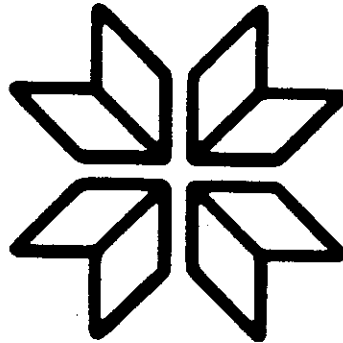


**REPORT OF THE
NEW YORK STATE
JUDICIAL COMMISSION ON MINORITIES**

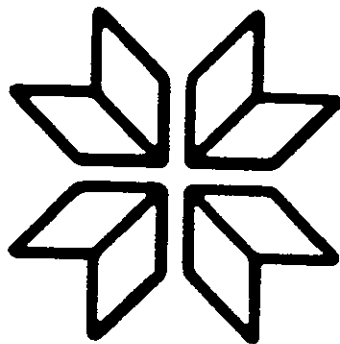
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**VOLUME THREE
LEGAL EDUCATION
APRIL, 1991**

**REPORT OF THE
NEW YORK STATE
JUDICIAL COMMISSION ON MINORITIES**

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VOLUME III: LEGAL EDUCATION

INTRODUCTION

Increasing minority presence in the legal profession is dependent upon increasing the numbers of minorities applying to, gaining admission to, and graduating from, law schools. Increasing the legal profession's sensitivity towards, and understanding of, minority concerns depends on the experience all lawyers have in law school, on interaction with minorities and exposure to minority issues in a thoughtful and constructive environment. Thus, the Commission chose to begin its research on the experiences of minorities in the legal profession with an inquiry into minority representation and experience in New York State law schools.¹

This volume presents the results of the Commission's law school study. Chapter 1 presents an overview of available data and relevant studies that informed the Commission's study. Chapter 2 provides a synthesis of the information gleaned from the study, and highlights best practice features from all of the schools. It begins with an overview of the study methodology and ends with a series of recommendations. Chapter 3 provides the individual law school case studies that represent the backbone of the Commission's study. The case studies are current through the end of the 1988-1989 academic year and do not include innovations or program additions that the law schools may have implemented after that time.

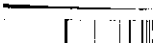
The individual case studies are descriptive rather than evaluative. In many cases,

¹The 15 law schools in New York State are Albany, Brooklyn, Buffalo, Cardozo, City University of New York, Columbia, Cornell, Fordham, Hofstra, New York Law School, New York University, Pace, St. John's, Syracuse, and Touro. ABA Section of Legal Education (1990) pp. 37-42.

students and administrators had different views and perceptions regarding events and students were critical of their schools to the dismay and/or surprise of their respective administrations. Student comments and perceptions have been included because only they can reflect minority student experiences. The case studies were shared with the law schools so that factual errors could be corrected, but student opinions have been left intact. Students interviewed were leaders of minority student organizations. It is possible that these student leaders may not represent the views of all minority students, but it seems reasonable to assume that their leadership positions reflect at least some degree of representativeness. In any event, absent a survey of all minority students in all of the 15 law schools, it is impossible to be certain of the degree of minority student concern and dissatisfaction. The current study highlights areas of minority student concern and suggests that many of these concerns cut across schools and are intrinsic to minority experiences in law school.

CHAPTER ONE

REVIEW OF LITERATURE AND DATA
ON LEGAL EDUCATION



CHAPTER 1

REVIEW OF LITERATURE AND DATA ON LEGAL EDUCATION

I. OVERVIEW

This review focuses on minority student recruitment, admissions, and enrollment; retention and support; curricular and cocurricular attention to minority concerns; minority job placement; and minority faculty hiring and promotion. These issues correspond to those identified at Commission hearings and those held by the American Bar Association (ABA) Task Force on Minorities in the Legal Profession (1985); in reports issued by the Mexican American Legal Defense and Educational Fund (MALDEF) (Brown and Marengo, 1980; Brown and Vasquez, 1982); in literature prepared by the Minority Affairs Committee of the Law School Admission Council (LSAC, 1987; LSAC, 1988); and by the Law School Admission Services ([LSAS] 1988); and in various other sources. The literature tends either to discuss issues nationally or to focus on the experience at one school, or one group of schools, as a model. Some studies aggregate minorities with the broader samples under study--which tends to mask the differences in the experiences of minorities and Whites. Other, "minority-specific" studies either treat all minorities as a uniform group or generalize from the black and Hispanic experiences as if they are representative of the "minority" experience--which tends to ignore the unique experiences of individual minority groups.

The literature discussed here provides a framework for the issues which the Commission investigated in its study of New York State law schools and thus provides a background for the Commission's study. This review also highlights questions left unanswered by the literature.

II. RECRUITMENT, ACCEPTANCE, AND ENROLLMENT OF MINORITIES

1.0 Minority Recruitment and Applications

Increasing minority presence in the legal profession depends upon increasing the number of minorities admitted to, and graduated from, law schools. The literature suggests that no single pool of persons can be expected to provide a consistently large and qualified cohort of law school applicants. Law schools cannot look simply to college seniors--nor even to college enrollees.

Astin (1984) compared entering college freshman classes for 1969 and 1981 and found a marked decrease in the number of self-identified "prelaw" students. In comparing demographic characteristics, Astin found that despite lower income and less frequency of higher education in minority families, minority representation among prelaw students slightly exceeded the minority proportion of all students. However, Astin's study did not address the perceptions and experiences that engendered interest in pursuing a legal career.

Neely (1986), at the request of John Marshall Law School, visited historically black colleges in Alabama, Florida, North Carolina, and Texas "to promote legal education and to assess the attitudes of black and other minority students toward the study and practice of law" (p. 562). Based on interviews with over 350 students at eight schools, Neely made the following observations:

- (1) A large proportion of black and other minority students just do not seem to be interested in the study or practice of law;
- (2) Most of these young people lack an accurate understanding of the legal profession;
- (3) Black students appear to be more interested in finding gainful employment immediately upon graduation from college;
- (4) Because of financial limitations, black students are more likely than white students to pursue a graduate or professional education later in life;
- (5) Southern black students are less mobile than white students, thus making it unlikely that they will attend Northern

graduate and professional schools: (6) A large proportion of black and Hispanic students appear to suffer from low morale, motivation, self-esteem, and aspiration; (7) Black students do not have an inspiring national image of the black lawyer. They are aware of the lack of respect and dignity accorded the black lawyer who attempts to secure responsible positions in predominantly white law firms and corporate legal departments; and (8) Black students are aware of the low bar examination passage rate among blacks. (pp. 562-563)

Neely (1986) argued that the presence of minorities in the legal profession will engender increased minority interest in legal careers. He further asserted that minority presence in the legal community will be sufficient, even if minority lawyers do not serve the minority community.

With the increase in enrollment of minority students at predominantly white institutions of higher education, predominantly white schools can draw minority students from the same institutions from which they draw white students. Unfortunately, this type of minority student may fail to adequately serve minority communities. However, whether they serve the minority community directly, their presence in the legal profession will be valuable because their success will encourage others to follow in their footsteps. (pp. 572-73)

Commentators have disagreed as to what the legal community could do to affect the level of minority enrollment in college as a first step toward increasing the potential minority law school applicant pool. Holley and Kleven (1987), noting that Blacks and Hispanics drop out of high school and college at disproportionately high rates, suggested that "much of the explanation for minority underrepresentation in law school and in the profession relates to factors the current hierarchy will have difficulty in impacting directly" (p. 304). Simien (1987) agreed that "not all of the blame for the lack of proportional representation of Blacks in law school can be laid 'on the doorstep' of American law schools" (p. 368 n. 30). He suggested, however, that schools not use the limited pool of minority college graduates as

an excuse for diminishing enrollment. calling for schools to exhaust all options to recruit minorities. Jones (1987), commenting directly on Holley and Kleven's work, went further, asserting that:

the [legal] hierarchy . . . must shoulder a portion of the responsibility for encouraging minorities to enter the legal profession. The hierarchy must take an active role in identifying social and economic variables that perpetuate underrepresentation of Blacks and Hispanics among college graduates, and take positive steps to obviate them. (p. 348)

The legal education community has not been idle in recent years in taking "positive steps" both to engender interest in the law as a career and to recruit minority applicants. In the Report on the LSAC Minority Enrollment Challenge Grant Program (LSAC, 1987), 17 of 20 schools participating in the Law School Admission Council's Minority Enrollment Challenge Grant Program¹ provide brief descriptions and evaluations of various programs implemented "to enhance existing programs for law school recruitment, enrollment, and retention of minority applicants and students" (p. i). Projects at several schools featured structured programs for high school students and college undergraduates, intending to engender interest in legal careers. Results were at times disappointing and inconclusive. The University of Dayton offered a course for students at Wilberforce University, a local, predominantly black university. Dayton discontinued the course after only one offering due to lack of student interest. Loyola University of Chicago developed "Law-Related

¹LSAC created the Minority Enrollment Task Force in 1980. In 1982 a fund was created "to develop, support, and finance minority enrollment projects" (p. 3). The Minority Enrollment Task Force created the LSAC Minority Enrollment Challenge Grant Program in 1983 "to develop new programs and to enhance existing programs for law school recruitment, enrollment, and retention of minority applicants and students" (p. 4). In all, 84 schools submitted proposals; LSAC made 21 grants over two grant cycles (1983 and 1984). Twenty schools received grants for projects including summer programs, writing courses, research assistantships, special admissions programs, recruitment programs, academic support programs, high school and undergraduate programs, and evaluation of curriculum. No New York State school received a grant.

Enrichment for Minority High School Students" and concluded, "The program did not show significant gains in improving either student reasoning or writing skills in general. [However,] [g]ains were made in self-confidence and attitudes" (p. 34). Black undergraduates at the University of Missouri-Columbia were offered an "Undergraduate and Professional Academic Support Program." Results were promising. Eighty-four percent of the participants earned a "C" or better--this at a college where "between 40 and 50 percent of the undergraduate black students are on academic probation" (p. 38). Temple University School of Law expanded its existing Law Education and Participation (LEAP) program and reported that "participants . . . are applying to law school as a result of their participation in the program" (p. 53). Several other schools participating in the Challenge Grant program developed comprehensive minority recruitment programs, including visits to high schools, which were intended to engender interest in law school.

In April of 1987, the Law School Admission Council distributed to LSAC-member schools a Questionnaire on Special Law School Programs for Minority Students. The Summary Report on the LSAC Questionnaire on Special Law School Programs for Minority Students (LSAC, 1988), like the LSAC report on the Challenge Grant program, provides brief summaries of "special" programs. Of 109 respondents, 71 provided information on minority recruitment programs. Fifty-two schools also described "other programs," several of which have recruitment components. Only six New York schools provided information on their minority recruitment programs and only four described "other" special programs. Unlike the earlier report on the Challenge Grant programs, this report provides no evaluations of the programs' shortcomings or successes. Compilers of the report

acknowledged that theirs was only "an initial effort towards establishing a clearinghouse of information about special law school programs for minority students" (p. 2).

Nationally, minority presence in the law school applicant pool for a given year has tended to exceed minority representation among recipients of college degrees for the same year. For classes entering law school in 1978-1980, minorities constituted 12.4% of all applicants (LSAC, 1986), though minorities had received just 11% of all bachelor's degrees conferred between 1978 and 1980 (Snyder, 1988). Holley and Kleven (1987), analyzing educational statistics for Blacks and Hispanics from 1975-1985, concluded that Blacks and Hispanics earned 9% of the college degrees during that decade but constituted approximately 10% of law school applicants. In 1985, Blacks and Hispanics earned 8.6% of all bachelor's degrees but accounted for 12.4% of law school applicants (total minority applications in 1985 were 16.9% of all applicants); other minorities and Whites represented fewer applicants, relative to their proportions among recipients of bachelor's degrees (LSAS, 1988).

Of course, not all prospective law students apply in the same year they receive their college degrees. Kramer (1987) noted that more than 40% of law school applicants apply after having been out of college for two or more years; 25% of applicants have been out of college for more than five years. Vernon and Zimmer (1987) also noted that for admissions pools from 1982-1986, college seniors had decreased from 42% to 40% of the pool; in sheer numbers, seniors dropped 20.2%, compared to a 16.2% drop in the size of the whole pool. Looking at recent college graduates, to the exclusion of other groups, would also tend to ignore important demographic changes which directly affect college graduation rates. Romero (1984) noted that "a serious erosion occurred between 1975 and 1980 in the rates

of black and Hispanic college enrollments as a percentage of the high school graduates in their populations" (p. 432).

From 1982 through 1986 there was a dramatic downturn in law school applications, a change from which schools continue to recover. Table III.1.1 shows the changes in the proportions of applicants from each minority group. There has been a slight increase in the proportions of applicants from all minority groups, particularly Asian Americans, from 1982 to 1987.

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Table III.1.1 Applicant Pool (1982-1988)²

YEAR	TOTAL APPLICANTS (%)	BLACKS (%)	BLACK % OF TOTAL	HISPANICS (%)	HISP. % OF TOTAL	ASIANS (%)	ASIAN % OF TOTAL	NATIVE AMER. (%)	NAT. AMER. OF TOTAL
1982-1983	71755	4904	6.8%	2108	2.9%	1252	1.7%	339	.47%
1983-1984	63801 (-11.1%)	4541 (- 7.4%)	7.1%	1998 (- 5.2%)	3.1%	1198 (- 4.3%)	1.9%	324 (- 4.4%)	.50%
1984-1985	60338 (- 5.4%)	4406 (- 3.0%)	7.3%	1939 (- 3.0%)	3.2%	1270 (+ 6.0%)	2.1%	359 (+10.8%)	.59%
1985-1986	65168 (+ 8.0%)	4889 (+11.0%)	7.5%	2221 (+14.5%)	3.4%	1561 (+22.9%)	2.4%	356 (- 0.8%)	.55%
1986-1987	68804 (+ 5.6%)	5079 (+ 3.9%)	7.4%	2327 (+ 4.4%)	3.4%	1854 (+18.8%)	2.7%	377 (+ 5.9%)	.55%
1987-1988	78884 (+14.7%)	5731 (+12.9%)	7.3%	2621 (+13.0%)	3.3%	2284 (+23.2%)	2.9%	380 (+ 0.8%)	.48%

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In the midst of the law school application "crisis," Vernon and Zimmer (1985) posited that several factors--including the economic recovery of the early 1980s, a perceived lawyer "glut," and increasing costs--had contributed to the unprecedented downturn. However, Vernon and Zimmer admitted, "[W]e simply do not know why the law school applicant pool dropped when it did or as much as it did" (p. 281). Building on their earlier work, Vernon and Zimmer (1987) noted that minority representation in the applicant pool had increased

²LSAS, 1988 (data for 1982-1983); Commission on Opportunities for Minorities in the Profession (data for 1983-1988) from tables distributed at ABA Midyear Meeting, 1990.

from 1982 to 1987. Thus they concluded that "virtually the entire decrease in the number of applicants [was] attributable to decisions by Caucasians to seek careers in fields other than law" (p. 211). Relying on attitudes of college freshmen in the fall of 1986, as surveyed by Astin et al. (1986), Vernon and Zimmer (1987) predicted that applications after 1986 would continue to decline. As Table III.1.1 shows, that prediction proved incorrect. Finally, national data like those in Table III.1.1 mask the experiences at individual law schools. Christensen (1987), for example, asserted that the application "crisis" was not felt evenly among all law schools--indeed, some schools experienced no crisis at all.

Thus, the literature provides a complex and inconsistent picture. Law schools have recently "survived" a largely unexpected downturn in demand for legal education, a demand which has apparently returned; but the variations in demand have not been consistent across racial and ethnic groups. It is difficult to formulate a profile of a "typical" law school applicant, complicating the task of identifying and recruiting potential enrollees. The Commission's study examined how New York law schools approach minority applicant recruitment in the wake of largely inconsistent indicators of interest and demand, along with the numbers and proportions of minorities recruited by each school.

2.0 Minority Acceptance and Enrollment

In a climate of selective admissions, many who wish to attend law school are not admitted; this is particularly true for minorities. We next examine, therefore, the barriers facing minority applicants.

A recent study compared all minorities and a 10% random sample of nonminorities applying to ABA-approved law schools during 1978-1980 (LSAC, 1986). Of 26,022 minority

applicants, 53% were admitted as compared to 69% of white applicants. Having found marked disparities in applicants' preadmission credentials, the study's compilers were unable to determine directly the significance of the admission rate data. For applicants with LSAT scores between 300 and 650,³ the minority acceptance ratio generally exceeded that for Whites. Conversely, for all applicants with GPAs above 2.00, the admission rates for Whites uniformly exceeded that for minorities with identical GPAs. Studies of the 1976 entering class have found similar disparities (Evans, 1977; Holley and Klevens, 1987).

For the 1986-1987 applicant pool (LSAS, 1988) the gap in acceptance rates was narrower than for the classes entering 1978-1980, with a 76% acceptance rate for nonminorities and a 64% acceptance rate for minorities⁴, but comparisons of acceptance rates to credentials again showed striking anomalies. For example, the acceptance rate for Blacks equalled or exceeded that for Whites only when Blacks had GPAs of 3.50 or higher. Conversely, Asian Americans generally had as good a chance of admission as did Whites; however, Asian Americans with GPAs above 3.24 had lower acceptance rates than Whites. Another striking anomaly was the situation where applicants with a given GPA fared better than same-ethnicity applicants with higher GPAs. For example, 38% of Asian Americans with GPAs below 2.00 were admitted, while only 34% of Asian Americans with GPAs from 2.00-2.24 were admitted; 55% of Native Americans in the 2.25-2.49 GPA range gained admission, but only 52% of Native Americans with GPAs of 2.50-2.74 were admitted.

³Currently, the LSAT is scored on a scale of 10-48; before 1982 the scale was from 200 to 800.

⁴Acceptance rates for Blacks and Hispanics presented here reflect incomplete data. For example, 5,059 Blacks applied to law school in 1986-1987, but the report only accounts for 4,443 black applicants (2,411 admitted + 2,032 denied admission) (LSAS, 1988, p. 44). Based on an applicant pool of 4,443, 2,411 admittees yield an acceptance rate of 54%.

The 1986-1987 applicant pool also showed some striking disparities in average LSAT scores achieved by applicants with similar GPAs. For example, Blacks with GPAs of 3.75 or above had a mean LSAT score of 30.1--the mean score achieved by Whites with GPAs of only 2.50-2.74. For all GPA ranges only Puerto Ricans scored lower than Blacks in terms of mean LSAT scores; Puerto Ricans in the top GPA range (i.e., 3.75 and above) had a mean LSAT score of 25.5--1.5 points below the mean LSAT score for Whites in the lowest GPA range (i.e., 2.00 and below). This applicant pool even demonstrated these sorts of qualification-to-admission anomalies when both GPA and LSAT were included in an applicant's "profile."

For example, we note that [21]⁵ Black applicants with a GPA between 2.25-2.49 and . . . LSAT between 14-17 were admitted, but that 34 [black] applicants with a GPA between 2.50-2.74 and an LSAT between 26-29 were denied. From these examples, we can see considerable inconsistency in the admission patterns which may indicate that candidates are not directing their applications knowledgeably, and that this maldistribution may account for the denial of many applicants who, if they had applied to a school within their credential range, may have enrolled in law school, or at least enjoyed that option. This [sic] data suggests [sic] a counseling or educational problem and is an area that deserves additional study. (p. 42)

Vernon and Zimmer (1987) suggested that a significant number of all applicants misdirect their applications due to a lack of information with which to target schools likely to admit them.⁶

⁵Given as 33 in the original. However, according to the supporting table (p. 47) only 21 black applicants with GPAs from 2.25-2.49 and LSATs of 14-17 gained admission; 33 black applicants with LSATs of 14-17 but GPAs from 2.50-2.74 gained admission.

⁶The above-discussed disparities in acceptance rates relative to GPA levels hint at an ongoing debate regarding grade inflation. Jones (1987) sharply criticized the acceptance of GPA disparity: This reflects that some law schools discount the UGPAs of minorities assuming the colleges they attend are of lower caliber than those that whites attend. This is absurd and amounts to unfair bias. (p. 351)

It is not at all clear that counsellors or prospective students will be able to find sufficient information to alter the effects of misdirected applications. Raushenbush (1987) noted that 90 schools--almost half of all schools--did not provide applicant profiles for the 1986-1987 Official Guide to U.S. Law Schools; only 50 schools omitted such profiles in the 1978-1979 edition of the Guide. Looking both more recently and more locally, in the 1989-1990 edition of the Guide (Law Services, 1989) only seven New York schools published acceptee profiles featuring acceptance rates based on LSAT scores and GPAs, and several of these schools either expressly counselled against rigid reliance on the profiles or emphasized that subjective factors, such as minority status, educational disadvantages, or strong letters of recommendation, can factor significantly into admissions decisions. At another extreme were schools that expressly stated their decision not to publish profiles, due to extensive reliance on nonquantifiable applicant characteristics in making admissions decisions.

Though several selective schools began experimental aptitude testing as early as 1921 (White, 1984), the now ubiquitous LSAT was not implemented until after World War II. Brown and Marengo (1980) have provided the following history of the use of the LSAT. Until the mid-1940s, law schools had essentially open admissions but suffered extraordinarily

An earlier work provided ammunition to Jones' criticism:

[A survey of] grade distribution patterns and grade inflation trends of 821 colleges and universities, focusing in particular on sixty-three undergraduate institutions considered highly selective and on forty-five predominantly black institutions [found that] [f]or the 1983 senior class, 62.8% of the students at the highly selective colleges had grade point averages of 3.00 or above, while only 38.1% of the students at the predominantly black colleges had similar grades. [The researcher] observed that graduates from predominantly black colleges applying to graduate and professional schools may therefore suffer a "double whammy" which may affect their chances for admission: first, the black colleges are generally accorded less prestige; second, they grade more toughly [sic] than do the more prestigious colleges. (Skillman, 1986, pp. 542-543 [summarizing a study done by Weckesser])

high first-year attrition (p. 16). By 1948, the LSAT had been developed, with the intention of identifying and screening out high attrition risks. Concurrently, however, admissions entered a second phase, one where applicants outstripped available places in first-year classes. Until the late 1960s, the LSAT was used to predict who would not succeed in the first year of law school, thereby restricting admission to "qualified" candidates (p. 16). In the late 1960s, law school applications reached a third stage, the current stage, where the number of qualified applicants exceeded enrollment capacity. Brown and Marengo argued that "[t]he admissions procedure then came to embody an extremely quantified eliminative process the major objective of which was to select those applicants with the highest cognitive predictors" (p. 16).

Some researchers have found that LSAT scores accurately predict both first-year grades and graduation rates (LSAC, 1986; Johnson, 1987), thereby justifying reliance on LSAT scores in granting admission. However, continuing reliance on a measure that was not originally designed to screen out capable candidates has been questioned. Designers of the LSAT, describing the limits of the test's ability to assess prelaw qualifications, have urged the use of additional admissions criteria (Educational Testing Service, 1979). Other researchers have questioned the LSAT's ability to predict the academic performance of minorities.

Hathaway (1981) challenged the validity of using the LSAT in an admission procedure which claims "to select the best qualified persons from the applicant pool" (p. 86). Focusing on the Columbia Law School class of 1981, Hathaway found that the correlation between minority students' grades and LSAT score decreased, rather than increased, over the course

of three years, as would have been the case had the test been predictive over the course of the whole law-school experience. In light of that finding, Hathaway asserted that "earlier research based solely on first-year statistics may seriously underplay the weakness of the LSAT as a predictor of minority student performance" (p. 93).

Powers (1984) compared first- and third-year grade point averages of black, Chicano (Mexican-American), and white students at 23 large, ABA-approved law schools and found that Blacks and Chicanos showed greater GPA improvement than did Whites. The median GPA increases were: .32 for Whites, .54 for Blacks, and .49 for Chicanos. GPA improvement among Asians, other Hispanics, and Native Americans was not studied because populations at the participating schools were too small to yield statistically significant results.

Brown and Marengo (1980), surveying admissions procedures at 13 ABA-approved California schools,⁷ found that noncognitive characteristics were used in making admissions decisions at all participating schools. All respondents claimed to consider employment during college and demonstrated leadership in admissions decisions. Twelve considered ethnicity; 11 considered race; 10 considered socioeconomic status; and seven considered segregated schooling as factors relevant to admissions decisions. As to the role of LSAT scores in admissions decisions, Brown and Marengo found their own experiences to differ somewhat from the assertions of their respondents:

70 percent (9) of the schools responded that they did not reject applicants with LSAT scores below a specified minimum Given our experience . . . in most cases minimum scores are established, formally or informally, during the review process. This calls into question the large percentage of law

⁷Researchers sent questionnaires to all (then) 15 ABA-approved law schools in California. Though fourteen responded, one submitted its data too late for inclusion in the study.

schools reporting that they do not reject applicants with LSAT scores below a specified minimum. (p. 27)

The applicant downturn from 1982 to 1986 engendered much concern about adjusting admissions policies and procedures in an effort to maintain enrollment levels without sacrificing quality of entering classes. Significantly, while admissions personnel struggled with the dilemma of maintaining standards from an applicant pool with lesser academic credentials (as indicated by GPA and LSAT scores), minority admissions were by and large excluded from the debate. Vernon and Zimmer (1985) deemed the goal of increased minority representation in law schools and the profession as separate from the general concern over applicant quality:

[A]n analysis that is driven solely by numbers can eliminate from consideration such important elements of the law school's operation as its affirmative action program. One of legal education's qualitative gains over the past ten to fifteen years has been the diversification of the law school community The fiscal problems brought on by the decline in demand must not be permitted to reduce that diversification. (p. 285)

And in their later study Vernon and Zimmer (1987) pointed out that over the period of applicant decline, the academic credentials of Blacks had not declined, although there were some significant declines in the credentials of other minority groups.

Noting that aptitude "may be measured differentially with respect to group membership, and [that] this should be considered in selection" (p. 39), Brown and Marengo (1980) offered three alternative models for admissions procedures, which all introduced "a deemphasis of the LSAT as an evaluator of law school potential with an accompanying emphasis on other factors which have been shown to be indicative of success in legal studies, as well as constitutionally permissible" (p. 39). The first is a "cultural diversity model" that

offers detailed operational definitions of various cognitive, noncognitive, and cultural diversity attributes, and an accompanying formula whereby applicants receive scores on the basis of demonstrated possession of said attributes. Noncognitive attributes include: positive self-concept; realistic self-appraisal; understanding of, and constructive reaction to, racism; preference for long-range goals rather than short-term or immediate needs; availability of a strong support person; successful leadership experience; and demonstrated community service and legal interests. The second model is a simpler, more highly-quantified model that takes minority status into positive account. The third model is based on an Urban Legal Studies program formerly coordinated by the City College of New York and New York Law School. High school graduates entered a six-year program leading to both a bachelor's degree and the J.D.⁸

Erlanger (1984) posited that "in selecting what are understood to be the best students, the admissions process is . . . determining . . . the social class origins and ethnic composition of the bar" (p. 374). While defending use of LSAT scores and GPAs as making the law school admissions process "objective and equitable" (p. 381), Erlanger questioned whether high-LSAT/GPA applicants are the "best" prospective lawyers, given the results of a Chicago study which demonstrated that "the elements of a traditional legal education vary greatly in their relevance to particular types of practice" (p. 382). He noted that a number of affirmative action admissions programs employ selection criteria "more directly linked to the realities of practice" (p. 382), and he tentatively advocated evaluation of a "practice skills"

⁸The program was discontinued sometime before 1985 (phone conversation with New York Law School Admissions Office, July 14, 1989).

orientation in admissions. Additionally, Erlanger noted that since admissions policies vary widely, they warrant closer study. Applicant self-selection--effected by perceptions of a lawyer glut, by resources and previous academic experience, and by an applicant's image of the type of person a law school is likely to admit--is another area woefully devoid of empirical information.⁹

Dawson (1984) similarly asserted that "[q]ualities and characteristics of applicants that are not necessarily predictive of traditional academic success . . . should be considered . . . and the LSAT . . . should be expanded to support these decisions" (p. 388). Dawson argued that, though many schools urge applicants to supply nonquantitative information about themselves, lacking a systematic identification of which information the school considers most strongly, an identification which itself depends on a clear articulation of institutional goals, either admissions procedures will continue to focus primarily on quantitative data or admissions personnel will have to make essentially ad hoc decisions.

In an attempt to improve prediction of first-year success, Chretien and Chretien (1985) summarized 11 studies, published between 1957 and 1974, attempting to identify noncognitive predictors. No personality variables conclusively or consistently had any significant relationship to first-year grades, though "the evidence was strong of a significant relationship between certain personality traits and dropping out of law school after the first year" (p. 51), despite aptitude or academic promise.

It is apparent that minorities have less chance of being admitted to law school than

⁹Erlanger briefly discussed a 1965 study by Warkov, which studied law student self-selection but examined only white males.

their nonminority counterparts. Some increase in the number of minorities admitted to, and enrolling in, law schools might be predicted given current trends: the percentage of minorities enrolled in first-year law school classes has increased from 7.1% in 1971-72 (ABA Section of Legal Education, 1987) to 13.0% in 1988-89 (ABA Section of Legal Education, 1989). As shown in Table III.1.2, recent increases are not distributed evenly across minority groups.

Table III.1.2 First-Year J.D. Program Enrollment (1982-1989)¹⁰

ACADEMIC YEAR	TOTAL FIRST-YEAR ENROLLMENT (%)	BLACKS (%)	BLACK % OF TOTAL	HISPANICS (%)	HISP. % OF TOTAL	ASIANS (%)	ASIAN % OF TOTAL	NATIVE AMERICANS (%)	NAT. AM. OF TOT/
1982-1983	42034 (-1.1%)	2217 (-0.9%)	5.3%	1319 (+4.2%)	3.1%	731 (+12.5%)	1.7%	154 (-3.7%)	.37%
1983-1984	41159 (-2.1%)	2247 (+1.4%)	5.5%	1266 (-4.0%)	3.1%	711 (- 2.7%)	1.7%	169 (+9.7%)	.41%
1984-1985	40747 (-1.0%)	2214 (-1.5%)	5.4%	1276 (+0.8%)	3.1%	766 (+ 7.7%)	1.9%	173 (+2.4%)	.42%
1985-1986	40796 (+0.1%)	2183 (-1.4%)	5.4%	1369 (+7.3%)	3.4%	799 (+ 4.3%)	2.0%	183 (+5.8%)	.45%
1986-1987	40195 (-1.5%)	2159 (-1.1%)	5.4%	1476 (+7.8%)	3.7%	929 (+16.3%)	2.3%	176 (-3.8%)	.44%
1987-1988	41055 (+2.1%)	2339 (+8.3%)	5.7%	1538 (+4.2%)	3.7%	1064 (+14.5%)	2.6%	189 (+7.4%)	.46%
1988-1989	42860 (+4.4%)	2463 (+5.3%)	5.7%	1643 (+6.8%)	3.8%	1282 (+20.5%)	3.0%	177 (-6.3%)	.41%

Comparison of the data in Tables III.1.1 and III.1.2 shows that Blacks are the only minority group whose enrollment rates do not achieve parity, relative to their representation in the applicant pool. Thus, for the years 1982-1983 to 1987-1988, Blacks represented from 6.8%-7.5% of applicants but from 5.3%-5.7% of those enrolled. By contrast, Hispanics represented 2.9%-3.4% of applicants but 3.1%-3.7% of those enrolled.

Ultimately, the racial and ethnic distribution of the students at any given law school depends on enrollment, which is in turn dependent upon acceptee recruitment efforts.

¹⁰ ABA Section of Legal Education, 1990.

Acceptee recruitment is a step in the admissions process largely ignored in the literature and not separated from overall discussions of recruitment of minorities as part of the application process. In other words, law schools need not only encourage minority applications, but should encourage enrollment of those who are accepted.

3.0 Financial Aid

There has been little investigation of the effect of financial aid opportunities on minority interest in pursuing legal careers, on minority student retention, or on career choice. In this section, the Commission examines financial aid as a factor in the decision to enter law school.

While not studying the issue of financial aid, Holley and Kleven (1987) concluded that law school admissions processes somewhat diminish minority enrollment relative to the pool of minority acceptees. This they expected, "[g]iven the income disparities between the white and minority communities" (p. 308 n.30); however, they optimistically continued, "[t]he fact that the gap is so slight is heartening and may well reflect law school financial aid programs for accepted minorities" (p. 308 n.30).

Several schools participating in the LSAC Challenge Grant program assessed the impact of financial aid on their minority recruitment programs. These empirical findings illustrate some of the issues which confront the legal education community generally. The University of Montana asserted that "the number of Indian students enrolling in the law school would increase substantially but for the funding barrier" (LSAC, 1987, p. 41). During the grant period, the University of Mississippi accepted 16 nonresident minority applicants, 15 of whom did not enroll; 14 enrolled in law school elsewhere and 12 of these did so

because "they were offered larger scholarships or financial aid packages" (LSAC, 1987, p. 36). Creighton University also encountered some difficulty with financial aid availability but also found that positive factors could outweigh financial burdens:

During the period of this project several applicants came to campus who were qualified for admission but were not in a highly competitive position for scholarship awards. Two such persons did find a way to enter the law school without special financial aid. By having personal contact with more of the "average" applicants, the members of the [Minority Scholarship Committee] were made aware that various factors, such as considerate processing of applications, a good physical plant, well-conducted classes, a minority group which is of good size by midwest standards, and minority students who are willing to assist in the recruitment process[,] help to successfully recruit minority persons, even in cases in which substantial financial grants are not available. (LSAC, 1987, p. 25)

Kramer (1987) and Yarbrough (1989) both focused on the fact that minorities who must assume large debts to finance their educations face considerable difficulties, given the limited chances minority graduates generally have in gaining highly remunerative positions such as large law firm employment. These authors disagreed, however, on the ramifications which current financing schemes have on minority interest in legal education. Kramer denied that "there is any relationship between the shift in student aid policy to heavier use of loans and the decline in enrollment of minorities or women" (p. 268). Conversely, Yarbrough, relying on evidence that minorities find large loans onerous, suggested that debt burden has led to decreasing black enrollment. And, though Kramer apparently would not agree with Yarbrough's view of the ramifications of the current financing structure on applicant pools, he predicted:

Minorities will either have to be given the lion's share of available scholarships or convinced that heavy debt is not harmful to their health, which may require considerable advocacy given evidence of their lack of success to partnerships in large firms. (p. 275)

The experience at Creighton University suggests that the manner in which minority acceptees are approached has an impact on enrollment. It is apparent that the factors which influence minority acceptee enrollment in particular schools and the effectiveness of various enrollment strategies in increasing minority enrollment have received insufficient research attention. The Commission's study examined minority enrollment strategies at each of the schools, as well as the ratio of enrollments to admittees at each school.

III. MINORITY STUDENT RETENTION AND SUPPORT

1.0 Preenrollment Preparation: CLEO and Similar Programs

The legal education community has undertaken a number of efforts to assist applicants to counterbalance prior educational deficiencies, efforts which have been either successful or inadequate, depending upon how the "problems" faced by prospective minority law students are defined.

In 1968, the Council on Legal Education Opportunity (CLEO) was established to help, and to encourage, minorities and disadvantaged students to enter law school and to become lawyers. CLEO seeks students who show promise but who would not be able to pursue a legal career without assistance. Henderson and Flores (1981) asserted that CLEO was conceived to provide law schools an alternative to the LSAT, as a measure of an applicant's qualifications for the study of law; nevertheless, "[p]ersons whose records show little real prospect for admission to accredited schools . . . are not generally accepted" into CLEO programs (p. 25). CLEO coordinates Regional Summer Institutes, which are six-week programs held at ABA-accredited law schools throughout the country, in cooperation with participating law schools, to "give the students, in effect, a 'preview' of law school, thereby

alerting them to the taxing rigors of the first year" (CLEO, 1989, p. 1). Institute curricula focus on abstract thinking and legal analysis, and each offers an intensive legal writing course. CLEO graduates apply independently to law school. However, admission conditional on successful completion of the summer CLEO program is common, and Summer Institute coordinators act as placement officers for CLEO students, monitoring progress and communicating with law schools. Presently, the Department of Health and Human Services supports CLEO students with annual stipends of approximately \$2,200.

Schrader (1974) found that CLEO participants earned lower class ranks than minority, non-CLEO participants, demonstrating that CLEO participation did not improve a "graduate's" performance beyond that of a nonparticipant's. More recent study of CLEO participants has looked beyond class ranking to gauge the program's "success;" rather than improvement in class rank, the focus is on retention and graduation from law school. From 1968 through 1976, 2,015 CLEO graduates entered law school; by 1979, 1,410 (70%) had graduated law school. While a 30% attrition rate seems dismal on the surface, comparisons of first-year, minority enrollment to subsequent third-year enrollment nationally show similar levels of attrition (ABA Section on Legal Education, 1985). Thus, CLEO participants, persons who "but for a program such as CLEO, would have little chance to attend an accredited law school because of economic and admission credential limitations" (Henderson and Flores, 1981, p. 21) completed law schools at rates equal to that of their peers.¹¹

¹¹CLEO has been the model for a number of similar programs at individual law schools across the nation, many of which have been used as screening devices (Ripps, 1986). Ripps, acknowledging that CLEO and programs like it provide advance exposure to the pressures of law school, saw the benefits of such programs as short-term, significantly increasing first-semester performance only. He advocated a long-term commitment to designing whole law school curricula to lower attrition of disadvantaged students. Taborn (1989) points out that CLEO institutes serve less than 10% of the black students enrolling at United States law schools each

Hampden (1989), while acknowledging that CLEO and similar prelaw school programs have enhanced minority enrollment in law schools, asserted that these gains had been "frequently at the cost of very high failure rates for those who have been inadequately prepared for the law school experience" (p. 210) (footnote omitted). Hampden advocated development of programs "to identify potential law school applicants while in college" (p. 211) rather than wait as the CLEO program is designed, until potential applicants graduate from college. She described New Jersey's Summer Institute for Pre-Legal Studies. Participants in this undergraduate program, unlike participants in postundergraduate programs, benefitted from an opportunity to alter their subsequent course of study to address weaknesses and to further develop identified strengths.

2.0 Data on Minority Attrition

As noted above, minority attrition from law school is a significant factor frustrating efforts to increase minority presence both in law schools and in the legal profession. Minority law student attrition continues to contribute significantly towards keeping minority representation in the legal profession at relatively low levels. Table III.1.3 provides data on white and minority attrition rates.

year, leaving the vast majority of educationally-disadvantaged students to their own devices.

Table III.1.3 Annual Attrition (Fall 1982-Fall 1988)¹²

	L1	L2	(ΔL2:L1)	L3	(ΔL2:L3)	[ΔL3:L1]
	1982	1983		1984		
Whites	NA	NA	NA	33551	NA	NA
Blacks	2217	1813	(-18.2%)	1686	(-7.0%)	[-24.0%]
Hispanics	1319	1142	(-13.4%)	1035	(-9.4%)	[-21.5%]
Asians	731	610	(-16.6%)	600	(-1.6%)	[-17.9%]
Nat. Amer.	154	126	(-18.2%)	111	(-11.9%)	[-27.9%]
	1983	1984		1985		
Whites	NA	33212	NA	32313	(-2.5%)	NA
Blacks	2247	1878	(-16.4%)	1791	(-4.6%)	[-20.3%]
Hispanics	1266	1102	(-13.0%)	1085	(-1.5%)	[-14.3%]
Asians	711	610	(-14.2%)	622	(+2.0%)	[-12.5%]
Nat. Amer.	169	135	(-20.1%)	124	(-8.1%)	[-26.6%]
	1984	1985		1986		
Whites	35710	32997	(-7.6%)	32001	(-3.0%)	[-10.4%]
Blacks	2214	837.5	(-17.0%)	1735	(-5.6%)	[-21.6%]
Hispanics	1276	1145	(-10.3%)	1115	(-2.6%)	[-12.6%]
Asians	766	678	(-11.5%)	650	(-4.1%)	[-15.1%]
Nat. Amer.	173	145.5	(-15.9%)	148	(+1.7%)	[-14.5%]
	1985	1986		1987		
Whites	35750	32906	(-8.0%)	31809	(-3.3%)	[-11.0%]
Blacks	2183	1800	(-17.5%)	1690	(-6.1%)	[-22.6%]
Hispanics	1369	1197	(-12.6%)	1155	(-3.5%)	[-15.6%]
Asians	799	685	(-14.3%)	724	(+6.0%)	[-9.4%]
Nat. Amer.	183	155	(-15.3%)	148	(-4.5%)	[-19.1%]
	1986	1987		1988		
Whites	34903	32255	(-7.6%)	31357	(-2.8%)	[-10.2%]
Blacks	2159	1761	(-18.4%)	1728	(-1.9%)	[-20.0%]
Hispanics	1476	1285	(-12.9%)	1209	(-5.9%)	[-18.1%]
Asians	929	804	(-13.5%)	825	(+2.6%)	[-11.2%]
Nat. Amer.	176	144	(-18.2%)	149	(+3.5%)	[-15.3%]

As the data in Table III.1.3 show, most student attrition, for all groups, occurs by the end of the first year of law school. Moreover, attrition of Blacks, Hispanics and Native Americans markedly exceeds that of Whites. The numbers, however, do not speak to the reasons for high minority attrition.

¹²All figures exclude enrollment at ABA-approved schools in Puerto Rico (ABA Section on Legal Education 1985; 1986; 1987; 1988; 1989).

Academic preparedness and academic attrition have understandably drawn much attention. However, data indicate that minorities are more likely than nonminorities to withdraw for nonacademic reasons as well as to be dismissed, without right to reenter, for academic reasons. During 1978-1980, 11% of enrolled minority law students were dismissed without right to reenter, compared to 4% of nonminority students. During the same period, 10% of enrolled minority students withdrew with right to reenter, as did 8% of nonminority students (LSAC, 1986). Significant efforts have been made to consider subjective indicia of aptitude to offset the exclusionary effect of admissions decisions made exclusively on the basis of quantitative indicia. Having made the commitment to expanded admissions despite facially-negative predictors, efforts have been made to decrease attrition for academic reasons.

3.0 Academic Retention Strategies

In an attempt to address disparities in student academic background, some law schools have summer and/or academic year programs that provide remedial help to students who show a need for such assistance. Summer programs often are directed specifically at minorities and occasionally are required before admission. Ongoing, first-year help can take the form of one-on-one tutorials, weekly clinics, walk-in academic assistance centers, and highly-structured, intensive academic programs (LSAC, 1988). Some programs have been more successful than others in raising grade point averages; nearly all report success in increasing student self-confidence, although there is often tension about being labeled a "problem" or "high-risk" student.

Brown and Vasquez (1982) discussed Berkeley's Professional Development Program

(PDP), designed to help students in mathematics and science courses, as a model of a minority student retention program. PDP also serves as a model for identifying some of the difficulties which some minority students face in higher education, including deficient study skills, prior education experience lacking sufficient rigor, isolation from classmates, and exclusion from the encouragement and emotional support found in study groups. Minority students also worry that academic support programs constitute remediation, which is contrary to their self-perception. PDP successfully avoided perceptions that it simply functioned as an "easy out" for less-prepared students. Participants were expected to excel academically and did excel to an impressive degree (p. 73).

Leonard (1987), analyzing the recent downward trend in law school applicants and its implications for school's trying to maintain standards without decreasing class size, championed offering tutorial to students having academic difficulties. He described the Dean's Tutorial Society at the University of Indiana School of Law. Society members top 25%, second-year students offer one-on-one, confidential tutorials to first-year students who "performed inadequately in the first semester of law study" (p. 92) (footnote omitted). Comparing the academic performance of students who participated in tutorials with the performance of students who declined to participate, Leonard found that short-term performance of tutorial students was higher than that of nontutorial students; however, the ultimate performance of both groups was practically identical. Though tutees did not benefit academically as compared to nontutees, Leonard posited that the Society created secondary benefits including: retention of students who, untutored, would probably not succeed in law school; helping those unsuited to law study to recognize their limitations; and creating

stronger legal thinkers among the ranks of the tutors.

Participants in the LSAC Challenge Grant program implemented several variations on preenrollment and academic support programs. In one variation, schools offered summer programs--some of which were conditional admission programs--to strengthen writing and analytical skills.¹³ A second version of the academic support idea implemented with the assistance of LSAC Grants was the "comprehensive" program, combining summer preparation with ongoing, academic-year support.¹⁴ A third version of LSAC-supported academic support programs provided a postenrollment, academic year program.¹⁵

Findings and observations from these programs illustrate some of the difficulties faced by schools considering academic support programs. At both the University of Colorado and

¹³Under an LSAC grant, the University of Colorado offered in 1984, 1985, and 1986, a summer program for unconditionally-admitted students "whose LSAT scores and undergraduate GPAs indicated that special academic assistance would be beneficial to their academic success" (LSAC, 1987, p. 21). In each year a number of summer participants also received stipends to offset the cost of the course. John Marshall Law School developed a special admission program (the Legal Education Access Program [LEAP]) "to improve the skills of applicants who were denied admittance to the first-year law class . . . because their admission credentials were somewhat below the law school's regular admission standards. . . . Upon successful completion of the . . . LEAP course, students are admitted to law school in the following semester, assuming reduced course loads" (p. 28). North Carolina Central University School of Law developed a month-long summer preorientation program both for "regular" admission and conditional-admission students (p. 44).

¹⁴At the University of Kansas School of Law, in 1985 and 1986 a number of minority admittees "were admitted conditionally upon participation in the [summer] Minority Student Writing Enrichment Program" (LSAC, 1987, p. 30). During the 1985-86 academic year "students continued to attend seminars presented by their professors and personnel in the program" (p. 31). The University of Oregon's Academic Support Program (ASP) combines an eight-day summer orientation, tutorials, a separate legal writing and research section, and individual meetings with the Program Director into a comprehensive, voluntary, full-year program.

¹⁵Antioch used the LSAC grant to develop and assess its Professional Methods program, which combined a mandatory, first-semester course with a voluntary second semester clinic for students who had either failed the first-semester component or had failed "at least two [first-semester] midterm examinations" (LSAC, 1987, p. 14). At the University of British Columbia, the first-year, academic support program for Native American law students offered basic note-taking, briefing, and exam-writing techniques, as well as some substantive review in each first-year course (p. 18). Creighton University used its Challenge Grant for, *inter alia*, support of book expenses related to a student-run tutorial program (p. 23). The University of New Mexico developed an exam-writing workshop for first-year law students, to be held between semesters (p. 42).

at North Carolina Central University, some prospective participants declined participation so as not to forego summer employment, despite the fact that the Colorado program offered stipends to the majority of enrollees.

Some Challenge Grant schools squarely address the question of costs. The project director of the University of Oregon's Academic Support Program (ASP) has asserted that "[a] successful academic support program can be achieved at a moderate dollar cost to the law school" (Finke, 1989, p. 60).¹⁶ Similarly, the director of the University of Colorado's summer program has asserted that, based on experience with the Colorado program, "a retention program is economically feasible for law schools" (LSAC, 1987, p. 22). Experience with the summer preenrollment course at North Carolina Central University School of Law led to the conclusion that "a summer program can help to identify those [at-]risk students who have the best chance for success in law school, and that this result enables a law school to focus its limited resources on the students most likely to benefit from them" (LSAC, 1987, p. 45).

A number of the LSAC Challenge Grant participants attempted to gauge statistically the effects of their programs but found no statistically significant benefits. At Antioch "[w]hile a statistical study demonstrated no correlation between participation in the Legal Methods Clinic and improved pass rates in the spring and summer semesters, clinic participants showed marked improvement in their ability to master the basic legal analysis and writing skills" (LSAC, 1987, p. 15). At the University of Kansas, "[d]ata on minority

¹⁶Nevertheless, at University of Oregon, "[b]udgetary constraints require the school to limit the program to approximately twenty-four students" (Finke, 1989, p. 62).

students' admissions index, LSAT score, undergraduate grade point average and first-semester law school grades were examined to see if any clear pattern emerged that would indicate whether the program had affected student success in law school. Analysis of this data was not helpful in the evaluation of the program" (LSAC, 1987, p. 31). At the University of New Mexico, "[s]econd-semester . . . grade point averages . . . showed the 'regression to the mean' effect: extreme GPAs at both ends of the distribution moved closer to the middle of the distribution; high GPAs moved down and low GPAs moved up . . . [and, thus,] there is no evidence to support a causal connection between participation in the exam-writing course and the subsequent improved performance in law school" (LSAC, 1987, p. 43). And at North Carolina University, summer 1986 participants' credentials were compared to the first-year classes of 1983, 1984, and 1985, but no significant advantage was apparent (LSAC, 1987, p. 45).

Other findings supported Leonard's (1987) assertions of psychological and institutional benefits. Thus, at the University of British Columbia, "students assessed the support system . . . as effective in meeting the needs of native students without unduly burdening them with extra work" (LSAC, 1987, p. 19). Reportedly, the Creighton University tutorial program "is very effective and receives high marks from the student participants" (LSAC, 1987, p. 25). At the University of Kansas, "[s]tudents perceived that the summer experience and the ongoing support were quite helpful Observations from faculty and comments from students themselves indicated a much higher degree of comfort and confidence in the law school environment" (LSAC, 1987, pp. 31-32). Similarly, at the University of New Mexico, "the students surveyed felt that the course helped them to develop self-confidence and to

prepare for classes and exams in a different way" (LSAC, 1987, p. 43).

Finke (1989) recently described and evaluated the experiences of Oregon ASP students towards providing a model of effective academic support for educationally disadvantaged law students.¹⁷ According to Finke,

[t]he primary purpose of the program is to help participants achieve their full academic potential, whatever level of success that might be, and to make it possible for graduates to become successful members of the legal profession who can serve as role models for others. (p. 61)

ASP combines an eight-day summer orientation, a tutorial program, a year-long legal writing and research section, and individual meetings with the program director. As described by Finke, the most significant, effective, and encouraging component of the program is the seminar/tutorial component staffed by upperclass students. These tutors, chosen primarily on the basis of excellent performance in first-year courses, dedicate from six to fifteen hours per week to seminars and group review sessions, the former of which go over material already presented in class but "from a different perspective" (p. 63). Another unique component of ASP is the year-long writing section, which covers in two semesters what other students at the University complete in only one semester. The ASP writing section also excludes the "typical" appellate briefing and oral argument components of the "regular" writing class. Finke asserted that "[a]lthough this may be a drawback for students interested in moot court competitions, the intent is to ensure ASP students enough time for their

¹⁷Finke began with an overview of the debate over the propriety of affirmative action academic support programs, a debate which includes considerations of the rationale for offering special support to some students but excluding others. Finke supported special academic support for minority students for reasons that include the possibility for increased service to minority communities by lawyers who "may better serve a minority community because they understand better the community and the problems it faces" (p. 59) (footnote omitted) (emphasis in original).

tutorials" (p. 65); moreover, excluding mandatory moot court competition from the first-year curriculum--whether or not offset by commitments to other academic pursuits such as tutorials--may increase retention of all students, according to a preliminary study done by Smith of the University of Pennsylvania.¹⁸

Finke reported that "[ASP] participants have performed significantly better during their first year of law school than their LSAT score predicted" (p. 66) (footnote omitted). Class rank improvements for the participants in 1984-1985, 1985-1986, and 1986-1987 were 19%, 23%, and 9%, respectively. Thus, for example, a 1984-1985 ASP student who, based on the LSAT score, was predicted to rank in the bottom tenth of the class completed the first-year in the top half of the class. Moreover, "program participants tend to maintain about the same grade-point average during their second and third years" (p. 66). As a further indicator of ASP success, Finke compared the first-year performance of minority students entering Oregon from 1978 through 1980 with ASP participants from 1984-1987. Finding that "the average LSAT scores of the two groups appear to be comparable . . . the first-semester mean GPA for minority students was lower each year [of the first period] (1.96, 1.67, and 2.31) than for the second period (2.59, 2.28, and 2.36)" (pp. 69-70).¹⁹ The

¹⁸Under the auspices of the ABA, Smith surveyed 32 law schools regarding, inter alia, the structure of moot court programs (Skillman, 1986). Smith found that:

[T]he retention rate for minority students increases when moot court participation is not required of first-year students. The study found that while required moot court participation reduces the retention rate for all minorities, moot court participation reduces the retention rates for black students by an even higher percentage. (p. 533)

Unfortunately, statistical analysis of the Smith survey has, to date, not been completed; therefore, the study has not been published (confirmed in phone conversation with Smith on 11 May 1990).

¹⁹What is unclear despite Finke's analysis is the level of success attributable to self-selection. ASP is a voluntary program and Finke makes no mention of the academic success (or failure) of enrollees--minority or otherwise "educationally disadvantaged"--offered ASP participation who declined to enroll. Nevertheless, it is clear that the majority of minority first-year students at Oregon participated in ASP and, as Finke shows,

one consistently negative finding from Finke's evaluation is that "[t]he program does not appear, however, to provide significant benefit for participants whose LSAT scores are below a certain level" (p. 67).

4.0 Personality Factors in Student Attrition

Several studies summarized and reviewed in Chretien and Chretien (1985) contributed to the effort to identify noncognitive factors that contribute to attrition. As already noted, Chretien and Chretien observed that "the evidence [is] strong of a significant relationship between certain personality traits and dropping out of law school after the first year" (p. 51), despite aptitude or academic promise. Two early studies by Miller (1965), which were subsequently summarized by Chretien and Chretien, focussed on the effect of personality traits on dropping out of law school.²⁰ In essence, those studies found that Extroverted Feeling Judgment with Sense Perception types dropped out of law school at significantly higher rates than Introverted Sense Perceptive with Thinking Judgment types. Put more colloquially, self-confidence and tough-mindedness were the traits present in survivors but lacking in attritees. While these findings seem rather commonsensical, Chretien and Chretien recommended that instruments such as the Myers-Brigg Type Indicator be used in identifying and counselling career choices. Schrader (1974), the one researcher summarized by Chretien and Chretien to have looked exclusively at minority students, found that

the majority of these students do at least as well or better than predicted by the LSAT.

²⁰The Miller studies used a Myers-Brigg Type Indicator to classify students as composites of four characteristics: extraversion-inversion, sensation-intuition, thinking-feeling, or judging-perceiving. Given the time frame, it is unlikely that Miller's sample included many--if any--minority students. If nothing else, the results discussed here suggest yet another need for more investigation.

[minority] students who were receiving two-thirds or more of their expenses mainly as loans were noticeably less likely to withdraw for academic reasons than students who received less as loans or who received similar amounts in the form of scholarships or grants. (Chretien and Chretien, 1985, p. 50)

It may surprise some that students facing loan repayments should fare better academically than students studying under scholarships or grants; other researchers have generally deemed loans burdensome, compared to scholarships or grants.

5.0 Law School Atmosphere

This topic has not been studied specifically as a potential factor in student attrition, yet we discuss it here as a factor in any student's decision to leave an academic program.

Banks and Blocker (1989) examined "African-American, Hispanic-American, and White male perceptions of the attitudes of law teachers toward students and differences in voluntary participation for the three groups" (p. 4-5). They based their findings on in-class surveys of 1,930 students at 14 law schools, including two historically black schools, during the academic years 1987-1988 and 1988-1989. None of the nonminority schools had minority enrollments greater than 9%, suggesting that none of the sampled schools were "elite" schools, which tend to have higher minority enrollments. According to Banks and Blocker, "Racially, the sample was 76% white males,²¹ 18% African-American, and six-percent

²¹ "[L]awschools historically have been the domain of White males[;] accordingly [the authors] use this group as the benchmark for the analysis of racial differences in student perceptions of the law school classroom" (p. 4). The isolation of white males as the "benchmark for comparison" (p. 6) may have tended to exacerbate the racial disparities found, given the theory that attitudes of white females more closely approximate those of ethnic minorities. Taborn (1989) asserted:

The female perspective is very similar to the Black American world view in that both endorse cooperation over competition, both have been subjected to mainstream "inferior" designations via institutional sexism and racism, and both have scored less well on law school exams than have their White male counterparts. (p. 273)

Banks and Blocker also cited several studies of women's undergraduate experiences of in-class sexism and note that "African American students reported similar responses to perceived racial bias in medical schools" (p. 23 n. 22).

Hispanic American" (p. 6) (footnote omitted). Data combined responses to a questionnaire and taped interviews with students completing the questionnaire.

The bulk of Banks' and Blocker's findings would fit under the rubric of "respect for students." Minority students more than Whites perceive that professors embarrass students, but students at historically black law schools perceive more faculty abusiveness than minorities at white schools. "At [historically black schools,] 11.1% [of minority students] said a 'majority' of professors embarrass or put down students, compared to 3.1% at predominantly White institutions" (p. 8).²² Additionally, "African-American students are more likely to perceive the use of offensive humor by professors to be frequent [27.1% so responding], while Hispanic-Americans believe this to be an infrequent occurrence [51.4% so responding]" (p. 15). Mirroring this offensive faculty behavior, "[a]necdotal information suggests that white [male] students . . . display a lack of respect for the responses, questions, and comments made by people of color" (p. 10).

The authors examined in-class participation as an indicator of "performance." Hispanic-Americans, more so than either Blacks or Whites, never volunteer in class, and "students of color at predominantly White institutions are much more likely (20.5%) to report never volunteering" (p. 12) (emphasis in original) (footnote omitted), "[b]ut Hispanic-Americans are over three times as likely as African-Americans to report never volunteering

²²A finding of more abusive treatment of minorities at predominantly minority law schools may surprise some while merely confirming the experience of others. For example, Littlejohn and Rubinowitz (1987) observed that black law schools of the late 1960s "provided a supportive academic and social environment for Blacks alienated by the atmosphere at predominately white law schools" (p. 443). Conversely, Hill (1987) argued that "Black legal educators continue to approach Black students as though (1) they did not belong in the institution; or (2) they were intellectually inferior; or (3) they could not conceptualize abstractions" (p. 461) (footnote omitted).

in class [23.6% of Hispanics, 7.2% of Blacks responding]" (p. 15) (emphasis in original).

In summary, Banks and Blocker noted disparities both between the experiences of white males, as compared to minorities, and the experiences of Blacks, as compared to Hispanics. Nevertheless, the authors asserted that minorities as a group experience discomfort in the classroom and this "must have some negative effect on learning" (p. 18). Banks and Blocker, in suggesting some areas for additional research, called for inquiry into "student culture, . . . as it affects students and as it mirrors the profession" (p. 19).

Intuitively, a number of law school "climate" variables contribute to students' experiences in any educational setting. Connecting any one variable, or set of variables, to academic performance, retention, or self-chosen attrition is difficult. Therefore, it should not be surprising that little empirical study has been done on the effect of "climate" variables--such as size of minority student body, systematic inclusion of minority experiences in classroom discussion, presence of minority faculty--on objectively-measured, subjectively-motivated decisions such as self-attrition. One preliminary study suggests that minority student attrition decreases, relative to increased minority faculty representation, but considering the variable of minority faculty representation in isolation may mask the more significant factors of students' preenrollment qualifications and/or academic support mechanisms present at a given school.²³ Moreover, while many commentators assert the

²³Smith preliminarily found that:

the presence of minority faculty had a positive (statistically significant) relationship upon the retention rate of first year black students. The retention rate for first year black students increased by 2.29 percentage points for each percentage point increase in minority faculty positions. (Skillman, 1986, p. 532)

However, the same study also found that retention is higher at elite schools, which, excepting historically black schools, have higher minority faculty representation, but which also tend to have minority student bodies with higher than average quantitative credentials.

need for more minority law faculty (see Section VI), it has been argued that ways of teaching law and of assessing academic achievement, more than the identity of the teacher or examiner, adversely affect the minority students' in-school experiences.²⁴ Finally, on-campus racism and institutional responses thereto--or the lack of responsiveness--are factors of growing current concern, both at universities and in law schools.²⁵

Very little research has focused on law school atmosphere as it affects minority student sense of well-being and retention. Thus, the Commission's study examines minority student perceptions of law school atmosphere, the extent to which students feel comfortable and supported in their respective schools, and the factors which contribute to a sense of support and belonging.

²⁴For example, Bell (1981) argued that:

Even the most comprehensive knowledge of the subject will not suffice for the student who is able neither to translate this knowledge using the rather specialized analytical techniques required by law school examinations, nor to communicate in the upper-class writing style that many law school teachers equate with "good writing." (p. 306)

Similarly, Hill (1987), referring to the problem of success among minority first-time-takers of bar exams, stated: "First, the problem is more psychological than intellectual in nature. Second, it is related to the acquisition and development of skills and not to a lack of substantive knowledge" (p. 458) (footnote omitted).

Feinman and Feldman (1985), while not focussing specifically on legal instruction of minority students, argued that a systematic approach to "mastery learning" can lead to academic excellence for any student. They asserted:

In general, implementing mastery learning in a law school involves four steps: definition of objectives and formulation of learning units, formative evaluation, development of alternative learning resources, and final evaluation and grading. (p. 532)

²⁵Racism at law schools has been on the rise. Metz (1990, February) documented incidents at a number of law schools, including several New York institutions. She focused on the ongoing debate among the competing concerns of freedom of speech, equal opportunity for education without undue barriers to achievement, and institutional support of minority students. Even more recently, Time (Gibbs, 1990, May 7) reported on the rise of racist incidents on college campuses. Universities and law schools have tried to "regulate" racist speech in a number of ways, which efforts have been subjected to successful legal challenges.

IV. CURRICULUM AND LAW SCHOOL ACTIVITIES

1.0 Curricular Attention to Minority Concerns

A quantitative assessment of the development of race as an issue for legal discussion can be made from Powers' (1987) A Study of Contemporary Law School Curriculum. Powers duplicated the structure of earlier studies of curricula offered during 1974-1975 in order to make comparative assessments of curricula in terms of catalogue listings of courses versus courses actually offered versus actual enrollment in course offerings. Elective courses were grouped under 33 headings, including Discrimination and the Law, the rubric under which Powers grouped courses such as "Blacks and American Law" and "Race Relations Law." Compared to 1974-1975, catalogue listings²⁶ under Discrimination and the Law increased 69.5%, the largest increase in any category. Actual offerings in this area increased 92.9%, less only than "Miscellaneous" courses and "Torts and Compensation for Injuries." Further, the average class size for Discrimination and the Law courses increased from 19.71 students to 23.55 students, the largest increase in any category, while the average class enrollment in all areas dropped during this era of diminishing faculty-to-student ratios. Powers did not provide information on the ethnicity of enrollees, but it is clear that the influx of minority students in law schools cannot have accounted for the entire increase in enrollment (see Table III.1.2 above).

Crenshaw (1989) and Taborn (1989) addressed the minority student experiences of objectification, subjectification, and alienation in the modern law school classroom. Neither

²⁶To take account of the increase in the number of law schools, Powers prorated data on gross numbers such as course listings or actual offerings.

author used empirical data, relying instead on the small body of available literature and on their own experiences. Both writers posited that the allegedly neutral, colorblind approach most often required in doing legal analysis, what Crenshaw calls "perspectivelessness," actually reflects a white, dominant race perspective. "Objectification" is illustrated by asking a minority student if racial hatred engendering extreme emotional distress is a defensible basis for acquittal on manslaughter charges (Taborn) or asking a Japanese student to assess the reasonableness of Japanese internment (Crenshaw). "Subjectification" is the tendency of professors to request minority students to "testify" about their experiences of discrimination--which testimony, being per se subjective--is marginal to the analysis of legal doctrine (Crenshaw). Crenshaw extended her discussion into the substantive area of anti-discrimination law as illustrative of an area where a dominant race perspective--the "discrimination approach," which looks for an intentional actor--prevails over that of the victims of discrimination--the "domination approach," which seeks to remedy the conditions that render the minority subordinate to the dominant race.

2.0 Law School Activities

Very little has been done on the extent of minority participation in law school activities and on the factors that influence such participation. Sarnoski (1989) surveyed law review selection procedures "to document the result of the present law review selection process as it relates to minority students, and to analyze this result under the disparate impact theory of discrimination" (p. 460). Sarnoski's sample consisted of 20 "top" schools with minority populations from 7% to 36%. The minority population in each school and on each law review was compiled for the years 1985-1987. Minority representation in the entire

student body was chosen for comparison with review membership so as to include all potential applicants.²⁷ Data were tested for disparate impact by applying a binomial distribution model and the EEOC Uniform Guidelines on Employee Selection Procedures (the so-called "relative chance test"). Sarnoski analyzed the law review selection process "as if it were covered by Title VII" (p. 469), casting minority students in the role of plaintiffs, casting law reviews in the role of defendants, and applying relevant case law. Sarnoski argued that law review membership has identified benefits and that under relevant case law significant deprivation of a benefit constitutes discrimination (*Califano v. Boles*, 1979). An earlier study of law review members at Brigham Young University identified facilitation of postgraduate placement as the primary benefit of review membership (Riggs, 1982). Nevertheless, Sarnoski, deeming review membership "one of the primary tools of learning in law school" (p. 487) cast the argument as one of discriminatory deprivation of educational benefits.²⁸

Analysis showed a disparate impact at 17 or 18 of 20 schools, depending on the statistical test used. Application of a "relative difference test" (a test for nonstatisticians) showed that at all but one school the procedures used reduced a minority student's chances for selection by 20% as compared to the procedural effect on white applicants. Sarnoski

²⁷Some schools require all prospective review members to compete in a writing competition. Other institutions make automatic offers of membership to top students without requiring a writing sample. A third option, which may make Sarnoski's sample overinclusive, is the system which restricts even entrance into the writing competition to students maintaining a minimum GPA.

²⁸Schlegel (1986) would, it seems, utterly dismiss this approach. He commented:
[T]he notion that law review was and is designed as a special educational experience is preposterous.

The point of law review from the beginning has been to separate the best from the merely good for the benefit of fancy employers--first corporate, then corporate and judicial. . . . Law review training is relevant for employers and for no one else (p. 18)

noted that the defense of business necessity cannot apply to the subjective aspects of the selections procedures. Nevertheless, the law reviews, not relieved of the burden of justification, would have to demonstrate necessity through other methods. And even assuming that law reviews could show necessity, prospective members could counter with a showing that other selection devices would not have an undesirable racial effect.

Sarnoski posited four possible responses to these findings (p. 485-87). First, some could decide to maintain the status quo, defending current procedures with arguments of meritocracy. One response to this is to point out that law reviews commonly offer membership to top students who have not submitted writing samples, a fact which calls into question the claim that those students have "demonstrated" their writing ability. Second, schools could adopt affirmative action selection procedures. Indeed, such programs are in effect at the only two schools to have demonstrated no disparate impact under either statistical test applied during this study. A third option might be some less aggressive action, such as discussion of the whole application process with minority students. This has actually been done at the one school that showed no disparate impact under any of Sarnoski's three tests. A final option, the one supported by Sarnoski, could be to allow applicants to include a personal statement with their writing samples, an option employed at one of the schools included in this study.²⁹

It is apparent that there has been very little examination of curriculum and of

²⁹Diversification of law review memberships has engendered national attention. Recently, the ABA Journal (Anderson, 1989, September) featured a short item on diversification of selection procedures at Columbia, Cornell, George Washington University, Harvard, University of Virginia, and Yale. The concerns of many involved in this debate have a familiar ring. In a statement which could have been made by a Director of Admissions commenting on affirmative action, the editor of the George Washington Review asserted, "Our aim is simply to diversify without sacrificing standards" (p. 50).

cocurricular activities from the perspective of the minority student experience. The Commission's study focused on how law schools are addressing minority relevance in the curriculum, not only from the perspective of offering courses about race, but also from the perspective of ensuring that all courses have been reviewed to include minority history and experiences. The Commission's study also sought information about minority participation on law reviews, in moot court programs, and in clinical programs.

V. JOB PLACEMENT FOR MINORITIES

1.0 Data on Minority Placement

The National Association for Law Placement (NALP) maintains the most comprehensive data on placement of law students by ethnicity. Generally, placement in private practice and judicial clerkships has increased for all ethnic groups, while entrance into public-interest careers has declined. When comparing practice-type employment for minorities to that of Whites, the most striking disparity is the disproportionate representation of minorities in public interest and government jobs and their underrepresentation in private practice. However, those disparities are decreasing. According to the Law School Admission Services (1988) in 1979, 54% of all graduates, but only 34.3% of minorities, entered private practice. By 1986, 61.6% of all graduates, and 54% of minorities, entered private practice. In 1979, only 5.4% of all graduates, but 19.9% of minorities, entered public interest practice. By 1986, only 3% of all graduates, and 7.5% of minorities, entered public interest practice. In 1979, 14.7% of all students, but 26.8% of minorities, entered government practice. By 1986, 12.0% of all graduates, and 17.2% of minorities, entered government practice. These figures suggest a progression towards parity, but marked

disparities remain for some specific minority groups. For example, disaggregated statistics for employment category by ethnic group for the class of 1986 show that 65% of white, but only 44.1% of black, students entered private practice. Moreover, entrance by Whites into private practice was exceeded by Asian Americans (65.6%) and graduates of unknown ethnicity (66.7%). What NALP figures do not address, but what is of concern to the Commission, is the interplay of factors--students' personal preferences, systematic barriers, institutional support--leading to the continuing, albeit dwindling, disparities in practice type distribution.

An empirical study by Eaves et al. (1989) focused on gender, ethnicity, and grades as factors in law-firm interview decisions for students at UCLA. Private practice law firms were chosen "because those are the positions that the students . . . hoped to obtain" (p. 190). Given the size and temporal limits of the study (i.e., one semester) the authors could draw only tentative conclusions. Most important among these was the suggestion that on-campus interviewers may more readily disqualify minorities in the bottom three GPA quartiles after only one interview than nonminorities with similar GPA credentials. Given the small minority representation in the sample, the study yielded no statistically significant differences between white and minority students.

2.0 Special Efforts to Assist Minority Students with Placement

Discriminatory interviewing practices have recently received considerable attention.³⁰

³⁰Perhaps the most widely publicized example has been the Baker-McKenzie "incident" of December 1988, when an interviewer asked allegedly inappropriate questions of a minority third-year student from the University of Chicago Law School (Anderson, June 1989). The reported remarks are purposefully designated "allegedly inappropriate" given arguments such as the following by a correspondent responding to the Anderson article:

[I]t is entirely appropriate to ask a prospective lawyer how she would react if such filthy

In addition, the legal community has made some substantial efforts prior to, and apart from, recent events.

In 1987, NALP, in conjunction with the Northeast Black American Law Students Association (NBALSA), held a minority law student recruiting conference. Conference coordinators surveyed each participating employer "to assess the numbers of job offers resulting from the Conference, whether any particular patterns could be observed about the schools or students benefiting from the Conference, and whether any differences existed between the hiring trends of private and public sector employers" (Harris, 1988, unpaginated). Eighty of 175 participating employers provided responses to an assessment questionnaire. Conference participation led to actual job offers for approximately 9.2% of all students: interviews with public sector employers led to more job offers (9%) than did interviews with private sector employers (5%). Sixty job offers were made to 53 students from 20 different schools; "the phenomenon of a few 'star' students receiving a majority of the offers did not occur to any significant degree." Further,

Of the 53 students receiving offers, 3 (15%) were Asian; 30 (57%) were Black; 14 (26%) were Latino; and 1 (2%) was East Indian. These figures . . . seem to be consistent with the ethnic composition of the total pool of student-conference participants. (unpaginated)

NALP's Fair Employment Practices Committee recently surveyed law schools and legal employers for information on special placement initiatives to assist minority law

epithets were directed at her. Any lawyer who cannot disregard the many insults that come one's way in the pursuit of justice will be a poor advocate, indeed. (Parks, 1989, August, p. 10)

Though Baker and McKenzie disseminated a comprehensive Equal Employment Opportunity Program only three months after the original incident, the firm's troubles apparently continue. After a September 25th interview in New York, a University of Michigan student lodged new allegations against the firm (Markoff, 1989, November 6).

students (NALP, 1987, April).³¹ That directory demonstrates the diversity and breadth of special programs for minority students, ranging from job fairs to career forums, panels, and information sessions; employer receptions; part-time internships and clerkships; and mentoring programs. Evaluations of the various programs, provided by respondents themselves, demonstrate an array of problems encountered by students and employers alike. At one extreme were the comments of one western law school on its minority recruitment program: "Our students were very encouraged, and appreciated the feeling that Placement was in tune with some special situations." Another western school reported that a local job fair "[i]nspired many students of color to consider and pursue a career in law despite stereotypes [and] negative feedback." An eastern school considered it problematic that "[f]irms [are] looking for traditional credentials [and are n]ot integrating students[s] into firm[s]." One New England firm, participating in a 17-firm coalition noted, "Both students and minority lawyers currently in practice . . . emphasized the difficulty of pioneering [changes in hiring practices]. Being the first and only black in a traditionally white law firm was very difficult." They added further that "Students . . . commented that [the coalition's] efforts were not perceived as genuine, as so many minority students . . . have been turned down by the participating firms," to which employers responded "that their past hiring patterns did not reflect future intentions. Their participation was genuine in creating more formal and targeted approaches to improve minority hiring" On a similar note, a southern school reported that "[s]tudents voiced some concern that employers conducted

³¹This document is deemed confidential, so respondents are not identified. The document is also unpaginated, so page numbers for quotes below are unavailable.

interviews for public relation purposes only and were not serious about hiring." A New York law school participating in a regional job fair commented that students were "[v]ery pleased to have [the] opportunity to meet employers; disappointed by [the] delay in hearing from employers after [the] interview and in some cases by no response." A private firm, commenting on a Rocky Mountain regional job fair called the program "[f]rom our prospective [sic], dismal. . . . Although the students were very nice, it was a waste of time [and]left one feeling [that] this is an impossible problem or situation."

The Commission's study provides data on the placement rates for minorities in different types of practice. The study also focuses on the variety of minority-specific placement efforts and programs in place at the 15 schools in New York State.

VI. MINORITY REPRESENTATION ON LAW SCHOOL FACULTIES

1.0 Data on Minority Faculty

Data on minority representation on law faculties are inconsistent. According to the Association of American Law Schools (1988), during 1987-1988 ABA-approved law schools employed 5,772 full-time teachers: 4,356 (75.5%) Whites; 1,006 (17.4%) of unknown ethnicity; 251 (4.4%) Blacks; 93 (1.6%) Hispanics; 52 (.9%) Asian Americans; and 12 (.2%) Native Americans (LSAS, 1988). By contrast, the ABA reported a full-time teaching staff of 4,973 (86.2% of the AALS figure) and only 306 minority full-time instructors (75% of the AALS figure) at the start of the 1987-1988 academic year (ABA Section of Legal Education, 1988). Despite these inconsistencies, there has been some empirical work charting the hiring, retention, and promotion of minority faculty.

In the fall and summer of 1981, the Society of American Law Teachers (SALT)

surveyed AALS-member schools to determine minority presence on faculties. Responses from 96 schools listed 128 black and 38 "other" minority law teachers. Commentators disagreed as to the representativeness of this sample.³² Only five of the (then) 14 New York schools responded; those five schools employed only five minority professors, all of whom were black. Howard University and Thurgood Marshall together accounted for 41 black, as well as three other minority teachers, while 30% of all responding schools had no minority faculty (Lawrence, 1986).³³

A later study of faculty attrition, while not limited to minority faculty, suggested that law schools currently face a crisis in faculty attrition. Zenoff and Moody (1986) studied the hypothesis that attrition among new faculty has been high and will continue to rise. They studied four cohorts: "those who began tenure-track teaching in 1965, in 1970, in 1975, and in 1980" (p. 212).³⁴ Nine-year attrition rates of the 1970 and 1975 cohorts were found to

³²Lawrence (1986) asserted, "There is no reason to believe that this is not a representative group with respect to the appointment of minority faculty" (p. 430). Conversely, Chambers, the author of the survey, maintained that "it is probable that the schools for which we lack responses are different in some respects from the 96 for which we have data with regard to their experience in adding minorities and women. We thus really cannot claim our sample is representative" (p. 439).

³³Lawrence (1986) posited four hurdles that impede efforts to increase minority faculty representation. First, elite schools hire only from schools of similar stature, and less elite schools look to the same institutions to increase their own prestige. Second, exceptional academic credentials are given greater weight as predictors of teaching ability than professional experience. Third, personal evaluations from colleagues carry inordinate weight over and above "objective" credentials--and evaluations from white colleagues tend to be taken more seriously than evaluations by minorities. Finally, narrow searches to fill specific curricular needs, often in areas not highly subscribed by minority professionals, further restrict opportunities for minorities to join law faculties.

³⁴The authors relied on the biographical sketches of law school faculty provided in the annual Directory of Law Teachers. They chose this source due to shortcomings of AALS and ABA statistics, neither of which differentiate between tenured and tenure-track faculty. Moreover, the AALS definition of "new" teachers includes experienced faculty who simply change schools.

Zenoff and Moody (1986) conducted four-year attrition studies of all cohorts as well as nine-year attrition studies of the 1965, 1970, and 1975 cohorts to determine approximately when attrition occurred in each group. As to a definition of "attrition":

be 37.15% and 44.72%, respectively. More significantly, the four-year attrition studies of those two cohorts showed that most attrition occurs during the first four years; i.e., the 1970 cohort "lost" 94 people over nine years (60 [63.8% of attritees] in the first four years) and the 1975 cohort "lost" 123 people over nine years (90 [73.2% of attritees] in the first four years). Four-year attrition for the 1980 cohort was somewhat lower at 28.97% (82/283). Nevertheless, the authors projected that "increasingly, the tenure decision is being made after the fourth year and that, consequently, attrition will increase substantially for this cohort between 1985-1989" (p. 216). As is discussed more fully below, changes in both the timing of tenure decisions and in the standards applied in making those decisions may be the key factors leading to high new-faculty attrition.³⁵

Chused (1988) updated the 1980-1981 SALT survey to include data for the 1986-1987 year. Chused also expanded upon the earlier survey by including "a first look at departure rates of women and minority faculty members between 1981 and 1987" (p. 537). One hundred forty-nine schools provided data, which included recollected data from the 1980-1981 year, allowing for direct comparisons. To assess progress at institutions other than historically minority schools, comparisons of minority faculty representation were limited to "majority operated schools"; part-time faculty were excluded.

[A] teacher was considered a 9-year attritee if he or she was listed in the 1965-1966 Director[y] as a first time tenure-track teacher but was not listed in the 1974-1975 Directory. Similarly, teachers who started in 1970-71 or 1975-76 were attritees if they did not appear respectively in either the 1979-1980 or the 1984-1985 Directory. Four-year attritees were those who (1) started in 1970-71 and were not listed in 1974-1975, (2) started in 1975-76 but were not listed in 1979-1980, or (3) started in 1980-1981 and were not listed in 1984-85. (p. 212)

³⁵Moreover, stricter standards in granting tenure may disproportionately affect minority candidates if, as Zenoff and Moody (1986) hypothesized, "standard" criteria for granting tenure remain substantially unchallenged.

There have been some modest increases in minority faculty at majority institutions. Black representation increased from 2.8% in 1980-1981 to 3.7% in 1986-1987. In 1980-1981, Hispanics were 0.5% of majority full-time faculties; in 1986-1987, Hispanics made up 0.7% of such faculties. The proportion of other minorities rose from 0.6% to 1.0% during the same period. Despite those increases, Chused highlighted some problems:

Racial tokenism is alive and well at American law schools. About one third of all schools in this study have no black faculty members. Another third have just one. Less than a tenth have more than three. (p. 539)

However, this is apparently more of a problem in some regions of the country than in others; over half of the majority-operated schools having more than 6% black faculty are clustered in the Northeast. The progress of faculty integration also differed depending on job category. Minorities occupied too few legal writing positions to produce useful comparisons. Minority presence in tenure and tenure-track positions increased, yet those increases were so small that, averaged for all responding majority-operated schools, the increases translate into mere fractions of a person per school. As to increases among clinical faculty, but for the creation of the CUNY-Queens law school, black representation among clinicians would have decreased nearly 20% (p. 541).

Three elements -- faculty expansion, establishment of new schools, and turnover -- factor into Chused's discussion of the future hiring prospects at majority-operated schools. Of these factors, establishment of new schools appears the least likely to occur. And while acknowledging that law school enrollments had increased prior to publication of this study, Chused projected that demand for legal education will not grow significantly in the next decade. Given that 70.0% (3,392/5,064) of surveyed 1986-1987 faculty at majority-operated

schools held tenure, and that another 17.4% (883/5,064) were tenure eligible. It also seems clear that "traditional tenure track positions will become increasingly more precious" (p. 542).

Faculty turnover presented the "only other source of new teaching positions" (p. 543). Attrition rates among Whites and minorities on the tenure track at majority-operated schools were practically identical. Excluding retirements and deaths of teachers on the tenure track in 1980-1981, 31% of Whites, 32.1% of Blacks, and 32.4% of all minorities, left law teaching by 1986-1987.³⁶ Attrition among tenured faculty showed greater disparity as only 7.5% of tenured Whites, but 16.7% of tenured Blacks and 17.2% of all tenured minorities, left teaching over the course of the study. Tenure-track teachers moved to new schools at slightly more equivalent rates (12.6% for Whites, 19.6% for Blacks, and 19.7% for all minorities). Transfers of tenured faculty were lower but approximately equivalent (6.9% for Whites, 8.3% for Blacks, and 9.4% for all minorities).

Chused concluded with two challenges to the "continual chatter among law school faculties . . . that the pool of qualified minority persons is so small that faculty diversification is impossible" (p. 547). First, minority hiring at several "high prestige" schools would tend to deny the absence of qualified candidates. Second, many schools which have historically produced high proportions of law faculty currently enroll minority students at rates well above the national average.

As noted above, ABA and AALS faculty data differ. Still, ABA statistics merit mention, if for no other reason than, unlike both AALS data and Chused's study, they

³⁶Though Chused did not refer to the Zenoff and Moody (1986) study, his finding of greater than 30% attrition supports the earlier study's projection that attrition rates for tenure-track faculty teaching first in 1980-1981, found by Zenoff and Moody to be 28.97% by 1984-1985, would increase over time.

provide data on minority representation among part-time faculty. Data on minority representation among full- and part-time faculty are presented in Table III.1.4.

Table III.1.4 ABA Faculty Statistics (Fall 1985-Fall 1989)³⁷

NATIONAL STATISTICS

SEMESTER	-----FULL-TIME FACULTY-----			-----PART-TIME FACULTY-----			-----DEANS-----		
	Total (%)	Minority (%)	Min. as % of Total	Total (%)	Minority (%)	Min. as % of Total	Total (%)	Minority (%)	Min. as % of Total
Fall 1985	4881	301	6.2%	3117	161	5.2%	NA	NA	
Fall 1986	4915 (+0.7%)	312 (+ 3.7%)	6.4%	2940 (-5.7%)	149 (- 7.5%)	5.1%	907	86	9.5%
Fall 1987	4973 (+1.2%)	306 (- 1.9%)	6.2%	3082 (+4.8%)	146 (- 2.0%)	4.7%	998 (+10.0%)	81 (- 5.8%)	8.1%
Fall 1988	5075 (+2.1%)	273 (-10.8%)	5.4%	3230 (+4.8%)	193 (+32.2%)	6.0%	1108 (+11.0%)	56 (-30.9%)	5.1%
Fall 1989	5202 (+2.5%)	451 (+65.2%)	8.7%	3422 (+5.9%)	275 (+42.5%)	8.0%	1229 (+10.9%)	137 (+144.6%)	11.2%
1985-1989	(+ 6.6%)	(+49.8%)		(+ 9.8%)	(+70.8%)				

NEW YORK STATE STATISTICS

SEMESTER	-----FULL-TIME FACULTY-----			-----PART-TIME FACULTY-----			-----DEANS-----		
	Total (%)	Minority (%)	Min. as % of Total	Total (%)	Minority (%)	Min. as % of Total	Total (%)	Minority (%)	Min. as % of Total
Fall 1985	549	35	6.4%	323	12	3.7%	NA	NA	
Fall 1986	582 (+6.0%)	34 (- 2.9%)	5.8%	356 (+10.2%)	18 (+50%)	5.1%	NA	NA	
Fall 1987	593 (+1.9%)	40 (+17.7%)	6.8%	358 (+ 0.1%)	13 (-27.8%)	3.6%	NA	NA	
Fall 1988	618 (+4.2%)	41 (+ 2.5%)	6.6%	379 (+5.9%)	18 (+38.5%)	4.8%	NA	NA	
Fall 1989	604 (-2.3%)	47 (+14.6%)	7.8%	398 (+5.0%)	18 (+ 0.0%)	4.5%	NA	NA	
1985-1989	(+10.0%)	(+34.3%)		(+23.2%)	(+50.0%)				

The data in Table III.1.4 suggest that part-time faculty positions may already be a recognized option for minorities seeking entrance into legal teaching. Minority representation in part-time positions nationally has increased markedly each year from the fall of 1987 through the fall of 1989 while minority representation on full-time faculties increased only between the fall of 1988 and the fall of 1989.

