affected by program bias, the Workbook states that it can be a useful tool in identifying strengths and weaknesses in both the summer and school year programs. A third measure is participation in law school extra-curricular activities that are recognized as measures of success, such as law review, moot court, student government, and client counselling competitions. The Workbook states that the extent of representation of academic support students in these activities as compared to other students in the class can provide a valuable measure of program success. The fourth objective measure is graduation and bar passage rate of those participating in the academic support program as compared to those students who had comparable admissions scores but did not participate in the program. 59

Subjective evaluations regarding various aspects of support program effectiveness can be obtained from participating students, program staff, program alumni, law school faculty and law school administrators. The Workbook notes that student evaluations of the program are particularly important, because the extent to which participants in the program feel that it has enhanced their law school experience is an important factor in measuring program success. 60

The Workbook’s listing of issues that must be considered in developing and implementing an academic support program is another valuable feature of the Workbook for those without substantial experience with academic support programs. As with its discussion of actual program components, its list of considerations provides those beginning the process of developing effective programs with an indispensable starting point for discussion. And, although the Workbook’s discussion of these issues is not — and is not intended to be —

58. Id. at 75.
59. Id. at 72-74.
60. Id. at 74-75.
exhaustive, it is helpful to the novice user in giving some idea of both the types of considerations involved and the interconnectedness of the various issues that must be considered.

As with my comments on the program structure aspect of the Workbook, my criticism of this aspect of the Workbook relates more to what is not included than what is. As discussed above, the Workbook’s ready adaptability to meet the differing needs of various law schools is its greatest strength. From the viewpoint of a novice user, however, the generic nature of the Workbook may also be her greatest source of frustration when it comes to the consideration of the policy issues raised in the Workbook. It is understandable that the Workbook would choose not to take an explicit position with regard to many of these policy issues. These issues are interrelated, and often subtle and complex, and their determination necessarily must be made in the context of specific programs. At the same time, however, these issues are of a type that it is hard for novices at the business of academic support programs to get a handle on without guidance from those who have faced and dealt with them in the context of particular programs. Thus, although the Workbook’s recognition that these issues must be decided by each program is entirely appropriate in light of its goals, discussion of different ways in which these issues can be addressed would be very helpful in educating users of the Workbook with regard to the considerations that must go into their resolution, and the alternative solutions that are available.

Again, as with regard to program structure, it seems that the Workbook could efficiently provide access to this type of information by giving examples of the ways in which various schools looked at in preparation for the Workbook are dealing with them. This method avoids placing what is probably an impossible burden on the Workgroup and Dr. Salmony while at the same time providing users of the Workbook with the means of accessing a wealth of knowledge from their colleagues at other schools dealing with these issues.61

61. For instance, at the end of the chapter on implementation, the Workbook lists some considerations related to the issues of stigma and institutional commitment raised in the Workbook, including the possibility that an academic support program might be structured and implemented in a manner that will lessen the stigma experienced by program participants, and the possibility of taking other measures, such as an affirmative action symposium during first year orientation; diversity awareness programs during the school year; a faculty retreat to address stigma issues; social events with mentors and other positive role models; or academic support sessions open to the general student body. Id. at 22-23. Some of these ideas may be
C. PEDAGOGY

A third noteworthy feature of the Workbook is its explicit emphasis on the importance of pedagogical principles in designing and implementing an academic support program. The Workbook makes the importance of pedagogy to the design of successful academic support programs explicit from the beginning. Chapter 1 briefly summarizes the work of three educators that provides the principle pedagogical foundation for the academic support program components described in the Workbook. From Paulo Freire’s *Pedagogy of the Oppressed*, the Workbook draws the principle that “a primary role of educators is to meet their students on equal ground.” Educators should simplify potentially complex concepts, and find the best form or language in which to convey those concepts to students with disparate educational backgrounds, including the use of examples drawn from students’ life experiences. The Socratic method should involve a dialogue between teacher and students in which there is mutual respect and an expectation that both will learn. From the work of Ivan Illich, the Workbook draws its second fundamental principle that “[e]ducators interested in addressing the needs of nontraditional students should also be prepared to ‘de-mystify’ the traditional education experience.” The Workbook states that:

In traditional legal education, much of the information that is necessary to a complete understanding of both the process and content of law school is not readily available to students. Negotiating these unspoken aspects of a professional school education may be particularly problematic for nontraditional students. Educators who work in academic support programs very helpful in reducing stigma. See, e.g., Deasy, *supra* note 37, at 564-65 (discussing ways in which the structure of the University of Pittsburgh’s Mellon Legal Writing Program is designed to reduce stigma, including the inclusion of non-minority students in the program, a course content which is not primarily remedial, and selection of teaching assistants from former Mellon Program students). Because, however, the Workbook gives no opinion as to the effectiveness of any of these proposals, merely listing them as questions for consideration, it may be hard for the novice user to determine, other than by trial and error, whether these proposals are worthwhile. If, on the other hand, in addition to listing these considerations, the Workbook also indicated schools that have utilized these ideas, it would provide users with a way to gain information about these ideas short of their own experimentation.

64. *Id.* at 4-5.
should de-mystify the academic experience to help students avoid the education impediments that may otherwise exist.67

Finally, from Arthur Pearl’s work, *The Atrocity of Education,* the Workbook draws the principle that “a necessary precondition to student excellence is the development of a sense of competence and belonging.”69 The Workbook notes that fostering this sense of competence and belonging is particularly important for nontraditional students, who may be questioning their place in law school because of their admissions standing and minority status within their classes, and for whom few role models within the law school may exist. Thus, “[a]cademic support programs must be particularly sensitive to this issue if participating students are to achieve their full academic potential.”70

The Workbook draws the connection between pedagogical principles and effective academic support services at the level of application as well as theory. As discussed earlier, the Workbook discussion of the support program components includes pedagogical goals to be achieved by various parts of the program, suggested teaching techniques, and, occasionally, suggested materials. In addition, Chapter 3 of the Workbook, entitled “Education Theories and Teaching Techniques,” sets out three areas of learning skills, the development of which should be the initial focus of an academic support program — reading comprehension, concept analysis and retention, and metacognition — and provides a brief discussion of each in terms of cognitive process theory, including a discussion of suggested instructional techniques for improving reading comprehension and concept analysis and retention.71

From the perspective of someone with no grounding in educational theory, the Workbook’s discussion of pedagogical principles and cognitive theory at first seems somewhat removed from its central purpose of providing an adaptable nuts and bolts model for law schools developing support programs; however, this feature of the Workbook is in fact central to that goal. The Workbook’s discussion of pedagogical principles provides the context for the recommended program components and suggested teaching techniques — inclusion of these principles means that the Workbook not only tells the user

67. *Id.*
69. Workbook, *supra* note 1, at 5.
70. *Id.* at 5-6.
71. *Id.* at 25-32.
what should be in an effective support program, but why it should be there. Providing that type of context significantly enhances the value and adaptability of the Workbook by informing those who are selecting from among its components as to the importance of those components in the overall learning experience of students. Further, setting out the fundamental pedagogical principles on which the proposed program is based provides users with an overall framework within which to establish the teaching methodology and instructional goals of their particular program.

The Workbook's emphasis on the importance of pedagogy to the structure of academic programs is valuable for another reason, which goes beyond its value in the development of academic support programs. As is true of many professors, particularly in professional schools, law professors only accidentally, if at all, have any training in the art of teaching. Good teaching is expected in law schools, but is not the focus of formal training in preparation for law teaching, nor the primary focus of faculty compensation systems within most law schools. Thus, to the extent that sound pedagogical principles are followed in course instruction, it is likely to be more by accident (or intuition) than by design.\(^2\) By explicitly grounding legal instruction

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Several years ago a critic of higher education wrote:

> It is strange that we expect students to learn yet seldom teach them anything about learning. We expect students to solve problems yet seldom teach them about problem solving. And, similarly, we sometimes require students to remember a considerable body of material yet seldom teach them the art of memory.

Law school professors display especially strong parochialism in this context. They inundate students with substantive and procedural rules of law, but rarely if ever provide any guidance or instruction in methods of learning. Indeed, as one law school commentator recently noted, legal educators not only disregard learning theory, they positively disdain it. Unfortunately, disregard and disdain by legal educators for the sophisticated ideas of learning theorists and educational psychologists produces a serious problem for law school students anxious to maximize the value of their study time.