³⁷ABA Section of Legal Education (1986; 1987; 1988; 1989; 1990). Data on minority faculty representation were not published before 1985.

Most striking among these data are the unprecedented increases between fall of 1988 and fall of 1989 in minority representation on both full-time and part-time positions. Given that minority representation on full-time faculties in New York increased steadily during the three years from the fall of 1986 through the fall of 1989, while national figures showed a decline in minority full-time law teachers during two of those years (i.e., from fall 1986 to fall 1987 and from fall 1987 to fall 1988), it seems less significant than it otherwise might that New York lagged in the increase from the fall of 1988 to the fall of 1989. However, minority representation on part-time faculties in New York stagnated from fall 1988 to fall 1989 while minority presence in those positions flourished nationally. Moreover, looking at the entire five-year period, faculty hiring in New York State was well ahead of national hiring (i.e., a 10% increase in full-time positions in New York over five years versus a 6.6% increase nationally, and a 23.2% increase in part-time positions in New York versus a 9.8% increase nationally), but New York lagged behind the nation in hiring minorities for both full and part-time positions over the five years.

2.0 Hiring Criteria and Institutional Factors Affecting Retention

Numerical data on minority faculty, while suggestive in and of themselves, do not speak to the subjective and institutional factors leading to faculty attrition. Moreover, there is a recognized need for more information on the barriers to increased minority representation on faculties.

In March of 1988, the Report of the AALS Special Committee on Recruitment and Retention of Minority Law Teachers was released. The Committee had been charged to "consider and make recommendations on how the AALS can assist law schools in the

recruitment and retention of minority law faculty" (p. 1). The Committee first asserted the need for more detailed empirical data for "developing measurable performance standards the AALS can use to evaluate the effectiveness of its efforts to increase diversity in the law schools' teaching cadre" (p. 5). Needed data would include:

a more precise identification of the applicant pool from which minority law teachers are or are likely to be drawn; a complete survey of minorities who have entered law teaching, their subsequent academic histories (tenured, not tenured, reasons not tenured,³⁸ subject areas of teaching, employment prior to entering law teaching); and a tracking system for minorities entering law teaching. (p. 7)

Such data would be instrumental in clarifying issues such as: the size of the applicant pool; credentials of the candidate pool; career paths of able minority candidates; minority retention rates; and barriers to increased minority faculty representation.

The Special Committee itself made an initial step toward providing some of the needed data by appending profiles of contemporary faculties and of new faculty hired during 1985-1986 and 1986-1987. These profiles create questions regarding the "traditional" academic prerequisites needed to join a law faculty. The Committee noted that data indicate "that, contrary to popular belief, a high percentage of nonminority law teachers do not possess the perceived traditional 'qualifications'" (p. 27).³⁹ For example, of 577 new,

³⁸Rationale for tenure decisions have, historically, been cloaked by protections of confidentiality and academic freedom. Nevertheless, recent adjudication would indicate that teachers who claim denial of equal opportunity have a right of access to otherwise confidential peer review (*University of Pennsylvania v. EEOC*, 1990).

As an alternative, the legal education community might consider a confidential study of tenure decisions, undertaken by the AALS with the cooperation of law school deans--a project suggested by Zenoff and Moody (1986) and certainly in keeping with the recommendations of the AALS Special Committee.

³⁹Traditional qualifications include superior academic performance in law school, law review experience, and a judicial clerkship or an association with a prestigious law firm or certain federal agencies (Bruce and Swygert, 1981).

Bruce and Swygert include diversity as one of the "traditional" criteria for selection of new faculty.

full-time teachers hired in 1986-1987, only 222 (38.5%) had law review experience. Among the 350 new, full-time faculty hired during 1987-1988, only 112 (32%) had law review experience. New faculty for academic year 1987-1988 included 33 minorities,⁴⁰ 21.2%, of whom had law review experience. A more striking contrast, however, is in the proportions of new teachers who, prior to being hired, had gained admission to the bar in at least one jurisdiction. Among full-time faculty employed during academic year 1986-1987, 91.2% of minorities (362 of 397) and 91.5% of Whites (4904 of 5.354) had at least one bar admission. Among the new cohort hired in 1986-1987, however, 38.6% (135 of 350) had no bar admission, suggesting that admission to the bar is not a prerequisite to joining a law faculty. However, of the 33 identified minority new faculty hired in 1986-1987, 93.9% (31 of 33) had been admitted to the bar before being hired, suggesting either that minorities are held to a higher standard in hiring decisions or that minorities who had not passed the bar are less likely than Whites to apply for a position on a law faculty. The Committee urged schools to reevaluate and to discuss openly the role which allegedly "traditional" criteria will continue to play in hiring decisions.⁴¹

They assert that even if faculties do not make affirmative steps in this area, diversification of curricula should lead to more diversification of faculty. However, this expectation of "curriculum-driven" diversification may depend itself on diversification of the faculty. Hazard (1985) suggested that faculties devise curriculum; therefore, faculty diversification must precede curricular diversification. Hazard expressed restrained optimism for the "experimental" approaches at CUNY-Queens and Antioch law schools, but he doubted the longevity of those projects. In fact, by fall of 1988, Antioch Law School had, indeed, ceased operation (ABA Section of Legal Education, 1989).

⁴⁰One of the troubling aspects of the AALS data is that ethnicity is not given for a significant proportion of new faculty.

⁴¹Central to such a discussion might be efforts to redefine the notion of qualification. Brooks (1987) argued:

It seems to me that the term "more qualified" should take into account the realities of minority life, including the lingering effects of past racial discrimination. For example, a

The Committee recommended a number of formal and informal strategies for identifying minority candidates including: advertising vacancies⁴² to minority audiences, staying in touch with recent minority graduates, educating minority students about teaching options, contacting minority legal organizations, soliciting assistance from minority professionals in identifying minority candidates, and making responsible use of the AALS registry. The Committee also recommended that law deans and faculty "identify minority practitioners who may not wish to leave their firm, but who might be persuaded to teach as an adjunct, judge a moot court, or lecture on their field of expertise in a lunch forum, CLE, or other teaching situations" (p. 13) to "expose students to minority professionals and [to] encourage minority attorneys to consider teaching as a possible alternative career opportunity" (p. 13). The Committee urged faculty-practitioner exchange programs, wherein faculty members spend a year or part of a year in agencies staffed by minority practitioners while minority practitioners, in turn, teach law courses at the host school. Such programs "provide faculty members an opportunity to gain a perspective on the value of diversity through interaction with the realities of the 'real world' . . ." (p. 18).

The Committee conceded that many of the recommended recruitment strategies are

minority applicant who has overcome many obstacles in arriving at the professional level he or she now occupies may be "more qualified" for law school teaching than a white applicant who started out in life with substantially more advantages and, consequently, has more traditional credentials . . . than the minority applicant (p. 13).

Whether or not "the realities of minority life" are to be presumed or proven has been the topic of some recent debate. Kennedy (1989), argued, *inter alia*, that racial generalizations can cause evaluators to make sweeping evaluations to the detriment of individual accomplishments.

⁴²The Committee noted:

In stark contrast to employment practices in other academic fields, law schools do not widely advertise the existence of vacancies, the number of "slots," or the variations in their hiring criteria concerning areas of specialization (p. 11).

already employed by law schools; nevertheless, the Committee encouraged development of further creative solutions to the problems presented by minority law teacher recruitment. Clearly more controversial are the Committee's recommendations that "the AALS should encourage law schools with no or too few minority faculty not to hire any majority members until they have exhausted all formal and informal methods to recruit and hire minority lawyers" (p. 16).⁴³ that "[t]he AALS . . . direct its representatives on the ABA/AALS accreditation teams to review the minority hiring and retention efforts of the law schools under review" (p. 40), and that "the AALS should consider imposing appropriate sanctions for law schools that have not made significant progress in the recruitment and retention of minority law teachers" (p. 34).

Underlying the Special Committee's recommendations are a number of negative assertions regarding the experiences of current minority faculty. The Committee asserted that "[m]any minority professors and attorneys understandably feel their advice has not been followed conscientiously even when they have made significant efforts to assist schools" (p. 16) in recruiting minority faculty. Further, the Committee maintained that

it is not uncommon that minority law teachers will be expected to assume extensive, time-consuming responsibility for institutional concerns thought to be amenable only to the "expertise" of a minority. Commonly, minority teachers are asked to serve on law school and university committees charged

⁴³Lawrence (1986) went further than this, calling for voluntary quotas. Bell (1986) also advocated numerical goals. Drawing a legal analogy from case law on judicially mandated housing integration, Bell supported a "tipping-point" goal, the "tipping-point" being that threshold of minority influx just short of what would lead to "white-flight." More recently, Bell (1987) alleged that majority-run schools would impose an "unspoken limit" to minority representation on their faculties regardless of candidate credentials. Kennedy (1989) criticized Bell's allegations of an "unspoken limit on affirmative action," asserting that Bell sidestepped the issue of "the oft-stated proposition that the paucity of black professors in the leading law schools is largely explained by the paucity of black candidates who are qualified by traditional standards for such posts" (p. 1762).

with affirmative action responsibilities and to serve (officially or otherwise) as faculty advisors for all minority students, groups and organizations (p. 20).

The Committee also averred that

the efforts expended in serving as the minority too often come at the expense of time devoted to researching, writing and developing the collegial contacts that are necessary to individual advancement (pp. 20-21).

And that

a teacher's scholarship record is, and is likely to remain, the primary currency of the academic realm. An additional problem may be the perception that legal scholarship on minority topics or publication in minority journals will be devalued (p. 21).

These and other comments on quality of life issues facing minority faculty echo concerns discussed at a 1985 Minority Law Teachers Conference where participants discussed how to deal effectively with the tenure and retention process, minority legal scholarship, teaching skills, psychological barriers and stress factors confronting minority professors (University of San Francisco Law Review, 1986). Until recently, there has been no systematic survey of minority faculty attitudes and experiences.

A recent empirical study supports some concerns identified above while refuting others (Delgado, 1989). In the winter of 1986-1987, Delgado mailed a four-page questionnaire to every professor listed in Skillman's Directory of Minority Professors. Delgado received 106 responses, a 35% response rate, which Delgado deemed "relatively high for a survey dealing with sensitive material" (p. 354). Given, however, this low response rate, the representativeness of the sample, in terms of satisfaction or dissatisfaction of respondents, has to be questioned.

As to time pressures, responses bore out the concern that "minority professors are

is a disadvantage vis-à-vis white professors because of the many competing demands on the former group's time" (p. 355). A majority (75%) reported good relationships with white students and the most significant response vis-à-vis relationships with minority students was that minority students are 'supportive yet consume time/energy' (50.9% so responding).

Delgado's premise that minority professors are counselled to avoid "sensitive" areas in teaching and scholarship⁴⁴ was not born out: "83% of respondents reported little or no pressure" (p. 357). Nevertheless, Delgado posited that lack of pressure may indicate nonattention--i.e., that the work of minority professors is largely ignored. Yet most respondents found research support adequate or excellent, even though paid release time for research and writing was not available at a sizeable number of institutions.

Reliance on white and minority colleagues was about equal (p. 357). As to emotional support from majority colleagues, the largest single response was "somewhat supportive" (44.6%) (p. 382). Regarding faculties' receptivity to hiring more minorities, "71% described receptivity as remaining the same or cooling; only 10% reported it improving" (p. 361).

"Ghettoization"⁴⁵ was another concern, but responses were contrary to what might have been expected. The majority of respondents (62.9%) said they are not treated as a "minority expert." Nevertheless, Delgado asserted that "[m]ost respondents found the role [of minority expert] demeaning when these were the only matters about which they were consulted" (pp. 367-368).

⁴⁴Delgado (1984) posited that white colleagues counsel or pressure minorities to avoid "sensitive areas" like civil rights.

⁴⁵Delgado (1989) did not expressly define this term. Under this heading the questionnaire asked only: "Do your majority-race colleagues treat you as a 'minority expert,' or expert on what the students are thinking, to the exclusion of other matters?" (p. 375).

Nearly half of the survey respondents reported no problem with committee assignments: 40% called their committee responsibilities "excessive," and "[o]f those who checked 'too many committees,' most believed that the law school did not weigh their greater than average committee contributions in tenure and promotion decisions" (pp. 363-364).

No clear consensus emerged on the issues of promotion, tenure, and "upward mobility."⁴⁶ More than one third (36.8%) did not respond; 35% said their chances are the same as for Whites; 24.5% said their chances are not as good as Whites'; additionally, 36.8% felt that they have less "upward mobility" than white colleagues; and 26.4% said that mobility for Whites and minorities is equal (p. 389).⁴⁷

Responses combined both negative and positive descriptions of institutional climate. Many respondents described the climate as simultaneously positive (e.g., "encouraging") and negative (e.g., "subtly racist"). As to these results, Delgado asserted, "When members of a profession believe that their advancement is handicapped by reason of their color, that profession has a serious problem" (p. 366). However, most respondents were either "very satisfied" (44.3%) or "somewhat satisfied" (36.8%).

The Commission's study provides data on the representation of minorities on law

⁴⁶"Upward mobility" was defined as "visits to other schools, appointment to a university or law school administrative position, selection for an endowed chair, etc." (p. 374).

⁴⁷Brooks (1987) has posited that an "anti-minority mindset," a predisposition to assess minority performance in a negative or hypercritical fashion, an intolerance for even small mistakes committed by minorities, a proclivity toward denying minorities the deference or presumption of competence normally accorded to white male law professors inhibits minority opportunities for appointment, promotion, and tenure. Brooks argued that institutional defects--double standards and added responsibilities not factored into tenure and promotion decisions--contribute to the scarcity and high turnover of minority professors. Brooks posited two responses to antimorality mindset. The first, and most viable, response would be verbal confrontations to raise faculty awareness. A second response, available under very specific circumstances, would be the pursuit of legal redress under the rubric of "disparate treatment."

school faculties, on the efforts schools have made to increase minority representation, and on the perceived barriers to such increases.

VII. A RESEARCH AGENDA FOR THE FUTURE

Considerable data are collected nationally on minority student applications, enrollments, and retention rates. There are also substantial national data on minority representation on faculties. Research on the factors that support minority success in law school is, however, very limited. For example, there has been a paucity of evaluation studies designed to measure the impact of various types of academic support programs. For the most part, such studies have lacked the basic methodological features (e.g., random assignment of students to intervention and control groups) which would permit sound conclusions. Little is known about the impact of mandating academic support programs and why some schools are able to avoid stigmatizing students in such programs while other schools are not.

Research on the minority student experience in law schools is also in a nascent state. With the exception of a single study, the Commission was unable to find any empirical studies. A great deal more needs to be known about how minority students make their decisions about where to apply and the factors that influence their ultimate choice of a particular school. Similarly, much more needs to be known about the factors that contribute to student in-class participation, feelings of belonging versus feelings of alienation, and decision-making about participation in cocurricular activities. Studies need to be conducted on students currently in school, on recent graduates, and on students who have dropped out or been asked to leave.

Only this type of systematic research effort will yield answers regarding what programs and approaches work best for which students. Armed with such information, schools will be better able to design appropriate recruitment, enrollment, and retention strategies.

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CHAPTER TWO

SYNTHESIS OF FINDINGS FROM
THE LAW SCHOOL STUDY

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SYNTHESIS OF FINDINGS FROM THE LAW SCHOOL STUDY

I. OVERVIEW

1.0 Rationale for the Law School Study

More representative distribution of minorities in law school and in the legal profession has been widely advocated for several reasons. First, affirmative steps toward a more representative distribution would help ensure that minorities have equal opportunities to pursue legal careers. Second, more minority attorneys and judges would offer needed perspective to a legal system serving diverse communities. Third, as the Commission has already concluded, public confidence in the courts depends upon minority participation because their perceptions of the fairness of legal proceedings are affected by the numbers of minorities they see working in the courts (New York State Judicial Commission on Minorities, 1989). Finally, increased numbers of minority legal professionals will provide more minority role models who can help to secure the acceptance of minorities in the legal community, thereby enhancing equal opportunities for future generations of lawyers.

The legal education community in New York State stands in a unique position to affect the minority experience in legal education. New York State has more ABA-approved law schools than any other except California (15 in New York versus 16 in California; American Bar Association, 1990). New York is the permanent residence of more minority law school applicants than any state except California and only California enrolls more minorities in its law schools (Law School Admission Services, 1988). Most significantly--and perhaps in itself sufficient justification for the Commission's study of legal education in New

York State--no state has conducted a comprehensive study of the minority experience in its law schools.

2.0 Methodology

A series of structured interview guides was developed, and telephone interviews were conducted with individuals familiar with the following areas: admissions; placement; clerkships; faculty hiring; curricula; law reviews; clinical programs; moot court programs; and minority student organizations. Additional interviews were conducted with minority faculty, minority liaisons, student law review editors and other persons with information relevant to the minority experience. Each law school was also asked to provide race/ethnic data regarding applicants, admissions, enrollments and graduates; job placements; bar passage;¹ and faculty for the years 1986-1988.

Once all interviews for a school were completed, a detailed case study describing minority experiences at that particular school was written. (The 15 case studies comprise Chapter 3 of this volume.) The individual law school case studies provide descriptive details on a variety of programs and mechanisms designed to attract and retain minority students. The case studies are descriptive rather than evaluative. In many instances, minority students expressed views that were quite different from institutional policies; in setting forth student views we have intended only to report faithfully the student perspectives. Minority students interviewed were leaders of minority organizations. While there is no way of ensuring that these student leaders reflect the views of all minority students at any given institution, they are, in fact, the chosen representatives of those students.

¹Bar passage data are not discussed in this volume. See Volume 4, chapter 1, of the Commission report.

This synthesis of the individual case studies summarizes the efforts of all fifteen law schools and highlights those schools that have a particularly promising program in any given area. The law schools are coded A through D, pursuant to an agreement to maintain confidentiality, and those having a particular program are identified by letter in the text. Readers who find a particular program to be of interest can then turn to the pertinent individual case study(ies) to read about that practice in greater detail. It is hoped that reading about the variety of programs implemented at different law schools will generate new ideas and stimulate greater efforts on behalf of minority students at all of the law schools in the state.

II. RECRUITMENT, ACCEPTANCE, AND ENROLLMENT OF MINORITIES

1.0 Introduction

Recruitment of minorities is the first step in increasing the proportion of minority students in law schools. Therefore, although minorities represent a disproportionately large share of law school applicants relative to their representation among college graduates (see Chapter 1, pp. 4-10) law schools need to implement creative and focused strategies designed to increase even further the pool of minority applicants to law schools. As proportionately few minorities are college graduates, law schools are in competition with other graduate programs and professions to attract a limited pool of minorities. Because law schools are in a tight competitive market for qualified minority students, law schools need to pursue aggressive marketing strategies. One way to significantly increase the number of minority applicants to New York State law schools is to encourage programs that would interest more minority students in the legal profession at an early age.

Acceptance of more minority students is the second key step in the admissions process. It is apparent from the literature review that minorities, as a group, score lower on the LSAT than Whites and that there is an intense national debate about the validity of these scores (see Chapter 1, pp. 10-19). National data show that proportionately more white than minority applicants are admitted to law schools. While the Commission notes that many minority applicants meet or exceed law school admissions criteria, one way to increase the applicant pool is to consider using other criteria to judge an applicant's potential for success in law school. Minority admission rates for New York State law schools are presented in this section.

As discussed in this section, recruitment strategies and admissions criteria are only the first two steps in the process of minority admissions. Efforts to enroll minorities who have been accepted represent the third step in the effort to increase the numbers of minority students at a particular law school. Enrollment strategies are also highlighted in this section.

All 15 law schools in New York State report that they are committed to the enrollment of minorities, and most have made significant efforts to improve the representation of minorities in their student bodies. There is an extraordinary range, however, in the extent and specificity of these efforts and in the extent to which mechanisms are in place which would make it possible to track the success of these efforts once they are in place. The variety of practices in admissions offices relative to recruitment, acceptance, and enrollment of minorities are described in this section.

2.0 Minority Participation in the Admissions Process

2.1 Minority Student Participation

All 15 law schools have at least one minority student organization, but minority students have a systematic role in all three steps of the admissions process at relatively few schools. At some schools, minority students participate at all levels, including having the opportunity to review applications and to recommend admission of putatively rejected minority applicants. At other schools, current minority enrollees are able only to contact already-accepted applicants. Similarly, at some schools students do not participate in policy-making decisions affecting minority admissions.

Student interviewees emphasized how their involvement in the process of recruitment, acceptance, and enrollment of new students--people who are to become peers to the current students--contributes to a sense of support for minority issues and concerns. From students' comments it is apparent that in-depth student involvement in all three steps of the admissions process contributes to an increased awareness throughout the institution of the significance of a minority presence and perspective.

2.2 Minority Admissions Staff

No school has a full-time minority-recruitment director or coordinator. At most schools an Admissions, or Financial Aid officer coordinates minority admissions efforts in addition to other duties. At a number of schools these duties are borne by minority staff members. At two such schools (M and N) new staff, hired during the summer of 1989, have assumed responsibility for minority recruitment.

Minority-recruitment staff may also serve as on-campus resource persons for the

minority student body. Intuitively, the two duties can conflict. For example, a minority student at School O called for the hiring of a separate support staff person to handle minority recruitment, noting that recruitment duties often take the Dean of Admissions away from campus at critical times when currently enrolled minority students also need assistance.

3.0 Minority Recruitment Strategies: Outreach

Outreach strategies are critical to enlarging the pool of minority candidates applying to law schools. In the broadest sense, enlarging the pool of minority applicants means stimulating interest in the law as a career. Thus, law schools which practice outreach to minority high-school students are participating in a process designed to enlarge the pool of potential applicants in the broadest sense. In a narrower sense, law schools that conduct outreach to those who are self-identified as already interested in the law by virtue of the fact that they have taken the LSAT are enlarging the pool of applicants to their particular law school. At both levels, outreach is clearly important because it has the potential for enlarging the pool of minority applicants to law schools.

3.1 Broad-based Strategies Designed to Increase Minority Interest in the Law as a Career

Six law schools have some form of outreach program targeted at high-school students.

Efforts made by these schools can be summarized as follows:

- (1) Law School C has "adopted" a predominantly black high school. Groups of high-school students sit in on law classes and speakers from the law school go to the high school to discuss legal careers.
- (2) At Law School D the Hispanic law student organization sponsors a day for Hispanic high-school students so that they can learn about law school. Students from other

minority organizations at the school have made visits to local high schools to encourage interest in law school.

- (3) Law School F has a program in which students from the school teach units on law to social studies and history classes at local high-schools.
- (4) At Law School J the Hispanic student organization organized a program to bring local high-school students to the law school. As part of the program students were given a tour and heard a keynote speech by a Hispanic judge and a presentation by a graduate student from a bilingual education program. Law school minority organization members exchanged telephone numbers with the high-school students. At this same school the black student organization is developing a Big Brother/ Sister program pairing law students with local high-school students.
- (5) Black and Hispanic minority student organizations at Law School L cosponsored a program which enabled high school students to attend a law school class and to meet with a professor.
- (6) At Law School M several faculty members have been involved with local high schools. The law school had a one-day "academic skills" seminar which included an introduction to the legal profession and principles; the goal was to improve reading ability, oral presentation, and logical thought.

Some law schools have implemented strategies aimed at stimulating interest in the law among college students and among persons who may already be in the work force. These strategies augment the efforts specifically designed to increase the number of applicants to the particular law school. A few schools specifically target outreach efforts to

potential minority applicant pools at various organizations (e.g., civil service unions, paralegals, and legal secretaries). Examples of broader interest-stimulating strategies aimed at the college and older population are as follows:

- (1) At Law School A the black student organization has cosponsored a moot court program for undergraduates with the counterpart student organization at the affiliated college.
- (2) At five law schools (B, C, E, G, and J), the minority student organizations sponsor a Minority Law or Minority Recruitment day. College prelaw advisors, high-school guidance counselors, and minority student organizations at undergraduate institutions receive notices about the Law Day. Moreover, notices appear in the minority print media, and announcements are sent to area minority churches and unions.
- (3) Law School F has a six-year BA/JD program with a local college which is designed to stimulate interest in legal studies and to shorten the length of time required to obtain a law degree.

3.2 Strategies Designed to Increase Minority Applications to Law Schools

Seven schools (A, B, D, I, K, L and O) use the Law School Data Assembly Services (LSDAS) Candidate Referral Service (CRS) to identify persons who, in registering for the LSAT, identify themselves as Black, Hispanic, Asian American or Native American. All CRS registrants, or all registrants in a specific geographic area, or all registrants with an LSAT score that meets the school's base-level requirements, receive an initial mailing. The mailings to these CRS-identified students vary in the extensiveness of the targeting effort. One school's mailing includes not only a letter but also one of the minority-specific

brochures developed by each of the minority student organizations. Thus, a black student receives a brochure which is specific to the black experience at the law school, a Hispanic student receives a brochure which is specific to the Hispanic experience, and an Asian-American student receives a brochure which is specific to the Asian-American experience. Another school sends a generic "minorities at [school]" brochure as well as an application kit. Yet another school uses CRS lists to invite minority students to minority student organization-sponsored Law Days.

A few schools target mailings to minority student organizations at colleges rather than to just the college placement or career planning office. The majority of schools do no minority-specific outreach in their mailings.

All schools conduct campus visits, but not all schools conduct visits to historically black colleges and/or to colleges with high percentages of minorities. Moreover, not all schools make a point of letting college career planning offices know that the school has a special interest in minority applicants. Some law schools clearly make a concerted effort to reach minority students during on-campus college visits. These law schools have developed linkages with undergraduate minority organizations and participate in minority-sponsored forums.

3.3 The Effectiveness of Minority Outreach Strategies

Most law schools know the number of minority applicants each year and can track increases or decreases from one year to another. Four schools maintain no data on the number of minority applicants and thus are unable to measure systematically the effectiveness of their outreach strategies. Another three schools maintain only aggregated

data on minority applicants, so they cannot assess the effectiveness of outreach strategies targeted to different minority populations.

It is apparent that strategies aimed at increasing the pool of minority applicants to law schools are critical to the increase of minorities in the legal profession. Increasing the number of applicants is the first step. Admissions criteria and the percentages of minorities accepted by the law schools are the second key step and are discussed in the next section.

4.0 Admissions Criteria and Acceptance Rates for Minorities

4.1 Admissions Criteria

At School O a subcommittee of the Admissions Committee examines all minority applications separately from the rest of the application pool. School J maintains unique committees for minority and nonminority applications. At most other schools too, many minority applications either are looked at in a separate group and/or some are subject to "nontraditional" evaluation.

All law schools report that they use additional nontraditional criteria in the evaluation of some minority candidates. Nontraditional criteria cited by various schools include: evidence of progressive academic improvement during college; a history of overcoming hardships; a history of employment or community service; evidence of leadership potential, maturity, integrity, disadvantaged economic status, sound judgment, initiative, and energy. Two schools compare the scores of each minority applicant to the average scores for her race/ethnic group.

At School D, third-year student representatives of the three minority student organizations (black, Hispanic, and Asian-American) review all minority applications and

make written comments to the Admissions Office. Data are not available to show how often student reviewers have differed with admissions staff. School D has the second highest minority enrollment in the state, but School I, where minority students do not review applications, has both a higher minority applicant pool (see Table III.2.1) and a higher number of minority enrollees (See Table III.2.2). Thus, the argument can be made that student review of applications will not make a significant difference in the numbers of minority applicants offered admission. However, student exclusion from application review may create, if nothing more, a perception of exclusion from admission. For example, the Black American Law Student Association (BALSA) representative at one school alleged that the school's Admissions Committee has rejected minority applicants with higher LSAT scores and/or GPAs than some nonminority acceptees. Clearly, criteria other than LSAT and GPA probably factored into those decisions, but it is equally clear that due to the lack of student participation in the decision-making process, a negative, albeit perhaps unfounded, perception has been created. Student participation on admission committees would seem an easy way to forestall such problems.

4.2 Admission Rates for Minorities and Whites

Data on the numbers of minority and white applicants, admissions and admission rates for each group are provided in Table III.2.1.

Table III.2.1. Average Minority Admission Rates per Year
(Graduating Classes of 1986-1988)

SCHOOL	TOTALS			WHITE			BLACK			HISPANIC			ASIAN			NATIVE AMERICAN		
	Appld	Admtd	%	Appld	Admtd	%	Appld	Admtd	%	Appld	Admtd	%	Appld	Admtd	%	Appld	Admtd	%
A	3,128	915	29.3%	2,784	795	28.5%	152	57	37.5%	92	28	30.4%	87	29	33.3%	13	6	46.2%
B-Day	1,581	610	38.6%	1,461	566	38.7%	55	14	25.5%	47	22	46.8%	18	8	44.4%	0	0	0%
**Eve	346	213	61.5%	312	202	64.7%	19	6	31.6%	11	4	36.4%	4	1	25%	0	0	0%
* C	2,814	1,079	38.3%	2,727	1,026	37.5%	<p style="text-align: center;">← MINORITIES → Applied = 37 Admitted = 53 Percent = 60.9%</p>											
D	6,054	1,241	20.5%	5,391	1,063	19.7%	338	88	26%	162	39	24.1%	163	51	31.3%	0	0	0%
E	No race/ethnic data on applicants or on those offered admission.																	
F	883	264	29.9%	672	180	26.8%	114	44	38.5%	81	29	35.8%	13	9	69.2%	3	2	66.7%
G-Day	3,705	871	23.5%	No race/ethnic data on applicants or on those offered admission.														
Eve	719	247	34.4%															
H	1,877	928	49.4%	1,755	869	49.5%	63	24	38.1%	39	20	51.3%	18	13	72.2%	2	2	100%
I	5,435	906	16.7%	4,616	722	15.6%	350	72	20.6%	240	58	24.2%	218	52	23.9%	11	2	18.2%
J	No race/ethnic data on applicants or on those offered admission.																	
K	1,851	1,112	60.1%	1,795	1,074	59.8%	25	17	68%	27	18	66.6%	4	3	75%	0	0	0%
** L	2,855	1,401	49.1%	2,487	1,231	49.5%	<p style="text-align: center;">← MINORITIES → Applied = 368 Admitted = 170 Percent = 46.2%</p>											
M	1,871	1,183	63.2%	No race/ethnic data on applicants or on those offered admission.														
** N	915	491	53.7%	883	NA	--	12	NA	--	17	NA	--	2	NA	--	1	NA	--
** O	2,202	1,130	51.3%	2,050	1,064	51.9%	<p style="text-align: center;">← MINORITIES → Applied = 152 Admitted = 66 Percent = 43.4%</p>											

* Data are based on one year only. ** Data are based on two years only.
NA = Not Available

Examining first the data on applications, it is apparent that schools vary markedly in terms of both the absolute numbers of minority applicants and the proportion of all applicants that minorities represent. The range for numbers of black applicants is from an average of 12 applicants to School N to 350 applicants to Law School I each year over a three-year period. In terms of proportions, black applicants represented a low of 1.3% of all applicants at Law School N to a high of 12.9% of all applicants at Law School F. Thus, Law School N has a small absolute number of black applicants (12) as well as a small proportion of black applicants relative to total applicants. Law School F has a high proportion of black applicants but has a relatively small absolute number because its overall enrollment is small. The comparable range in Hispanic applicants is from eleven applicants to the evening program at School B to 240 at School I; the range for proportions of Hispanic applicants is from 1.5% at School K to 9.2% at School F. Among Asian Americans the number of applicants ranges from two at School N to 218 at School I; School I also has the highest proportion of Asian-American applicants (4%). For Native Americans the number of applicants ranges from zero to 13; School A has the highest proportion of Native American applicants (.4%).

Some schools have very few minority applicants. Since applications affect admissions it is critical that every effort be made to increase the pool of each minority applicant group at those schools to which minorities apply in disproportionately low numbers.

The variations from school to school in terms of the numbers and proportions of minority applicants can be attributed in part to outreach strategies. The national reputation and standing of the school also plays a major role. Schools which do not have a national

reputation may be unknown to minorities: if these schools do not do active, targeted outreach, they are unlikely to attract substantial numbers of minority students. Moreover, some schools convey a message of welcome to minorities while others convey no minority-specific message at all, e.g., there is no mention of minority student organizations in the catalogue, or there are no, or few, pictures of minority students in the catalogue.

Not only do the numbers and proportions of minority applicants vary, but also the proportion of each group of applicants that is admitted varies from school to school. Five schools (E, G, J, M, and N) provided no data with which to compare the acceptance rates of minorities and Whites. Of the 10 remaining schools, six (A, C, D, F, I, and K) reported overall minority acceptance rates which are above the acceptance rates for Whites, while at four schools (B, H, L, and O) the acceptance rates for Whites exceed the overall acceptance rates for minorities. Thus, acceptance rates for minorities achieve parity or better at less than half the schools (i.e., six); at the remaining nine schools minorities either do not achieve parity of acceptance rates or the rates are unknown and therefore cannot be tracked by the school.

Schools C, L, and O provided data on aggregated minority acceptance rates only. Data from the remaining seven of the 10 reporting schools allow comparisons between the acceptance rates for Whites and individual minority groups and examination of the ratio of acceptances to applications for each group. At five schools (A, D, F, K, and I) the acceptance rate of each minority group represented in the applicant pool exceeds the acceptance rate of Whites and the proportion of applicants in each minority group. Thus, the acceptance rates for Blacks, Hispanics, Asian Americans and Native Americans applying

to Schools A, F, and I exceed the acceptance rates for Whites and the proportions of applicants in each of those groups, and at Schools D and K--where there were no Native American applicants--the acceptance rate for Blacks, Hispanics, and Asian Americans all exceed the acceptance rates for Whites and the proportions of applicants in each of those groups. At School H, where all four minority groups are represented among the applicant pool, the white acceptance rate surpasses the rate only for Blacks and black admissions are underrepresented relative to applicants. At School B, where there were no Native American applicants, the acceptance rates for Hispanics (day only) and Asian Americans (day only) surpasses the acceptance rate for Whites, but the white acceptance rate exceeds the rate for Blacks. Thus, Blacks achieve parity in acceptance rates in fewer schools than any other group.

It is important to note that at the majority of law schools which have any data at all, the problem is not in the rates at which minorities (with the exception of Blacks) are offered admission but in the numbers that apply. Data from New York State law schools show that at most law schools that have data, minorities have parity in admissions relative to their proportions in applicant pools. Of course this conclusion is tempered by the absence of data from five schools and incomplete data from an additional three; more than half the schools do not have the data which could support or refute any conclusions about individual minority groups. Given the inadequacy of available data, it can be concluded tentatively that the problem lies less in admissions criteria than in the size of the minority applicant pool at most schools. Thus, the way to increase minority presence in law schools is to increase the numbers of minority applicants. This has profound implications in terms of the importance

of outreach strategies designed to stimulate minority interest in the law in general and to increase the numbers of minority applicants to specific schools.

5.0 Minority Enrollment

5.1 Strategies Designed to Increase Minority Enrollment

Law schools vary in the extent to which they reach out to minority acceptees and encourage enrollment. Several law schools hold functions for admitted students but have no events specifically targeted to minorities. Minority-specific strategies used by law schools can be summarized as follows:

- (1) At six schools (A, B, D, H, I, and K) minority students call minority students of their own racial and ethnic background and encourage enrollment; at least one of these schools reimburses students for their time. At three of these schools, accepted students also receive letters from the "matching" minority student organization, from the minority recruitment coordinator, or from a minority professor.
- (2) School A sponsors a three-day "minorities in the law conference" for admitted students. This conference, which is jointly sponsored by the Dean's Office, the Admissions Office, the minority student organizations, and the Office of Alumni Affairs, affords an opportunity for minority students to make an extended visit to the school.
- (3) Law School D hosts a breakfast for admitted minority students and a minority alumni association dinner to which potential minority students are invited. Minority acceptees are also notified that they can visit the school at any time and be hosted by a currently-enrolled minority student.

- (4) At three schools (E, F, and G) minority student organizations hold luncheons and other receptions for minority acceptees. At one of these schools (G), minority alumni also invite minorities to their offices to discuss their experiences at the law school.
- (5) School K holds a minority recruitment day in conjunction with a reunion of minority alumni.

5.2 Enrollment Rates for Minorities and Whites

Data on minority enrollment rates are provided in Table III.2.2.

Table III.2.2. Average Minority Enrollment Rates per Year
(Graduating Classes of 1986-1988)

SCHOOL	TOTALS			WHITE			BLACK			HISPANIC			ASIAN			NATIVE AMERICAN		
	Admtd	Enrld	%	Admtd	Enrld	%	Admtd	Enrld	%	Admtd	Enrld	%	Admtd	Enrld	%	Admtd	Enrld	%
A	915	189	20.7%	795	166	20.9%	57	11	19.3%	28	3	10.7%	29	7	24.1%	6	2	33.3%
3-Day	610	142	23.3%	566	133	23.5%	14	4	28.6%	22	4	18.2%	8	1	12.5%	0	0	0%
** Eve	213	106	49.8%	202	99	49%	6	3	50%	4	3	75%	1	1	100%	0	0	0%
** C	962	421	43.8%	908	398	43.8%	← MINORITIES → Admitted = 54 Enrolled = 23 Percent = 42.6%											
D	1,241	385	31%	1,063	335	31.5%	88	22	25%	39	11	28.2%	51	17	33.3%	0	0	0%
E	NA	380	--	NA	335	--	NA	16	--	NA	19	--	NA	9	--	NA	1	--
F	264	144	54.5%	180	105	58.3%	44	19	43.2%	29	15	51.7%	9	4	44.4%	2	1	50%
G-Day	871	258	29.6%	NA	237	--	NA	8	--	NA	8	--	NA	5	--	NA	0	0%
Eve	247	142	57.5%	NA	133	--	NA	3	--	NA	3	--	NA	3	--	NA	0	0%
H	928	237	25.5%	869	223	25.7%	24	7	29.2%	20	5	25%	13	2	15.4%	2	0	0%
I	906	322	35.5%	722	257	35.6%	72	22	30.6%	58	21	36.2%	52	21	40.4%	2	1	50%
* J	NA	290	--	NA	266	--	68	11	16.2%	40	7	17.5%	38	5	13.2%	5	1	20%
K	1,112	337	30.3%	1,074	327	30.4%	17	4	23.5%	18	5	27.8%	3	1	33.3%	0	0	0%
** L	1,401	357	25.5%	1,231	308	25%	← MINORITIES → Admitted = 170 Enrolled = 49 Percent = 28.8%											
M	1,183	244	20.6%	No race/ethnic data on those offered admission or on those entering.														
** N	491	195	39.7%	NA	179	--	NA	6	--	NA	9	--	NA	1	--	NA	0	--
** O	1,130	283	25%	1,064	266	25%	← MINORITIES → Admitted = 66 Enrolled = 17 Percent = 25.8%											

* Data are based on one year only. ** Data are based on two years only.
NA = Not Available

Conclusions about enrollment rates can only be made at less than half the schools. Among the schools with adequate data, some seem to have difficulty enrolling particular minority groups. Blacks have depressed enrollment rates at Schools D, F, I, and K; four of the seven schools with data have depressed enrollment rates for Blacks. Hispanics are underrepresented in enrollments relative to admissions at Schools A, D, F, and K. Asian Americans have depressed enrollment rates at School B (day program), F and H. Native American enrollment rates are about as expected, given the very small numbers who apply and are admitted.

Of course, minorities who choose not to attend a particular school may decide on another law school, but it would seem appropriate for each school to examine its minority-specific enrollment rates and to examine what can be done to increase the efforts made on behalf of any particular minority group. It is apparent that schools which do not maintain data regarding the race and ethnicity of admittees lack the basic tools for conducting an analysis of the ratio of those enrolled to those admitted.

6.0 Financing of Minority Students

A number of state- and federally-funded programs provide higher education loans and/or grants available to Whites and minorities alike. All law schools in the state coordinate applications for Stafford Loans, Perkins Loans, Supplemental Loans for Students, and the Tuition Assistance Program. The United States Department of Education also coordinates a program, the Patricia Harris Roberts Fellowship, to support minority enrollment in professional studies--law as well as other disciplines; interviewees at seven schools reported that their institutions participate in the Harris Fellowship program.

Most schools have some form of financial assistance specifically reserved for minority students. Such minority-specific sources of financial aid can be summarized as follows:

- (1) School C has five minority-specific scholarships through the United Negro College Fund.
- (2) School D has created a few public interest scholarships which are particularly reserved for minority students.
- (3) School E has two endowed minority scholarships. In addition, all minority students receive an affirmative action scholarship which pays between one quarter and one half of tuition.
- (4) School F has a targeted Native American Scholarship.
- (5) School G offers a full scholarship to one minority student, which is funded by a law firm. This school also receives foundation money for two scholarships for Hispanic students.
- (6) School H has alumni-created scholarships targeted to minorities.
- (7) School J funds its own scholarships for three minority students.
- (8) School K funds its own scholarships but also gets funds from the Puerto Rican Legal Defense and Education Fund and the Mexican American Legal Defense and Education Fund.
- (9) School L receives minority scholarship funds through the Consortium of Metropolitan Law Schools.
- (10) School N offers "incentive awards" to some minority acceptees; enrollees receive from 25%-100% reduction in tuition based on their academic qualifications relative to the

applicant pool for that year.

- (11) School O has obtained local foundation support and provides five full-tuition scholarships for minorities.

In general, all admissions officers and minority students interviewed were in agreement that more money is needed to finance minority student law school education: lack of scholarship funds is universally perceived as a deterrent to minority enrollment.

7.0 Conclusions

Some law schools have devised a number of inventive strategies for minority outreach designed to increase both the numbers of minority applicants and the actual numbers of enrollees. It is apparent that there is a great deal of variation in the amount of effort expended. The major problem for some law schools appears to be the paucity of minority applicants. Those law schools that have relatively few minority applicants can examine the efforts of other schools and obtain ideas about what can be done. Broad-based efforts aimed at increasing minority interest in the law as a career are clearly important if the proportion of minorities in the legal profession is ever going to increase. The relatively low enrollment rates of some minorities at some law schools are also a problem. Schools that have such problems may consider a serious effort designed to improve their image as being receptive to minority enrollment and to improve their efforts to attract specific groups. Finally, it is apparent that schools that maintain no data on minority applications and offers of admission are not in a position either to conduct analyses which could pinpoint problem areas in their procedures or to assess the relative effectiveness of the strategies they attempt.

III. MINORITY STUDENT RETENTION AND SUPPORT

1.0 Introduction

As discussed in the literature review, nationally, minority students have higher attrition rates (see Chapter 1, pp. 25-27). Such higher minority attrition rates have been attributed variously to inadequate academic preparation, first-generation experience with higher education, feelings of isolation, poor self-esteem, and lack of financial resources. Thus law schools need to make special efforts to provide the academic and social support structures that will enable minority students to remain in school.

Law schools in New York State vary to a marked extent in the amount of structured academic and emotional support they provide to minority students. Some have preenrollment orientation sessions and some have devised programs to provide ongoing academic support. Minority student organizations receive varying amounts of support from law school administrations and there is considerable variability from school to school in minority student perceptions of how much commitment there is to their education. Law schools vary in the raw numbers of minority students that enter and in the proportions that minority students represent of the total population. And, not surprisingly, law schools vary in the extent to which they are able to retain minority students and to ensure their graduation. These issues are discussed in this section.

2.0 Pre-Law School Orientation Programs

Eight schools provide some sort of academic orientation program prior to the start of law school. These programs, which are generally open to "academically disadvantaged" students, minority or white, can be summarized as follows:

- (1) School A provides a week-long orientation program targeted to some minorities but open to other students who anticipate the need for a head start. Students receive a stipend to cover food and lodging; the program is voluntary. Students read cases, take practice exams, and practice legal writing.
- (2) School B offers a six-week conditional admission program for applicants whose credentials do not meet the usual acceptance standards but do show some potential to complete law school. Participants take two courses but do not receive academic credit. Few minorities enter this program because they do not want to risk conditional admissions; rather, they accept offers at schools which offer outright admission. The Admissions Office has decided to admit many minority applicants outright rather than to risk losing them because of this program.
- (3) School D holds a two-day orientation session for entering minority students just prior to the start of the fall semester.
- (4) School E offers a legal writing and analysis class during the summer prior to law school entrance. The course is targeted to minorities, students with handicaps, and those who have been out of school for nine or more years. There is no charge for the course, which is offered at night. Students who receive a passing grade receive credit for the course and thus have a lighter course load in the fall semester of their first year. Students for whom English is a second language may also take a special English class for which the law school makes arrangements.
- (5) School F has a week-long orientation for minorities just prior to the start of the fall semester. The academic week culminates in a social event: Family Day.

- (6) School H holds a minority orientation session as an introduction to the law school and its offerings.
- (7) School L has a three-day presemester program; a fairly large proportion of participants are minorities.
- (8) School M offers a summer Legal Education Opportunity (LEO) program. LEO is not exclusively a minority program but is open to students who have been deprived of equal education opportunities and who lack the academic credentials for law school. Participation in the LEO Program does not guarantee admission to the school nor do participants have to commit to enrollment at the host school.

All such efforts are likely to decrease feelings of alienation and isolation by emphasizing a message of welcome and by giving minority students the opportunity to meet other minority students. These programs may be effective interventions for dealing with the social climate aspects of the law school environment, but it is unlikely that any of these efforts, with the possible exception of the two schools offering an entire summer's course, can even begin to address inadequacies in academic preparation.

3.0 Ongoing Academic Support

Most, but not all, schools provide some kind of individual or small group tutorial assistance to those students who indicate a need. Tutors are often second- or third-year students who receive compensation; in a few schools tutorial staff are faculty rather than students. At most schools such tutorials are voluntary. At one school, however, students who do poorly in Legal Writing and Analysis are automatically placed in a small group tutorial. Students who do not want to be in the tutorial can place out by taking a diagnostic

examination and demonstrating their lack of need for such a tutorial. At another school there is a mandatory program for all third-semester students experiencing academic difficulty; the credit load is lightened, substantive courses are fixed rather than elective, and one course is a small group tutorial with faculty. School M has a unique academic support component: doctoral students from a local university are available to offer instruction on writing. At this same school a faculty member offers a three-part seminar on case briefing, outlining, and examination preparation and essay-writing.

There is a great deal of variation from school to school as to the extent of minority participation in these various tutorial efforts and in the assessment of their effectiveness. At some schools the tutorial effort is seen as burdensome. Students claim that they have so much extra work that they fall behind in their other classes. At some schools students complain that no help is available until after they are diagnosed as being in academic difficulty, and by that time they feel it is too late. This type of "after the damage is done" effort is universally criticized by students at those schools. In fact, one school which has in the past waited for first-semester grades and then offered academic support to students has abandoned this approach because of the experience that such support has to be initiated "on day one." At some schools minority participation rates are low because minorities perceive various support programs as stigmatizing and therefore eschew participation. Mandatory participation or participation which is very strongly urged on students does not seem to have caused widespread resentment.

Minority student organizations at most schools provide at least some academic support. Some minority student organizations conduct review sessions for first-year students

prior to exams, provide course outlines, and conduct mock moot court rounds. At a few schools minority student organizations have developed mentor programs so that each first-year minority student is paired with a second-or third-year student.

Student satisfaction seems to be greatest in schools which offer a maximum of academic support, either before the start of school or early in the semester. Highly institutionalized, formal academic support systems in which professors participate seem to elicit the most enthusiastic student response.

4.0 General Law School Atmosphere

In general, minority students stress the importance of adequate numbers of minority students. Students do not want to feel like the proverbial "fly in the buttermilk." Students at schools where there is only a handful of minorities express feelings of isolation and stress; they question whether they "belong." At schools where minorities represent some critical mass of the student body and where there are usually more than one minority in each class, there is generally, but not always, a greater feeling of satisfaction. At schools where there are only a few minority students, minority students carry the heavy burden of always being the representatives of their race. They report feeling more anxious about speaking in class and about letting their concerns be known. Individual minority students are all too easy to ignore; as one professor suggested, inattention to the suggestions and/or comments of minority classmates is the most common example of racism as perpetrated by white students.

Increasing the number of minorities in the student body is a critical first step. Beyond that, a number of factors affect the ability of even a relatively significant minority student presence to gain acceptance among nonminority peers. At some schools, a "critical mass"

of minority students may, of its own volition, take an active, respected position in the student body. At such a school, 10 minorities in a single class will not be ignored, nor are they likely to remain silent. However, at most schools, other than in first-year required courses, it appears unlikely that significant numbers of minority students will find themselves in the same classroom. Moreover, in those schools which minority students perceive as generally unreceptive or unsupportive, relatively high concentrations of minorities in classes still may not elicit the "critical reaction" necessary for the students to move towards reversing the prevailing atmosphere. One professor described an experience in a torts class in which the 13 or 14 black and Hispanic students were initially, by and large, silent and/or ignored by their white classmates. The professor purposefully engaged the minority students, posing questions to them or soliciting their comments. Eventually, the minority students began to make comments and otherwise participate on their own initiative and the white students began to take seriously what was being said by their minority classmates.

Data on numbers of minority students are presented in section 5.0. In the present context, it is important to note that the numbers of minority students vary considerably from school to school: three law schools have an average of 19-22 black students in their entering classes; two schools have an average of only four black students each. Similarly, the range for Hispanic students is from two schools with only three Hispanic students to one school with an average of 21 entering Hispanic students. The range for Asian-American students is from three schools that have an average of one student to a school with 21 Asian Americans. Only five schools have any Native American students; none has more than an average of two in an entering class. It is apparent that some schools have so few students

from any minority group that feelings of isolation can be a real problem.

Another critical factor in minority student satisfaction is the extent to which students perceive that the law school administration is supportive of minority students. At some schools administrators are perceived as being highly supportive of minority student organizations and provide financial support for organization-sponsored activities (e.g., travel to national conferences, speaker fees for minority lawyers, social events, and publications). At some schools minority organization-sponsored events are well attended by faculty and administrators; at other schools there is a perceived lack of faculty participation in minority-sponsored events. At some schools leaders of minority student organizations feel they have ready access to deans and other high level administrators; at other schools students note that they always meet with lower level faculty.

Several schools have experienced considerable racial tensions in the recent past. At some law schools there have been racist incidents which have led to polarization of the student body. Minority students at these schools express resentment and feelings of alienation. Failure of faculty and administration to investigate swiftly and conclusively and condemn such incidents further contributes to minority students' sense of isolation and intimidation.

Students at several schools have recommended that there should be a dean of minority affairs or a minority student who could act as a liaison between the students and the administration and who could ensure a systematic approach to minority concerns. Such an individual would have responsibility for counseling minority students in all areas pertaining to their law school experience and would also serve as a focal point for receiving

and disseminating information relevant to minority students. Such an individual would work closely with minority student organizations to ensure that minority student interests are represented on all key law school committees. Students also point out that such a dean or liaison would lighten the burden on minority students, who currently have to take time away from their own studies to act as big brothers/sisters to incoming minority students.

Communication, or lack thereof, emerged as a key issue. The importance of regular meetings between minority student organizations and representatives of the law school administration cannot be stressed too strongly as a mechanism for exchanging views, correcting misperceptions, and identifying the need for new initiatives.

5.0 Retention Rates

Schools vary markedly in the success with which they are able to retain minority students through graduation. Data on retention rates are provided in Table III.2.3.

Table III.2.3

Average Minority Graduation Rates per Year
(Graduating Classes of 1986-1988)

SCHOOL	TOTALS			WHITE			BLACK			HISPANIC			ASIAN			NATIVE AMERICAN		
	Enrld	Grad	%	Enrld	Grad	%	Enrld	Grad	%	Enrld	Grad	%	Enrld	Grad	%	Enrld	Grad	%
A	189	180	95.2%	166	156	94%	11	10	90.9%	3	3	100%	7	8	---	2	3	---
B-Day	142	136	95.7%	133	130	97.7%	4	2	50%	4	3	75%	1	1	100%	0	0	0%
Eve	107	83	77.6%	99	79	79.8%	4	2	50%	3	1	33.3%	1	1	100%	0	0	0%
** C	421	378	89.8%	393	358	91.1%	12	3	66.7%	11	8	72.7%	5	4	80%	0	0	0%
D	385	399	---	335	354	---	22	19	86.4%	11	11	100%	17	15	88.2%	0	0	0%
E	381	343	90%	336	306	91.1%	16	13	81.3%	19	16	84.2%	9	7	77.8%	1	1	100%
F	144	135	93.8%	105	101	96.2%	19	17	89.5%	15	13	86.7%	4	3	75%	1	1	100%
G-Day	259	* 277	---	238	* 264	---	8	5	62.5%	8	3	37.5%	5	5	100%	0	0	0%
Eve	142	86	60.6%	133	80	60.2%	3	1	33.3%	3	3	100%	3	2	66.6%	0	0	0%
H	238	215	90.3%	223	202	90.6%	7	6	85.7%	5	4	80%	2	2	100%	<1	<1	100%
I	322	313	97.2%	257	249	96.9%	22	21	95.5%	21	21	100%	21	21	100%	1	1	100%
J	253	* 258	---	234	233	99.6%	8	* 12	---	6	* 8	---	4	4	100%	1	1	100%
K	337	302	89.6%	327	296	90.5%	4	2	50%	5	3	60%	1	1	100%	0	0	0%
L	355	262	73.8%	302	223	73.8%	← MINORITIES → Enrolled = 53 Graduated = 39 Percent = 73.6%											
M	244	213	87.3%	225	201	89.3%	9	6	66.7%	8	4	50%	1	1	100%	1	1	100%
N	189	154	81.5%	176	149	84.7%	6	2	33.3%	6	2	33.3%	1	<1	33.3%	0	0	0
O	275	254	92.4%	258	238	92.2%	12	* 13	---	4	3	75%	1	0	0%	0	0	0%

* The higher number of graduates than enrollees over the three-year period suggests that graduates enrolled in earlier years and took longer than three years to complete law school.

** Based on only two years of data.

The range in retention rates is readily apparent. Some schools have comparable retention rates for Whites and minorities (Schools A, I and L); at other schools attrition rates for minorities are considerably higher than for Whites (Schools B, C, E, F, H and M). At some schools there are so few minorities that the retention rates are artificial measures of the performance of a mere handful of students. Overall, the average numbers of minority graduates during the three year-period encompassed by the study are very small: excluding the 39 minority graduates of School L, an average of 139 Blacks, 106 Hispanics, 75 Asian Americans, and 8 Native Americans graduate per year. This is in the context of an average of 3,619 white graduates per year. On the average, Whites represented 90.8% of all law school graduates in New York State in the years 1986-1988.

6.0 Conclusions

Minority student attrition is not attributable to any single factor--financial, social, or academic. Yet academic performance remains the central concern for minority students, most of whom see financial worries and social conflicts as onerous distractions from academic pursuits. Some law schools have implemented preenrollment programs to overcome, at least partially, previously inadequate academic preparation. Yet few schools, despite having identified "educationally disadvantaged" minority enrollees, offer structured, mandatory support programs for these students. Rather than offering a restructured curriculum, most schools offer optional tutorial programs--attendance at which would have to be undertaken in addition to a "normal" course load. Thus most schools, seemingly in reliance on the traits of "perseverance" and "potential" which supposedly offset indicia like the LSAT and undergraduate GPA, are demanding of many minority students--those very

students whom the schools have identified as educationally disadvantaged--that they assume responsibility for overcoming those disadvantages. Stigmatization is an often-mentioned issue during discussions of academic programs targeting minority students. Yet many minority enrollees are admitted to law schools in New York State, not on the strength of prior academic performance, but on the strength of subjective indicia of a potential for academic success. By not systematically "attacking" precisely those academic areas where such students are known to have been disadvantaged, the law schools seem to perpetuate the very situation which these enrollees have experienced in their earlier academic careers. Minority student satisfaction is reported to be highest at schools which offer a maximum of academic support. Similarly, minority students universally spoke of a need for a systematic approach to their concerns. All schools have adopted systematic approaches to their efforts to increase minority enrollment, yet these same institutions generally have not adopted programs to redress systematically the identified--or identifiable--disadvantages of many minority enrollees.

IV. CURRICULUM AND LAW SCHOOL ACTIVITIES

1.0 Introduction

As discussed in the literature review (see Chapter 1, pp. 39-40), there is growing national awareness that law school curricula need to reflect a broader diversity of perspectives than European-based curricula presently provide.

This section discusses law school efforts to address issues of a more "inclusive" curriculum and minority participation in clinical programs, student clerkships, law review, and moot court programs.

2.0 Curricular Attention to Minority Concerns

All law schools have at least some courses that have some direct relationship to minorities (e.g. Civil Rights Law, Legislation or American Indian Law). The Curriculum Chair at one school held the opinion that courses, such as one on Racism and the Law would prove awkward for minority and white students alike because it might lead to a "we-they" dichotomy. Most schools have not even recognized that all courses need to be reviewed to ensure that they reflect accurately the participation and concerns of minorities. Some curriculum chairs believe that any such review could impinge on academic freedom; the argument is made that professors are entitled to teach whatever they want and no one should "look over the shoulders of faculty." As one student noted, "Each time attempts are made to get professors to pay more attention to racial examples, there is an outcry that 'academic' freedom is being impinged upon." Some curriculum chairs believe that there is no need to make the curriculum more inclusive; as one curriculum chair stated: "This is a law school, not an acculturation institution."

At some schools there is a view that race issues are best left alone, that class discussions in which race-relevant aspects of cases and laws are discussed are likely to get out of control. As one student remarked, "Many professors consciously avoid racial issues because they do not want to step on any toes or instigate confrontational, heated debate." At these schools the prevailing attitude seems to promote avoidance of race-focused discussions and a denial of the importance of race in the study and practice of law. Some professors insist that "there are no differences in the interests of Whites and minorities regarding subject matter" or that "minority issues are really issues of poverty." Many

minority students are troubled by the avoidance of any race-specific discussions; or the incomplete or inaccurate representation of the role played by race-specific conduct in the evolution and application of legal principles; or by a lack of acknowledgement of the different perspectives and life experiences that minorities bring to the study of law.

Even at schools with less of an atmosphere of denial, minority students report avoidance by some professors. For example, at one law school where there have been some attempts to review the curriculum for diversity, students pointed out that there was no discussion of race in their Criminal Law classes. In fact, most students reported silence and avoidance in the classroom on the subject of race. For example, two students described a casebook selection in which a white woman accused a black man of attempted rape; both students reported that in the class discussion no mention was made of race. Similarly, students reported that casebook materials mentioning race were never discussed in class (e.g., a Torts case dealing with intentional infliction of emotional distress through racial epithets, or a Property case dealing with racially restrictive covenants). Students speculated that professors skip the race-related cases or the race-specific aspects of cases because the professors do not know how to handle them. As one student put it, "Most professors learned the law without discussing race and feel most comfortable teaching it the way they learned it, a situation that perpetuates the homogeneity of the law school environment."

At a few schools there are very new developments in approaches to curriculum. These can be summarized as follows:

- (1) At School A students participated in a spring 1989 boycott sponsored by the National Coalition for Diversity. Students, faculty, and administrators have formed a

committee to explore the inclusion of more minority-relevant material in all aspects of the curriculum. Minority concerns about the curriculum were also an agenda item at a faculty retreat at this school.

- (2) At School D students have demanded greater curricular diversity and attention to minority concerns. The Curriculum Committee has formally begun to address the issue and was considering undertaking a faculty survey to determine the extent to which racial issues are integrated into course materials. Students have recommended that a course about race and the law be added to the required first-year curriculum because of the need to ensure that the entire student body is exposed to a study of the way in which law and race are related, both historically and in the present.
- (3) School I has introduced a new course for first-year students on the Foundation of the Regulatory State; this course has a unit on "minority voices" which uses writings on the law by black and Hispanic writers.

While New York State law schools have made few efforts to examine curricula from minority perspectives, there does seem to be growing student, and in some cases faculty, awareness that racial sensitivity should be part of lawyers' competency and training. There needs to be serious debate about whether a "Race and the Law" class is sufficient to make minority students feel that their voices and concerns are heard and represented or whether such concerns need to be addressed throughout the curricula. Increasingly, the teaching of courses such as Criminal Law or Torts without any consideration of race is seen as belonging to an archaic past in which being polite meant ignoring any mention of race. Developing a single course or a group of courses is, of course, less controversial in that issues of

academic freedom are not raised, but it is doubtful that such an approach would be as effective as a systemic one.

3.0 Minority Participation in Clinical Programs and Student Clerkships

3.1 Clinical Programs

Minority participation in clinical programs is reported to be relatively high in most schools. Thirteen schools reported disproportionately high minority student participation in at least one clinical program. Of the remaining two schools, one reported that minority student enrollment in clinics generally matches minority presence in the student body, and the other school had no information regarding the proportion of minority participants in clinics.

In a few programs, faculty attribute high minority application and/or enrollment to factors such as subject matter, faculty, or prior involvement. At School C, the Criminal Law instructor suggested that the subject matter is of particular interest to minority students. However, he also cited a strong relationship between the minority student body and the program's sponsoring institution as contributing to high minority student interest. At this same school disproportionately high minority student involvement in a high-school outreach program, where law students teach sections of social studies to high-school students, is attributed to the fact that many of the law student participants are alumni of the target high schools. At School J the Clinical Director said that minority students perceive clinics as particularly useful educational opportunities. The Housing Development instructor there agreed with the Director's assessment. Applying that observation specifically toward the Housing Development program, the instructor also opined that minority students generally

identify with the need for quality housing. At School O the Criminal Justice instructor noted that over 75% of enrollees, many of whom are minority students, have had classes with him before.

At a few schools, individual faculty have made, or plan, targeted outreach to encourage minority students to enroll in clinics. At School B the Appellate Litigation instructor, concerned by the program's "white face," is thinking of doing targeted outreach. Similarly, Clinical Directors at Schools E and N have considered direct recruitment from among the memberships of the schools' minority student organizations. The Housing Development instructor at School J makes a presentation to first-year Legal Method classes (made up predominantly of minority students) to engender interest in the program.

Application procedures for clinics vary. Some instructors require extensive dossiers and/or personal interviews. At other schools, students need only register for a clinic in order to participate. Some clinics are restricted to certain classes of students (for example, at School K the Criminal Law Clinic is open only to third-year students, and the Criminal Appeals clinic is open only to fourth-semester students). One professor at School O, a member of the School's Clinical Policy Committee, suggested that no one can be sure of how such policy decisions affect minority student participation. Other instructors, too, admitted to being somewhat perplexed as to the reasons for low minority participation in their clinical programs. At School E the Clinical Director noted that she and other instructors "do not presently know why minorities are not participating in greater numbers and so are not sure how to approach the problem." The Clinical Director at School N noted that few minority students apply to clinics but had no explanation for the phenomenon. At School L the

Clinical Director supposed that many minority students work part-time, precluding their participation in clinics.

Some schools, as a matter of policy, encourage minority enrollment in clinical programs. At School I the Clinical Director noted that minority enrollment overall somewhat exceeds minority representation in the student body "primarily due to the efforts of all clinical instructors to accept [as many] minority applicants [as possible]." At School J the Clinical Director called minority recruitment a "recognized priority" of the clinical program.

Whether or not a school espouses minority recruitment and/or enrollment as a priority of the clinical program, individual instructors sometimes take the initiative to foster minority enrollment. The Child Advocacy instructor at School I mentioned that she consciously seeks a racial balance among enrollees. (However, that instructor noted that despite her efforts to recruit an integrated, "balanced" group, the program enrolls mostly white females.) Similarly, the Criminal Justice instructor at School O seeks a racial balance in each class. At School L clinical instructors request current minority enrollees to pass on their experiences to their peers. The Housing Development instructor at School L goes further in that he purposefully looks to enroll a class of 20-25% Blacks.

Several schools, as a matter of policy, target specific groups as client pools. While no school specifically seeks out minority clients, minorities are significantly represented in the groups that are targeted. School D targets an "indigent"--pursuant to federal guidelines for indigence--clientele. Similarly, School O's Community Law Office exists to serve the local indigent community. At School F all programs serve the indigent or those otherwise unable

to obtain counsel. The Community Law program of School C is held in minority community centers. At School A the Clinical Director, perceiving that the clinical programs have not been reaching the minority community, plans in the future to do intake interviews at community centers in minority communities (currently, most intake interviews are done on-campus).

Whether or not a school actively seeks out minority clients for its clinical programs, the fact is that at most schools at least one clinical program serves a largely minority clientele. The accompanying case studies contain information on 26 programs at 12 schools which serve predominantly minority clienteles. These programs cover a variety of topics from criminal representation (of 26 programs, 10 involve criminal matters) to immigration matters. By contrast, only six programs, at five schools, were said to represent few minority clients. As noted above, minority students are generally overrepresented in clinical programs; however, in no program are they in the majority. Thus, in every program serving a predominantly minority clientele, student representation is predominantly white. Nevertheless, no school has a formalized approach to "sensitizing" these predominantly white student groups to racially-founded differences between themselves and their future clients, nor to how such differences affect the legal-interpersonal relationship.

Several schools provide at least the opportunity for discussion of racial issues. At School B the Appellate Litigation clinic (with a 95% minority clientele) includes a weekly seminar which provides a forum for discussion of racial issues, but discussions of race and/or the client perspective are not a formal part of the syllabus. Similarly, the Criminal Law clinic at School G (having an 80% minority clientele) features a weekly round table at which

students discuss ongoing work. School K's Criminal Law clinic (with a 90% minority clientele) features "discussions of race." At School M too, the seminar component of each clinic provides a forum during which "a strong effort is made to address effectively the issue of racial differences in the various aspects of clinical representation," the Clinical Director there noted.

Often, the attention paid to student sensitization depends on faculty initiative. At School F the clinical faculty are said to be "highly conscious of integrating discussions of racial differences into classroom discussion and case related conferences." At School I the Community Development instructor said that the program's "specific goal is to teach students to work with people of different ages, gender, races, and economic status." Similarly, at School O the Criminal Justice instructor said that the special training of students in dealing with minorities is integrated into all aspects of the clinic. The Federal Litigation instructor there likewise said that racial sensitization is part of the general lawyer training of the clinic. At School L, where the Clinical Director characterized student sensitization as "informal," the Housing Discrimination instructor "emphasizes the dynamics of racism" by trying to make students understand what it means to be the target of racism. At School H, too, efforts at sensitization require instructor initiative. However, the Prisoners' Legal Services (PLS) instructor at School H mentioned a three-day sensitization seminar run by PLS rather than by school faculty.

Clinical instructors, as a group, have made some recent efforts to discuss ways to systematically integrate the issue of race into the clinical curriculum. Interviewees at Schools E, F, L, and O discussed a recent conference, "Dealing with Differences," addressing the

issue of how personal differences between the perspectives of student lawyers and clients affect legal representation. A faculty member at School F also mentioned recent efforts by the American Association of Law Schools to address this issue. At School M, the Director and clinic staff have discussed ways to integrate the issue of race into the school's own clinical curriculum.

Interviewees also mentioned a number of difficulties which they encounter in trying to address the issues raised by racial differences. Several interviewees (at Schools H, K, and N) said that economic status, rather than race, is the most significant "difference" between students and their clients. One instructor, at School G, mused that it is inherently difficult to "bridge the gap" between students--who are "in the system"--and clients--who are the "targets" of the "system." One instructor at School L called the issue of racial differences, such as were raised at the "Dealing with Differences" conference, "too amorphous." The Criminal Defense instructor there reported that client apathy, more than anything else, provides the biggest problem for students in trying to understand the perspective of clients. An instructor at School M devotes much time to having students confront their own, sometimes unconscious, biases. The instructor fears, however, that such efforts often cause students to "clam up." The Constitutional Law instructor at School O opined that currently available materials on the issue of race are inadequate to the task.

3.2 Student Clerkships

A number of schools have undergraduate clerkship programs under the auspices of their clinical programs. Two schools (K and L) are unique in that they have organized faculty Clerkship Committees to administer their student programs rather than, as is done

at a majority of schools. establishing such committees to deal exclusively with graduate clerkships. In terms of minority student participation in student clerkships, these committees find themselves confronted with many of the same difficulties encountered by their counterparts at schools where clerkships are a placement issue. For example, neither committee has done targeted outreach to the minority student body except on the initiative of individual faculty members. Judges are said to be generally uncommunicative regarding their willingness to consider minority applicants, and, as discussed in some detail in the section on graduate clerkships, the level of minority participation in student clerkships is affected by the issues of applicant competence, screening, and size of the applicant pool.

Currently, School L is unique in the state in that it offers a paid summer clerkship program for minority students. During the summer of 1989, three minority students were placed on rotating assignments with six New York State Supreme Court justices.

4.0 Cocurricular Activities

4.1 Minority Participation in Law Review

At most schools access to law review membership is through grades and/or a writing competition. As of the summer of 1989 three schools (D, I, and J) had developed either an affirmative action program or a diversity consideration. School A also planned for the Fall of 1989 a new component for its law review writing competition. As envisioned, students may supplement their submissions with a personal statement to describe any unique perspective that the student would bring to the review. A few schools are deliberating a diversity consideration, but there is concern that all minorities on law reviews will be stigmatized. To deal with this issue, one school (E) has what it calls an "affirmative

encouragement" program. Minority alumni with law review experience teach a Saturday workshop on competitive writing for minority students. Students are very positive about this program because they feel it offers assistance without leading to a questioning of the credentials of minority students on law review. At least one minority student at another school supported the idea of instituting some precompetition workshop to prepare minority students for the unique demands of such a competition.

Relatively few minorities are on law reviews. At some schools this is because there are so few minorities in the school. At most schools issues of qualification and orientation also factor into the level of minority participation.

4.2 Minority Participation in Moot Court Programs

Most schools reported no targeted effort to increase minority participation in moot court programs. Most moot court advisors are not aware of the number of minority students participating.

At some schools, participating students must have a minimum grade point average, which some feel acts as a barrier to greater minority participation. At several schools it is believed that more minority than white students work while in law school and that, therefore, minority students have less time for cocurricular activities.

Two schools (J and L) have made an effort to increase minority participation in moot court competitions by recruiting minority attorneys to serve as judges.

Several schools compete in the Frederick Douglass competition, which is sponsored by the National Black American Law Students Association organization. One New York school withdrew from a recent Douglass competition when the National BALSAs organization

would not accept the racially integrated team which the school was proposing to send. The school decided that since all of its interscholastic competition teams are integrated, it did not want to field a segregated team.

5.0 Conclusions

In general, with few exceptions, schools have not made any systematic efforts to adopt curricula of inclusion or to increase minority participation in cocurricular activities. The former is seen at many schools as problematic in terms of academic freedom, as an unnecessary diversion in the study of law, or as an intrusion of race considerations in what is ideally perceived as race-blind justice. Increasing minority participation in cocurricular activities has received some systematic attention at some schools, but targeting minorities through outreach efforts seems to be the exception rather than the rule. There seems to have been little consideration given to including minority student organizations as partners in outreach efforts, to tracking the extent of minority participation, or to surveying minority students to better understand the barriers to nonparticipation.

V. JOB PLACEMENT FOR MINORITIES

1.0 Introduction

Schools vary in the extent to which they make specific efforts to assist minority students with job placement. Schools also differ in terms of whether they allow prescreening of applicants for on-campus interviews. There are marked differences in the placement rates for Whites and minorities in different types of law practice in some schools but not in others. These issues are discussed in this section.

2.0 Minority-Relevant Policies and Activities

All schools have an antidiscrimination policy which is promulgated to employers. There are only three schools (A, D, and I) which do not allow prescreening of applicants for on-campus interviews; i.e., at these schools employers are required to conduct on-campus interviews with all interested students, as opposed to conducting interviews with only those students whose resumés meet employer criteria. One additional school (G) has a policy which allows an employer to conduct two thirds of its interviews with students of its choosing; one third of the interviews must be with any students who chose to be interviewed. Most schools feel that they are not in a position to dictate to employers because if they refuse to allow prescreening the employers will simply avoid those campuses.

Most, but not all, schools make at least some special efforts to assist minority students in job placement activities. School D has developed so many different strategies that its activities are presented below.

- (1) Minority Placement Committee Bi-weekly Meetings: Student members of each minority student organization meet with Placement Staff to plan programs.
- (2) Saturday Resumé and Interview Program for First-Year Minority Students: In November, eight to ten graduates arrange individual appointments with first-year students to review their resumés and to conduct practice interviews with them.
- (3) Alumni Law Firm Panel Before On-Campus Interview Season: In a panel followed by a dinner, six minority graduates present interview strategies to 60 second- and third-year students before Early Interview Week.
- (4) On-site Visits Held in Conjunction with Minority Student Organizations: Visits to the

Legal Aid Society, the local District Attorney's Office, and large law firms are held in the spring for first-year minority students. The visits involve presentations by lawyers and tours of the offices.

- (5) Placement Newsletter for Minority Student Organization Members: A newsletter listing all programs and jobs for minority students is circulated to all minority student organization members six times a year.
- (6) Minority Law Student on Placement Office Staff: One paid, part-time minority student assists with job fairs, resumé directories, the newsletter and other materials.
- (7) Minority Student Resumé Directories: Two minority student resumé directories are prepared annually and mailed to hundreds of legal employers. The first directory contains second-year and third-year student resúms and is mailed to all employers in the fall. The second directory, which contains first-year student resúms, is mailed in the spring. The directories indicate areas of interest and geographical preferences.
- (8) NALP/BLSA Minority Law Student Recruiting Conference: The School participates in this five-year-old recruiting conference, and members of Placement Office staff have served on the Conference's Executive Committee. Between 45 and 65 of the School's students and graduates participate in the conference.
- (9) Alumni Career Advisory Program: The Placement Office, in cooperation with minority student organizations at the School, conducts a minority alumni/student advisory program. In 1989, a list of 45 minority alumni interested in acting as advisors was distributed to every minority law student. The list included information on specialties and backgrounds.

- (10) Employer Binders for Minority Law Students: Employers interested specifically in minority law students write regularly to the Placement Office. All correspondence and materials about these employers are kept in special binders in the reference library.
- (11) The Future of Minorities in the Legal Profession: Each spring panels are held at which speakers discuss the role of minorities in the legal profession and other topics of interest.
- (12) Early Interview Week Participation Drive: All students who belong to one of the three minority student organizations are called each summer and strongly encouraged to participate in the late summer, on-campus interviewing period.
- (13) Employer Lists: Lists of employers who have hired minority law students are updated annually and distributed to the next class of law students.

Minority student participation in the placement process through the mechanism of the Minority Placement Committee received particularly high praise from minority students. The regular, systematic involvement of representatives of minority student organizations helps to ensure a feeling of inclusion and serves as a mechanism for the timely exchange of information regarding placement opportunities and problems.

3.0 Minority Placement Rates

Data on minority and white student job placement in various types of law practice are provided in Table III.2.4.

Table III.2.4: Average Proportions of White and Minority Students Placed in Various Types of Law Practice (Graduating Classes of 1986-1988)

(Numbers in Parentheses are Percentages Representing the Proportion of Persons in a Given Race/Ethnic Group in a Particular Job Category)

	A	B	C	D	E	F	G	H	I	J	K*	L	M	N	O
TOTALS															
ALL	178	217	338	386	267	130	314	214	312	221	203	174	202	76	252
White	157	209	328	340	240	124	298	202	256	196	199	165	191	72	241
Black	10	4	3	22	9	3	4	7	20	12	2	5	7	3	10
Hispanic	2	2	6	11	13	3	6	4	15	8	1	3	4	1	1
Asian	8	2	1	13	5	0	6	1	21	5	1	1	0	0	0
Native American	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FIRMS: <50															
TOTAL	22(12)	68(31)	99(29)	33 (8)	86(32)	29(22)	84(27)	111(52)	31(10)	72(35)	75(37)	37(21)	51(25)	36(47)	98(39)
White	22(14)	66(32)	96(29)	29 (9)	78(32)	29(23)	80(27)	107(53)	23 (9)	68(35)	75(38)	36(22)	50(26)	34(47)	97(40)
Black	0	1(25)	1(33)	2 (9)	1(11)	0	1(25)	2(29)	1	2(17)	0	1(20)	0	1(33)	1(10)
Hispanic	0	0	2(33)	1 (9)	5(38)	0	1(17)	2(50)	8(14)	1(13)	0	0	1(25)	1(100)	0
Asian	0	1(50)	0	1 (8)	2(40)	0	2(33)	0	1	1(20)	0	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FIRMS: 50+															
TOTAL	110(62)	17 (8)	67(20)	235(61)	61(23)	1 (1)	130(41)	20 (9)	197(63)	45(20)	45(22)	25(14)	45(22)	9(12)	33(13)
White	99(63)	17 (8)	65(20)	214(63)	58(24)	1 (1)	126(42)	19 (9)	166(65)	42(21)	44(22)	23(14)	45(24)	9(13)	32(13)
Black	3(30)	0	0	9(41)	1(11)	0	1(25)	1(14)	1	1 (8)	1(50)	1(20)	0	0	1(10)
Hispanic	2(100)	0	1(17)	3(27)	2(15)	0	2(33)	0	31(55)	1(13)	0	1(33)	0	0	0
Asian	5(62)	0	1(100)	9(69)	0	0	1(17)	0	1	1(20)	0	0	0	0	0
Native American	1(100)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BUSINESS/INDUSTRY															
TOTAL	3 (2)	9 (4)	20 (6)	4 (1)	12 (4)	0	31(10)	14 (7)	4 (1)	15 (7)	11 (5)	18(10)	7 (3)	0	18 (7)
White	2 (1)	9 (4)	20 (6)	3 (1)	11 (5)	0	29(10)	14 (7)	3 (1)	12 (6)	10 (5)	18(11)	7 (4)	0	18 (7)
Black	1(10)	0	0	1 (8)	0	0	0	0	1	1 (8)	0	0	0	0	0
Hispanic	0	0	0	0	1 (8)	0	0	0	1 (2)	1(13)	0	0	0	0	0
Asian	0	0	0	0	0	0	2(33)	0	1	1(20)	1(100)	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Table III.2.4 (continued)

	A	B	C	D	E	F	G	H	I	J	K*	L	M	N	O
GOVERNMENT**															
TOTAL	8 (4)	25(12)	53(16)	20 (5)	66(25)	61(47)	30(10)	48(22)	10 (3)	45(20)	50(25)	29(17)	14 (7)	25(33)	35(14)
White	5 (3)	23(11)	49(15)	14 (4)	54(20)	56(45)	26 (9)	43(21)	6 (2)	38(19)	49(25)	26(16)	11 (6)	24(33)	29(12)
Black	2(20)	1(25)	2(67)	1(18)	6(66)	3(100)	1(25)	2(29)	2(10)	3(25)	0	2(40)	2(29)	1(33)	5(50)
Hispanic	0	1(50)	2(33)	1 (9)	4(31)	2(66)	2(33)	2(50)	2(13)	3(38)	1(100)	0	1(25)	0	1(100)
Asian	1(13)	0	0	1 (8)	2(40)	0	1(17)	1(100)	0	1(20)	0	1(100)	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CLERKSHIPS															
TOTAL	20(11)	4 (2)	8 (2)	55(14)	16 (6)	12 (9)	28 (9)	13 (6)	50(16)	11 (5)	15 (7)	19(11)	15 (7)	4 (5)	11 (4)
White	18(11)	4 (2)	8 (2)	49(14)	16 (7)	11 (9)	27 (9)	13 (6)	43(17)	10 (5)	15 (8)	18(11)	14 (7)	4 (6)	11 (5)
Black	1(10)	0	0	3(14)	0	0	0	0	3(15)	0	0	0	1(14)	0	0
Hispanic	0	0	0	2(18)	0	1(33)	1(17)	0	2(13)	0	0	1(33)	0	0	0
Asian	1(13)	0	0	1 (8)	0	0	0	0	2(10)	1(20)	0	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PUBLIC INTEREST															
TOTAL	1 (1)	0	0	7 (2)	0	2 (2)	1(<1)	0	1(<1)	4 (2)	0	5 (3)	4 (2)	1 (1)	0
White	1 (1)	0	0	4 (1)	0	2 (2)	1(<1)	0	1(<1)	4 (2)	0	5 (3)	4 (2)	1 (1)	0
Black	0	0	0	1 (5)	0	0	0	0	0	0	0	0	0	0	0
Hispanic	0	0	0	1 (9)	0	0	0	0	0	0	0	0	0	0	0
Asian	0	0	0	1 (8)	0	0	0	0	0	0	0	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OTHER***															
TOTAL	5 (3)	34(16)	6 (2)	12 (3)	26(10)	6 (5)	5 (2)	4 (2)	7 (2)	11 (5)	7 (3)	11 (6)	7 (3)	1 (1)	8 (3)
White	4 (3)	32(15)	6 (2)	11 (3)	23(10)	6 (5)	5 (2)	3 (1)	6 (2)	10 (5)	6 (3)	10 (6)	5 (3)	0	7 (3)
Black	0	1(25)	0	1 (5)	1(11)	0	0	1(14)	1 (5)	1 (8)	1(50)	1(20)	1(14)	1(33)	1(10)
Hispanic	0	1(50)	0	0	1 (8)	0	0	0	0	0	0	0	0	0	0
Asian	1(13)	0	0	0	1(20)	0	0	0	0	0	0	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NOT PLACED/UNKHOWN															
TOTAL	9 (5)	60(28)	85(25)	20 (5)	0	19(15)	5 (2)	4 (2)	12 (4)	18 (8)	DK	30(17)	59(29)	0	49(19)
White	6 (4)	58(28)	84(26)	16 (5)	0	19(15)	4 (1)	3 (1)	8 (3)	12 (6)	DK	29(18)	55(29)	0	47(20)
Black	3(30)	1(25)	0	2 (9)	0	0	1(25)	1(14)	2(10)	4(33)	DK	0	3(43)	0	2(20)
Hispanic	0	0	1(17)	0	0	0	0	0	1 (7)	2(25)	DK	1(33)	1(25)	0	0
Asian	0	1(50)	0	0	0	0	0	0	1 (5)	0	DK	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	DK	0	0	0	0

**Based on two years of data. **Includes OA's, legal aide, public defenders, and all other city, state, and federal offices.
 ***Includes academic, military, non-legal jobs and further study. DK = Don't Know

3.1 Large Firms

The data in Table III.2.4 show that the greatest variability in job placement is not among races but among schools. For example, Law Schools A, D, and I place 61%-63% of their graduates in firms with 50 or more lawyers, while the range at all other schools is from 1% at Law School F to 41% at Law School G. With the exception of Law School G, all other schools in this lower range place less than 25% of their graduates in large law firms. Thus, it is not that minorities in these schools are not being placed in large law firms, it is that relatively small proportions of any graduates of these schools are being placed in large law firms; it is apparent that large law firms recruit graduates from a restricted range of law schools and that this practice affects minority opportunities to enter large law firms even more than minority status. Nevertheless, even at Law Schools A, D, and I, which place the majority of their graduates in large law firms, the placement rates for Blacks are below the rates for Whites (School A: Whites 63%, Blacks 30%; School D: Whites 63%, Blacks 41%; School I: Whites 65%, minorities² 55%).