_Id._ at 471-72 (quoting Norman, *Cognitive Engineering and Education*, in *PROBLEM SOLVING AND EDUCATION: ISSUES IN TEACHING AND RESEARCH* 97 (D. Tuma & F. Reif eds. 1980)) (other citations omitted). Indeed, it has been suggested that the successful mastery of the concept of "thinking like a lawyer" by most law students is due less to the instruction that they receive in law school than it is to their previous educational experiences, which have given them the skills necessary to master this concept on their own:

As legal educators, law faculty are, in fact, novices. . . . All students crave
in pedagogical principles, the Workbook may provide a service to the entire law school, by sensitizing faculty to the relevance of the science of teaching to what they do.

Indeed, to the extent I have any comment as to how this aspect of the Workbook could be improved, it would be that, given the relative ignorance of education theory that can be assumed with regard to a number of users of this Workbook, the connections between learning theory and actual instruction should be laid out even more explicitly than they are. For example, the Workbook provides a brief summary of the concept of "metacognition," which it defines as "the examination and understanding of one's own cognitive process." At the close of this discussion the Workbook states that

The primary goal of an academic support program should be to help students develop the abilities that are necessary to independently proceed with their legal education. Toward that end, academic support staff should be prepared to assist students in the identification and understanding of their metacognitive skill levels and the development of strategies to address their learning deficiencies.

To someone possessing some familiarity with learning theory this explanation of the relevance of metacognition to the goals of an academic support program is no doubt quite adequate; as someone who knows nothing about that subject, it left me somewhat clueless. And yet, the point being made is a very central one: the ultimate goal of a successful academic support program must be to turn its participants into "self-directed," "independent" learners, and the stu-

instructive guidance on mastering the new learning experience they encounter in law school. The law school experience . . . exhorts students to "think like lawyers." For the most part, law faculty expect students to be self-directed in this task. And fortunately for law faculty, a majority of the regularly-admitted students manage to learn this linear construct on their own. This should come as no surprise because their educational experience, since the primary grades, has prepared them — and all throughout their schooling prior to law school — for grasping the essential tenets of this "new," content-specific, approach to problem-solving. For educationally disadvantaged minority students, however, such instructive guidance is essential if they are to be competitive in law school.


73. Workbook, *supra* note 1, at 32.
74. *Id.*
dent’s understanding of her own learning processes is crucial to the accomplishment of that goal:

The goal should be independence in learning. To promote independence, the emphasis should be on the students’ awareness of their learning processes. Specifically, students should be aware of how they approach a subject, think about the material, and acquire the requisite knowledge. When students encounter difficulty in grasping particular concepts or acquiring certain types of knowledge, they are able to exercise greater control over what they learn and better understand the reasons for the difficulty they encounter. Educational theorists refer to this learning theory as “metacognition.”76

Unless an academic support program fosters independent learning, the improvements it creates in participants’ performance are likely to be short-lived.77 Further, in the context of legal training, the creation of independent learners is really a central purpose of the enterprise, as self-directed learning is an essential component of successful legal practice.78

It would be unfair to ask the drafters of the Workbook to engage in a detailed exposition of pedagogical principles. Such an undertaking is clearly beyond the scope of what the Workbook seeks to accomplish. In keeping with its primary purpose to serve as a guide to its users, however, the Workbook might suggest articles that would provide further information for those like myself who are completely unfamiliar with the concepts being discussed, thereby making the expertise of those drafting the Workbook and others in this area more readily accessible to the Workbook’s users. The Workgroup also would be well-advised to keep in mind with regard to the Workbook’s discussions of learning theory that its audience is to a large extent going to be the completely uninformed.