Student interviewees were generally critical of the general practice of prescreening. Some students were suspicious, alleging that, beyond facially race-blind reliance on academic performance, private sector employers--especially large firms--are not receptive to minorities, which, in turn, discourages otherwise viable minority applications. Interviewees generally acknowledged the futility of trying to encourage employers to "liberalize" their selection procedures in any meaningful way. While one may support efforts to have employers reassess their standards to better determine the relationship, if any, between a certain level

²Data received were not disaggregated for individual races.

of academic performance and qualification for a particular position, the real onus falls upon the schools and their efforts at academic support. Clearly, as minority academic performance reaches parity with white students' academic achievement, race should become less of a factor in the hiring process.

3.2 Government Employment

Placement rates in government jobs show the direct inverse of the rates reported for placement at large firms. Thus, Schools A, D, and I, while having the highest placement rates in large firms for both Whites and minorities, also have the state's lowest placement rates for graduates (minority or white) in government jobs. And School F, which has the lowest large-firm placement rate, has the state's highest government placement rate. The range is from 3% of all job placements in Law School I to 47% of all jobs in Law School F. At all but two schools government placement rates for minorities are higher than for Whites. Of those two schools, one (K) shows parity in government placement rates; only at School N does government placement for Whites exceed the rate for minorities. These data confirm the general perception that relatively greater proportions of minorities than Whites go into government jobs. Therefore, the data strongly suggest that choice of school, rather than ethnicity, most influences minority students' prospects for large-firm employment, though ethnicity is, at least, a marginal factor.

Interviewees' perceptions are somewhat mixed as to the weight of various factors involved in choosing public over private sector employment. Several interviewees mentioned that the marked disparities in monetary remuneration dissuade many graduates--minorities and Whites alike--from pursuing public sector careers. Several schools (E, G, J, L, and N)

offer, or plan, scholarships or loan forgiveness programs as financial incentives for those entering the public sector. On the other hand, many interviewees also believe that minorities disproportionately choose public sector employment, not as their preferred field, but because of limited opportunities for minorities in the private sector.

3.3 Clerkships

Relatively small proportions of graduates go into clerkships, but still there is marked variability across schools. Thus, whereas only 2% of School B and C graduates go into clerkships, 16% of School I graduates do so. Schools A, D, and I, which have the highest clerkship placement rates, place their minority and white students in clerkships at comparable rates. Other schools have comparably high--or higher--rates for minority placement in clerkships (e.g., School L, like School A, has an 11% minority placement rate in clerkships; School F places 17% of its minority students in clerkships). High percentages disguise the fact that those schools, having exceedingly small minority student bodies, achieve a high placement rate only by virtue of the small numbers involved.

On the premise that the establishment of committees and/or of special, competitive procedures reflect a school's assessment of the importance of a particular undertaking, it appears that graduate clerkships are considered valuable and unique employment options. Ten schools (A, B, C, D, E, G, I, M, N, and O) have faculty committees to provide information on, and/or to screen applicants for, graduate clerkships. At the remaining schools, clerkships are coordinated like any other placement option.

The Commission's survey of clerkship committees garnered no consensus on either the level of judicially imposed prerequisites or how, if at all, a committee's own "working"

criteria affect minority interest, application, and placement in graduate clerkships. At only one school did an interviewee say that judges regularly transmit prerequisite criteria for graduate clerkship applicants. Interviewees at two other schools said that judges rarely transmit prescreening criteria. Three clerkship committees screen applicants as a matter of policy; at a fourth school the committee screens applicants only when a target court has specified academic prerequisites. Several clerkship committees have "working" criteria with which to, in effect, screen applicants. Committees at two schools consider students in the top 50% of a class as eligible for graduate clerkships. Published information at another school limits eligibility to those in the top third of a class. A minority-student representative at one school reported that students generally believe that professors will not recommend for clerkships any student not in the top 20% academically and/or on a journal.

Faculty knowledge about the "ins and outs" of clerkship applications seems to provide the *raison d'être* for most committees. All ten committees serve as "clearinghouses" for applicants. Similarly, at School H, the Placement Office matches applicants with individual faculty to serve as information sources for applicants. This faculty gate-keeping function (interviewees at several schools all stressed the importance of faculty recommendations for successful clerkship applications) raises a special concern for minority applicants. Most student interviewees spoke of a profound "distance" between minority students and current faculty. Because of this distance, minority students, as a group, may not enjoy the sort of rapport with faculty which engenders faculty familiarity with a student's qualifications and, in turn, effective letters of recommendation crucial to gaining clerkships.

As with other issues, there is a heavy reliance on student initiative in seeking out

clerkships. But, as with other issues, there is some evidence that minority students encounter unique obstacles which hamper such initiative. The prestige rewards of clerkships may be outweighed by the economic rewards of other placement opportunities. The presumed prestige of clerkships could speak against such purely financial concerns, but interviewees at several schools suggested that minority students are not generally aware--nor made aware--of the value which many employers place on clerkship experience, and interviewees at two schools said that minority students generally express little interest in clerkships.

Clearly, minority students have access to information with which they can educate themselves about clerkships. All clerkship committees and placement offices disseminate some literature or hold general information meetings regarding clerkships. But in this area, as in others, involved faculty and staff must assess the viability and need for outreach to the minority student population. Students at two schools specifically alleged that information is not transmitted directly to minority organizations, and students at a number of other schools were simply unable to comment on minority participation in clerkships because the students lacked enough familiarity with the issue. At one school, for example, a student interviewee was surprised to learn that his school has a clerkship committee; another student there said that she learned of the committee's existence only by accident.

Little outreach is done to increase minority student applications for clerkships. Such passivity seems problematic given the common perceptions of minority students regarding their chances for a successful application and thus their lack of awareness as to the possible benefits associated with clerkships. Even at schools where committee members have done some personal outreach, committees have not done anything systematic in this area. Thus,

the Placement Office may send a letter to all minority organizations to encourage minority applications, but there have been no personal meetings with minority student representatives. Clerkship chairs at several schools expressed enthusiasm about the idea of holding meetings with the minority student organizations at their schools.

Several interviewees felt that Clerkship Committees shape their policies to the "reality" of the receptivity--or, more precisely, the lack thereof--of the judiciary to minority applications to clerkships. Interviewees at several schools specifically called for the judiciary to take a more affirmative stance in favor of minority applicants. The Clerkship chairs at several schools said that judges seek clerks with whom they have a personal affinity and that given the highly personal nature of a clerkship, judges exercise their discretion in choosing clerks with whom they can feel comfortable. Placement literature from one school "advises" potential clerkship applicants that "a judge will not hire a person with whom he or she cannot work comfortably." Interviewees at two schools reported that minority applicants have greater success in gaining positions in clerk "pools" as opposed to personal clerkships. This reported difference arguably may be explained either by the larger size of "pools" permitting racial diversity among clerks or lack of judicial initiative. Similarly, facially race-blind administrative procedures can inhibit judicial initiative. Several interviewees spoke about the lack of procedural guidelines and timetables for applications to clerkships--especially to federal courts. There has been some recent debate over the propriety of "cutthroat" competition for future clerks. The question remains as to what attributes can be said to generally qualify one for a graduate clerkship. Interviewees at five schools said that they look for a combination of scholastic achievement and demonstrated writing ability.

Interviewees at two schools stressed writing and research skills as the most important talents for clerkships. No interviewee said that journal affiliation was an absolute requisite for a graduate clerkship, but several interviewees noted that journal affiliation is favored or deemed conclusive evidence of competency in writing. Of course, the desire to increase minority participation in clerkships cannot be an exclusive argument for diversifying and/or liberalizing membership requirements for legal journals. Rather, clerkships, more than other employment options, may demand general competence in writing, research, and a spectrum of substantive material. This would be especially the case in courts of general jurisdiction. Even in courts of specific jurisdiction, a clerk is likely to encounter a broader range of substantive issues than one sees working for the IRS, for example. Thus, if increased minority participation in clerkships is to be adopted as a specific goal, students must be made aware of the need for broad-based academic preparation, especially in terms of writing and researching skills.

It is apparent that many schools rely heavily on their faculty to assist clerkship applicants. Faculty are called upon to assess the viability of applications to particular courts or are asked to help students "put their best foot forward" for these highly competitive positions. In terms of increasing and promoting minority participation in graduate clerkships, again we must look to the faculty and to other intimately-involved personnel. If faculty agree that clerkships are, indeed, "special" positions which "open doors" to prestigious and influential positions (e.g., private firms, government, or academia), then the generally espoused goal of increased minority presence in positions of power within the profession can be served by taking steps to make clerkships a viable and sought-after career option for

minority law graduates.

4.0 Conclusions

Most schools in the state allow employers to screen students seeking placement. Many students--minority and otherwise--are precluded from gaining employment due to objective criteria such as academic performance and/or cocurricular activities. Employers are generally taking a narrow view of "qualification" as opposed to a broader view including other indicia of potential. Moreover, the most selective employers, as a matter of course, select future employees from a very limited pool of "elite" schools in New York and elsewhere, effectively minimizing the chances for minority students to gain positions in those organizations. In addition to the issue of a school's general reputation, therefore, the issue of academic achievement is the ultimate factor affecting minority students. Nevertheless, a number of schools--or, more precisely, a number of Placement Directors--have had success in "breaking down the citadel of academic performance" as the exclusive indicator of qualification. While such personally-initiated efforts are worthy of emulation, there is also some concern with the general lack of a systematic approach--an approach not so highly dependent on the individual personalities involved--to promoting minority placement in selective legal organizations. Ultimately, the goal of higher minority placement in all areas of the legal profession is to be achieved by efforts before graduation to upgrade minority student academic performance, to increase minority student participation in cocurricular activities, and to encourage potential employers to assess both the subjective and objective "profiles" of minority job seekers.

VI. MINORITY REPRESENTATION ON FACULTIES

1.0 Introduction

As discussed in the Commission's literature review (see Section I, pp. 34-38), absence of minority faculty is an oft-mentioned obstacle to minorities seeking access to the legal profession. Minority faculty serve as mentors, role models, and ombudspersons for minority law students; ease the alienation that many students feel in all-white environments; and provide proof that minorities can earn positions of respect in the legal profession. Moreover, the presence of minority faculty enriches the legal education of white students by bearing witness to minority achievement and by providing a broader perspective on legal education.

This section provides data on the representation of minorities on New York State law school faculties and on various efforts that have been made to increase minority representation.

2.0 Data on Minority Representation on Law School Faculties

Data on minority representation on Law School faculties are presented in Table III.2.5.

Table III.2.5 Race/Ethnicity of Faculty (1989).
(Numbers in parentheses are percentages.)

	A	B	C	D ***	E	F	G	H ***	I *	J	K ***	L	M	N	O
Tenured															
White	22.5 (95.7)	21 (95.5)	33 (94.3)	64 (97)	43 (95.6)	4 (57.1)	25 (96.2)	23 (92)	39 (95.1)	28 (100)	21 (95.5)	23 (92)	29 (100)	8 (100)	31 (93.9)
Black	1 (4.3)	1 (4.5)	2 (5.7)	2 (3)	2 (4.4)	1 (14.3)	0	1 (4)	1 (2.4)	0	1 (4.5)	0	0	0	2 (6.1)
Hispanic	0	0	0	0	0	2 (28.6)	0	0	0	0	0	0	0	0	0
Asian	0	0	0	0	0	0	1 (3.8)	1 (4)	1 (2.4)	0	0	2 (8)	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	23.5	22	35	66	45	7	26	25	41	28	22	25	29	8	33 **
Non-tenured															
White	11 (84.6)	9 (75)	12 (85.7)	27 (93.1)	14 (100)	21 (70)	18 (90)	8 (88.9)	14 (93.3)	11 (73.3)	11 (100)	18 (81.8)	3 (60)	13 (86.7)	1 (100)
Black	2 (15.4)	3 (25)	2 (14.3)	1 (3.4)	0	6 (20)	2 (10)	1 (11.1)	1 (6.7)	4 (26.7)	0	2 (9.1)	2 (40)	2 (13.3)	0
Hispanic	0	0	0	1 (3.4)	0	0	0	0	0	0	0	2 (9.1)	0	0	0
Asian	0	0	0	0	0	3 (10)	0	0	0	0	0	0	0	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	13	12	14	29	14	30	20	9	15	15	11	22	5	15	1
Adjunct & Pt-Time															
White	3 (50)	41 (95.3)	24 (88.9)	96 (96)	53 (93)	18 (75)	49 (90.7)	28 (93.3)	26 (100)	30 (96.8)	45 (100)	53 (96.4)	26 (83.9)	11 (91.7)	17 (100)
Black	1 (16.7)	1 (2.3)	1 (3.7)	4 (4)	3 (5.3)	5 (20.8)	3 (5.6)	2 (6.7)	0	1 (3.2)	0	2 (3.6)	3 (9.7)	1 (8.3)	0
Hispanic	0	0	1 (3.7)	0	1 (1.7)	1 (4.2)	0	0	0	0	0	0	1 (3.2)	0	0
Asian	2 (33.3)	1 (2.3)	1 (3.7)	0	0	0	2 (3.7)	0	0	0	0	0	1 (3.2)	0	0
Native American	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	6	43	27	100	57	24	54	30	26	31	45	55	31	12	17 ***

*Includes faculty on leave and full-time administrators
 **Excludes Dean, Vice Dean, and librarian
 ***Approximate - figure varies

Minority representation among tenured faculty ranges from 0-42.9%. With the exception of School F, however, minorities account for less than 8% of the tenured faculty at all schools; at the majority of law schools minorities account for 4% or less of tenured faculty. In 1989 there were only 21 tenured minority professors, out of a total of 435.5, accounting for 4.8% of tenured faculty in the state.

Representation of minorities among nontenured faculty ranges from 0-40%. In general, minority representation among nontenured faculty is better than minority representation among tenured faculty. In ten schools minority representation among nontenured faculty is 10% or greater. In 1989 a total of 34 nontenured minority instructors out of a total of 225 in the state constituted 15.1% of all nontenured instructors.

Minority representation among adjunct and part-time faculty tends to be less than such representation among nontenured faculty. At the majority of schools minorities account for less than 10% of the adjunct or part-time faculty. In 1989, there were 38 minority adjunct or part-time instructors out of a total of 558, or 6.81% of that group.

Overall, there are few minority law professors. No law school has more than two tenured black professors; four schools have two tenured black professors each, six have one each, and five have none. Taking all faculty (tenured, nontenured, and adjunct) together, all law schools have at least one black instructor; the range is from one to 12 and the mode is five. Only six law schools have any Hispanic representation on their faculties at all; only one law school has tenured Hispanic faculty. Four law schools have tenured Asian-American faculty; an additional five have at least some Asian-American representation. No law school has Native American representation on the faculty. In 1989 there were a total of 93

minorities on New York State law school faculties out of 1,218.5 persons, representing 7.63% of all faculty.

It is apparent that minority representation on most faculties is minimal. Minority faculty are reported to be burdened with extra assignments as counsellors, tutors, liaisons, mentors, and recruiters (see Chapter 1, pp. 52-60). All schools favor diversity and, with the exception of one school which already has very large minority representation, which it wants to maintain, all schools want to increase minority representation on faculties. Approaches to this issue are discussed in the next section.

3.0 Efforts to Increase Minority Representation on Faculties

All schools report efforts to increase minority representation on faculties. At some schools these efforts have resulted in identification of potential candidates, offers to candidates, and a high rejection rate by candidates. Other schools have tried a variety of strategies yet have been unable to develop even a pool of interested candidates. A few schools emphasize scholarly writing as a hiring prerequisite for all faculty; most emphasize not only writing but also interest in teaching and relevant professional experience.

Schools report using the American Association of Law Schools (AALS) Directory of law teachers and attending the AALS convention with varying degrees of success. Other informal strategies used can be summarized as follows:

- (1) Networking with current faculty and asking for their recommendations regarding possible law teachers.
- (2) Networking with minority attorneys and judges either on an ad hoc basis or through contacts with national and local minority bar associations and other legal

organizations.

- (3) Networking with current minority students and alumni.
- (4) Networking with nonprofit organizations and advocacy groups.

Most schools report that they have had greater success relying on these types of networking than relying on AALS recruitment, but relatively few have tried any of these approaches. At several schools, minority student organizations are partners in the search process, and minority students interview prospective minority law teachers.

4.0 Conclusions

Schools vary in their reasons for pursuing new faculty--tenure-track or otherwise. While some schools conduct a faculty search to fill a particular curricular need, other schools generally seek to increase and diversify their faculties with the most qualified candidates as candidates become available. Paralleling law school competition for minority students, competition for faculty is affected by school reputation and environment, financing, a limited candidate pool, and applicant qualification. Similarly, the issues of minority student retention and support are mirrored by concerns with what can be done to nurture and advance current minority faculty. As a third parallel, just as the schools have begun to recognize a need to nurture among potential students a stronger interest in legal studies, some schools have recognized their current minority students as a potential source of future faculty members. Looking toward the future, current efforts to increase minority student enrollment, to better minority student retention rates and levels of academic achievement, and to increase minority placement in positions across the spectrum of legal employment may be expected to affect positively the availability, interest, and qualification of future

minority law faculty. Currently, however, Appointments Committees and law school deans (the former generally charged with recruiting tenure-track faculty, the latter usually bearing responsibility for retaining part-time and adjunct faculty) continue to wrestle with issues of affirmative action and definitions of "meritocracy."

Significantly, during 1989 minorities were disproportionately underrepresented among adjunct and part-time faculty (i.e., representing only 6.8% of a pool of 558 part-time and adjunct instructors while there was 15.8% minority representation among the 215 nontenured, tenure-track faculty). Thus, data suggest, at least at face value, that law schools are not achieving commensurate diversification among that group of instructors which constitutes the largest pool of instructors. In sum, the law schools find themselves among the ranks of other elitist, extremely selective employers--being perceived as disproportionately exclusionary and unsupportive of prospective minority employees and needing to liberalize their selection criteria as well as to expand their efforts to reach out to a greater pool of potential employees.

VII. A MODEL PROGRAM

A model program would be one that would combine the best practice solutions developed at different schools. Such a program would have two overriding, key features:

- (1) A mechanism which would ensure a systematic approach to minority issues so that all policies, activities, and initiatives at the law school are reviewed with an eye toward minority input and a concern for minority impact.
- (2) Ongoing and routine data collection and analysis regarding minority applications, acceptances, admissions, placement, and bar passage. Only through such systematic data collection and analyses can a law school conduct ongoing self-assessments regarding how well it is meeting its goal of improving minority education.

In addition to the above two overriding features, a model program would have the following components:

- (1) Outreach to high schools, including visitation programs, big brother/sister programs, and special presentations to encourage minority student interest.
- (2) Outreach to other audiences (e.g., paralegals) which have large minority populations.
- (3) Use of Candidate Referral Service lists to contact all minorities who take the LSAT. Such mailings should include a brochure that is specific about the minority experience at the law school.
- (4) Contacts with college advisory offices and minority student organizations, which make it clear that the law school is interested in recruiting minority students.
- (5) Visits to historically black colleges and other colleges with a high minority representation.

- (6) Sponsoring of minority law forums to which accepted students are invited, as well as systematic outreach through telephone calls and mailings to encourage enrollment of those who have been accepted.
- (7) Administrative support for minority student organizations to make it possible for them to be involved in all aspects of recruitment, admission, and enrollment including making funds available for brochures, travel, telephone calls, receptions, other special events.
- (8) Prelaw summer programs should be offered.
- (9) Curriculum review that creates a climate in which all professors understand the importance of including relevant discussions about substantive matters of concern to minorities. American law is, in central and crucial respects, a product of racial and ethnic conflict and an accommodation to racial and ethnic differences. Students should be taught about these matters because it is impossible to understand American law without exploring these issues. All faculty should receive assistance in developing materials that illuminate the effects of race and ethnicity upon legal decision-making and the effects of legal decisions upon racial and ethnic minorities. Some faculty may need assistance in understanding that race-blind discussions often result in incomplete or inaccurate legal analysis; and can leave minority people feeling invisible or alienated. Other faculty may need assistance in becoming comfortable with race-conscious discussions. These issues should be the subject of faculty retreats, seminars, or extended meetings.
- (10) Review of cocurricular programs to ensure that there are no unjustifiable barriers to

minority participation and that minority students are actively sought out for inclusion. Minority student organizations should receive timely information regarding openings and submission deadlines for all such programs and should do special mailings and hold special forums and workshops to encourage minority student participation and to provide substantive assistance where needed.

- (11) Development, by the placement office, working with the office of minority affairs and with the minority student organizations, of a series of mechanisms and activities designed to assist minority students. As discussed in the section on placement, Law School D has a comprehensive program already in place.
- (12) Networking by faculty hiring committees with minority alumni, other minority professionals, and minority organizations in order to identify potential law teachers. More assertive outreach may not only identify a wider pool of potential teachers but will convey to the minority community the seriousness and sincerity of the effort. This in turn will eventually encourage more minority lawyers to apply for teaching positions. There should be a particular effort to increase the number of minorities in adjunct positions.

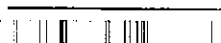
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CHAPTER THREE

LAW SCHOOL CASE STUDIES



CHAPTER 3

LAW SCHOOL CASE STUDIES

CASE STUDY A

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

Admissions and recruitment are handled by the Admissions Office staff, the Faculty Committee on Admissions (four to five faculty and administration members who review borderline or special applications), and the Admissions Policy Committee (made up of the Faculty Committee plus two students, one of whom is always a minority student). The Admissions Policy Committee does not review applications but discusses admissions procedures and policies, including those related to minority admission. No separate Minority Recruitment/Admissions Officer is employed, and there is widespread agreement that the size of the School does not warrant a separate officer. Minority student representatives express satisfaction with the Admissions Office's efforts in recruiting and admitting minorities.

B. Minority Applicant Recruitment Programs

1. Candidate Referral Service Minority Candidate Mailing

The Admissions Office uses the Law School Data Assembly Service's (LSDAS) Candidate Referral Service (CRS) to obtain lists of all who, in registering to take an LSAT, identify themselves as black, Hispanic, Asian-American, or Native American. Each identified candidate receives a packet containing a letter, a "Minority Students at [the School]"

brochure, a School bulletin and application materials.¹ The letter notes that the School views positively minority status in assessing applications; describes the voluntary, one-week academic orientation program available to all incoming minority students (described further in part II, section A, "Summer Orientation," below); notes the School's sponsorship of active black, Latin American, American Indian, and Asian-American Law Student Associations (BLSA, LALSA, AILSA, and AALSA, respectively); and adds in a postscript that application fee waivers are available for students who evidence financial need. The brochure describes the School's efforts to create an atmosphere that "maximizes opportunities for minority students to thrive as students and as future lawyers." The brochure discusses minority student organizations, orientation, admissions, and retention and financial aid.

The School requests CRS lists four times a year and mails to each list. Each CRS search generally identifies between 150 and 250 candidates.

2. College Campus Visits

As part of its general (not minority-specific) recruitment effort, the School visits undergraduate campuses. Such visits are conducted both independently and in conjunction with other schools (e.g., at professional opportunity days organized by many undergraduate institutions). While visits are not specifically targeted to recruit minority students, the Admissions Director notes that recruiters are careful to stress the School's interest in diverse students and to make clear the value of minority status in admissions decisions.

The Admissions Office also makes recruitment visits to a number of traditionally

¹During the 1988-1989 recruitment period, Asian-American students were not actively recruited since the Admissions Office felt it was receiving sufficient numbers of applications from qualified Asian-American students.

black colleges (e.g., Howard, Spelman, Morehouse) and has funds set aside so that black second- and third-year students may accompany admissions staff on those visits, participate in the presentation, and be available to answer students' questions.

The School also sends representatives to the Law School Admissions Council (LSAC) forums held in Atlanta, Boston, Chicago, Los Angeles and New York.

3. Undergraduate Moot Court Program

Each year in late spring, BLSA and a black undergraduate Center at the School's affiliate university administer a moot court competition for local minority undergraduate students. The two-year-old competition, funded in large part by the law firm of a deceased black alumnus and subsidized by the School as well, is intended to foster minority student interest in pursuing a career in law. Although no policy regarding racial/ethnic background of participants has been formulated, publicity efforts are aimed at black undergraduates. Interested undergraduates attend an organizational meeting and are paired with student mentors from the Law School who help them read cases and prepare briefs and arguments, and who take them through mock rounds. The Dean of the Law School acted as judge for the final rounds this year. Last year (1988-89) approximately ten undergraduates participated in the competition. It is not known for certain whether these or other past participants applied to law school.

C. Admissions Criteria

The Chair of the Faculty Committee on Admissions reports that the School is hesitant to admit any applicant with an LSAT score below 28. This is a "rule of thumb," not a strict policy. There is no minimum undergraduate GPA required for admission.

Racial/ethnic background is a factor in admissions decisions since the School is actively trying to increase the numbers of minority students, particularly of black, Hispanic and Native American students. In evaluating applications the Admissions Committee considers nontraditional indicators of ability to succeed, specifically: evidence of progressive academic improvement, success overcoming hardships (including socioeconomic disadvantage), nonacademic activities, and employment history. This admissions policy is fully disclosed in the Law School bulletin and other admissions materials.

Minority applications are reviewed both by Admissions Office staff and by members of the Faculty Admissions Committee. A student representative noted that the Admissions Office solicits input from minority student organizations regarding its minority student admission policy.

D. Minority Acceptee Recruitment Programs

1. Phone Calls

Accepted minority applicants who have not yet chosen to attend the School are telephoned by second- and third-year minority students (matched to the acceptee by minority group), who answer questions and encourage enrollment. The representatives of both the Hispanic and Asian-American student organizations mentioned the value of the program.

2. "Minorities in the Law" Conference

In the spring, after offers have been made but before most acceptees have decided whether to attend the School, a "Minorities in the Law" conference is held on campus. The conference is sponsored by BLSA, LALSA, the Dean's Office, the Admissions Office, and the Alumni Affairs Office. All accepted minority applicants are invited, and those who

attend are housed by current minority students and are provided with board. The conference begins on a Thursday evening and ends Sunday after lunch. Acceptees are taken on a campus tour and attend Friday classes, a series of weekend panel discussions with minority alumni (typically on legal careers), a dinner with a keynote speaker, a luncheon with School administrators, a breakfast with the Dean, and evening social events. The panel discussions and keynote speech are also attended by many current Law School students.

E. Financing

The School offers need based scholarships and most students take Stafford Loans and Supplemental Loans for Students.² Work-study jobs are available to upperclass students who show financial need; teaching and research assistantships, where remunerative, are work-study positions. The School's financial aid packages are based on a total student budget that includes tuition, fees, room and board, books, and personal and travel expenses. No funds are specifically earmarked for minority students, but often the ratio of scholarship to loan will be enhanced for needy minority students.

The Admissions Director, when asked for a minority recruitment "wish list," expressed a desire for merit scholarship money. (The Director described such a scholarship program at a university in which minority students with outstanding academic records can receive generous scholarships.)

²The Stafford Loan and Supplemental Loan for Students (SLS) are federally subsidized and regulated loan programs. Stafford Loans are available only to students who show financial need and carry interest rates between 7% and 10%, depending on the year the student entered(s) into the loan contract. SLSs are available to all students and carry a higher interest rate than Stafford Loans; SLS rates are calculated anew each year, with the maximum rate set at 12%.

F. The Significance of Minority Representation

Minority student organization representatives agree that the presence or absence of a critical mass of minority students has an effect on minority student academic performance. The BLSA representative pointed out that when there are only a small number of black students at the School, those students are forced to "wear four hats:" to serve on minority committees, to be available as minority community advocates, to maintain a social life outside of the School, and to attend law school. An increased number of, in this case, black students lightens this load, giving students more chance to focus on and excel at academic pursuits. Another student echoed the comments about the increased burden taken on by minority students.

The Native American student representative noted that minority student presence enriches the range of perspectives available to the law school community. He recalled hearing a professor describe a situation in which the professor's understanding of the issues involved in low-cost housing legislation was enhanced by a minority student who had greater experience "inside the system" than the professor had.

The Asian-American student representative attributed AALSA's recent success in getting money from the administration for speakers and programs to recent increases in Asian-American student enrollment. Greater visibility spurs the administration to provide greater support, academic and otherwise.

The Hispanic student organization representative described the positive effect that having a number of minority students in a class has on the chances that a nontraditional perspective will receive serious hearing and discussion. (He noted that "nontraditional

perspectives" include those of women and poor people. groups not traditionally represented among legal scholars.)

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Summer Orientation

A week-long academic orientation program is held immediately prior to the beginning of the fall term. The program has been in existence for five years. The orientation is taught by one faculty member, who has been with the program for the last three years and who, partly as a result of the program, has become an informal resource person to the minority student community.

All entering students who identified themselves as minorities on their applications are invited to the orientation, along with other students "for whom the program might be particularly valuable"³ (e.g., students with severe physical handicaps or students who have been out of school for many years). The program is entirely voluntary.

Participants are provided with a \$100.00 stipend to cover the cost of food and lodging during the week. Study materials are provided at no charge.

Mock classes are held in which cases are read, exams are given, and writing assignments are completed and reviewed. The general aim is to impart a clear understanding of the skills and techniques crucial to successful academic performance. The week also provides a time for students who might otherwise feel less at home to get to know the campus and each other before the other students arrive.

The program was developed with the help of minority law student organizations and

³An invitation letter thus describes the group of students selected to participate.

is unanimously endorsed by administration, faculty, and student representatives.

B. Academic Support

Academic support, beyond the academic orientation week described above, is provided by the School in the form of individual tutorials. Paid second- and third-year students, under the direction of the Dean of Students, tutor any student who requests help. Tutorial arrangements are made through the Dean of Students' Office, and confidentiality is maintained should the student so desire. Two minority student representatives say that while minority students might occasionally hesitate about accepting tutorial help for fear of stigmatization, such anxiety is rare and, in their opinions, unfounded given the academic atmosphere at the School. Minority student representatives agree that opportunities to receive tutorial help are generally excellent.

Students who are experiencing academic difficulties are encouraged to seek tutorial assistance. Participation is voluntary; however, as a faculty member notes, the decision to place a student on academic probation or to recommend dismissal on academic grounds will be influenced by the level of commitment that the student demonstrates.

Academic difficulties are identified during a student's first year by looking at mid- and year-end grades. In addition, academic difficulties may be identified on the basis of performance on an optional, first semester, midterm practice examination. All professors teaching first-year classes are required to offer such an examination; all interested students are assigned to one examination. Completed examinations are returned to students with comments, and individual conferences are arranged to discuss student performance. The practice examination does not affect students' grades.

Further, all first-year students are required, in the context of one of their small discussion groups, to write a legal memorandum, which is reviewed by a teaching assistant and is returned to the student for revision. Both these exercises offer students a chance to identify their academic strengths and weaknesses.

C. Student-Run Academic Support

Third-year BLSA students conduct review sessions for first-year BLSA students before exams begin. They also invite faculty to attend a forum and to offer their thoughts on examination techniques to BLSA students. The AALSA has a program wherein students can exchange paper outlines to get ideas for paper content and structure.

D. Law School Atmosphere: General Support for Minority Students

The Faculty Hiring Committee holds the view that increasing the presence of minority faculty will have a positive effect on the minority student experience, and this is one of the rationales behind its minority hiring effort. Minority student representatives concurred with this view, noting that the intellectual isolation minority students can feel is an impediment to academic success.

The black student representative noted that the availability of social support systems is the key to creating an atmosphere conducive to academic success, and he described as invaluable his own ties to a local church and to a fraternity (of which he has been a member since college). Such groups offer opportunities to relax, "network," "let off steam," find informal academic support and exchange information. The Black Graduate and Professional Student Organization also offers such opportunity.

The Native American student representative similarly noted the importance of ties

to the local Native American population, as well as to the University-wide American Indian Studies program. Opportunities to discuss discrepancies between one's cultural perspective and that embodied in the traditional code of law (e.g., regarding property⁴) combat the sense of isolation that may otherwise result.

The Hispanic and Asian-American student representatives echoed the sentiment that activities that affirm one's perspective are essential to one's ability to excel academically, as well as to one's commitment to "tough out" the difficult times that any law student will encounter.

One student representative recommended that the School hire a Dean for Minority Affairs who could act as counselor for minority students, an advocate as well as "someone to turn to" with everything from familial to financial concerns. The student described an incident in which a poster of a black man in a dormitory hall was defaced with a cartoon bubble that read, "Do you want to buy some crack?" or something to that effect. The student felt that the Deans to whom the incident was initially reported did not fully understand the derogatory connotations and were slow to act. He suggested that a Dean of Minority Affairs might have been more sensitive and better equipped to address such an issue.

The BLSA student representative offered the law school administration an "A" for its efforts to be supportive of minority students. Good academic and financial support are readily available, and the student said that Deans and faculty have "open doors," creating

⁴Anglo-American law recognizes most real property as alienable whereas certain Native American cultures do not. Such discrepancies make understanding the law more difficult, or at least more time consuming, since a different set of background cultural understandings has to be learned and applied.

a comfortable atmosphere conducive to discussion. He added that the administration has always been very financially supportive of BLSA activities, providing, for example, funds for two BLSA students to attend the annual national BLSA conference.

The Asian-American student representative found the administration highly supportive and praised in particular the administration's willingness to sponsor AALSA in bringing Asian-American lawyers to speak on campus.

The administration has similarly been supportive of AILSA activities, according to the Native American student representative, by providing funds for AILSA social/discussion events and by condoning AILSA students' absence from classes during their participation in an off-campus rally around a Native American issue.

During the most recent three-year period for which data are available (1985-88), minority students at the School had a lower attrition rate than nonminority students.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

On April 6, 1989, students at the School participated in a class boycott sponsored by the National Coalition for Diversity. The boycott was intended to draw attention to students' demands for greater curricular diversity and increased numbers of minority law faculty. At the time of the boycott, the School's Coalition for a Diverse Faculty and Curriculum submitted a curricular reform proposal, but the Coalition did so with the knowledge that the proposal would not be accepted since it violated certain of the School's academic policies. Presently, students, faculty, and administrators are in the process of forming a committee to explore the possibilities of a more inclusive curriculum.

The Chair of the Faculty Curriculum Committee believes that minority concerns are presently addressed wherever relevant, noting, for example, that a Constitutional Law class without a discussion of the 14th Amendment is "inconceivable." The Chair also pointed out that the following courses and seminars are part of the Law School's standard curriculum: American Indian Law, Civil Rights Legislation, Employment Discrimination, Immigration Law, Modern Japanese Law, and Chinese Law. A seminar entitled "Land, Law, and Community: Dilemmas of Race and Class" will be taught in the fall, and in the past the School has cooperated with the University's Asian American Studies Department to bring in an adjunct to teach "Asian Americans and the Law." The Curriculum Committee Chair noted that the Dean has included "Minority Concerns in the Curriculum" in the agenda of a faculty-administration retreat to take place in the fall.

Minority student representatives concur that greater attention needs to be paid to minority concerns, in contrast to the Committee Chair's perception. Some of the divergence in perception is due to an absence of consensus about what minority concerns are. While the Committee Chair said that minority concerns were addressed wherever appropriate, a student reported that there was no discussion pertinent to minorities in her Criminal Law course, an area the student found particularly relevant to minorities. Another student said that many professors, donning "race-blindness," avoid race issues. Students stressed the need for minority perspective as much as the need for subject matter dealing with minorities.

B. Bar Review

The School does not offer any substantive bar review assistance, but makes rooms available for commercial bar review courses.

C. Clerkships

The School's Clerkship Committee functions as a clearinghouse for information about obtaining judicial clerkships. Members do not interview candidates nor recommend as a committee any candidates to judges.

In January, the Committee holds an informational forum, generally attended by between 20 and 40 students. In addition, specific clerkship vacancies are made known via public posting. The Committee is available to counsel students about various clerkships and to advise them in the application process. There is no outreach aimed specifically at minority students. All recruitment beyond the Committee's efforts to publicize clerkship information is informal (e.g., faculty or clinical staff suggesting to a student that he/she should look into clerking).

Judges file information sheets in a book, Federal and State Directory of Judicial Clerkships, distributed by the National Association for Law Placement (NALP). The sheet delineates the qualifications judges look for in candidates. Students may look over such information sheets. In general, judges listed in the directory prefer students in the top half of the class. The Clerkship Committee Chair suggested that more systematic information about intermediate state court judges and magistrates who employ clerks would be useful in placing students in the second half of the class.

Minority student representatives found the School supportive of minority students interested in clerkships and knew of several successful minority clerks. The number of students receiving clerkships has more than doubled over the last three years, and the percentage of minorities receiving clerkships has risen. The Chair of the Clerkship

Committee, when asked to comment on this increase, suggested that perhaps word is out that one does not have to be on Law Review and in the top 10% of the class to get a clerkship.

When asked if there were anything that might discourage minority students from applying for clerkships, a student noted that some professors might be unwilling to recommend a student whose grades are not in the top 20% of the class or who is not on Law Review, thereby discouraging some minority students.

D. Law Review

Approximately 60 students per year belong to the Law Review. Approximately 30 are junior staff, second-year law students who have either gained their positions on the basis of high grades or performance in a writing competition. Another 16 are senior staff, third-year law students who were not elected to the Review Board of Officers, but who, on the basis of their performance as junior staff and through submission of at least one publishable note, have maintained their Review membership. Nearly all junior staff members become senior staff. The remaining 14 students are Review Officers, elected in March by the Law Review membership.

Of the 60 current Review members, one is a minority student and is editor-in-chief. The student population at the School is approximately 14% minority.

The Law Review this year reformed its staff selection process in an effort to draw a greater diversity of students and perspectives to its staff. This fall's writing competition, to be held during the week prior to the commencement of fall classes, will for the first time include an optional personal statement section. Ten students will gain Review positions

based on the quality of their writing samples alone, and another ten will be chosen on the basis of indices that reflect (1) first-year grade point average, (2) point score reflecting the quality of the writing sample submitted, and (3) point score based on the personal statement. A personal statement will receive a high score if it describes a particularly unique and valuable perspective that the student would bring to the Review.

There has been some concern among minority students that the Review reform will stigmatize minority students who achieve Review positions. Minority students are wary of being perceived as less than competent recipients of special treatment. In an effort to combat this possibility, the Review will maintain confidentiality regarding the ways various students gained Review positions.

While attention to minority concerns is not a criterion used in selecting articles, the Faculty Advisor noted that increasing diversity in staff and perspective was the aim of recent reform efforts, so inclusion of more articles addressing minority issues is likely.

E. Clinical Programs

Second- and third-year students may gain clinical experience by participating in the School's Legal Aid Clinic. A first-level seminar, "Legal Aid I," and an upper-level "Legal Aid II" seminar are offered.

The Clinic offers a full range of civil representation to clients whose income is less than or equal to 125% of the federally established poverty line. The Clinic handles no criminal cases. The Program Director estimates that 30 to 40% of the cases are Family Court matters, 25% are public benefits claims, another 15 to 20% are housing claims, and the remaining 15 to 30% are civil rights, consumer, education, and torts claims.

The Program Director estimates that 80% of the Clinic's current clients are white. It is his sense that the Clinic is not serving the local minority community, primarily, he thinks, because the Clinic does not do any outreach. At present they turn away over half of the eligible cases due to overload, and so have only recently recognized that segments of the local population are not taking advantage of the Clinic's services. The Clinic Directors are currently considering plans to conduct initial client intake interviews in community centers in minority communities. Presently, such client intake interviews take place on the School's campus.

The Program Director estimates that of the 55 to 60 students who participate in the Clinic over the course of a year, 12 (20%) are minority students, which is greater than the proportion of minority students at the School. Typically, he suggested, this group would include five black students, four Hispanic students, and three Asian-American students.

No formal racial sensitivity training for students is offered.

F. Moot Court Programs

All students are eligible to compete in moot court competitions. The student Moot Court Board prepares and administers two upperclass competitions and one first-year competition each year. Upperclass students compete in teams of two, submitting a brief and arguing in elimination rounds. The first-year competition emphasizes oral advocacy and requires only the submission of a summary of argument. Student members of the Moot Court Board judge early rounds. Faculty members and members of the federal and state judiciaries judge later rounds.

Students who submit satisfactory briefs in two upperclass competitions fulfill the

second of the two curricular writing requirements. Students who participate in two competitions--two upperclass, one upperclass and one first-year, or one extramural and one intramural--may be selected to be on the Moot Court Board.

Moot Court Board members are selected by the outgoing Board. The Moot Court Board handles moot court funds and arranges for students to attend extramural competitions. The Moot Court Board yearly sets aside funds to send a team to the national BLSA Moot Court Competition.

At present no targeted effort is made to encourage minority students to participate in moot court. The Faculty Advisor to the program believes that minority student participation in moot court reflects the minority population at the Law School.

IV. MINORITY JOB PLACEMENT

A. On-Campus Interviews

Law firms seeking on-campus interviews are required to sign a statement of nondiscrimination to be placed in a public file, which affirms that the employer will not discriminate on the basis of race, color, religion, ethnic background, age, or handicap.

The Placement Office encourages public interest employers and employers from geographically distant areas in the U.S. to conduct on-campus interviews in order to offer students more diverse job opportunities. However, both public interest groups and distant firms often find travel costs prohibitive.

Between 450 and 500 employers conduct on-campus interviews yearly.

Employers are not permitted to prescreen candidates; they are obliged to interview each student who requests an interview.

B. Additional Placement Office Services

In addition to facilitating on-campus interviews, the Placement Office offers individual career counseling, has an informational library, conducts job-search orientations, and posts the 800 to 900 resumé solicitations received in a year. Students generally send their own resumé and cover letters, but occasionally (in 25 to 40 cases yearly) the firm will ask the Placement Office to compile and send a package of resúms. The Office makes the firm's request public and sends all resúms submitted by students.

C. Minority-Specific Placement Efforts

The spring "Minorities in the Law" conference, discussed above in conjunction with minority student recruitment, is attended by many minority students who seek career ideas and an opportunity to talk with minority alumni about career opportunities. One student mentioned that the experience of hearing from minority lawyers working outside civil rights or international law was particularly valuable as it demonstrated the diversity of careers open to minority lawyers. The Placement Office maintains transcripts of the career-related panel discussions that take place at the conference.

The School participates in the Northeast Regional Minority Law Student Recruitment Conference, an employers' recruitment conference cosponsored by the National Black Law Students Association, the National Association for Law Placement (NALP), the City Bar Association, the New York State Bar Association, and the ABA Section of Legal Education and Admissions to the Bar. Law schools, volunteers from minority student organizations, and the NALP Fair Employment Practices Committee all cooperate to plan and implement the conference. All participating law schools receive informational packets on prospective

employers and the sort of candidate they seek. The packets include completed NALP questionnaires that describe the size of each firm and note the numbers of women and minorities in various firm positions. The employers accept minority student resumés from participating institutions and arrange interviews to take place during the conference.

The Placement Director at the School reports that last year 18 students attended the conference and had scheduled between three and seven interviews each. Just under half of the firms with which students interviewed did not conduct on-campus interviews, and so the conference offered otherwise unavailable interview opportunities.

The Placement Office maintains employer profiles filed by employers who participate in the Northeast Regional Minority Law Student Recruitment Conference. In addition, a directory of minority alumni and lists of firms that actively recruit minority students are maintained.

The Placement Office keeps a notebook with materials received by minority student organizations from firms and organizations soliciting minority student resumés.

The Placement Director is currently investigating the possibility of getting a copy of a videotape issued by NALP to accompany its materials on avoiding racially and sexually biased interview questions. Although the video is designed for employers, the Director thinks it will be helpful for students since it shows model interviews and describes common problems and misunderstandings. Forewarned is forearmed, and should minority students find themselves in an interview situation that seems biased, they will be better equipped to handle the situation and to save the interview.

The Placement Office does not conduct minority-targeted job search workshops or

other group programs. The Placement Director expressed reservations about offering programs that highlight the differences between minority and white students; she felt that such would ultimately be a disservice to the students, most of whom have worked and will continue to work in predominantly white environments. The Director noted that whatever problems a student does encounter during the job search will be addressed during individual counseling, and there the Director is happy to address racial-ethnic concerns.

Three of the four minority student representatives interviewed found the Placement Office supportive of minority students and noted a number of the Office's above-described efforts. The dissenting student representative complained that the Office, in general, is too focused on Manhattan firms and is thereby unsupportive of students not interested in corporate careers, but the dissenter did not see this as a minority-specific complaint.

V. FACULTY ISSUES

The Faculty Hiring Committee is not at present satisfied with the number of minority, tenure-track faculty and finds its task of increasing the numbers of minority faculty "extremely important." The Committee feels that minority faculty enrich the Law School by bringing diverse viewpoints and also act as valuable role models for minority students.

The Hiring Committee is also the School's Affirmative Action Committee, and one member of the Hiring Committee is Director of the School's affirmative action program.

One Asian-American and three black professors will join the faculty, as visitors, this fall. Minority student representatives concur with the Committee that these hirings represent excellent progress, but all are committed to continuing search efforts. The Committee, in its search efforts, looks for minorities currently in teaching, uses Association

of American Law Schools (AALS) lists to identify minority candidates and establishes files on all prospective candidates, including current students who show outstanding academic ability. The Committee is interested in interviewing and considering minority candidates who have not traveled the standard route to a teaching position.

The Committee Chair cited the small pool of minority legal professionals interested in teaching as the biggest obstacle in minority hiring efforts. He also guessed that the School's past dearth of minority faculty has impeded the Committee's success.

A student noted that minority students had participated in the interview process when the Hiring Committee was reviewing minority job candidates, and he saw this as a concrete and positive sign of the School's interest in listening to minority student voices.

All four minority student representatives agreed that the presence of minority faculty affects minority student academic success. Students spoke about the encouraging and rejuvenating effect that public discussion with a minority perspective can have.

As the School has had very few minority faculty members in the past, there is little history relevant to minority promotion and tenure. The lone, black faculty member at the School has tenure, but is currently on leave.

CASE STUDY B

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

Admissions and recruitment are handled by the Admissions Office staff with help from the Faculty Committee on Admissions and members of the Black and Hispanic Law Students Association (BAHLSA). No separate Minority Recruitment/Admissions Officer is employed.

B. Applicant Recruitment Programs

1. Candidate Referral Service Minority Candidate Mailing

The Admissions Office uses the Law School Data Assembly Service's (LSDAS) Candidate Referral Service (CRS) to obtain lists of persons who, in registering to take an LSAT identify themselves as black, Hispanic, Asian-American, or Native American. Each identified candidate receives a letter describing legal education at the School, encouraging application, and discussing financial aid opportunities. Last year, the Admissions Office sent letters to approximately 1000 minority people selected by geographic area from the over 3000 minority LSAT takers.

2. College Campus Visits

As part of its general (not minority-specific) recruitment effort, the School visits undergraduate campuses. Such visits are conducted both independently and in conjunction with other schools (e.g., at professional opportunity days organized by many undergraduate institutions). Some undergraduate institutions organize their own forums targeted specifically at minority students, and the School tries to attend as many of these forums as it can. Last

year the School's fall recruitment tour included 42 forum and campus visits. CRS lists are used to notify candidates in the relevant geographic area of the School's recruitment tour schedule and to invite them to attend recruitment events; when it suits the Office's recruitment strategies, minority candidates are targeted in these mailings.

The Admissions Office has made recruitment visits to a number of historically black colleges in the past, but the number of visits has tapered off of late. The Admissions Director hopes that recently-hired black faculty will be interested in making recruitment visits, and the Director expects that increased financial resources will be made available in the future, aiding efforts to increase the number of such visits.

The School sends representatives to the large Law School Admissions Council (LSAC) forums held in Atlanta, Boston, Chicago, Los Angeles and New York.

The Dean of Admissions noted that at all recruitment presentations, staff are careful to explain the School's "flexible" use of LSATs and GPAs when evaluating applicants with nontraditional backgrounds.

3. Law Information Day

Two years ago, the Admissions Office, together with BAHLSA, initiated a campus event, a Law Information Day, intended to interest minority undergraduates and other potential applicants in attending law school. The Law Information Day is publicized at all undergraduate institutions within a three-hour radius of the School. Announcements are sent to undergraduate institutions' minority student organizations, prelaw advisors, and career planning and placement offices. The Law Information Day is also announced in local black and Hispanic newspapers because the School is interested in attracting applicants who

may currently be in the work force.

In addition, the School uses the CRS to identify all minority registrants whose home addresses or undergraduate institutions lie within a three hour radius of the School, and the School invites them to the Law Information Day. The event is scheduled near Thanksgiving in the hope that some students who attend distant undergraduate institutions will be home for the holiday and able to attend.

Law Information Day is not specifically designed to encourage application to the School, although the Admissions Director believes many become interested in the School as a result of their Law Information Day attendance.

Early in the day, an introductory meeting is held during which Admissions Office staff and others speak about the law school admissions process and advise attendees about application procedures. Student, faculty, and alumni panels then talk about law school and legal careers. There is also a keynote speech about an issue related to minorities and the law. In addition, participants are invited to a luncheon.

A packet of basic law school application information and advice, written for minority applicants, is distributed. The materials discuss the reasons behind many law schools' interest in recruiting minority students and go on to offer advice about preparing a personal statement, obtaining recommendations, preparing for the LSAT, researching law school choices carefully, and exploring minority-specific opportunities. The availability of fee waivers and financial aid is discussed.

The School has held two Law Information Days thus far and is very pleased with the program. Last year approximately 120 guests attended.

C. Admissions Criteria

The School bulletin reports that the mean LSAT and GPA of the 1986 entering class were 34 and 3.2 respectively, and the bulletin suggests that applicants with LSAT scores below 30 and GPAs below 2.8 are not likely to gain admission. The Committee looks at the LSDAS data on average LSAT scores and GPAs for various minority groups and considers applicants' numbers in comparison to those of their peers.

Additional criteria are brought to bear in evaluating applications with "borderline" numbers. Demonstrated capacity for leadership, community service, work and other educational experience, grade progression in college, extracurricular activities, and racial/ethnic minority status are all taken into account and add to the strength of an application. The Admissions Office is working to increase minority student presence at the School, and a special willingness to consider nontraditional criteria in evaluating minority applicants represents part of this effort.

D. BAHLSA Student Input in Minority Admissions

Minority applications are reviewed by members of BAHLSA. BAHLSA student input is taken into account when final admissions decisions are made. The BAHLSA representative said that last year, after reviewing 20 or so minority applications, he disagreed twice, in favor of the applicant, with the Admissions Office's assessment. He takes this as evidence that the Admissions Office is doing a fairly good job in its evaluation of minority applicants.

BAHLSA students' participation is predicated on their agreement to keep all information strictly confidential. Both the Admissions Office and the BAHLSA

representative spoke in support of this program, although the student suggested that at present the program could stand some systematic formalization. The Admissions Office noted the valuable perspective BAHLSA students provide and also suggested that the process serves to foster trust between the minority students and the administration.

E. The Conditional Admissions Program

The School has a program whereby applicants whose credentials do not meet acceptance standards, but who show potential ability to complete law school, may be offered admission to the School conditional on their successful completion of a six-week, summer program. The Admissions Director reports that fewer than 5% of the applicants offered conditional admission are minorities.¹ The program is very rigorous, but has been very successful in presenting more opportunity for minority applicants than originally thought.

Students in the program take two law courses. The courses, "American Law: Thought and Process" and "Civil Rights Legislation" are taught and examined in a manner comparable to regular, first-year course offerings at the School. Any student who receives a C+ GPA, with neither grade below C, is admitted to the Law School. Students cannot receive Law School credit for this summer work.

Students must pay tuition to participate in the program; this year the cost was \$2,200. Students commute or pay an additional fee for on-campus room and board. In the past, Guaranteed Student Loan funds were available to cover costs; however, recent federal legislation requires that GSL funds be used only for degree programs. Thus, since program

¹During the years the program has been in existence, 7.7% of the School's applicants and 7.3% of acceptees have been minority group members.

courses do not count toward law degrees, such funds are no longer available. As a result, some students have not been able to participate for financial reasons. Scholarship monies are not available for the program. The School is currently exploring other funding avenues, but at present, students without financial resources have to forego participation in the program.

Approximately 100 students participate in the program each summer, 32 to 39% of whom gain admission. The program has been in existence since the summer of 1983, and the Admissions Office reports that participants have an attrition rate lower than or comparable to that of the general population at the School.

Once enrolled, conditionally admitted students distribute evenly across the class, one fourth in the top quarter of the class, one fourth in the second quarter and so on. In addition, the Dean of Admissions suggests that, perhaps as a result of the "head start" the program affords, conditionally admitted students are more organized and are among those students who contribute most visibly to the Law School community. Conditionally admitted students are not stigmatized, the Dean reports, but rather are often looked to by other students for advice. The incoming editor-in-chief for the School's "specialty" law review was conditionally admitted, and two or three other of the program's graduates have earned places on the "traditional" Law Review staff in the past.

The BAHLSA representative expressed mixed feelings about the potential value of the program for minority students. He noted that the "sink or swim" nature of the program perpetuates a system already in place--rewarding those students who would succeed anyway, rather than interrupting the "vicious educational circle" in which many black and Hispanic

students find themselves. His sense is that Blacks and Hispanics in particular, due to socioeconomic factors affecting the quality of primary and secondary education, are not taught how to learn. He has discussed a proposal with the Dean of the School to offer admission to "borderline" students on condition that they participate in a first-year tutorial structured around first year core courses. He recommends that the tutorial be open to all but be required of conditionally admitted students, and that it focus on improving skills.

F. Council on Legal Education Opportunity (CLEO) Programs

The School encourages eligible persons to apply to the CLEO program and provides application information. Participation in CLEO is accepted in lieu of the School's own conditional admissions program; students who successfully complete a CLEO program gain admission to the School. To date, two students have entered the School through the CLEO program.

G. Minority Acceptee Recruitment Programs

1. Phone Calls

Accepted minority applicants who have not yet chosen to attend the School are telephoned by second- and third-year minority students (matched to the acceptee by minority group), who answer questions and encourage enrollment.

2. Acceptee Recruitment Reception

In the spring, after offers have been made but before most acceptees have decided whether to attend the School, a reception for acceptees is held on campus. The event is for all students and is not particularly aimed at minorities. A general introductory meeting is held, during which the acceptees are introduced to faculty and administration. A professor

then holds a mock class. The class is followed by a reception; refreshments are served and guests are given a chance to talk informally with alumni, faculty, and current Law School students. Efforts are made to insure the presence of a number of minority alumni and current students.

3. Law School Information Sessions

Once every two weeks in the spring the Admissions Office holds information sessions for prospective students. Questions are answered and a campus tour is conducted. These sessions are not aimed specifically at minority prospects. All acceptees are notified of the information session schedule, and many who do not attend the reception come to an information session.

H. **Financing**

The School offers both need- and merit-based scholarships. Most students rely in part on loan funds, such as Stafford Loans, Perkins Loans, and Supplemental Loans for Students.² Some students are eligible for the New York State Tuition Assistance Program, which makes awards of \$50 - \$600 per semester to New York State residents who show financial need. Work-study jobs are available to students who show financial need.

Many students at the School, minority and nonminority, have to work part-time in order to afford law school. The Dean of Admissions reports that this cuts into time spent both on academic and nonacademic law school activities, hampering academic success and

²Stafford Loans, Perkins Loans, and Supplemental Loans for Students (SLS) are federally subsidized and regulated loan programs. Stafford Loans are available only to students who show financial need and carry interest rates between 7% and 10%, depending on the year the student entered(s) into the loan contract. Perkins Loans are similarly only available to students who show financial need, and carry a 5% interest rate. SLSs are available to all students and carry a higher interest rate than Stafford Loans; SLS rates are calculated anew each year, with the maximum rate set at 12%.

isolating students from the support systems of the Law School community. The Dean of Admissions could not say for certain whether minority students are particularly likely to work part-time.

The Dean of Admissions and Chair of the Faculty Admissions Committee both expressed a desire for more financial aid funds for minority students.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

All first year students take a required, two-semester "Legal Analysis and Writing" course. The course focuses on basic legal writing skills and case analysis. A concurrent writing tutorial program is required of students who evidence particular writing deficiencies either on a diagnostic test administered at the beginning of the year or on their LSAT writing samples. Between five and ten percent of the incoming class is placed in this tutorial. A writing specialist tutors these students in small groups. Students who feel wrongly placed in the tutorial may retake the diagnostic examination and, if they receive an acceptably high score, place out. Students without serious writing deficiencies may not take this tutorial but are referred to the University writing clinic open to all students.

Students who are on academic probation at the beginning of their second year must take a special section of the core course Commercial Law I. In this special section extra attention is paid to writing and legal analysis, and students' work is more closely reviewed than in other sections.

General, voluntary tutorial is available to students who evidence serious academic difficulty during their first year. This tutorial is provided both by faculty and upperclass

students and is available to small groups and individuals.

Because tutorial help is not formally available to students until they have "proven" difficulty, there is dissatisfaction with the present system. Since preventative help is not available, students cannot head off the damage to their records and morale that results from first-year academic difficulty. Students, faculty, and administration share this dissatisfaction, and possible reforms are being explored.

In an effort to increase tutorial opportunities, BAHLSA has asked the faculty to respond to individual requests for academic assistance. Professors have been cooperative and have begun to offer informal tutorial help to students.

Two years ago, also at BAHLSA's request, the administration instituted a one-day legal writing workshop specifically for minority students. The workshop takes place at the start of the fall term and focuses on imparting a clear understanding of Law School academic standards and expectations.

B. Law School Atmosphere: General Support for Minority Students

Since the 1987 establishment of the BAHLSA group, awareness of minority student concerns has increased, according to the BAHLSA representative. A number of faculty members noted that the last two years have seen renewed focus on increasing minority student and faculty presence. Assessing progress on those fronts has been incorporated into the School's annual self-review.

One faculty member commented that while the present environment is not especially diverse or congenial to minority students, current admissions policies may create a snowball effect increasing the numbers of minority students, whose very presence will improve the

general climate. More consciousness raising needs to be done and efforts made to "mainstream" current minority students, who, the faculty member maintained, tend not to participate in moot court, Law Review, or other student activities save BAHLSA.

The Dean of Admissions believes that the School has established a good reputation for itself vis-à-vis minority students, and the Dean is optimistic about increasing minority student presence at the School.

The BAHLSA representative reported that the School administration has been responsive to BAHLSA's proposals (e.g., BAHLSA participation in admissions and the one-day writing workshop for minority students, both described above). The BAHLSA student emphasized the importance of increasing the minority student population, since many of the problems minority students face are directly related to their small number. For example, nonminority students often form informal study groups and not only provide each other with substantive help but exchange information about strategies, expectations, and the norms of the institution. In addition, they provide each other with emotional support and encouragement. Because these groups are quasi-social, minority students, who are less likely to be involved in the mainstream social life of the law school, are not "invited to the party" and miss the benefit of such groups. Were there a more substantial minority student population, this problem would be ameliorated.

In addition, the student representative pointed out, the small number of minority students does little to combat the stereotypes which nonminority students and professors may hold. Only after repeated exposure to a variety of "counterexamples" will many abandon stereotypes (e.g., the black low-achiever or the Hispanic who cannot understand English).

These concerns about the effects of minority presence have been raised by BAHLSA in discussions with both the President of the University and the Provost of the Law School.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

The Curriculum Committee Chair reports that two courses, "Civil Rights Law" and "Civil Rights Litigation," which might be of particular interest to minorities, will be offered for the first time this year by a new, black faculty member. "Employment Discrimination" and "Equality" might also be considered particularly relevant to minority concerns, but the Committee Chair noted that, though they are listed among School course descriptions, they have not been taught in recent years.

The Committee Chair said that there have been no systematic attempts to identify subject areas that are of particular concern to minorities, nor has the curriculum been reviewed with an eye toward including such material.

The BAHLSA representative agreed that there had not been much discussion about minority issues in the curriculum.

B. Bar Review

The School does not offer any bar review but makes rooms available for commercial bar review courses.

BAHLSA is currently working with the administration to see whether a two-to five-day bar preparation workshop for minorities can be offered. The workshop would focus on skills and strategies, supplementing, not replacing, a commercial bar review course.

C. Clerkships

The School's Clerkship Committee screens and tries to place students interested in clerkships. Students contact the Committee and submit application packets containing a resumé, transcript, and writing sample. The four-person Committee reviews applications, conducts interviews, and, when warranted, solicits comments from professors acquainted with the applicants. Each Committee member assumes primary responsibility for a number of applications. The Committee decides which candidates it deems most likely to be chosen for each available clerkship, generally recommending one applicant for each available position. A letter of recommendation is sent, along with the student's resumé, transcript, and writing sample, to the appropriate court.

In recommending clerkship applicants, the Committee looks for high academic achievement; demonstrated maturity; good judgment; and writing, analytic, and research skills. The Committee Chair cited maturity and good judgment as qualities that come with age and/or life experiences that expose one to a variety of people and situations. Such qualities are important because they aid the formation of a good working relationship with the judge.

Some judges make known their wishes that the Committee only send them clerkship candidates who are in the top 10% of the class or who are on Law Review. The Committee respects these wishes and has not attempted to discourage judges from making such requests.

Minority student clerkship applications are actively encouraged during minority career panels, such as have been held by BAHLSA in the past. In addition, minority students may

be informally advised by faculty and placement officers to pursue clerkships.

The Committee Chair reports that in evaluating an applicant for a clerkship, the Committee views minority status as an asset which may offset less than exceptional academic credentials. Minority candidates often have unusual backgrounds and have valuable perspectives and experiences to offer, contributing to "highly recommendable packages." The Committee Chair believes that the number of minorities who receive clerkships can best be increased by increasing the number of minority students and by insuring that minority students receive academic support.

The BAHLSA representative noted that in publicizing clerkship opportunities, the Committee indicates that students in the top third of the class are among those eligible, and this restriction may disproportionately discourage minority students. He also noted that he knows two or three minority students who applied for and got clerkships on their own. He was not sure why those students chose not to apply via the Committee.

D. Law Review

Last year, 53 students belonged to the Law Review. Approximately 30 were junior staff, second-year day or third-year night students who gained their positions on the basis of either high grades or performance in a writing competition. Another ten were senior staff, third-year day or fourth-year night students who served on the Review staff the previous year and who, on the basis of their performance on staff the previous year and submission of at least one publishable note, have been "promoted." Thirteen students are selected by the outgoing Editorial Board to serve as the incoming Board.

Of the 53 Review members, five staff members are Hispanic and two Board members

are Hispanic. The other students in staff and editorial positions are white. The staff is thus 13% minority. The student population at the School is approximately 7% minority.

The Faculty Advisor to the Law Review reports that efforts are made to include articles on race-specific issues because such articles, like those on gender and religious issues, have a large audience.

E. Clinical Programs

The School has two in-house clinics, an appellate litigation clinic and an environmental law clinic. Both clinical programs are available only to second- and third-year students, and preference in both cases is given to third-year students. Permission from the instructor and completion of certain courses are prerequisites to enrollment.

The Litigation Clinic handles cases in the Appellate Division of New York State Supreme Court. The Clinic Instructor is on the assigned counsel (18-B) panel, and when pedagogically sound and interesting cases arise, the clinic accepts them. Students handle briefs, oral argument, and postdecision proceedings.

Most of this clinic's clients are poor, state prison inmates; approximately 95% are black or Hispanic. Of the 18 students who participated in the litigation clinic last year, one (5.6%) was minority; two minority students are enrolled for the fall. The clinic director is concerned about the clinic's "white face," which she attributes to the low minority representation at the School.

During the weekly clinic seminar, students talk about the fact that most of the clients are poor and minority. There is discussion of racial sensitivity, and emphasis is placed on understanding the context and background from which a client comes. There is discussion

about how to involve the litigant in the appeal process and how to establish a working attorney-client relationship, goals which may be particularly elusive since the litigant is in prison.

The environmental law clinic represents public interest environmental groups bringing citizen enforcement actions in state and federal courts. Clinic participants also work with local town attorneys, planning boards, and citizen groups on a variety of environmental and land use issues. Between 16 and 18 students participate each year, two to four of whom are minority students.

F. Moot Court Programs

First-year students participate in a mandatory moot court competition as part of the required Legal Writing and Analysis curriculum. Advanced Moot Court Competition is open to all upperclass students. Both the first-year, mandatory program and the voluntary, advanced competitions are administered by the student Moot Court Board.

The Faculty Advisor to the Moot Court Board reported that minority participation in the advanced competition is low, and she suggested that minority students do not seem interested. There are no minority students on the Moot Court Board. There have been no special efforts to encourage minority students to participate, but the Faculty Advisor suggests that BAHLSA could be contacted, and the value of moot court experience could be stressed to the minority student community. The Faculty Advisor pointed out that participation in moot court constitutes an important niche for the students who are involved, and that finding such a niche may be particularly important for minority students. She supports increased efforts to interest minority students in moot court, but such efforts have not been made to

date.

IV. MINORITY JOB PLACEMENT

A. On-Campus Interviews

All area firms with 10 or more attorneys are invited to hold on-campus interviews. The Placement Office tries to attract a diverse group of employers so that students will have a range of interview opportunities, from legal aid to corporate law. The Office does not have any formal policy or procedure regarding firms against which discrimination complaints have been lodged.

Students interested in interviewing with a particular employer submit resumés. The employer reviews the resumés and interviews are scheduled with those students in whom the employer is interested. In certain cases, prospective employers request writing samples and transcripts. Occasionally, an employer will ask the Placement Office to send only those resumés that meet specified criteria. The Placement Office cooperates as long as it deems the criteria legitimate, (e.g., a patent firm might request that only resumés from students with science or engineering undergraduate degrees be sent).

Applicant prescreening is intended to save time for both students and employers. There has not been any discussion about discouraging applicant prescreening.

B. Additional Placement Office Services

In addition to facilitating on-campus interviews, the Placement Office offers individual career counseling, has a career resources library, holds interview technique programs, and conducts over 20 legal career workshops. Next fall the Placement Office will offer a series of focus groups to look at career issues of special concern to older students, parents, women,

minority students, and others.

Most students do not get jobs through on-campus interviews but do make heavy use of the other Placement Office services noted above. The Office encourages all students to do as much networking as they can and to take independent initiative in job searches.

C. Minority Specific Placement Efforts

The School participates in the Northeast Regional Minority Law Student Recruitment Conference, an employers' recruitment conference cosponsored by the National Black Law Students Association, the National Association for Law Placement (NALP), the City Bar Association, the New York State Bar Association, and the ABA Section on Legal Education and Admissions to the Bar. Law schools, volunteers from minority student organizations, and the NALP Fair Employment Practices Committee all cooperate to plan and implement the conference. All participating law schools receive informational packets on prospective employers and the sort of candidate they seek. The packets include completed NALP questionnaires that describe the size of each firm and note the numbers of women and minorities in various firm positions. The employers accept minority student resumé's from participating institutions and arrange for interviews to take place during the conference.

The BAHLSA representative noted that in the past the Placement Office frequently contacted BAHLSA, letting BAHLSA know when job fairs were being planned and when opportunities especially relevant to minorities arose, and keeping in touch about needs and minority placement issues. Such contact has tapered off of late, and the student suggested that the Placement Office should consider adding a minority placement counselor to its staff or at least set aside some time and resources to focus on minority concerns. He also noted

that the Office needs to be candid about minorities and the job market and should encourage minority students to seek advice from practicing legal professionals in order to get "the real story."

V. FACULTY ISSUES

The Chair of the Faculty Hiring Committee reports that due largely to recent hiring efforts, the School currently has a satisfactory number of black faculty (three full-time faculty members, representing 8.8% of that group, and one part-time instructor, 2.3% of that group). The Committee is currently focussing its search for Hispanic candidates to fill teaching positions, as there are no Hispanic law teachers currently at the School. There are one full-time and one part-time Asian-American law teachers at the School, and the Committee is searching for more Asian-American candidates.

A special subcommittee of the Hiring Committee was formed to identify potential candidates and referral sources (e.g., judges, deans, and other faculty). The Committee Chair reports that although the subcommittee had been specifically charged to conduct the search effort, the entire Committee has gotten involved in establishing informal contacts.

The Committee Chair noted that no special criteria are used in reviewing minority faculty for promotion. At present, there is one tenured minority at the School.

The Committee Chair noted that the Committee has encountered some competition for job candidates, both with other schools and with government and industry, which are able to offer higher salaries. He added, however, that he believes the School is in a relatively good position to attract minority faculty, in large part because minorities are currently represented on the faculty, and thus prospective teachers perceive support "among the

ranks."

The Committee believes that the presence of minority faculty helps to attract a diverse student body, and the Committee Chair suggests that diversity generally promotes academic inquiry, enriching the Law School community. A student noted that the presence of minority faculty opens up discussion of minority concerns. Minority issues can be raised in class without fear of misunderstanding or reprisal. The student noted that where inquiry is stifled, student disengagement results. He believes that the presence of minority faculty encourages inquiry and student engagement. The student noted that the School's record on minority hiring is improving.

CASE STUDY C

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

Admissions and recruitment are handled by an Admissions Committee consisting of the Dean of Admissions and two faculty members. It happens that both faculty members are black, full-time, tenured professors. No separate Minority Recruitment/Admissions Officer is employed.

B. Applicant Recruitment Programs

1. Recruitment Visits

As part of its general (not minority-specific) recruitment effort, the School sends students and faculty to visit area high schools and undergraduate campuses. High school visits are designed to interest students in the possibility of a career in law, and so the presentations focus broadly on opportunities and on the legal profession.

College campus visits are conducted both independently and in conjunction with other schools (e.g., at the professional opportunity days organized by some undergraduate institutions). The School also sends representatives to the large Law School Admissions Council (LSAC) forums held in Atlanta, Boston, Chicago, Los Angeles, and New York. The Admissions Office tries to send minority representatives on as many recruitment visits as possible.

2. Minority Law Day

Five years ago the School's minority student organization (which extends membership to black, Hispanic, and Asian-American students) began holding a Minority Law Day

intended to interest minority high school students, undergraduates, and other potential applicants in going to law school. High school guidance counselors, prelaw advisors, and minority student organizations at undergraduate institutions are notified of the Law Day. And, since the minority law student association (hereinafter MLSA) is interested in attracting people who may currently be in the work force, the Law Day is announced in local black and Hispanic newspapers, and notices are sent to union offices and area minority churches.

The Law Day lasts from 9 a.m. to 3 p.m. and opens with an introductory meeting at which faculty and staff discuss law school application procedures, prelaw academic programs, and the process of legal education. A mock class is held, and a keynote speech is then delivered by a prominent minority member of the legal community. The day is designed to encourage interest in legal education in general and does not focus on encouraging enrollment in the School. The Dean of Admissions guessed that between 50 and 100 guests attended the Law Day last year.

3. High School Adoption

As part of a general effort to interest minority and socioeconomically disadvantaged students in law school, the School has "adopted" a local high school. The high school is predominantly black and for the past few years has had one of the highest dropout rates in the area. The program began two years ago after an administrator at the high school requested permission to use the School's moot court facilities to prepare for participation in the New York State High School Moot Court Competition. The Law School complied and a relationship between the School and the high school developed. Groups of high school students come once a semester to sit in on law classes, and speakers from the Law

School go to the high school to discuss legal career options. The students are encouraged to consider law school.

The program is not specifically intended to encourage the high school students to apply to the School. The School has not maintained records indicating whether participating high school students in fact pursue legal studies.

C. Admissions Criteria

The Dean of Admissions reported that there are no minimum LSAT or GPA requirements for admission. LSAT scores and undergraduate GPAs are taken into account along with factors such as maturity, leadership, employment experience (particularly if law-related), recommendations, extracurricular activity, integrity and dependability, postgraduate academic achievement, disadvantaged economic status, and "any other factors which may reflect upon the applicant's ability to succeed in the study of the law, to enhance the educational environment prevalent at the law school and to deliver legal services in a professionally responsible manner to the public upon graduation from the School of Law."¹

The Dean of Admissions reported that race is not a consideration in admissions decisions, primarily because applications do not ask for information on racial/ethnic background. The Dean added that the lack of such information would present a problem were any state or federal agency to request a description of the racial/ethnic composition of the applicants, acceptees, and/or enrollees. Since information on racial/ethnic background is not required, no policies regarding race and admissions have been formulated.

The minority student representative noted that while the presence of academically

¹Quoted from the School bulletin.

successful minority students improves the law school environment and enhances minority students' chances for academic success, an admissions program that admits too many minorities with "shaky" credentials has a negative effect on the minority student community. Professors and students come to view minority students as "charity" cases not likely to excel. Minority students come to view themselves as likely academic failures or, at best, "survivors," and the "I can achieve" mind-set is eroded. The student representative has the sense that a few years ago the School had a "revolving door" for minority applicants--they would be accepted only to fail out after the first year. He believes that this situation no longer exists, that current minority students are able to excel academically, and that as a result minority students have gained legitimacy at the School. In sum, he supports active recruitment of minority students but is leery of admissions policies that admit many students who, by traditional standards, are not likely to successfully complete law school.

D. United Negro College Fund Early Admission Program

For the last three years, the School has been cooperating with United Negro College Fund (UNCF) colleges, primarily in the southeast, to admit students to law school after three years of college work. Upon completion of the first year of law school, the student receives a bachelor's degree from the undergraduate institution. The first-year law school work also counts towards the student's law degree. Funds to support these students are raised during an annual celebrity basketball game organized by an alumnus. Since its inception, one or two students per year have been taking advantage of the program. Between 35 and 38 of the 44 UNCF institutions are currently cooperating with the School on this program, or will be in the near future.

A similar program, in which students attending a participating institution may apply to begin law school after the third year of college and may use first-year law school credits toward both their bachelor and law degrees, is available to students regardless of racial/ethnic or other status.

E. Financing

The School offers some need- and merit-based scholarships, and most students rely in part on loans to finance their legal educations. Stafford Loans, Perkins Loans, and Supplemental Loans for Students are all available.² Financial Aid Office staff reported that they generally discourage students from taking Supplemental Loans for Students or Law Access Loans (essentially personal bank loans) since they do not want students to overburden themselves financially. New York State residents who show sufficient financial need are eligible for the New York State Tuition Assistance Program, which provides tuition grants of \$50 to \$600 per semester.

The scholarships based on a combination of merit and need are available to minority students. In addition, the Admissions Office annually nominates one or two students to receive Patricia Roberts Harris funds provided by the federal Department of Education. The funds provide living stipends (\$10,000 per year for three years) to a limited number of financially eligible persons. Students cannot apply independently for these stipends; the nomination must come through the Dean of Admissions. The Department of Education makes awards to all nominated students; no further selection occurs.

²Stafford Loans, Perkins Loans, and Supplemental Loans for Students are federally subsidized and regulated loan programs. Stafford Loans and Perkins Loans are available only to students who show financial need and carry interest rates between 5% and 10%; SLSs are available to all students and carry up to a 12% interest rate. Alumni Association noninterest loans are also available.

When asked what might be done to increase minority enrollment at the School, the Dean of Admissions said that the School needs more minority student stipend funding. The School presently cannot compete with other schools, he added, which offer better financial aid to qualified minority students.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

All professors teaching first-year classes hold a special class meeting during which they describe their own academic expectations and carefully go over a past examination with students. These meetings are designed to let students know what will be expected of them and to offer them a chance to ask questions. The meetings are voluntary, but the Faculty Advisor to the tutorial program (under whose auspices these special class meetings were initiated) believes that almost every student attends.

In addition, at the beginning of the year a special two- to three-hour tutorial introduction is held, at which time a senior professor carefully goes over Law School expectations and standards. This meeting is open to the entire entering class, and, generally, between 150 and 200 students attend.

First-year students whose LSAT scores and undergraduate GPAs indicate that they may need academic assistance are invited to participate in a formal tutorial program. The program is also available to any first-year student who feels that extra academic help would be useful. Participating students are placed in groups of four to five students, and with their assigned professors they work out meeting times and tutorial structure. The tutorial can involve round table discussion of general problems, assignment of specific projects, and/or

review of material students have prepared for their classes; the structure and substance depend on the needs of the group and on the preferences of the professor. The tutorial is voluntary, and participation does not affect a student's academic standing, although demonstrated effort or lack thereof may be taken into consideration when students are reviewed for academic probation.

The first-year tutorial is not specifically aimed at minority students, and a Faculty Advisor to the tutorial program noted that of the 75 to 90 students who participated last year, only a small percentage were minority students, reflecting, he thought, the small minority student enrollment. Another Program Advisor similarly noted that minority student participation was "less than expected." The first Advisor noted that there is much informal contact between the tutorial program and MLSA since the same faculty members who oversee the tutorial program are MLSA advisors. The result, he thinks, is that the tutorial program is well publicized and well received in the minority student community. The MLSA representative, who participated in the tutorial during his first year, found the program very helpful.

There is no formal tutorial program for second- and third-year students. Students may request informal tutorial from their professors, who are perceived by the MLSA representative as open and glad to help.

The Student Bar Association (SBA) and MLSA both offer student tutorials. The structure and availability of these tutorials change from year to year in response to student needs and student tutor availability.

In years past, the School participated with a local law school consortium in offering

a four- to five-week summer academic orientation for incoming minority students. The program was held at a central location, and minorities preparing to attend a number of area law schools were invited to participate in the voluntary program. The program was discontinued by the host institution; since that time the consortium has been concentrating its efforts on soliciting funds from area law firms for minority law student scholarships.

B. Law School Atmosphere: General Support for Minority Students

The MLSA representative describes the atmosphere at the School as supportive of minority students. He reported that the School's financial aid policies and the packages it offers to minority students are good. He noted that the faculty and administration attend MLSA functions, and he offered as an example the high faculty attendance at the MLSA "Meet the Professors" event held each semester. At "Meet the Professors" minority students have a chance to ask questions and to talk informally with School faculty.

MLSA's budget is funded by the SBA, and MLSA pays for most of its activities using that budget. When a special, unbudgeted event opportunity arises, the administration has been willing to provide funding. For example, as part of this year's graduation activities, at MLSA's suggestion two black alumni were honored with plaques attesting to their achievements. The hors d'oeuvre and the honorary plaques, as well as other costs associated with the event, were covered by the administration.

The MLSA representative noted that greater numbers of minority students would improve the quality of life for minority students at the School. He noted that law school "is a trauma for everyone," minority and nonminority alike, but that minority students often come from families in which they are first- or second-generation college graduates and are

often the first in their families to pursue a law degree. Adequate peer support takes on double importance for minority students in this situation. In addition, the presence of other minority students who are succeeding in law school is encouraging, and one may learn a good deal by looking at how other students approach problems.

The MLSA representative noted that the presence of minority faculty affects both the quality of minority student life and minority student academic performance, and he hopes that the School will continue efforts to increase the number of minority faculty. The presence of minority faculty reminds minority students that they can succeed in law school and in the legal community. Academic performance is affected by such beliefs about oneself and one's ability to succeed. The MLSA representative suggested that some minority students are less aggressive than their nonminority counterparts in, for example, seeking help or clarification, and he believes that this may be the result of a feeling that they do not belong. Minority students gain reassurance that they do in fact belong in law school when they see minorities in faculty positions. Minority students may find it easier to approach a minority faculty person with their questions, and in this way also the presence of minority faculty affects both minority student academic success and quality of life.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

The Chair of the Curriculum Committee reported that the curriculum has not been reviewed with an eye towards discovering whether--or how--minority concerns are addressed. She noted that the following courses and seminars may be of particular interest to minority students: Civil Rights Litigation, Constitutional Rights, Employment Discrimination, Poverty

Law, and Education Law. Not all of these are offered every year.

The MLSA representative reported that there has been no discussion of any minority issues in any of his courses and that as far as he knows, curricular attention to minority concerns has not been an issue in the School community. He commented that law school is not designed to be a "socially uplifting experience" but rather is geared toward preparing students to pass the bar exam.

B. Bar Review

The School does not offer any courses specifically designed to prepare students for the bar exam.

C. Clerkships

For the last eight years the School's Clerkship Committee has performed an informational function rather than acting to screen and recommend particular clerkship candidates. The Committee holds two informational meetings each year; one in the fall targets second-year students (who will have to apply in late winter if they are interested in clerking after graduation), and one in the spring targets first-year students (who may want to begin thinking about summer jobs that could enhance their clerkship applications). When available, alumni who have clerked come to the informational meetings to talk about their experiences.

The Committee makes known the credentials that are generally required for various clerkships. The Clerkship Advisor reports that, in general, judges look for the following: grades in the top half of the class, law firm or judicial internship work experience, Law Review membership, extracurricular moot court participation, and outstanding under-

graduate records. The New York State Court of Appeals and federal district clerkships typically go to students with outstanding grades (e.g., top 25% of the class), while trial courts generally put greater emphasis on work experience.

Students interested in clerking are encouraged to consult with the Clerkship Advisor to find out more about particular clerkships and about the application process. After the informational meetings, the Clerkship Advisor sends notes to all students who attended the meeting to ask about their application intentions, and the Advisor follows up with any particularly eligible students who indicate that they will not apply. These students are encouraged to reconsider a clerkship.

The Clerkship Advisor said that judges occasionally solicit comments on particular clerkship applicants if the judges feel they need further information and that the Clerkship Committee complies with these requests, using the students' files and calling the students in for an interview with the Committee if need be. Students are made aware of such requests when they occur, whether or not an interview is conducted. There has been no formal effort to discourage such requests.

When asked whether any special efforts were made to place minority students in clerkship positions, the Advisor noted that during individual clerkship counseling, an effort is made to help minority students set forth their qualifications in the most effective manner. He noted that many minority students have a wealth of nontraditional life experiences that can be presented to their advantage. Students are encouraged to spend extra time preparing longer resumés offering detailed, rich descriptions of work experiences since, for example, "community service," without more, will not mean as much to a judge as "Law Review." The

Clerkship Advisor also believes that many judges are eager to hire minority clerks and so will be willing to read longer resumés and to consider nontraditional credentials.

A total of 25 students from the last three graduating classes have been placed as clerks; two (8%) were minorities.

D. Law Review

At the end of the first year (second year for night students), all students with an 82.5 or higher GPA are invited to participate in a writing competition; outstanding performance gains a place on the Law Review. The competition follows 10 evening training meetings during which students learn about the operation of the Law Review. Competition papers are evaluated by the Review's student Editorial Board, and 25 to 30 students are invited to join the Law Review. Students with GPAs over 87 may be invited to join the Review on the basis of grades alone (five to seven students usually "grade on" in this way).

The Editorial Board of the Law Review consists of 17 students who have already served as Review staff for a year. Fourteen Editorial Board members are elected by the outgoing board in the spring, and another three are brought on by the newly elected 14-person board at the end of the summer. Those students who complete a year on the Review and work through the summer but are not selected to join the editorial board at the end of the summer become faculty research assistants. Although they maintain their Law Review membership, they perform no Law Review duties. All faculty research assistants are Law Review members of this type.

Presently there is one black student in an editorial position, and one black student on the staff; the Faculty Advisor to the Review also thought there was one Asian-American

student on staff.

The Faculty Advisor to the Law Review reported that efforts are made to bring more minorities onto the Law Review only in the sense that the School offers academic support to minority students, which might raise GPAs and improve writing skills. No outreach intended to encourage qualified minority students to join the Review is undertaken.

The Faculty Advisor supported the idea of making efforts to include articles on race-specific issues in the Review but reported that at present no such efforts are made.

E. Clinical Programs

The school has judicial, criminal, and civil extern programs that offer students practical legal work experience. Judicial externs are third-year students who work for judges for twelve hours a week and attend a weekly seminar to discuss and analyze their experiences. Between 150 and 200 students participate in this program over the course of a year. The faculty member responsible for this program reports that participants reflect the racial/ethnic composition of the School.