III. Conclusion

The LSAC Workbook performs a valuable service in beginning to fill the void that exists with regard to information about the nuts and bolts of designing and implementing an academic support program. It should prove a valuable asset to law schools in the ongoing process of developing effective academic support programs, and should

76. Vaughns, supra note 71, at 471 (citations omitted).
77. Wangerin, supra note 74, at 794.
78. See id. at 802-03.
leave them with little excuse for not attempting to do so. Indeed, if it had done nothing more than raise the various policy issues that must be considered in developing an academic support program, it would have provided a valuable service. But it has gone much beyond this, providing those engaged in that endeavor with a program proposal that can serve as a starting point in the design of a program that fits the needs of their particular school. Further, its discussion of the relationship between the program components and teaching techniques it describes and principles of learning theory not only provides a theoretical context for its suggestions helpful to the user, but also may encourage faculty to give critical consideration to the application of pedagogical principles to legal education generally.

Perhaps the best indication of my belief in the value of the Workbook for the novice user is that my criticisms of it really can be summarized as that I wish it did MORE. Given the Herculean task the Workgroup and Dr. Salmony undertook in developing this Workbook, and the extent of their accomplishment, this is perhaps an unfair position to take. Nevertheless, it appears that my wish may to some extent come true, although not in the form I have suggested. The LSAC has agreed to sponsor a series of workshops with Dr. Salmony based on the Workbook,79 the first of which will take place at the University of Colorado in June, 1992, and these workshops should prove quite valuable as a vehicle for further elaboration of the principles set out in the Workbook. They also, however, are necessarily going to be limited in the audience that they reach — indeed, my school was unable to send a representative to the June workshop because of the necessary limitations placed on the number of attendees — and, in light of this, the Workgroup also might consider adding the reference aspect to the Workbook itself that I have suggested.

On behalf of the Chicago Bar Association I would like to thank the National Black Law Student Association, Midwest Region, for asking me to speak at this conference today. I think we should also thank and applaud Northern Illinois University College of Law for putting together today's conference. I know a program such as this requires a lot of work, and I think those that were involved in putting this program together deserve a lot of recognition.

I would also like to make my pitch now for the Chicago Bar Association to those of you who will be graduating from law school shortly and plan to practice in Chicago. The Chicago Bar Association provides an excellent opportunity for you to network with and to get to know your fellow members of the Chicago Bar. In addition, the Chicago Bar Association provides outstanding opportunities for continuing legal education. Thus, I urge you to become members of the CBA.

Despite the admonition of the national BLSA President, Judith Browne, today I am going to use the term "minority," because, when one examines the representation of people of color in large law firms, we are indeed a minority. To put the problem of minority recruitment and retention in large law firms into proper perspective, we should take a look at a few numbers. Since 1987, the Chicago Reporter has conducted an annual survey tracking the number of minority attorneys employed in the largest Chicago firms. The results from the latest survey were startling. The Chicago Reporter found that among the twenty-one largest Chicago firms, reporting a total of 2,113 partners, there were seventeen black partners — representing less than one percent of the total partners.¹

For those of you who do not know, partners in law firms are those attorneys who have survived a seven-to-ten year apprenticeship,
have demonstrated excellent legal skills, and perhaps more importantly, are those individuals who have demonstrated excellent potential for business development or attracting clients. After all, those of us who are practicing in large law firms, or in any firm for that matter, are in the business of providing legal services, and to do so we must have clients. Further, partners' income easily ranks in the six figure range and, in some instances, as high as seven figures. Simply put, those lawyers that attain partner status in law firms are among the most respected, influential and highest paid attorneys in the profession.

The Chicago Record survey also looked at the number of associates in Chicago law firms, and its survey found that in the 20 largest law firms in Chicago there were 2,300 associates. According to the survey, the number of black associates in the 20 largest law firms numbered only 66, or less than 4%.

The problem of minority representation, or under-representation to be more precise, is not a problem that is unique to Chicago law firms. A recent National Law Journal survey found that the nation's 251 largest law firms employ blacks at a level of only two percent (2%). Blacks represent 2.7% of all associate positions within these firms and 1.1% of all partnership positions.2

The competition, as you well know, for positions in large law firms is very intense. Given the current economy, that competition has intensified. There are many reasons why competition for associate positions is so intense. Large law firms, for example, are generally viewed as the most prestigious places to practice law, and the starting salaries in large law firms range from $65,000 a year to $85,000 a year. Couple that with the statistics I quoted previously and one quickly realizes that minorities seeking positions in large law firms face a Herculean task in securing such positions.