Criminal practice externs are second- and third-year students who work twelve hours a week in a District Attorney's office, a Legal Aid office, the Law Department at the Supreme Court or Criminal Court, or other public and public interest agencies. Students are required to attend a series of lectures by guest speakers. The lectures are topically coordinated to fit together into a criminal practice curriculum. Between 10 and 15 students participate in this program each semester. The faculty member responsible for criminal practice externs reports that black and Hispanic students are slightly overrepresented among program participants and attributes this both to greater interest in criminal law among black

and Hispanic students and to the good relationship that the Institute for Criminal Law, out of which the externship program operates, has developed with the minority student community over the years.

The civil externship program places second- and third-year students in a variety of legal services and public or governmental agencies, where they assist lawyers in their day-to-day legal activities. Like judicial externs, civil practice externs attend a concurrent seminar in which they discuss their experiences. Approximately 200 students participate in the civil externship program in the course of a year.

Third-year students may also, as part of the civil externship program, participate in Community Law Programs. One Community Law program involves going to area high schools to work with a Social Studies teacher to teach students about the legal system and the legal profession. Law students spend six hours a week for one semester in class with high school students. Between 10 and 12 students participate in this program each semester. Minority students are overrepresented in this program (20 to 25%, with 6% minority enrollment at the School), and the Faculty Advisor speculated that minority students are particularly attracted to the program because they are often alumni of the high schools that participate in the program.

The other Community Law option involves a series of four evening talks at community centers, churches, and synagogues, covering topics of general interest to a lay audience. The topics covered are landlord-tenant law, consumer protection, family law, wills and estates, and home buying. These presentations more often than not are given in communities with large minority populations because those communities show a greater

interest in the program. The program has been conducted in Spanish when bilingual law students have been available to teach the program. Approximately 15 students participate in the program each semester. The Faculty Advisor reports that minorities participate in this Community Law program in numbers representative of minority enrollment at the School.

F. Moot Court Programs

Students with a GPA of 77 or higher at the end of their first year (second year for night students) may enter the moot court competition. Students with lower GPAs are not eligible, primarily because the administration wants to discourage such students from participating in activities that may cause them to neglect their studies. The Faculty Advisor to the moot court program also suggested that such students are not as likely to have the skills necessary to compete effectively in moot court.

The competition lasts seven months, during which time participants are required to successfully argue three rounds, preparing briefs and oral arguments. Of the 130 students who entered the competition last year, 76 completed all of the requirements and joined the School Moot Court Bar. All competition rounds are judged by students, and the competition is administered by the Moot Court Executive and Senior Boards. The six highest ranking competitors make up the Executive Board, and the next highest ranking ten become the Senior Board.

The Faculty Advisor to the Moot Court competition estimated that 5% of the students who compete are minority students. He noted that the competition is very thoroughly publicized, and doubted that anything further could be done to encourage

minority student participation.

IV. MINORITY JOB PLACEMENT

A. On-Campus Interviews

The Placement Office facilitates on-campus interviewing by area law firms. Most interviewing occurs in the fall when medium- and large-sized firms do their hiring, with a few small firm interviews being conducted in the spring. The Placement Office distributes an equal opportunity statement to all firms interested in scheduling interviews, and the decision to conduct on-campus interviews constitutes an agreement to follow equal opportunity hiring policy.

Students interested in interviewing with a particular firm submit resumés to the firm through the Placement Office, and the employer decides which students it wants to interview. The Placement Office discourages top students from submitting resumés to every firm. This is an effort to "spread out the talent" and to give all students a good chance to get interviews, but no other effort is made by the Office to regulate resumé submissions. Student transcripts may also be submitted if the firm requests them.

B. General Placement Office Services

The Placement Office maintains an informational library, offers one-on-one career counseling, and conducts a number of panel presentations and workshops on specific career options and job-search techniques. In addition, the Office maintains an active job board where openings are posted and contacts for further information listed.

C. Minority Specific Placement Efforts

The School participates in the Northeast Regional Minority Law Student Recruitment

Conference, an employers' recruitment conference cosponsored by the National Black Law Students Association, the National Association for Law Placement (NALP), the City Bar Association, the New York State Bar Association, and the ABA Section of Legal Education and Admissions to the Bar. Law schools, volunteers from minority student organizations, and the NALP Fair Employment Practices Committee all cooperate to plan and implement the conference. All participating law schools receive informational packets on prospective employers and the sort of candidate they seek. The packets include completed NALP questionnaires that describe the size of each firm and note the numbers of women and minorities in various firm positions. The employers accept minority student resumés from participating institutions and arrange for interviews to take place during the conference.

The School also participates in the Practicing Attorneys for Law Students (PALS) mentor matching program. Black and Hispanic law students are paired with local practicing attorneys who act as mentors, making themselves available to be called on for advice and guidance, and often aiding students in career planning and placement. The Placement Office estimates that 15 students at the School participate in the mentor matching program each year. PALS also holds a variety of panel discussions and career-related workshops for area minority law students. These events are usually held at the offices of a participating law firm.³

V. FACULTY ISSUES

The Chair of the Faculty Hiring Committee reports that the School is not satisfied

³Further information about PALS is available from Jeremy Solomon, Program Administrator, Practicing Attorneys for Law Students, 42 West 44th Street, New York, NY 10036.

with the number of minority law teachers currently on the faculty. The Committee would like to see minority law teachers represent one third of the faculty; minority professors currently represent just less than one tenth of the faculty. The Committee feels that hiring more minority faculty is very important and "long overdue" given the history of discrimination that minority group members have faced and given the present, inadequate representation of minorities in the legal profession. In addition, minority faculty may serve as key role models and advocates for minority students.

Each year, the Committee asks the faculty to help it to identify minority legal professionals who might be interested in teaching. Committee members attend meetings of the local black bar association and other minority legal profession functions in order to network and to identify potential law teachers. The Committee Chair notes that the School cannot offer salaries competitive with those offered by large firms but finds the legislature and the judiciary fertile ground for potential minority law faculty. The Committee also tries to make known the availability of part-time and evening teaching positions. Some practitioners may not be sure that they want to make a commitment to law teaching but are glad for an opportunity to try teaching without leaving their present positions. In addition, the Committee has found that minority legal professionals with early retirement plans are often willing to accept the salary cut that a teaching position represents if such salary is supplemented by a pension.

The Committee does not focus on publications when reviewing applicants who come from the legislature, judiciary, or private practice. This policy applies whether or not the candidate is minority.

The Committee Chair suggests that area specific rosters of all minority legal professionals interested in law teaching be maintained and made available to law school hiring committees. Inclusion in such a roster might appeal more to those attorneys not interested in making the commitment to law teaching that inclusion in the AALS registry represents. Further, schools could recruit part-time and adjunct teachers from among those lists, and might later persuade some of these to become full-time law teachers.

All of the minority faculty members at the School have been hired in the last six years; two presently have tenure; the other two are tenure-track. The Chair of the Faculty Hiring Committee noted that no special criteria are employed in deciding whether to promote minority faculty. He noted that in cases where the candidate was in the judiciary, legislature, or private practice before teaching, less emphasis is placed on publications than would be the case if the candidate has had a long academic career.

CASE STUDY D

I. MINORITY STUDENT RECRUITMENT AND ADMISSION

A. Admissions Staff

Admissions decisions are made by Admissions Office staff and the Admissions Committee. The 1989-1990 Admissions Committee is made up of the Assistant Dean for Admissions, six faculty members, and two students who are selected to serve on the Committee by the Student Bar Association. The Director and the Associate Director of Admissions meet with the Committee regularly; an alternative student member also meets with the Committee. The Committee interprets admissions policy which is set by the faculty, reviews applications, and makes a number of individual admissions decisions. Third-year students who are members of the Asian/Pacific American Law Student Association (APALSA), the Black Allied Law Student Association (BALSA), and the Latino Law Student Association (LaLSA) are permitted to review minority applications and to offer written comments to the Admissions Office.

APALSA, BALSA, and LaLSA admissions committee chairs participate in planning and implementing some Admissions Office activities. The Assistant Dean meets regularly with the Student Coalition for Change and the Black, Latino, Asian/Pacific Alumni Association. One minority student representative praised the Office staff's willingness to hear from and to talk with minority students. The Admissions Office does not have a minority Recruitment Director.

B. Minority Applicant Recruitment Programs

1. Candidate Referral Service Minority Candidate Mailing

The School uses the Law School Data Assembly Service's (LSDAS) Candidate Referral Service (CRS) to identify strong minority candidates who have not yet applied. Each year, several hundred minority candidates are identified using the CRS. CRS-identified candidates are contacted on a rolling basis, with activity concentrated in the late fall. The School values geographic diversity and so mails to all areas of the U.S. Each candidate receives an information packet that contains an introductory cover letter, a School bulletin, an alumni newsletter, and a copy of the brochure prepared by the appropriate minority student organization. The brochures offer information about the School and the study and practice of law, advice about the admissions process, and information about financial aid and student organizations. Each brochure urges minorities to apply, and each notes the importance of increasing the numbers of minorities in the legal profession. Registrants are invited to contact the Admissions Office and members of the minority student organization should they have questions.

2. College Campus Visits

The Admissions Office visits between 75 and 85 undergraduate campuses each year. The School participates in law days and career forums arranged by undergraduate institutions and also makes individual recruitment visits. Between 12 and 20 of the campuses visited have predominantly minority student bodies. Some are historically black colleges, while others--some urban campuses and colleges in the southwestern United States, for example--have high minority student populations by virtue of their locations.

When possible, minority students accompany Admissions Office staff on campus visits. Emphasis is on bringing minority students to minority campuses, but minority students may also accompany staff on other visits. In selecting which schools to visit for minority recruitment, the Admissions Office considers the number of minority students enrolled in the school, the number who apply to law school directly from undergraduate school, the academic strength of those applicants, and the availability of stable prelaw advising networks on the campuses. For example, at least once every two years, recruiters visit each of the three dozen schools from which the largest numbers of black students apply to law school. Since 1979, the School has visited two dozen historically black colleges. Student recruiters and Admissions officers jointly identified six to be visited regularly.

Many of the student representatives interviewed, however, believe that the School needs to do a better job recruiting at "nontraditional" campuses, including historically black colleges and other campuses with high minority populations. One student noted that much minority talent is likely to be found outside Ivy League and other prestigious institutions; minority students often do not have the financial resources to attend more prestigious--and expensive--colleges. Many students noted the importance of ensuring socioeconomic diversity within the minority student population at the School and therefore stressed the importance of recruiting students from nonprivileged areas. Students do not believe that the School is doing as well as it could in this area.

3. Minority Group Liaisons

The Admissions Office maintains contact with high school and undergraduate faculty, administrators, and prelaw Advisors who have been mentioned by current minority students

as good contact people. These "liaisons" have contact with sizable minority populations, either because they work with minority student organizations or programs, or because they work in institutions that serve high minority populations. Such liaisons are kept informed about the School through information packets containing bulletins; other information about the J.D. program; and copies of APALSA, BALSAs, and LaLSA brochures. Liaisons are encouraged to share this information with minority students.

The Admissions Office also maintains contact with community groups, alumni, and others who have demonstrated interest in encouraging minority students to enroll in law school. The Mexican American Legal Defense and Education Fund (MALDEF), the Asian American Legal Defense and Education Fund (AALDEF), the Puerto Rican Legal Defense and Education Fund (PRLDEF), and various volunteer youth programs are included in this list of contacts. Lists of individual lawyers and law firms with contacts to minority undergraduates, who may work as paralegals in their offices or participate in programs with which attorneys have contact, are also maintained. All individuals and organizations receive information about the School, including copies of APALSA, BALSAs, and LaLSA brochures.

4. Law School Information Visits

Two or three times each year, the School hosts groups of visitors. Last year, a group of minority undergraduates from a local college and a group from a post-high school volunteer program came to tour the School and to learn about legal education and the legal profession. Both groups contacted the School to request the visit. LaLSA sponsored a day for Hispanic high school students to learn about law school. Admissions staff, the Dean of the Law School, and student panels spoke to the students. The day was widely publicized

and approximately 150 high school students attended.

In past years, members of the School's minority student organizations have made visits to local high schools to encourage interest in law school and the legal profession. Such visits have been coordinated by minority student organizations, and their frequency depends on student interest and availability. The Admissions Office is involved in facilitating such visits when requested.

5. Hispanic High School Student Law Day

In past years LaLSA has helped PRLDEF organize an on-campus law day for local Hispanic high school seniors. In the morning, PRLDEF speakers make a general presentation about law school. In the afternoon, approximately 60 law schools arrange information tables; students visit information tables and talk informally. Between 70 and 80 students attend the morning session, and about 200 students come for the afternoon.

C. Admissions Criteria

The School bulletin notes that admissions decisions are based on indications of intellectual potential, academic achievement, character, community involvement, and professional promise. LSAT scores and undergraduate records play a part in admissions decisions but "are not the sole determinants for admission." Admissions officers report that there are no minimum GPAs or LSAT scores below which candidates will not be considered. The bulletin reports that "[f]or minority applicants, older applicants, and those whose history demonstrates educational disadvantage, factors other than undergraduate records and LSAT scores are particularly significant."

Admissions policy reflects the School's interest in bringing more members of

historically disadvantaged minority groups into the legal profession. There is, however, an effort to "deal realistically with the predictive numbers," and the School does not admit students whom it does not believe will be able to succeed academically.

The Assistant Dean for Admissions notes that the School occasionally is contacted by the Council on Legal Education Opportunity (CLEO)¹ about potential applicants. Successful completion of a CLEO program does not guarantee admission to the School, but the School works with CLEO placement officers to contact people and to encourage them to apply to the School. The Assistant Dean for Admissions reports that, generally, one or two entering students each year have attended a CLEO program.

One student believes that the Admissions Office needs to pay more attention to what applicants have to offer the community and to whether they are likely to become good lawyers, and to focus less on LSATs and undergraduate GPAs. She notes that the School does not need students with 4.0s who lack the ethical compunction that might prevent them from either tearing articles from law reviews or stealing microfiche. (She also notes that such acts began to occur at the School for the first time this year.)

D. Minority Acceptee Recruitment Programs

Late in March, once applicants have been admitted to the School but before many have made their acceptance decisions, the School holds a breakfast for minority acceptees. The breakfast precedes a full day of activities for all acceptees, which is intended to encourage enrollment. Faculty, administration, and current minority students attend the

¹CLEO Summer Institutes, from which applicants would be drawn, are described at length in the Legal Education Literature Review.

breakfast and have a chance to meet with and talk to acceptees informally.

Each spring, the minority alumni association holds a dinner. Minority admittees and current minority students are invited to attend. A keynote speech is delivered by a distinguished minority member of the legal profession, and there is time for informal socializing and discussion.

Current minority students telephone minority admittees in order to answer any questions admittees may have about the School and to encourage them to enroll. In addition, minority admittees receive letters from APALSA, BALSAs, or LaLSAs providing information about minority student life at the School. Minority admittees who visit the School are often hosted by current minority students; the Admissions Office reimburses hosting students for all expenses (e.g., meals).

E. Financial Aid

Stafford Loans and Supplemental Loans for Students (SLS) are federally subsidized loans available to law students.² In addition, the School allocates Perkins Loans (formerly National Direct Student Loans) and has limited funds that it uses to make long-term and emergency loans to students. Financially eligible residents of New York State may qualify for the state's Tuition Assistance Plan, which provides students with stipends ranging from \$100 - \$1,200 per year. Overall, a larger proportion of minority than nonminority students receive scholarship aid.

Each year, one or two students at the School are nominated for and receive Patricia Roberts Harris fellowships, federal monies. The School provides full scholarship to

²Stafford Loans carry an interest rate between 7% and 9%; SLSs carry a maximum interest rate of 12%.

recipients and the Harris funds provide a renewable yearly stipend of \$10,000. In past years all of the students to receive Patricia Roberts Harris funds at the School have been minorities. Other scholarships geared towards minority students include the Council on Legal Education Opportunity (CLEO) which offers four awards of \$2,000 annually for living expenses; the Helena Rubinstein Scholarship which consists of four awards of \$5,000 annually for minority women; and the university-wide Opportunity Grants which allow for two awards of \$10,000 each.

The School has a loan repayment assistance program wherein graduates of the School who earn less than \$33,000 annually receive from the School supplemental, interest-free loans to be used toward educational loan repayment (including Stafford, SLS, Perkins, and School loans). A graduate who remains eligible for loan repayment assistance for more than three years becomes eligible for the loan forgiveness phase of the program, wherein between 15% and 100% of the supplemental loans made by the School are forgiven. The amount of forgiveness depends on the number of years a graduate remains eligible.

The School has a special scholarship for students interested in public interest work. Ten incoming first-year students are chosen to receive the renewable scholarship on the basis of academic record and relevant extracurricular activities; typically two to four of these students are minority students. The scholarship covers a substantial portion of School tuition. Students receiving these scholarships participate in a special program of seminars and internships in addition to fulfilling regular curricular requirements.

A number of special fellowships are available that may be of particular interest to minority students, although the Admissions Director does not believe that minority students

are disproportionately represented among recipients. These year-long fellowships provide between 13 and 15 students with stipends to pursue research under the direction of a law professor; three of the fellowships are dedicated to research in civil liberties and civil rights, two to research in human rights, and one in international law. Students receive academic credit for the work done. The stipend amounts vary.

A number of the minority student representatives believe it likely that proportionally more minority students work at part-time jobs in order to pay their expenses.

One student volunteered the comment that the School's financial aid packages are "definitely competitive." Nonetheless, students believe that the School should increase the financial assistance available to economically disadvantaged minority students.

F. Increasing the Applicant Pool

When asked what might be done to increase the number of minority students at the School, the Admissions Dean and the Chair of the Faculty Admissions Committee agreed that a larger applicant pool needs to be developed. Each expressed the view that at present schools are competing with each other for the same students, and that in order to increase the number of minority law students (in general, not just at the School) efforts need to be made to reach out to junior high and high school students. Interest in the legal profession needs to be encouraged among minority students, and educational opportunities that afford students the opportunity to apply to law school need to be ensured. The Admissions Dean cited the importance of programs like A Better Chance³ and noted that such programs have

³A Better Chance, Inc. (ABC) is the oldest and only national academic talent search agency for minority youth. Founded in 1963, ABC identifies, recruits and places some 350 talented minority students each year in outstanding independent and public college preparatory schools, thus enabling them to enter selective colleges. There are 1,100 currently enrolled ABC students and 6,800 alumni. In its early years, ABC received

suffered in recent years due to budget cuts. She believes that such programs play an important role in insuring minority access to higher education.

Most students interviewed expressed skepticism about the Office's claim that the applicant pool size prevents the School from finding greater numbers of qualified minority applicants. One student noted with dismay that last year the number of admitted and enrolled minority students decreased. The percentage of the incoming class that was minority dropped from 16% in 1987 to 13% in 1988. However, for the 1989 school year, the percentage of minority students in the entering class is 16%.

The student perception is that the Admissions Office is managing to keep pace with its peer schools but is not finding creative or innovative ways to approach minority applicant recruitment. One student suggested that the School more actively support the national CLEO program (e.g., by hosting a Summer Institute) and noted that, among other benefits, such participation would enlarge the School's applicant pool. Another student noted that the addition of a Dean of Minority Affairs could aid both applicant and acceptee recruitment.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

1. Minority Student Orientation

All incoming first-year minority students are invited to participate in a two-day academic orientation before classes begin. The orientation is planned and organized by

substantial financial support from federal government grants. Federal funding ended in the late 1970s, forcing the organization to curtail several important aspects of its program and to rely primarily on gifts and grants from foundations, corporations, and individuals. (Information furnished by A Better Chance, Inc., 419 Boylston St., Boston, MA 02116.)

APALSA, BALSAs, and LaLSAs, and clerical support is provided by the School administration. No assignments are given, but academic expectations and strategies are discussed. Faculty, members of the School's administration, minority alumni, and students all hold panel discussions. A reception allows incoming students a chance to meet with faculty and administrators.

2. On-Going Academic Support

All first-year students receive instruction in legal writing during a required, year-long lawyering course.⁴ Professors who teach first-year courses, including the lawyering course, generally have one or two teaching assistants (TAs), who are available to help first-year students on an individual basis and during periodic group review sessions. These teaching assistants are the primary source of tutorial assistance for first-year students.

TAs are chosen by professors on the basis of grades and ability to teach and interact well with students. TAs receive academic credit for their work and are not paid.

New students may approach their professors for additional assistance. Second- and third-year students are not offered any formal academic support but similarly may approach professors. Students who find themselves in severe academic difficulty generally meet with an Associate Dean or someone on the School's Executive Committee, and special academic assistance may be arranged as a result of such a meeting. The Chair of the Curriculum Committee reports that by and large, beyond the assistance first-year students receive from their TAs and the help students offer each other, students at the School neither require nor

⁴The course focuses on developing legal research and writing skills and on training students to perform a number of other activities basic to legal practice including interviewing, counseling, case analysis and problem handling, negotiation, informal advocacy, and trial advocacy.

receive tutorial help.

Three of the student representatives interviewed found the opportunity to get help from TAs sufficient, and one noted that the TAs are "top-notch." A fourth student believes there are too few TAs, given the number of students in first-year classes, and does not find the TAs especially accessible to minority students. That student believes that the School should institute a one- to six-week academic orientation for minority students, modeled in part on the CLEO program. He believes that, like CLEO, the School should teach minority students about academic expectations and should offer law school success strategies that draw on the experiences of minority law school graduates.

Each of the minority student organizations offers academic support to its members. All organizations have outline files and make other study aids available to their members; organization members often pass books along to incoming students. Each organization has a mentor program in which every entering first-year student is paired with a second- or third-year student who offers advice, information on classes, and other academic support. The organizations all hold review sessions before examination periods and organize study groups. The Asian-American student representative noted that she did not believe she would have done as well in school were it not for the support of fellow minority students. Another student noted how important it is, especially in the first year, to have fellow students assert that everyone occasionally misses a question in class and that such is no cause for alarm. An Hispanic student noted that academic support brings minority students together and contributes to group cohesiveness.

B. Law School Atmosphere: General Support for Minority Students

Three of the minority student representatives interviewed said that, overall, the School's administration is somewhat supportive of minority students; one reported that the administration is highly supportive and one that the administration is unsupportive. Two of the students expressed a belief that the School's administration offers mostly talk and little or no action. One student suggested that the School's rhetoric has a "lulling" effect and gives students a false sense of security. Another commented that while there seems to be a lot of communication, it is generally superficial. All students gave the impression that they are anxious for the School to take action, and one warned that unless it does, relations between minority students and the administration will deteriorate. One representative noted that students must feel that their recommendations are being taken seriously. Student protests this year triggered administration support for minority students, one LaLSA representative noted. But she wondered whether support would have been forthcoming if the demonstrations had not taken place.

All of the student representatives interviewed commented that the School's minority student organizations are invaluable sources of support and community for minority students. One student described the importance of having a community of people with whom you feel at home and who share your background, and he offered an anecdote. He described a recent LaLSA picnic where students compared notes on their parents' reactions to their having been selected for the Law Review and other journals. Many of the students' parents did not understand the significance of the appointments and so did not spontaneously offer congratulations or feel deep pride, as might many white parents. Being able to share these

stories combats the sense of isolation and strangeness minority students may otherwise feel. Many of the student representatives spoke about the positive effects and experiences that have resulted from recent coalition-building among minority student organizations.

A number of racial incidents at the Law School last year brought discussion of minority student concerns to the surface. The incidents included the tearing and, after repair, burning of a Jesse Jackson poster on a dormitory door; the affixing of a laundry cleaning ticket to the APALSA bulletin board; and the defacement of a poster for a conference about Women of Color in the Law. A number of students noted that they felt compelled to address the incidents, and that the emotions and energy directed at dealing constructively with the incidents took away from time they might have spent studying.

Minority students spend a fair amount of time working on student committees or doing student organization work. Students commented that while active commitments to improving minority student experience at the Law School are very rewarding, they amount to an extra set of responsibilities which white students do not share. In part to relieve minority students of the extra "burden" they carry, students are urging the School administration to hire a Dean of Minority Affairs. Such a person, they suggest, could be involved in all areas of the Law School, sit on all committees that affect student life, act as an advocate for the interests of minority students, and coordinate minority student activities. Students want minority concerns to become "institutionalized"; a Dean of Minority Affairs would aid such institutionalization. One student noted that such a Dean could do fund-raising, thereby paying her or his own salary as well as raising money for minority student activities and involving alumni in minority student life.

One student reported that the Dean of the School has expressed reservation about hiring a Dean of Minority Affairs. The Dean's hesitation is based in part on the experience an administrator had a number of years ago with a half-time minority affairs appointment. Reportedly, the administrator left amidst some "bad politics" that was related to what the administrator perceived as lack of respect from others at the School. The student was not certain about the details.

All of the students reported that despite all of their struggles and concerns, they are happy at the School.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

The Chair of the Curriculum Committee reported that there has not yet been systematic review of the attention paid to minority concerns in the curriculum. Last year, students at the School were involved in demonstrations and demanded, among other things, greater curricular diversity and attention to minority concerns. The Curriculum Committee will take the issue up formally in the fall of 1989. The Committee, which consists of two students and five faculty members, has held a preliminary meeting with the student coalition that organized student calls for curricular reform. At that meeting, approaches to the issue were mapped out. In the fall the Committee will begin discussing actions it can undertake. The Committee may attempt, via a faculty survey, to discover the extent to which racial issues are integrated into course material, but no definite strategies have been approved.

Student discussion of the issue during the year led to a recommendation that a course about race and the law be added to the required, first-year curriculum. Students pointed

to the need to ensure that the entire law school community is exposed to discussion of the ways in which law and race are related at present and throughout history. "Minority concerns," the feeling is, are not the exclusive concern of minority students; minority concerns are, or should be, of concern to all, and need to be "mainstreamed" into the curriculum. Students also believe that there is a need for specialized courses that address racial issues. One student noted that the racial incidents at the School last year, as well as the community's response to the incidents, indicate that there is still a lot of ignorance about racism and the ways it functions. During student demonstrations one professor was overheard to have said something like, "Those students had a hard enough time getting in, and now they want to take over!"

A number of student representatives reported having the sense that professors are made nervous by racial issues and steer clear when racial examples are given in a textbook. In one textbook case a white woman in Mississippi accused a black man, who was walking on the same side of the street, of following her and of attempted rape. Two students reported that the classroom discussion of this case made no mention whatsoever of the racial overtones of the case. Another student recalled a Torts textbook section dealing with intentional infliction of emotional distress that used racial epithets as examples; those examples were not mentioned or discussed during class. Similarly, racially restrictive covenants were discussed in a textbook example but that example was not used or mentioned during class. Students generally agreed that even where race easily and naturally fits into discussion of a topic, it is avoided.

One student speculated that professors skip the race-related sections in textbooks

because they do not feel that they can adequately address the issues. Most professors learned the law without discussing race, the student continued, and feel most comfortable teaching it the way they learned it, a situation that perpetuates the homogeneity of the law school environment. One student noted that each time attempts are made to get professors to pay more attention to racial examples, there is an outcry that academic freedom is being impinged upon. Students also noted that legal trends affecting race issues are not recognized.

The Asian-American student representative noted that at present there are no courses at the School that discuss the Chinese Exclusion Act or Japanese internment and noted that curricular attention to such issues would improve the Asian-American student experience at the School.

At present, two curricular offerings directly address minority concerns. They are "Employment Discrimination" and "Racism and the Law," the latter taught by an adjunct professor. Students report, as evidence of the great demand for such courses, that the waiting list for the "Racism and the Law" seminar contains 41 names--the seminar can hold only 25 students and is already full. One student representative noted that old student organization memoranda indicate that students for years have been asking the School Dean, administration, and faculty to offer courses that address race related issues.

B. Bar Review

The School does not offer any courses specifically designed to prepare students for the bar exam.

C. Clerkships

The School's Clerkship Committee operates out of the Placement Office and consists of the Clerkship Advisor, the Placement Director, and one student. The Committee informs and assists students interested in judicial clerkships.

Each fall the Committee holds an informational meeting. At the meeting judicial clerkships are described, the application process is mapped out, and an informational package including a list of all federal and state high court judges is distributed. Students register their interest in pursuing clerkship opportunities at the meeting. Students indicating interest are put on the Clerkship Newsletter mailing list and are kept apprised of new openings, application timetables, and upcoming clerkship information panels.

The Committee assists clerkship applicants by reviewing resumés and cover letters, advising students about clerkships for which to apply, and handling much of the eventual paperwork involved in sending out applications. The Committee coordinates and mails up to 50 clerkship applications for each student. An application consists of a cover letter, resumé, transcript, and writing sample. Letters of recommendation are mailed separately. In an effort to keep students apprised of offers and "close-outs," the Clerkship Advisor calls all judges to whom students have applied.

The Clerkship Advisor expressed the view that any student at the School can get a clerkship. She emphasized the role strong letters of recommendation play and noted that the Dean of the Law School visits all sections of the first-year Legal Practice course to urge students to seek opportunities to work closely with professors--either by taking smaller classes or working as research assistants--to ensure that someone at the School knows them

well enough to comment carefully and convincingly on their work. In addition, the Clerkship Advisor lets students know that letters of recommendation from former employers are valuable and encourages first-year students to forge close relationships with summer employers. Membership on the School's Law Review remains a very important credential for students applying to the most competitive clerkships. Demonstrated writing ability is also important. The Advisor noted, however, that the clerkship "mythology" may overemphasize academic credentials and may underemphasize the extent to which judges are concerned to know what sort of an assistant--whether diligent, responsible, industrious, etc.--a student will make.

The Clerkship Advisor noted that a comprehensive roster of area state judges that includes information about clerkship availability would be helpful in increasing clerkship opportunities. While federal clerkships carry the most prestige and are the "tickets" to public interest and teaching jobs, many state judges, she noted, offer excellent clerkship opportunities. A member of the Placement Office staff noted that in the past, New Jersey had issued a useful guide to state and local judges, but as far as she knows, no such guide is available for New York.

A factor that may affect the number of students interested in and able to accept clerkships is the debt burden with which many law students graduate. Students repaying \$50,000+ debts often discover that they will not be able to survive on a clerk's salary. The financial pressure is especially strong for minority students since they often have borrowed more money to attend law school. The uncertainty that surrounds the economic sacrifice represented by a year or two of clerking is significant enough that many minority students may not consider this form of initial employment as a serious option. The School's loan

repayment assistance program does not apply to students working as clerks, even though a typical federal clerk's annual salary is between \$28,000 and \$29,000 (below the \$33,000 annual income "ceiling" for loan repayment assistance). State clerkships offer annual salaries closer to \$40,000, and are thus more financially attractive but do not carry the prestige of a federal clerkship.

The Clerkship Advisor expressed great concern about placing minority students in clerkships. It is her impression that equally qualified minority students do not receive the same share of clerkship offers as their nonminority counterparts. She believes that this phenomenon can, to a great extent, be explained by the fact that in a year a single judge typically hires one clerk and so does not see the need to "diversify" the clerking staff. Given a large pool of highly qualified applicants, a judge is likely to choose a clerk with whom he or she feels comfortable. White judges may feel more comfortable with white clerks, and since most judges are white, the cumulative effect of many individual hiring decisions is a low minority placement rate.

The Clerkship Advisor believes that the small number of minority clerks is primarily due to this sort of nonorchestrated, cumulative discrimination. She suggested that further consciousness raising among judges is required and noted that while in the past a number of judges would solicit clerkship applications from minorities each year, at present such requests are very rare.

In support of her belief that the low minority hiring rate is an effect of isolated, single-clerk hiring decisions, the Clerkship Advisor noted that many of those minority students who are offered clerkships are hired by offices that employ more than one clerk,

such as the Second Circuit pro se office or the Ninth Circuit motion clerk office. These are not in-chambers clerkships. The person hiring such a group of clerks is more likely to notice whether he or she has made offers to any minority applicants, is more likely to feel an obligation to insure diversity, and is less likely to be guided in hiring decisions by considerations of personal compatibility.

The Clerkship Advisor noted that it is difficult for minorities to know which clerkships to apply for. A pervasive perception is that minority and politically liberal judges will be more inclined to hire minority clerks and, as a result, minority and politically liberal judges are often overwhelmed with applications from minorities. Thus clerkships with those judges are among the most highly competitive. This situation is exacerbated by the shrinking number of politically liberal judges.

Last year the Clerkship Committee held an information panel with minority alumni clerks. The program came late in the season and was not well publicized and so was not very successful. The Clerkship Advisor hopes that with more careful planning successful programs of this sort will be held in the future.

The Clerkship Advisor informally encourages minority students to pursue clerkships; she notes the importance of "getting students early" to encourage them to develop their writing skills, and to establish close relationships with professors and employers.

In the past three years 165 of the School's students have worked as judicial clerks after graduation. Of those, 18 (11%) were minority graduates. The School's student body is approximately 13% minority.

None of the student representatives interviewed had had enough contact with the

Clerkship Committee to comment on its support for minority applicants.

D. Law Review

The School's Law Review is staffed each year by between 65 and 75 second- and third-year students. Students are invited to join the Law Review after participating in a writing competition at the end of their first year. Students entering the competition are given a packet with a writing topic and resource materials and have two weeks to complete their submissions. The writing competition submissions are each read by two or three members of the Review's third year staff. Between eight and twelve students are offered positions on the Review on the basis of their writing samples alone. Another 30 to 35 students are offered positions on the basis of a combination of first-year grades and writing sample scores. Typically, 40 to 45 students join the Review staff each year.

The Law Review has recently adopted an affirmative action policy that affects Review staff selection. The plan applies to all students who belong to the "affirmative action pool" including minority students identified by the Admissions Office, APALSA, BALSAs, and LaLSA, as well as students who are blind, deaf, and severely mobility-impaired. Students may also qualify themselves for affirmative action by submitting a personal statement describing hardships or disabilities they have overcome or other unusual background factors. Students who suspect that they have been identified as members of the affirmative action pool can "opt out" and can have their names removed from affirmative action consideration lists.

Once students eligible to be considered for affirmative action have been identified, the Review Senior Board and the Editors take such eligibility into account in making final

invitation decisions. Details about the ways such information is taken into account are confidential. The Review's senior staff decided to keep such information about the process confidential to minimize speculation about how individual students got on to Law Review. Given the significance many attach to Law Review membership, and given the anxiety Law Review selection creates, Review members thought it wise to take whatever steps they could to avert a situation where charges of special and unfair privilege might be levied against minority (and other "affirmative action") students.

The Law Review found it important to adopt an affirmative action position for at least three reasons. First, members of the Review felt that a scholarly journal ought to have a staff with a broad-based understanding of the way the world works. Second, it seemed important that information about Review staff candidates' backgrounds be allowed to affect the evaluation of candidates' grades and writing samples. Third, the Review wanted to make a positive contribution towards rectifying the history of discrimination within the legal profession against minorities and the physically challenged.

Last year the Review's second-year staff (between 40 and 45 students) included one black student, three Asian-American students, and three Hispanics, giving that group a 16% to 17% minority composition (exact figures are not available; all numbers are estimates based on a Review member's recollection). In the past three years, first-year minority student enrollment at the School has averaged 13.1% of total enrollment.

Second-year students who work satisfactorily on the Review are asked to continue working on the Review in their third year. It is rare for a student who is interested in continuing on Law Review not to be asked back. Approximately two thirds of the second-

year students return to serve on Law Review in their third year. Students who complete a Review note may be invited to serve as Editors. The number of Editors is not fixed; if all second-year students completed a note, all could become Editors. Last year there were 16 or 17 Editors, of whom one was black, and one was Asian-American (12% minority representation).

The Review's Senior Board is made up of six third-year students. Students interested in Senior Board positions submit their names to the outgoing Board, which deliberates and selects new Senior Board members. Last year there were no minority students on the Senior Board.

When asked whether any efforts were made to increase minority representation in editorial or Senior Board positions, the Review member interviewed said, "No," that the assumption was that once students were on the Review, "promotion" was a matter of doing the work and doing it well. He added that since the Senior Board member selection process occurs behind closed doors, he cannot be sure whether affirmative action considerations entered into last year's deliberations or not and cannot foretell whether they will in the future.

While the Review has no formal policy regarding inclusion of articles on race-specific issues, the Review member noted that staff are always interested in publishing such articles since racial issues constitute an "extremely important" area of law. In addition, he described the atmosphere at the School as "politically aware" and believes that in looking at notes and articles, Review staff are likely to favor politically substantive material.

E. Clinical Programs

The School has three extern-type clinical programs and four in-house clinical programs. A total of over 200 students participate in clinical programs each year.

Students participate in the extern programs for one semester, working with participating attorneys in environmental law, government litigation, and corporation counsel practice. Seminars and "simulation" exercises supplement field work. The Director of Clinical Programs at the School believes that the number of minority students participating in the extern program is reflective of minority representation in the student body. Since student externs deal with the client base of the participating attorney, the Clinical Programs Director was not able to speculate on the racial/ethnic makeup of the clients served by externs.

In-house clinics provide legal services to indigent and other clients who have difficulty finding counsel. "Indigent" is defined using federal poverty level guidelines. Students participate in these clinics for a year at a time and work in the areas of criminal law, civil law, juvenile rights, and urban law (e.g., public benefits and housing). Under the close supervision of faculty members, students handle cases. Weekly seminars and "simulation" exercises also supplement in-house clinical work. The Director of Clinical Programs believes that a substantial majority of the in-house clinic's clients are black or Hispanic. He is "fairly confident" that the percentage of minority students in the in-house clinics is higher than the percent of the student body that is minority. Last year, for example, in the Juvenile Rights Clinic, three of eight students were black. (One would expect one minority student in a random group of eight students, given the School's minority population).

F. Moot Court Programs

First-year students interested in joining the School's Moot Court Board and participating in extracurricular moot court competitions participate in a writing competition that takes place at the end of the first year. Students are given a topic and a number of days in which to write a brief. The briefs are submitted anonymously and are read by two or three members of the sitting Moot Court Board. Students are invited to join the Board based on the quality of their briefs. Last year 264 students applied to the Moot Court Board, and 44 were invited to join.

Last year's entire Board membership (second- and third-year) counted 72 students--two Blacks, two Asian Americans, and one Hispanic (7% minority representation). The Moot Court Executive Board, which consists of five members elected by the outgoing Board, last year included one Asian-American student (20% minority representation).

Members of the Moot Court Board participate in three activities: planning and taking part in internal competitions, organizing participation in external competitions, and preparing hypothetical cases for a Moot Court Casebook published by the School and sold to over seventy law schools.

Special efforts to publicize Moot Court are made in January and February, when Moot Court members speak to sections of the first-year Legal Process course, and information tables are set up around the School. No publicity efforts are targeted toward particular groups. The Faculty Advisor to the Moot Court Program suggested that the main impediment to greater minority participation in moot court is that many minority students work part-time and do not have the time to participate in extracurricular activities. Students

agreed that minority students are more likely to work part-time; none was sure whether this was why fewer minority students participated in moot court. Students did not feel that moot court programs were especially exclusionary.

IV. MINORITY JOB PLACEMENT

A. Placement Office Staff

The Placement Office, in addition to having a regular, paid staff, employs a minority student part-time to assist with many minority placement support efforts. Placement Officers meet once every week or two during the year with three minority Placement Representatives, one from each of the minority student organizations, to discuss Office efforts and student needs and concerns. Minority student organization representatives praised the Office's willingness to work with and listen to minority students. A Placement Committee, made up of two faculty members appointed by the Dean and two students appointed by the Student Bar Association, monitors on-campus interviewing and handles student complaints and any grievance proceedings against firms that interview on-campus.

B. On-Campus Interviews

Between 1,100 and 1,200 employers conduct on-campus interviews at the School each year. The Office invites over 10,000 employers yearly to interview on campus, an "exhaustive" invitation effort, and tries to insure that the employers who interview on campus represent diverse legal career opportunities. The Director of Placement reports that 90% of the School's graduating students find placement through on-campus interviews.

In an effort to provide minority graduates with the most promising array of job opportunities, the Office makes a special effort to contact firms which have participated in

the National Association for Law Placement (NALP)/BLSA recruiting conferences, minority law firms, and government and public agencies that often seek bilingual job candidates.

Law firms are not permitted to prescreen job applicants. Interviews are scheduled by the Placement Office. Before the interview season begins, each student researches law firms and submits a form that lists, in order of preference, the names of 50 law firms with which the student would like to interview. A lottery is held, and students are generally assigned interviews with between 20 and 35 of those firms on their lists. Once the interview schedules have been generated, firms receive resumé's for the students they are scheduled to interview.

The three Placement Representatives met with Placement Officers this spring to review lists of enrolled minority students and to insure that all minority students had completed the interview lottery form and were intending to participate in on-campus interviews.

In researching law firm choices, students make use of Placement Office resource materials on various firms and talk with Placement Office counselors. Information about employers' past minority hiring records is available, as is information on all firms that have requested applications from minority students. All employers who interview on-campus sign a nondiscrimination agreement created by the School's faculty in 1977. The agreement states that the employer will not discriminate in hiring decisions on the basis of gender, sexual orientation, marital or parental status, race, color, religious creed, national origin, age, or physical handicap. The statement is part of the employer's on-campus interviewing registration materials.

Two student representatives reported that the absence of minorities among a firm's associates and partners may deter minority students from applying to that firm. Other students commented that some firms have bad reputations among the minority student communities based on word-of-mouth. One noted that he has heard of firms complaining that they have no minorities since no minorities apply, and that no minorities apply since they see that no minorities have been hired in the past--a vicious circle. Another student representative suggested that the Placement Office organize a forum to give law firms that employ no minority attorneys a chance to plead their case in front of minority students. Firms that are truly committed to changing their hiring patterns will welcome such an opportunity to inform the minority student community regarding the firms' policies and commitment to hiring minorities, the student commented.

One student noted that the School has a formal grievance procedure that is to be used if a firm offends a student during an interview. The Placement Committee, a group made up of faculty and students, voted to suspend Baker & McKenzie's on-campus interviewing privileges following news of an incident in which one of the firm's interviewers offended a black job candidate during an on-campus interview at another school.⁵

One student representative suggested that the Placement Office consider steps it could take to address biased hiring patterns. In addition to suggesting, as noted above, that the Office offer firms a forum in which to describe their interest in minority job candidates,

⁵The interviewer reportedly asked the student how she would respond if called "nigger" or "black bitch" by a courtroom adversary or colleague and made additional offensive comments about Jews and ghetto life. Baker & McKenzie has apologized for the incident and has instituted several programs and policies, including self-corrective measures (e.g., sensitivity training for Baker & McKenzie employees), to address racial discrimination in the legal profession. Greater detail can be found in the ABA Journal, June, 1989, pp. 20-22.

the student suggested that the Office make an effort to confront firms which have poor minority hiring records and consider what other steps it might take to pressure firms into reconsidering their hiring practices.

C. Additional Placement Office Services

In addition to facilitating on-campus interviews, the Placement Office last year held career information programs; offered resumé, cover letter, and interview technique workshops; and held a public interest career symposium that included panels and discussions with approximately 100 practicing public interest lawyers. The Office maintains a resource center that includes extensive alumni contact material, information on summer employment for first-year students, and extensive computer facilities that may be used to generate professional-quality resúmes and cover letters. Placement Office staff offer students one-on-one career counseling.

D. Minority-Specific Placement Efforts

The Placement Office lists thirteen specific programs designed to insure that minority-specific placement issues are identified and addressed, that minority students receive adequate placement assistance, and that minority students are exposed to a variety of career opportunities. The thirteen programs are as follows:

1. Minority Placement Committee Biweekly Meetings:

Student members of each minority student organization meet with Placement Staff to plan programs.

2. Saturday Resumé and Interview Program for First-Year Minority Students:

(November) Eight to ten graduates arrange individual appointments with first-year students to review their resúmes and to provide them with practice interviews.

3. Alumni Law Firm Panel Before On-Campus Interview Season:

Six minority graduates present interview strategies to 60 second- and third-year students before Early Interview Week in a panel followed by a dinner.

4. On-Site Visits Held in Conjunction with Minority Student Organizations:

Visits to the Legal Aid Society, the local District Attorney's office, and large law firms are held in the spring for first-year minority students. The visits involve presentations by lawyers and tours of the offices. Last year, ten to fifteen students participated in each visit.

5. Placement Newsletter for Minority Student Organization Members:

A newsletter listing all programs and jobs for minority students is circulated to all minority student organization members six times a year.

6. Minority Law Student on Placement Office Staff:

One paid part-time minority student assists with job fairs, resumé directories, the newsletter, and other materials.

7. Minority Student Resumé Directories:

Two minority student resumé directories are prepared annually and are mailed to hundreds of legal employers. The first directory contains second-year and third-year student resúms and is mailed to all employers in the fall. The second directory, which contains first-year student resúms, is mailed in the spring. The directories indicate areas of interest and geographical preferences.

8. NALP Minority Law Student Recruiting Conference:

The School participates in this five-year-old recruiting conference, and members of Placement Office staff have served on the Conference's Executive Committee. Between 45 and 65 of the School's students and graduates participate in the conference.

9. Alumni Career Advisory Program:

The Placement Office, in cooperation with minority student organizations at the School, conducts a minority Alumni-student Advisory Program. This year, a list of 45 minority alumni interested in acting as advisors was distributed to every minority law student. The list included information on specialties and

backgrounds.

10. Employer Binders for Minority Law Students:

Employers interested specifically in minority law students write regularly to the Placement Office. All correspondence and materials about these employers is kept in special binders in the reference library.

11. The Future of Minorities in the Legal Profession:

Each spring, panels are held at which speakers discuss the role of minorities in the legal profession and other topics of interest.

12. Early Interview Week Participation Drive:

All students who belong to one of the three minority student organizations are called each summer and are strongly encouraged to participate in the late summer, on-campus interviewing period.

13. Employer Lists:

Lists of employers who have hired minority law students are updated annually and are distributed to the next class of law students.

E. Student Assessment of the Placement Office's Efforts

All the minority student organization representatives praised the Placement Office's efforts. Many commented that they thought the Placement Office both excellent in general and also, as one student said, "one of the most responsive and creative offices at the School" vis-à-vis the needs and concerns of minority students. Even the student who described the administration as generally unsupportive said that the Placement Office is "extremely supportive" of minority, as well as other, students.

In particular, minority student organization representatives praised the career tours (the trips to Legal Aid, the DA's office, and a large law firm). Two students noted that an afternoon spent among legal professionals, touring an office, served the additional function

of getting minority students to treat each other as legal professionals, affirming their respect for each other's professional competence. Many minority people, one student commented, retain white attorneys, and it is important to combat the lack of confidence in minority attorneys that may still operate within the minority community. It is important for minorities to establish professional behavior patterns that will allow them to work together and to support each other as legal professionals.

A number of students noted that they had received inquiries from firms who had seen their resumés in the minority resumé book. Others praised the Placement Office Newsletter directed at minority students. One student found the Office very helpful in finding contacts and information for her about jobs in Puerto Rico.

V. FACULTY ISSUES

The School's full-time faculty is currently 4.2% minority. The Chair of the Faculty Hiring Committee reports that increasing the number of minority faculty at the School is one of the Committee's top priorities. A number of minority law teachers are expected to join the faculty, but the Committee Chair reports that this will not prevent the Committee from continuing to seek minority job candidates.

The Committee Chair believes it is important to increase the number of minority faculty in part because increasing the numbers will fight the isolation that present minority faculty experience. He also noted that minority faculty decrease the isolation that minority students experience.

The Chair reported that the Committee has not set goals in terms of the number or proportion of minority faculty. While each committee member may privately have goals in

mind, those numbers are not discussed. Setting goals is controversial, the Committee Chair reports, since some feel it infringes on the Committee's prerogative to weigh all factors in reviewing a candidate and to apply criteria in a flexible manner.

The Chair believes that when black and Hispanic candidates are being reviewed, most Committee members give independent, positive weight to minority status. Minority status is not as likely to be considered if the candidate is Asian-American, he believes. It is his perception that many think Asian Americans will get teaching jobs, given prevailing traditional hiring criteria, and that the only reason there are so few Asian Americans in law teaching is that so few Asian Americans are interested. He believes that the Committee should make a focused effort to add Asian-American teachers to the faculty, because he believes that Asian-American faculty are needed if more Asian-American students are to become interested in law teaching.

The Faculty Hiring Committee has an affirmative action subcommittee charged with finding and supporting minority job candidates. Subcommittee members contact potential minority applicants, review all minority job candidate resumés that the Committee receives, and "lobby" for minority candidates.

When asked what problems the Committee has encountered in its minority hiring efforts, the Chair noted that the pool is very small, especially for entry level positions, and that competition for qualified applicants is intense. He noted that, typically, one out of 30 job applicants will eventually be offered a job, and that finding 30 minority applicants for one position is very difficult. He believes that the presence of a number of minority faculty already at the School, along with the School's public interest focus, makes the School

attractive to minority candidates.

Many of the student representatives interviewed believed that the presence of minority faculty affects, at least indirectly, student academic performance. One student representative commented that students are more motivated when they feel personally connected to either the subject matter or the instructor in a course. Another noted that minority faculty serve as important role models and mentors, especially in light of the fact that there are no minorities in the administration who serve as advisors or role models for the minority community. One student commented that self-doubt is more likely to grow in an environment where students do not see others like themselves in the administration or on the faculty in positions that indicate success and command professional respect. Such self-doubt will be aggravated if nonminority students believe minorities to be "affirmative action" cases; the presence of accomplished minority faculty fights the perception that minorities do not "deserve" their places in law school. In this way, the presence or absence of minority faculty has an indirect effect on minority student academic performance; students who are not confident and who feel out of place will not perform as well as those who feel confident and at home in the institution.

A number of students mentioned the educational deficiencies which all students are left with if they do not have a chance to study law with instructors who represent a variety of perspectives. One commented that the absence of minority faculty is less harmful to the minority students than to the rest of the law school community, which suffers from stereotypes about minority law professors or legal professionals. The law school community accords law professors a good deal of respect, and it is important, one student commented,

both for students who may eventually be interested in teaching and for the rest of the law school community to learn first hand that members of minority groups are capable--and often excellent--scholars and teachers. The student related hearing a Dean from another law school comment that the credentials required for law teaching are not always what people imagine; that, in fact, few white law professors have all the "classic" qualifications (Law Review, top 10% of the class, etc.). Students all want the School to make every effort to increase the number of minority faculty.

CASE STUDY E

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

Admissions decisions are made by the Admissions Office staff and members of a faculty Admissions Committee which reviews borderline applications. The Admissions Committee requests interviews with a small number of applicants each year in order to gain further information before making final decisions.

Each of the School's three minority student organizations (Asian-American Law Student Association [AALSA], Black Law Student Association [BLSA] and Hispanic Law Student Association [HLSA]) has a student Recruitment Director who meets with the Admissions Director to offer advice and recommendations. Meetings do not happen on a regular basis.

B. Applicant Recruitment Programs

The Admissions Director echoed the comments of Admissions Officers at other law schools by saying that he wishes the applicant pool were larger, that more qualified minority college graduates were interested in law school and would apply. He also believes that better information about how and where to apply is needed, since there are, in his experience, a fair number of misdirected applications (from both minority and nonminority applicants). This section describes specific efforts currently made to increase the applicant pool.

1. College Campus Visits

School representatives visit undergraduate campuses in most areas of the U.S. The

Admissions Director noted that the Northwest is the only area not visited; in the past it has not been a productive market for the School. The number of visits that are made each year varies widely, and the Admissions Director could not offer an approximation. Individual visits to targeted schools are made, and invitations to participate in law or career day forums are also accepted. Admissions staff, School administrators, faculty, and students all make recruitment visits.

The School visits a number of colleges with predominantly minority populations. Recruiters find minority students from the South reluctant to leave the South to come to law school and note that most of the School's minority students come from the Northeast.

2. Law School Admissions Council Recruitment Forums

The School participates in all of the Law School Admissions Council (LSAC) student recruitment forums. The Admissions Director estimates that 2,000 people pick up materials about the School at the New York LSAC conference alone and believes that 20% of those persons are minorities. The School this year sent representatives to the first LSAC minority recruitment conference, held in Florida one spring. The Admissions Director reports that it was disastrous, largely because it was poorly organized. The School representative spoke with perhaps eight students altogether, the Admissions Director reports, rather than the hundreds required to have made the conference worthwhile.

3. Minority Recruitment Day

The School uses the Law School Data Assembly Service's (LSDAS) Candidate Referral Service (CRS) to identify minority registrants on the East Coast and invites them to a Minority Recruitment Day held at the School. Approximately 1,000 people are invited. The

Minority Recruitment Day takes place early in February and is intended for those who will be applying to law school the following fall. Workshops with faculty, administrators, and current minority students provide information and advice on admissions, financial aid, academic program, and placement. Minority alumni are invited to participate in panel discussions. Guests see a film about the School, attend a luncheon with currently enrolled minority students, and listen to a keynote speech delivered by a prominent minority alumnus. The day ends with a cocktail reception for invitees, current minority students, minority alumni, faculty, and administrators.

The Admissions Director estimates that between 100 and 120 guests attend the recruitment day. Approximately one third of those guests eventually apply to the School, and one third of those who apply are admitted, he believes.

4. Minority Application Workshops

The School's three minority student organizations receive lists of all minorities who attended the Minority Recruitment Day and invite them to application workshops. Each student organization holds its own workshop. Students advise and assist applicants to law school. The organization of these workshops varies from year to year depending on student interest and availability. The Admissions Office provides clerical support.

5. "Minorities at the School" Brochures

The Admissions Office is currently working with the minority student organizations to develop brochures that provide information on minority student organizations, discuss minority student life at the School, describe the admissions process, explain the availability of financial aid and housing, and profile the School's history with respect to minority students

and affirmative action. Once completed, the brochures will be used in a mailing to CRS-identified minority candidates and will be distributed during campus visits and other recruitment activities.

C. General Applicant Recruitment Efforts

For the last five or six years the School has hosted groups of high school students interested in visiting the Law School. The visits are initiated by the high schools. The students are given a tour of the School, are told about law school and the legal profession, and meet with alumni to discuss legal career opportunities. The groups are racially integrated, depending on the high schools.

On Fridays, throughout the winter and into spring, the Admissions Office holds five-hour law school information programs. Anyone who contacts the Admissions Office for information about applying to law school, or who requests a meeting with an Admissions Officer, is invited to attend a Friday information program. The program provides information about how to apply to law school and offers students some specific information about the School.

D. Admissions Criteria

The School bulletin reports that admissions decisions are based on consideration of applicant character, academic achievement, and aptitude for the study of the law, and the bulletin notes that LSAT scores are not the exclusive admission criterion. The bulletin adds that while no specific goals or quotas are set, an applicant's "potential contribution to diversity" is considered.

The Admissions Director reports that as a result of a series of in-house correlational

studies of LSAT scores and bar passage rates, the Admissions Office decided not to admit applicants with LSATs below 28. Admissions staff found that applicants with LSATs below 28 were failing the bar examination at a rate that made the Office question the utility of admitting those applicants to law school. This year, the School has upgraded admissions standards across the board, and the Admissions Director reports that applicants with LSATs below 29 will now not be considered.

The Admissions Director noted that the median LSAT score for full-time students at the School is 38; the median for full-time minority students is 35. The score differential indicates that the School takes positive account of minority status and offers admission to minority students with lower LSATs than those of their white counterparts. Very similar numbers are shown by part-time students.

A senior member of the Faculty Admissions Committee asserts that the correlation between LSAT scores and bar passage rates should not figure heavily in admissions decisions. He stresses that a student who is very determined to succeed in law school will be able to do well and will be able to learn what is needed for the bar examination. This professor notes that there are great differences in motivation, and he feels compelled to give a chance to students who "really want a chance." Occasionally he advises a student whose academic background is weak, but who has "what it takes" motivationally, to enroll in the part-time division and to take four years to complete what would otherwise take three years. He urges such students not to hold jobs but to study full-time. He also mentioned that the School has very good academic support systems, and he strongly believes that students with weak academic backgrounds can make exceptional progress if they avail themselves of

assistance opportunities.

The Admissions Director notes that the School's application form includes a question that begins by noting the Law School's concern that every applicant--regardless of age, gender, handicap, race, color, religion or national or ethnic origin, sexual orientation, marital status or parental status--be given every reasonable chance for consideration and admission. The question then asks students to describe any handicaps or hardships they have overcome in their lives, or to mention ways in which they can contribute to the diversity of the School's student body. Students who do not identify themselves on the application form as members of minority groups often will so identify themselves in their personal statements.

E. Acceptee Recruitment Programs

1. Minority Acceptee Recruitment Programs

Minority student organizations are given lists of all minority acceptees and are encouraged to invite them to luncheons and receptions where acceptees are encouraged to enroll. The student organizations use their own funds to hold luncheons and receptions. The Admissions Office offers clerical support.

The Admissions Office does not presently ask current students to call accepted applicants, but the Office may begin doing so. The Admissions Director noted that phone calls seem to him like too much of a "hard sell," but in surveying acceptees who chose to go elsewhere, the Office has discovered that many cite phone calls from students as a factor that influenced their decision to go to other schools.

Student representatives at the School noted the Admissions Office's "diligent" and "concerted" minority recruitment efforts. The number of Asian-American students rose

dramatically after recruitment efforts were stepped up a few years ago, the Asian-American student representative reported. Students all hope that the numbers of minorities at the School will continue to increase and that the Admissions Office continues to search out qualified minority applicants.

2. General Acceptee Recruitment Programs

Each minority student organization sends a welcome letter to all acceptees. These letters do not go exclusively to minority admittees; the feeling is that it is important for all students to be told about the existence of the minority student organizations and about the positive contribution the organizations make to the Law School environment.

The Admissions Office holds nine five-hour Accepted Student Programs during March, April, and May to which all accepted applicants are invited. Acceptees meet with an admissions officer for a question and answer period, attend a luncheon with faculty and students, and tour the campus. There are also discussions about placement, financial aid, and academic programs.

The Admissions Office has an Alumni Admission Board that helps recruit students who are awarded School merit scholarships. Alumni on the Board contact acceptees and arrange one-on-one meetings with them to talk about the School. Alumni are matched to acceptees by kind of practice and area of interest as identified by the acceptee. Efforts are made to match minority alumni to minority acceptees where feasible (given applicant interests) or if applicants specifically request contact with minority alumni.

F. Financing

Most students at the School take Stafford Loans and Supplemental Loans for Students (SLS).¹ Students may participate in the Law Plan, a comprehensive loan application program for loan packages that include Stafford Loans, SLSs and Law Access Loans (LAL). LALs are essentially private bank loans; they are not federally, or otherwise, subsidized. The School administers Perkins Loan funds² and has some School loan funds available. College Work-Study/Urban Corp funds are available for needy students who work; the program is largely federally subsidized.

Minorities admitted to the School are eligible for affirmative action scholarships, funds that cover between one quarter and one half of tuition. The amount of the scholarship is based on merit. Students who remain in good academic standing have their scholarships renewed yearly. The Admissions Director sees the affirmative action scholarships as a very positive step taken by the School to support qualified minority students. Students concur, and one noted that the financial aid available here may draw minority students to the School.

Two endowed scholarship funds are earmarked for minority students. One offers a maximum of full tuition and a book stipend, depending on financial need, to a black student. The other is a fund that provides tuition assistance to a minority student who shows financial

¹Stafford Loans and Supplemental Loans for Students are federally subsidized and regulated loan programs. Stafford Loans are available only to students who show financial need and carry interest rates between 7% and 10%, depending on the year the student entered(s) into the loan contract. SLSs are available to all students and carry a higher interest rate than Stafford Loans; SLS rates are calculated anew each year, with the maximum rate set at 12%.

²Perkins Loans (formerly National Direct Student Loans) are federal loans that carry a 5% interest rate and are awarded to students who show financial need.

need.

Fellowships in public interest law are also offered. The fellowships provide stipends for students who would otherwise lack the financial means to pursue summer public interest internships.

The School offers scholarship funds to all students on the basis of merit and need. Minority students are considered along with all other students for nonminority-specific financial aid funds. Paid teaching assistant positions are available.

The Admissions Director estimates that 85% of the students at the School receive some financial aid. When asked what might be done to increase minority enrollment at the School, the Admissions Director suggested that the School needs to offer better housing to out-of-state students. He is relatively satisfied with the School's financial aid for minority students.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Summer Session

The School recently began offering a special version of a required first-year course during the summer. This course examines the underpinnings of legal reasoning. It focuses on techniques of case and statutory analysis and explores concepts such as holding and dictum, the synthesis of cases, stare decisis, the plain meaning rule and the use of legislative history. The course is offered to all incoming minority students, physically and educationally handicapped students, and students who have been out of school for more than nine years. Minority students who have not yet confirmed their intention to attend the School are also invited, in hopes that the course will encourage them to choose the School. Participation

is entirely optional, and no tuition is charged. The course meets at night so as not to interfere with students' work schedules.

Unlike the regular two-credit (28 hour) course that all other students take during the first year, the summer course entails 42 hours of instruction. Most of the additional time is devoted to discussing, planning, implementing and critiquing a series of integrated writing projects. Six writing assignments, two of them graded, are completed by each student. The course is taught by three full-time, tenured faculty and an educational services director, who integrates the legal writing portion of the course and supervises the work of the five student assistants who have just completed their first year of law school. The five teaching assistants--who have included minorities--hold one-on-one and group sessions with the students, and are available to discuss progress and any problems the student is having with the material. Both a practice examination and a final examination are given; the latter is graded according to standard School grading procedures.

The summer course is offered in order to give students an opportunity to adjust to law school in a supportive environment. More individual instructor-student contact is available than during the academic year. Since students receive credit for the course, the fall load is lightened, giving them more time to focus on other courses. Minority, handicapped, and returning students are targeted for enrollment because it is the School's experience that such students often require additional assistance in adjusting to law school.

Students who pass the course (i.e., if they receive a grade of 60 or above) fulfill the Legal Writing and Analysis requirement. Students who receive grades below 80 may retake the course in order to improve their grades. Students who receive grades over 80 may not

retake the course.

The course's diagnostic function (and the opportunity it affords for steps to be taken before school begins) is valuable in ensuring success of minority and disadvantaged students. Students who show a potential for academic difficulty can be identified. For example, arrangements were made for two students who evidenced language deficiencies to attend a special English class during August, before fall classes begin.

All minority student representatives are enthusiastic about the summer program, and Faculty interviewed report that the course is extremely successful, both at imparting skills and at orienting students to the School environment.

One student noted his fear that this program will stir up resentment among nonminority students, particularly if any of the summer students go on to excel in school. He reported that in his experience backlash is not a problem until a few minority students do better than their nonminority counterparts. In his class a fair number of students who participated in the minority tutorial program (discussed below) did exceptionally well, and he believes that this contributed substantially to a sentiment that minority students were being accorded unfair advantage.

B. Academic Support

In order to insure minority students' academic success at the School, tutorial seminars called workshops are offered. All first-year minority students are assigned to one of their first-year course professors. The schedule and structure is set up by the Chair of the Academic Support Committee which calls for eight workshop meetings each semester. The educational services director teaches the sessions covering such skills as outlining and

examination taking. First-year course professors do more substantive review and examination preparation.

Representatives of the minority student organizations all agree that the workshop is very helpful and cite its existence as one of the ways the administration has been supportive of minority students. Reportedly, many minority students take advantage of the workshop.

Support is also available in the form of the Practicing Attorneys for Law Students program (PALS). Through this program, minority students are given the opportunity to be matched with mentors who are attorneys practicing in many of New York City's major law firms. The Program is designed to help minority students cope with the rigors of law school and explore the scope of career options available to them.

C. Student-Run Academic Support

The Asian American Law Students Association (AALSA) recruits second- and third-year student members to act as tutors for first-year Asian-American students. Since moot court is central to the second-semester curriculum, AALSA holds mock rounds for Asian-American students. Students write briefs and argue cases before AALSA judges. The practice rounds are reportedly very useful in helping students to prepare for, and gain confidence in, a moot court situation. The student representative noted that most first-year Asian-American students participated in the mock rounds.

The Black Law Students Association (BLSA) assigns second- and third-year "buddies" to all incoming students. Buddies are available to offer advice about classes and course work, as well as to provide direct academic support (e.g., guidance on legal writing). BLSA also organizes mock moot court rounds, giving students an opportunity to practice brief

writing and oral advocacy skills. In addition, BLSA maintains an outline file and makes other study aids available to its membership.

The Hispanic Law Students Association (HLSA) is presently working to increase the amount of formal academic support it offers its members. The student representative reports that BLSA shares outlines with HLSA. HLSA members offer each other a good deal of informal academic support, the student noted.

D. Minority Students' Comments on School's General Atmosphere

In general, student representatives find the School supportive of minority students. One noted that AALSA, BLSA, and HLSA events are well attended by members of the faculty and administration. Others cited the School's efforts to develop academic support for minority students as evidence of the administration's commitment to minority students.

The area of greatest concern seems to be relations between minority students and the rest of the School community. Students feel confident that despite some resentment of programs which the School has instituted to aid minority students, the School will not be "scared out of" offering support to minority students.

The BLSA student representative reported that racial incidents are rare and that when they occur students handle them well. His experience is that people are generally treated fairly, and he does not think that racial tension interferes with study time. He commented on the important role fellow black students play in sustaining a good atmosphere. He noted that morale, drive, and academic performance are positively affected if there is camaraderie.

The AALSA student representative commented on the pressure and isolation that

many Asian-American students feel as a result of their "model minority" reputation. Non Asian-American students often assume that Asian Americans are excelling academically, which is not necessarily the case, and make comments such as "I bet you aced that test." Non Asian Americans often react to Asian-American students competitively rather than offering support, understanding, or cooperation. He noted that professors seem hesitant to call on Asian-American students, but he was not sure of the reason for their hesitation.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

The Chair of the Curriculum Committee reports that no systematic review of the attention minority concerns receive in the curriculum has been undertaken. The Chair of the Curriculum Committee believes that most instructors raise and discuss racial issues when the issues fit into the material under consideration. She also noted that the following courses specifically address many minority concerns: Law and Discrimination, Immigration and Nationality Law, Legal History, American Criminal Law, Rights of the Indigent, and Women and the Law (relevant, she noted, insofar as the law affecting women's issues is related to the law affecting racial minorities in this country). She noted that both minority and nonminority students enroll in the above-named courses.

The HLSA student representative reported that race-related issues come up when they are "genuinely part of the curriculum" but are not generally discussed in depth. He noted as examples discussions of racial disparities in criminal sentencing, of racially exclusionary zoning laws in Property, and of many civil rights issues in Constitutional Law. He is satisfied with the attention minority concerns receive in core courses and notes the

availability of special seminars (such as those named by the Committee Chair) for those who want to pursue race-related issues.

The BLSA student representative commented that racial issues are not adequately addressed. The student believes that many professors consciously avoid racial issues because they do not want to "step on any toes" or to instigate confrontational, heated classroom debates. Such debates are more likely to occur when racial issues are raised than when gender or poverty issues come up, he noted. In this respect, professors' disinclination to raise race issues is warranted. He believes that many professors are wary of such classroom debates. He noted, however, that when issues do arise, for example when a student asks a question directly related to race, professors' fears of long, confrontational digressions generally prove unfounded.

The Asian-American student noted that when racial issues arise, nonminority students occasionally make offensive comments. For example, during discussion of a case involving a Hispanic woman with a child, a student commented that Hispanics "ought to quit having so many babies."

B. Clinical Programs

The School has both in-house and extern clinical programs. In-house programs are taught and supervised by full-time faculty. Students handle case work, including client responsibilities and court appearances, and generally supplement field work with discussion in a weekly seminar. The City Law, Child Support Enforcement, Criminal Appeals, Elderly, Federal Litigation, Landlord-Tenant, and the Prosecutors Clinics are in-house clinics. Most of the clients served by in-house clinics are indigent or otherwise unable to obtain counsel.

Two clinic client bases are exceptions: the City Law Clinic handles cases brought by and against the City; the Prosecutors Clinic works with a district attorney's office.

The Director of Clinical Programs reports the information tabled below for current in-house clinic client populations. All figures are approximations, and all information is the best available to her.

	<u>Cases per Year</u>	<u>% or No. Minority Clients</u>
Child Support Enforcement	100	50-60 Black 30 White 10 Hispanic 2-3 Asian American
Criminal Appeals	3 - 4	most Black
Elderly	700-800	55-60% Minority
Landlord-Tenant	50	> 50% Black
Federal Litigation	10	7-8 Black 1 Asian American

Approximately 60 students participate in the in-house clinics in the course of a year.

The Director of Clinical Program reports the following student racial mixes in in-house clinics (information on Criminal Appeals and Landlord-Tenant is not available):

	<u>Total Students</u>	<u>Minority Students</u>
City Law Clinic	8-10	2-3 Asian American 1 Black
Child Support Enforcement	8	1-2 (race/ethnicity not available)
Elderly	10-15	1-2 Black or Hispanic
Federal Litigation	12	1 typically 4 this year (race/ ethnicity not available)
Prosecutors Clinic	8	1 Black

Extern programs place students in agency and legal service program offices, district attorneys' offices, and judges' chambers. The School's Civil, Criminal Law, Dispute Resolution, Judicial, and Women's Rights clinical programs are all extern programs.

Externs serve the clients of the cooperating lawyers. Information about the racial/ethnic background of clients is not available. The Director of Clinical Programs reports that 100 to 120 students participate in extern programs each semester, and she has no information about how many of those students are members of minority groups. She did note that of 20 Criminal Law externs, one is black.

The Director of Clinical Programs described a workshop, "Dealing with Differences," held this summer during an area-wide conference of clinical instructors. The "differences" in question included class, education, gender, and race differences between clients and students, differences that can create tension or cause misunderstandings during clinical practice. She offered an example in which a white, middle-class student assumed that a low-income, Hispanic client, who never answered his phone in the evenings, was out drinking and

must be an alcoholic. It turned out that the client's telephone was a public phone in the hall of his building; many rings were required before anyone would answer it. A hall telephone--as might be found in a boarding house, welfare hotel, or other low-income housing--was not something the student had ever encountered.

The workshop focused on the problem of teaching students how to handle differences between themselves and clients. Participating instructors made a commitment to experiment with various approaches and to systematically "compare notes" when they meet again in December. One discussed strategy which the Director of Clinical Programs mentioned was to describe a case that involves one or more minority litigants, have students think about the case, and then ask them how they would have thought differently about the case if everyone involved were white. She is hopeful and enthusiastic about integrating a sensitivity component into the clinical curriculum.

Clinical Program coordinators at the School have been discussing the possibility of actively recruiting students from AALSA, BLSA, and HLSA in order to address minority underrepresentation in Clinical Programs. They remain indecisive and have not taken any action, largely because they do not currently know why minorities are not participating in greater numbers and so are not sure how to approach the problem.

C. Bar Review

The School makes facilities available for minority student bar examination coaching, offered to area minority law students by a local bar association.

D. Law Review

The Law Review was staffed last year by 53 students. Approximately 25 students are asked to join the Review each year based on first-year grades and performance in a writing competition. Between two and six students are asked to join on the basis of written work completed in the legal writing sections during the course of the year and automatically submitted to the Review by instructors. Writing sample quality is determined by members of the third-year Review staff, including the Executive Board.

After serving on the Review for one year, students may be selected to serve on the Executive Board (five students elected by the outgoing Board), be promoted to Editor (provided they have completed one note or comment of publishable quality), be retained as senior staff, or resign. Most students (90%) continue with the Review in some capacity into their third year. Last year one Hispanic and one Asian American were on first-year Review staff. The Editor-in-Chief of the Review was Asian-American. Thus of a total of 53 Review members, three (5.7%) were minority.

When the Faculty Advisor first became involved in the Review five years ago, there were no minority students in the membership. Since then the Review has been making "affirmative encouragement" efforts. The selection method is not affected, but minority students are encouraged, via a letter and informal faculty contact, to develop their writing skills and to apply for Law Review positions. Before the writing competition takes place, a Saturday workshop is held for minority students, and competition writing strategies are discussed. Minority alumni who have served on the Review offer advice; one student mentioned that this advice was particularly helpful.

The Faculty Advisor believes early identification and encouragement of strong minority writers to be the best ways to increase the number of minority students on Law Review. He has been pleased with the results of the Review's "affirmative encouragement" efforts.

The school offers a Case Comment Workshop to which all first-year minority students are invited. Last spring thirty-four students attended. Two minority students were accepted on Law Review, and four minority students were accepted on the Journal.

One student offered comments in support of the Law Review's decision not to implement an affirmative action selection process. At present, he noted, there can be no question about how any students got on the Review.

E. Moot Court Programs

As part of a required first-year course, all students write briefs and prepare oral arguments which are evaluated by a panel of attorneys, faculty, and judges. Students whose brief grades and argument scores are in the top one-third are invited to participate in an extracurricular, intramural moot court competition. The competition involves a series of elimination rounds, and the 30 to 40 students who make it to the final round are invited to join the Moot Court Board. A number of second-year students join the Moot Court Board by taking and satisfactorily completing an Appellate Advocacy course.

Students on the Moot Court Board coordinate internal elimination rounds, as well as a national competition held at the School each year, and send student teams (made up of Board members) to extramural competitions. Each year the Faculty Advisor to the Moot Court Board selects three students to assist in writing the problem and bench memo for the

national competition. If the students she chooses are not already on the Moot Court Board, they automatically become members. A five-member Executive Board makes final decisions about which students participate in external competitions. Teams from the School do not participate in the National BLSA competition.

No special efforts are made to encourage minority students to participate in moot court activities. The Faculty Advisor reports that black students are well represented on the Moot Court Board, and she notes that insofar as Asian-American or Hispanic student participation is low, it is probably due to language barriers--assuming that English is a second language for some Asian-American and Hispanic students. She noted that if the School offered better language skills assistance, the numbers of Asian-American and Hispanic students on the Moot Court Board might increase. In general, she believes that there is nothing additional the Moot Court Board should do to increase minority student participation because nearly all qualified students participate.

IV. MINORITY JOB PLACEMENT

A. On-Campus Interviews

Approximately 115 employers, including law firms, public interest, and legal service agencies, conduct on-campus interviews at the School. Each employer is informed of the School's nondiscrimination policy which states that the employer will not discriminate in hiring decisions on the basis of gender, sexual orientation, age, race, color, religious creed, or national origin.

Employers prescreen job candidates and choose who they will interview, generally on the basis of student resumés. Some employers also request transcripts or writing samples.

A few years ago, in an effort to ensure that students were receiving fair chances to interview with employers of their choice, the Placement Office initiated a program wherein 75% of the candidates an employer interviewed were chosen by the employer (on the basis of resumés, etc.) and 25% were assigned by lottery. The program was not effective--students in the lottery-assigned 25% did not receive job offers. The Placement Office discontinued the program.

When asked what might deter minority students from applying for jobs at law firms, all students said that a poor hiring record or bad word-of-mouth reputation will dissuade potential minority applicants from applying to a firm. Students at the School may only schedule 15 on-campus interviews, and so will not "waste" an interview on an unlikely prospect. One student noted that most firms only want to interview students who are in the top third or quarter of the class and who are on the Moot Court Board, or Law Review.

B. Additional Placement Office Services

The Placement Office conducts resumé, cover letter, and interview workshops, offers one-on-one career counseling, and maintains a career resources library. A book of the resumés of minority students is maintained for employers who are interested in recruiting affirmatively. Videotapes of mock interviews are also available. (The Office has the National Association for Law Placement (NALP) interviewing video that was prepared with minority students in mind, but the Director reports that students rarely request it.)

The Placement Office holds a series of panel dinner discussions with attorneys who work in particular fields (e.g., bankruptcy, entertainment law). The dinners are limited to 50 students; students sign-up at the Placement Office and places are given away on a first-

come first-served basis. Four panel discussants and a number of other practicing attorneys (who preside at dinner tables) are invited.

A Student Advisory Committee made up of representatives from many student organizations, including AALSA, BLSA, and HLSA, meets with the Placement Office once a month. The Advisory Committee offers program and workshop ideas. The Placement Director noted that the Office has found the Advisory Committee's input very helpful.

C. Clerkships

The Clerkship Committee has two functions. The first is to provide information to students about clerkship opportunities and to assist them with applications. The Committee holds an informational forum and posts announcements to insure that all students are aware of the availability of clerkships. Many of the faculty at the School and on the Committee have personal contacts with judges who hire clerks, and the Committee coordinates "marketing" calls and letters to judges considering a clerkship candidate from the School. Committee members informally encourage qualified students who may not have expressed an interest in clerking to consider it an option.

The Committee's second function is to prescreen and to offer official Committee endorsements. Such endorsements are only offered in cases where judges require them. The Committee member interviewed reported that the judges requesting such Committee endorsements represent a very small percentage of the judges with whom the Committee deals each year.

In the eyes of most judges, the Committee Chair reported, the most important credentials for clerkship applicants are academic performance and writing ability. Clerkships

require analytic, writing, and research skills, and judges are very interested in grades and membership on Law Review or other evidence of superior writing ability. Judges also look for candidates who demonstrate maturity, and judges try to find clerks with whom they feel a personal affinity. Life experience (e.g., a period of employment before law school) is also an asset in the view of many judges.

The Committee Chair noted that students who are not "top students" can often get clerkships if they are willing to travel outside of the Northeast, or if they are interested in working for state court judges, magistrates, or in clerk pools (e.g., at the appellate level in New York).

He believes that a student who meets a judge's criteria and who is also a minority group member has an "edge," as judges are anxious to hire minority clerks. He noted, however, that minority students rarely are found in the top 10% of the class, and that when they are, they are in such demand that clerkships, with their comparatively low salaries, are less attractive than law firm positions.

No outreach efforts are targeted at minority students. The Committee member interviewed believes that the best way to get students interested in clerkships is to make the "intellectual and spiritual joys" of clerkships known to everyone, and he does not believe that minority-specific outreach efforts make sense in this context. He also points out that efforts to encourage minority students to apply for clerkships which they will not get, e.g., because their grades are low, would be irresponsible. Minority students who are excelling academically are encouraged to consider clerkships, as are any students who are doing especially well, he noted.

Interviewed students had not had enough contact with the clerkship placement process to comment on support for minority applications. One student stated that he believes grades to be the deciding factor, regardless of race.

D. Minority Specific Placement Efforts

1. Minority Placement Workshops

The Placement Office has, at the request of AALSA, BLSA, and HLSA, held resumé, cover letter, and interview workshops specifically for minority students. The Placement Office disseminates information about Practicing Attorneys for Law Students (PALS) career workshops for minority students.

2. Employer Minority Recruitment Panels

In the past, a number of government legal offices have held information panels to which they specifically invite minority students, and which are designed to address minority concerns. The office's activities are described and there is a question and answer period.

3. Minority Recruitment Conference

The School participates in the Northeast Regional Minority Law Student Recruitment Conference, an employers' recruitment conference cosponsored by the National Black Law Students Association, the National Association for Law Placement (NALP), the Association of the Bar of the City of New York, the New York State Bar, and the ABA Section of Legal Education and Admissions to the Bar. Law schools, volunteers from minority student organizations, and the NALP Fair Employment Practices Committee all cooperate to plan and implement the conference. All participating law schools receive informational packets on prospective employers and the sort of candidate they seek. The packets include

completed NALP employer questionnaires that describe the size of each firm and note the numbers of women and minorities in various firm positions. The employers accept minority student resumés from students at participating institutions and arrange interviews with those students to take place during the conference.

The Director of Placement reports that over 50 students from the School participated in the NALP/BLSA conference last year.

E. Student Comments on Placement Office Efforts

The AALSA student representative praised the Placement Office for keeping AALSA apprised of job announcements, Placement Office programs, and upcoming job fairs (including the NALP/BLSA conference). He also found the special workshops the Office held for Asian-American students helpful, and noted that they are different from ordinary workshops because they are smaller and because people feel free to ask minority-specific questions (e.g., "should I put AALSA participation on my resumé?"). He reported that once a semester the Placement Office, in cooperation with AALSA, shows a videotape prepared by the West Coast AALSA office that discusses interview techniques.

Another student representative finds the Placement Office helpful to students who do well academically, but not particularly supportive of any other students. Placement Officers spend more time with successful students going over their resumés, reviewing job prospects, etc., while other students are told to "go look in the job book." Another student reported that the Placement Office is generally complacent.

One student noted that he was told by a Placement counselor to reconsider mentioning involvement in a minority student organization on his resumé, a comment he

resented, noting that he would not want to work for a firm that would look askance at such involvement.

V. FACULTY ISSUES

A. Faculty Hiring Committee Efforts to Hire Minority Faculty

The Chair of the Faculty Hiring Committee reports that the School wants to increase the number of minorities on its faculty. At present the School has two full-time tenure track black professors. The Committee has not set numerical hiring goals; at this point its goal is simply to increase minority representation on the faculty.

The Committee believes increasing the number of minority faculty at the School is important for at least four reasons. First, the law applies to diverse communities, and to the extent that those who hand down the law neither represent nor understand diversity, justice is ill served. Second, the School wants to bring quality educators into its faculty, and to the extent that there exist pools from which faculty are not being drawn, quality educators are being missed. Third, it is important for law students not to see law teaching as an elite preserve; the faculty must demonstrate in practice what some preach in the classroom, namely, equal opportunity and justice for all. Fourth, the presence of minority faculty helps break down stereotypes; students, minority and nonminority, learn first hand that expertise and brilliance are not only found in traditional places, or only among upper- and middle-class white men.

The Committee employs a variety of strategies to identify and recruit minority job candidates. In addition to placing job announcements with the Association of American Law Schools (AALS) job newsletter (the traditional route), the School advertises in the ABA

Journal and the National Bar Association Journal in hopes of attracting candidates who may not have thought of law teaching. Announcements stress the School's commitment to diversity, and are placed early, giving potential applicants who do not "know the ropes" opportunity to register interest and prepare a full job application. The Committee is also pursuing personal contacts with alumni and other legal professionals, including judges, who may be able to offer recommendations and pass the word to minority legal professionals that the School is especially interested in minority candidates. This second strategy has been used successfully in the past.

The Committee uses the AALS Faculty Appointments Register (the book of resumé's circulated each year in advance of the AALS hiring conference) to identify and schedule interviews with minorities interested in law teaching. Since, in their experience, minority candidates are overwhelmed at the AALS conferences, they have begun trying to schedule as many interviews before the conference as possible. Whenever a Committee member is traveling to another part of the country, the Committee reviews its files to see whether an interview with a minority candidate in that area can be arranged.

The Committee Chair noted that proportional numbers of resumé's from minority and women applicants will not be received if the Committee just "sits around waiting for the mail to roll in." He commented that one of the nice things about the AALS hiring conference is that recruiters share strategies with each other. For example, the Committee is placing advertisements in unusual places on the advice of a recruiter from another school who had good success finding minority candidates using this strategy.

The Committee Chair noted that when an appealing minority candidate appears, the

Committee does not focus on whether that person fills the School's most pressing curricular need. He noted that a law school cannot really have too many professors, and that room can always be found for a quality teacher.

He reported that he has a firm belief that there are many such law teachers "out there" and that finding them is a matter of looking where other schools do not. He is optimistic about the School's ability to attract and hire more minority faculty.

B. Student Comments on the Presence of Minority Faculty

The HLSA representative noted that minority students who are otherwise reluctant to participate in class may feel more comfortable with a minority faculty person. He believes that in this respect, a black professor, for example, would be good for a Hispanic student; any minority faculty presence changes the atmosphere of a classroom in a way that he believes will make minority students more comfortable.

The AALSA representative suggested that while it is a fine idea for the School to have Asian-American faculty (at present there are none), he was not certain whether the presence of Asian-American faculty would affect his experience one way or another.

The BLSA representative reports that the presence of black faculty is very encouraging since they have "traveled the same road." The student notes that while the effect of a minority faculty presence on academic performance is indirect, it exists, since encouragement affects performance.