Gordon Nash, who was the President of the CBA during the 1990-91 year, and who also happens to be the chairman of the Litigation Department at Gardner, Carton and Douglas, recognized the problem of persistent under-representation of African-Americans and other minorities within the Chicago legal community, and particularly within large Chicago law firms. Establishing a program to address this problem was one of President Nash's goals during his tenure as CBA president; he wanted the CBA to take action which

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2. Claudia MacLachlan & Rita Henley Jensen, *Progress Glacial for Women, Minorities*, 14 NAT'L L.J. 1, 31 (Jan. 27, 1992) (demonstrating that the figures have remained virtually unchanged over a period of survey years).
would expose minority law students to large law firms and ultimately result in greater numbers of minorities in Chicago's large law firms. President Nash was aware that bar associations in other cities had programs aimed at increasing the number of minority attorneys in large law firms, and he strongly believed that the CBA should explore establishing such a program.

The first step President Nash took toward that goal was to appoint a special committee to evaluate the lack of minorities in law firms and propose a solution. Fortunately, the Chicago Committee on Minorities in Large Law Firms also agreed to work with the CBA in developing this program.

For those of you who are not familiar with the Chicago Committee on Minorities in Large Law Firms, I would like to take a few moments to discuss briefly the outstanding work this committee has done. The Chicago Committee on Minorities in Large Law Firms was formed in 1987 by two attorneys, Frederick Bates and Gregory Whitehead, with the goal of assisting law firms in developing strategies to identify, recruit, hire, retain and promote to partnership minority lawyers. In addition, the committee had another goal, which was to assist minority law students in finding employment within Chicago law firms.

Additionally, the committee currently serves as a support group for minority attorneys in which we can exchange ideas, suggestions and strategies regarding problems encountered in large law firm settings. Some of the work that the Chicago Committee has done includes an annual hiring partners' meeting to discuss minority recruitment and retention strategies. The committee also conducts an interviewing and resume-writing workshop for law students. Each summer the Chicago Committee on Minorities in Large Law Firms hosts a reception for minority summer associates.

The work of the Chicago Committee on Minorities in Large Law Firms has received national acclaim and has been the focus of articles in various ABA publications, The National Law Journal and The American Lawyer. The assistance of the committee has been invaluable in establishing the CBA Minority Clerkship Program.

After several meetings, the members of the special committee appointed by then CBA President Gordon Nash proposed that the CBA officially establish what would become the minority clerkship program. The stated purposes of the proposed program included providing employment opportunities in large law firms for first-year minority law students enrolled in the eight Illinois law schools and providing them with exposure to the large law firm environment. If you are a hispanic or black law student and you go to the placement
office of your law school to review the NALP forms for large law firms, it is not unreasonable to walk away with the perception that you are not welcome. Thus, the second goal of the program was to temper the perception among minority law students that they are not welcome in law firms, and in particular, large law firms.

The third goal of the program was to increase the level of interest in the participating law firms among minority students and thus produce an increased application flow to those firms which show an interest in hiring minorities. If large law firms are going to retain minority associates they must first hire minorities. One of the best ways to do that, we believe, is to expose law firms to schools where the law firms traditionally do not conduct on-campus interviews.

The fourth goal of the program was to expose minority students to firm practice and the so-called large law firm culture. By doing so, students would have a firsthand understanding of the dynamics of employment in a large law firm.

Finally, perhaps the most important goal of the program was to serve as an additional motivating factor for students to achieve academic excellence. Like it or not, the competition for positions in large law firms is very intense, and one of the major factors that law firms consider in the recruitment process is grades. As a student, if your grades are not up to speed, you will most likely make a quick exit from the interview process at most large law firms.

The CBA Minority Clerkship Program, which was approved by President Nash, in brief works as follows. First, we had to inform the deans of the eight Illinois law schools that the program existed and of its goals in order to assess their interest in participating. The CBA received an overwhelmingly positive response regarding the program from all eight Illinois law schools. It is anticipated that the law schools will again respond positively and agree to participate during the summer of 1992.