CASE STUDY F

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

Admissions decisions are made by the Admissions Committee, a group made up of Admissions Office staff, faculty (approximately 21 participated last year), and students (one or two each year, selected by the Student Bar Association). The School has no special minority Recruitment Director.

B. Applicant Recruitment Efforts

1. College Campus Visits

The Admissions Office visits between 35 and 40 undergraduate campuses each year. Faculty and current students, when visits are local, often accompany Office staff. Visits are made to campuses all over the country, but the Admissions Director notes that most of the School's students come from the Northeast. Historically black and other predominantly minority campuses are among those visited each year. The Admissions Director notes that the School's biggest "feeder schools" are a number of urban colleges in New York, many of which have predominantly minority populations.

The School participates in the Law School Admissions Council recruitment forums and in local minority law days.

2. High School Law Program

As part of the School's Street Law program, students from the School teach units on law to social studies and history classes at local high schools. High school students learn about their own legal rights and about the history and practice of law in this country. While

this effort is not a direct applicant recruitment effort, high school students may become interested in a legal career as a result of this exposure.

3. Law School Visits

The School does not sponsor a recruitment or visiting day, but the Admissions Director notes that prospective students are always invited and encouraged to visit the campus and are given tours by students who work in the Admissions Office. Prospective students are encouraged to talk with students, staff, and faculty about the Law School.

4. Council on Legal Education Opportunity Applicants

Each year, four or five people who have gone through a Council on Legal Education Opportunity (CLEO) Summer Institute matriculate at the School.¹ Occasionally, successful completion of the Summer Institute is required for admission, but in most cases the applicant is admitted outright before the Summer Institute begins.

5. Urban Legal Studies Applicants

The School cooperates with a local college to offer a six-year joint J.D./B.A. program. Students in the program attend college for three years and major in Urban Legal Studies, taking a number of law courses and participating in a law-related externship. If they satisfactorily complete this three-year course of prelaw study, they may apply for admission to the Law School. A faculty member on the Admissions Committee reports that the School receives about six such applications each year.

¹The Council on Legal Education Opportunity Summer Institutes are described at length in the literature review on Legal Education (this volume).

C. Admissions Criteria

Each application is reviewed by at least three Committee members, and a majority vote is required for a final decision. The Admissions Office reports four criteria that form the core of the School's admissions policy. The first is the ability to successfully complete the Law School course of study, based upon demonstrated academic ability. LSAT scores and undergraduate work are both assessed; other demonstrations of academic promise, including intellectual work completed since graduation and information in letters of recommendation, are also taken into account.

The second criterion is a candidate's affinity for the School's program. Admissions decisions reflect the School's search for applicants who demonstrate commitment to serving the legal needs of the public, "who are sensitive to the diversity of society, committed to the equal worth of each of its members, and who demonstrate a regard for facilitating the most extensive participation in public life possible for all groups." The Admissions Office also tries to assess applicants' judgment, energy, initiative, and ability to work both collaboratively and independently.

Third, in an effort to insure that its student body reflects the diversity of the area, the School seeks students who would otherwise be unable to attend law school or who are members of populations that have traditionally been underserved by the law. Part of the School's educational mission is to "help create a bar that is more diversified and more representative of the full range of peoples that make up New York and the United States." Thus students of all races, national origins, classes, and belief systems are sought without regard to gender or sexual preference. The School has not set numerical goals or quotas,

and the Admissions Director notes that the applicant pool is such that no special efforts have had to be undertaken to insure diverse entering classes.

The fourth criterion is a demonstrated connection to New York and to urban law especially. This criterion derives in part from the fact that the School receives public funds and so is committed to "repaying" the taxpayers for their support. Admissions Officers note that the applicant pool is such that this criterion is rarely, if ever, a deciding factor in admissions decisions. Most applicants live locally (the School has no dormitories, so all students commute), and many students have family and/or professional ties in the area.

The following table describes the number of persons within given LSAT/GPA ranges who applied and who were accepted to the School last year. [The left-hand number of each pair represents applicants; the right-hand number, in boldface, represents the number of applicants admitted.]

<u>GPA</u>	<u>LSAT</u>			
	<u>10-20</u>	<u>21-30</u>	<u>31-40</u>	<u>41-50</u>
3.5-4.0	8/3	40/20	32/23	7/7
3.0-3.49	37/5	152/67	125/79	15/15
2.50-2.99	77/16	197/35	112/46	5/4
<2.50	79/8	115/18	57/11	3/2

As the table shows, some applicants whose academic backgrounds were weak by "traditional" measure were admitted. One minority student representative specifically praised the Admissions Office's efforts to look beyond LSAT scores and GPAs.

The School has an unusually high admittee matriculation rate. Over half of all admitted applicants enroll in the School; most law schools expect one third of those admitted to enroll. A member of the Admissions Committee reports that at present the office is

thinking about efforts that might be undertaken to increase the number of academic "high-end" applicants who enroll. He notes that applicants with high LSATs and GPAs are disproportionately likely to attend other law schools, and he believes this to be largely a result of the School's limited financial aid resources. Minority applicants, in particular those who have outstanding numerical credentials, often receive attractive aid offers from other schools, and the Law School's limited funds cannot compete for those applicants.

D. Acceptee Recruitment Programs

The Director of Admissions reports that the Black Law Students Association (BLSA), the Latino Law Students Association (La Sociedad Estudiantil de Derechos, or LA SED), and the Asian Pacific American Law Students Association (APALSA) may invite accepted applicants to receptions or write to encourage their enrollment in the School. Whether such invitations are made, or letters sent, varies from year to year, depending on student time and interest. When students are interested in writing to accepted minority applicants, the students submit the materials they would like mailed, and the Admissions Office coordinates the mailings. This is done in part because the Office does not release lists of the names of accepted minority applicants. In the past, lists were released and minority students often called accepted applicants to encourage them to enroll.

All accepted applicants are welcome to visit the campus and to talk with students, staff, and faculty. As mentioned above, the School has a high matriculation rate and so has not undertaken extensive efforts to encourage acceptees to enroll. Admissions Officers and students are relatively satisfied with the proportion of the student body that is minority. Admissions Officers are pleased with the admissions process which they have developed and

with the success they have had in enrolling talented minority students (over 30% of the students currently at the School are minority).

E. Financing

Students may apply for Perkins Loans, Stafford Loans, and Supplemental Loans for Students.² Financially eligible residents of New York State can receive tuition assistance through the New York State Tuition Assistance Program (TAP). Federal programs, including College Work Study, Veterans Administration Educational Benefits, and American Indian Scholarships, are also available to eligible students. Research assistantships, when they are available, are work-study jobs.

The Law School awards federal Department of Education Patricia Roberts Harris fellowships to five students each year. The fellowships carry a stipend of \$7,500 per year, cover tuition and fees, and are renewable for three years. Awards are based upon financial need, public service activities, and intention to engage in public service work upon graduation.

Each year, the School awards some scholarship grants from monies raised during an annual benefit dinner and from a number of endowed funds. Matriculated students may apply for grants from the School's tuition waiver fund. All awards are based on need. The School also has funds available to make short-term emergency loans to students.

The faculty member of the Admissions Committee expressed a desire for more

²Stafford Loans, Perkins Loans (formerly National Direct Student Loans), and Supplemental Loans for Students (SLS) are federally subsidized and regulated loan programs. They are available only to students who show financial need. They carry interest rates between 7% and 10%, depending on the year the student entered(s) into the loan contract. Perkins Loans are similarly only available to students who show financial need. They carry a 5% interest rate. SLSs are available to all students and carry a higher interest rate than Stafford Loans; SLS rates are calculated anew each year, with the maximum rate set at 12%.

financial aid funds, noting as mentioned above, that the School loses some students because it cannot compete with other schools' financial aid awards. He noted that financial aid applications are not processed separately by the Law School but by the university with which the School is affiliated. He does not believe that the university aid office takes account of the different financial needs of graduate and professional students as compared to undergraduates. He wishes that the Law School were more financially independent of the university.

One student representative mentioned increased financial aid as the factor that could most improve the quality of life for many minority students at the School. Most students--minority students in particular--have to work part-time in order to meet their expenses and often are not able to devote the time they wish to devote to their studies or to other Law School activities (e.g., study groups and extracurricular activities). One student mentioned that she often cannot participate in evening events because she cannot afford a babysitter to look after her seven-year-old son.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Minority Student Summer Orientation

Minority student organizations at the School have organized a week-long orientation for incoming minority students. The week takes place immediately prior to the opening of the fall term. All entering minority students are invited. Participation is entirely voluntary. Faculty and administrators volunteer time to teach mock classes and lead workshops on how to analyze and brief cases, how to do legal research, how to prepare oral arguments, and on other topics. Current upperclass Law School students also lead or assist in such discussions

and can receive work-study pay. Incoming students are given assignments to complete during the week. Each day begins at 9:00 a.m. and ends at 5:00 p.m. Lunches and books required for the orientation are provided; there is no cost to participating incoming students. Funds to pay for the orientation are contributed by alumni and by the School administration.

The orientation is designed to give students an idea of what they can expect in law school and to provide them with strategies others have found helpful in approaching law school academic material.

On the following Saturday a Family Day is held for all minority students and their families. There is time for informal socializing and a talk about how the lives of people entering law school change. Families are encouraged to be supportive of entering students, who will be undergoing new pressures and demands on their time. The Family Day is also planned and organized by the minority student organizations at the School.

B. Academic Support

The Dean of Academic Affairs reports that no preenrollment skills programs or special, first-semester academic support exists, in part because the School does not want to place people in assistance programs based solely on LSATs or GPAs. In his experience the first semester of law school is the only reliable diagnostic measure of academic skills. However, the faculty is currently discussing the possibility of offering a summer session modeled on the CLEO program, and while details are not certain at this point, he believes that students would be invited to participate on the basis of academic record. The program will not be targeted exclusively at minority students.

No support efforts are targeted at minority students; all academic support described

below is available to any student at the School.

1. The Suite System

A unique feature of the School is its Suite System. Each student belongs to a Suite with approximately 20 classmates. Students have desks, bookshelf space, and lockable personal space in their Suites. Pairs of Suites share small classrooms with videotape equipment, where simulated interviewing, negotiation and counseling sessions, and faculty-student conferences take place. Each pair of Suites also shares a core library that includes WESTLAW terminals, word processing facilities, and a secretarial office. As students concentrate on various areas of the law, Suite memberships are rearranged; by the end of the third year, a student will belong to a Suite with members of the class who have similar interests.

The School consciously values cooperative interaction, and Suite activities are designed to encourage students to work together, share information, and offer each other academic assistance. One student noted that she has found Suite related collaborative efforts with other students very valuable.

Student course work is applied in the Suite under the supervision of faculty Suite Advisors. Suites, in effect, operate like small law firms. Students' course and clinical work provide material around which practical lawyering skills are learned. Suite Advisors coordinate simulations and other activities intended to teach practical skills. Students in Suites work cooperatively with each other. Suites hold frequent meetings, and the Suite Advisor takes the role that would be played by a senior partner in a law firm.

The Suite system was designed to integrate the traditional legal curriculum with

lawyering experience. All aspects of a student's three-year course of study, including clinical work, enter the student's Suite work. Students are evaluated on their participation "in Suite."

One student noted that there is concern about the subjective nature of Suite Advisor first-semester student evaluations. The Suite Advisor comments on students' oral argument skills, briefs, clinical judgment, time management, "theoretical perspective," and quality of interaction with others in the Suite. Suite Advisors, the student noted, who do not like a student's politics, or are racially biased, can have a student brought up before the Academic Standing Committee. Suite Advisors' negative evaluations are taken quite seriously, even though a student may be doing well in class. The student believes racial sensitivity training should be required of Suite Advisors. She noted that some students disagree with her view and point out that Suites are meant to imitate the real world, and the real world is not always sensitive to racial issues or tolerant of all political views.

2. Suite Advisors and Support from Faculty

Formal academic support is available to students from their Suite Advisors, who offer limited individual tutorial and academic counseling, and from professors and writing instructors. Suite Advisors typically spend one or two hours a week in extra (not routinely scheduled) individual meetings with students, a faculty member reports. Student representatives report that professors and writing instructors are generally accessible and willing to help. One student noted that the most helpful and committed professors are often also the busiest, and so, finding time to meet with them can be difficult. One student commented that minority professors often lend an extra helping hand to minority students, since the professors understand minority students' experiences.

3. Individual Academic Improvement

In their second semesters students may participate in the Individual Academic Improvement (IAI) program. Participation is voluntary; however, students who on the basis of first-semester grades and their Suite Advisor's evaluation are identified as experiencing academic difficulty are strongly urged to attend. If a student who is urged to enroll in IAI does not do so, and grades continue to drop, failure to enroll in IAI may be taken into account by the academic standing committee. Between 30 and 35 students typically enroll in IAI during their second semester. Students whose first year grades are poor may (depending on the reason for and severity of academic difficulties) be required to take IAI during the summer. The summer IAI meets two evenings a week, for a total of six weeks. Between 30 and 35 students participated last summer (1989). Students who neither satisfactorily complete their summer assignments nor show academic improvement may be required to take an IAI course during their third semester.

IAI courses during the third and fourth semesters are based on a substantive area of law, and students take IAI in place of one of their electives. IAI classes are small, and students do more writing and receive more extensive comments and suggestions on their work than other students.

Student representatives expressed mixed feelings about the IAI program. While it is better than nothing, it is far from ideal, they report. IAI is demanding, and second semester students who attend are not given lightened course loads; the third-semester course requires more work than other courses. Thus, students in IAI carry heavier loads than other students. Students note that if the problem was an inability to finish each week's class

reading, LAI will only make things worse. As one student put it, LAI is "like giving water to a drowning person." Students also note that nearly all of the students in LAI are minority, which is disturbing in part because it raises questions of possible discrimination. One student noted her impression that students do not gain much in LAI, that students who, for example, had trouble first semester briefing cases are told to brief more cases, but their original problems--the specific skill deficiencies that caused them trouble initially--are not addressed. In addition, there is stigma attached to LAI participation.

A student representative suggested that the minority student orientation, currently organized by minority student organizations for incoming minority students, might be developed into a year long academic support program.

4. "Topic Exams"

At present, students are required to pass five "Topic Exams" in order to graduate. Each examination covers one traditional area of law (torts, evidence, criminal law, etc.). The exams are given independently of any courses, and students may prepare for them however they choose. Course work will naturally cover a good deal of the material, but may need to be reorganized in order to be directly applicable to a given exam. Students may retake Topic Exams (though they take a different version each time). The exams are designed to insure that students have mastered each of the five bodies of knowledge before they graduate. The Dean of Academic Affairs reports that Topic Exams may be discontinued since the number of exams being given in courses has increased.

Students assist each other in preparing for these exams, and professors are also available to counsel students on preparation. Last year, BLSA held workshops on how to

prepare for the Topic Exams; all first year students were invited to attend, and one student reported that the workshops were very popular.

5. Other Academic Support

Third-year students interested in further honing basic skills can take Advanced Legal Writing and Analysis. The course is open to all, and participation is voluntary, although students who evidence difficulty with essay exams may be informally encouraged by Suite Advisors or others. While treating substantive areas of law, the course emphasizes legal writing, and students are required to complete eight short writing assignments. The course essentially provides students with an opportunity to gain further experience in writing legal essays.

C. Minority Students' Comments on the School's Atmosphere

One student representative noted that the School administration and faculty often attend minority student organization events, such as those held last year during Latin American History Week, Asian Pacific Heritage Week, and Black History Month. Faculty and administration members consistently attend LA SED fund raising luncheons. The Dean of the Law School shows support both by attending and assisting with minority student organization events.

One student believes that sensitivity to differences (racial, gender, class, age, and other) is the focus of a yearly faculty/administration retreat. She would like to see the entire School community involved in such a focused examination of biases and effort to increase sensitivity.

Students noted the supportive role that the minority student community plays. One

student noted that in talking with students at other law schools, she finds that they suffer more self-doubt (the "do I belong here?" syndrome) than students at the School. She believes this is directly related to the sizable minority student population at the School. Another student noted that the presence of other minority students enriches the School environment and that students learn from each other's diverse backgrounds.

One student believes the minority students at the School would benefit from efforts to form a more cohesive community. As an example of the kind of effort that might be made, she discussed her own experience coaching a group of first-year students on their oral argument skills. The experience not only improved the students' skills, but created a mini-community. The administration, she notes, might consider ways that it can encourage such extracurricular student interaction.

Students praised the School for providing a child care center, noting that the center represents a real commitment to insuring everyone access to the School.

One student commented that stabilizing academic regulations and expectations would improve the quality of students' lives. Because the School is young, and because much of the curriculum and many of the teaching methods are somewhat experimental, rules and procedures seem to change often. When something does not work, she reports, faculty are apt to change the plan mid-course. This is disconcerting for all students, but may be particularly disconcerting for some minority students. Many minority students, due to prior educational disadvantages, have to focus harder to understand clearly and meet academic expectations. Each time those expectations change, further readjustment is required.

A student representative believes some white faculty, administrators, and students

think minority faculty are especially easy on minority students, that they are not objective in evaluating minority students because they "empathize too much." She, herself, does not believe this is true. She noted that many at the School have a very traditional understanding of performance and excellence, one that does not recognize "performance and excellence" in overcoming socioeconomic or educational hardships, or racial discrimination. She also noted that when minority students complain about the work load, some professors think they want to be handed a degree without understanding that they complain only because they are holding a job and caring for a child and battling out the material on their own (being the first in their families to go to law school). The student acknowledged that grades cannot be given for overcoming socioeconomic hardship, but suggested that if there were a deeper appreciation of the efforts made by, and time constraints upon, many students at the School (those who work in order to continue supporting children, for instance), structural changes in the Law School might be effected that would better accommodate the needs of many minority students. At present, the School has no night division, and she believes such would be a welcome addition.

One student commented that in order for anyone to understand the way minority status affects academic performance, the triple impact of pressures created by racism, socioeconomic status, and educational disadvantage needs to be understood. She commented that if minority students had only to come to school and study, there would be a marked increase in minority student grades and bar examination passage rates. As it stands, however, minority students have to cope with the strains associated with racism ("Racism is very painful; it hurts. People don't realize this. When someone rejects you or

does not like you because you are not white, it hurts."); with financial burdens and the lack of an intellectual support system within their families (if they are the first in their families to go to college and/or law school); and with educational disadvantages. Minority students do not, she says, want educational handouts, but do want an appreciation of the situation with which they are faced.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

The Dean of Academic Affairs reported that the School's curriculum, from the School's inception, has been designed to equip students with the understandings and skills they will need to work effectively in public interest law. Such skills include knowledge of and sensitivity to the concerns and legal issues especially affecting minorities. A good lawyer, he noted, understands the social dynamic that affects the law and her or his clients. Further, one of the School's missions is to centralize issues that are of concern to minorities, rather than to treat them as occasional and marginal to the curriculum.

He believes the faculty generally talk freely and openly about race and the law. Efforts are made to use examples that involve minority litigants. For example, a case in which a poor Chinese man signed a credit contract that contains unreasonable terms is used to demonstrate the notion of "unconscionability." A contract may be unconscionable, and thus void, if its terms take unfair advantage of a consumer who lacks bargaining power. Professors are encouraged to use examples that show how such situations often unfold around issues of race and class.

All first year students are required to take a Constitutional Law course that focuses

on the historical and philosophical context in which legal conceptions of liberty and equality evolved and are evolving. Time is devoted to study of historical events, "including those preceding the writing of the Bill of Rights: slavery, the antislavery movement, and reconstruction; the reign and fall of white supremacy; the fear of Communism, 1880-1980; free immigration and the closing of the gate; and the rise of the labor movement." The course is designed to help students overcome the tendency to view law and legal doctrine as simply a system of analytic reasoning, and to learn from the experience of grappling with emotionally charged and divisive issues and with values and perceptions sharply different from their own.

In their third year, about one-third of the class opts to take the Equality Concentration, a course of study that involves class and seminar work on civil rights, and an externship in an agency that works on equal opportunity or civil rights issues. In the past, a course in Native American Law has been taught.

Students at the School expressed mixed feelings about the manner and extent to which minority issues are treated in the curriculum. One noted that some issues are not discussed: disparately enforced family law provisions depending on racial groups; the effects language and educational opportunities have on the right to vote. Two students complained that while issues are raised--e.g., Japanese internment, Plessy v. Ferguson, Brown v. Board of Education, which are discussed in the first semester Constitutional Law course--they are not taught against a useful context or backdrop. Such cases were treated as though they were merely legal issues ("taught just like contracts"). When Plessy and Brown were discussed, one student reported, the atmosphere in the class discouraged discussion. "We

don't want to waste time hearing people's stories; We don't want to hear about slavery; this is not a Black History class"; these were the attitudes she sensed. She believes that the professor had a responsibility to find ways to allow race to be dealt with more deeply within a legal context.

One student acknowledged the ways in which the School's curriculum is innovative, but she believes racial cases must be taught in a way that does not gloss over history. She wishes there were greater recognition and discussion of historical context and talk about the implications race related cases have for the law today.

Another student reported that race issues are very well represented in the curriculum, and that the only remaining problem is professors' abilities and inabilities. Faculty can manage racial issues on a legal level, but inevitably students' reactions do not remain on a legal level, and professors need further assistance handling and constructively using student reactions. When asked whether faculty are unable to deal with the emotional reactions generated by racial issues because most faculty are white, she said the reason was that most faculty are not psychologists; faculty need to be taught how to heal the wounds they open.

There is tension, reported one student, between trying to cover traditional areas of law and dealing with emotionally difficult racial issues. There is not enough time to do both, she feels, and while it is important for people to be aware of Black History, for example, that is not what you come to law school to learn. She reports that during Suite meetings, people are given--and take--the opportunity to "vent." She noted that she did not want her Constitutional Law course to become a sociology course. Another student noted that the nontraditional curriculum requires that students teach themselves many traditional skills

(how to take exams, for example) that might otherwise be given more time in class.

Team-teaching was praised by one student as a good solution to the problem of insuring that minority perspective is adequately represented; a class she had was team taught by one black and one white faculty member, and the dynamic that was created, she reported, was extremely productive.

Those students who do not believe that the curriculum manages to educate students as well as the School would like--or as well as the School says it does--on racial issues, nonetheless all believe in what the School is trying to do; as one student put it, "I wouldn't switch to a traditional law school for the world."

B. Clinical Programs

The School has three in-house clinical programs, all of which serve clients who are indigent or otherwise unable to obtain counsel. Students who work in clinics provide legal services, including representation, for clinic clients, and also meet with clinical instructors in weekly seminars to discuss cases and experiences.

Students in the Criminal Defense Clinic represent clients facing criminal charges. The Clinical Director notes that many of the clients require substance abuse treatment, housing and employment referrals, and mental health counseling. Students are encouraged to pay attention to such needs rather than focusing narrowly on their role representing the client in a single criminal case. The Clinic handles between 60 and 100 cases each year. Approximately 65% of the clients are black, 25% are Hispanic, and 10% are white. Of the 17 students who will participate this year, 10 (59%) are white, five (29%) are black, and two (12%) are Hispanic. One of the Criminal Clinic Directors is black and the other is white.

The Immigration Rights Clinic handles individual cases for clients having legal problems related to immigration status and is also involved in a number of class action suits brought on behalf of people who are not receiving public health benefits because their immigration papers are incomplete or not in order. The Clinic handles 50-60 individual cases each year. The Immigration Rights Clinic's clients are approximately 55% Hispanic, 25% black, 15% white, and 5% Asian-American. Of the 18 students who will participate in the Clinic this year, seven (39%) are minority and 11 (61%) are white. Of those who are minority, the Director of Clinical Programs believes most are Hispanic.

The Wills Clinic assists fixed- and low-income clients who want to write their wills. A fair number of the clients are AIDS patients; others are elderly or otherwise in need of the service. The Wills Clinic handles 50-60 cases each year. The Clinic's clients are 20% minority and 80% white. Of the 32 students who staff the Clinic, 10-13 (30%-40%) are black and Hispanic; and 19-22 (60%-70%) are white.

The Director of Clinical Programs reports that clinical faculty are highly conscious of integrating discussion of racial and other differences into classroom discussions and case-related conferences. He notes that racial and other differences between clinical students and the clients, witnesses, judges, attorneys, and others with whom they deal in practice are all discussed.

The Director of Clinical Programs reports that clinical faculty are presently organizing a one- or two-day workshop called "Dealing with Differences." The workshop will be held during the fall semester, and all clinical students and faculty, as well as interested others, will attend. The workshop is intended to provide a focused framework for addressing issues that

arise when students deal with race, gender, class, and other background and lifestyle differences between themselves and others. A group of clinical teachers has developed a videotape that addresses these issues, and clinical teachers at a recent Association of American Law Schools (AALS) conference held a discussion of student/client differences; whatever materials and discussion transcripts are available will be used in developing the workshop agenda and activities.

C. Bar Review

The School offers its students the opportunity to take a mini-bar review course in their sixth semester. The course focuses on the Multistate portion of the exam. Students do not receive any credit for the course (ABA accreditation regulations prevent schools from giving students credit for courses intended to prepare them for bar examinations). Funds for the course, which costs the School approximately \$20,000, are raised from private sources, and so do not come out of the Law School budget. The Dean of Academic Affairs expressed a desire for money to provide students resources to take long commercial bar review courses. In addition to offering limited bar review, the School has hired a writing consultant to give a series of short talks on how to write effective bar review essays.

D. Law Review

At present, a group of students and faculty are doing preliminary work to begin publication of a Law Review. Thus, no policies or procedures for staff or article selection have been set. The faculty member who provided this information did note that the Review will focus on international law, and so is likely to publish articles that will be of interest to members of minority groups.

E. Moot Court Programs

At present, there is no formally structured extracurricular moot court program at the School. Announcements of extracurricular moot court competitions are posted publicly, and students who express interest in competing meet with a faculty coordinator. Teams are established informally. The School provides financial support to students traveling to competitions.

Because there is no formal structure, and because participation is on an ad hoc basis, there are no records reflecting the number of minorities participating in extracurricular moot court.

IV. MINORITY JOB PLACEMENT

A. On-Campus Interviews

The School emphasizes training students for public service jobs, and, as a result, most of the employers who interview on campus are city, state, and federal public service agencies. Law firms involved in public interest work are welcome to interview on campus, but few do since such firms are generally small and lack the resources to send on-campus interviewers. Between 15% and 20% of all students at the School participate in on-campus interviewing; the number is small because of the nature of public interest hiring practices, which differ from those of private law firms.

Employers decide in advance which applicants they wish to interview. Decisions are generally based on student resumés and transcripts and, occasionally, on writing samples. No objections to employer prescreening have been raised by students or others.

The Placement Office welcomes employers who have demonstrated a commitment

to hiring minority students. All employers who interview on campus are required to sign an agreement that states that they will not discriminate in hiring decisions on the basis of gender, sexual orientation, marital or parental status, religion, national origin, race, color, age or disability.

Information and application assistance is available to School graduates who are interested in working for private law firms, but resources are not extensive.

B. Additional Placement Office Services

The Placement Office offers all students one-on-one career counseling, holds resumé and interviewing workshops, maintains a career resources library, and holds panel sessions with practicing attorneys on special areas of law. The Office has an alumni job hot line, which alumni can call to find out about most recent job listings. Office staff and faculty are available to act as employers in mock interviews, giving students a chance to practice interview skills. A loosely structured alumni mentor program exists, wherein interested students are paired with alumni and may turn to them for career and professional advice. In addition, first-year students are matched with second- and third-year students, to whom they may turn for advice about summer employment.

Students at the School participate in regional public interest job fairs. About 300 students (most in the third-year class) attend a public interest symposium, held each year at another law school, and between 10 and 12 students traveled to the National Association for Law Placement (NALP) Public Interest Conference in Washington, D.C., last year.

C. Clerkships

Clerkship placement is handled by the Placement Office. The Office does not

perform any prescreening function but advises and assists students who are interested in clerkships. Students are advised to consider clerking during informal one-on-one career counseling. The Placement Officer also sends a letter to all the minority student organizations to encourage interest in clerkships. The Placement Director notes that few minority students have access to judges or former clerks, and that greater exposure to the courts would probably increase interest in judicial clerkships. The Placement Director suggests that judges could do more outreach, and while she understands that judicial offices do not participate in job fairs because of their hiring schedules, she believes other sorts of efforts could be made.

The Placement Director noted that excellent research and writing skills are the most important credentials for aspiring judicial clerks. She notes that a fair number of minority-- and other--students are not sure they will be able to do the writing and research judicial clerkships require. Often she believes these worries are unfounded. She encourages students to ask professors or teaching assistants for help with their writing samples and tries to help them make realistic assessments of their ability to write and research on a daily basis. In addition, she encourages students to apply for clerkships on lower courts (e.g., family and criminal courts), which are less competitive.

The Placement Director reports particular success placing minority students in pro se and motion clerk positions. When students interview for those clerkships, she notes, current clerks sit in on the interview. She believes that the frequency with which minority clerks are present during interviews is helpful to minority clerkship candidates. She notes that they have never placed a minority student in the appellate level clerk pool in Albany

and so is not sure whether success has anything to do with the positions being pool--rather than in-chambers--positions.

One student had the impression that minority students may believe white students are much more likely to get clerkships and so do not apply.

D. Minority Specific Placement Efforts

1. Interviewing Issues

The Placement Director at the School helped NALP develop its videotape about interview situations that minority job candidates may encounter. The video deals with situations in which an employer asks questions that may be offensive or may be designed to find out about a candidate's background or personal life in ways that are not appropriate. Not all the situations are race-related; the video also treats questions related to a job candidate's gender, age, and sexual orientation. The video tries to show students ways that they can "rescue" interviews that become difficult, using employer questions to their advantage, where possible.

Examples of the sorts of inappropriate questions employers may ask minority students include:

What do your parents do?

What neighborhood did you grow up in?

Are there lawyers in your family?

Are you the first person in your family with a college degree?

Do you speak English at home?

The Placement Director noted that because of the School's public interest emphasis,

and the kind of students it therefore attracts. many of the School's nonminority students are asked such class/background questions by employers. In talking with students preparing for interviews, she advises students to prepare "interview agendas" before interviews, listing the points they want to make sure are covered during the interview. If employers persist in asking students about family background or personal life, she notes that it may be appropriate for a student to ask the employer how such information will aid the employer in deciding whether the student is qualified for the job.

The Placement Director noted that some employers may intentionally put a candidate on guard in order to see how the candidate will react under stress. This is a difficult situation to handle, the Placement Director notes.

Students may decide, based on an interview experience, that they are not interested in working in an environment if they believe their background will continually be an issue. This last point was echoed by a student who reported that she would not want to work for an employer unless she was sure that the employer was comfortable with her social and political views, as well as her racial identity. Another noted that she would not be interested in working for an employer who she felt was hiring her as a token, or to fill a quota.

2. Minority Recruitment Conference

The School participates in the Northeast Regional Minority Law Student Recruitment Conference, an employers' recruitment conference co-sponsored by the National Black Law Students Association, the National Association for Law Placement (NALP), the Association of the Bar of the City of New York, the New York State Bar, and the ABA Section of Legal Education and Admissions to the Bar. Law schools, volunteers from minority student

organizations, and the NALP Fair Employment Practices Committee all cooperate to plan and implement the conference. All participating law schools receive informational packets on prospective employers and the sort of candidates they seek. The packets include completed NALP employer questionnaires that describe the size of each firm and note the numbers of women and minorities in various firm positions. The employers accept minority student resumés from students at participating institutions and arrange interviews with those students to take place during the conference.

The Placement Director reported that about 60 students from the School participated in the conference last year.

3. Other Efforts

The Placement Director noted that whenever employers write to the Placement Office inviting employment applications from minority students, the Office makes such requests known to minority student organizations and to individual minority students. She also noted that employers often contact minority student organizations, faculty, and administrators themselves. There is, she noted, a well-established minority network at the School, which aids in minority student placement.

V. FACULTY ISSUES

A. Efforts to Hire Minority Faculty

A member of the Faculty Hiring Committee reported that at present the most important task, with regard to minority faculty, is maintaining the level of diversity. Last year, 32% of the faculty at the School were members of minority groups. The School has always made efforts to insure that the faculty is racially, sexually, and culturally diverse,

reflecting the range of interests served by the Law School. The Committee also believes that a diverse faculty offers richer learning opportunities to students; teachers at the School represent a wide range of theoretical and practical perspectives. The Committee member also noted the important role minority and other nonstereotypical law faculty play in breaking down old stereotypes about who is competent to teach law.

The faculty is currently negotiating with the administration over tenure standards; the disagreement has to do with a conflict between the School's emphasis on simulations and clinical teaching--which require extensive preparation and many teaching hours--and a tenure standard based on traditional measures of a professor's performance. The faculty at the School claim that the teaching load at the School does not leave time for the sort of scholarly activity that the tenure standard requires. The internal institutional problems are causing many faculty, minority and nonminority, to leave the School. The Committee member believes that about half of last year's faculty will not be teaching at the School this fall--some have accepted positions elsewhere, others are visiting elsewhere or taking leaves of absence.

In seeking to fill positions, the Committee has made use of the index of minority applicants in the American Association of Law Schools (AALS) registry and has sought interviews with those candidates at recruitment conventions. The Committee has also contacted public interest and minority legal organizations (e.g., NAACP, MALDEF, AALDEF, PRLDEF) and distributed a memo to all faculty encouraging them to submit names of potential teaching candidates. The Committee member reported that the quality and range of applications received in response to such efforts was impressive; she also noted

an encouraging level of interest and excitement about the School and its innovative approach to legal education. The candidate pool included many minority candidates. She believes that many minority teachers are interested in the School because of its reputation and focus. The difficulty, at present, is to convince potential teachers that the institutional difficulties affecting faculty can be resolved.

B. Student Comments on the Presence of Minority Faculty

Students noted that minority faculty provide important role models and often act as mentors for minority law students. It is important, one student noted, to have faculty with whom one shares norms, values, and culture. One student noted that the presence of minority faculty combats what she describes as the "imposter syndrome" from which some minority students suffer. The imposter syndrome involves self-doubt about being in law school: "I don't belong here." "They must have made a mistake." "I don't even speak good English." One student noted that throughout high school and college she had no minority teachers, and that lack did not affect her academic performance. To the contrary, she believes it motivated her: "I could say to myself, 'One day I will be the faculty person, and I'll be able to help others get through.'" She noted, however, that the absence of minority faculty can cause some students to become discouraged and alienated. Another student noted that the presence of minority faculty encourages minority students not to give up and to remember that their being in law school is one part of a larger struggle and that they are needed in the legal profession.

One student said she believes that many nonminority faculty find it "an affront" when minority faculty are mindful of minority issues, and she noted that this attitude is not in line

with the School's stated mission.

Students stressed that more minority faculty are required; in addition, efforts need to be made to retain the minority faculty the School does hire, one student asserted, mentioning that several popular professors had been lost recently due to salary disputes.

CASE STUDY G

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

The School employs a Director of Minority Recruitment (Recruitment Director) working within the Financial Aid Office. The Recruitment Director generally has two goals: to broaden the overall minority applicant pool and to increase enrollment by those minorities applicants offered admission. Students and alumni assist in minority recruitment. A representative of the Black Law Student Association also noted the significant contributions of one of the School's minority faculty members. Faculty participation is described in the following sections.

B. Minority Applicant Recruitment

The Recruitment Director personally interviews applicants and contacts prospective students both by letter and by phone. The Admissions Office also hosts an on-campus minority recruitment day. Student organizations,¹ administrators, and faculty participate in this recruitment day. These gatherings have, on occasion, offered a forum for discussion of the public perception of the interracial atmosphere at the School. The Asian American Law Student Association (AALSA) President related an instance from a recent minority recruitment day. Near the end of the day's activities, after faculty and administration had left the gathering, several prospective students queried minority students about the School's discriminatory atmosphere. The AALSA President recalled feeling dismay at learning that

¹The School's minority student organizations are: the Black Law Student Association (BLSA); the Latino Law Student Association (LALSA); and the Asian American Law Student Association (AALSA).

some viewed the School as unreceptive to minorities, an opinion inconsistent with his own experiences.²

Off-campus recruitment efforts call for School participation at a number of regional career fairs across the country. Minority student representatives will attend each of five LSAC law forums³ as part of the School's general (i.e., not minority-only) recruitment. Similarly, many colleges host "law days" or more general "graduate education days," some of which are open only to the students of the host school; other colleges open their facilities to students from several local schools. The Recruitment Director noted that minorities invariably attend such events, but, he added, these programs are not usually organized as minority recruitment events per se. On occasion, through the initiative of a minority student organization at a host school, the Recruitment Director (or other School representative) will have the opportunity to speak separately with minority candidates. The Recruitment Director noted that the School cannot visit every school every year, due to limits of budget and personnel.⁴

The Recruitment Director lamented the relatively small minority applicant pool and suggested one source of this problem, as well as a possible solution. He sees secondary education as the level where most potential law students are either lost or created, for it is high school where career plans begin to take shape. Further, he wondered what incentives

²As discussed more fully below, minority students' experiences of the School's receptivity to, and support of, minorities differ markedly.

³The Law School Admissions Council (LSAC) organizes five law "forums" each year. These "days" (actually two-day events) convene in New York, Atlanta, Boston, Chicago and Los Angeles.

⁴In an effort to diversify recruitment contacts, the School each year targets some colleges not previously visited (or which School representatives have not visited in several years).

law schools can offer college students to convince them to incur yet another three years of effort and expense. The Recruitment Director suggested that law firms, especially the larger, more prestigious firms, should take a more active role in encouraging increased minority entry into the profession. One student, voicing some of the same thoughts, opined that firms show no tendency towards such efforts. Rather, a "bottom-line dollar mentality" continues to control law firm policies. Students lauded the School's minority recruitment efforts, characterizing the Recruitment Director as open to suggestions and willing to cooperate in student-organized initiatives.

The student organizations undertake some efforts independent of School programs. The AALSA President recounted having personally contacted several applicants. In subsequent chance meetings, some of those applicants praised the AALSA student's initiative and characterized the contact as "encouraging"; however, those applicants decided to enroll elsewhere. Though somewhat discouraged by the results, the AALSA student reiterated that such personal outreach can only have positive effects, and he urged both administrators and fellow students to increase personal outreach. Despite this AALSA student's frustration, the Associate Dean suggested that recruitment and enrollment of Asian Americans has not proven too problematic. Rather, efforts to recruit more Blacks and Hispanics have given the School more cause for concern. A newly formed Minority Affairs Committee⁵ will reexamine admissions criteria. The Associate Dean, who chairs the Minority Affairs Committee, mentioned that the Committee has begun drafting a more comprehensive equal opportunity statement for admissions.

⁵See infra Section II (C).

C. Admissions Criteria

The School has no fixed minimums for either undergraduate grade point average (GPA) or Law School Admissions Test (LSAT) score. Several interviewees expressly mentioned that the School has not lowered its standards to increase minority enrollment, and students generally support this policy. The minority student representatives stressed time and again that students must rely on themselves, that no amount of affirmative assistance can compensate for insufficient motivation and self-application.

All applications undergo scrutiny for grades and subjective criteria. Applicants found to be "softer on the numbers" can benefit from favorable consideration of subjective criteria, including university course work, the quality of previous schooling, and personal factors (e.g., personal obstacles overcome or achievements which demonstrate drive and persistence).

D. Minority Acceptee Recruitment Programs

The School hosts receptions for all prospective minority students. Minority student organizations hold "socials." Alumni also play a major role in minority student recruitment. One alumnus, a judge, holds in camera sessions with prospective minority students. Another alumnus, a prominent civil rights attorney, hosts dinners at his home. Faculty and administration occasionally contact alumni to encourage their participation.

E. Financial Aid

In addition to federal and state-run assistance programs,⁶ the School offers a number

⁶Federal programs include Stafford Loans, Perkins Loans (formerly the National Direct Student Loan Program), and Supplemental Loans for Students (SLS). Stafford Loans and Perkins Loans are available only to students who demonstrate actual need; SLSs are available to all students. Perkins Loans bear 5% interest; Stafford Loans charge between 7% and 10% depending on when the student assumes the debt; SLS's charge variable rates, with a maximum set at 12%.

State funds are available through the Tuition Assistance Program (TAP). TAP grants range from

of scholarships for which minority students are eligible. A local law firm underwrites one full-tuition scholarship exclusively for minority students who demonstrate academic promise. A local philanthropic foundation provides two tuition grants for Hispanic students, based on financial need and scholastic promise. A third award, a full-tuition scholarship funded by the School in honor of a distinguished alumnus, aids students of "exceptional academic promise," especially highly qualified minority students. Both the School's own scholarships and the outside sources fluctuate from year to year. The Recruitment Director specifically mentioned that funds from the Consortium of Metropolitan Law Schools⁷ have dwindled in recent years.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Preenrollment Preparation

The School does not run its own summer institute for entering students but has participated in an annual summer program organized by the Consortium of Metropolitan Law Schools. However, the host school cancelled the summer 1989 program, and the program's future is unknown.⁸ The Consortium generally contacts member schools for a list of incoming students for a mailing about the program. Student enrollment is wholly

\$100-\$1200 and are available only to students with annual incomes below \$20,000.

⁷The Consortium of Metropolitan Law Schools solicits funds from various sources towards amassing a fund to assist minority students at Consortium-member schools: Brooklyn Law School, Fordham Law School, New York Law School, St. John's Law School, Seton Hall Law School (New Jersey), Rutgers Law School (Newark campus), and Pace University Law School. Contributors may earmark funds for particular schools, though contributions usually go to a general fund, which is then parcelled out to member schools. The individual schools administer fund distribution to their students.

⁸The host school is no longer offering the use of its facilities. Reasons for the cancellation include logistical problems and new initiatives in the host's own New Student Orientation Program which would either duplicate or conflict with Consortium programs.

voluntary and the School has no records to correlate program participation with actual first-year performance.

B. Minority Tutorial

A letter to all incoming minority students describes the School's minority tutorial program. School literature states that the program has been implemented "[t]o assist the minority student's transition into the law school community." Participation is voluntary. The program's Faculty Director asserted that the fact that the School offers such a program contributes to the School's minority applicant efforts. Indeed, the above-quoted statement on the purpose of the tutorial immediately follows the statement that "[t]he faculty remains committed to increasing the numbers of minority students admitted to the School."

Interviewees disagreed somewhat about whether the tutorial serves primarily to retain minority students or to assist minority students who, though not high attrition risks, would not otherwise realize their potential. The Recruitment Director suggested that the program exists as an effort to counter disproportionate attrition rates among minority students. As to the factors engendering attrition, the Recruitment Director suggested that many minorities entering law school so embark as the first in their families, or circles of acquaintances, to study law. By the Associate Dean's account, changes in the profile of the minority student body have modified the purpose of the tutorial program. The Associate Dean said that the tutorial was originally designed to counter high attrition.⁹ However, for some time now, the Associate Dean continued, the profile of the entering classes has improved such that

⁹Several years ago, the Associate Dean related, the Dean called for affirmative efforts to increase the minority student population at the School. In carrying out that initiative, the Associate Dean recalled, admissions personnel extended offers to--and enrolled--many applicants who were unqualified for legal studies. Thus, the initial increase in minority enrollment also brought unexpected attrition.

increasing the level of minority students' academic performance, rather than staving off minority student attrition, has become the focus of the tutorial program. Thus, in the Associate Dean's experience, the program is an effort to help minority students to do as well as they can--"So that a student who would otherwise score 85 can score 90."

Interviewees agreed that during recent semesters minority students have generally underutilized the tutorial classes, despite efforts to encourage participation. One student representative suggested several reasons for this underutilization, ranging from fear of stigmatization, to a desire to avoid "labelling" oneself a minority, to a general reluctance to admit needing help. The Faculty Director of the tutorial program reported having made several requests during recent semesters that minority student organizations encourage participation. Despite such problems, the program Director opined that the program has, in fact, served to retain students. However, the School has no data to correlate tutorial attendance with first-year academic performance.

The BLSA representative asserted that implementation of the tutorial program has not realized its perceived goals. Interviewees stressed that the tutorial does not offer remediation. The BLSA representative, integrating somewhat the observations of both the Recruitment Director and the Associate Dean, characterized the program as a supplementary class meant to reinforce substantive concepts and study methods largely unfamiliar to minority students. The tutorial features substantive reviews (including working through examination packages) under the direction of School faculty who teach in the specific substantive areas. This supplementation should, the BLSA student observed, minimize the educational advantage enjoyed by many nonminority second- and third-

generation law students. However, the intended substantive review has, the BLSA representative said, been reduced to little more than a cycle of case briefing. The BLSA representative suggested that faculty, wary of providing tutorial participants an unfair advantage over other students, have de-emphasized the substantive element for the tutorial, thereby diminishing its usefulness.

Due to the efforts of a newly formed Minority Affairs Committee, the School has recently hired a minority instructor for the tutorial program. This instructor teaches no other classes, thereby eliminating the possibility of the conflict of interests of which the BLSA student spoke. Student concerns about the minority tutorial program contributed in large part to the formation of the Minority Affairs Committee described in the next section.

C. Minority Affairs Committee

Efforts to improve the minority tutorial program led to other initiatives not originally contemplated by the administration. The Associate Dean reported that she and the Dean scheduled a meeting in the spring of 1989, ostensibly only to discuss ways to improve the tutorial program. (It was at that meeting, the Associate Dean explained, that BLSA took up its ultimately successful efforts to recruit a new tutorial instructor.) However, on the very day scheduled for that meeting, BLSA obtained enrollment figures for the class of 1992, figures which, the Associate Dean admitted, showed an unusually low black enrollment in the full-time division. Thus, during that meeting the Dean, the Associate Dean, and the minority student organizations decided to form a Minority Affairs Committee consisting of four students, several faculty, the Associate Dean as chair, and several other administrators. The Committee's first order of business was to step up recruitment efforts in the late spring

and over the summer. As a result of those "stepped-up" efforts, the class entering in the fall of 1989 includes, the Associate Dean reported, the highest minority enrollment in the School's history. The Committee also began its (ultimately successful) efforts to recruit a new instructor for the minority tutorial program.

The Minority Affairs Committee includes on its overall agenda items ranging from expanding the applicant pool and reexamining admissions standards, to minority faculty recruitment, to minority placement initiatives. (Steps already taken in each of these areas are discussed in the relevant sections of this case study.) By addressing these issues the Minority Affairs Committee will serve as a liaison between the minority students and various faculty committees and the administration. Thus the Committee should facilitate student input on the various matters handled by faculty committees, short of creating actual student seats on those committees.

D. Providing a Professional Mentor

The Placement Office participates in the PALS¹⁰ program, wherein a practicing attorney (not necessarily a minority attorney) pairs up with a minority student. The attorney

¹⁰Practicing Attorneys for Law Students, originally known as "Adopt-a-Law Student," began as a joint effort between NYU's Black Law Students Association and the firm of Milbank, Tweed, Hadley & McCloy "to discuss the problems encountered by minorities seeking positions with major New York law firms." According to PALS literature:

The Program was originally envisioned as one for black law students interested in going into large firm practice. Black attorneys at major New York firms would volunteer their time and resources to act as mentors to black law students at New York University. However, because the Program was so popular with the students and attorneys, the Program expanded to include attorneys in all types of practice.

Currently, students from NYU, Columbia, Brooklyn Law School, Fordham and St. John's participate in the formal "mentor matching component of the Program." Also "students from all area law schools are invited to attend PALS's schedule of legal education and career guidance events held at large law firms."

Now headquartered at the offices of the Association of the Bar of the City of New York (ABCNY), PALS operates on start-up funds from ABCNY and the New York Community Trust. Additional funds come from New York firms and charitable foundations.

must initiate the contact. The program intends to provide the student with a mentor to whom the student may turn with questions regarding the "reality" of law practice which hornbooks cannot convey. Student interviewees made generally positive remarks about the program.

E. Peer and Faculty Support

The minority student representatives see their organizations as key components of the overall effort to provide a supportive environment for minority law students. AALSA and LALSA members stressed that their organizations attempt to fulfill the competing desires of promoting a sense of identity for their members while creating a sense of community throughout the School. First and foremost, students said, their organizations seek to ease the transition into law school and to provide a support group. Some minority students apparently find this transition easier than do others. The LALSA student opined that Hispanics have less difficulty assimilating into the legal community than do other minority students. However, the AALSA representative also suggested that Asian-American students easily assimilate themselves to both the School and to the legal profession. Despite those generally positive observations, students expressed some distress over underparticipation in the minority associations. As with the minority tutorial program, representatives cited fear of stigmatization and stubbornness as two reasons that many students do not participate in the minority student organizations. However, the student representatives also recognize that time constraints, especially among third-year students otherwise involved in job searches and bar examination preparation, discourage many upperclass students from active participation.

By contrast, the BLSA student spoke at some length about "trends of isolation" confronting the black student population. As described above, concern with maintaining the black student population has occupied much time and effort in recent months. The BLSA student suggested a direct connection between population and the ability of black students to achieve their academic potential. The BLSA student reported that the majority of black students at the School enroll in the part-time, evening division, and those students tend to associate among themselves in classes and study groups. In the full-time, day division, a black population of less than 10 (5-6 by the BLSA student's estimate) makes it more than likely that a black student will find herself alone in an otherwise non-black class, and being thus "alone" in the class begins a "trend of isolation," to use the BLSA student's phrase. The pervasive experiences related to the BLSA representative have been that "No one wants you in their study group, or if you do get into a study group, it forms much later than other study groups," or there seems to be a "presumption of lower intelligence." To bolster black student performance and esteem, BLSA urgently encourages its members to form study groups, even if it is not with friends. BLSA also runs a student mentoring program (a "big brother/sister" program) matching first-year students with upperclass students. Mentor students assist their "charges" with assignments or direct them to better-qualified tutors. In addition, BLSA encourages members to seek out their professors for one-to-one consultation. Nevertheless, despite clearly good intentions, upperclass BLSA members often encounter some resistance by the junior members to follow through on these various suggestions. The BLSA representative characterized this resistance as pride, or a strongly-felt desire "not to sound stupid."

Several interviewees discussed the importance of minority faculty as role models and the effect of having very few minority professors. The Faculty Hiring Chair observed that student motivation increases when positive role models exist to demonstrate that ambitious goals need not go unrealized.

Students agreed that the School needs more minority faculty and echoed the sentiments of the Faculty Hiring Chair regarding the need for positive role models. (The AALSA student spoke specifically of one faculty member who has greatly influenced him. This same student further related how an Asian-American instructor at another institution inspired him to pursue a legal career.) However, the BLSA student cautioned against overemphasizing the role of minority faculty as models or advisors for minority students. Speaking of one professor in particular, the BLSA student suggested that this professor prefers not to be considered "the minority professor at [the School]." Rather, the professor strives for a positive rapport with all students. The BLSA student observed that some students do, in fact, go to this professor because the professor is black, but many others go to her because she is open and supportive. The other minority student representatives, while also urging more aggressive minority faculty recruitment, expressed general satisfaction with the current faculty, lauding especially the faculty's openness and receptivity to students' suggestions.

F. On-campus Racism

The minority student associations serve as liaisons between students and administration in addressing student concerns, a role which, of late, has led to somewhat strained faculty-student relations. The BLSA representative described two recent incidents,

and she strongly criticized the administration for not quickly and definitively condemning those acts.

One incident involved a recent Torts examination on which, the BLSA student related, one fact pattern included a character named "Happy" Jackson, whom the BLSA student recognized as a caricature of Rev. Jesse Jackson. Another fact pattern set a violent rape in the fictional town of Lake Tawana. A letter to the administration voiced BLSA's outrage and called for formal sanctions against the professor. The BLSA student, who penned the letter, suggested that the administration would have taken this complaint more seriously had some other student organization lodged the grievance. The Associate Dean reported that the Torts professor was reprimanded, in private, by the Dean.

Another incident described by the BLSA representative involved a "joke" edition of a student paper. "News items" included comments from the Rev. Al Sharpton "quoting" Sharpton as using improper English ("I be having problems with . . .") and a letter from a "Chief Ungabunga" discussing cannibalism. BLSA again complained to the administration; again the Dean handled the incident as a closed-door matter. To the knowledge of the BLSA representative, those responsible for the "joke" newspaper have received no formal discipline. As with the Torts professor, the Associate Dean reported, the editor of the newspaper was reprimanded by the Dean. Such closed-door, private responses are, the Associate Dean continued, the Dean's approach to such incidents.

BLSA has urged that the School adopt a formal policy to impose discipline on those who perpetrate racist acts. The administration has not adopted such a policy, a decision which the BLSA student characterized as tantamount to condoning the offensive acts. She

suggested that a formal antiracism disciplinary policy would go far to improve the atmosphere for Blacks and other minorities, while failure to adopt such a policy creates a pervasive presumption that the administration does not support its minority students.

The Associate Dean described several proposals on ways to educate the entire student body on race relations. Some dialogue has focused on developing a course on race relations. Other initiatives may revolve around orientation programs, such as a screening of Spike Lee's "Do the Right Thing" with D.W. Griffith's "Birth of a Nation," with a post-screening discussion of reactions and comments. Programs such as these would, the Associate Dean stressed, serve to keep the issue of racism in the forefront of dialogue within the School community. Within the somewhat isolated community of academia "you kind of forget that racism is out there," the Associate Dean said.

Despite occasional lapses in attentiveness, several factors tend to keep minority student concerns before the administration. The BLSA representative opined that the faculty and administration take BLSA, and the other student organizations, somewhat more seriously than do the students because, among other reasons, the faculty is acutely aware that each minority student group on campus belongs to a national organization. Also, the BLSA student further observed, recent racist incidents at other law schools have tended to make the administration here more careful and attentive to efforts to avoid similar incidents "at home."

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Issues

According to the Chair of the Faculty Committee on the Curriculum (Curriculum

Committee Chair), the curriculum has received neither a detailed review nor any major revision in recent years. While the Curriculum Committee Chair agrees that "minority-specific" issues pervade the law, coverage and/or discussion of such issues rests within the individual instructor's discretion. Several faculty interviewees whose biographies include professional involvement with minority issues confirm this. They discussed their own efforts to "sensitize" students to race-specific issues underlying the general principles proffered by the course materials.

Students agreed that minority issues are not a planned element of the curriculum. Moreover, students have not specifically discussed this issue with the faculty. The LALSA President characterized the dearth of minority-specific curricular issues as "alarming." Nevertheless, she admitted that many courses present such complex issues that time constraints preclude more detailed, race-specific discussion. (That interviewee cited Corporations as an example of this premise.) The BLSA student suggested that instructors ignore minority issues somewhat more conspicuously. She described, as an example, experiences from her own first-year course in Contracts. Almost every case covering the issue of unconscionability involved Hispanic litigants, she reported, but no discussion touched upon unconscionable contracts as an issue of special relevance to the economically disadvantaged, disproportionately minority, population.

The Curriculum Committee Chair also recognizes that adequate coverage of several subjects must include some discussion of minority issues. Particular examples include:

Constitutional Law: The School offers a seminar as well as a larger lecture class. Issues such as Title VII and recent Supreme Court decisions (e.g., Batson v Kentucky and J.A. Croson v Richmond) bring minority issues to the forefront.

Civil Rights: The School currently offers a seminar on civil rights and plans a course on civil rights litigation for the 1989-1990 academic year.

Other Courses: Courses dealing heavily in issues of particular interest to minorities include: Landlord/Tenant Law, Immigration Law, Employment Discrimination, Constitutional Rights (seminar), Supreme Court (seminar).

The BLSA student disagreed with this "catalogue" of minority-interest courses. She suggested that the School has a "corporate mentality" reflected in the curriculum. The BLSA representative noted that the School offers only one class on civil rights. Conspicuously lacking, in this student's estimation, are courses like Blacks and the Law, Women and the Law, or Children and the Law.

B. Clinical Programs

1. Criminal Law Clinic

The School offers a year-long clinical program combining work on federal criminal cases with child-support/custodial disputes. The 1988-1989 class had 20 participants: two Blacks, one Asian American and seventeen Whites. Student applicants undergo a personal interview with the Director of Clinical Programs (Clinical Director), who looks primarily for motivation. The Clinical Director explained that the interview focuses on the applicant's career plan (i.e., where the applicant plans to be in three to five years). He voiced as his primary concern the need to find students who will in no way jeopardize the client or force the other clinic participants to "take up the slack."

The 20 participants must juggle work on federal criminal cases and child support cases. Seventeen participants handle criminal defense; three work on criminal prosecution with the U.S. Attorney for the Eastern District. This latter group spends approximately 90% of its field work on prosecutions, with a minimal amount of time devoted to the child

support cases.

At the time of this interview (late February of 1989), the program was handling six criminal defense cases. The clientele were two Whites (33%), two Hispanics (33%), one Black (17%) and one Madagascan (17%). The group will handle approximately 150 child support cases during 1989. The Clinical Director estimates the clientele distribution as 20% Whites, 30% Blacks, 30% Hispanics, and 20% Asian Americans and others.

Concurrent with the field work, students attend a weekly class session where the group discusses current work. These sessions run as an ad hoc round table controlled by students. The Clinical Director explained that there is an attempt to sensitize students to special circumstances which may affect minority clients (e.g., poverty and minority status). He mentioned the inherent difficulty in trying to sensitize students, participants in the "system," to the perspective of the clients, subjects of the "system."

The Clinical Director offered extensive comments on the client's experience as a subject of the criminal justice system. The Director asserted that while police generally treat minorities disrespectfully, the formalized structure of court proceedings decreases the possibility of overtly discriminatory behavior. Yet the Director suggested that some level of "subtle racism" taints many proceedings. When queried as to the client's perceptions of courtroom atmosphere, the Director stated that clients worry primarily about the prospect of incarceration. Few clients (if any) express intimidation at being the only non-White in court. Indeed, a client finds him/herself fairly cocooned by the Director and several students.

2. Related Programs

The Clinical Director also described a program wherein students serve as mediators in Manhattan Small Claims Court. This course enrolls approximately 16 students per semester; the student commitment is only for one semester. Students participate as officers of the court rather than as advocates, but the program necessarily involves much exposure to minority participants and problems unique to minority populations.

C. **Preparation for the Bar Examination**

The Curriculum Committee Chair stated that the School does not tailor its curriculum to help students pass the bar. The School does not offer a bar examination preparation course; in the Curriculum Chair's opinion, sufficient commercial courses exist. The Curriculum Chair emphasized that the School attempts to prepare students for the practice of law, regardless of where a student ultimately chooses to practice.

Two new programs offer financial assistance to recent graduates preparing for the bar examination. Students may now apply for a Bar Examination Loan (BEL) offered by the Law Access Program and underwritten by Mellon Bank. Northwest Bank offers a Bar Study Loan (BSL). BEL, first available in the spring of 1989, and BSL offer maximum loans of \$3,000 and \$5,000 respectively to defer expenses while the recipient prepares for the bar exam. The Recruitment Director does not have records on how many students have applied for BEL or BSL, (he knows of 30-40 who have, but many more may have applied without his knowing) nor could he guess how many minorities have applied.

D. **Law Review**

The journals cosponsor a unified writing competition for prospective members. The

Law Review selects members exclusively from entrants ranking in the top 25% of the class. (The competition is held before release of class rankings. Prospective members must compete lest they be foreclosed from membership despite high grades.) Each year, the Review seeks at least 50 new staff. Approximately 35 entrants are offered membership on the basis of grades alone; their writing samples are not graded. The Review's editorial board critiques and grades all other eligible writing samples; approximately 15 staff positions are reserved for students who receive the highest scores. Additional membership spots are created for any minority, top-25% entrants who, not having placed at the top of the class nor having scored among the top writing samples, score within a stated margin of the writing sample score which otherwise warranted an offer of membership. The Editor-in-Chief estimated that the Review's constitution has mandated this affirmative action for at least four years. Interviewees reported that one current Review staff member benefitted from this procedure.

The outgoing editorial board selects its successors. Promotion to an editorial position requires publication of a note or significant contribution to an article (i.e., co-authorship or research assistance). The sitting editorial board selects associate editors based on similar criteria. The number of associate editors varies, depending upon the Review's work load. The Review Advisor reported that minorities held two editorial position on the 1988-1989 Board.

The Review Advisor asserted that the Review is not a forum for specific issues. Unsolicited submissions constitute the majority of articles, and staff develop their own topics for notes. The Review Advisor could not recall any recent race-specific articles or notes.

Efforts to solicit topics (race-specific or otherwise) have proven, by and large, unsuccessful.

The BLSA President considers it significant that only the Review considers grades for membership selection since the other journals consider only the applicants' writing samples. Mentioning the trend of schools diversifying their journal membership selection procedures, the BLSA representative said that she plans to inquire into the membership selection procedures of other law reviews for possible models for an alternative selection procedure. Other minority student representatives, somewhat more comfortable with the Review's reliance on academic performance and individual initiative, reserved criticism on this aspect of extracurricular life.

E. Moot Court

All first-year students participate in moot court as part of the first-year writing program. Thereafter, participation is purely voluntary. The School runs both intramural and interscholastic competitions.

The School organizes two intramural programs, one in the summer and one in the fall. Information for potential participants is disseminated by general posted notice. Both competitions draw approximately 100 participants, by the Faculty Advisor's estimate; minority students do participate, the Advisor noted, but no statistics are available. The intramural programs do not require applications and do not carry academic credit. The Moot Court Board, which coordinates intramural programs, selects new staff from among the intramural competitors. Any second-year day student or third-year evening student may enter the intramural competition; there are no minimum academic parameters for intramural competition.

Participants submit anonymous briefs for grading by alumni judges. Two-person teams go through several rounds of oral argument. The Moot Court Board usually interviews all 16 quarterfinalists and 9 or 10 other exceptional nonquarterfinalists to draw approximately 25 new staff members from both intramural competitions. As noted above, briefs are scored anonymously, and the Board has no affirmative action policy regarding grading or scoring of oral presentations. However, the Moot Court President reported that the Board follows an informal affirmative action policy when interviewing prospective staff members in that the President offers staff membership to every minority competitor interviewed. Through these procedures the Moot Court Board has recruited five Blacks and two or three Hispanics for its 1989-1990 staff (approximately 14% minority representation).

More than half of the Moot Court Board staff does not continue on the Board for a second year. The President reported that approximately 25 staff will apply for 19 Editorial Board positions; once editorial positions are filled, only three or four students will remain as "senior staff." Minority staff attrition tends to match that of the staff as a whole. The current Editorial Board includes two minorities.

The interschool programs, coordinated by a second faculty member (Interschool Advisor), cover both domestic and international law issues. Competitors are drawn from Moot Court Board membership. For the interschool programs a student must undergo two interviews: (1) review by the Moot Court Board, (2) interview by a student-faculty panel (three students and four faculty). The panel considers an applicant's oral and writing skills and grades. The first of these is considered primary, given that oral competitions form the "heart" of interschool competition. The Interschool Advisor stated that grades weigh only

insofar as they demonstrate efficiency and motivation. The Interschool Advisor stressed time and again that, given that intermural moot court participation is not required, and given the large demand on a student's time, an applicant's own interest weighs heavily in the ultimate consideration of each application.

Both Faculty Advisors explained that they attempt to engender increased interest in moot court throughout the student body before stressing minority participation specifically. Neither Advisor had exact numbers on minority participation in either program, though there is minority representation on both. The Interschool Advisor confessed a personal tendency to push minorities into moot court and other programs which she thinks best conform to student talents. Both Advisors stressed, however, that students, minority and nonminority alike, bear the ultimate responsibility for their own applications and, ultimately, for what they gain from the experience.

IV. MINORITY JOB PLACEMENT

A. Overview

One student characterized jobs as the "bottom line" for law students, thereby highlighting the integral role which the Placement Office plays in student ambitions. Interviewees, generally praising the Placement Office for its efforts on behalf of minorities, assert that the School has made minority placement a high priority.

The Placement Office offers career counseling, including interview hints, resumé writing assistance, and development of job search skills. However, the Office does not require applicants to confer with staff before soliciting firms. The initiative for seeking assistance falls on the students.

The on-campus interviewing program combines partial deference to an employer's rigid, "bottom line" requirements with efforts to accommodate student preferences. The Placement Office does not prescreen applicants for any position. Rather, the Placement Director affirmatively discourages prospective employers from screening any applicant against any inflexible standards, as such "measuring rods" may, in the Placement Director's opinion, cause employers to overlook talented candidates. Thus, employers themselves must screen applicants on the basis of resumés collected and sent to the employer by the Placement Office. Employers coming to campus reserve a block of interview "places," two thirds of which the employer allocates to those students which the employer has chosen to see. The School reserves the remaining third of the allocated time for interviews awarded by student preference.

B. Promoting Minority Job Placement

In the fall of 1988 the Placement Office sent a package to major New York City law firms containing a letter over the Dean's signature, an article on the status of minority hiring in the profession, and a minority resumé book. Interviewees lauded the Dean for the initiative of this program, which has led, the Associate Dean reported, to a number of interviews and several job offers for minority students.

Student representatives praised the Placement Office for its efforts in support of minority job seekers; the students directed their strongest criticisms toward the prospective employers. One student suggested that all such well-intentioned efforts cannot overcome the "bottom line" practices which employers--especially prestigious firms--use. The student asserted that firms have unwritten, rigid standards (e.g., applicants must be in the top X%

of a class) which no affirmatively-minded programs will displace. The AALSA representative suggested that minority students perceive that racial prejudices will continue to pervade the legal profession. He observed that the legal profession is not yet a "bastion of sky-high morality."

C. Screening and Sensitizing Employers

The Placement Office makes a number of efforts to preempt discriminatory hiring practices by on-campus interviewers. All prospective on-campus interviewers receive a packet including the School's nondiscrimination policy and a set of New York rulings on preemployment inquiries (guidelines on what constitute proper and improper questions), and the School offers its facilities and services only to employers committed to practices consistent with the School's nondiscrimination policy. On occasion, the School has taken the initiative to get more assurance of an employer's commitment than a mere "signing off" on a sheet of paper.¹¹ The Placement Director asserted that students and/or graduates rarely report incidents of racial discrimination. As with most aspects of the placement process, the student must initiate the investigation of any grievance. One student representative related a specific episode wherein a minority applicant, having endured an interview before a six-member panel, learned from one panel member that he had been the only applicant approved by the entire panel. Nevertheless, the employer did not offer him a position. To the student representative's knowledge, the applicant filed no complaint and no one has investigated the incident. The Associate Dean also told of an interview during which an

¹¹For example, School representatives will speak with representatives of the New York office of Baker & McKenzie before the firm begins on-campus interviews. That dialogue is scheduled, not because of any incident involving a School student, but to seek the firm's assurance that it intends to "take [the School's] minority students seriously," the Associate Dean said.

interviewer's first question to an Asian-American student was: "Is English your first language?" The student, the Associate Dean continued, immediately suspected that he had little chance of being hired by the interviewer's firm. The School's Minority Affairs Committee is working on an affirmative action statement and on formal grievance procedures.¹²

D. Promoting Public Service Employment

The LALSA representative expressed most strongly the opinion that employment in the public sector simply does not pay well enough to entice graduating students into public sector employment. This creates, in the student's opinion, a serious problem, for it is her intuition that more minority representation in the public sector can positively affect the crime problem. She lauded a proposed "loan forgiveness" program as a way to make public interest work more attractive to all graduates.

The Recruitment Director explained that a faculty committee is currently looking at the viability of the loan forgiveness proposal, but he foresees no immediate decision. Though the Recruitment Director sees and hears great support for the program, he notes that the faculty committee has yet to finalize "the mechanics" of the program. He voiced several as yet unresolved questions: Which types of practice constitute "public service"?¹³

¹²The New York State Division of Human Rights has ruled that the question "What is your native language?" is unlawful, under the State's Human Rights Law, when the answer "will indirectly reveal information as to the race, creed, color, national origin . . . in cases where such information may not be asked directly" 455 State Fair Employment Practice Laws 3151, 3153. Under New York law, such information may not be asked directly "unless based upon a bona fide occupational qualification or other exception." *id.* at 3151. As noted above, employers coming to this School are expressly on notice as to the impropriety of such inquiries; the above-cited rulings are included in the information sent to a prospective employers by the Placement Office.

¹³The Recruitment Director noted that organizations such as Covenant House clearly qualify as "public service organizations." Debate continues over whether offices such as district attorneys also qualify.

Which loans (e.g., the School's own loans or loans from lending institutions) should the School "forgive"? What level of income will disqualify a graduate from the program?

The faculty committee has maintained a dialogue with other schools which already have such programs. However, the School cannot simply copy another school's program, for, as the Recruitment Director stressed, implementation ultimately depends on the School's financial resources. More private sector support, such as the new Skadden Fellowship¹⁴ would, the Recruitment Director suggested, greatly increase interest in pursuing public sector work.

The BLSA representative opined that students eschew public sector employment more as a matter of preference than for economic reasons. This student suggested that the School "pushes" (albeit subtly) for placing students in the private sector. Moreover, few students, including BLSA members, seek out public interest as their first choices, she observed. In her experience, the majority of BLSA students who ultimately enter the public sector go there after failing to get jobs in the private/corporate sector.

E. Clerkships

Clerkships are available to only a very few of the School's most academically qualified students, with occasional notable exceptions. According to the Chair of the Faculty Clerkship Committee (Clerkship Chair), the School will place 20-25 applicants out of a pool

¹⁴In June of 1988 the New York firm of Skadden, Arps, Slate, Meagher & Flom initiated a program "providing \$10 million over a five-year period to award 25 two-year public-interest fellowships annually to new law graduates." Shay, ABA Honors Skadden, Arps, ABA JOURNAL, September 1989, at 118. A Skadden Fellow receives an annual salary of \$32,500. Id. In addition, Skadden, Arps repays the recipient's educational loans for the duration of the fellowship. Id.

Of 25 Skadden Fellows chosen in 1988, 10 (40%) are minorities: 4 Blacks, 3 Asian Americans, 2 Hispanics, and 1 Native American. Id. New York schools graduated 7 (28%) of the 25 1988 Fellows: NYU - 5; Columbia - 1; Fordham - 1. Id.

of 60-75 interested students. A clerkship applicant need not go through the Committee; self-conducted searches may prove more difficult than Committee-sponsored applications, but interviewees disagreed on this. The Clerkship Chair said that independent searches, without qualification, rarely succeed. The Associate Dean said that self-conducted searches are less successful if students seek more prestigious, urban clerkships but more successful for applicants to courts outside New York State.

The Clerkship Committee does not systematically recruit qualified students who have not applied on their own initiative. The Clerkship Chair related several instances when qualified candidates, in discussions with the Chair, declined invitations to participate or simply opted for other opportunities. Beyond such chance encounters or initiative of the Clerkship Chair, students bear the whole responsibility for initiating the application procedure. The Committee attempts to keep students apprised of its activities through general announcements and at least one open meeting.

The LALSA representative suggested that the Clerkship Committee does not sufficiently publicize its activities. Recognizing how helpful a clerkship can be in charting future career goals, this student strongly urged a more aggressive program of publication and distribution of information on clerkships. The BLSA representative also noted a general dearth of communication between black students and the Clerkship Committee. However, more significant than the lack of information on the logistics of applying for clerkships, the BLSA representative suggested that black students are generally unaware of how highly members of the profession, especially prospective employers, regard clerkship experience. More communication with the Clerkship Committee could aid to overcome that lack of

awareness, the BLSA student suggested. She also suggested that peer feedback can supplement in-house communication. Two BLSA members (members of the School class of 1990) who have secured postgraduate clerkships are expected to be future sources of information on the clerkship experience.

In contrast to the LALSA and BLSA students, the AALSA representative feels that the Clerkship Committee fairly undertakes to reach all students. He sees no significant minority/nonminority disparity here. Indeed, this student praised the Clerkship Chair's helpfulness when advising applicants during the clerkship application process.

Any student may apply for a clerkship. The Clerkship Committee does not screen applicants in any way; the Committee serves primarily as a clearinghouse for interested applicants. Though encouraging all interested students to apply, the Clerkship Chair asserts that while in theory there are no minimum requirements, in practice judges tend to choose applicants from the top half of the class--especially those with significant journal affiliations. However, the Clerkship Chair related the history of one successful minority applicant who, despite grades falling in the lower 50% of the class and no significant journal affiliation, earned a position due mainly to foreign language skills and "other interesting traits."

The Clerkship Committee members work closely with individual applicants. In assisting minority applicants, special attention and effort focuses on how a student's minority status can aid an applicant. The Clerkship Chair gave as a practical example the current situation in New Jersey State courts where, due to a mandate disseminated through the Central Administrative Office, judges have been strongly encouraged to seek out minority applicants.

Applicants are encouraged to stress minority status when the Committee has identified that as a cognizable consideration within the target court. Thus the Committee seeks to fill mainly an advisory role, aiding an applicant in stressing those personal qualities which will draw close consideration by a target court. The Clerkship Chair suggested that a greater success rate for minorities depends greatly on the receptivity of the judges themselves. Efforts to recruit minorities for clerkships would increase, he suggested, should the courts take a more aggressive and affirmative stance on promoting and accepting minority applications. The Clerkship Chair discussed at some length the "subjective" factors which can affect an applicant. The Chair characterized a judge's court as a "fiefdom" where discretion plays an inextricable part of all decisions. The Clerkship Chair posited several rhetorical questions of note:

Should several applicants present substantially equal "objective" criteria (i.e., grades or journal affiliation), how can a judge make a decision other than on subjective criteria?

Given the highly personal interaction between judge and clerk, if a judge feels more comfortable with persons of similar background (racial, ethnic, political), shouldn't the judge have that sort of discretion?

What if a judge has adopted some sort of "rotation" plan for her court (e.g., one year the clerks shall be female whites, the next year both clerks should be male minorities, etc.)?

Couldn't such flexibility work for minorities as well as against them?

The Clerkship Chair, recognizing the frustration inherent in so uncertain a process, reminds all applicants to remain detached from the application process.

The Committee cannot compensate for any lack of perseverance by the applicant, who bears the responsibility for interviews and expenses. There was no consensus from

various interviewees as to how the time and expense connected with clerkship applications might dissuade minority applicants.

V. FACULTY ISSUES

The Chair of the Faculty Hiring Committee (Faculty Hiring Chair) expressed the Committee's dissatisfaction with minority representation on the current faculty. The 100-member faculty includes eight minorities: five adjuncts, two nontenured instructors, and one tenured professor. (The Associate Dean noted that a second tenure-track minority instructor will be applying for tenure in early 1990.)

Interviewees agreed that the administration considers minority faculty recruitment a high priority; interviewees disagreed somewhat as to the nature of some of the obstacles faced in this effort. According to the Associate Dean, as recently as the fall of 1989 the Dean urged the Faculty Hiring Committee to limit its recruitment efforts to minority faculty. Though the School needed to fill only one faculty vacancy, the Associate Dean continued, the Dean set no limit on the number of minority candidates to whom the Hiring Committee could make offers. The Associate Dean said that, had the Hiring Committee recruited more than one minority candidate, the Dean would have approved the necessary appropriations. But interviewees disagreed as to the significance of fiscal considerations on minority faculty recruitment.

The Faculty Hiring Chair cited fiscal constraints as one of the most frustrating obstacles to the School's faculty recruitment efforts. The Associate Dean, however, asserted that the School has never "lost" a minority faculty candidate because the School could not compete with another school's remunerative offer. "One candidate refused an offer from

us because he simply wanted to be in Colorado rather than in New York," the Associate Dean said. Further, questions of remuneration are the exclusive province of the Dean.

Faculty standards also affect the School's recruitment efforts. The Faculty Hiring Chair explained that the Committee more readily interviews minority candidates who might not meet the objective criteria (e.g., past teaching experience, publication history, law review affiliation, etc.) than nonminority candidates, but the School's rigorous standards further limit the size of the eligible minority applicant pool.

Recruitment efforts include outreach to applicants in an Association of American Law Schools (AALS) registry, consideration of direct applications, and communication with alumni (both to recruit the alumni themselves and to have the alumni provide information on qualified candidates). In recent discussions with the administration, BLSA expressed its desire to see more minority faculty; however, students did not provide explicit recommendations on how to achieve that goal. Nevertheless, some initiatives have taken shape. For example, the Associate Dean plans to advertise faculty openings in a number of journals widely distributed to minority legal professionals, thereby expanding beyond the audience reached by the AALS registry.

Adjunct or part-time faculty can also "fill the gap" caused by the relatively low minority representation on the full-time, tenure-track faculty, and student organizations have, of late, successfully taken the initiative to recruit and retain part-time, minority instructors. For example, a local Hispanic judge has agreed to teach one course, largely due to the initiative of the LALSA chapter.

CASE STUDY H

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff and Applicant Recruitment

The School's recruitment season runs from September through November. During that relatively short period the Admissions Office sends representatives to over a dozen recruitment events throughout the country (the majority of which convene in the East). As often as practicable a member of the Black Law Student Association (BLSA)¹ joins the admissions representatives at recruitment events, but class schedules often preclude student participation. The Admissions Director further related that staff limitations necessarily hamper efforts to represent the School more widely,² and the BLSA President explained that BLSA has made repeated--and as of yet unsuccessful--efforts to urge the creation of a Minority Affairs/Minority Recruitment position. However, in the absence of a full-time Minority Recruitment Director, one minority faculty member has taken the initiative, and informal responsibility, for minority recruitment efforts. Several of the informal programs overseen by that professor are currently "on hold" while he is on academic leave.

Alumni recruiters aid somewhat in overcoming staff shortages, having proven especially helpful in maintaining rapport with historically black colleges. BLSA alumni have been involved with the School and have been active in efforts to increase the percentage of minority students who are admitted and enrolled. The School formerly sent representatives

¹The BLSA chapter is the School's sole minority organization. Since the chapter allows all minority students to participate in its activities, the student representative to recruitment events is not necessarily a Black.

²One interviewee observed that most applicants to the School come from a fairly "local" population (from a region of the state with a relatively low minority population).

to several historically black colleges; however, Howard University is the only historically black school now visited. The Admissions Office counterbalances this dearth of on-campus contact with an annual mailing to historically black schools. The Admissions Director purposefully sends these mailings directly to student organizations at the target schools rather than to any administrative office. In the Admissions Director's experience, the student organizations more conscientiously disseminate information to minority undergraduates.

The Admissions Office maintains a list of those prospective minority applicants contacted at the various student recruitment events. These individuals receive a subsequent mailing which features a letter over the signature of a minority faculty member, intended to solicit applications.

The Admissions Director suggested that minority recruitment efforts are hampered by a lack of support for minority applications. She opined that minority undergraduates generally receive little encouragement to enter the legal profession, observing that a marked absence of minority academic advisors represents one factor in the relative dearth of minority applicants to law schools. The Admissions Director could not recall having met any minority academic advisors. Moreover, she remembers having met only one black administrator at a college career planning office. Yet despite these obstacles, the School has a commitment to increasing the minority enrollment. Although the initial number of minority students at the School was quite small, minority enrollment almost doubled from 1986-1988.

B. Admissions Criteria

The School has established a "presumptive denial" category for applications presenting undergraduate grade point averages (GPAs) below 2.8 or Law School Admission Test (LSAT) scores below 28. Such an application initially goes to a single member of the four-member Admissions Committee, which member may deny admission outright or circulate the file for consideration by the full Committee. When considering a minority application, however, the Committee may give added attention and weight to the applicant's nonacademic record.

The School solicits racial identity of all applicants by including on its application a question asking if the applicant wishes to be identified with any minority group.³ Should the applicant answer affirmatively, the question further requests a detailed statement of the applicant's background, as well as any relevant socioeconomic or educational factors. The Dean has voiced his belief that increasing minority applicants and enrollees in law school must begin at lower levels of learning and has joined the Liberty Partnership Program. This program involves mentoring and assisting certain students at the junior high and high school level.

C. Admittee Recruitment Programs

Once a candidate receives an offer of admission, BLSA students again have an opportunity to assist in the recruitment process. BLSA members contact (usually by phone, though some contacts are made by correspondence) uncommitted acceptees in order to

³The School has established the following minority designations: American Indian, Asian, Black, Chicano, Hispanic, Puerto Rican and Other.

answer any questions and/or to provide information. The Admissions Director described these contacts as an opportunity for students to give applicants an "honest hard sell" on the School. Prospective minority enrollees also receive a second letter over the signature of a minority professor.

The Admissions Director asserted that such contacts can make a practical difference in drawing especially qualified candidates away from other schools. She recalled a conversation with a current enrollee during which the student volunteered that he chose the School precisely because of the School's personalized outreach.

D. Financial Aid

The School participates in the "standard" public assistance programs⁴ and offers an extensive program of campus-based loans and scholarships. Several scholarships, funded by alumni contributors and benefactors, are geared toward minorities.

The BLSA President, while characterizing financial assistance at the School as generous, discussed a number of shortcomings. For example, she asserted, the School does not modify awards to reflect tuition increases. However, the BLSA President gave much greater significance to the fact that continued financial assistance depends on academic performance. As discussed below, the BLSA chapter criticizes the School's academic standards as they affect minority students--many of whom rely on financial assistance in

⁴Federally subsidized and supported programs include Stafford Loans, Supplemental Loans for Students (SLS), and the Perkins Loan Program (formerly the National Direct Student Loan program). Stafford Loans and Perkins Loans are available only to students who show financial need. Stafford Loans carry interest rates between 7% and 10%; Perkins Loans charge 5%. SLSs, while available to all students, carry higher interest rates than Stafford Loans, with a maximum rate of 12%.

The School also participates in the state-financed Tuition Assistance Program (TAP), which awards grants from \$100 - \$1,200 to students with annual incomes below \$20,000.

order to continue their legal studies.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Orientation & Transition

The Admissions Office organizes a minority orientation session, which convenes several days prior to a general orientation for all new students. The Admissions Director explained that the Office attempts to design programs which can address the needs of minority enrollees without overtly segregating those students from the majority student body. This concern underlies the decision to run two distinct but nonconflicting orientation events. Despite the effort to address minority concerns without isolating minority students, several interviewees suggested that students eschew minority events and organizations precisely to avoid segregation. One adjunct clinical instructor, a minority alumna, confessed to having avoided such events while a student, though she now actively participates in those very programs. The BLSA President acknowledged this attitude among the current student body.

Another program pairs each minority enrollee with both an upperclass minority student and a minority alumnus, to whom the student may turn at any time. The Placement Director also mentioned that the School has planned on instituting a mentor program.

B. Academic Support

The School currently offers neither a preenrollment substantive course nor an in-house substantive tutorial. However, an Academic Success Workshop, a preenrollment, substantive course which continues during the first year, will be offered to minority students, and to students who have special problems, starting in the 1989-90 school year. The BLSA chapter has also taken the initiative to provide such programs, but the BLSA President

suggested that students and faculty alike "underparticipate" in those programs. While acknowledging the assistance tendered by the School's sole minority faculty member in residence, the BLSA President characterized overall faculty participation as less than encouraging.

The BLSA President suggested that the School's rigorous grading system, perceived by the BLSA chapter as overly conservative but expressly acknowledged and supported by the faculty, unreasonably jeopardizes minority students. She asserted that, given the faculty's approach to grading, many students--especially minorities--do not meet the minimum requirements,⁵ thus finding themselves in jeopardy of losing their financial assistance. She further explained that a student dismissed for poor academic performance cannot, upon successful application for readmission, receive further campus-based financial assistance, a restriction which effectively precludes otherwise viable reapplications. The Dean disagreed with this assessment, stating that attempts are made to work out special financial arrangements so as to allow for student readmission. The Dean further stated that readmitted students who do well after the first year are eligible again for grade-based financial aid programs.

⁵The School follows specific guidelines to consider the sufficiency of academic performance:

(1) No student will be dismissed by reason of poor performance during the first semester alone.

(2) At the end of the second, third, fourth, or fifth semesters, any student failing to maintain a cumulative average of 1.7 (C-) faces dismissal.

(3) During the third, fourth, and fifth semesters, any student with a semester average below 1.7 faces probation.