One of the big concerns among the members of the CBA Committee in establishing this program was that the CBA did not want to interfere in the affairs of the law schools. As part of the program, therefore, we decided that the deans of the respective law schools would establish their own procedures to select and identify students that they thought would excel in the program. The CBA did recommend, however, that the choice not be restricted by grades or LSAT scores, but that they consider other factors as well. Once selected by the various deans, the CBA notified the students and the participating law firms. The students then were matched with participating law firms in a random selection process.

Each participating law firm was obligated to include the student as a regular member of its summer program, compensate him or her
in an amount equal to other summer associates in the firm, and provide the participating students with the same kind of assignments as the other summer associates. In addition, participating law firms were not allowed to object to the students' participation in the program based on grades, LSAT scores or law school.

One of the more controversial points about the program among CBA committee members, and one that took a lot of discussion to resolve, was whether the law firms would be allowed to make offers of permanent employment to participating students. Some committee members believed that would only add an additional stressor for participating students. On the other hand, some members thought that if a student participated in the program and performed well enough to receive an offer of permanent employment, the CBA should not stand in the way of that offer. After much discussion and heated debate, it ultimately was decided that the firms could not make the students offers of permanent employment, but instead could ask them back for two or three weeks the following summer. Many firms already employ this process to evaluate first-year students.

The program had a goal of 20-25 participating law firms; however, 10 law firms participated in the first year of the CBA program. The firms that declined to participate did so for various reasons. Not all the firms that we contacted operated a summer program, so they could not participate. Other law firms did not include first-year law students in their existing summer programs, so they also declined to participate. The third reason many law firms cited for declining to participate was their opposition to the requirement that they unconditionally accept participating students in their firms' summer program. These firms essentially wanted to have the students go through the traditional interviewing process before the firm would make a decision on whether to hire the student.

At this time I would like to publicly thank each law firm for their participation and support; the CBA looks forward to their continued support and participation in the summer of 1992. The firms that participated in the program were: Baker and McKenzie; Chapman and Cutler; Clausen, Miller, Gorman, Caffrey & Witous, P.C.; Gardner, Carton & Douglas; Hinshaw & Culbertson; Mayer, Brown & Platt; Querrey & Harrow, Ltd.; Rudnick & Wolfe; Wildman, Harrold, Allen & Dixon; and Winston & Strawn. These ten law firms represent the cream of the crop of the Chicago legal community — not only are they highly regarded in the Chicago legal community as excellent law firms, but several of them also have nationwide reputations. I would like to thank them for participating in the program last summer, and making its first year a success. In the end, we had seven African-Americans, two Hispanics and one Asian-American in
the program as summer associates at those law firms. Thus, we believe the program had a successful inaugural year.

We have recently sent out evaluations to the participating law firms and law students; we should be receiving the results shortly. In 1992, we hope to increase both the numbers of participating law students and law firms. We ultimately hope to see the results of the program in the near future within the Chicago legal community, for it is our hope that many students who participated will decide to work in a large law firm in Chicago.

Interestingly enough, and this is a point which Judy touched upon this morning, the CBA Minority Clerkship Program was almost halted in its infancy because of an EEOC advisory opinion that committee members became aware of in the fall of 1990. The College Placement Council requested an advisory opinion from the EEOC in light of several court decisions that addressed job discrimination. There was apparent concern among the College Placement Council that some of its practices might violate the law established by those cases. The EEOC responded to the College Placement Council's request in the spring of 1990. The EEOC's advisory opinion stated in part that: "An employer who recruits and interviews only minority students, even if minorities are underrepresented in the work force, or a minorities' affairs office of a college or university that exclusively prefers minority students, or a college or university or employer who sponsors minority-only job fairs, recruiting dinners or internship programs would violate Title VII of the Civil Rights Act of 1964." 3

Needless to say, this advisory opinion caused great concern among the CBA and also among the law schools that had been asked to participate in the program. In fact, we received letters from several law school deans voicing concern that by participating in the program their schools would risk losing federal funds. I assure you that no dean of any law school wants to lose any funding in these difficult economic times. Fortunately, the EEOC eventually retracted their opinion, and the CBA Minority Clerkship Program successfully went forward without the ironic result of violating the Civil Rights Act of 1964.

We believe the inaugural CBA Minority Clerkship Program was a success. The CBA looks forward to expanding the program and building upon the success it enjoyed during the first year of the program.