If dismissal came at the end of the reapplicant's first year, upon readmission the student must repeat the entire first year course and achieve a cumulative average of 2.0 (C) for the repeated first year. Failure to so achieve warrants dismissal.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Issues

The curriculum has not undergone any systematic review regarding the inclusion of "minority-specific" or "minority-interest" issues. The Curriculum Committee Chair (Curriculum Chair) suggested that so-called "minority issues" are basically issues of poverty. For example, this professor suggested that disparities in criminal sentencing are related not to ethnicity but to the defendants' financial resources. First, he continued, those who can afford to retain paid counsel receive better representation, leading to fewer convictions or less severe sanctions than those often imposed upon indigent litigants; second, the "choice" of crime may also reflect a socioeconomic disparity. He suggested the following hypothetical situation:

Two men, both seeking to "fill their pockets" contemplate the commission of crimes. One, an employed white male, chooses a white collar crime. Conversely, the other man, for this example an unemployed minority, commits a violent robbery. Personal economic situations have dictated the means towards a similar end, but the criminal justice system, clearly, will punish the actors differently.

The Curriculum Chair's observations reflect the subjective role individual instructors play when determining the focus of in-class discussions. One instructor plans to focus upcoming discussion of Richmond v. J.A. Croson Co.⁶ around the equal opportunity aspects of the case, though he admits that other lecturers might well build a lecture around the minority-specific issues of the case. The Curriculum Chair asserted that such choices fall beyond the scope of the Curriculum Committee's role.

⁶109 S. Ct. 706 (21 January 1989), wherein the U.S. Supreme Court declared unconstitutional a Richmond, Virginia plan which had required principal contractors to assign a fixed percentage of subcontracting projects to minority-controlled businesses.

The BLSA President was particularly critical of faculty attitudes towards minority issues. She alleged, for example, that Property instructors have blatantly avoided casebook materials involving minority parties or "minority-specific" issues. The BLSA representative also described instances in Criminal Law classes when instructors have assigned discussion of a case to a minority student precisely because the case is, in the instructor's opinion (as interpreted by BLSA-member students), "about" minorities. Students reportedly consider these as improper attempts to solicit a minority perspective. The student leader further suggested that, even though a representative of the Student Bar Association sits on the Curriculum Committee, student input does not receive serious consideration.

One faculty member, expressing surprise at how student interests vary over time, hinted at some of the difficulties in identifying subject matter of particular interest to minority students. This professor recalled that Employment Discrimination classes formerly drew mostly female and/or minority students. A recent Employment Discrimination class had one minority and one woman in a class of 35. Another striking example appeared in a recent Labor Arbitration seminar where a class of 10 students included three Blacks. Moreover, as the Labor Arbitration Instructor explained, that class had a Labor Law prerequisite. Thus, students in that seminar apparently had a decided interest in this area of the law--an area which, the instructor observed, has not tended in the past to draw many minority students.

These examples suggest that the curricular interests of minority students do not necessarily differ markedly from the interest of majority students. Perhaps greater difficulty arises in broaching discussions about minorities when the student audience includes

minorities. An Employment Discrimination instructor spoke of an inherent difficulty in discussions of racial discrimination. During those discussions, this professor asserted, minority students, in effect, become the subject of a class. This instructor characterized such situations as "tough," even "dangerous."

B. Clinical Programs

The School offers three types of clinical programs. Externships require a minimum one-semester, 10-hour-per-week commitment to public law offices; an office staff member supervises the work, with no in-class component. In-house programs include a class session and are overseen by a faculty member; these programs focus on what the Clinical Director termed "standard" material (e.g., civil litigation) and substantive review. Placement clinics combine the salient features of both the externships and the in-house programs; participants work under the supervision of an office staff member who also conducts a weekly class session as an adjunct clinical instructor.

Minority enrollment in all three programs generally matches the minority presence in the student body (approximately 1-in-8 by the Clinical Director's estimation). However, minorities account for more than 50% of the clinical clientele, the Clinical Director reported. Whether or not students receive any special "sensitization" training depends primarily on the initiative of the individual instructor. The Clinical Director observed that if there is any emphasis on sensitizing students to the clients' perspective, the instructors focus not on race but on the economic disadvantages which clients face.

One placement clinic puts students in a local office of the United States Attorney. The supervising adjunct instructor (a minority alumna of the School) offered a number of

observations on minority involvement in the program. As the U.S. Attorney handles mostly white-collar crime, students encounter mostly white litigants. However, the instructor observed that the drastic increase in drug trafficking has led to a marked influx of minority (particularly Hispanic) defendants. Thus, clinical participants have some exposure to minority users of the courts.

Given the sensitivity of matters handled in this office, prospective student participants must both interview with the instructor and submit to an FBI background check. While not suggesting that this second prerequisite necessarily dissuades minority participants, the instructor termed this a somewhat "intimidating" prerequisite. On the other hand, participation in this clinic may tend to be extremely helpful for later job searches. The instructor related that local law firms often affirmatively seek out graduates of this clinic, usually requesting information on any participant. However, some prospective employers have specifically sought out minority participants.

A local office of Prisoners' Legal Services (PLS) hosts another placement clinic. Students handle matters including: disciplinary proceedings, claims of brutality by prison guards, parole matters, matrimonial disputes, and treatment of prisoners with AIDS.

PLS first meets prospective participants at an interview with either the instructor or another PLS attorney. Interviewers look primarily for motivation and a desire to work in the best interest of clients. Several considerations underlie this emphasis on motivation, not the least of which is (in the instructor's opinion) the fact that PLS puts its credibility on the line whenever a student handles a case. Interviewers reportedly make no inquiry as to an applicant's academic standing. Indeed, the PLS Instructor asserted that interviewers

generally do not care about the academic credentials of a candidate.

While downplaying academic performance as a requisite for participation in the PLS clinic, the PLS Instructor opined that applicants rarely approach this as an "easy" clinic. Characterizing most applicants as "highly motivated" and "well-prepared," the instructor noted that PLS draws more than its share of minority students. The PLS Instructor asserted that the presence of minority advocates has a positive impact on PLS' predominantly minority clientele, as evidenced by the favorable comments by clients. When asked if white students have any problems relating to a predominantly minority clientele, the PLS Instructor suggested that a positive attitude (i.e., a real willingness to work in a client's best interest) allows nonminority students to effectively bridge the cultural gaps between themselves and clients. The PLS clinic does not include regular instruction on "sensitization" to the perspective of minority clientele, though such sessions have been held; in May of 1988 PLS sponsored a three-day racial sensitivity workshop. Several one-day programs have convened since then.

The PLS Instructor characterized the clinic as a "great" practical experience in the practice of law (both state and federal). So far as the instructor could recall, all recent PLS clinic "graduates" have gone on to pass the New York bar examination. Moreover, a number of PLS "graduates" have chosen to work for PLS after completing the clinic. PLS often offers clinic "graduates" a paying, part-time position for the students' third year, often leading to full-time offers after graduation. Thus, this program has, for some, become a career track rather than just an academic experience.

The Clinical Director observed that clinical participation generally bolsters every

participant's "profile," a substantial benefit when later interviewing for jobs. He suggested that clinical participation can prove especially helpful to minority students who present to prospective employers somewhat less substantial academic credentials than their white counterparts. The Director characterized clinical participation as a means to establish "contacts" within the legal community, as well as a means to garner practical experience. This latter advantage would, the Clinical Director posits, almost necessarily provide a bridge between job-hunting students and prospective employers. The practical experience provides the students with a knowledge of the practitioner's terminology and perspective--a knowledge which the Director sees as a substantial benefit for all clinic participants but of special value to minority students.

C. Bar Review

The School does not offer a bar examination preparation course. However, the BLSA chapter, with the assistance of minority alumni, organizes such a program for third-year minority students. Alumni offer substantive reviews in their areas of expertise and give tips on study and exam-writing techniques. Students preparing for the bar examination can apply for financial assistance from the School. The Board of Trustees provides interest-bearing loans to assist students to complete their studies. Students preparing for the bar immediately after graduation may apply for funding to assist them while preparing for the examination. The School has no records on how many (if any) minority students have received such assistance.

D. Law Review

The current Law Review selection process combines a consideration of grades and

a writing sample, except for those students in the top 10% of the class, who receive "automatic" invitations to join the Review. All other prospective Review staff must participate in a year-end writing competition. Only students with GPAs of 2.2 (C/C+) or higher may join the writing competition. The Faculty Advisor to the Law Review (Review Advisor) asserted that no one has considered waiving the minimum academic requirement for any applicant. Although the Review Advisor feels that current Review staff does not adequately represent the School's minority population, none have assailed the selection process. Indeed, the Review Advisor could not recall any student having sought Review membership without having met the grade-point cut off.

The current Review staff includes one Black, one Hispanic, and one Asian American among a membership of approximately 60 students. All three minority staffers are second-year students, thus none currently hold editorial positions. As to minority participation on the Review, the BLSA President opined that minority Review members have little contact with the minority student body in general and almost no contact with BLSA. BLSA does not perceive the Review as a forum wholly conducive to dissemination of minority issues.

Review membership requires a second-year student to produce at least one note of publishable quality, as determined by a joint review by one third-year Review member and one faculty member. The editorial board makes all other editorial decisions without faculty input. The student board members create a list of suggested topics for second-year student notes, and the board culls publishable articles primarily from unsolicited work. (The Review solicits articles primarily for an annual symposium issue.) The Review Advisor could not recall any recent articles or notes dealing with minority issues; works in progress include

notes on civil rights issues and poverty, but the Review Advisor noted that these are not minority issues per se.

E. Moot Court

The faculty advisor to moot court programs (Moot Court Advisor) described the program as "extensive" and well-subscribed by minority and white students alike. The School's core curriculum requires all first-year students to write and argue an appellate brief as the culmination of the first-year Legal Writing program. Writing instructors and members of the Moot Court Board (third-year students) judge students on the oral component of the course. Any participation in moot court beyond the first year requires voluntary initiative by the individual student.

1. Intramural Competition

The Moot Court Advisor described a "typical" moot court competition track as beginning with participation in a noncredit, intramural competition. By the Advisor's estimate, out of a second-year class of 200, 120 (60%) choose to participate.⁷ A proportionate number of minority students participate in the intramural program, the Moot Court Advisor noted. She further observed that the School has generally experienced a "hard time recruiting minorities," which necessarily affects minority participation in this, and any other, program. Given the popularity of the intramural program, no one has, to the Advisor's knowledge, felt a need to affirmatively recruit minorities who have not themselves entered the competition.

⁷The actual pool effectively numbers only 170 as second-year Law Review members (approximately 30) almost necessarily do not participate. Thus, 120 participants in a 170-member pool yields a participation rate of 70.5%.

2. Interscholastic Competition

a. Overview

The School undertakes extensive participation in interscholastic competitions--17 by the Advisor's count. Although there is no formal prerequisite for application to an interscholastic team, in practice, the intramural program serves as the primary screening mechanism for selection to an interscholastic team. Interested students must "try out" for a "team" to participate in an interscholastic competition. Moot Court Board members assess each applicant, primarily weighing oral and writing abilities. Prior participation (e.g., in the intramural program) and academic standing provide additional information for assessing an applicant's abilities. Through this selection procedure minority students won 5 of 50 (10%) competition "slots" during the 1988-1989 academic year. The Moot Court Advisor further noted that, given the relatively low proportion of minority students at the School, the Moot Court Board has a good record of minority representation. In the last eight years, the current Moot Court Advisor's tenure in that position, minorities have twice held the spot of Moot Court Board Director.

b. The Douglass Competition Controversy

The Moot Court Advisor detailed the unusual events surrounding the School's participation in the Frederick Douglass National Moot Court competition (a competition organized by the National BLSA). The Advisor, working with the BLSA President, spent much time planning the School's participation in the Douglass Competition only to encounter obstacles ranging from lack of faculty support to conflicts with the National BLSA organization. The Advisor intended to integrate the Douglass team by allowing both white

and minority students to participate, but BLSA's national organization objected to the participation of non-Blacks. Faculty members then objected to the School's participation in the Douglass program because the competition discriminated against Whites. This engendered internal conflict in the School's BLSA chapter. One member, seeing the Douglass team as the only opportunity for minorities to participate in moot court, objected to integration of the team. [As noted above, minority students have joined teams other than the Douglass team.]

Another dispute arose over the awarding of academic credits. The Moot Court Advisor proposed that Douglass team members receive academic credits, as usually are awarded for interscholastic competition; however, faculty saw this as violative of an ABA-promulgated policy against discrimination in programs carrying academic credits. Ultimately, the School's Douglass team did not participate in the competition.

F. Inns of Court

The School offers the sole active New York chapter of the American Inns of Court Foundation, a program modelled after the English Inns of Court and intended to promote the consolidation of students, attorneys and judges into a true legal community. Members of the local bar, judges, and students gather six times during the academic year to share ideas on litigation techniques. The national organization also organizes an annual convention.

The Moot Court Advisor has selected 24 student participants with an eye toward gathering together a truly representative cross section of the student body, having affirmatively sought out representatives based on race/ethnicity, gender, "traditional" and

"nontraditional" background, and professional interest (e.g., small versus large firm, public versus private sector practice). The 24 1989-1990 enrollees include four minorities (16.6%). As the Advisor could best recall, those four minority applicants constituted the entire minority applicant pool for this program.

IV. MINORITY JOB PLACEMENT

A. The Role of the Placement Office

The Placement Director described the role of the Placement Office as primarily advisory, a role of career guidance rather than one of placement. The Office spends much time gathering information on, in the Director's words, "what is really out there." In keeping with that function, the Placement Director attempts to give students "an injection of reality" in their approach to a job search. That role often includes the hard task of advising a student to consider options other than first-choice positions. Similarly, the Placement Director finds her office confronted with the task of assisting graduates in more than one postgraduation job search. While asserting that minority employment has increased overall, the Placement Director characterized minority retention in their places of employment as "terrible." The Placement Director suggested that a poor employment retention rate merely parallels the law school experience; while initial enrollments increase, minority attrition climbs.

B. Preparing Students for Interviews

The Placement Office offers assistance in resumé-writing and interviewing. Students may arrange mock interviews, which are videotaped for later review. The Office also arranges career panels to discuss opportunities in various areas of practice. In conjunction

with other law schools. the School participates in a regional, annual BLSA Interview Program which is geared towards minority law school students and recent minority graduates. There is no special effort on behalf of minority students, however. The Placement Director noted that roughly 75% of the School's students have some contact with the Placement Office before finding employment. Though minority student participation in Office programs has increased, the Placement Director opined that minority students continue to underutilize available programs.

C. Screening and Attracting Prospective Employers

Before allowing a prospective employer to send interviewers on campus, the employer must sign on to the School's antidiscrimination policy. The Placement Director observed that employer adherence to this policy cannot guarantee an unbiased interview; an individual representative may not have sufficient familiarity with the policy. The School does not undertake to educate individual interviewers on acceptable interview practices; however, few students have reported incidents of overt racial discrimination. Most complaints, in the Director's recollection, have alleged gender discrimination.

Prospective employers provide the Office with information on hiring practices, salary range, and type of practice usually handled. The Office augments these profiles with assessments from students who have worked for a particular employer. The Placement Office maintains files for review by any student upon student initiative.

The Office does undertake some measure of outreach to minority students as the opportunity arises. Should an employer make it known that the employer affirmatively seeks minority applicants, the Placement Office enlists the BLSA chapter to disseminate this

information among BLSA members. The BLSA President praised the Placement Director's receptiveness and assistance to BLSA.

D. Contact Programs

The Placement Office provides three programs to facilitate employer-student contact. Some prospective employers send individual representatives to the campus. The employer notifies the Placement Office, which then collects resumés of interested students. Any student may submit a resumé, and all resumés are forwarded to the employer; the Placement Office does not screen these applicants in any way. The prospective employer then returns to the Placement Office a list of those students who have been granted an interview. Thus, the School allows firms to prescreen; some applicants are eliminated without an employer representative ever having met those candidates face-to-face. The Placement Director noted that this process may allow for a "measure of discrimination" because a number of candidates are eliminated on the basis of a "paper profile" alone. However, in the Placement Director's experience, such screening tends to follow rigid academic lines.

A second option allows employers to collect resumés from which the employer selects students for interviews at the employer's offices. Besides the change in forum, this program requires employers to directly contact the students, and the employer must send a response to all students--even to those who do not receive interviews.

The third option requires the least involvement by the Placement Office. For direct student-to-employer contact the Office merely collects and forwards to prospective employers the resumés of interested students. Any subsequent correspondence and/or interviewing depends solely on student initiative. This option also differs from other

programs in that students must provide a cover letter, an item not required in either above-described program. This third option has, reportedly, proven least popular with students.

E. Clerkships

Those in search of summer or postgraduation clerkships may turn to the Placement Office for general information, but the Office does not coordinate applications in any way. As with other "direct-contact" positions, the Placement Office provides information and advice. The School currently has no formal faculty committee to coordinate clerkships. The School once had such a committee but it has "fizzled out." However, the Placement Director does refer clerkship applicants to various faculty members as personal advisors.

F. Minority Job Fair

In the fall of 1988 the School hosted a minority job fair sponsored by the National BLSA. The Dean and the BLSA President had a difference of opinion regarding the administrative and/or clerical assistance that was offered by the Dean and desired by BLSA. The BLSA President asserted that insufficient help was offered by the administration, so too much of the burden fell upon the students. The Dean reported that help was offered but that the BLSA President rejected it.

Organization of the job fair presented difficulties from another quarter as well. The BLSA President referred again to an ongoing dispute with the National BLSA organization. The national group objected to opening the job fair to non-Blacks. In keeping with its own practices, the School's chapter allowed non-Blacks to participate despite those objections. Nonetheless, this dispute jeopardizes future events.

V. FACULTY ISSUES

The School currently employs two full-time, tenured, minority faculty. One minority professor has been on leave for the last two academic years. As discussed above, the relative lack of minority faculty has adversely affected minority student recruitment, as well as limiting minority student/faculty interaction. However, the School has committed itself to the goal of increasing minority faculty.

A. Recruitment

The Chair of the Faculty Hiring Committee (Hiring Chair) detailed the inherent difficulty in recruiting minority faculty, given the competing considerations of a desire to enlist minorities, a limited applicant pool, specific curricular needs, and the attempt to enlist the most qualified instructors. The School currently focuses its minority recruitment efforts on prospective black faculty; the Committee currently pursues neither Hispanic nor Asian-American prospects. Given this further diminution of an already limited applicant pool, the Hiring Chair sees as a formidable obstacle a limited "supply" as against an increasing "demand." During its 1988-1989 recruiting efforts the Hiring Committee interviewed four prospective black faculty. Three applicants received offers; only one accepted. (This instructor is to begin at the School in the fall of 1989.)

Faculty recruitment efforts often reflect an identified curricular need--a further restriction on minority recruitment efforts. However, the Hiring Chair stressed that, despite consideration of specific curricular need, the Hiring Committee makes a concerted effort to find some way in which to "fit" minority prospects into the School's needs and aspirations. The School currently seeks instructors in commercial law. The Hiring Chair asserted that

few minorities offer that particular credential. Though the School's newest minority faculty member has an LLM in tax law, the Hiring Chair characterized that credential as "very unusual" for a minority candidate.

The Hiring Committee plays only an initial role, screening prospects and extending invitations to visit the School. A prospective interviewee, after initial contact with the Hiring Committee, undergoes an on-campus scrutiny which includes separate meetings with faculty and student representatives. (BLSA met with the minority prospects during the 1988-1989 academic year, but BLSA did not meet with the white candidates.) A student representative, typically the Student Bar Association President or a designate, submits the student evaluation. Thus, the student perspective on faculty prospects does factor into the hiring decision.

The Hiring Committee makes no recommendations; the decision to offer a faculty position requires consideration by the whole faculty. Financial matters do not enter into the Committee's activities; questions of salary and compensation remain in the hands of the Dean.

B. Tenure

The School's "promotion track" is a six-year (minimum) process. After three years as an Assistant Professor, candidates become eligible for promotion to Associate Professor. After another three years (minimum), the candidate may rise to the rank of full Professor. One year prior to consideration of an application for promotion, the faculty appoints a three-member subcommittee to evaluate the applicant's performance. Pertinent factors include class performance--evaluated on the basis of student input and faculty observation---

publications, and other professional activities. The School has no "quota" on publications, but the Hiring Chair did assert that faculty understand their professional responsibility to write and to publish.

CASE STUDY I

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

The School employs a Coordinator of Minority Recruitment (the Coordinator), who also handles student affairs and disabled student services. Minority students also participate in various stages of the admission process, as will be highlighted in subsequent sections.

B. Minority Applicant Recruitment Programs

The School participates in a host of programs in order to make recruitment a national effort.

1. Candidate Referral Service (CRS)¹ Mailing

The broadest and least personal of the minority recruitment efforts is the seasonal use of CRS mailing lists. While the School has no fixed policy on the specific parameters used to generate the list, the Coordinator reported that, generally, the School targets prospective law school applicants, minority or otherwise, who scored 30 or better on the Law School Admission Test (LSAT) and who maintained a 3.0 undergraduate grade point average (GPA). The Coordinator was unsure if additional parameters (e.g., gender or geographic location) are routinely requested. Reference to specific scores does not, the Coordinator emphasized, indicate that those figures "define" the qualified applicant pool. Rather, the use of those parameters is merely a concession to the keeper of the list and to the general profile of prior School classes.

¹CRS, a service administered by the Law School Admissions Council, allows a school to target individuals who have recently taken the Law School Admissions Test and who meet specific criteria (e.g., ethnicity, undergraduate grade point average, residency, or any combination of these and other factors).

2. Law Forums, Campus Visits and Other Efforts

Admissions staff and students attend Law School Admission Council (LSAC) law forums² and regional prelaw conferences. The Asian American Law Student Association (AALSA) has not sent representatives of late, so not every group is represented at those visits. AALSA has considered putting together a brochure for general dissemination at forums and law days, but the project has faltered for want of funding.³ In addition to participating in the general contact programs which characterize the LSAC forums, the Coordinator arranges mini-forums targeting specific colleges. At a recent Atlanta convention the Coordinator met with Spellman students and their prelaw advisors. Another program arranged by the Coordinator gathers local students together with members of the local or regional bar to discuss career opportunities and to share personal experiences.

Staff and students also target historically black colleges, as well as "majority" colleges with substantial minority populations, for on-campus contacts. Given that the School undertakes a national recruitment effort, the Coordinator has had to develop methods to address concerns which may not affect students planning to attend law schools close to home. A nationwide recruitment effort necessarily requires "selling" the School to students unfamiliar with the School, its host city, and the local legal community. One strategy has been to initiate contact between applicants and School alumni who share some of the applicants' experiences. The Coordinator might put a Spellman student in contact with a

²LSAC forums convene in New York, Chicago, Atlanta, Boston and Los Angeles.

³Such funding would, if available, come from the School budget. Students criticize the administration for not providing more substantial financial support.

School alumnus who also attended Spellman. That sort of personal "identification" can, in the Coordinator's experience, distinguish one alumnus from another as a positive role model for the particular applicant. The Coordinator pointed out that effective pairing of applicants and alumni requires more than racial/ethnic identity. Matching, for example, an Hispanic applicant with an Hispanic alumna who has nothing more in common with the student than ethnicity does not necessarily promote the sort of rapport necessary to support an effective mentoring relationship. While not always successful in bringing a particular candidate to the School, these mentoring efforts have, the Coordinator reports, often drawn applicants to the New York legal community.

The Coordinator views each individual contact as an opportunity either to direct the applicant toward that school which may best meet the student's needs or to suggest at which school a candidate may make a significant contribution. This approach requires a great deal of candor in assessing an applicant's chances of receiving an offer from the School. To better acquaint the prospective student with the admission and selection process, the School invites all applicants to admissions seminars where staff describe the application and selection process in great detail.

C. Admissions Criteria

LSAT score and undergraduate GPA play a definite but nondispositive role in the admissions process. Various criteria are weighted so that LSAT score, GPA, and other factors each count one third. However, the admissions "equation" is never as straightforward as the previous statement might indicate. The Admissions Committee does not have a minimum LSAT score below which it will not consider an applicant, nor does admission

depend on any fixed, minimum GPA. "Other factors" include any features of an applicant's personal history which suggest legal aptitude or the promise of making a valuable contribution to the profession. The Admissions Committee reads every file and makes no decision until it sees all three parts of a file.

The Coordinator noted that even though personal, subjective experience always factors into the applicant's overall profile, GPA and LSAT generally indicate the likelihood that an applicant, minority or otherwise, will receive an offer of admission. However, the Dean of Admissions suggested that applicant competitiveness has, in effect, dictated informal parameters for GPA and LSAT. The Dean noted, "Rarely are we able to admit applicants with LSAT scores below 30--given the keen competition for admission." While agreeing with this generalization, the Coordinator asserted that LSAT score never by itself determines the decision on any application. Moreover, the Coordinator "fine tunes" LSAT scores as a comparative indicator by weighing a particular applicant's score against, not the entire applicant pool, but against other applicants of the same racial/ethnic group. For example, having noticed that Cubans do somewhat better on the LSAT than do Puerto Ricans, the Coordinator scrutinizes those two groups separately. Thus, the Coordinator somewhat counteracts the competitiveness of the overall applicant pool--numbering in excess of 6,500--by actually looking at a number of applicant pools differentiated along racial/ethnic lines.

The "other factors" element of the admissions "equation" often colors or bolsters or refutes the "picture" suggested by the numerical indicators. The Coordinator noted that minority applicants often come from "nontraditional backgrounds," too often characterized by experiences of economic disadvantage, which augurs for a significant contribution to the

diversity of the student population. The Dean of Admission stated that the School "has long practiced affirmative action on behalf of minority applicants, resulting in our being enriched by one of the largest minority presences of the major law schools."

Formal consideration of applications currently remains the exclusive province of the Admissions Committee, which has no student representation. Minority student representatives expressed dissatisfaction at their exclusion from that facet of the admissions process. Though there has been discussion of opening the Admissions Committee to student input, the administration has, the AALSA President reported, resisted this initiative.

D. Encouraging Minority Enrollment

Once the School offers admission to a minority applicant, the Coordinator continues in her efforts to answer individual needs and to overcome obstacles which might otherwise preclude enrollment. The personalized effort has, at times, called for rather extraordinary initiative. The Coordinator told of one applicant who intended to reject an offer of admission because the applicant could not afford to send her children to private schools in New York. The Coordinator secured a commitment from a local school to provide scholarships for the applicant's children. By contrast, a significant part of the Coordinator's efforts to support minority enrollment in law schools requires, at times, that she assist those who were rejected by the School. Speaking hypothetically, the Coordinator described how an unsuccessful applicant might contact her for advice. The Coordinator might then contact other schools to which the applicant had applied to encourage acceptance by the other schools.

Current minority enrollees supplement the Coordinator's efforts. Minority student

organizations contact (by letter and telephone) acceptees shortly after the Admissions Committee has made its decisions. The President of the Black Law Student Association (BLSA) suggested that student outreach at this stage may be too little too late, as most minority acceptees ultimately reject the offer of admission. (Statistics from the School show that less than one third of Blacks offered admission decide to enroll.) That fact particularly disturbs the BLSA President--so much so that in an effort to encourage higher minority enrollment, the BLSA chapter plans to initiate outreach to minority applicants before the Admissions Committee deliberates. The BLSA President sees this proposed program as a direct response to a "We make the offers but they don't accept" attitude of the faculty, an attitude which, in the BLSA President's opinion, bemoans the result without concern for the cause.

An Admitted Students Program convenes in March, which includes a special reception with current students, faculty, and alumni.

E. Preenrollment Preparation

The School neither runs nor requires any preenrollment substantive preparation. The Coordinator readily recommends enrollment in a CLEO⁴ program to those students who express a need for a preenrollment substantive preparation.

F. Financial Aid

The School offers a handful of scholarships for which minorities are specifically eligible. Beyond those particular offerings, the Dean of Admissions noted no significant

⁴The Council on Legal Education Opportunity program prepares "economically and educationally disadvantaged students for law school," Council on Legal Education Opportunity, All About CLEO 1 (1988). However, CLEO has not, of late, convened a program in New York State.

difference between the assistance available to minorities and Whites.⁵

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Minority Task Force

Students and faculty have joined to form a Minority Task Force, a follow-up to a similar body which examined treatment of minorities at the School's affiliate undergraduate university. As of this writing the Law School Task Force has twice met only to discuss preliminary matters (such as which student groups should participate). Even these "organizational" points have generated controversy because groups other than ethnic minorities have asked to join the Task Force. Some argument has centered on the propriety of including, for example, a Mormon group--an exclusively white, predominantly male organization. Other religious groups, particularly the Jewish students' group, have already proven quite active and interested.

Paralleling the undergraduate task force, the Law School Minority Task Force has already identified minority faculty hiring as a high-priority concern. When taking up its work in the fall of 1989 the Task Force also plans to study minority student recruitment and admissions. Towards this end, and while conducting its investigations in general, the Task Force plans to gather anecdotal data.⁶ A faculty interviewee opined that the revelation of

⁵Stafford Loans, Perkins Loans (formerly National Direct Student Loans) and Supplemental Loans for Students (SLS) are federally subsidized and regulated loan programs. Stafford Loans and Perkins Loans are available only to students who demonstrate financial need. Stafford Loans carry rates varying from 7%-10%; Perkins carry a 5% interest rate. SLSs are available to all students and carry a higher interest rate than Stafford Loans or Perkins Loans. SLS rates are calculated anew each year, with the maximum rate set at 12%.

⁶The School's Gender Bias Task Force, largely through anecdotal data, recently reported on numerous incidents of gender bias. The sheer volume of incidents brought before the Task Force reportedly surprised a fair portion of the Law School community.

widely perceived bias can alert a community to much subtle bias. While allowing that much bias and discrimination is probably unintentional, the interviewee asserted that "people can clean up their act" by becoming sensitive to the negative perceptions of seemingly "innocent" behavior.

The Task Force has its critics. The LALSA representative deems it little more than "an appeasement" which, despite the dedication of its members, will not make a significant difference unless the faculty purposefully reevaluates its attitude and approach to interaction with minority students.

B. Academic Support

The School offers a Skills Support Workshop for all students. The BLSA President noted that the Workshop, generally held on Fridays, draws very little attention and very low attendance, primarily, he suggested, because it conflicts with classes or related weekday activities. A far better program would be, in the BLSA President's opinion, a class modelled on Harvard's Saturday School program.⁷

Faculty and upperclass students alike participate in semester-end substantive reviews for first-year students. The minority student leaders unanimously criticized these efforts as "eleventh hour" assistance coming too late to help those students most in need. Similarly,

⁷A recent issue of the Harvard Law Bulletin describes the program:

Designed by Visiting Professor Charles Ogletree and based on the first-year orientation program of the Harvard Black Law Students Association (BLSA), "Saturday School" encourages students "to appreciate the richness of their own backgrounds and of the Harvard law experience," says Ogletree. Although designed for first-year students, attendance has not been limited to those new to the School. . . .

Topics have included effective study, exam-writing, and brief-writing skills; the lack of minority perspective in classroom discussions and in casebooks; underachievement; women's perspectives; the Hispanic civil rights movement; and community service.

one minority student organization president suggested that a faculty member or administrator will contact a student having particular difficulties only after the student has demonstrated difficulty by receiving some poor grades. This sort of "after the damage is done" outreach comes, in this student's opinion, too late to really help the student. In partial response to what the student characterized as faculty "passivity," the minority student organizations have organized informal academic support. BLSA and AALSA offer substantive outlines to their members, and the two groups plan to merge their "libraries" to make these materials more readily available.

While the absence of substantive tutorials by itself gives the minority student organization presidents cause for concern, they expressed far greater concern--and very strong opinions--about a perceived faculty disinterest in academic support. Students describe the white faculty as "not generally approachable," "very closed,"⁸ and "distant." Moreover, the students generally question the faculty's overall approach to the teaching of law. The BLSA representative noted that many Blacks (and minorities generally) are first-generation lawyers entering an utterly unfamiliar profession. More significantly, the BLSA student suggested, a first-generation lawyer does not have the advantage of significant role models. Further, lacking any significant preenrollment exposure to the study of law, minority students carry the added burden of studying wholly unfamiliar concepts under less than forthcoming instruction. LALSA members have expressed to the LALSA President a general reluctance to approach professors with "routine" questions, fearful of the reception they might receive

⁸One student related a recent showing of apparent faculty disinterest. LALSA extended invitations to 40 faculty members for a social function. Six responded (all in the negative) and 0 attended. The student representative sees this incident as evidence of a problem less innocent than busy schedules or simple rudeness.

(e.g., "If you don't already know that, how did you get here in the first place?").

C. Social Support, Peer Mentoring and Faculty Role Models

Each minority student group attempts to provide social, academic, and "political" support for its members. A number of interrelated problems confront the minority organizations, both from within and without. Some students apparently feel quite uncomfortable with either identifying themselves as minorities or with actively participating in a minority organization, an attitude somewhat in keeping with what the AALSA leader characterizes as a generally conservative minority student body. The Asian-American and Hispanic representatives noted some "dissension in the ranks" among members with different national heritages. Speaking hypothetically, the LALSA representative suggested that a Cuban student may not sympathize with the experiences of a Puerto Rican. The AALSA leader has noted some such "nationalism" in his organization as well. Socioeconomic disparity also somewhat affects student interaction. Returning to the above example, the LALSA leader suggested that a Cuban student from a fairly well-to-do family may feel less "like a minority" than a Puerto Rican from an economically disadvantaged background.

Recognizing a need for current students to assist their peers, BLSA has established a "big brother/big sister" program which pairs first-year students with upperclass students as all-purpose information resources. The BLSA President also stressed the need for each minority group to make themselves more visible, more open, and more outreaching, all towards dispelling the overriding perception among applicants and first-year students that no support mechanism exists.

Turning to the "political" aspects of minority student representation, the BLSA leader

stressed the need to increase accountability among the faculty and administration. BLSA plans a concerted effort in the upcoming year to bring student concerns to the faculty and administration and then to track the response (or lack thereof). BLSA will then insist on knowing the reasons behind the decisions reached. The BLSA President does not see this as an effort to "force" student ideas on the faculty. Rather, the students seek an accounting of the decision-making process towards fostering better communication and understanding between the student body and faculty.

One student spoke at some length, and with some urgency, of the inability of white faculty to empathize with the experiences of minority students. While allowing that many sympathize with student problems (e.g., worries about fitting in and financial concerns), sympathy cannot, the LALSA representative asserts, replace empathy, which this student sees as the level of identity which one must reach to be an effective role model. This student also sees among the faculty a marked lack of professional experience in dealing with minorities. This unfamiliarity with the minority experience further distances the current faculty from the minority students.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Issues

There has been no systematic review of the curriculum toward ensuring inclusion of minority issues. As to the question of how a school expands or modifies its curriculum, the Chair of the Curriculum Committee (Curriculum Chair) expressed some caution as to how to approach the matter. He suggested that courses targeted directly toward minority interests carry overtones of racism. By way of example, a course in race relations would, the

Curriculum Chair believes. prove extremely awkward for minority and white students alike, they being fearful of falling into a "we/they" dichotomy. The Chair opined that until this country reaches a point where authorities are not predominantly White, the "we/they" problem will continue to hamper such discussions. He also suggested that a course on race relations would inevitably create the extremely awkward situation of making some students, in effect, the subject of the class.

The School offers several courses on minority issues, for which minority students may, the Curriculum Chair suggested, register in numbers which are disproportionate to their presence in the student body, but no course specifically targets a minority audience. However, the Curriculum Chair opined that the substantive interests of minority students do not differ markedly from those of their white peers. Moreover, this professor asserted that the professional interests of the minority faculty, those who one might expect to champion increased attention to minority issues in the curriculum, do not differ significantly from the interests of the rest of the faculty.

The perspective and personal preferences of an instructor often determine just how much, if any, discussion of minority issues will take place in a class. The Curriculum Chair asserted that principles of academic freedom preclude the administration from dictating--or even strongly urging--any particular approach to any given course. Moreover, even when a course fairly requires some attention to minority issues, considerations of scope and time limitations prevent a fuller discussion of the issues. For example, the Curriculum Chair suggested that race is the central issue in Constitutional Law, yet the structure of the course (a survey approach during the first semester, with more focused discussion in the second

semester) effectively precludes spending more time on that admittedly key aspect of the subject.

Similar constraints hamper discussion of minority issues in Criminal Law. The Curriculum Chair and several student leaders mentioned recent discussions around the racial disproportionality in death penalty cases. The Curriculum Chair himself has taught Criminal Law seminars where, he estimates, 20% of his hypothetical examples involve minority protagonists. He suggested, however, that racial issues are generally "buried" in criminal cases other than those dealing with capital punishment.

A forthcoming alteration to the first-year curriculum should expand discussion of the minority perspective on the law. Beginning in the fall of 1989, first-year students will take a course on Perspectives on Modern Legal Thought, which will include both a unit on "minority voices" in the form of writings on the law by black and Hispanic writers as well as some discussion of the minority response to the legal system. As a personal suggestion for future modification to the curriculum, the Curriculum Chair opined that law schools generally do not teach enough courses on "poor people's law."

Further initiatives may come out of the work of the inchoate Minority Task Force, which plans to discuss the curriculum. Those discussions should help to identify relevant issues, but will not, the Curriculum Chair asserted, guarantee a systematic inclusion of minority issues in the curriculum.

B. Clinical Programs

Minority enrollment in clinics somewhat exceeds minority representation in the student body primarily due to the effort of all clinical instructors to accept all minority

applicants. The application procedures of each clinic vary (i.e., some instructors require an interview as well as a formal application) at the instructor's discretion. Several current programs assist predominantly minority clientele or have proven of special interest to minority students.

1. AIDS Clinic

The School offers legal assistance to persons suffering from AIDS (and related afflictions) in proceedings before either the New York City Human Rights Commission or the New York State Division of Human Rights relating to discrimination in employment, housing, education, and access to care. The AIDS clinic serves a predominantly minority clientele and some correlation was noted between ethnicity and the type of legal problems faced by particular clients. For example, the white clients are disproportionately represented in employment discrimination claims. Conversely, most disputes over access to medical care involve minorities. However, the instructor suggested that attendant circumstances can skew the ethnicity-legal issue correlation. For example, one access-to-care case involved an incarcerated male and, given the disproportionate population of Blacks in New York prisons, it is no surprise that this client is black.

At least one minority student representative objects to the School's overall approach to clinical education (at least as this student perceives it). Speaking specifically about plans to discontinue the AIDS clinic, this student criticized the School for emphasizing in-class theorizing and simulation above practical experience. The AIDS Instructor, who will offer the program once more in the fall of 1989, suggested that, rather than a deemphasis on practical application, most schools simply do not focus enough instruction on civil rights

issues.

2. Child Advocacy Clinic

Participants in the Child Advocacy Clinic represent children in foster care proceedings in Family Court. In a brief application form, the Child Advocacy Instructor looks for distinguishing factors, including why the applicant has an interest in the clinic, whether or not the Child Advocacy Clinic was the applicant's first preference for clinical participation, and whether the applicant speaks a foreign language. Fluency in a second language proves especially helpful for this clinic, as many clients speak only Spanish. The Child Advocacy Instructor expressed a preference for Spanish-speaking students. Given the sensitivity and complexity of clinical matters, the Child Advocacy Instructor also favors third-year students.

For this semester-long program, the Child Advocacy Instructor attempts to recruit a balance in both racial and gender diversity. Each class usually includes several Blacks and Hispanics; a recent class also enrolled at least one Asian-American student. Nevertheless, the clinic continues to enroll a majority of white students, and the group tends to be predominantly female (e.g., during the 1988-1989 academic year, 16 of 21 participants were female.)

Though the clinic serves a predominantly minority clientele, instruction focuses on sensitizing students to the difficulties faced by the child as a young, embattled person, apart from his/her ethnicity. To provide students with insight into the sociological aspects of child advocacy, the clinic employs a senior staff social worker, two graduate social work students, and a psychiatrist. Many students also bring with them prior experience in working with children.

3. Community Development Clinic

The Community Development Clinic brings students into contact, directly or indirectly, with a predominantly low-income, and largely minority, clientele. A specific goal of the clinic is to teach students to work with people of different ages, genders, races and economic status. These goals, along with the casework and ethical issues arising out of casework, are the subjects of weekly meetings between the students and the instructor.

Students represent nonprofit corporations, low-income tenant cooperatives, and low-income individuals in corporate, tax, and real estate matters. During their semester-long enrollment, eight students (the specified maximum enrollment) generally work on three matters while following a structured approach. Students first assist in the incorporation of a nonprofit organization. Recent clients included a coalition of synagogues developing a loan fund to assist the development of low-income housing, a Hispanic community group, and a program to foster employment opportunities for disadvantaged youth. The second assignment involves assisting an individual or low-income tenant corporation to purchase and rehabilitate a municipally owned building. Students choose their third projects based on their own interests. Several recent student-initiated projects focused on various aspects of developing programs for low-income housing.

4. Seminar In Education and Law

As a "partnership" with a nonprofit, legal-education foundation, student participants in this year-long program go into social studies classes at local junior high schools to teach about the application of law to social problems. In the first semester, participants are given detailed instruction on the relevant issues. Actual in-class instruction with the junior high

school students takes place during the second semester.

The host schools are set in a predominantly minority urban center. Thus, the "audience" is predominantly minority. The seminar has a maximum enrollment of 10 students; for the 1989-1990 offering, six students were chosen from an applicant pool of 23. The instructor did not know the racial/ethnic composition of the applicant pool, but of the current six participants, three (50%) are minorities (two black women and one Hispanic man). The instructor attributed the 60%-of-maximum enrollment primarily to the perception that the seminar demands a lot of work for relatively few credits. The instructor considered it somewhat ironic that students in the seminar are, in terms of "academic compensation," experiencing the typical lot of the public service practitioner--they are overworked and undercompensated. The administration has resisted efforts to award more credits for seminar participation.

5. Fair Housing Clinic

Beginning in the fall of 1989 the Clinical Director plans a Fair Housing Clinic. As with the Community Development Clinic, it is expected that this program will service a predominantly minority clientele. The Director also expects this program to elicit significant interest among minority students.

C. **Bar Review**

The School does not offer an in-house bar review course. Students, while somewhat critical of this fact, expressed greater concern over the general approach to the teaching of law. The BLSA President flatly stated that the faculty does not teach students how to practice law, leaving students the added burden of acquiring practical skills over and beyond

the substantial demands of the theoretical study of general principles.

D. Law Review

To qualify for Review membership students must produce a writing sample; no student simply "grades on" to the Review. First-year students may compete in an in-house, year-end writing competition. Alternatively, an applicant may, in the fall of the second academic year, submit a publishable note. The Review's editorial board selects members from among the best-written first-year submissions (10 spots) and from those who achieve high "indexes" combining writing quality and grade point average (25 spots). In calculating each participant's "index" the editorial board creates a 70/30 scale awarding 70 points for academic performance and 30 points for the quality of the writing sample.

Beginning with the 1989-1990 selection, the Review has instituted a "diversity" consideration. In a memo to the faculty, the Editor-in-Chief explains that

five additional spaces will be filled by considering writing, grades and a written personal statement. Each applicant will be given the option of submitting a statement, which may be no longer than two pages but which may be as short as a sentence or two, describing how [the applicant] can enhance the diversity of the Review's staff. . . . The statements of the 35 staff members selected on traditional criteria will be read to gauge initial diversity. Then 0 to 5 spots will be filled by people the editors on a selection committee feel (1) are capable of doing quality work, as evidenced by their writing and grades; and (2) will contribute a diverse social and intellectual environment, as evidenced by their personal statements. If fewer than five positions are filled, [the editors] will resort to writing and grades to fill the remaining positions.

No particular group or groups of persons will be given preference initially. This is not a quota system or set-aside. However, judging by the composition of past staffs, we believe the more diverse viewpoints are likely to come from those groups that have been historically disadvantaged or are currently unwelcome in mainstream American culture, i.e. racial and ethnic minorities, the socioeconomically disadvantaged, women, the handicapped, and gays and lesbians. . . . [N]one of these groups is guaranteed representation on [staff].

The diversity consideration is expected to engender an expansion of the Review's substantive content. A staff member who has, for example, overcome socioeconomic disadvantage may draft a note on a legal issue from that perspective, or a gay student may draft a piece on the legal difficulties inherent in the unavailability of marriage licenses for gay couples. Similarly, should the diversity consideration garner an increased minority presence--the staff currently includes five minorities among the third-year contingent of 40 members--one could expect an increase in minority-interest notes and/or articles.

This initiative has engendered some rather heated debate at the School and among alumni. Critics argue that the diversity consideration, by de-emphasizing academic achievement, will inevitably affect the quality of the Review. In light of those criticisms, it is significant to note that the minority student organizations have disassociated themselves from the Review initiative. A student member of the fledgling Minority Task Force explained that, prior to implementation of the Review's "diversity consideration," minority student groups expressed concern that, should the "diversity consideration" fail significantly to increase minority participation, future generations of minority students might consider this a failed initiative by past minority student groups. It is much more important, the interviewee asserted, that the "diversity consideration" initiative be recognized as an outreach rather than as an appeasement.

E. Moot Court

The Faculty Advisor to Moot Court Programs (Moot Court Advisor) described the School's program as "visual, complex, and well run." Minority students reportedly participate in proportion to their presence at the School. The Moot Court Advisor, while generally

taking something of a hands-off approach to his involvement, actively recruits judges from among the minority alumni, and he reported a more than positive response to these efforts thus far. That sort of outreach has, he suggested, the effect of strengthening alumni relations generally and encourages minority participation throughout the School community.

Other components of the moot court program rely on student initiative and responsiveness. Based upon performance in the compulsory, first-year writing course, the Moot Court Board selects 26 students to participate as student editors for the next year's program. This group currently includes minority representation, but the Moot Court Advisor could not recall whether there had been any conscious outreach to minority students. Selection to the third-year executive board is also a matter of student discretion; the current board selects its successors based on dedication to the program and willingness to take on administrative responsibility.

IV. MINORITY JOB PLACEMENT

A. Placement Office Services

The Placement Director attempts to instill in students a sense of self-confidence, stressing that students need not be apprehensive of their "marketability." The School has eliminated preinterview screening by refusing to send prospective employers preinterview information with which employers could prescreen applicants. An employer coming to the School consents to see all students who choose to meet with that employer's representative. Nearly all students participate in on-campus interviewing, 90% of which result in second interviews and subsequent offers.

The School's reputation relieves the Placement Office staff of the task of

implementing extensive outreach programs. The office serves instead as both a repository for information and a center for preparing students for interviews.

B. Obstacles to Minority Placement

Minority student representatives expressed little criticism of the Placement Office itself, but student leaders complained of improper responses by employers (or would-be employers) and competing psychological and societal pressures experienced by minority job candidates. The LALSA representative mentioned that interviewers make a visible effort to be on their best behavior when interviewing minorities, which, in itself, can make students uncomfortable. The BLSA President spoke more about the apprehension associated with trying to "break into" segments of the profession which currently lack a significant minority presence. Speaking of an all too "typical" experience, the BLSA President described the uneasiness a black student feels when interviewing at a firm where he/she would be the only minority legal professional. The LALSA President discussed a combination of factors tending to frustrate efforts by minorities to enter into the historically exclusive segments of the legal profession. On the one hand, this student suggests, firms are not receptive to minority applications. On the other hand, minority students and minority attorneys alike seem to see public service as an obligation for minorities, more so than for nonminorities. Some have even suggested to the LALSA President that minority students should be "ashamed" to apply to "megabuck firms." While acknowledging the general need for increased attention to public service needs, the LALSA President answered these arguments by asserting that minority attorneys will only be able to effect change within the legal profession from positions of power--i.e., from within the high-finance firms and corporations.

Obstacles such as those described and perceived by minority students are perpetuated primarily by the factor of low numerical representation (as opposed to proportional representation) in "exclusive" placements. For example, on average 55% of graduating minority students are placed in large firms, as compared with a 65% large-firm-placement-rate for white students. Translating these percentages into real numbers may contribute to a perception of disparity, i.e., on average, 31 minority graduates go to large firms while 166 Whites get similar placements.

C. Clerkships

Both the Placement Office and the Faculty Committee on Clerkships serve primarily as information sources. The Placement Office maintains files on judges and their hiring records, while members of the Committee advise applicants on matters ranging from interview hints to insights on atmosphere and judges' expectations. The two resources tend to counterbalance one another, as do the individuals involved. The Clerkship Committee Chair (Clerkship Chair) asserted that the Committee encourages application by any and all interested students. By contrast, the Placement Director espoused a more conservative opinion on the idea of "open" application. While the Placement Director does not screen applicants, he asserted that students bear the responsibility of bringing themselves--both personally and academically--up to the standards demanded by judges. The fact that the School does no screening does not change the fact that judges apply standards stricter than those of other employers. Judges have been--and continue to be--exclusively grade oriented, the Placement Director asserted. By contrast, the Director noted that firms consider other factors, in addition to grades, when evaluating job applicants. Moreover, the Placement

Director asserted. students are well aware of this "grades only" review, which awareness provides some measure of self-screening.

The Clerkship Chair and the Placement Director agreed that clerkships enhance future career opportunities. The character of a clerkship--especially a federal clerkship--as the starting point for a highly successful career has engendered some concerns regarding the recruitment practices of judges. Both interviewees discussed a recent New York Times article which described a trend by federal judges to recruit students ever earlier in their academic careers, before many students can develop substantial academic credentials.⁹ The Clerkship Chair agreed with the article and expressly criticized the early-recruitment trend ("No matter how early we start, Harvard has already placed its people."). The Placement Director, by contrast, characterized the article's assessment of clerkship recruitment as "a gross exaggeration." More recently, federal judges have reached something of a "gentlejudge's" agreement that "no job offers, tentative or final, shall be made to law clerk applicants before May 1st of the applicant's second year."¹⁰ Though there are reports of some "free enterprise judges" ignoring this resolution, the Placement Director reported that all local federal circuits are abiding by the agreement.

The ramifications--if any--of judges' recruitment practices on minority applicants is unclear. Minorities do not apply for clerkships in proportion to their presence in the student body. Nevertheless, the Clerkship Chair observed that minority applicants do as well as nonminorities in obtaining clerkships. As an informational resource, the Clerkship

⁹New York Times, "At the Bar," March 17, 1989, at B4, col. 1.

¹⁰National Law Journal, July 24, 1989, p. 4 at c. 1, quoting a memorandum of 20 June 1989 from the Chief Judge of the D.C. Circuit to all chief circuit judges.

Committee neither screens nor formally recruits applicants. Thus, the Committee does not currently undertake a formal, systematic outreach to minority students who have not contacted the Committee on their own initiative. However, the Clerkship Chair noted that such an outreach is possible and would probably prove quite helpful. He is giving the initiative serious consideration.

Faculty and student interviewees agreed that successful clerkship applications require strong faculty recommendations. Despite this recognized need, interviewees opined that most students do not enjoy the personal rapport with faculty which should underlie a strong recommendation. Individual interviewees disagree as to the source of this perceived faculty-student distance. Student leaders generally criticized the faculty for a lack of interest and initiative in addressing student concerns. The Clerkship Chair, suggesting a somewhat more innocent explanation, observed that in-class exposure cannot suffice to establish close faculty-student ties. Enrollment in dozens of classes, each taught by a different instructor, beside commitments to other activities, provide students neither the repeated exposure nor the proximity necessary to create a strong, individual relationship. In order to overcome this perceived faculty-student distancing, the Clerkship Chair encourages students to approach faculty members openly and socially (e.g., taking a favorite instructor out to lunch).

The minority student leaders had little criticism of either the Placement Office or the Clerkship Committee. Their comments were, however, directly critical of judges' overt displays of insensitivity. The AALSA representative related some experiences of fellow students. In one case a judge asked his Chinese clerk how one tells the difference between Indo-Chinese and other Chinese (they all looked the same to that judge). Another student

was "encouraged" to hear from an interviewer that other Asian-American clerks had established a good "track record" with the court.

V. FACULTY ISSUES

A. Faculty Hiring

According to the Chair of the Faculty Appointments Committee (Appointments Chair), the School looks for one overriding quality in potential faculty members--brilliance, particularly as demonstrated by the candidate's writing. The Appointments Chair stressed that the School affirmatively seeks scholars with the potential to influence future jurisprudence, and he asserted that written work both serves as an indicator of the applicant's current status and suggests whether or not a particular individual is the type of scholar who will "shape the law" in the years to come.

Neither teaching ability nor teaching experience play crucial roles in the recruitment process; the School has hired many faculty without any in-class experience. That choice reflects, in the Appointments Chair's estimation, the School's emphasis on research and scholarship.

During the 1988-1989 "recruitment season" the Committee had what the Chair called "unprecedented contact" with minority candidates. However, the Appointments Committee ultimately enlisted only one minority instructor (a visiting instructor) as a clinical instructor to begin in the fall of 1989. One minority candidate declined an offer ("New York City scared her."). One initially promising prospect (a third-year law student with a Ph.D. in economics) was withdrawn from consideration in accord with an informal faculty recommendation made after the candidate had visited the School for an on-campus presentation.

B. The Students' Perspective

Minority student leaders were fairly unanimous in their criticism of the general approach to faculty hiring. Sensing that the faculty and administration emphasize scholarship before--or without consideration of--teaching ability, students expressed dissatisfaction with the relative lack of minority representation on the faculty. One student conceded that the relatively small pool of potential minority faculty somewhat hampers recruitment efforts; however, this same student criticized the faculty hiring mechanism for imposing overly stringent prerequisites for consideration, such as law review affiliation. While the Faculty Appointments Committee looks for colleagues who will shape the law, students look for instructors who can explain and convey the current law and its practical application. One minority student leader summed up the student frustration by asking, "Why recruit scholars who cannot teach?"

The Dean of the School has expressed concern over the lack of minority representation on the faculty, and the Dean has suggested that students research various options toward submitting names of qualified candidates. The BLSA President has been contacted by minority faculty members, who have asked BLSA to address the matter. BLSA proposes the establishment of a BLSA Fellowship program to bring potential faculty candidates to the School. The BLSA President sees this proposal as a way to dispel the perception that "there are not enough qualified black instructors out there."

C. Tenure

The rank at which a new faculty member joins the faculty (as either Assistant or Associate Professor) is entirely at the Dean's discretion. The School has tended to

automatically promote faculty from Assistant to Associate; however, the Vice-Dean noted that "we are . . . moving toward a serious interim review of untenured faculty rather than 'automatic' promotion."

In accordance with American Association of University Professors guidelines, the School makes individual tenure decisions within seven years from the hiring date. According to a member of the School's Junior Faculty Committee, tenure decisions are made as early as five years after a tenure candidate joins the faculty. The Junior Faculty Committee serves not to screen but to nurture tenure candidates. The Committee assists nontenured faculty in developing a dossier which will win favorable consideration by the full faculty (which must approve all tenure applications). Toward this end, Committee members will, at a junior faculty member's initiative, review works in progress, facilitate mentor relationships, visit classes to evaluate teaching method and effectiveness, etc. The Committee does not strictly evaluate work. Rather, the Committee counsels and makes suggestions for improvement. No recommendation by the Committee in any way binds a junior faculty member, nor does failure to follow a Committee recommendation reflect negatively on the junior faculty member.

After an appropriate "tenure" on the faculty, a junior faculty member bears the initiative of bringing a dossier before the faculty for consideration. Most instructors approach the Junior Faculty Committee before approaching the full faculty, and, given the length of the nurturing process and each faculty member's familiarity with it, rarely does anyone put forth a tenure request without fair confidence in his/her chance for success. The faculty has rarely denied a tenure application in the last 30 years. One professor suggested

that faculty members who feel uncertain of chances for tenure may very well leave the School without making a tenure application, having judged it far more advantageous to proffer future employers the credential of some experience at the School free of the "mark" of an unsuccessful tenure application.

CASE STUDY J

I. MINORITY STUDENT RECRUITMENT AND ADMISSION

A. Admissions Staff

The Dean of Admissions and Academic Affairs, with the aid of three graduate assistants--a group which always includes at least one minority student--represent the School at numerous on-site recruitment events. The School does not employ a separate Coordinator or Director of Minority Recruitment. While the recruitment program does not include formal faculty participation, faculty alumni of target schools have proffered their assistance. However, the Dean of Admissions characterized actual faculty participation as "sparing." Alumni play little part in student recruitment.

B. Minority Applicant Recruitment Programs

School recruiters visit a number of historically black colleges throughout the South (e.g., Howard University and the University of Tennessee at Knoxville and Nashville) and also target New York and Northeast schools with high minority populations (e.g., John Jay College of Criminal Justice). The School hosts its own minority recruitment day in the fall, when representatives of the minority student organizations speak with prospective students. According to a member of the Black Law Students Association (BLSA), in recruiting a keynote speaker for this event, organizers seek someone who has overcome obstacles to achieve academic success and who, therefore, can inspire younger students. The Dean of Admissions noted that these intramural and off-campus contacts help recruiters to identify the issues of key concern to prospective minority applicants. In her experience, prospective minority applicants most often ask about costs, peer and academic support, and student

organizations.

Recruiters gather personal data (e.g., name, race, and career plans) on each contact for a database. Students conduct a January recruitment "phone-athon" to solicit applications, and the data gathered at campus visits allow callers to identify minority prospects. The Assistant Dean plans to extend the School's outreach,¹ beginning in the fall of 1989, with mailing lists from the Law School Data Assembly Service.

Minority student groups have made some efforts to expand the School's recruitment efforts. A representative of the Latino Law Student Association (LLSA) described an outreach program, conducted in the spring of 1988, which brought local students to the School for a tour, a keynote speech by a local Hispanic judge, a presentation by a student from a graduate bilingual education program, and a showing of the film Stand and Deliver. LLSA members exchanged numbers with the high school students to maintain contacts. Similarly, BLSA is developing a big brother/sister program to establish and maintain contact with local high school students.

C. Admissions Criteria

The School maintains separate admissions committees for minority and nonminority applicants. A Special Program Committee reviews applications of minorities and the educationally disadvantaged. Though this "special" applicant pool includes nonminorities, this case study refers to the Special Program Committee as the "Minority Admissions Committee"; the "regular" admissions committee is called the "Majority Admissions Committee."

¹In the class of 1991, 90.83% (239/262) are from New York State. The minority representation in the class of 1991 is 21.37% (56/262).

One student interviewee suggested that the distinction between "minority" and "educationally disadvantaged" often proves no distinction at all. The BLSA student opined that preenrollment educational disparities affect performance after enrollment. Blacks come from a "disadvantaged" background in that white students are usually better prepared for doing legal analysis, she suggested. This is not to say, she asserted, that Blacks are, because of educational deficiencies, unable to so analyze; rather, Blacks simply have less familiarity with the processes of legal analysis than do Whites.

While neither admissions committee uses fixed minimum Law School Admission Test (LSAT) scores or undergraduate grade point average (GPA) as rigid prerequisites for admissions, both committees have "working" parameters. The School participates in a service of the Law School Data Assembly Service (LSDAS) whereby each applicant is assigned an "index" based on undergraduate grades and LSAT performance.² For the 1988-89 recruiting season the Majority Admissions Committee "automatically" admitted applicants with LSDAS indexes above 83 and putatively rejected applicants scoring below 73. An index of 70 warranted "automatic" admission for minority applicants; 50 marked the working bottom line for the Minority Admissions Committee, which has a "working goal" of 20% minority representation for the student body.

The Dean of Admissions screens all putative rejections and returns for further

²LSDAS literature explains:

Many law schools use an admissions index formula (obtained statistically by using LSAT scores, UGPAs, and first year law school grade point averages of previously enrolled students) to combine applicants' LSAT and UGPA information in ways best suited to their particular admission procedures. If an index formula is provided to [the Law School Admission Council/Law School Admission Service], an index is calculated . . . and reported to the law schools . . .

consideration those applications which, while scoring below the putative rejection thresholds, indicate promise. After the Dean of Admissions returns a file, the committees reread and "regrade" applications. Wholly subjective factors determine whether a putative rejection warrants an offer of admission. The Dean of Admissions and both admissions committees look for factors which "prove that the [LSDAS] index is wrong." The Dean of Admissions pointed out, for example, that the GPA component of an LSDAS index reflects only the undergraduate record.³ Thus, postgraduate studies can "flag" a putative rejection for further consideration. Analogously, learning or health disability, economic disadvantage, or any other "unique" life experience "flag" an application otherwise "soft" on numbers alone. Because nonacademic experience enters into consideration of an application, the system favors older persons; the Majority Admissions Chair observed that the School "gets more than its share" of 26-30-year-old applicants. The Dean of Admissions said that she and the committees tend to be overinclusive in their deliberations, which has, on occasion, resulted in oversubscription.

The Minority Admissions Committee classifies prospective enrollees as either high or low attrition risks. Enrollees in the former group (typically 20-30 students) are recruited into a first-semester academic support program (described below).

Minority student representatives participate, at least nominally, in the review of applications. According to the BLSA representative, at least one BLSA member sat on the

³LSDAS calculates a GPA for each year and a cumulative GPA for all years in attendance at each college which issues a transcript for the applicant. Courses taken after the date the first undergraduate degree was received cannot be converted on LSDAS's uniform 4.0 scale. However, reports issued by LSDAS to law schools include all graduate level and professional school courses if they were taken before the first undergraduate degree was awarded. The work is summarized regardless of whether it contributed to the awarding of the undergraduate degree.

Minority Admissions Committee during the 1988-1989 academic year. An Hispanic student currently sits on the Minority Admissions Committee.

The LLSA student spoke of her perception that overly rigorous admissions standards have excluded a significant number of Hispanic applicants from admission to the School. This perception she attributes largely to information culled from conversations with the Hispanic student member of the Minority Admissions Committee. That third-year student has, the LLSA representative said, seen the committee reject Hispanic applicants with GPAs above 3.5. [N.B.: In relating the basis for this perception, no mention was made of the LSAT scores or other qualifications of these applicants.]

D. Minority Acceptee Recruitment Programs

The School does not conduct separate acceptee recruitment programs for minorities. Three open houses convene (two during March and one in April) to solicit enrollment of accepted, uncommitted applicants. These events include tours, question-and-answer sessions with faculty, and contact with student organizations.

E. Financial Assistance

In addition to state and federal loan programs⁴ the Law School's affiliate university offers graduate fellowships in law and other disciplines. These university-sponsored fellowships carry annual stipends from \$500 - \$10,000 and may include tuition scholarships.

⁴Federal programs include Stafford Loans, Perkins Loans (formerly the National Direct Student Loan Program), and Supplemental Loans for Students (SLS). Stafford Loans and Perkins Loans are available only to students who demonstrate actual need; SLSs are available to all students. Perkins Loans bear 5% interest; Stafford Loans charge between 7% and 10% depending on when the student assumes the debt; SLS charge variable rates, with a maximum set at 12%.

State funds are available through the Tuition Assistance Program (TAP). TAP grants range from \$100-\$1200 and are available only to students with annual incomes below \$20,000.

Since students in any graduate program may apply for these fellowships, applications usually outdistance available funding, the dearth of which particularly hampers minority applicants and current students alike. The School's affiliate undergraduate institution is also funding a new scholarship designed to help underrepresented minorities enter the licensed professions. Three members of the class of 1991 have received this scholarship. The Harris Fellowship and the Graduate and Professional Opportunities Program provide additional opportunity for financial assistance. While the latter is an "open" competition, eligibility for a Harris Fellowship requires nomination by an on-campus coordinator.

The Dean of Admissions identified the scarcity of financial aid (which she and the Majority Admissions Chair both labelled "grotesque") as the biggest obstacle to increasing minority enrollment. The administration currently looks to the faculty to help in "opening up" private sources of funding, she reported.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

The Minority Admissions Chair makes a special effort to track and assist "high-risk students," and he gives high priority to efforts to upgrade academic support. The School offers to "discretionary admission" enrollees (i.e., high-risk students) a Legal Methods program designed both to develop skills in legal reasoning, analysis, and writing and to provide general academic support. Enrollees hone their reasoning, analysis, and writing skills in the substantive context of Landlord-Tenant Law. Faculty and student Teaching Assistants (TAs) staff the program. TAs are also expected to assist enrollees with tutoring in other subjects as requested throughout the first year. In addition, enrollees have weekly

meetings during the first semester with the instructors of their other first-semester courses. The BLSA student spoke approvingly of the fact that a number of Legal Methods instructors also teach and tutor the required first-year courses. The program continues in the second semester. Though enrollment is voluntary, the Minority Admissions Chair gives "a very strong pitch, just short of requiring participation."

The Minority Admissions Chair noted that the Legal Methods course does not enjoy broad minority faculty support; none of the School's four minority instructors teaches any section of the special course, though one minority faculty member sits on the committee and will begin teaching in the program in fall of 1990. Moreover, some students have expressed resentment over being recruited into the special program ("I've made it this far; I'm tired of being singled out because I'm a minority!"). The Minority Admissions Chair meets this student resentment by stating that "high-risk students" owe their place at the School to the fact that the admissions committees apply different qualitative standards to applications from Whites and minorities. The Minority Admissions Chair further noted that no matter how much weight one gives to subjective, individual qualifications, one cannot wholly ignore either LSAT or the "impending obstacles" of course exams and the bar examination.

B. Law School Atmosphere

1. Responses to Racism

A recent issue of the School newspaper describes an on-going dispute over the legality of a faculty statement which condemns racist acts. Two students have filed suit against the School, calling for abrogation of the statement as a violation of constitutional protections on freedom of speech.

The polemic relates back to the 1986-1987 academic year when several students suffered anonymous harassment and racially derogatory graffiti appeared in classrooms and toilets. In response to those specific acts the faculty unanimously adopted, in the fall of 1987, a statement regarding intellectual freedom, tolerance and prohibited harassment. One controversial section asserts:

. . . it should be understood that remarks directed at another's race, sex, religion, national origin, age, or sexual preference will be ill-received, or that racist, sexist, homophobic and anti-lesbian, ageist and ethnically derogatory statements, as well as other remarks based on prejudice and group stereotype, will generate critical responses and swift, open condemnation by the faculty, wherever and however they occur.

A subsequent faculty resolution explains that these statements do not contemplate imposition of sanctions. Despite that resolution, students have filed suit against the School, alleging that the above-excerpted statements "constitute a prior restraint on legitimate and protected speech' causing a 'chilling effect' by coercing [the student plaintiffs] 'into withholding speech that conceivably moves in the direction of enumerated content prohibitions'"

The complainants apparently do not challenge a section which both addresses the freedom of speech issue and contains an explicit threat of postgraduate sanction. The statement provides:

We note with dismay recent acts of harassment, intimidation, and assault against persons of color and other groups which have taken place on campuses around the country, and which have often gone far beyond the bounds of constitutionally protected speech. Concern regarding such inappropriate and often outrageous behavior compels the faculty to add a clear and specific warning concerning any such acts that may occur in this school. It is the policy of this law school to take strong and immediate steps against any and all such behavior. The means of doing so will always be informed by the faculty's strong commitment to the requirements of due process but will not be limited solely to the use of ordinary university disciplinary procedures. Where such acts indicate that a student may lack

sufficient moral character to be admitted to the practice of law, the school can and will make appropriate communications to the character and fitness committees of any bar to which such a student applies, including, where appropriate, its conclusion that the student should not be admitted to practice law. In addition, in appropriate cases, the school will not hesitate to act upon its legal and ethical duty to notify state and federal law enforcement authorities of such acts, and to cooperate with those authorities in their investigation and prosecution. (Emphasis added.)

The Dean has gone on record to comment that it is "unmistakably clear that no one is threatened or will be subject to formal sanctions or punishment for pure speech." However, he asserted, the faculty has "an obligation to insure that students in the law school do not find themselves in a hostile environment."

BLSA has not formally responded to the filing of the litigation, nor has BLSA placed the issue on its immediate agenda. BLSA may wait for the litigation to conclude before making a formal response, a BLSA representative said.

Speaking personally, the BLSA student noted that she has not experienced any overt racism. Nevertheless, she has perceived a pervasive tendency towards segregation. Speaking in rather general terms, this student suggested that many Whites hold the opinion that "it's O.K. for you [Blacks] to live in the U.S., . . . just don't invade my space."

2. The Psychology of Insolvency

The Financial Aid Officer, himself a minority alumnus, spoke at length of the subjective difficulties attendant upon financial insecurity--a situation which he described as akin to advanced study while living in poverty. In his opinion, minority students often find themselves extended to their financial limits to finance a legal education. In all seriousness he suggested that many minority students cannot always afford weekly living expenses. He opined that minority students, in greater proportions than their white peers, hold jobs even

while enrolled in full-time programs. From the Officer's experience and observations, the burden of near insolvency, added to the "usual" pressures of law study, exact physical and psychological tolls which inevitably affect academic performance.

3. Minority Students and Minority Faculty

Minority student leaders expressed somewhat contrary opinions as to the sufficiency (or lack thereof) of the minority presence on the faculty and in the student body. The LLSA representative commented that the administration is especially lagging in any sincere effort to recruit Hispanic faculty, choosing instead to focus recruitment efforts towards groups already represented on the faculty. The LLSA student noted that, in addition to four tenure-track black instructors, a representation which she also feels to be too low, a black judge from a local court currently teaches a course on trial technique as an adjunct. As noted above, this student also feels that admissions policies preclude a significant increase in Hispanic student enrollment.

The BLSA representative painted a somewhat more encouraging picture of the law school atmosphere as experienced by black students. She characterized the administration as "highly supportive," recalling top-level intervention in recent events. For example, during what the BLSA student termed "an SBA crisis," a number of new student groups were looking for office space. BLSA, with 81 active members (nearly the entire black student population) faced a cut in its allocated space. The Dean intervened and retained someone to reorganize the space more efficiently.

The BLSA student attributed to black and white faculty alike a sensitivity to the concerns of "liberal Blacks." She praised the administration for what she perceives as an

effort to make the faculty and administration more reflective of the student population. The student specifically mentioned the appointment of a black woman to a key administrative post, an appointment in which, the BLSA student perceives, the BLSA organization played some part.

As to the black student population, the BLSA student acknowledged that enrollment figures for Blacks have increased in recent years. In speaking of minority student participation in policy matters at the School, the BLSA student noted that students sit on most School committees, and student representation usually includes minority students. A recent edition of the School's newspaper listed and described more than a dozen faculty/student committees covering matters from academic policy to commencement programs. Student representatives do not have voting power on every committee. BLSA members sit on an Anti-Discrimination Committee, the Academic Policy Committee, the Legal Methods Committee, and the SBA Executive Board. The BLSA President actively encourages members to seek membership on School committees.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

Interviewees generally held shared perceptions as to the amount of attention paid to minority issues within the curriculum. The Chair of the Curriculum Committee (Curriculum Chair) asserted that, though the curriculum has not undergone a systematic review, minority issues are covered within the core curriculum and in seminar classes. He cited Contracts and Property as two core courses wherein instructors discuss the development of the legal rights of minorities. The BLSA student recalled discussions of minority issues during

Constitutional Law classes, though she perceives that first-year courses generally do not address such issues; higher-level courses touch upon minority issues, she said. Upper-level classes of note include Master and Slave; Race, Racism and the Law; Title VII; Law and Social Class; Policy Issues and Women of Color; and Constitutional Law in the 19th Century. However, the BLSA student, who characterized her peers as "very conservative," wondered if such courses attract much interest from either the minority or white student body. One faculty member recommended adding civil rights law to the core curriculum.

The Instructor of Race, Racism and the Law spoke fondly of the overwhelmingly positive student response to the course. Its first offering (fall 1988) enrolled 19 students (10-11 Whites, 8-9 Blacks and Hispanics by the Instructor's recollection), and fall 1989 pre-enrollment numbered 35 (of which the Instructor expects between 21 to 24 to be white students). The Instructor attributed enrollment disparities between the two years to the unique situation attendant upon the first offering. As he had then only recently joined the faculty, students did not have the opportunity to enroll in his course before they had scheduled most of their fall 1988 classes. He was greatly encouraged that 19 students made the rescheduling effort to accommodate his class.

The Instructor recalled the class dynamics of the 1988 offering as open, lively, and honest. Though the class was about racial minorities, the Instructor noticed no overt embarrassment among minority students. Neither did he sense that white students reserved their comments or questions for fear of sounding insensitive or uninformed. Since the course was about race (rather than limiting its focus to the situation of a particular racial

group⁵) it allowed students of mixed heritage (e.g., black Hispanics) to speak about themselves without having to call themselves either Black or Hispanic.

B. Clinical Programs

1. Overview

The School conducted five clinics during the 1988-1989 academic year. Each of the clinics is designed to serve the local community. Thus, most of the School's clinical programs do not provide a setting wherein the issue of personal differences between lawyer and client arises. The Clinical Director mused that the perspectives of client and attorney always differ, regardless of race, economics, or age. The clinics focus instead on training students on issues regarding the professional's role and responsibility, on opportunities in public interest law and on related substantive issues. Faculty oversee both the field and in-class components of each clinic. The Clinical Director explained the emphasis on community development as a reflection of faculty interest and expertise.⁶

A Special Education Clinic and a program to assist the elderly require that students represent the rights and interests of individual clients. Students in the education clinic represent clients in disputes with the Commission of Education. Activities in the elderly assistance clinic center on insurance claims and health law issues.

Three clinical programs focus on different aspects of community development. A

⁵The fall 1988 syllabus included historical materials ranging from the European settlement of America to Irish/English relations to the American colonial period. U.S. Supreme Court decisions on school desegregation, affirmative action and reverse discrimination comprised a second component. Contemporary doctrinal and sociological materials included Bell's And We Are Not Saved and Wright's Black Robes, White Justice.

⁶Clinics offered in the past but not organized for the 1988-1989 year included a public law clinic and a program on prisoners' rights.

low-income housing clinic allows students to work with nonprofit organizations to establish housing for indigent and disabled persons. A community economic development program helps to develop small and nonprofit organizations. The third program provides counseling to small businesses. The emphasis of each of these programs, the Clinical Director explained, is development, not dispute. Therefore, for example, the housing clinic functions best if, by creating adequate housing in a situation equitable to both tenant and landlord, the basis for future landlord-tenant disputes is substantially avoided.

The Clinical Director perceives that minorities are somewhat overrepresented relative to their presence in the student body. He suggested that the clinics draw interest because students recognize the programs as excellent learning experiences. The Director also noted that clinical instructors make a conscious, though not systematic, effort to recruit minority participants.⁷ Minority recruitment is, the Director stated, a "recognized priority of the program."

2. Housing Development Clinic

Enrollment in the Low Income Housing Resource Development Clinic (Housing Development Clinic) ranges from six to ten students per semester, often including a disproportionately high minority enrollment (e.g., during the spring 1989 semester, the clinic's ten students included four minorities). Many factors combine to make this clinic particularly attractive to minority applicants. Some of these factors relate to the nature of the program; others stem from the efforts of the persons and groups involved.

⁷Instructors select students in various ways. Prospective clinical students must all complete a "preference sheet." Some instructors screen students on the basis of the ordering on that sheet. Some also require an interview before accepting a student into a clinic.

The Housing Development Instructor combines personal outreach with highly selective standards in his efforts to recruit a motivated, qualified, and integrated group. He begins recruiting prospective minority enrollees early in their law school careers by making a presentation before all Legal Methods classes. To narrow the pool of actual applicants--a group which always well exceeds openings--the Instructor contacts only those students who listed this clinic as their first choice, and he prefers third-year students. The Instructor looks for motivation and competency (as evidenced by a student's prior enrollment in real estate and/or property courses), along with a variety of skills "not necessarily developed at the law school," such as ability to speak before groups or prior experience with housing development projects.

The Instructor attributes the program's popularity to a number of considerations, not the least of which is the opportunity to apply legal theory to practical situations. He recalled one applicant's plea for a chance to "make sense out of all this." The Instructor suggested that minority students strongly identify with the need for quality housing. That identification makes the clinic's practical aspects a key attraction for minority students, he opined.

The group dynamic may also attract minority students. The clinic serves, not individual clients, but groups (i.e., corporations or embryonic corporations seeking to establish low-income housing projects). Students regularly make presentations before audiences (often predominantly minority gatherings) which tend to treat the speaker with deference and respect. Moreover, in working with, and for, the corporation, the minority students perceive that they can directly assist the local minority community rather than just helping individuals. The Instructor also noted that clinic participation can facilitate later

professional placement. Other groups have affirmatively sought out clinic "graduates" for their experience, he reported.

The clinic also offers visible results not attainable in other settings, where, for example, one works only to establish a legal principle. The facilities built with the clinic's assistance are visible monuments to students' efforts: a Housing Development Clinic "graduate" can say: "See that building there? I helped make it possible."

C. Student Clerkships

The Director of Clinical Programs supervises a student clerkship placement program. Six students work one full work day per week in the chambers of three local federal district court judges and a U.S. magistrate. Students draft bench memoranda and opinions under the direct supervision of the Director. Enrollment requires the permission of the Director, who reviews transcripts and writing samples towards selecting the most qualified and "serious" students; the Clinical Director explained that the most "serious" students are not necessarily those with the highest grades. He looks for motivation and significant experience; thus he tends to favor third-year students. Nevertheless, from a typical applicant pool of 20-30 students per semester, the Director chooses both second- and third-year students. (Enrollment in the fall 1989 semester consisted of four third-year and two second-year students.)

The fall 1989 class included one minority student, which the Director characterized as "typical" minority participation. The Director said that he makes a concerted effort to enroll those minority students who have applied for clerkships. Any effort to increase minority student participation must begin with student initiative, however, as the Director

neither meets with minority student organizations nor contacts individual students to promote increased minority student applications.

Any efforts to expand student clerkship opportunities (e.g., by creating a state clerkship equivalent) are hampered by administrative concerns. The current program enlists six students because that number reaches the limit of the Director's ability to supervise program enrollees. A program requiring less faculty supervision is not seen as a viable addition. There is a strong policy at the School against unsupervised externships.

D. Bar Review

During the 1989-1990 academic year, the School initiated a pregraduation, preparatory course for the bar examination; the program is designed to help students who participate on a voluntary basis without academic credit. The Minority Admissions Chair noted that providing students with sufficient preparation in the doctrinal component of the examination should present little difficulty, but the faculty is split, he said, in its opinion of how much "bar-specific" training the faculty should provide. In addition to a preparatory course, the Minority Admissions Chair would also like to see some effort at targeting upperclass students at risk of failing the examination. He noted that the School does not currently employ anyone as a Director of Academic Support and Retention (or in a similar capacity) though he supports the creation of such a position.

The School has undertaken an in-house study of minority student pass rates on the bar examination. As of this writing that study is still in its developmental stages; the faculty coordinator has yet to develop a working methodology for the study.

The Financial Aid Officer opined that the financial and personal difficulties

encountered during the minority law student's "undergraduate" program recur in preparation for the bar examination. He noted that enrollment in a substantive review course requires that many minority students continue to work, at least part-time, while many nonminority students can afford to prepare for the examination without substantial, finance-related distractions.

E. Law Review⁸

The Editor-in-Chief of the Law Review commented that Review membership is not a "hot" issue with minority students; in his experience integration of minority students on to the journal's staff and editorial board has not posed a problem in recent years. Indeed, the Editor-in-Chief for 1989-1990 is a black student. All competitors for Review membership must submit a writing sample (an eight-page "casenote"); grades alone do not qualify anyone for membership. Either on the basis of the quality of the writing sample alone, or on a combination of grades and quality of writing, the Review's executive board extends invitations of membership. Additionally, students may supplement their applications with a personal statement highlighting minority status, disability, or economic disadvantage as additional factors for consideration. The Review has included these "diversity

⁸Associate members of the Review are selected in one of three ways:

1. Students may be selected based on an equal weighting of first-year grades and Casenote scores (most associates are selected in this way).
2. Students may be selected solely on the basis of their Casenote scores (grades do not count in this "write-on" competition).
3. All students have the option of writing a personal statement which, if submitted, will be considered in conjunction with first-year grades and Casenote scores.

All competitors are considered under both methods (1) and (2) above. After these initial selection decisions are made, all students who submitted personal statements are considered. The number of offers made by virtue of the personal statement will reflect the distribution of disadvantaged students in the first year class. All membership offers are extended at the same time, and associates will not be informed as to which method was used in their selection.

considerations" in its membership deliberations for at least four years, the Editor asserted.

Promotion within the ranks of the Review depends first on work product. A second-year staff member (an Associate) achieves Member status upon completing a piece of publishable quality. The senior board elects its successors from among the Members. The current 40-member staff includes four or five minority students (10%-12.5% representation); two hold editorial positions.

No specific effort is made to include articles on race-specific issues. Of nearly 1000 professional pieces submitted each year, the Review publishes only from nine to 12. Students formulate their own topics. A recent student-written piece examined the history of the doctrine of Native American sovereignty.

F. Moot Court Programs

The student-run Moot Court Board coordinates an intramural program which serves as the main recruitment competition for new Board members. The Board generally selects the participants for interscholastic moot court competitions from among its own ranks⁹. The fall intramural competition is open to upperclass students. Eligible students¹⁰ receive a descriptive flier, and the Board holds a general information meeting in September. The Board has not made a separate effort to contact minority student groups. The Board Director and other interviewees expressed differing opinions and perceptions as to the needs and/or merits of additional outreach to a specifically minority audience.

⁹Unaffiliated students may field teams to moot court events in which the Moot Court Board does not compete.

Students who compete in the intramural programs in both their second and third years are deemed honorary Board members regardless of how they fare in the actual competition.

¹⁰Current Moot Court Board members may not compete.

The Faculty Advisor to Moot Court Programs (Advisor) called the intramural competition "popular" (he estimated that it typically draws more than 100 participants). In his experience a substantial number of minority students have participated. The Advisor reported that moot court activities carry high social status within the School. (Moot court activities do not carry academic credit. The Advisor asserted that offering academic credit would diminish, rather than increase, student participation because programs for credit warrant close faculty supervision, which, in turn, might hamper student initiative). However, students also perceive, the Advisor suggested, that prospective employers, anxious to recruit students with extracurricular experience, look at moot court participation favorably. The Advisor observed that the School's unique grading system¹¹ precludes employers from making a strong assessment on grades alone; therefore, resumé's which report extracurricular activities stand out.

One student interviewee, though agreeing with the Advisor's observations as to the importance of cocurricular activities as factors in future employment, reported that very few minorities participated in moot court programs during the 1988-1989 academic year. Nonetheless, a student team of two minority participants won first place in the fall 1989 competition. This student suggested several reasons why minority students may tend to underparticipate in moot court programs. Perhaps minority students are not generally aware of the long-term benefits that go with moot court competition. Or perhaps the amount of work and the cost involved intimidate many students so that they decide not to compete

¹¹The School uses a four-tiered qualitative scale: Honors (H), Qualified (Q) or Unqualified (D), and Failure (F).

(cost is an issue because the Moot Court Board sells the materials packet to prospective competitors).

The Moot Court Board has perceived, and discussed, a disproportionately low minority participation in the intramural program, but the Board's efforts to identify a cause have, thus far, been unsuccessful. The Board tends, the Board Director noted, initially to look at minority enrollment at the School as an indicator of prospective moot court participation, on the assumption that moot court participation by minorities should likewise increase as their presence in the student body increases. However, despite those assumptions, the Board is, the Director continued, very concerned about any aspect of the program which in its implementation has the effect of discouraging minority participation.¹² The Board has not received any complaints about the program from minority students; however, there may be some unexpressed criticisms, the Board Director admitted, since the Board has not gone to the minority student organizations to solicit their comments. On its own initiative the Board has begun several efforts which the Board Director characterized as "attempts to make the program 'feel' more receptive to all students." One initiative involves recruiting competition judges from among local minority attorneys. This outreach will begin with School alumni, but it is expected to expand beyond that pool (the Board

¹²The Moot Court Board administers all aspects of the intramural program. A five-member Problems Committee, comprised only of Board members, develops the competition topic during the summer. Neither BLSA nor LLSA has input on the choice of topic. As to this "exclusion" the Board Director noted that more goes into the topic development than coming up with a theme. Board members also bring to the task their familiarity with the workings of the competition. Participants choose their own partners and also choose which side of the case on which to submit a brief. The Board uses "blind grading" and credits both team members with the brief grade. However, on oral argument, each student, arguing both on- and off-brief, is rated individually. Each participant then receives a score combining the individual oral grade with the writing credit. The Board generally offers membership to those who score in the top one-third of the competition.

already recruits from a local county bar association). Another proposal involves enlisting an outside minority group to offer assistance to minority students who have entered the fall intramural competition. Finally, in an effort to more widely disseminate information on the program, and to make the competition appear more open to minority students, the Board has published a brochure which includes an antidiscrimination policy statement.

IV. MINORITY JOB PLACEMENT

A. On-campus Interviews

The Career Development Office is receptive to all prospective employers. However, permission to use campus facilities and services is contingent upon adherence to the School's antidiscrimination policy. Recently, there has been some dispute over the breadth of the Law School's antidiscrimination policy, enumerates more "protected classes" than the policy disseminated by the School's affiliate university. The Law School faculty has amended its policy several times, always to expand the "protected classes." A 1988 amendment condemning discrimination based on sexual orientation prompted the President of the university to suspend the Law School's policy as amended. That action has not left the Law School without an antidiscrimination policy. Rather, the Law School currently disseminates the policy as it read before 1988.

Beyond enforcement of the antidiscrimination policy, the Career Development Office allows prospective employers to "set the rules," both as to what information they will review and as to which students they will interview. Most employers request resumés, some also request transcripts. Students rarely need to submit either a writing sample or a cover letter. The Office does not compile a resumé book and the Director doubts that such books help

minority applicants. Describing the School as a "second-tier" institution ("We're not Harvard."), the Director explained that the School does not have the standing to prohibit or discourage prescreening.

The School participates in a number of off-campus recruiting events, where screening policies differ. The School runs a New York City recruitment fair for its own students. A second program, run jointly with another New York State school, convenes in Washington, D.C. Neither program is "minority-only" and employers can screen applicants. Regional recruitment events run by the National BLSA organization allow no prescreening, and those events elicit high levels of participation from the School's minority students. The School also participates in an annual public interest/public service fair which attracts mostly New-York-City-based employers, who do screen applicants.

While School-coordinated interview programs have increased the number of student interviews, the Director reports that off-campus, student-initiated contacts (via notices posted on a "job board" or other sources) lead to more placements than do the on-campus contacts. Thus, in practice, most students must look beyond the on-campus programs for a successful job search.

B. Additional Placement Office Services

1. Programs

The Career Development Office coordinates resumé and interview workshops and maintains a library of employer information. To offer further "insight into the real world of law practice" a special program lets students observe a practicing attorney for one half-day. Students bear the responsibility for making use of the Office's facilities and programs.

2. Personal Counseling

The Director emphasized the Career Development Office's role as an educational unit rather than as a mere referral service. The Director looks towards educating students as to the "realities, i.e., what's out there" while encouraging students "to do what they want to do." She noted that students from the top 10% of a class often receive their first-choice positions, which creates a mistaken perception that the Career Development Office serves only those top students. A major part of the placement process involves helping "subelite" students to work "within the system." For example, the Director reminds unsuccessful fall job-seekers that, with an additional semester's courses on their resumés, they will present a markedly different, more marketable profile in the spring. Other efforts include moving students laterally from a first position into a second post closer to the applicants' desired career path.

In comparing public and private sector employers the Director noted that public practice employers affirmatively recruit minority applicants more aggressively than do private sector employers; however, recent "generations" of minority job-seekers increasingly eschew public sector work. Students generally perceive government service as "second-class" work, a perception which the Director takes pains to dispel. In support of public sector employment the Director enumerated perquisites including quick professional growth, challenge, responsibility, litigation experience, comparatively fewer hours, and attractive salaries.

The School further encourages public sector career paths by offering financial assistance to graduates who enter and remain in the public sector. In addition, a Public

Service Fellows Program, an undergraduate analogue of the postgraduate assistance program, provides funding for summer placement in public service organizations across the country. Six such fellowships were granted for the summer of 1988. A third program, jointly funded by the School and a local legal services organization, allowed four students to work at the local organization.

Placement statistics indicate that the Director's efforts have borne some fruit. Ten percent of the class of 1987 entered public service, while the national average (as reported by the National Association for Law Placement) was only 3%. Similarly, placement of the School's class of 1987 in the private sector (60%) falls somewhat below the national average (64%) for that year. There is also some expectation among the administration that placement of School graduates within the public sector will continue at a high level. The Dean of Admissions has said that applicants to the class of 1991 expressed "a steadily increasing interest in public interest law."

C. Clerkships

The BLSA representative said that "clerkships, across the board, provide a problem" for minority students, though she was not sure as to the source of the problem. On the one hand, the BLSA student mused, application deadlines and other relevant information do not seem to come to students' attention in a timely fashion. On the other hand, students may simply forget relevant deadlines. Current minority underrepresentation in clerkship positions may relate more to student apathy, the BLSA student suggested, than to an administrative problem.

D. Minority-Specific Placement Efforts

The Career Development Office has experienced very mixed results in its efforts to assist employers' affirmative action programs. The Office once did a mailing to various government agencies, volunteering to assist the agencies in their outreach efforts. Few agencies responded, and one that did [the National Labor Relations Board (NLRB)] heard from none of the School's minority students. NLRB representatives expressed disappointment at this apparent lack of interest, which inspired the Director to canvass the minority alumni for candidates. With this audience, too, she had no success. The minority alumni pool, exceedingly small in itself, and further diminished by the high percentage of minority graduates who had either failed or not taken the bar examination, offered no takers. Moreover, no other government agency has followed the NLRB's example.

The BLSA student called the Career Development Office staff very helpful, crediting the Office with a concerted effort to make the Office "open" to BLSA members. Office staff recently collected, reproduced, and distributed approximately 300 brochures of prospective employers for a regional minority job fair. The Director also encourages on-campus recruiters to speak with the BLSA chapter. Such meetings would, the BLSA representative suggested, give students the opportunity to ask employers focussed questions on what an employer looks for in a candidate and on what more BLSA students could do to best present their qualifications.

The BLSA representative spoke encouragingly of an on-going initiative by the local legal community. A number of large local firms have established a committee charged with increasing efforts to recruit more minorities into their ranks.

V. FACULTY ISSUES

A. Minority Faculty Recruitment Policies and Efforts

The School has made recruitment of minority faculty a high priority, with varying degrees of success in recent years. The Chair of the Appointments Committee reported that "traditional" recruitment methods, such as contacts through the Association of American Law Schools (AALS) Directory of Law Teachers and participation at the AALS recruitment convention,¹³ have proven wholly unsuccessful of late. Outreach to public interest groups and bar associations have garnered some promising, but eventually unsuccessful, leads. The most informal efforts have, ironically, proven the most successful. "Networking" and "word of mouth" have brought several highly qualified minority prospects to the attention of the Appointments Committee. Three minority prospects so contacted received offers in the last year, two of whom accepted positions on the faculty.

The Appointments Committee has sought out minority faculty prospects from among the ranks of practicing attorneys, predominantly from public interest/public service organizations. This choice of pool reflects the School's general emphasis on public service careers, yet despite this matching of pool to curricular emphasis, the Appointments Committee Chair observed that School atmosphere, which he characterizes as "untraditional," may not attract minority attorneys who envision themselves as academics. He suggested that minority prospects, though sought for the diversity they bring to historically nonminority faculties, aspire to assimilating themselves to "traditional" legal academia. The Appointments Chair also mused that the School has neither the resources

¹³An annual hiring convention which convenes in Chicago in December.

nor the prestige to compete effectively with nationally elite schools--schools which, moreover, offer the more traditional atmosphere sought by a candidate.

School literature says that the Appointments Committee tends to "look behind the formal credentials for indicators of ability and accomplishment." The Appointments Chair acknowledges this combined emphasis. As at almost any other law school, the Appointments Committee looks for superior academic achievement but "not necessarily law review membership." Among those prospects with teaching experience the Committee probes the applicant's relish for teaching; in interviewing an applicant without classroom experience the Committee looks into the interviewee's zeal and goals for teaching. Nevertheless, in keeping with the ideal of graduate education as a scholarly pursuit, the Appointments Chair admitted that the most important factor when considering any applicant is the applicant's ideas on writing. The Appointments Chair stressed, however, that the School promotes scholarship across a broad spectrum. He asserted further that the School seeks to increase faculty diversity in terms of both personal outlook and professional expertise.

Several considerations underlie this desire for faculty diversity. Minority faculty can provide role models for students, but more than that, the Faculty Appointments Committee is, the Chair noted, recruiting future professional colleagues. Returning again to the primacy of scholarship as a criterion for faculty retention, the Appointments Chair mused that some promising candidates (experienced instructors or full-time practitioners alike) have not honed their professional writings skills and are, therefore, probably not ready for a long-term commitment to the demands of professional scholarship.

While considerations of professional scholarship weigh heavily into the faculty hiring process, students are not without their voice in these matters. Two students sit on the Appointments Committee. They are expected to contribute to the process of screening resumés, to organize meetings at which candidates can visit with a diverse group of students, and to report to the Committee student reactions to visiting candidates. The Committee then makes recommendations to the faculty. Only the positive Committee recommendations are reported publicly.

B. Tenure

The tenure "tracking" process begins upon hiring. Tenure-track instructors are constantly evaluated from a number of perspectives. A three-member "visiting committee," consisting of tenured faculty members, is appointed soon after a new faculty member arrives at the School. Its role is to advise the faculty member on his or her progress toward tenure. Students may submit semester-end course evaluations of each instructor. These forms are kept ("religiously," said the Appointments Chair) for consideration upon an application for tenure. Throughout an instructor's "pretenure years," writing is evaluated "in-house" for informal feedback. When a candidate is considered for tenure, the instructor's writing is submitted to two evaluations, one "in-house" and one "external." The amassed student evaluations are scrutinized and the faculty also solicit letters of comment directly from the student body. The Appointments Chair noted that this protracted yet detailed process does not afford minority faculty any sort of "special" consideration.

CASE STUDY K

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

The School does not employ a minority recruitment coordinator (or analogous position). The Director of Admissions, Admissions Office staff, and the Black and Latino Law Student Association (BALLSA), which the Admissions Director called "very active," cooperate to recruit minority students. The participation of faculty and alumni is described, as relevant, in subsequent sections.

B. Minority Applicant Recruitment Programs

1. CRS Mailing

The School annually requests from the Candidate Referral Service (CRS) a mailing list of persons who scored 25 and above on recent LSATs and with GPAs over 2.5. The School limits its request geographically to 13 northeast states. Each person on the CRS lists is sent a letter from the Dean, a letter from a member of the School's minority student organization, and a brochure describing the School.

2. Campus Visits

School representatives occasionally visit historically black colleges; the Admissions Director specifically mentioned School participation at a Grambling recruitment fair, which was sponsored in conjunction with Tulane. To broaden and diversify recruitment contacts, the list of schools targeted for campus visits changes often. The Admissions Director also sends BALLSA members to an annual event sponsored by the Puerto Rican Legal Defense and Education Fund.

3. In-house Minority Recruitment Events

The School hosts an annual reception for both admitted and prospective minority students in conjunction with a reunion of minority alumni. This late-winter/early spring event includes career panel discussion (e.g., alumni working as public defenders talk with interested students or corporate lawyers talk about their experiences).

The School also conducts a general spring "phone-athon." Minority students participate to contact both admitted and prospective minority students.

4. What More Needs to be Done

The Admissions Director shared her perceptions and recommendations as to what more could be done to attract minorities to study the law. She opined that more, and earlier, outreach should prove helpful, musing that recruitment of future lawyers should, perhaps, begin in high schools. The high schools seem a logical recruitment group, the Admissions Director noted, because such efforts would address the difficult task of encouraging minority students to continue their studies. However, the Admissions Director would not de-emphasize recruitment efforts to college students because it has been her experience that many minority college graduates go immediately to work rather than pursuing graduate degrees. The Admissions Director has observed this choice especially among first-generation college graduates, many of whom, she suggested, work to assist younger siblings and/or other family members.

C. Admissions Criteria

The Admissions Director, who reads every application, has the discretion to admit or deny applicants without reference to the three-member Faculty Committee on Admissions.

While not exacting rigid "bottom line" criteria for any applicant, the Admissions Director characterized as "suspect" any application reporting a Law School Admission Test score (LSAT) below 22. (The class entering in September of 1989 had a median LSAT of 39.) The Dean expressed concern over the best use of the LSAT. He wondered if that test serves primarily as an indicator of first-year success or as an indicator of future bar passage rates.

When considering a minority application with less than adequate LSATs, the Admissions Director places less emphasis on the LSAT score in favor of subjective evidence of academic promise as demonstrated by the applicant's prior academic record, the strength of letters of recommendation, and any relevant work experience. However, even under this flexible scrutiny, LSAT remains at least a minimal consideration, and the Admissions Director could not remember having admitted any applicant with an LSAT below 22.

Applications which are neither strong enough to merit automatic acceptance nor weak enough to warrant summary rejection go to the faculty-staffed Admissions Committee for review and recommendation. Scrutiny of application forms, while providing a fairly detailed profile of a candidate on paper, cannot, in the Admission Director's experience, replace personal interviews as a means to "round out" the profile of a marginal application. Though some students take the initiative to arrange an interview, most appointments require the Director's initiative, usually responding to the strong recommendation of an undergraduate advisor. The Director explained that "networking" with counselors and advisors at undergraduate institutions ultimately assists many otherwise marginal applications; as the Director may come to know and respect individual advisors, she may take pains to follow

up on their recommendations.

D. Minority Acceptee Recruitment Programs

The spring minority alumni reception and the spring recruitment "phone-athon" (described above) attract uncommitted acceptees as well as new prospects. The School's BALLSA group also corresponds with prospective students.

E. Financial Assistance

The School participates in "standard" federal and state financial assistance programs.¹ In addition, the School has its own assistance programs for which minorities are eligible. In-house financial assistance includes loans ranging from \$1,000 - \$4,000. Under a special student loan program, if a recipient demonstrates acute financial need the "loan" is treated as a scholarship. The \$4,000 maximum (up from \$3,000 two years ago) covers just over one third of all tuition and fees for the academic year. Additional sources of assistance available to minorities include scholarships from the Puerto Rican Legal Defense and Education Fund (\$500 - \$1,500) and the Mexican American Legal Defense and Education Fund. Any number of private sector foundations sponsor assistance programs, on which the Financial Aid Office maintains files (or posts as new information comes in). The Admissions Director makes it a point to contact the BALLSA chapter with information on certain loan and/or scholarship programs so that this information can go directly to the BALLSA membership. For out-of-house programs the Financial Aid Office serves as an information center,

¹A variety of state and federal programs provide potential sources of financial assistance regardless of which law school one attends. These include Stafford Loans, Perkins Loans, Supplemental Loans for Students, TAP, and Law Access. (A separate memo on file with the Commission summarizes these programs.)

The School makes institutional loans only to those students who avail themselves of the Stafford Loan Program. The School lends on the basis of financial need, academic standing, and availability of funds.

apprising students of programs or directing them to other information sources.

The Financial Aid Director opined that, given the relative dearth of private sector funding, the financial demands of law school deter some qualified minority candidates. The Director of Admissions expressed related sentiments in observing that the cost of a legal education might appear as an unrealistic additional burden to a minority student who, perhaps the first in his or her family to attend college, feels compelled to find employment immediately upon graduation.

The School's alumni association has made efforts to increase donations for minority financial assistance. Other ongoing efforts include the creation of a public service loan forgiveness program (not yet available) for students, minority or otherwise, who enter the public sector.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

The School operates a mandatory program for third-semester students experiencing academic difficulties. The program began as a faculty/student initiative to assist only minority students, though it is now open to all students. Based upon academic performance during the first two semesters, those students identified as needing formalized support must enroll in the third-semester program. Substantive courses are "fixed" rather than elective, the credit load is lightened somewhat, and one course is designed exclusively as a tutorial with a faculty member. Faculty work with students in groups of five to six.

The BALLSA student criticized this program precisely because it assists students only after they have already had significant academic problems. BALLSA has undertaken to

develop a voluntary tutorial program. This planned voluntary tutorial follows discussions with the administration during which participants discussed options for on-going, first-year academic support. The BALLSA students reported that administrators and faculty advocated a mandatory program for minority students; however, students considered that option as ill-conceived and potentially insulting. The feeling among students was that a student who does not have actual academic problems should not be required to take a class for no other reason than that the student happens to be a minority. A student-organized, voluntary enrollment course was envisioned as an acceptable mechanism because such a program could answer the need for academic support while putting the ultimate responsibility on the students' own initiative.

B. Professional Mentors: PALS

Practicing Attorneys for Law Students (PALS)² conducts legal education and career guidance for law students. PALS recently added this school to its "mentor matching" program; still, the BALLSA representative has declared his intention to push for more significant assistance to the School's minority students. The student called PALS a "grand idea" which, in its implementation, has not had its best possible effect. Peers have complained to the BALLSA representative that they would like to see a more personal, intimate, ongoing rapport between themselves and the volunteer attorneys in PALS. The BALLSA student said that he intends to put the participating attorneys "to the test" by requesting that they make a more substantial commitment to the School. While recognizing

²Detailed information on PALS is on file with the Commission. For a general description of the program see CASE STUDY G, Section II (C).

that the attorneys are, in general, very busy, this student foresees asking some of those who cannot make the time commitment to resign from the program.

C. Law School Atmosphere

1. Minority Student Organization

Currently, one organization represents the interests of all minority students. Unusually low Hispanic enrollment dissuades efforts to form an autonomous Hispanic student group. Nevertheless, interviewees observed that Hispanics and Blacks work effectively in concert. The Associate Dean for Student Life has noticed that an Hispanic member of BALLSA often assumes a "quasi-leadership role" as a liaison between BALLSA and nonmember Hispanic students or with outside Hispanic law students' groups. This is always done, the Associate Dean observed, without conflict with the elected BALLSA leadership. The Associate Dean, the Student Bar Association and BALLSA recently worked together to formulate an agenda of problems in need of specific attention (e.g., ways to "streamline" course registration procedures). She observed no friction among the white and minority participants.

The School's latest catalogue makes no mention of the BALLSA group; the literature states that "[t]he Student Bar Association is the sole representative organization of the student body."

2. Minority Student Rapport With Faculty and Peers

The Associate Dean for Student Life characterized the School as very personal and personable, with a sincere "open door" policy. There is among the faculty, the Associate Dean said, some worry that minority students especially feel a sense of isolation (which leads

to extreme reservation on their part) due to their very small numbers in the student body. Thus, School administrators and faculty always try to reach out to minority students, the Associate Dean said.

A BALLSA representative called the administration highly supportive of minority students, but he qualified that praise, observing that the supportive attitude is not carried through as much as it could be, due to a general unfamiliarity in dealing with significant numbers of minority students. Minority issues are brought up all the time, the student said, but he perceives the lack of a minority perspective in those discussions.

A lack of minority faculty members has given current minority students cause for concern over how the School will receive future generations of minority students. The BALLSA student said that his group currently enjoys an "OK" relationship with the current Faculty Advisor, who is white, but the student queried how future prospective enrollees might perceive the fact that BALLSA does not have a black advisor. However, the student said that an even more urgent concern for current students is a seeming inability to retain popular professors. The student reported that the School has recently lost two very popular professors over salary disputes. This student was unaware of any student input in faculty hiring or retention decisions.

As to the presence of sufficient numbers of minority students and how that affects students' educational experience, the BALLSA student said that the situation at the School "has been getting better." He estimated that the black student population has grown significantly in the last two years (though he was unsure as to the cause for the increase), and he sees this increased presence as a factor for the future in terms of how faculty and

administration will begin to deal with the minority students as a group rather than on a one-to-one basis.

3. First-generation Law Students

The BALLSA representative spoke at some length of the unique problems encountered by first-generation law students, and he called for the School to undertake programmatic counselling for these students. He cited the psychological "impact" of a minority student hearing a classmate say, "Wow, my dad argued this case." While not wishing to minimize the emotional support of family and friends who offer praises such as "Wow, you're a genius! Isn't it wonderful that we'll have a lawyer in the family!" such heartfelt support does not equate with the advantage of familiarity with the law as both a profession and an academic pursuit. The typical minority, first-generation preprofessional student experiences an unusual psychological shock. Here are students confident in their abilities and prior achievements. They then see many students who, though seemingly less dedicated, appear to have an easy time of it in law school. In this interviewee's experience, those students are the ones who have "grown up with the law." He summed up the different experiences this way: "White students expect, or are expected, to become lawyers; black students dream about becoming lawyers."

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Issues

The faculty has not systematically reviewed the curriculum³ towards increasing coverage of minority issues. Though current elective offerings include, inter alia, "Employment Discrimination" and "Women and the Law," the faculty has not addressed the inclusion (or exclusion) of minority issues in "core" courses (e.g., Contracts, Torts, or Criminal Law). Rather, the Dean reported, the curriculum has been reworked in the last four to five years in an effort to "diversify" it, and to increase the application of the abstract to the practical. The Dean observed that "content-specific" initiative would depend on faculty and classroom initiative.⁴

No "special" curricular interests of minority students have been identified. The faculty has not developed courses specifically targeted to minority students, nor to any other specific audience, the Dean noted. He observed that population affects both the community's initiative and receptivity on this issue. Recalling his affiliation with another institution, where the minority student population reached (in his recollection) 30%, the Dean mused that questions of minority student curricular interest "resonated differently [at that institution]."

The BALLSA representative stressed a distinction between discussion of minority issues and examination of the law from a minority perspective. Courses on minority issues

³Matters of curricular content would be addressed by the whole faculty, as no committee exists to review the curricular content. An Educational Policy Committee handles "administrative" matters such as the viability of a system of student evaluations of faculty performance. The Educational Policy Committee Chair explained that curricular "development" requires the initiative of individual faculty or the Dean.

⁴The Dean observed that students are involved in the running and modification of programs such as clinics, but there is no student involvement at the policy-making level.

are in place and minority issues do come up during class discussion, he conceded, but he qualified the efficacy of those discussions by characterizing the faculty as unfamiliar with, and largely unreceptive to, discussion from a minority perspective. The student related as an example of the distinction a recent Property class where the instructor discussed rent control from a purely economic stance. Students reportedly brought up some historical aspects, such as the fact that there were riots across the country in response to escalating rents. The student interviewee said that the instructor was not only unfamiliar with the history but seemed resistant to acknowledging either that perspective or its validity as an integral part of the overall discussion. The student mused that perhaps such resistance is an element of "passive racism"--a failure to recognize the relevance of a minority perspective on the law. The student recommended that an incorporation into the curriculum of more attention to the minority perspective on the law would facilitate a dialogue between minority and white groups on other key issues.

B. Clinical Programs

The School offers a number of clinical programs serving a diverse clientele. Two of the most extensive (the criminal law clinics) also tend to serve a predominantly minority clientele. Interviewees described those programs in detail. A general review of other programs also appears below.

1. Criminal Law Clinic

This full-year clinic, open only to third-year students, enrolls a substantial student body (18) for a case load of approximately 50-75 misdemeanor cases, handled by students with faculty supervision, and 25 felony cases, handled by two faculty members with student

assistance. For the 1989-1990 clinic, the instructor selected participants from a large applicant pool (60-100) which included three minorities (3-5%: 2 Blacks and 1 Hispanic). Of the 18 enrollees, one (5.5%) is black. [The Hispanic applicant, to whom the instructor offered a spot, opted for another clinic which was the student's "first choice."] Prospective participants must complete an application; submit a resumé, grade sheet and writing sample; and interview with the instructor.⁵ Despite the "weight" of "paper credentials" submitted and reviewed, the instructor said that he does not look just for those students who have the best grades. Rather, he looks for qualified students who will not experience problems in dealing with clients. All of the above-described factors have tended, in the instructor's experience, to make the process fairly "self selecting."

The instructor estimated that Blacks and Hispanics make up 90% of the clientele, which he considers "no surprise" given the racial composition of the state's prison population. To prepare students to represent these clients, the program provides substantive lectures, a theater skills seminar, and videotaped simulations of client contact. Client contact simulations are required before a student ever engages in direct client contact. In those simulations, and during other components of the program, there is discussion of the class and racial differences which the students will encounter in dealing with their prospective clients. Discussions focus on economic class disparity rather than on racial issues. The instructor called class difference "the biggest shock to students," whom he characterized as, by and large, persons of upper middle class with no previous exposure to these sorts of

⁵The Criminal Law Clinic requires Evidence as a prerequisite and Criminal Procedure as either a co- or prerequisite. Accepted students must also enroll in a special Trial Advocacy program which meets between the winter and spring semesters.

issues. Despite that "profile," the instructor recalled that in ten years experience he has never seen a client refuse student representation, and he has observed that students, whom he characterized as "not yet cynical or burned out," tend to work harder and to take cases more to heart than do other advocates.

2. Appeals Clinic

This year-long clinic, open to fourth-semester students, handles felony appeals (mostly of murder convictions) pending before the Appellate Division of New York State Supreme Court. In selecting twelve students for the 1989-1990 offering, the Appeals instructor required an application, resumé, writing sample and grade sheet. Unlike the Criminal Law Clinic, not all applicants are subject to a personal interview. Through this procedure the Appeals instructor garnered one minority (Hispanic) enrollee (8.3% minority enrollment).

Though the clinic involves mostly "academic" work,⁶ client-student contact is a key component of the experience. The instructor requires students to go to the prison for one face-to-face encounter with the client. The instructor estimated that 33%-66% of the clientele is Hispanic; he guessed that most of the balance is black.⁷ The most striking aspect of the students' visit to prison is, the instructor asserted, neither the racial, nor the economic, disparity between the students and their clients. "All things tend to be pretty equal behind bars," the instructor observed. Rather, students are impressed by the place itself.

⁶The seminar component for this course consists of intensive training in appellate advocacy and covers specific problems of New York State criminal procedure. Research predominates in the first semester, with the writing of a reply brief and actual oral argument in the second semester.

⁷The instructor plays a wholly supervisory role in this program. He never personally meets the client.

3. Other Clinical Offerings

A semester-long field placement in a local district attorney's office provides six students the opportunity to view the prosecutorial aspect of legal practice.

A human rights colloquium addresses selected problems in cultural self-determination, racial discrimination, and protection of minorities. The program emphasizes the efforts of the United Nations and other international organizations.

A tax clinic handles referrals from tax court. The clientele tends to be indigent, but a faculty interviewee observed that few minority students enroll in this program.

A clinic for the homebound elderly in need of civil representation has, an interviewee observed, generally drawn a student staff reflective of the overall student body (i.e., very few minority students). However, that interviewee observed that this program has served a very "mixed" clientele. Students represent their elderly clients in cases involving entitlement to government benefits. It was one interviewee's feeling that the problems of the elderly tend to cut across racial lines.

C. Student Clerkships

Second- and third-year students seeking clerkship experience may apply for the School's Judicial Fellows program. Though School literature says that "enrollment is limited to students selected by the Faculty Clerkship Committee," the Clerkship Committee Chair said that the role of the Committee is primarily informational rather than selective. A number of factors, both logistic and subjective, combine to make potential Fellows a fairly self-selected group, and some of the considerations which have deterred students generally have had an especially hard impact on efforts to enroll minority Fellows.

Enrollment in the Fellows programs constitutes a full-time commitment⁸ and imposes substantial responsibilities. Though a specially established foundation provides funding for program enrollees, and despite the "elitism" associated with clerkships, the Clerkship Chair noted that remuneration available from law firms and other employers more readily attracts students. Financial and geographic considerations (i.e., willingness to temporarily relocate) especially influence and deter minority applications, the Chair said. He characterized the problem as one of "priorities."

Judges themselves sometimes provide further obstacles to efforts to enlist minority Judicial Fellows. The Clerkship Chair noted that judges, usually federal appeals court judges, impose prescreening criteria. Some efforts have been made to discourage such prescreening. The Clerkship Chair recalled that Committee members have taken the initiative to give judges information on qualified students (minorities and otherwise), and Committee members have contacted students who they thought to be qualified for clerkships without regard to judge-imposed criteria. The Clerkship Chair noted that, should the Committee learn that a particular judge is seeking minority applicants, Committee members would contact students directly to encourage their application. Such personal outreach requires the personal judgment of faculty members; the Committee would not, the Chair said, make a general solicitation through the School's BALLSA group.

When queried as to what factors, if any, deter minority students from applying for clerkships, the BALLSA student cited a lack of information as the prime obstacle. He noted

⁸Fall enrollment, open only to third-year students offers 12 academic credits. Spring enrollment, open only to second-year students offers 9 credits. Enrollees are required to take a course on Professional Ethics, offered only in the spring, for 3 credits. The Fellows program also requires prior, or concurrent, enrollment in Constitutional Law courses.

that there currently is no program to give minority students "inside information" on how to interview, how to apply, whom to contact, or what to do if rejected.

Despite the efforts to make the Fellows program open to all applicants, and despite the outreach efforts of faculty, the ultimate barrier to increased minority participation is the lack of a significant pool. The Clerkship Committee Chair noted that the program draws very few applicants, and he could not recall ever having placed a minority as a Fellow.

D. Bar Review

The School does not offer an in-house course to prepare students for the bar examination, though the efficacy of offering such a program has been discussed, the Dean said. Nevertheless, the curriculum takes some consideration of the New York State bar examination; the Dean called the course in New York Practice a "concession to the bar examination." The School's philosophy on substantive instruction, as articulated by the Dean, is that instruction be preparatory, diverse and liberal. The Dean favors any efforts which while in keeping with that philosophy would increase bar passage rates. "If reading Shakespeare would help people pass the bar, I would be all for it," he said.

The Dean further discussed the efficacy of curricular initiatives "in response to the bar examination" as opposed to efforts to restructure the bar examination. He likened the bar examination to a hurdle which faculty and students must look at in either of two ways. The first option would be to accept the fact that the examination exists and simply to teach people how to get over it. The other option is to question why the obstacle stands and to further question why the obstacle is the way it is.

Analogous to the Dean's comments, the BALLSA representative posited several

issues of cultural perspective and technical skill which may affect minority student performance on the bar examination. The BALLSA student recalled a seminar on essay writing techniques which he himself conducted last year for fellow minority students. He witnessed a tendency among the students to jump to conclusions without drawing out the deductive process. He further volunteered the theory that cultural perspective affects one's ability to perform on "standardized" test. For example, he posited, the cultural perspective of an African Black clearly differs from that of an American Black, and, refining the argument to a more "regional" consideration, perhaps the perspective a northeasterner (U.S) differs significantly from that of a southerner.

The BALLSA student criticized the lack of in-house substantive preparation as an omission that has all but mandated enrollment in a commercial "bar prep" course. However, the cost of such programs is, the student observed, an often prohibitive burden for minority students.

E. Law Review

The Law Review conducts two membership competitions (in May and January, the latter to accommodate midyear entrants). Those scoring in the top 10% academically can "grade on" to the Review, but these students must, nevertheless, submit a writing sample as evidence of minimal writing competence. Others may "write on" to the Review. These applicants are considered solely on the basis of the writing sample. As of 1 September 1989, 11 second-year students had "written on" to the journal. The current second-year staff includes no minorities. Similarly, there are no minorities on the current, 14-member editorial board.

The Editor-in-Chief opined that increased minority participation on the Review will ultimately depend on the success of efforts to increase the minority student population. The Review Advisor called current minority representation "pretty dismal," with the caveat to potential critics that the Review's selective procedures, combined with an exceedingly small pool preclude significant minority student participation. Moreover, interviewees noted that the School offers other cocurricular activities to "compete" with the Review for the interest of qualified students.⁹ However, the BALLSA student expressed concern that some facially race-blind procedures nevertheless affect minority students' ambitions for journal membership. On a logistical note, the BALLSA student suggested that the writing competition be deferred until the fall and that a summer seminar be designed to provide instruction on the type of writing which the competition would require. These initiatives would, the BALLSA student suggested, provide students a needed respite and give them a better chance to prepare.

A second method of applying to the journals also has given the BALLSA student some reason for concern. Students may submit to the journals an independently written note "of publishable quality," and if the piece is deemed acceptable, the author receives an offer of membership. The BALLSA student intends to discuss this membership option with the respective editors because information which has come to him regarding the history and standards applied to this option has engendered his concern that it will discourage, rather than encourage, students to write independent pieces. It is the BALLSA student's

⁹The Law Review Editor mentioned that a minority currently holds the position of Editor-in-Chief of the School's journal of international law.

understanding that editors require that all independent notes be submitted "ready to go" without significant editorial scrutiny--a standard which few writers can hope to meet. But what the BALLSA student found more disturbing was the apparent "genesis" of this strict standard, i.e., that several years ago (perhaps as little as two years ago, he guessed) a black woman submitted an independent piece which editors deemed in need of substantial editorial work--apparently more work than would otherwise be offered to a nonmember student writer--so the editors, to forestall submission of such pieces, implemented the "ready for publication" standard. The BALLSA student said that if such a strict editorial policy does exist--and he readily admitted that he needs to verify this with the current student editors--it will discourage future submissions from minority students.

Among the School's three editors-in-chief, discussion about membership competition has focussed, not on ways to include more people, but on the concern that procedures should never unfairly exclude anyone. The editors have also discussed the viability of adopting "diversity considerations." However, the Review Editor reported that the small minority student population precludes serious consideration of instituting such programs here. The Review Advisor observed that "institutionally" this issue is not a high priority. The discussions among student editorial boards have not engendered discussion at the institutional, policy-making level, the Advisor said.

The Review has not made a systematic effort to include articles on race-specific issues. The Review has a tradition of publishing work on legal philosophy, which provides rare opportunity for attention to minority issues. For example, the Review Editor recalled that a recent symposium on Hegelian legal philosophy included a piece on southern slave

societies. The Faculty Advisor further stressed that the Review, not a "serious competitor to [nationally recognized journals]," really has not the standing to solicit articles.

F. Moot Court Programs

As with other cocurricular activities, academic performance and competition with other programs affect efforts to recruit minority students into moot court programs. Students who scored in the top 15% of the class after their first year are invited to join the Moot Court Board. Others may compete in the School's unified writing competition, which is used by all cocurricular organizations to find new members with exceptional writing skills. A member of the Moot Court Board noted that the Law Review is given first opportunity to extend offers of membership to writing competition participants, and most who "make the cut" do, in fact, go to the Review, the Board member observed. In his opinion, this preference for Review membership overlooks the fact that moot court is the only cocurricular activity that has practical application.

A third method of Moot Court membership selection, not subject to competition with other activities, is the School's fall, intramural advocacy competition, which is open to second and third-year students alike. For the most recent competition 140 students picked up the model problem, 40 actually submitted briefs, and 18 were selected for Board membership. The Board member could not provide data on the minority student participation in the intramural program, though he recalled having seen Pakistani and East Asian students during some of the later rounds. The Faculty Advisor, who has been with the program from its inception (approximately 12 years) has observed that minorities do participate in intramural events. This competition also provides the primary source for the School's

interscholastic teams. The Board member observed that among the current interscholastic teams of third-year students, there is minority student representation.

As to outreach to minority students, the Moot Court Board has not made efforts to specifically target the minority student body. Board members make general announcements to large lecture classes on three or four consecutive days. The Faculty Advisor also noted that the School is "plastered with fliers" to announce the intramural competitions. The Board has not undertaken any outreach to minority students, nor has the Board been made aware of any particular need for outreach to minority groups.

IV. MINORITY JOB PLACEMENT

A. On-campus Interviews

All on-campus interviewers must sign and adhere to the affiliate university's anti-discrimination policy. The Placement Director has heard no allegations of race discrimination by on-campus interviewers; she observed that the School's low minority student population has not afforded many opportunities for such incidents. Rather, the Placement Office has turned its attention, and concern, to responding to a trend of marital/gender/age discrimination. The School's mechanism for responding to discriminatory interview and hiring practices is ad hoc; however, there are on-going efforts to confront this issue both in-house and on a broader, more systematic scale. The Director and the BALLSA chapter have planned a seminar on recognizing and responding to discriminatory treatment during interviews and in the work place. The Director also anticipates that, due to an on-going initiative of the National Association of Law Placement (NALP), NALP-member schools will begin to formalize complaint procedures.

The School has not formulated an "ideal" employer profile; nor has the Placement Office determined specific, "attractive" characteristics of employers. Rather, the Director volunteered, "the employers of interest to [the School] are those interested in [the School]." As a "young" school, this institution has had to work hard to create a reputation which can make its student more attractive to selective employers. As the School gets better known, the Director continued, recruitment will be "deeper" (i.e., interviewers will begin to consider applicants further down in the academic rankings).

Prospective employers may request--and the Placement Office will provide--resumés and additional information on students. Most off-campus interviewers only request resumés. During a four-day, on-campus interview period employers may freely "screen" interviewees. The Director observed that the School's minority students have expressed interest in a spectrum of employment opportunities--as broad a spectrum as "anyone else"; however, academic performance continues to be the key consideration for prospective employers, and many of the School's minority students do not "get the grades [which prospective employers are considering as prerequisite to employment with them]."

B. Additional Placement Office Services

In preparing students for interviews (both on-campus and off) the Placement Office offers a variety of programs including workshops on how to write effective resumés and cover letters, mock interviews (which can be videotaped for review), and a "career library" of various sources. The Director reported on-going efforts to gather information on individual employers for inclusion in a growing database. A mentor program, coordinated by the Placement Office in cooperation with the School's alumni association, matches

students with graduate attorneys who can advise [the students] about practice and assist them in their career decisions.

C. Minority-Specific Placement Efforts

1. Current Efforts

The Placement Office has no programs targeted exclusively to minority students. The Associate Dean for Student Life noted that, given the very small minority student population, Office staff have been able to work individually with minority students. Though not privy to the Associate Dean's observations, the BALLSA student expressed skepticism as to the possibility that Placement Office staff will be able to accommodate the growing minority student population on an individual basis. When queried as to the possibility that an increase in minority enrollment may eventually preclude one-on-one approaches, the Associate Dean said that, at least in the Placement Office, if not in other School offices, staffing is so high as not to cause great concern that the needs and demands of future classes will outstrip staff's ability to assist minority students individually.

While providing advice on resumé content and style, the Placement Director defers to students' decisions; students may include any information they deem relevant to their application. The Director stipulates only that resumé content must be scrupulously accurate. In the Director's experience, identifying oneself as a minority can help an application in today's climate, and she sees more students drawing attention to extracurricular activities such as BALLSA participation. The Director also strongly encourages minority students to attend minority-targeted events such as the annual minority job fair cosponsored by NALP and the National BLSA organization.

2. Planned Initiatives

The Dean is currently working to develop a public service training program targeted primarily at future minority students. The School offers an "accelerated entrance" program which allows students to complete one summer semester and then to defer full-time legal studies until the following summer. This creates what the Dean called a "doughnut hole" between the summer semesters for students to pursue professional opportunities. The planned legal training program will enlist approximately 12 students (currently, 50-55 persons enroll in the accelerated entrance program) to use that "doughnut hole" to work at law firms and public legal service organizations. Such a program will, the Dean opined, have the advantages of providing students with both an ensured income in law related work and substantial substantive training.

V. FACULTY ISSUES

A. Recruitment and Hiring

According to the Chair of the Faculty Appointments Committee, the Committee best fulfills its function by screening and recruiting prospective faculty likely to meet full faculty approval. This is not to say that the Committee takes a passive approach to its work; Committee initiative has been fairly aggressive, the Chair asserted. The Committee has scheduled 15 interviews with minority prospects in the last two years; however, prospective interviewees have declined to carry through with the appointment as only one of the 15 actually interviewed with the Committee. The others decided to "shoot higher than [the School]," the Chair said.

The Chair identified such unresponsiveness as an obstacle to the School's minority

recruitment efforts. A second obstacle, in the Chair's experience, continues to be the often-competing policies both to accept the most qualified candidates and affirmatively to recruit minorities. Though both the need for faculty diversity and the duty to provide role models for minority students admittedly factor into the Committee's work, the Chair stressed that "hiring a minority because that person is a minority, without more, would be a disservice to both the School and the candidate." "It is a disservice to bring in candidates of 'significantly lower quality' than the current faculty," he said. Moreover, the Chair asserted that deferring to considerations of "qualifications" over and against considerations of increasing diversity, does not, per se, constitute a disservice to the School's minority students. It has been this professor's experience that minority students rate the "quality" of instructors equally, regardless of an instructor's ethnicity. The Chair asserted that minority students who see less professional, and less qualified, minority instructors recognize them only as negative role models.

In mentioning that the qualifications of current faculty figure into determining a candidate's profile, the Chair began to flesh out the profile of a viable candidate. Generally, people have to "fit in fairly well with the institution." In making a general assessment of the current faculty, the Chair described his colleagues as generally less "elite" (i.e., fewer were either editors of major law reviews or served as federal clerks than one finds on other faculties); however, they are, in his assessment, otherwise equally as qualified as the vast majority of current law faculties.

To "fit" someone into the current faculty, the Appointments Committee places significant emphasis on professional experience. Though the School has hired candidates

right out of law school, or immediately after a clerkship, the Committee generally is reluctant to hire those without "real world experience." "Younger" candidates generally strike the Chair as comparatively naive in their approach both to the law and to the field of legal education.

Competition among law schools for minority faculty also affects the Committee's efforts. This school--like all schools, in the Chair's opinion-- "bends" its standards to attract minority candidates. Nevertheless, minority candidates whom the Chair would characterize as "only within shouting distance" of the current faculty's credentials, receive, and take, offers from admittedly more elite schools. By way of example, the Chair hypothesized this profile: A Harvard J.D. without journal affiliation but some legal experience. The Chair stated that a white candidate presenting this profile might not "get a look" from most schools but a minority with those same credentials would be highly sought after.

B. Tenure

The procedures and policies applied to tenure-eligible positions do not take race into account. Faculty members usually apply for tenure by their sixth year on the faculty. The Tenure Committee serves primarily an administrative/ coordinating role. The Committee inquires as to the candidate's readiness, places the faculty on notice, solicits outside review of the candidate's scholarship, and coordinates faculty review of teaching ability. Currently, no formal mechanism for student evaluations is in place; however, the Appointments Chair believes that student evaluation will soon be incorporated into the tenure process.

The Faculty Appointments Chair said that tenure-track faculty have the faculty as a whole to play the roles of advisor, mentor and support group. He noted that most tenure

applications are successful. The experience of being on the tenure "track" proves a generally self-selecting process; those who have felt that they will not make the tenure "cut" usually know this well in advance, so few unsuccessful bids have been made.

CASE STUDY L

I. MINORITY STUDENT RECRUITMENT AND ADMISSION

A. Admissions Staff

The Assistant Dean for Admissions and Financial Aid (Assistant Dean), Admissions Office staff and, on occasion, student assistants, comprise the School's admissions staff. Currently, the School does not employ a coordinator of minority recruitment. The Admissions Committee contributes little to the day-to-day process of admissions; that committee handles primarily "problem" matters (e.g., applications for readmission and applications from individuals who were dismissed from other schools). The Assistant Dean rarely seeks out the participation of alumni and faculty for off-campus recruitment visits.

B. Minority Applicant Recruitment Programs

1. General Recruitment Programs

Student recruitment efforts involve a spectrum of contacts ranging from large, crowded law forums, to well-organized, in-house programs with targeted audiences. Representatives attend each of the five Law School Admission Council law forums¹ and visit college campuses, including historically black schools. Most of the School's recruitment efforts have targeted the Northeast but some contacts have reached Virginia, Florida, and California. To increase the effectiveness of campus visits, the Assistant Dean seeks out among current School students alumni of target colleges; however, class schedules often preclude student participation. Admissions Committee members have made suggestions and

¹The Law School Admissions Council organizes forums in New York, Boston, Atlanta, Chicago and Los Angeles. School representatives at the recently-held New York forum received more than 3,000 requests for literature and application materials.

participated in student recruitment programs (e.g., the Admissions Chair participated in a civil rights seminar series, described below). Committee members have also made some personal outreach efforts to attract minority applicants.

Partially in response to recent declines in minority enrollment in colleges and universities, the Admissions Committee has suggested outreach to potential minority applicant pools at various quasi-legal and paralegal organizations. Target groups include civil service unions, paralegals, and legal secretaries, all of which include minorities in significant proportions. The School offers a part-time evening program which could accommodate enrollees drawn from these groups.

The Admissions Office has followed through on some suggestions. However, the actual implementation of these efforts received mild criticism; the Admissions Chair said, "If it were up to me I would be pressing a little harder." The Assistant Dean suggested that he would start "a little earlier," i.e., before the last year of college. He mused that waiting until the last year(s) of college to make initial contacts with prospective students may be too late significantly to alter current trends.

Student organizations have made some efforts to reach potential law students at earlier stages. The Latino Law Student Society (LLSS) and the Black Law Student Association (BLSA) recently cosponsored an outreach event which brought 50-60 Manhattan and Bronx high school students to the School. Invitees attended a class and met with a professor.

2. Minority Group Law Days and Seminars

Each of the School's three minority student organizations cosponsors (with the Office

of Admissions and Financial Aid) law days; much of the School's minority recruitment effort focuses on these events. Three consecutive mailings to prospective minority applicants discuss these spring events.² Judges, politicians, and other legal "celebrities" share their thoughts and experiences as participants in the legal profession. The days also feature panel discussions with current students and recently-graduated alumni. A School publication describes these law days as "outreach programs designed to provide information and advice to minority group students" The Assistant Dean asserted that these events serve, not only to draw students to the School, but to encourage minority application to law schools in general. In keeping with that "general" rather than "School-specific" approach, the Admissions Office recruits keynote speakers without regard to affiliation (or lack thereof) with the School. A financial aid officer is present to provide information on all manner of assistance programs, including some in which the School may not participate.

Each student representative praised the School's administrative and logistic support, yet students had varying assessments as to the success, strengths, and shortcomings of the law days. A recent law day reportedly succeeded in bringing more Hispanics to the School. The LLSS leader said that of 18 Hispanics entering in the fall of 1989, 8 (44.4%) decided to enroll at the School on the Latino Law Day held in May of 1989. However, the LLSS leader does not expect to repeat that success. He attributed much of the success of the May 1989 Latino Law Day to the special efforts of an Hispanic administrator who has since left

²The Admissions Office compiles its contact list from various sources, including a listing from the Law School Data Assembly Service and individual referrals from students. The first mailing bears an invitation. Prospective participants next receive the brochure Minority Applicants and Law School, a publication of the Law School Admission Council. The third mailing provides specific agendas (e.g., keynote speaker and panelists).

the School. The BLSA representative also mentioned a lack of minority administrators as an element of the School environment negatively affecting minority students.

A student in the Asian American Law Student Association (AALSA) suggested that, in attempting to attract more Asian Americans into the legal profession, a law day program should present law as an alternate professional career. This student observed that, while many Asian-American college graduates enter engineering and medicine, Asian-American enrollment in law schools is only recently on the rise. The burden then falls on schools to "sell" the legal profession as a viable option for students who have a number of career options. Thus, the AALSA leader continued, the School needs to be more encouraging of Asian-American students' prospects for professional success. This student suggested that placement statistics, which show a relative absence of Asian Americans in positions of power, ultimately deter many Asian Americans from pursuing the law. In sum, the AALSA leader, while praising the School for "taking a larger position in recruiting minorities than other area schools," suggested that law schools need to make all minority students feel that they are more than numbers.

One student leader criticized the administration for not undertaking a more protracted, "full-time" approach to such programs. That student characterized logistic support as little more than an accommodation which masks a lack of substantial commitment to minority recruitment and support programs. He does not see the law days as an integral, indispensable outreach effort. A more meaningful effort by the administration would be, he suggested, a continuing, multifaceted recruitment initiative, rather than mere coparticipation in general information programs.

Another program conducted during the spring 1989 semester warrants mention. In a three-part civil rights seminar series, faculty members made presentations on housing and racial discrimination, jury discrimination, and international human rights. Though neither a formal recruiting event, nor meant exclusively for a minority audience, organizers drew audiences from local, urban schools. The seminar on racial discrimination in housing brought together approximately 20 students from local schools. In a simulated town meeting, the participants discussed the ramifications of a judicial finding of discriminatory housing practices by the municipality (a hypothetical situation based on the recent zoning dispute in Yonkers, New York). The presentation on discrimination on juries recreated the faculty speaker's classroom situation, which he described as participatory rather than Socratic.

C. Admissions Criteria

The School has an affirmative action program which allows a more liberal consideration of the academic credentials (Law School Admission Test (LSAT) scores and undergraduate grade point average (GPA)) of minority applicants than those of nonminority applicants. According to the Assistant Dean, while the School never summarily rejects any applicant on the basis of numeric indicators, certain "working" parameters usually apply. An undergraduate GPA of 2.0 generally serves as a minimum standard for all applicants; the Assistant Dean could not recall ever having admitted anyone with a GPA below 2.0. When looking at LSAT scores, the Assistant Dean identified a significant disparity between the parameters considered for minorities and Whites.

D. Minority Acceptee Recruitment Programs

No program separately targets minority acceptees. All acceptees are slated for a

three-part mail campaign, beginning with an acceptance letter from the Assistant Dean. Acceptees next receive the Dean's congratulations for having met the School's standards for admission. Finally, the Financial Aid Officer distributes administrative details on, for example, deposits and financial aid. Until such time as the acceptee declines admission, prospective students also receive mailings of various brochures, School newsletters, and a catalogue. The above-described minority law days also have served to "sway" some uncommitted students.

E. Financial Assistance

In addition to state and federal programs,³ the School provides a number of financial assistance options to minority students. Minorities who do not meet what the Assistant Dean called the "usual academic criteria for scholarships" may qualify for full-tuition scholarships or half-tuition scholarships. The School also participates in the Harris Fellowship program, which offers full tuition payment with a stipend. Another fund established by the Consortium of Metropolitan Law Schools provides, as described in School literature, "scholarship aids to needy students, particularly evening students and disadvantaged minority students." The Board of Trustees administers a fund to students who "should not be an A student but have a B or C average . . . , either an immigrant or son or daughter of an immigrant, or in some respect, underprivileged." There is also a partial

³Federal programs include Stafford Loans, Perkins Loans (formerly the National Direct Student Loan Program), and Supplemental Loans for Students (SLS). Stafford and Perkins Loans are available only to students who demonstrate actual need; SLSs are available to all students. Perkins Loans bear 5% interest; Stafford Loans charge between 7% and 10% depending on when the student assumes the debt; SLSs charge variable rates, with a maximum set at 12%.

State funds are available through the Tuition Assistance Program (TAP). TAP grants range from \$100-\$1200 and are available only to students with annual incomes below \$20,000.

scholarship offered to civil service employees or their children. (While not a minority-specific offering, this program warrants mention here because the Admissions Chair has identified civil service organizations as a potential pool of minority applicants.)

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Summer Orientation

Students entering with what the Assistant Dean termed "shaky" academic credentials are invited to participate in a voluntary, three-day, presemester program to introduce them to "what law school's all about." The program features library tours and an introduction to legal research and writing.

B. Academic Support Programs

1. Institutional Programs

The Office of Student Affairs coordinates two programs whereby upperclass students assist either first-year students or upperclass peers experiencing academic difficulties. A Teaching Fellows Program targets first-year students; an upperclass, personal tutorial provides help to advanced students. Neither program specifically targets minority students, though minorities participate in significant numbers.

"Invitations" to the first-year program extend to new students on the basis of either preenrollment indicators or performance on a midterm exam. Approximately 50 students, whose LSATs or undergraduate GPAs place them in the bottom 10% of the entering class, receive invitations to join the program. Another six to eight students who score below a "C" on a midterm Legal Methods examination are expected to fill out the first-year enrollment. The Director of Student Affairs estimates that 80-90% of those invited actually participate

and that minorities represent 50-75% of that group. Evening students, whose tutorial classes meet on weekends, participate in somewhat smaller numbers than do their full-time peers, the Director of Student Affairs said.

The first-year program focuses, not on substantive review, but on basic skills, e.g., briefing cases, outlining course material, and writing exams. Six Teaching Fellows, drawn from an applicant pool of more than 35 students, staff the program; two (33%) are minorities. Teaching fellows must dedicate at least 10 hours per week to the program, for which they receive a stipend.

Participants make several efforts to gauge the success of the Teaching Fellows tutorial. Fellows keep detailed journals and meet biweekly with both the faculty coordinator and the Director of Student Affairs. Students also complete a semester-end evaluation form. Statistics show that most participants complete their first year in "good standing," but the Director of Student Affairs also noted that data do not account for subjective factors such as self-motivation. In other words, she does not know whether student self-motivation or program content determines the success rate. By way of qualifying the level of success, she noted that program graduates rarely improve so significantly as to later qualify as Teaching Fellows. Nevertheless, she has recently interviewed two program "graduates" as potential Fellows, and she agreed that having more "graduates" as Fellows could inspire future students.

Upperclass students having difficulty in specific courses can, through the Office of Student Affairs, retain a personal tutor. The Assistant Director of Student Affairs recruits tutors based on performance in the specified subject. While not requiring a minimum grade

to qualify as a tutor, the coordinator noted that she has yet to recruit a tutor who scored below a B+ in the specified course. As of this writing she has matched five tutors with eight "tutees." Student and tutor set their own schedule. Tutors receive an hourly compensation paid by the student--unless the student is currently on academic probation, in which case the School pays the tutorial bill.

Student leaders had various comments regarding academic support. One student criticized the choice of upperclass students ("not experts in the field"), rather than faculty, to lead first-year tutorial sessions. Two students espoused a more expansive, "preventive" approach to academic support. Current efforts focus on correcting academic difficulty rather than preventing it, they said. These students suggested that most minority students--even those surpassing the indicators used by the administration to identify marginal students--are fairly overwhelmed by the mass of wholly unfamiliar materials and terminology which confront them. One student expressly tempered his criticism of the lack of programmatic substantive support by agreeing that some measure of the problems faced by minority students originates from earlier education--perhaps, he suggested, from as early as secondary education. He opined that the secondary education received by most Hispanics does not compare with that of most of their non-Hispanic peers. One student also commented that the School offers no special assistance to the growing number of enrollees who speak English as a second language. This student asserted that language difficulties affect all aspects of students' academic performance, diminishing self-confidence and frustrating desires to participate in cocurricular activities.

2. Student-Run Academic Support

Academic support efforts offered by the minority student organizations supplement the institutional programs. LLSS provides tapes, course outlines, and upperclass tutors to its members. LLSS and BLSA share materials. Minority alumni also provide various materials, and BLSA has set up a program with its alumni to conduct substantive reviews. The AALSA student felt that minority and nonminority students readily exchange and share notes.

3. Alumni Mentors

The Alumni Association has begun efforts on what a recent newsletter describes as "a program designed to match current law school students with alumni mentors." The article quotes the alumnus coordinator as observing that many School students are first-generation lawyers for whom alumni mentors "can be the lawyer in the family that many students do not have." The newsletter goes on to state that "the emphasis of the program is on information and advice, rather than employment."

According to the article, the coordinator envisions that "students and mentors will be matched by areas of interest as far as possible." A letter recently sent to approximately 8000 alumni solicits their participation. It includes a brief questionnaire asking respondents to identify type of practice and areas of expertise. Additionally, recipients may volunteer specific services, such as to discuss minority issues and concerns. The Alumni Association's program does not specifically provide for matching minority students with minority alumni.

The Office of Student Affairs is also currently working on a minority alumni-minority student mentoring program. The Director of Student Affairs does not expect the two

programs to "overlap" significantly.

C. Law School Atmosphere

1. Minority Student Solidarity

Each minority student organization espouses means to improve legal service to the minority community by minority lawyers. AALSA seeks "to increase Asian-American presence at [the School] and other law schools, and in the legal profession as a whole, in order to serve the interests of the Asian-American community" (emphasis added). School literature still carries a description of a unified Black and Latino Student Society (now split into distinct BLSA and LLSS chapters) professing an intention "to focus upon the relationship of the minority attorney to the American legal structure," and

to instill in the attorney and the law student a greater awareness of a commitment to the needs of the minority communities, and to influence American law schools, legal fraternities and associations to use their expertise and social prestige to bring about change within the legal system in order to make it responsive to the needs of minority communities (emphases added).

The solidarity within minority student organizations varies among the several groups. The AALSA leader perceives Asian-American students as somewhat "scattered" in that, rather than associating with other Asian Americans, students tend to draw together around personal or professional interests. Thus, for example, Asian-American students interested in a particular type of practice associate with other students on the same career "track" regardless of their race/ethnicity. Grouping among Asian-American students "falls away from ethnicity," due to some measure of stigmatization attached to staying only with members of "your own group," the AALSA student said. However, while second-, third-, or fourth-generation Asian-American students readily assimilate, the AALSA representative notes that

newly-arrived, foreign-born Asians tend to gather with fellow "newcomers." He suggested that these students have yet to assimilate themselves more fully into the School.

The LLSS student spoke too about attrition and about the conflicting stresses of assimilation and ethnic solidarity. He characterized the dilemma as a choice between "forgetting your background to play 'their' game" and joining with other Hispanics for support.

Hispanic students seeking to foster solidarity among their numbers have recently faced problems from another quarter as well. A senator of the Student Bar Association (SBA) recently challenged the proposed constitution of the newly-established LLSS chapter as discriminatory against non-Hispanics. The proposed constitution contains a provision restricting membership on the LLSS executive board to Hispanics. The SBA ratified the constitution in April of 1989, but the objector has since instituted action with an in-house student judiciary board. The LLSS President foresees a rather protracted process before the controversy works itself out. LLSS plans to challenge any adverse ruling in court. Apart from demanding substantial time and energy, the whole constitutional controversy has engendered a good deal of bitterness. The LLSS leader reported that the BLSA constitution, like the challenged LLSS charter, opens its membership to all interested persons but excludes non-Blacks from its executive board. He sees no basis for making a distinction between the groups. The whole drama is, in the LLSS student's opinion, a grandstanding display by students looking for some publicity.

Efforts to promote minority student solidarity are clearly a high priority among student leaders. However, one student also suggested that the simple matter of numerical

presence, apart from the level of student solidarity, affects minority students individually. The BLSA student said that the small numerical presence of minority students is a real factor in the "atmosphere" of the School. He suggested that a typical lecture class might contain three Blacks among 120 students--a situation which, in his experience, creates a prevailing sense of isolation. This "paucity of black faces . . . distracts you," he said.

2. Minority Student Liaison

The School has recently retained, on a part-time basis, a minority alumnus as a minority student liaison. A memorandum from the Assistant Dean for Student Affairs explains that the liaison "will be available to speak to [School] students regarding any matter relating to the minority law student experience. He will also work with [School] alumni to set up mentoring and networking relationships." The liaison's "agenda," as envisioned by the BLSA representative, will be to bring student concerns, primarily academic concerns, to the administration, thereby relieving student representatives of some of the demands on their time. The BLSA leader (representing the then still unified black and Hispanic student organization) and a student of the law school who is a representative of the Northeast Chapter of the national BLSA organization met with the alumnus prior to his appointment.

No mention was made of any Asian-American student participation in recruitment or selection of the liaison. While the administration expects the liaison to interact with the entire minority student body, some perceive that Asian-American students do not experience the same difficulties faced by Blacks and Hispanics. For example, the Director of Student Affairs suggested that there is more of a need for this type of assistance for Blacks and Hispanics than for the School's Asian-American students.

3. Minority Student Perceptions of School Atmosphere

Interviewees provided a range of comments on the attitudes of peers and faculty toward minority students: the emotional responses of the minority students range from enthusiasm to resignation to anger.

One student suggested that ambitious plans for the School have gone forward at the expense of support for minority students. In talking with alumni this student has a sense that the School has made a "turnaround" effort under the current administration; this student said that many minorities feel they "are here just to fill quotas." "Turnaround" projects such as library expansion have become, this student asserts, patent explanations for a lack of funding for minority organization budgets.

Students identified various manifestations of lack of commitment. Though the administration professes an "open door policy," some students perceive the administration as reluctant to listen to student concerns or as tending not to take those concerns seriously. One student complained that minority students too often meet with a "low-level" administrator rather than meeting with the Dean. Student interviewees also alleged some level of intimidation.

Some students feel that the School's shortcomings "come with the territory." One student leader pessimistically opined that something more fundamental than peer solidarity and academic ambition underlie the need for extensive peer efforts. He asserted that minority groups work together "because we know that nobody else is going to help these students." Another student characterized the general attitude towards minorities as "come in, sink, or swim"--an attitude which he attributed to a general insensitivity toward the

minority student perspective.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

There has not been any systematic review of the curriculum to include legal issues of particular relevance to minority students. The Chair of the Curriculum Committee (Curriculum Chair) said that the Committee does not "look over the shoulders of faculty members." "This is a law school, not an acculturation institution," he said. Further, the Curriculum Chair sees relative homogeneity in the student aspirations. The motivation of all students, even across racial lines, is to graduate and to get a good placement, he asserted.

A review of the specific content of individual courses is too narrow an effort to fall within the purview of the Curriculum Committee. The Curriculum Committee does not "engineer" the curriculum. Curricular innovations require a proposal from a faculty member. The Committee discusses the proposal, meets with the proponent, and meets for a faculty vote. The only situation in which the Committee might directly act to restructure a course would be in response to "substantial comments, criticism, and recommendations" on course evaluation forms from students. The Committee includes three student members. At this writing applicants have been interviewed but not yet appointed. The Chair did not recall that any minority students had applied.

The School offers several classes which require students either to examine the law from a minority perspective or to discuss the law's effect on minorities. Current offerings include Blacks and American Law (which, according to the instructor, draws an enrollment of 1/3 - 1/2 minorities), Employment Discrimination, and Poverty and the Law. The

instructor of Blacks and American Law reported that, in his experience, minority and white students usually discuss issues of race without noticeable tension or discomfort. However, he has sensed some sensitivity and tension in his Family Law class when discussing issues of race, especially over the issue of interracial family placements of minority foster children.

As to the inclusion of minority issues within the core curriculum (e.g., racial disparities in sentencing in criminal law courses) one student called these "too specific." That same student characterized recent additions to the curriculum, such as a course on the AIDS crisis, as courses on developments which have affected minorities, in contrast to courses which deal with a minority "perspective" on the law.

Recent student dialogue illustrates some of the conflicting and emotional responses which arise when topics like black slavery appear collaterally within facially race-blind, substantive areas. In a recent edition of the School's newspaper a student writer criticized a specific case as inappropriate material for inclusion in a Contracts casebook because the contract under scrutiny contained a provision for the sale of slaves. The critic suggested that "the [editors] . . . have failed to consider the emotional sensibilities of their student readers" in that the case, though illustrative of specific performance, demonstrates the legal doctrine "at the expense of the dignity of fellow law students." "[N]o matter how rationally and logically it explains the doctrine of substantial performance, the emotional response it evokes in some readers will defeat its educational purpose" he wrote. Rationalizations such as "it's just a contracts case" do not assuage this student's concerns. He asserts that such attempts at disassociation "expose our legal system and education to often staggering contradictions." Moreover, he criticizes the case precisely because its rule of law takes no account of the

moral issue: "[The case] does not demonstrate how people were treated as chattel and then became free but shows how people can be treated as chattel and it will not make a damn bit of difference to the contract issue it presents. It exists in a moral vacuum."

A respondent took issue with his classmate's concerns. He writes: "I simply cannot see how this case could offend the most fragile of temperaments [T]o require that the case be removed from the book or waste class time on the ethical considerations of slavery is at best ludicrous." Though requesting deferral of the ethical debate to another (unidentified) forum, the respondent extols the value of studying past inequities towards improving future society: "Old legal texts and scholars are not banished from the present curriculum because they help us understand the constant flux of the values in the society around us. To ignore past mistakes of society will only invite history to repeat itself."

A minority professor opined that the School needs both more minority faculty and more curricular initiative. He suggested that most students perceive that a well-rounded discussion is lacking in the current offerings. To overcome that perception will, he asserts, require much work to incorporate minority issues into the curriculum. The BLSA student suggested that a lack of experience and sensitivity underlies the homogeneous approach to the curriculum. He analogized that, just as the average white "civilian" does not often think about "minority issues," most white professors do not "see" the minority issues and concerns underlying legal doctrines.

Apart from a lack of curricular initiative, interviewees identified recent events which will markedly affect the "tone" of the curriculum, citing recent decisions to deny tenure to three professors, all of whom specialized in "public interest" subjects. One professor

specialized in Civil Rights and Education Law. A second teaches discrimination law and clinical teaching methodology. The third professor specializes in employment discrimination, family law, and Blacks and the law.

The BLSA student spoke at some length about what he perceives as an overriding need to bring the School more in line with its setting and with the experience of its student body. He suggested that the School adopt a more "urban," less "ivory tower" outlook, which should include more programs in service of an urban community.

B. Clinical Programs

The Director of Clinical Programs (Clinical Director) characterized as "informal" the efforts to sensitize clinical students to the differences between themselves and their clients. All clinics have sessions on interactive skills but students learn most, the Director suggested, from direct contact with their clients. At a recent conference, area legal clinicians discussed programmatic approaches to sensitizing students to the significance of differences between themselves and their clients.⁴ The Clinical Director reported that conferees came away with a sense that the issue is "too amorphous."

All clinics typically enroll 12 students under the supervision of two faculty instructors. Enrollment requires an application and an interview with an instructor. The Clinical Director has not met separately with student organizations to solicit minority student enrollment, but each year clinicians ask their minority students to "pass on" their experiences to their peers. The Clinical Director cited as a key obstacle to minority enrollment his sense that many minority students, working to finance their education, simply do not have the extra

⁴For a description of the workshop "Dealing With Differences" see Case Study E.

time to devote to clinics.

Three of the School's five clinical programs involve frequent student-client contact⁵; those programs are described below.

1. Housing Discrimination Clinic

The catalogue description of this course states that "[t]he focus is on racial discrimination," a focus evidenced both by the instructor's choice of students and by the emphasis of his guidance. For this semester-long course the instructor requires an application. He looks for commitment to the clinic and interest in the subject matter of the program, and he stresses hard work as a requisite for enrollment. In selecting 12 participants (from an applicant pool of 35-40) the instructor looks for a 20%-25% black enrollment. He noted that actual minority enrollment reaches 33%-45% with the enrollment of one or two Hispanics.

In-class sessions include one-on-one simulations of client contact, critiques of videotapes of those simulations, and group meetings to discuss ongoing work. Students most often appear before the state Commission on Human Rights on behalf of a predominantly minority clientele. To prepare students for this work, the instructor emphasizes an understanding of what he called "the dynamics of discrimination," fostering an understanding of what it means to be the target of discrimination.

While the majority of the Clinic's work involves housing discrimination claims, the Clinic extends assistance to anyone who comes to it with a claim of discrimination. Two students recently completed work on a federal trial involving claims of employment

⁵The other programs involve media law and criminal prosecution.

discrimination.

2. Criminal Defense Clinic

The year-long Criminal Defense Clinic handles misdemeanor cases, which bring the students (who are 80% white, 20% black and Hispanic) into contact with a predominantly minority (85% black and Hispanic), indigent clientele. Students average 25 court appearances. Most of these involve hearings, though some cases reach a jury. The instructor looks for students interested in litigation, and the applicant need not be headed for defense work; the instructor noted that most of his "graduates" go on to become prosecutors. "There just aren't that many students these days interested in legal aid," he observed. Nevertheless, he believes that this program provides prospective litigators their best possible training.

In the instructor's experience the racial disparity between students and clients rarely arises as a significant issue. Most clients respond favorably to the assistance provided, feeling that they are getting something most others do not (i.e., the client has two lawyers--a student and the supervising faculty member). However, most students express some amazement at what they perceive as client apathy. The fact that clients fail to appear for hearings or fail to locate key witnesses generally creates more difficulty than any lack of empathy between students and clients, the instructor noted.

3. Federal Litigation Clinic

The Federal Litigation Clinic provides plaintiff's counsel in civil matters, including social security disability appeals, placement of the deinstitutionalized in alternative community residences, and the right of foster children to adequate medical and psychiatric

services. The clientele is predominantly indigent and minority--70% Hispanic, 25% black by the Clinical Director's estimate. The student advocates are 80% white and 20% minorities.

C. Student Clerkships⁶

General information on clerkships is available to all students. Students with one full academic year remaining in their course of study constitute the entire pool of possible clerkship applicants. All students in that group, regardless of academic standing, receive a memorandum detailing the procedures for applying. Additionally, all professors teaching sections of Constitutional Law II are asked to make in-class announcements about clerkships.

Administrative procedures differ for applications to state and federal clerkships. Most significantly, applicants to federal clerkships, unlike those seeking positions in state courts, undergo a screening interview by a Clerkship Subcommittee⁷ which determines the applicant's eligibility. Moreover, interviewees acknowledged that federal courts require higher academic credentials of applicants than do state courts.

A GPA of 3.0 or higher, and ranking within the top 25% of the class, form the general academic parameters for receiving a favorable recommendation from the Clerkship Committee. However, interviewees asserted that the Committee considers all aspects of an

⁶The application and screening procedures described in this section apply only to unpaid undergraduate clerkships for academic credit. Students may seek clerkship placement on their own initiative without submitting to the School's administrative procedures. "Self-placed" clerks may register for academic credit or not, as they prefer. To receive academic credit the students must register either for a 3-credit weekly seminar or retain a full-time faculty advisor for a 2-credit independent study course, which requires submission of a final paper.

⁷The three-member faculty committee which screens applicants for student federal clerkships exists as a subcommittee of a larger Student Services Committee.

applicant's profile, not relying inflexibly on the academic record. The Director of Academic Affairs observed that a dynamic personality can overcome "weak" numbers toward receiving a favorable review by the Committee. A matter of some concern is the flexibility (or lack thereof) of target judges who assess applicants on the basis of the student's profile on paper, without the benefit of meeting the individual. According to a Clerkship Committee member, federal judges often transmit prerequisite qualifications, some of which are not, strictly speaking, academic achievements. This professor noted that many judges request only journal-affiliated students in the top 25% of the class. Others request students who have either done a significant amount of writing (without specifying the form or forum) or who have some "real life experience." On occasion a judge makes known a preference to receive minority applicants. In such cases the Director has matched qualified minorities only because she has personal contact with every applicant. The Clerkship Committee member speaks to minority students in his classes to encourage their application for clerkship opportunities. Nevertheless, he "despair[s] that we have not been able to get more people interested in clerkships."

The Clerkship Committee rates applicants as either eligible or ineligible for a federal clerkship. A form letter indicating the applicant's eligibility accompanies each resumé submitted to target courts. The Director occasionally supplements this documentation with a personal note of recommendation. Yet despite these personalized efforts, the subcommittee's determination of eligibility does not guarantee placement with the target court.

The Clerkship Committee member suggested that a "hidden component" of the whole

process is that the judge's clerk further screens applicants, rejecting some on the basis of the resumé alone--even if the judge never sees the resumé. The Clerkship Committee member alleged that judicial clerks evidence a fair amount of "snobbism" in screening clerkship applicants.

Another interviewee in the Academic Affairs Office likewise asserted that the judges' clerks conduct interviews, reject applicants and make offers of placement without the applicant ever meeting the judge until after the student begins work at the court. Clerkship Committee members, the Academic Affairs Director, and Faculty Advisors all rely on personal experience in steering students clear of situations which would probably lead to an unproductive, unenjoyable experience. Feedback from students and alumni, as well as a faculty member's own experiences with judges, contribute to round out the profile of individual judges and courts. The Clerkship Committee member said that, armed with this knowledge, he has had occasion to "look a student in the face and tell him 'don't go to that judge.'"

Interviewees characterized state courts as "more open" and less elitist, in terms of specifying the academic credentials of applicants, than their federal counterparts. State clerkship applicants wishing to avail themselves of the administrative services of the Office of Academic Affairs must have an index of 2.0 or better; in other words, they must be "in good standing." Applicants are matched with state courts along substantive lines. That is, students request interviews and placements in criminal, family, or civil courts as they prefer. Few state courts have expressed a preference for minority applicants. The Academic Affairs Director recalled several requests for students with specific language skills (usually Spanish),

though such requests by no means restrict the opening to a minority applicant. LLSS has contacted Hispanic judges in the state courts to promote clerkship placements among LLSS members. Due to that effort one LLSS member clerked in Manhattan this summer and two currently clerk in Bronx courts.

An identified, often overriding obstacle is that student clerkships are usually unpaid positions. The Clerkship Committee member noted that recognition of a student's financial burdens often precludes recruitment of many qualified students (minority or otherwise). A School newsletter quotes the Placement Director as saying that "[b]ecause clerkships are usually unpaid positions, minority students often must forego these opportunities in favor of paid employment."

Recognizing that financial obstacles frustrate the strongly espoused policy of increasing minority participation in clerkships, the School has recently initiated a paid summer clerkship program. This program, apparently unique in the state, placed three minorities (one Asian American and two Hispanics) in rotating assignments with six state Supreme Court judges during the summer of 1989. Participants received a weekly stipend of \$250.00. The Placement Director, who coordinated the program, and who was intimately involved in its genesis and development, contacted all first- and second-year minority students to solicit their application. Approximately 30 students applied, all of whom the Placement Director "screened," not on the basis of academic qualifications, but in terms of evidenced interest in the program. Twelve "finalists" had a second interview before a three-person panel at the sponsoring bar association, and that panel chose the three "winners." The Placement Director expects this initiative to serve as a model program, but it is too soon

for her to gauge the response of other schools.

Each student representative praised the clerkship program as a fine initiative (they also praised the Placement Director for her personal efforts in creating and implementing the program), but some applicants reportedly had bad experiences. The LLSS student heard from three female LLSS members who felt uncomfortable during the interview with the bar association panel. One woman told the LLSS representative that the panel was suspicious of whether or not she, who the LLSS student described as "somewhat light-skinned," qualified as a minority. The Placement Director discussed these complaints with the bar association.

D. Bar Review

The School offers no in-house substantive preparation for the bar examination. The Curriculum Chair asserted that the School will not expend limited resources to compete with "adequate commercial 'prep' courses." This assertion does not accord with student attitudes toward either the need for substantive preparation or the adequacy of the School's program in preparing students for taking a bar examination. The Hispanic representative reported general student dissatisfaction with the level of preparation the School provides.

The AALSA student suggested that personalized academic counseling would assist all students but would especially benefit minorities, who do not have general familiarity with "the bigger picture" (e.g., which courses beyond the "set," first-year curriculum are strongly suggested for particular career tracks).

E. Journals

Three student-run journals offer membership based either on academic performance

or on the basis of performance in a writing competition. All journals offer "automatic" membership to students who stand near the top of the second-year class. Law Review limits automatic membership to those in the top 10%; the International Law Journal and the Human Rights Journal have historically considered the top 30% of the class as warranting automatic membership. However, beginning with the 1990-1991 academic year, the International Law Journal and the Human Rights Journal will make "automatic" offers only to students within the top 25% of the class. One editor suggested that this stricter standard will still warrant an equal number of offers, given a marked expansion in the size of the entering class.

All others seeking journal membership must compete in an anonymous writing competition, which is open to all students in good academic standing (i.e., a GPA of 2.0 or better) and who have at least one academic year remaining in their course of study. One interviewee suggested that few minorities participate in the writing competition, and data substantiate this. Of 80 entrants in the 1989-1990 competition, 5 (5.1%) were minorities (3 Asian Americans and 2 Hispanics).

None of the journals has made specific efforts to increase minority membership in their ranks. At least one student leader favors "diversity considerations" for journal membership. He also noted that the ABA Journal recently published an article on the growing acceptance of such "diversity considerations."⁸ However, he fears that, were the School's journals to adopt such measures, popular opposition and misconceptions would tend

⁸C. Anderson, "Scholarly Schism" ABA Journal, Sept. 1989 p. 50. This article very briefly highlights various points of contention in the debate over the merits and proprieties of including racial ethnicity and other subjective criteria as elements of applications for membership on journals.

to stigmatize minority students--including those who meet all "race-blind" qualifications. The Director of Student Affairs mentioned that at least one journal (which she did not identify) has discussed restructuring its membership selection policies, but, the Director noted, the journal has not followed through on the idea. Low minority participation in the writing competition, combined with rigid academic parameters for "automatic" membership have garnered only a small minority presence on current journal staffs. The Review currently has two minorities (one Black, one Hispanic) among 20 editors. The Journal's seven-member editorial board is all-white, though two members of the third-year staff are minorities. The Human Rights periodical has a minority editor-in-chief among a staff of 20.

Promotion to an editorial board position depends on self-nomination and favorable peer review. The outgoing editorial boards review each applicant's performance, including whether the applicant consistently met deadlines, fulfilled office hour duties, and wrote at least one piece of publishable quality. The Review Advisor characterized board elections as "popularity contests"; nevertheless, she maintains that elections (at least on the Review) have placed highly qualified and deserving persons in those spots.

No journal has made a systematic effort to include items on race-specific issues. Most professional pieces come unsolicited, though the Human Rights Topics Editor does a mass mailing to professionals in the human rights field to solicit submissions. That mailing aims only at creating interest; it does not request pieces on specific topics. Student writers have substantial freedom to choose and develop topics, and several interviewees noted that students generally show high interest in civil rights and minority issues. The Human Rights Managing Editor reported that the journal will soon publish a student-written piece on

improper use of peremptory challenges.

F. Moot Court Programs

The Moot Court Association organizes a fall intramural competition open to all upperclass students. The chair of the Association's executive board (Moot Court Chair) described a number of ways in which the organizers try to reach the broadest possible audience. Association members make announcements in all classes at the beginning of the full semester, and the fact pattern is made available on one of the first days of classes. The Association has not contacted any student organization to solicit participation.

The Association also makes membership completely open, contingent only upon performance in an intramural competition. The Association offered membership to several graduating students (i.e., students graduating at the end of the fall 1989 semester) even though those students, clearly, could not long participate in the Association. Similarly, there is no limit on the number of offers of membership which the Association will make. The fall 1988 competition garnered 42 participants; 16 were offered Association membership. The fall 1989 competition had 72 participants (a 71% increase), and 28 were offered membership (a 75% increase). Though the Association does not have any files on the minority representation among the competitors, the Moot Court Chair recalled at least three, one of whom reached the finals. The Association's current membership includes Blacks, Hispanics and Asian Americans. The current, 13-member executive board includes two minorities. The Moot Court Chair also finds that moot court is becoming more popular among top-ranking students who, historically, flocked to journals.

Each stage of intramural competition exposes participants to admittedly subjective

assessment.⁹ Judges take the opportunity to critique and counsel participants on all aspects of their oral presentations. On occasion, a seemingly well-intentioned comment has done more harm than good. The LLSS representative "replayed" this exchange: an LLSS member (who ranked in the top 20% of the class) had just given a late-round presentation before a large audience which included her children. Commenting on the presentation, a judge "informed" her that "you will have to lose your accent if you want to become a good lawyer."

IV. MINORITY JOB PLACEMENT

A. On-campus Interviews

All prospective employers wishing to use the Placement Office's service or School facilities must assent to the School's antidiscrimination policy. However, signing off on the policy does not guarantee admission for those employers whom the Placement Director knows to discriminate in practice despite assertions to the contrary. Such discretion vests in the Placement Director due to a separation of functions: The School's Policy Committee determines the breadth of the antidiscrimination policy; the Placement Director interprets and implements it.

To track the practices of on-campus interviewers the Placement Director maintains files of student complaints and personally follows-up on complaints. Before confronting an employer she contacts other students who interviewed with that employer to determine if inappropriate questions were asked of several interviewees. Resource files in the Placement

⁹All competitors argue twice before three-member panels. The highest and the lowest of the six resultant "oral" scores are thrown out, the remaining four produce an average, of which the competitor receives a 60% credit. The Association's grading of the written brief provides 40% of the preliminary round score.

Office also include surveys of students' work experience at individual employers, thus filling out the profile of an employer. Students can request confidentiality on work experience survey forms.

Employers are given information by which they can select students to interview on campus, but only if the student approves transmittal of the requested documents. Employers usually request transcripts only on "call back" interviews. The School has not attempted to discourage prescreening, and the Director opined that any such efforts will not work. She noted that students may always take the initiative to set up interviews with any firm. Moreover, students always bear the burden of initiating searches and "boning up" on employers.

B. Additional Placement Office Services

1. Information and Interview Preparation

The Placement Director expends much effort in simply getting students to use the Placement Office and its resources. At the start of each academic year, the Placement Director contacts student leaders to gauge current student interest. She is trying to get the student groups to invite her to their monthly meetings.

The Placement Office conducts an annual Mock Interview Program, a simulated job interview intended to give students a "dry run" at interviewing. The Placement Office mails registration forms to all continuing students. Students indicate preferred area of practice, work setting and organization size. Each interviewee is paired with an attorney (a volunteer) for a twenty-minute mock job interview. Interviewers give immediate feedback and appraisal of the interviewee's performance.

The Placement Office also coordinates career panels which discuss specific substantive areas of legal practice. The Director solicits participation by alumni and other practitioners of various racial backgrounds in an effort to make each panel reflective of the School's current community. The Office also organizes more general career fairs. A recent fair focused on minority involvement in the legal profession.

2. **Public Interest Scholarships**

The SBA has recently begun amassing a public interest scholarship fund. The plan asks current students to contribute one day's pay from their current jobs to underwrite fellow students who enroll in public interest internships. The scholarships, if established, will begin in the summer of 1990. The administration has considered establishing a matching gift for this fund should the plan meet approval and garner sufficient student contributions.

3. **Graduate Clerkship Advisors**

Those seeking postgraduate clerkships can be assigned a Faculty Advisor through the Office of Academic Affairs. Advisors are selected on the basis of familiarity with the student's qualifications. Unlike student clerkship positions (described above), graduate clerkship applicants are not subject to screening interviews by School faculty.

C. **Minority-Specific Placement Efforts**

In an effort to overcome "minority invisibility," the Placement Director has disseminated a letter to area law firms in support of minority student hiring. She suggested that, except for a small number of minority job fairs held across the country (which number only from seven to nine in the Director's knowledge) and personalized efforts of this sort, "10,000 minority students remain invisible to firms." The Placement Director makes several

efforts to attract and match minority students with employers who affirmatively seek out minorities. In addition, the Director maintains a separate file of job descriptions which are either addressed to minority students or which encourage minorities to apply. These she routinely sends directly to each minority student organization.

Students praised the Placement Director for her efforts, reserving criticism for prospective employers who the students perceive as rigidly dependent on academic credentials as the sole indicators of qualification. One student attributed employer inflexibility to employers' perception of the School's "stature." The opinion among the legal community that the School "stands" lower than others contributes to what this student termed a "deterrence factor"--a feeling that an application by a minority would not "get a second look" unless the student meets the firm's academic prerequisites.

The AALSA student criticized firms for their dependence on journal membership or Moot Court as added indicators of qualification. He suggested that language difficulties preclude Asian-American students from participating in these cocurricular activities (though he personally has encouraged AALSA students to participate), but he does not believe that those same students could not ably handle professional assignments. He recommended that firms consider affirmative action hiring for summer associate spots because firms "might see a lot of talent" which the regular interview and hiring procedures tend to screen out.

V. FACULTY ISSUES

A. Minority Faculty Recruitment: Policies and Efforts

The Chair of the Faculty Committee on Appointments (Appointments Chair) reported Committee dissatisfaction with the number of tenure-track minority instructors on

the current faculty. He qualified this response with the caveat that the Committee has not locked itself into a strict quota or target number for minority faculty. All minority candidates must, he asserted, meet "baseline qualifications," to succeed at this--or any other--law school. In trying to characterize those "baseline qualifications" the Appointments Chair spoke in terms of competency as a lawyer, as a teacher, and as a scholar. However, the Committee often considers minority candidates who have little or no teaching experience. Neither must a minority candidate have amassed an opus of scholarly writing before the Committee will consider the candidate. The promise of, and dedication to, scholarship weigh heavily in the consideration of otherwise "inexperienced" minority candidates. The Committee purposefully applies less stringent standards in consideration of minority candidates than those by which it assesses nonminority applicants. The Appointments Chair characterized this concession as "a risk" justifiable primarily because of the importance which the Committee attributes to encouraging and increasing minority presence on the faculty. This is not to say, he noted, that minority candidates, as a group, are necessarily less qualified to be law professors than are Whites. Rather, just as in any pool of applicants, qualifications range from outstanding to undistinguished, and, given the fierce competition to recruit minority faculty, the Committee's dedication to minority recruitment requires flexible assessment of ostensibly objective qualifications (e.g., academic achievement or significant work experience).

In sheer numbers the School wants not for both solicited and unsolicited applications; nevertheless, the Appointments Committee has recognized, and acted upon, a need to expand the pool of minority applicants. Towards this end, Committee members have

contacted minority bar associations, nonprofit agencies and advocacy groups to encourage minority applications. No one has affirmatively responded to that initiative. While the Committee has given some consideration to recruiting faculty of various racial backgrounds the Appointments Chair noted that Hispanics and Asian Americans comprise but a fraction of an already very small minority pool.

The Committee has not canvassed the alumni for applications. The Appointments Chair noted that, with few exceptions, the Committee has not seen many recent minority graduates who strike the Committee as viable candidates. Moreover, he suggested that talented students of all racial groups forego academic careers for other employment options. Several interviewees commented that few students have expressed a desire to enter legal education.

The most important reason to recruit minority faculty, as identified by the Appointments Chair, is to provide significant role models for all students. In fulfilling that role a minority instructor can both inspire and sensitize; minority students can find in a minority instructor an encouraging model for their own aspirations for professional success. A talented minority instructor can expose white students to a significant minority authority figure--a relationship often unknown to a large segment of the student body which the Appointments Chair characterized as overly "provincial."

Expanding somewhat on these comments, one student leader specifically asserted that the need for minority faculty goes beyond a need for role models. Minority faculty can provide what this student characterized as a much needed "alternate perspective" on the law and legal theory. Students need that different perspective, he asserted, to get a balanced

outlook on an issue.

B. Student Perceptions

Neither a strong dedication to minority recruitment, nor an eloquently expressed rationale for the effort, dispel an overriding perception among black and Hispanic students that the School disfavors minority faculty. The LLSS representative could not recall that there has ever been a tenured black or Hispanic professor at the School.

The BLSA representative spoke of the relative lack of minority faculty as it affects students. Without minority faculty, minority students feel that there is no one they can approach, he said. Moreover, he asserted, a lack of minority faculty fuels a perception of both exclusion and insensitivity by the current faculty.

In contrast, the AALSA student reported that, while recognizing that the ratio of minority faculty to minority students is very low, the small minority faculty presence has not been too much of an issue for AALSA members. This student suggested that minority students tend to depend on a professor, not because the professor shares ethnicity, but because the student feels comfortable with that professor, be the professor white or minority.

There has been considerable controversy regarding the decisions reached on the tenure applications of several professors, including one black professor. A recent issue of a student newspaper ran eight pieces on the topic. Commentators alleged racial bias, criticized procedures whereby outside scholars critique an applicant's scholarship, and called for more openness and student participation in tenure decisions.

CASE STUDY M

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

The School currently employs neither a Minority Recruitment Director nor a Director of Minority Student Affairs; the newly retained Director of Student Affairs, a black alumna, fulfills both functions. While most interviewees praised the hiring of the Director of Student Affairs as a positive step, the President of the Black Law Student Association (BLSA) complained about the breadth of the Director's responsibilities. The student said that though the Director's post was originally envisioned as an administrative position dedicated exclusively to assisting black students, the School departed from the original plan in order to create the current position. (Other interviewees neither confirm nor deny this student's recollection of the original concept for the position which the Student Affairs Director now fills. Whatever the original "agenda," the Director's current responsibilities clearly extend to the entire student body.¹) The BLSA student criticized this "expansion" as a concession to general minority concerns in disregard of both the unique difficulties faced by black students and the need for a full-time staff member to address those difficulties.

Students assist in the School's recruitment efforts as practicable. The Director of Admissions seeks out students who have personal connections with a target school. For example, a current law school enrollee who attended College X would be a potential

¹In addition to minority recruitment efforts, the Director of Student Affairs supervises and advises joint degree candidates, coordinates enrollment into law classes for degree candidates from other graduate programs within the university, assists part-time students with schedules, refers students in need of counseling, coordinates the procedures for foreign-trained attorneys coming to the School for the New York State bar examination, and monitors "visiting students" (students who are completing their law degrees at other law schools).

recruiter at College X-sponsored events. Similarly, a college student/applicant who visits the School may be paired with a current law student/fellow alumnus.

B. Minority Applicant Recruitment Programs

Recent events have demanded a renewed emphasis on minority recruitment--an area in which one interviewee deemed the School "guilty of benign neglect." According to the Assistant Dean for Academic Affairs, though the School has typically enrolled 15-20 minorities in recent entering classes of approximately 250, this "recruitment" was accomplished without significant, targeted efforts at minority recruitment. For the class entering in the fall of 1989, the School accepted 30 black and 20 Hispanic applicants. Only four Hispanics--and no Blacks--enrolled.

In response to this virtual "disappearance" of first-year minority students, which one interviewee attributed to "cutthroat competition" for minority students, the School has formed an ad hoc committee with a dual mission: to develop formal minority recruitment programs and to improve the overall School environment for current and future minority students. (Committee initiatives in both areas are discussed as appropriate in subsequent sections of this case study.)

1. CRS Mailing

The School disseminates general, descriptive literature to potential applicants registered with the Candidate Referral Service (CRS).² Ethnicity is one of several parameters used when the School requests a CRS list.

²Registrants with the Law School Data Assembly Service can authorize release of personal information through the Candidate Referral Service. CRS list parameters include LSAT scores, GPA, age, race/ethnicity, and economic and geographic background.

2. Off-campus Minority Recruitment Efforts

One of the main "thrusts" of the ad hoc recruitment committee has been to reach an expanded minority applicant pool through increased School "visibility" at law forums and college campuses. This, in turn, has required the dedication of specific personnel to these "travelling" duties. That assignment has, by and large, gone to the Director of Student Affairs. She has attended prelaw forums and LSAC forums in Boston and New York,³ visited Howard University, and attended minority recruitment events at a number of New York law schools.

3. On-campus Minority Recruitment Efforts

The ad hoc recruitment committee has planned an early-December, half-day session for prospective minority students. The session is to feature class visits and discussion of financial aid options. The committee has also made arrangements to have both the minority student organizations and faculty correspond with prospective minority students.

Efforts are also made to introduce prospective applicants to the legal profession. Several faculty members are involved with high school outreach programs. One faculty member described a one-day program held in the summer of this year. Twenty students, including four minorities, from local public schools came to the School for an "academic skills" seminar. The presentation, though it included some introduction to the legal profession and legal principles, used the legal elements as a means to improve reading ability, oral presentation and logical thought.

³The Law School Admission Council, with participating ABA-approved law schools, sponsors two-day forums in New York City, Atlanta, Chicago, Boston and Los Angeles.

One planned initiative calls for "guaranteed admission" arrangements with colleges. Under such a program, the Law School would guarantee admission to undergraduate students who concentrate in certain areas (e.g., philosophy or English) and obtain grades at or above specified minimums and score at or above a specified minimum on the LSAT. Though only in the planning stages, provosts and prelaw Advisors have been overwhelmingly positive in their response to this plan.

C. Admissions Criteria

1. "Traditional" Admissions

The School uses an admissions index to "standardize" the assessment of candidates' undergraduate academic performance and LSAT scores,⁴ but literature and interviewees alike disclaim any inflexible reliance on numerical indicators; interviewees asserted that the School uses neither a minimum LSAT score nor a minimum undergraduate GPA in its admissions decisions. (The "average" LSAT and GPA for the class entering in the fall of 1989 are, respectively, 35 and 3.2).

Race is factored into the decision-making process. Undergraduate and graduate course work, letters of recommendation, work experience and life experience were all mentioned as elements which the Director of Admissions "weighs" against LSAT score and GPA; the scores of minority applicants are, on average, the Director of Admissions noted, somewhat lower than the scores of white applicants. This "weighing" of qualifications is

⁴ According to the most recent catalogue, the School applies the following formula:

$$\text{Index} = [0.275 \times \text{LSAT}] + [2.489 \times \text{UGPA}] - 4.000$$

The formula uses "weights selected by [the School] on the basis of validity studies conducted . . . by Law Services. These studies show the relationship between LSAT, UGPA, and first-year law school grades at [the School], based on recent actual experience."

often a protracted process. The Director of Admissions can admit and deny admission at her discretion. Nevertheless, most files go to the full Admissions Committee for consideration and discussion. The committee generally reads what the Director of Admissions called "grey area files."

2. Legal Education Opportunity (LEO) Admission

This section describes the recruitment aspects of LEO. Observations on the actual 1989 administration are discussed under Academic Support.

The School offers admission to a small number of applicants contingent upon completion of a summer LEO course. The LEO curriculum combines substantive lectures (e.g., an introduction to tort law or discussion of seminal U.S. Supreme Court cases) and personalized writing instruction, with an emphasis on legal analysis and legal reasoning. Two faculty members, three student Teaching Assistants and a Writing Instructor from the affiliate university staffed the summer 1989 program. The Writing Instructor, who does not have a legal background, works closely with students to address individual problems.

LEO candidates are applicants who, while not meeting the standards for regular admission, indicate promise of success in legal studies. LEO targets "minorities and other students who may have been deprived of equal education opportunities due to race, poverty, or other factors beyond their control, and . . . persons with unusual accomplishments, backgrounds and experiences." The Chair of the Faculty Committee on Admissions (Admissions Chair) characterized LEO applicants as either mid-career applicants or disadvantaged students; however, this can be an artificial distinction. The older groups tend to be "disadvantaged," the Admissions Chair noted, in terms of basic test-taking skills and

GPA (i.e., persons out of school for a number of years do not have the advantage of GPA inflation. This group often includes applicants who have not attended school in 10 to 15 years, the Director of Admissions observed.) LEO candidates often report one quantitative indicator (i.e., GPA or LSAT) which is not competitive with the balance of the applicant pool. The Admissions Chair stressed that LEO is not a minority recruitment program, but rather "a program by which we bring diversity into the student body." Nevertheless, LEO admission garners the majority of minority admittees to the School.

Explicit application for LEO admission is not required; all applicants not regularly admitted are considered for possible LEO admission. However, applicants may expressly seek LEO admission. School literature directs applicants to submit a statement "explaining why [the applicant believes] traditional quantitative admissions criteria may be inadequate predictors of success in [the applicant's] case." Self-initiated LEO applicants are advised to submit detailed resumés and writing samples. In the Admission Director's experience, applicants are most often assisted by strong letters of recommendation, a strong writing sample and/or undergraduate enrollment in Higher Education Opportunity programs.

In 1989 the School offered LEO admission to 69 applicants; 23 (33.3%) actually enrolled in LEO; 35% of these (eight or nine) were minorities. All 23 participants completed the course; 18 (78.26%) enrolled at the School and four enrolled at other law schools. (Enrollment in the LEO program does not require a commitment by the student to actually enroll at the School.)

One interviewee suggested that, due to the fierce competition among law schools to recruit minority students, minority applicants are likely to see LEO as an obstacle rather

than an aid. He hypothesized that a minority student weighing LEO admission against unconditional admission at a comparable, or more elite, institution will, almost invariably, accept the other offer. Though 66.7% of those offered LEO admission declined the offer, the School has no data on the eventual law school enrollment status of those non-participants or on the reasons they chose not to participate in the program. LEO enrollment has declined from 33 enrollees in 1987 to 23 enrollees in both 1988 and 1989; neither of the two Blacks in the 1989 LEO program enrolled at the School.

Interviewees spoke of the "risks" involved in offering a conditional admission program. On the one hand, LEO involves a risk by the School in expending resources to encourage enrollment by applicants who, without the LEO option, would not meet the School's admission standards. The Admissions Chair reiterated that via the LEO program the School is offering admission to applicants ranked lower than the lowest admittee on the "straight" admissions profile. The Chair expressed concern that this sort of "reaching down" may be a disservice to applicants. "After a certain point you create a serious risk of putting students in an environment where an applicant will probably not survive," the Chair said. LEO "graduates" who then enroll at the School take a risk by signing on to an academic program for which, by the School's "usual" assessment, prior educational and life experiences did not adequately prepare them. However, a faculty member reiterated that LEO is an assistance program; it is not meant to "shuttle people through" without consideration of their abilities. The Director of Admissions called LEO a good introduction to legal education, an introduction which allows some the chance to say "No" to law school with minimum expenditures of either time or money. (However, few LEO enrollees are deterred from law

school. As noted above, all 23 summer 1989 enrollees completed the course and 22 (95.65%) enrolled here or elsewhere.)

The BLSA President spoke of the LEO program as a microcosm of the problems which confront black students at the school. She characterized LEO as typical of a tendency to expand programs beyond their original design so that what was intended as a program to assist Blacks at first became a program for all minorities.⁵ Other interviewees, and information from other sources, seem to speak against the student's description of the original purpose of LEO. According to the Admissions Director, LEO is modelled after the Council of Legal Education Opportunity (CLEO) program. Literature from CLEO explains that CLEO was established in 1968 through the joint efforts of the National Bar Association and the American Bar Association. The Hispanic National Bar Association became a sponsor as early as 1972. By 1979, the first year of the LEO program, CLEO had long been an integrated program.

D. Minority Acceptee Recruitment Programs

Postacceptance recruitment efforts have drawn mixed results. Students and staff used to telephone accepted applicants, but those solicitations, which were tried for two years, were considered generally unsuccessful and were, therefore, discontinued. Accepted students currently receive descriptive literature (e.g., a letter from the President of the Law Student Senate, newsletters, and alumni publications), none of which specifically targets minority applicants. However, the ad hoc recruitment committee has reportedly arranged for future mailings from minority student organizations and faculty. The committee has also arranged

⁵Compare this student's comments on the post of Director of Student Affairs (see above at p. 469).

a day-long, March event for minority acceptees from area colleges.

The Director of Admissions noted one personalized effort which responds to applicants' self-identified interests. As part of the application procedure, applicants may indicate areas of legal practice of interest to them. Accepted applicants receive a letter from a faculty member who teaches in the field. The Director of Admissions characterized this program as "unique" and "very successful." This program is not specifically targeted to minority students.

Alumni generally participate in "regional" acceptee recruitment efforts. For example, alumni in a given city might hold a luncheon for prospective students in their area. The School is working to systematize the pairing of alumni with prospective students. This program is also not minority-specific.

E. Financial Assistance

In addition to state and federal assistance programs⁶ the School offers prospective minority students several options for financial assistance. The Patricia Roberts Harris Fellowships, funded jointly by the federal government and the School's affiliate university, support "members of groups traditionally underrepresented in various fields of study, and who demonstrate exceptional academic promise and financial need." There is also a BLSA Scholarship. The affiliate university administers an African American Fellowship for which law students compete against members of the University's other graduate programs. The School also offers its own "Diversity Scholarships," eligibility for which is dependent upon

⁶Federal programs include the Perkins Loan, Stafford Student Loans, Supplemental Loans for Students, and Federal Veterans Administration Benefits. New York State offers a Tuition Assistance Program as well. The School also participates in the Law Access Program sponsored by the Law School Admission Council.

student merit. The School also makes "institutional grants" awarded solely on the basis of financial need.

As with the LEO program, fierce competition among law schools to recruit minorities can frustrate the School's efforts to attract minority students through offerings of financial assistance. One faculty interviewee mused that even if the School offers a scholarship, an applicant may get, and take, a scholarship offer from a "better quality school."

Despite seemingly numerous options, the Director of Admissions still cited lack of financial assistance as a concern, and an obstacle, to the School's minority recruitment efforts. As if to affirm the Director's assertions, the BLSA student repeatedly spoke of financial aid as a key concern for minority students. The student called it "imperative" that adequate financial assistance be provided for Blacks, pointing to a recent lack of financial assistance as having materially contributed to minority student attrition--which she called "horrendous." The student called for the School "to put its money where its mouth is" if the administration wished to forestall a "hostile, passive-aggressive situation" among minority students. She was also particularly critical of instances when staff made reportedly defensive, rather than empathetic, responses to student complaints about the lack of aid; staff reportedly countered student complaints with queries like "Were you promised aid?"

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

The Admissions Chair deemed it "an institutional responsibility to offer substantial academic support." Traditionally, the Chair said, the School has relied almost exclusively on first-year faculty (i.e., those teaching first-year courses) to help students--any students--

having academic problems. Currently, the School is developing a formalized academic support program, a development which the Admissions Chair attributes to a recognition that informal support has not had the desired effects. Enrollees are to be high risk first-year students identified through a number of sources. It is expected that several will be identified by the student teaching assistants in the first-year "lawyering" and legal writing course. Others will be recruited on the basis of GPA and LSAT, or on the basis of first-year, midterm grades. The Director of Student Affairs has also sent a letter to several students who are currently repeating the first-year curriculum. The Assistant Dean for Academic Affairs envisions first contacting the bottom 30 students in the first-year class then continuing "up the scale" until 30 students agree to enroll.

The tutorial program is to be staffed by six upperclass students selected on the basis of their transcripts and on the strength of a writing sample. Sessions are to be taught to both groups and individuals. Each of the six tutors will meet with students (five per tutor) every two weeks for group and individual substantive tutorials. The Assistant Dean will provide general supervision of the student tutors. Should the first-year tutorial program prove successful, the tutorial "corps" may grow to 10 or 15, and the program may be expanded to provide tutorial assistance to upperclass students.

One interviewee discussed some of the obstacles which a school confronts when trying to develop academic support programs. One key consideration is the fear of stigmatization, the fear that too elaborate a support mechanism (e.g., compulsory tutorials) will inevitably stigmatize program participants. Another concern is the viability of academic support within the relevant time frame. The Admissions Chair suggested that law students "find themselves

on the steepest learning curves in their lives." Prior education may be the key to an ability to succeed in this environment. The Admissions Chair has observed no correlation between undergraduate concentration (in terms of subject matter) and success in law school, yet the distinguishing feature of successful students seems, in the Admissions Chair's experience, to be the rigor of the undergraduate course. The Chair asserted that there is a general need to sharpen the academic skills of minority students before the postgraduate level. He suggested that a full-year, preenrollment preparatory course, focussing on general writing and exam-writing skills, might better meet this need than do the current programs.

The BLSA student deemed current academic assistance inadequate. She noted that the initiative falls on the students themselves, in response to which the BLSA chapter has in the past offered special assistance. For example, during the 1988-1989 academic year, BLSA held a seminar on test writing. BLSA also runs a Big Brother/Sister program to match new students with upperclass peers and mentors and offers course outlines and individual, substantive tutorials for its members.

B. Law School Atmosphere

1. Creating a More Receptive Environment

Geography is perceived as one obstacle to the School's minority recruitment efforts; the Director of Admissions said that the School has "lost" and will continue to "lose" minority candidates to "urban" schools. The Director of Student Affairs said that in her work with the ad hoc recruitment committee, and in speaking with students, the two concerns uppermost on the minds of minority students are the need for stronger minority student recruitment efforts and the students' perceptions of an atmosphere of hostility. Some recent

steps have been taken toward making the School community more receptive to minority students, present and future. For example, the ad hoc minority recruitment committee has "expanded" its mandate to address the interests and concerns of currently enrolled students. The Assistant Dean for Academic Affairs mentioned plans for a seminar on "minority contributions to the law" as part of Martin Luther King Jr. day celebrations. The ad hoc committee is also involved with a new program called "Valuing Diversity."

The "Valuing Diversity" program grew out of a weekly Student Bar Association forum. At one such meeting recently a minority student took the floor to speak about minority issues. In characterizing that presentation one interviewee said that the student "made it clear that minority students felt that they were being ignored." At a subsequent meeting several faculty and staff (persons familiar with minority issues and who deal with recruitment and other pertinent topics) met with minority students to discuss formally the students' concerns. A forthcoming session will feature a film presentation and follow-up discussion.

2. Minority Student Organizations

The BLSA student explained that though non-Blacks are welcome as members of BLSA, the chapter also has an obligation to represent the special interest of Blacks. Asserting that she aspires toward maintaining BLSA as a black organization, the student reiterated her "thesis" that most School programs which began as programs for black students have been expanded to serve all minority students--to the detriment of service to the black students. While recognizing that all racial minorities face problems in their efforts to integrate themselves into the legal profession, the BLSA President cites the benefits enjoyed by other minority groups which have not made the sacrifices of previous generations

of Blacks.

The BLSA student did not suggest a complete disassociation between Blacks and other minority students; a separate, independent "rainbow coalition" would have her support so long as BLSA could also remain. However, a coalition does not seem in the offing. Asian-American and Hispanic students have made progress toward forming independent organizations.

3. Presence of Minority Students and Faculty

The BLSA students placed great emphasis on the negative ramifications of the virtual disappearance of black students over the course of only four years. These declines have, the BLSA student maintained, fueled a strong perception that minority recruitment efforts here have been little more than "lip service." Such perception in turn contributes to a feeling of intimidation which pervades the current minority student experience--an intimidation escaped only, the student opined, by those black students who, through their involvement in activities like student government, have "entrenched" themselves "in both worlds."

In speaking about the role of minority faculty in the educational experience of minority students, the BLSA student called the School's two black instructors "our lifeline" to the School administration. Students want more minority representation on the faculty, she said.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Issues

The Curriculum Committee has not systematically reviewed the curriculum to include legal issues of particular relevance to minorities, though the Committee could so review and

recommend a restructuring; curricular content comes within the committee's purview as the Assistant Director for Academic Affairs (formerly Chair of the Curriculum Committee) understands it. However, suggestions for curricular revision may issue from another group. The ad hoc committee on minority recruitment has attempted to extend its purview to other issues such as the curriculum. Though committee action has yet to occur, individual instructors, the Assistant Director asserts, do address minority issues.

The BLSA student did not deny that instructors discuss minority issues; however, the student suggested that racial issues, when discussed, are touched upon only superficially. She levelled a number of other criticisms against both faculty presentation and the content of current course offerings. For example, the student criticized a Property Instructor for excluding from a recent syllabus the topic of racially discriminatory covenants--even though the topic had been on the syllabus the year before. Similarly, a recent class on Labor Law reportedly overlooked materials on racial discrimination. The student also suggested that a course on Civil Rights, currently taught by an instructor described by the BLSA as a "liberal white," would benefit from a minority perspective.

The BLSA student called for the inclusion of more courses on minority issues, deeming such courses necessary to the training of future lawyers. "Lawyers need to know who they will be dealing with as practicing attorneys," the student stated.

The School has not identified any "special" curricular interests of minority students. Moreover, the students themselves have not come forward to identify any "unique" interests. Interviewees perceived that minority students proportionately enroll in courses across the curriculum. The Assistant Dean could not think of any offering that would qualify as a

course targeted specifically at minority students. though he posited that the course on Civil Rights Legislation might come closest among current offerings to a course on minority issues. A class entitled Race and American Law has not been offered in recent years because the instructor "decided that he wanted to teach something else for a while," the Assistant Dean said.

B. Clinical Programs

1. Sensitizing Students to the Issue of Race

Students in the clinical programs receive some special training in dealing with members of different racial groups. Each clinic includes a seminar component, during which a strong effort is made to address effectively the issue of racial differences in the various aspects of clinical representation, ranging from client interview through how personal, perhaps unconscious, prejudices affect client representation.

The Director of Clinical Programs (Clinical Director) noted that race, as an issue in legal representation, arises in a number of contexts throughout any given year. One section of a particular syllabus deals with client interviews and negotiation. At this juncture the Clinical Director tries both to focus a student's attention on the student's unconscious use of gender-specific language (as opposed to gender-neutral speech) and to bring attention to other aspects of the student's thought processes. Further, discussions of the legal profession and legal education provide an opportunity to discuss the issue of race as it arises in these broad contexts. The Clinical Director and the clinical staff have discussed ways to integrate the issue of race into the clinical curriculum. The Clinical Director also maintains files of literature on issues of racism and sexism; other clinical instructors have referred to these

files.

In keeping with her role as an educator/facilitator, the Clinical Director's role is not to remove prejudices but to make students aware of the issues. She aspires to having students confront the issues, to confront their own feelings and prejudices, which self-analysis may, if students confront these issues often enough, cause students to make an honest effort to modify their thinking. The Clinical Director admitted that her expectations are modest. She also sometimes worries that such self-examination can lead to negative reactions such as an unwillingness to even participate in the discussion (e.g., responses like: "O.K., I see that I have a problem. End of discussion.") or false acquiescence (e.g., outwardly saying: "O.K., I see your point." while inwardly fuming "Why you self-righteous b----."). So there is a fear--though the Clinical Director does not consider it a "paralyzing" one--that such discussions may actually reinforce prejudices.

A faculty member's own experience can prove invaluable to preparing students to deal with race-inspired responses to the legal system. The Director recalled a recent experience in the Employment Discrimination Clinic. A student was to tell a client that the client had just lost his case. In a role-playing simulation the Director tried to prepare the student to respond to the client if the client were to accuse the judicial system of racism. The client reacted in just that way.

2. Program Descriptions

The School's Art Law Clinic, a new and experimental program, provides representation for artists, writers and performers in civil matters such as copyright disputes and establishment of nonprofit corporations. Both the client and student populations are

100% white.

A criminal law clinic handles misdemeanor cases. The clientele is approximately 60% minority (predominantly Blacks and Hispanics), and the students are 20% black and 80% white.

A public interest law clinic provides representation in "impact litigation" in federal court. The individual clients include one Black and two Whites; the black client is involved in an employment discrimination suit. An ongoing class action pits inmates of the local county jail (a group composed mostly of minorities) against the county. The students are 100% white.

A housing and finance clinic assists community groups to develop low-income housing. Participants deal with several groups, at least one of which is made up of Blacks, while another group is integrated. Student participants have also had contact with the local Spanish Action League, but the clinic does not actually represent this group yet. The Clinical Director noted that all the work of this clinic will either directly or indirectly affect minorities in the community. The housing clinic enrolls one Asian American and seven Whites.

A new program plans to provide civil representation to the homeless in venues such as Family Court and Housing Court. It is expected that the clientele will be predominantly minority; the composition of the student body is not yet known.

C. Bar Review

The School does not offer an intramural, pregraduation course to prepare students for the bar examination. However, there have been recent, informal attempts at offering

such a seminar. During the spring 1989 semester, one professor ran a program wherein the professor distributed "bar-like" essay questions, graded the responses, and reviewed these with participants. The BLSA student called for this program to be repeated and expanded. Currently, the Assistant Dean for Academic Affairs is working with one of the commercial test preparation companies to develop an in-house spring seminar on bar examination essay writing technique. As envisioned, this program will be a free offering staffed by the sponsoring company.

The School has undertaken an internal study to determine the basis of the correlation between academic performance and bar examination passage rates. According to the Admissions Chair, the project will attempt to determine which course of study, with what level of achievement, correlates with a substantial likelihood of bar passage.

Students and alumni alike have pressured the School to increase bar examination pass rates--pressure which has often focused on the students admitted via the LEO program. The Admissions Chair noted that minorities and LEO admittees constitute a disproportionate part of those within the lowest quarter of graduating classes. Students and alumni perceive, the Chair continued, that LEO students have adversely affected the School's pass rate figures. That perception has fueled pressure to tighten standards for LEO admissions, the Chair said.

D. Law Review

Eligibility for Law Review membership is determined either by class rank or by the quality of a writing sample. Students who, after their first academic year, rank in the top 10% of the class are "automatically" offered spots on the Review. Others may compete in

an open writing competition which requires submission of a 10-15 page article. Information on the writing competition is disseminated at a general meeting attended by approximately 95% of the first-year class. The competition elicits approximately 130 submissions (from a class of approximately 250). Submissions in the writing competition are subject to "blind" scoring, so the identity and race of an individual cannot factor into any assessment of the writing sample. An equal number of new staff are chosen from among those students who "grade on" and those who "write on," according to the Editor-in-Chief.

"Promotion" from second-year to third-year status is contingent upon successful completion of membership requirements, including the writing of a note of publishable quality. These requirements have no adverse impact on any second-year student members; the Editor reported that all 1988-1989 members are continuing on the Review during 1989-1990.

Third-year members may apply for editorial positions, for which applicants are subjected to a protracted, subjective process. The application process requires submission of a personal statement, a nomination and "seconding" of the nomination, a personal interview with the current editorial board, a panel interview (i.e., all applicants for a given position appear as a group before the current editorial board), elimination voting rounds, and final election by a two-thirds majority. No specific efforts are made to increase minority representation on the Review's editorial staff. The Editor felt confident that the Review is not "antiminority."

Current second-year staff includes one black student; the third year contingent includes two Hispanics, one of whom holds an editorial position. The Editor noted that a

minority presence of three gives the Review staff a higher percentage of minorities than in the current student body.

No particular efforts are made to include articles on race-specific issues. The Review does some solicitation of faculty and their associates. Students formulate their own note topics. Third-year students advise the younger students only to avoid selection of topics which are either "too hot" (e.g., anything involving recent, controversial U.S. Supreme Court decisions) or likely to be preempted.

E. Moot Court Programs

The School runs a highly structured Moot Court program, though that has not long been the case.⁷ Open "tryouts" for first-year students are held in the spring, two to three weeks before final examinations. By the Moot Court Advisor's estimate, one half to two thirds of the first-year class competes.⁸ The Advisor evaluates all submissions and then distributes the top third to other faculty and Moot Court Board members for rereading. The oral segment of each tryout is videotaped and reviewed. Deferring to the criteria most often used in national competitions, submissions are rated 60% for oral skills, 40% for writing ability. The Advisor would prefer a more equitable weighting of writing with oral skills.

⁷The program's current organization is a fairly new approach. Until three years ago, Moot Court was a voluntary, student-run organization with little formal structure. The program had a faculty advisor and offered academic credit; however, in response to a growing concern that "the blind were leading the blind" the Dean appointed, in the Spring of 1987, an ad hoc committee to restructure the program.

⁸According to the Advisor, "over one hundred and twenty students competed for the thirty-two Associate member positions."

The Advisor noted that competition among cocurricular activities can affect both the size of the applicant pool and the motives for application. Some students apply for Moot Court Board membership as a "hedge" against not being chosen for a journal, the Advisor noted. However, he sees Moot Court programs as something more than an alternative to Law Review. He further noted that several current Board members also work on the Review.

However, the Moot Court Board looks, ideally, for students with equally strong writing and oral skills, though it has been the Advisor's experience that the Board will consider a candidate slightly weaker in writing skills. In the Advisor's assessment, the requirements of Moot Court Board membership adequately address the need to develop written proficiency.⁹ There has not been an effort to improve the skills of any one particular group of students, the Advisor said.

The brief and recorded oral presentation usually provide all the information considered by the Board. On occasion, however, an applicant's personal history may evidence an applicant's special qualifications for a particular moot court competition. For example, an engineering degree would "flag" an applicant as a likely candidate for a competition on patent law. Race/ethnicity are not currently deemed cognizable subjective factors to be weighed in a first-year application.

The Board currently undertakes no programs specifically to recruit minority students. Nevertheless, the Board has, in the Advisor's opinion, had significant minority representation, especially in light of the small size of the minority student population. For example, two minorities (one Asian American and one Black) held top Board positions two years ago. Further, a black third-year student last year coordinated the training program for

⁹Associate Members must enroll in an Appellate Advocacy seminar (offered only to Moot Court Board members). The Advisor called this course, taught by faculty and practicing attorneys of the local bar, "superb training in writing."

Membership also mandates enrollment in an Evidence class (fall semester) and a course on Trial Practice (spring semester).

second-year students,¹⁰ a responsibility which the Advisor called "the most visible position on the Board."

Though the majority of intramural and intercollegiate moot court competitors are Board members, the Advisor characterized the current Board as "open" and "willing to bring in nonboard members to participate in programs and competitions." The School fields two teams for the Frederick Douglass Appellate Competition. The Moot Court Board funds the teams, which are chosen from the School's BLSA chapter. The Board offers administrative assistance but BLSA has the final say on the selection of Douglass competitors.

The BLSA student had high praise for the Douglass competition. First, the February 1989 competition reportedly centered upon the issues of juvenile executions and improper use of peremptory challenges--issues which the BLSA student considered novel because, in her experience, they had not been covered in any recent class. Second, the student praised the social aspects of the competition. She called it a good opportunity for networking, and she also called it reassuring to "look around and see your own--people who speak your language." Without such opportunities, the BLSA student mused, a black student here feels like "a fly in a glass of buttermilk."

IV. MINORITY JOB PLACEMENT

A. On-campus Interviews

All potential on-campus interviewers must sign a detailed antidiscrimination policy. Those who do not sign receive no services--neither interview space nor posting of notices.

¹⁰Second-year students may enter a spring "guided trial experience." Using a slight variation of the problem from an earlier intramural competition, the noncompetitive "guided trial experience" provides a structured, mock trial under the tutelage of third-year students.

On-campus interviewers are given information by which they can screen interviewees; the Placement Office provides transcripts and/or writing samples as requested. Moreover, the Placement Office affirmatively enforces the screening requirements of employers. For example, Placement Office literature expressly warns: "If you are a 2L and the employer only wants 3Ls, do not submit your resumé. If you do put it in, we will not send it."

The Placement Director reported that the issue of prescreening comes up for discussion each year, and the School has made some efforts to discourage rigid prescreening. Last year the Director surveyed on-campus interviewers to solicit employers who would allow for one or two student-selected interviews (i.e., interview times reserved for students not on the firm's original list of interviewees). By and large, the employer response was negative. Moreover, the Placement Director reported that at those schools which do allow for student-selected interviews, students and administrators alike are unhappy with the results. Students who fill these open spots feel, the Placement Director said, that they get a minimal amount of time without serious consideration by the interviewer.

While generally concerned about the possibility that academic "cutoffs" may significantly frustrate minority student placement efforts, personal experience has made the Placement Director somewhat cautious of assuming that cutoffs adversely and disproportionately affect minorities. The current third-year class includes a number of Blacks who the Director described as "right at the top." As to the perception that minorities generally do not meet or surpass academic minimums set by selective employers, the Placement Director wondered: "Are we selling minorities short, and, what could be worse, are they selling themselves short?"

The Placement Director noted that many employers reach out to minorities by including the lure "women and minorities are encouraged to apply" as a "last line blurb" on job listings, but many employers do not emphasize any affirmative action policies. The Placement Office's efforts to attract employers who will affirmatively seek out minorities are part and parcel of a more general effort to encourage employer interest in any School graduates. The Director contacts firms and other groups around the country to ask prospective employers to consider seriously the School's graduates.

B. General Placement Office Services

The Placement Office provides general preparation for interviews, including resumé critiques, role playing simulations, and hints on resumé writing. The Director has also constructed an employer database, through which job searchers can research employers by location, type of practice, or a number of different criteria. The database can even tell a user if a School alumnus works, or has worked, at a particular organization.

The Placement Office offers a number of placement seminars. One focusses on judicial clerkships as both a short-term and long-term employment option. Another seminar showcases alternative careers for holders of the J.D. (i.e., what to do with the degree other than to practice law). Despite its focus, the seminar on alternative careers is not designed as an aid to students who do not pass a bar examination. The literature advises:

Despite plans to be nontraditional, take a bar examination and do become members of a state bar. This is important for the added prestige it will give your employer, for your own personal satisfaction, to put closure on your law school experience and because it leaves the door open for possible future legal placement should that become a desired objective.

The Placement Office also offers an alumni/student advisor program which is

intended as a mentoring opportunity rather than as a "job-track." Students may join this voluntary program in their first year. The Placement Director reported that active participants have been very satisfied with the support and referrals which the program offers; however, some alumni participants have complained to the Director that students (who bear the burden of making initial contact with the assigned mentor) do not "bug" the alumni enough. Though minority students and minority alumni alike participate in the mentoring program, there is no systematic effort to match minority students with minority alumni. The Placement Director explained she has no way of knowing the race of any alumnus, therefore she cannot match people by ethnicity.

Another voluntary program allows a student to put on file a description of the position(s) which the student would most prefer to have. The Placement Office then contacts the student whenever the Office learns of a position which "matches" the student's choice.

The School participates in two off-campus interview programs in New York City and Washington D.C. Trips to either event are entirely at the expense of the student.

Though the above-described programs serve the entire student body, Placement staff devote much time to personalized assistance. For example, a resumé critique may involve working with a student through three or four drafts until an effective "on-paper profile" is achieved. Or, in convincing a candidate to consider other than first-choice options, the Director may engage in what she called "a bit of arm twisting" or "shutting the door" to speak candidly with a candidate about the viability of a particular application.

Effective student placement requires a cooperative effort between student and

Placement Office. Nevertheless, the Placement Director asserted that much of the placement initiative falls on the students. Noting that the vast majority of the student body does not meet the strict academic requirements of the most selective employers, the Director reiterated that students have to "make their own inroads" into the profession. However, students are expressly advised not to "go around the system and contact employers directly." Office literature advises that "[t]he firms will resent your attempt to catch their attention."

C. Clerkships

The Clerkship Committee consists of three faculty members, three students (appointed by the student senate), and the Placement Director (sitting *ex officio*). The Chair of the Clerkship Committee (Clerkship Chair) noted that no minority students have sat on the Clerkship Committee in the last two years.

The Clerkship Chair stressed that demonstrated excellence in research and writing is the single attribute most important for a successful clerkship application. Nevertheless, the Clerkship Committee also considers grades and extra-curricular activities, all of which are "weighed" with an eye toward the standards of the target court. These standards are not expressly dictated by the courts; judges do not communicate rigid standards, the Chair said. Rather Clerkship Committee members, through experience and contacts, have formulated working standards whereby the committee assesses the viability of an application to a particular court.

Minority student placement in clerkship positions depends primarily on student initiative. There has not been any outreach to minority students who have not applied on their own, though the Placement Director, during monthly meetings with the BLSA group,

does communicate with minority students. Also, some judges specifically ask for minority applicants, and those requests are communicated to the BLSA group. Minority students are also encouraged to take the initiative to contact judges directly.

Placement literature explains that "some courts ask a clerkship candidate to secure the endorsement of the law school Clerkship Committee." This recommendation has not proven an apparent obstacle to clerkship applicants. The Clerkship Chair reported that 95% of clerkship applicants receive the Clerkship Committee's recommendation, which is usually "general" (e.g., "The Committee recommends this candidate for a clerkship."), though it can be "limited" (e.g., "This applicant is qualified for a clerkship in a state court, but is not recommended for federal courts."). Assessing the real "weight" of a Clerkship Committee recommendation, the Chair noted that many students take the initiative to seek out clerkships without going through the committee, and those students tend, in the Chair's assessment, to do just as well as those who apply through the committee.

Though in absolute numbers the level of minority placement in clerkships has been small, such placements have exceeded proportional representation. Of 20 applicants in the last year, only two (10%) have been minorities, the Clerkship Chair recalled. However, the average minority presence in graduating classes in the years 1986 - 1988 has been approximately 8%.

In the Clerkship Chair's opinion, the biggest obstacle to minority student application to clerkships is that students are often not made aware of the value of clerkships until most of the best positions are gone. Though signs and articles are posted, the best initiative would be, the Clerkship Chair indicated, some manner of focussed presentation. Further,

the Clerkship Chair stressed the importance of individual student/faculty rapport as the source of information on clerkship (and other) opportunities. Answering the Clerkship Chair's call for a "focussed presentation," in October of 1989 a faculty member and the Placement Director coordinated a clerkship "workshop."

Students' self-assessments also affect the level of minority student application. The Clerkship Chair observed that many minority students perceive that their grades "simply are not good enough." Encouragement from individual faculty members may be the key to countering these negative self-assessments, but the Clerkship Chair was somewhat pessimistic about the depth of current student/faculty rapport.

D. Minority-Specific Placement Efforts

The School participates in a regional, BLSA-sponsored minority job fair. The Placement Director has also offered to conduct special placement seminars exclusively for the School's BLSA chapter. Also, there may soon be additional support for minority applications to summer positions. The ad hoc recruitment committee is working to enlist alumni participation in a summer placement program for minority students.

The BLSA student called the Placement Office "excellent" in its support of minority students. The student especially praised the Director for her assistance to students who attended a recent minority recruitment affair at another law school. (The Director arranged for payment of all application fees, and even arranged transportation to the event.) The student was, however, skeptical of the true intentions of participating employers; the student opined that many attended not with sincere intentions to hire minority students, but only to make a showing.

The BLSA student's negative assessment of minority job fairs would seem to reflect the overall minority placement experience as described by this student. She reported that many 1989 minority graduates applied to firms, but she did not know of any Blacks who landed any jobs at firms. On the other hand, others simply opted not to apply to firms, the BLSA representative said, because students believe that private firms will not hire Blacks. It is the BLSA representative's opinion that such wide-spread disenchantment explains black students' choices to join Legal Aid, District Attorney's offices and other public sector organizations.

V. FACULTY ISSUES

A. Recruitment and Hiring

The Faculty Appointments Committee is not satisfied with the number of tenure-track minority professors on the current faculty, said the Committee Chair. As to the committee's view about the importance of hiring minority faculty, the Chair cited as the most pressing concerns aspirations for faculty diversity, as well as an urgent need to increase student exposure to significant minority role models. The Chair characterized the legal profession as "still sexist and racist," and she mused that by exposing students to women and ethnic minorities early in the students' legal careers, then perhaps "we are planting the seed of the attitudes to do away with sexism and racism."

The Appointments Committee has no goal in terms of the number or proportion of minorities for the faculty. The committee currently conducts candidate searches to fill

identified curricular needs.¹¹ Though the committee had, several years ago, taken the initiative to contact and recruit minority candidates, generally those efforts were unsuccessful and, therefore, discontinued. In its current minority recruitment efforts, the Appointments Committee has had contact with black applicants almost exclusively. Though the committee has discussed having representation of other minority groups, the pool of nonblack minority candidates has been, in recent experience, so small as to be negligible.

The School's recent efforts to recruit minority faculty have proven unsuccessful. The School last year made offers to two minority candidates, but both declined. The Appointments Chair cited applicant pool size as the foremost problem faced by the committee. Another concern is that neither the School nor its host city has the apparent attraction of more urban settings. The Chair noted that the relatively small minority populations in the host city and at the School seem to preclude the creation of a vital minority community. Thus, candidates seeking a more metropolitan setting have looked elsewhere. A third concern faced by this school (and perhaps by the legal education field in general) is the higher pay available in the private sector.

The committee currently seeks to contact minority candidates through both formal and informal mechanisms. The School continues to recruit at the annual American Association of Law Schools forum. Committee members also contact black faculty at other schools for referrals. The School faculty also "keeps an eye on" current students and recent

¹¹Certain administrative details preclude a more "opportunistic" approach to faculty recruitment. The Appointments Committee must construct a search plan, which plan needs the approval of the University Chancellor and the University's Affirmative Action Office. Similarly, both the Chancellor and the Affirmative Action Office must approve any offers of employment (an approval which the Appointments chair called "a formality").

graduates as potential candidates.

The Appointments Committee uses no "special" criteria to assess the applications of minority faculty candidates. What the committee looks for differs somewhat depending on a candidate's experience. An older, "senior faculty" candidate is looked at for teaching experience, publications and other indices of academic qualification. A younger, "junior faculty" candidate's qualifications are determined by law school grades, journal or extra-curricular affiliation, and postgraduate experience. Within these profiles "minorities are given a harder look than their white counterparts," the Appointments Chair said. Taking as a given that there is a history of racial discrimination within the legal profession, the Chair posited that unless minority applicants receive a more "flexible" review of their credentials, qualified minority candidates will be overlooked.

B. Tenure

One faculty member is assigned to serve as a mentor to each untenured, tenure-track instructor. As the date for a tenure application approaches, a subcommittee of the Tenure Committee is formed to assess the candidate's status. Subcommittee members review the candidate's writing, sit in on classes, and eventually report to the faculty. Review of a candidate's writing is done wholly in-house unless there is a strong disagreement among reviewers as to the quality of a piece.¹² The Appointments Chair opined that the demands of writing do not present a unique problem for minorities. Further, it has not been her experience that minority faculty are so encumbered with their advocacy of minority issues

¹²The Appointments Chair observed that more schools are including "outside" consultation to evaluate the writing of tenure candidates. There has been some recent debate on the efficacy of "outside" reviews of faculty writing. See, e.g., Case Study L.

as to hinder scholarship.¹³ (There is, the Appointments Chair noted, a general effort here not to overburden any faculty with committee involvement.)

¹³These observations were in response to a query as to whether minority faculty dedicate an inordinate amount of time to advocacy of minority issues. That query was itself engendered by Prof. Roy L. Brooks' thesis that minority faculty face "special burdens." Prof. Brooks has written:

... many tenured minority law professors find academic society to be at odds with the conditions of their professional existence. On the one hand, many of them lead a professional life that is celebrated but enslaved--celebrated for their professional achievements but enslaved by what those achievements are deemed to symbolize. Because of this symbolism, a myriad of demands are placed upon their professional lives the likes of which their white counterparts do not and, because they are not so symbolized, cannot experience. Tenured minority law professors are pulled, twisted, and stretched in all directions by these demands.

Roy L. Brooks, *Life After Tenure: Can Minority Law Professors Avoid the Clyde Ferguson Syndrome?*, 20 U. of San Francisco L. Rev. 419, 420 (1986).

CASE STUDY N

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

The recently hired Assistant Director of Admissions serves as the School's coordinator of minority recruitment. Alumni and students are also involved in minority recruitment as practicable. The Director of Admissions noted that most recruitment events convene during "business hours," which restricts the possibilities for students and alumni to participate.

One student leader was critical of a seeming reluctance by faculty to solicit more substantial minority student participation in minority recruitment. A representative of the Black Law Student Association (BLSA) mused that members of the Admissions Committee tend to ask for student assistance at a very late date. A minority student has served on the Admissions Committee in the past, but there is no systematic mechanism for insuring such participation.

Historically, the School has tended to gather the better part of each entering class during the summer; the School has had to rely on "hard-to-get" volunteers to work during the summer months. Interviewees were generally optimistic that recent events herald the beginning of the end of the need for these "eleventh hour" efforts.¹

¹The Admissions Chair explained that many consider this a "safe school" and, therefore, either apply late (the School uses "rolling" admissions) or await decisions from other schools before accepting an offer to enroll. Several interviewees mentioned recent ABA accreditation as the critical first step towards taking the School beyond "safe school" status.

B. Minority Applicant Recruitment Programs

1. CRS Mailing

The Candidate Referral Service (CRS) provides one source of prospective applicants. The School contacts CRS registrants in the Northeast (New York; Connecticut; New Jersey; Massachusetts; Washington, D.C.; and the Philadelphia area). Neither LSAT score nor ethnicity are used further to restrict the list.

2. Off-campus Minority Recruitment

The School continues to devote substantial effort to "local" recruitment from neighboring counties and the New York City area.² The annual LSAC-sponsored law forum in New York City features prominently in those efforts. Faculty and students "cover" the LSAC forum in two-hour shifts so that in the course of that two-day event, most, if not all, faculty, and a significant number of others will have devoted at least some time to that one event.

The School also made a concerted effort during the fall of 1989 to reach more prospective minority applicants, both locally and throughout the East. Recruiters visited SUNY campuses and other local schools with significant minority populations. By mid-December the Assistant Director of Admissions had also completed a "swing" of approximately 15 historically black colleges in the Northeast and the South.

The Assistant Director of Admissions described his visits to historically black schools, not as recruitment visits, per se, but as information sessions. Many students with whom he

²Seven local counties provided 96% of enrollment in 1988, 90% in 1989. Recent recruitment efforts in Florida, Virginia and Washington, D.C. had little success.

me: had not considered attending law school because they have no interest in practicing law. Since the Assistant Director deems it a "misconception" to consider law school as nothing other than a vocational school, he spent considerable time telling students of other options (in banking, business and other areas) for holders of a J.D.

3. On-campus Minority Recruitment

At present, the School does not schedule recruitment events for as yet unaccepted applicants: preacceptance "recruitment" requires applicant initiative. A form letter from the Head of Admissions encourages prospective students (i.e., persons who have merely requested application forms) to visit the campus, to attend classes and to schedule interviews.

According to the Assistant Director of Admissions, the minority student organizations have "kicked around a few ideas" for applicant recruitment, such as a "shadow day" (i.e., an applicant would "shadow" an upperclass student for a day). The School is also developing a general information brochure for minority applicants. As envisioned, the brochure will describe financial assistance for minorities, the organizations for minority students and the criteria for evaluation of minority applications.

4. Encouraging Second Choice Enrollment

Encouraging more minority applications to this and other nonelite schools may require an alteration in minority applicant behavior. Both the Admissions Director and the Admissions Chair mentioned a recent LSAC-sponsored conference where participants discussed the implications of a finding that 40% of qualified minority applicants, having been rejected by highly selective schools, do not consider--and, therefore, do not enroll at--any

other school. It appears that many minority applicants are not looking to "second-tier schools--schools, such as this one, would love to have them."

LSAC has reportedly taken steps to promote minority application to second-, third-, and fourth-choice schools, and the Admissions Chair has given the School's name to LSAC for use in those programs. The Director of Admissions reported that one LSAC initiative in this area has already borne fruit. CLEO staff, at LSAC urging, have "steered" enrollees toward schools which they had not previously considered, and the School has already enrolled some of those "CLEO referrals."

C. Admissions Criteria

Current admissions criteria and procedures are somewhat in flux, as staff continue a detailed study of classes admitted in the last six to seven years in an effort to determine reliable subjective indicators of success--indicators which admissions staff could look to other than the LSAT. The study "tracks" students' postenrollment performance through to bar examination performance and then examines the preenrollment, subjective profile (e.g., college attended, academic performance there, and any significant work experience) to determine what indicators--if any--consistently evidence a potential for success despite a low LSAT score.

Though the School continues "to wrestle" with establishing parameters for "automatic" acceptance and/or denial of white applicants, minority applicants tend to be excluded from "automatic rejection" procedures. Nevertheless, lacking the results of the above-described study, LSAT scores continue to influence all admissions decisions.

The School looks favorably upon any minority applicant with an LSAT above 28 (the

median LSAT score for the recent entering class as a whole is 31); the Admissions Chair said that an LSAT score of 22 has been the median predictor of success. Currently, no minimum LSAT score, nor any minimum GPA automatically disqualifies any applicant, but the Director of Admissions deemed a score of 18 or 19 "questionable" because attrition rates here are highest among students who scored below 20 on the LSAT. Similarly, the Admissions Chair said that for minority applicants there is "a strong presumption of acceptance, but with an LSAT below 20 we look for something [more]." Other elements of the applicant's profile, such as an upward grade trend as an undergraduate, a strong writing sample, successful graduate studies, or strong personal recommendations,³ were cited as items which would "discount" the weight usually assigned to a "weak" LSAT score.⁴ If pertinent, an applicant's disadvantaged background is also taken into consideration.

D. Minority Acceptee Recruitment

Presently, the School does not conduct events exclusively for minority acceptees. General acceptee recruitment features a reception for accepted students and a "phone-athon" staffed by both faculty and students.

E. Financial Assistance

The School offers acceptees an "Incentive Award" which provides tuition credit from 25% to 100%. School literature reports that "approximately 63% of the minority students enrolled in the 1989 entering class received incentive awards." The level of tuition reduction

³Personal recommendations are not required for application. The School will consider no more than two recommendations for each applicant.

⁴According to the Director of Admissions, admissions staff "gauge" the relevant strength of a minority applicant's LSAT score by reference to the latest available national median minority LSAT score.

is determined by an applicant's academic qualifications. The minimum qualifications for the incentive award vary with the level of qualification demonstrated by the overall applicant pool. One student called the Incentive Award "a great help financially."

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Academic Support

1. The Search for a Structured Program

The Admissions Chair described the close historical connection between efforts to increase minority enrollment and efforts to provide substantial academic support. As the Admissions Chair relates, the current Dean, upon assuming office, issued a mandate to increase minority enrollment. The Admissions Chair responded cautiously. He was not willing to extend offers to "marginal candidates" without a significant commitment to academic support programs.

Currently, the School is considering placing all minorities with an LSAT score below 28 into an academic support program "from day one." While recognizing that there is a chance of stigmatization with mandatory academic support for minorities, the Admissions Chair, speaking personally, said, "To hell with stigma." His concern is "getting them through here and helping them pass a bar examination." This professor was not suggesting that the School should become a "bar examination prep school"; he agrees with the "national approach" to teaching law. Rather, the role of the School as he envisions it is to give students sufficiently rigorous training in the law so that students, upon graduation, have the ability to pass a bar examination. Academic support plays a vital role, the Chair continued, in ensuring that the level of training, in terms of writing skills and legal analysis, reaches a

level necessary to that goal.

Two years ago, first semester grades were used to identify students to be enrolled in mandatory review sessions. Two grades below "C" or a GPA below 2.2 led to mandatory participation in a faculty-supervised study group. Under that program, a relatively high number of minority students were enrolled in mandatory sessions, but experience showed that delaying support until first-semester grades were available was ineffective. As the Academic Support Coordinator noted, once a person's GPA fell below a certain point, no significant improvement was possible.

Last year, a writing diagnostic was administered to all entering students during initial orientation. The Coordinator called the results "horrible." "I would have enrolled the entire class," she said. She attributed some of the poor performance to the timing and the setting, but also noted in retrospect that the writing exercise did not test for analytical ability. That idea, too, was scuttled.

The School has decided to follow something of a middle course for the class which entered in the fall of 1989. At the time of the Commission's interview with the Academic Support Coordinator, writing instructors had not graded first-year students' first writing assignments. The Coordinator explained that she would identify those students in need of structured support on the basis of those initial grades, but she had not yet established any specific criteria for that selection.

As a matter of policy, those students steered toward the academic support program are expected to attend, even though attendance is voluntary. Nonattendance is considered by the Academic Policy Committee when it reviews end of first-year records for full-time

students and third-semester records for part-time students.⁵ The Admissions Chair reported a very high compliance with recommendations to attend academic support sessions.

2. Faculty and Student Support Mechanisms

The School offers several "open" programs for informal academic support. Doctoral students from a local college are available for 25 hours per week (up from 20 hours two years ago) to offer instruction on writing. A visiting faculty member offers a first-semester, three-part seminar series on case briefing, outlining, and examination preparation and essay writing--what one interviewee called "survival skills." By one estimate, approximately 37 students participated in last year's three-part series, and of those, 25 (67.57%) were minority students. Another interviewee also credited the School's two minority faculty members with doing "a lot of work" with minority students. Upperclass student tutors are also available.

One interviewee spoke at length of his efforts to educate minority students to the subtle, sometimes hidden study aides which, though freely exploited by white students, often remain untapped by minority students. While this professor works with any student having academic difficulty, he devotes particular attention to assisting minority students--not so much in terms of extra attention (i.e., more time and effort), but in terms of increasing minority students' awareness of the sort of information shared among white students. This professor said that minorities are at a recognizable disadvantage in terms of learning efficient ways to get through law school. This disadvantage comes, the professor continued, from racism--not the overt racism of bigotry but societal racism of exclusion and isolation.

⁵ A first-year GPA below 1.7 warrants automatic dismissal. Students with a first-year GPA from 1.7 to 1.85 must meet with the Academic Policy Committee.

He pointed out that the most helpful information on test-taking, studying and outlining comes from peer groups with "connections" to especially helpful sources of information. The professor gave this example:

Put the case that a professor teaches a particular class each year, and he always follows the same approach. A white student, through his "connection" with an upperclass student, gets a copy of notes from the last year. The student gives copies of these to friends, none of whom are minorities. That entire group then prepares for class from the old notes, sits through each "new" lecture with the old notes, and listens only for new or modified information.

In this scenario the white students armed with the old notes have access to materials which allows them to prepare for class more easily and work less hard at note-taking than do other students. It is an "inside track" which no student working alone can match. That "inside track" also gives these "informed" white students a distinct advantage over their peers. In alerting minority students to such "untapped" sources of information, this professor is trying to give those students "what they need to survive." He also suggested that too few students and faculty alike recognize legal education for the "stylized" education that it is.

B. Law School Atmosphere

1. Atmosphere of the Host County

Though there has been an increase in minority applications, and despite efforts to make the School generally receptive to minorities, there is some feeling that some salient elements of the environment are beyond the School's sphere of influence. One interviewee opined that the host county does not offer a "comfortable" atmosphere for minorities. Location also creates some difficulties in terms of transportation from some parts of New York City; many students travel rather than live close to campus, because local housing is

expensive.

2. Minority Student Organizations

Two organizations represent the interests of minority students. A general "umbrella" minority student organization addresses primarily intramural concerns. By contrast, the BLSA chapter focuses primarily on the unique concerns of black students and plays more of an activist role outside the law school. The BLSA representative acknowledged that the two groups sometimes "overlap," but she also asserted the need for, and importance of, a group dedicated to black concerns.

3. Minority Presence and Peer Attitudes

Interviewees generally agreed that current attitudes among the student body are not such as could be called "supportive." One interviewee characterized the white student population as made up of "predominantly suburban white kids" who have had minimal contact with minorities as peers. "[The School] is not a 'fluid' environment," he continued, and "students are very conservative and exercise less independent thinking as regards race than at [a more urban, New York law school]." One minority student related the following as a "typical" comment from a white student responding to minority student complaints: "I don't know what you minorities are upset about. If you want to go to law school you should have a law school of your own."

That same minority student representative cited both the in-school effects of anti-minority attitudes and the prospect of continuing to encounter those attitudes in the profession. The student deemed it "unfortunate" that "many students have made ill-informed comments regarding civil rights, affirmative action, etc., which indicates the presence of

racism in law school. This clearly makes it more difficult for minority students to succeed, because of the negative attitudes of our fellow students and future colleagues."

An increased minority student population is generally perceived as requisite to changing this situation. One professor estimated that a 12 to 15% presence is needed for this change. He said that as minorities become capable of dealing with students and faculty, and as the numbers increase, "the system will take care of itself." This same professor opined that the task of changing student attitudes will require the perseverance of minority students, with some help from dedicated faculty. This faculty member considers it very difficult to confront Whites with their own shortcomings, so he "shifts" the burden to minority students to make themselves known as a presence worthy of attention. In this professor's experience, attention precedes respect. He suggested that inattention is the most common example of racism as perpetuated by white students. He described the "usual" classroom situation here as follows: "When a minority student speaks, white students assume that the minority student will have nothing worthwhile to say." But this professor is sure that change can happen on a course-by-course basis, and he described a recent, telling experience:

An evening Torts class enrolled 13 or 14 Blacks and Hispanics. The professor called on these students often, forcing them into the discussion. Eventually, the minority students began to make comments and otherwise participate of their own initiative--and the white students began to take seriously what was being said by their minority classmates.

This professor's efforts reflect something of the distinction between student and faculty support of minorities. Both minority student leaders agreed that current faculty have expressed great and sincere support for minority students, but the student interviewees diverged somewhat in the level of their praise and their perception of the efficacy of faculty

support as put into practice.

The Minority SBA representative praised the Dean, whom he called "extremely supportive," for his unfailing attendance at Minority SBA functions, and for his general availability to give advice. Indeed, this student stated that "[the Dean's] support is the most helpful aspect of the law school to minority students." This student also praised members of a Minority Student Advisory Committee (lawyers and judges who advise the administration on a number of issues; who have contacted minority students to check on "how they [the students] are doing." Another professor, a nonminority who serves as something of an "unofficial" Advisor to the Minority SBA, was singled out by the Minority SBA representative as especially supportive of that group's goals.

The BLSA representative also praised the faculty's "real commitment," especially that of the Dean, to projects such as minority faculty recruitment. However, this student opined that faculty ideals have translated into too little actual change. She noted that minority student attrition has led to a decrease in the minority student population. Moreover, she asserted that tolerance has decreased during the Dean's tenure. Thus, this student perceives that the Dean's presence has not, despite the administration's good intentions, actually brought about the supportive atmosphere toward which the faculty profess to strive.

Both minority student interviewees agreed that the current minority faculty has proven both supportive and open. Still, both students stressed a need for more minority faculty. As one student stated: "It is extremely important that a law school has minority faculty to advise and understand the needs of the minority students." And speaking about what could be done to improve the quality of life for minority students, this student said that

more minority faculty "would help a great deal."

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Issues

The School has not yet done a systematic review of the curriculum toward including legal issues of particular relevance to minorities, but such an undertaking is reported to have broad faculty support.⁶ The faculty has not identified any special curricular interests of minority students. The Curriculum Chair noted that certain classes, such as Poverty Law and Employment Discrimination, could be looked upon as courses devoted to "minority issues" (lacking enrollment figures, the Chair could not say if those classes have, in fact, had high minority enrollment), but she did not support developing more of these "narrow focus classes" as the means towards the end of increased curricular attention to minority issues. Rather, this professor opined--and the Dean reportedly shares her opinion--that it is more important to integrate minority issues into the core curriculum.

The Curriculum Chair perceives a "consciousness" among the faculty of the value of discussing such issues. She reported that a number of faculty have discussed among themselves ways to integrate "minority issues" into their courses. Moreover, the Curriculum Committee, to whom the Chair brought the Commission's interview guide for general discussion, has suggested doing a systematic survey of the faculty to gauge opinions on the viability of a systematic integration of minority issues across the curriculum.

⁶The School has conducted a content review of all first-year courses. The Curriculum Committee then drafted "required" syllabi which the faculty approved. The Curriculum Committee Chair characterized these syllabi as sufficiently broad to allow for academic freedom. None dictates discussion of the "narrow" issues suggested by the Commission study (e.g., evolution of contract rights of minorities). However, divergence from the syllabi requires approval from a Curriculum Committee member.

Faculty commitment to the integration of minority issues has not forestalled some criticism of the way in which that commitment has been translated into actual instruction. Both minority student leaders acknowledged that minority issues have been discussed in classes which they have attended (e.g., Criminal Law, Constitutional Law, Torts, and Law and Medicine) but "other courses have not discussed minority issues to an 'adequate' extent" or faculty have demonstrated a "paternalistic" approach to some issues.

Both students made specific reference to personal experiences in Constitutional Law classes. (It is not known if both students attended the same class or if they attended different sessions but had the same professor.) The Minority SBA representative recalled class discussion of a case involving a hotel's refusal to serve Blacks. During that discussion the professor never called on the Minority SBA student--even though he was one of only two minorities in the class. This student said that he felt that the issue could have been further discussed at the time. He also attributed the lack of protracted discussion to the low minority student presence.

The previous anecdote suggests that minority issues are sometimes skirted due to low minority presence. Conversely, the BLSA student related an experience of an overly solicitous and protracted, but distressing, discussion. She remembered feeling put upon and somewhat singled out to champion "the minority perspective" in Constitutional Law classes where, by her assessment, classmates assumed that she (and one other minority in the class) "must be experts on this"--a situation when the nonminority students expected the minority students "to take center stage."

Currently, minority students have little programmatic input into curricular

development. The Curriculum Committee includes two SBA-appointed, voting student members, but the Curriculum Chair did not recall having any minority students on the Committee. Forms for student evaluations of faculty,⁷ as they currently exist, do not, to the Curriculum Chair's knowledge, solicit student comments on curricular content.

B. Clinics

The School offers three "client-contact" programs offering varying levels of exposure to minority clientele and minority issues. Student clerkships, though under the purview of the Clinical Program, are discussed separately, below.

A criminal law "externship" places students in the offices of both the local District Attorney and the Legal Aid Society. Though she did not have access to actual figures, the Clinical Director supposed that students in this program are exposed to a high proportion of minority clientele.

A mental health patient clinic offers legal representation for the institutionalized. "Typical" issues include actions to improve the conditions of confinement or inquiries into patient status. The clientele includes "very few minorities," the Clinical Director said.

Students in the Social Security and Health Benefits clinic represent a clientele which is, by one estimate, 75% minority. Clients are often challenging suspension of benefits or trying to establish their entitlement to health services. The instructor said that she gives her students some special training in dealing with members of different racial groups. Her materials reportedly cover a range of topics including client interviewing, how social class

⁷These evaluation forms are used in promotion and hiring decisions. Recently, there has been some debate on the ramifications of the practice of censoring these forms to remove "offensive" comments. See the section on Faculty Issues, below.

affects client perception of attorneys and the legal system, and how to reconcile student interest (e.g., 'winning the case') with client interest (e.g., reestablishing benefits as quickly as possible). From student reactions, the Director has developed a sense that indigence, rather than race, most impresses upon the students the differences between themselves and their clients. Some students, upon meeting with indigent clients, have expressed to the Director their surprise that people are "living like this" less than one-half mile from campus.

The Clinical Director stated that very few minority students apply for clinical programs. She has not discussed the question with the minority student organization, but she said that she considered it a good idea to put the question to the BLSA leadership. However, as to the prospects of increasing minority client contact, the Director asserted that the School, following what the Director deemed a "trend" in legal education, has been focussing instead on "novel modes of learning," such as mock law firms and problem solving simulations.

C. Student Clerkships

Student placements in local federal and state courts are handled through the clinical program as "externships" (i.e., student field placements without direct faculty supervision). At the time of our interview the Clinical Director had not aggregated data on student enrollment, but she expressed a firm sense that very few minorities apply to and participate in this or other clinical programs.

D. Bar Review

For approximately three years the School has offered an in-house, pregraduation bar examination preparatory course for students in their last semester. The program uses

commercial materials, offered at a nominal materials fee, and is staffed by professionals affiliated with the commercial test preparation organizations. The vast majority of students, minorities and Whites alike, participate in this program.

The Admissions Chair, who also heads the School's bar passage committee, has observed positive steps towards "tighter standards," which "tightening" he considers requisite to effective bar preparation. Several years ago, he recalled, law students with GPAs of 2.5 or below were not passing bar examinations. Now, he reports, students scoring only 2.0 or 2.1 pass those examinations. Though students score lower in terms of in-house grading, more rigorous training has been imparting the skills which underlie success on a bar examination. In other words, a "C" or better now reflects an ability to pass.

E. Law Review

As a relatively "young" school, students and faculty involved with journals still find themselves involved with, to paraphrase one faculty member, issues from the mundane to the nonmundane. Within this spectrum of concerns, increasing minority student participation has not taken a leading place.

The Law Review Advisor noted that the School enrolls very few minority students because, in his opinion, of the small numbers of minorities and their academic performance, which tends to eliminate minority student eligibility for journal membership.

New Review members for the 1989-1990 academic year were to be chosen either from the top 10% of the second-year class (based on first-year performance) or through an anonymous writing competition open only to students with a GPA of 2.6 or higher. Students in the top 10% were not required to submit a writing sample. Few minority students

competed in the most recent competition. The Editor-in-Chief perceived that "outside" interests (such as family commitments or employment), as well as academic performance, keep minority students from competing for Review membership.

Wary of criticisms that academic performance and the writing competition may be inexact indicators of actual qualification for the type of work required of Review members, the Editor noted that all members must eventually demonstrate written proficiency. Every Review member, to qualify for third-year membership, must produce a piece of "publishable" quality, and the Editor could not recall that the writing requirement had, by itself, ever disqualified any member from third-year status (i.e., some members have quit the Review, but none has been disqualified because a written piece was not "good enough"). Moreover, the Editor expects that in the future all prospective Review members will be required to produce a writing sample before being offered a position.⁸

The current Review staff does not include any minorities, at least not to the Editor's knowledge. There are no Blacks on staff. Some members may have Hispanic backgrounds (one of whom recently quit the Review), but the Editor could not verify those students' ethnicity.

There has been no systematic effort to solicit articles on race-specific issues. Indeed, the Advisor suggested that the Review has not reached a stage where it can make issue-specific solicitations. The Advisor has, instead, devoted his energies to publishing more

⁸The Editor recalled that membership selection procedures for the Review have "see-sawed" in recent years. All current third-year members (who applied for membership during the 1988-1989 academic year) were required to compete in a writing competition. They received no special consideration on the basis of academic performance. For the 1990-1991 competition, the Editor expects that all prospective members will have to produce a written piece, but those in the top 10% of the class will receive a few points credit toward the grading of their submissions.

student-written pieces, and most of those pieces have been dedicated to a symposium dealing with a nonminority issue.

F. Moot Court Programs

As with other cocurricular activities, minority students have not demonstrated much obvious interest in moot court programs. Moot Court participants are selected from entrants in a fall intramural competition. One interviewee estimated that only three minority students picked up the materials for the competition held in the fall of 1989; no minorities were among the 23 students who eventually competed.

There is, as a matter of policy, an academic requirement for eligibility to compete in the intramural program (i.e., competitors are supposed to be in the top 50% of the class); however, doubt has been cast on the continued viability of that prerequisite. The Moot Court Advisor reported that no one actually verified the academic credentials of the latest group of competitors. (This leaves unanswered the question of whether or not the published rule did, nonetheless, dissuade some students from competing.) Conversely, a recent attempt at enforcing a procedural rule has also given rise to concerns with unforeseen exclusion of minority students. The Advisor related that a third-year black female student, who developed an interest in moot court after participating on the School's Douglass Team,⁹ had recently been excluded by a rule which limited intramural competition to second-year students. Deeming this a rule which does not "go to the merits" of anyone's competence for moot court participation, the Advisor has strongly advised the current Moot Court Board

⁹The National BLSA organization annually sponsors the intercollegiate Frederick Douglass Moot Court Competition.

to drop this rule.

The Advisor asserted that the faculty would be open to ways to increase minority participation. There has been discussion of offering membership to first-year students based on performance in the required, first-year writing course. The Moot Court Board Editor has also had some conversations with the BLSA chapter about the program.

While interviewees expressed concern with integrating minority students into the School's general moot court programs, there is also support for minority-specific programs. Last year Moot Court Board members coached BLSA members preparing for the annual BLSA-sponsored Frederick Douglass Moot Court Competition. The School funds the student's participation in the Moot Court Competition, as well as the annual BLSA convention.

G. In the Public Interest

Faculty and students recently founded an organization dedicated to service in the public interest. The organization

consists of law students dedicated to serving the law school and surrounding communities. Education and legal advocacy are the primary tools used in the development of awareness and protection of rights for our target groups.

* * *

[The School] is [the host county's] only law school, and its administration, faculty and students realized its critical responsibilities to the surrounding diverse community. This community includes not only people of great wealth and success, but also poor and homeless. As a neighbor, [the School] seeks to assist residents and inform them of their rights under the law.

Though not an academic organization, the program is clearly educational.

The organization's newsletter has proven a forum for both minority issues and

minority perspectives on the law. The informal newsletter format also allows for more "timely" publications than one would find in a scholarly journal. A spring 1989 issue includes a discussion of Richmond v. J.A. Croson (decided on January 21, 1989). Another piece in the same issue, authored by the School's BLSA President, summarizes Thurgood Marshall's biography and excerpts a piece on Justice Marshall's "different view of the Constitution." That excerpt presents a brief "real history" of the Constitution, characterizing it as "defective from the start"¹⁰ and "an apartheid document." A third item presents a fact-based reconstruction of a discussion among a judge and two attorneys trying to expedite a case which ultimately required eight weeks of testimony and six days of deliberations before acquittal of a defendant who had spent 27 months "locked up in the toms." Another column discusses "the life of a public defender." It details the tribulations and triumphs of an indigent, drug-addicted, teenage Hispanic defendant.

The public interest group also arranges for guest speakers and panel presentations on current legal issues. Speakers have discussed police brutality, homelessness (also the topic for a recent panel discussion), environmental law, pro bono work, and the death penalty; a conference on racism is scheduled for the spring of 1990. The group also arranges faculty presentations. (The group's secretary characterized the faculty as having "strong, generally public interest backgrounds.")

Current active membership includes two minority students (of 14 listed on a recent brochure). Though the public interest group tries to work with BLSA and the Minority

¹⁰Justice Marshall observed that "the government [devised by the Framers of the Constitution] was defective from the start, requiring several amendments, a civil war and momentous social transformation . . ."

Student Bar Association. One student noted that the minority groups currently concern themselves with providing and bolstering academic support.

IV. MINORITY JOB PLACEMENT

A. On-campus Interviews

All prospective on-campus interviewers must adhere to the School's anti-discrimination policies. Beyond requiring that commitment, the School finds itself subject to the whims of employers. Employers are provided information on students by which the employer may prescreen. Employers dictate precisely which information they wish to see. While recognizing that efforts to discourage academic prescreening is something of a "hot topic" with law schools, the Placement Director said that this School has yet to achieve the standing which would allow it to challenge employers' prescreening practices.

The School most often hosts small, local firms, many of whom do not have, in the Placement Director's assessment, "real" affirmative action plans. Frequent repeat recruiters include the District Attorney and the Legal Aid Society. However, the Placement Director asserted that students have met on campus with a spectrum of legal employers, including large firms.

That perception contrasts somewhat with the assessment given by the BLSA student, who said that few of her fellow minority, third-year students have had any interviews on campus. Indeed, this student mused that most--perhaps too much--of the placement initiative falls to the minority students themselves.

B. General Placement Office Services

The Placement Office coordinates a mentor program with members of the bar in a

neighboring county, and the Director is working on expanding this to the School's host county and neighboring counties. This mentoring program matches students and attorneys by type of legal practice.

Students may participate in a mock interview program at attorneys' offices. Again, lawyer participants are selected on the basis of type of practice.

C. Minority-Specific Placement Efforts

Currently, the School does not offer any placement programs exclusively for minority students. Rather, the Placement Director works closely with the individual students, and she often relies on her own connections with the local legal community to match employers with a minority who has expressed an interest in that employer's type of practice.

Student interviewees mentioned that the Placement Office keeps the minority student organizations informed of job opportunities available to minorities, but the students minimized, somewhat, the extent of efforts made in their behalf. Referring to keeping students informed of job openings, one student stated that "that is part of their job anyway." Both student leaders observed that the Placement Office "gives us the same amount of support it does to other students (i.e., not a greater amount of support)." Further, much of the information sent to minority students informs them, not of a spectrum of opportunities, but emphasizes public interest law.¹¹ The BLSA student went further to suggest that the Placement Office often subverts students' interest in a particular area of law in order to place students in jobs--any jobs. ("Where can you get a job? Take it! Good-bye.")

¹¹While the School has not developed any sort of "ideal" employer profile, there is something of an emphasis on public interest law. A public interest organization (described in more detail above) advocates public interest employment and often acts as a clearinghouse for job openings in the public sector. The School also offers a number (six or seven by one estimate) of Public Interest Law Fellowships.

Both minority student representatives praised the Placement Director for her assistance at events such as an annual National BLSA-sponsored, minority recruitment fair held at another law school. Nevertheless, students opined that while this event provided many opportunities for interviews with firms, there was little to suggest that the event had led to any significant placements.

The Placement Director does not plan to continue to rely exclusively on her own, one-on-one assistance to minority students. She has recently met with the minority student organizations to discuss minority student needs and programs, and she expects the students to make a number of suggestions. She also noted that the Placement Office has recently undergone a reorganization, and she has seen an increase of student use of Placement Office services.

D. Graduate Clerkships

The School has not structured a systematic approach to clerkship placement. The Minority SBA representative stated: "The faculty committee on clerkships has not yet made a substantial effort to reach out to minorities, i.e. we have not yet received any indication from them of their desire to help us." Similarly, the BLSA representative expressed some distress at the seeming "secrecy" of clerkships. She is a third-year student, yet she had never even heard of a Clerkship Committee until recently when she overheard some conversation about that committee. The BLSA student is personally aware of no minority alumnus holding a graduate clerkship. And she also noted that those BLSA students who have expressed an interest in clerkships have pursued them of their own initiative. It is important to note that the school places very few students, regardless of race, in clerkships.

V. FACULTY ISSUES

A. Recruitment and Hiring

The School's commitment to recruitment and hiring of minority faculty would seem to outstrip the restrictions placed on the School by its own procedure and its limited attractiveness to prospective candidates. The Chair of the Faculty Appointments Committee called this "an affirmative action school," and she stressed faculty commitment--especially that of the Dean--to bringing more minorities onto the faculty. The Appointments Committee is not satisfied with the number of minorities on the current faculty (i.e., two tenure-track associate professors and one adjunct). The Appointments Chair asserted that the School is committed to fostering faculty diversity as well as to encouraging a diverse interaction between faculty and students.

Some measure of that commitment is evident in the fact that of the last three additions to the full-time faculty, two have been minority women; these have been the only additions to the full-time faculty over the course of three years.

The School has not the resources to bring new faculty on staff without having an identified need for a new instructor. Thus, faculty recruitment is somewhat dependent on curricular necessity. And having to wait for a need sometimes defeats its own purpose. The Appointments Chair recalled one instance when the need for a new instructor arose so late in the recruitment "season" (which culminates with the annual American Association of Law Schools (AALS) faculty recruitment fair in November) that the Appointments Committee was unable to find any qualified candidates.

Since curricular needs tend to dictate faculty recruitment, consideration of a

candidate's credentials tend to focus on substantive qualification. However, since the Appointments Committee is charged with finding full-time, rather than adjunct, faculty, some consideration has to be given to a candidate's commitment to legal scholarship. The Appointments Chair observed that the Committee does not require that a candidate have produced a significant opus; however, the candidate must evince a strong commitment to future scholarship.

Both a competitive market and the School's reputation affect efforts to attract minority faculty. The School tries to maintain several ongoing lines of communication to sources of prospective minority faculty--including communication with AALS, contact with regional law schools and graduate programs, and recommendations from the current faculty. Though these efforts elicit many applications, many minority prospects do not even visit the School, the Appointments Chair said.

The Appointments Chair did not include student referrals as one of the sources of prospective faculty, and the observation of one student leader would appear to support a conclusion that students do not currently play a part in making initial contacts. The Minority SBA student recalled how a professor came to him for recommendations on how to attract a particular candidate--a lawyer known to the student--to the School. This outreach was, and has been, the only effort this student knows of to solicit student input on faculty recruitment. Such limited student input inspired this student to call for more of a dialogue between faculty and students regarding faculty appointments. While the BLSA student would call for a more "accelerated agenda" in terms of adding more minority faculty, she also acknowledged that the School, as a "young" school, will continue to have problems in

attracting minority faculty.

B. Promotion and Tenure

As neither minority faculty has yet applied for tenure, the Appointments Chair could not speak to whether or not minority faculty receive any "special" consideration in such matters.

As a matter of general practice and policy, qualification for tenure is based on both faculty and student evaluations; however, there would appear to be some disagreement as to the weight to be assigned to the latter. The SBA and the administration have reportedly taken to censoring student evaluations to expurgate comments deemed lewd or irrelevant. Recently, that policy has been attacked as a policy too easily abused. A student editorial comments in relevant part:

Although misspellings and grammatical errors are appropriately corrected, lewd words and irrelevant metaphors are currently erased. These comments reflect the passion and hostility a student has toward a professor or course. It is our view that the purpose of the student evaluation forms is for students to fully express their views, no matter what they may be. It should be for the reader (mostly students and faculty) to decide whether a lewd remark or phrase should be given merit.

* * *

The policy of censorship denotes the possibility of future abuse. Who is to censor the censors? Under what guidelines and policy do they operate? At this point there are none.

CASE STUDY O

I. MINORITY STUDENT RECRUITMENT AND ADMISSIONS

A. Admissions Staff

The School does not currently employ a Director of minority recruitment (or similar position). The Dean of Admissions, herself a minority, attempts to fulfill that role.

A three-member faculty subcommittee of the Academic Standing and Admissions Committee examines all identified minority applications. The formation of this subcommittee reflects a commitment to the expansion of minority representation in the profession, said the Admissions Chair. A Standing Committee on Minority Recruitment and Retention plans and implements strategies to increase minority student applications. The Latino Law Student Association (LLSA) President described this as a rather large committee of seven faculty, Black Law Student Association (BLSA) and LLSA representatives, the Dean, the Vice-Dean, the Dean of Admissions, and a member of the School's Board of Trustees. The committee meets at least twice a month. It is currently, the LLSA student reported, assessing recruitment and retention programs towards making a report to the entire Law School community.

The BLSA President called for the hiring of a separate support staff member to handle minority recruitment. Presently, the Dean of Admission acts as both off-campus minority recruiter and in-house minority student/faculty liaison. The former role often takes her off campus at times when students, minorities and Whites alike, need her assistance, the BLSA student asserted.

The BLSA representative recently recommended changes in the staffing structure to

allow students to sit on the Admissions Committee and to otherwise more fully participate in recruitment. These recommendations met with some resistance--particularly from a minority Admissions Committee member. Perhaps, the student mused, that professor mistook the suggestions as a veiled criticism, but the student asserted that the effectiveness of a particular staff member is not the issue. Rather, the student called for a structure which would function regardless of the persons involved.

B. Minority Applicant Recruitment Programs

1. CRS Mailing

The School contacts all minorities registered with the Candidate Referral Service. There are neither geographic nor LSAT parameters. The School also plans to publish a brochure to describe the minority student organizations and programs of interest to minority applicants.

2. Off-campus Minority Recruitment

The Dean of Admissions attends various forums (including the five LSAC law forums in New York, Boston, Los Angeles, Atlanta and Chicago), visits historically black colleges and attends minority law days. As practicable, minority students accompany her on some visits. Minority alumni are not currently involved in student recruitment.

Despite the breadth of the Dean's travels, the Admissions Chair suggested that the School could benefit from a more national recruitment process. An increased awareness of the School's existence would attract qualified minority students in greater numbers, the Admissions Chair opined.

3. On-campus Minority Recruitment Events

BLSA and LLSA coordinate a "Law Day" to provide minority applicants with "insight into the role of the [minority] attorney in today's struggle and to spur [applicant] interest in a legal career." The day features alumni speakers, mock classes, and a mock trial. Staff are on hand to describe placement opportunities. Faculty, administrators, and staff are involved in all aspects of Law Day, including planning, financial support, and participation as presenters.

The law day is open to all; attendees include uncommitted applicants, future enrollees, and undergraduates from the School's affiliate university. The Dean of Admissions described the event as an opportunity for "general outreach."

C. Admissions Criteria

Race factors into admissions decisions insofar as the School has established a subcommittee to consider minority applications apart from other submissions. The School has not established rigid minimums by which to automatically disqualify any candidate. The Minority Admissions Committee gives substantial weight to nonqualitative indicators of ability. The Admissions Chair stressed, however, that this emphasis on subjective indicators does not suggest that minority applicants always compare poorly to white applicants; the Chair has seen a broad range of scores on minority applications. Rather, the Chair explained, consideration of the whole profile apart from LSAT or GPA reflects a concern that "paper credentials" do not accurately reflect the ability of the minority applicant.

To solicit informed assessments of whether LSAT and GPA do, in fact, provide an accurate "profile" of an applicant, persons submitting a personal recommendation are asked

to assess whether grades "represent [the applicant's] true level of ability." Application materials stipulate that though "personal interviews are not part of the regular admissions process . . . [reviewers] do read personal statements . . . and give substantial weight to personal recommendations from responsible people who know the applicant and are prepared to vouch for him or her as a matter of personal judgment" (emphasis added). Applicants may also explain why they feel themselves to have been "disadvantaged."

From interviews and literature it appears that a concerted effort is made to gather a detailed "profile" of each applicant. However, one professor questioned the effectiveness of these efforts. He summarized the problem as a tendency in the legal profession "not to look at the whole person." This professor recalled his affiliation with another law school, where, by his estimate, 40% of admitted students were accepted after a review of subjective qualifications without reference to either previous academic performance or standardized test scores. Faculty were not privy to how any student gained admission. Students and faculty alike felt little tension about whether minority students were getting something that others were not.

D. Minority Acceptee Recruitment Programs

The Dean of Admissions, with the assistance of minority students and Admissions Committee members, calls and/or writes to minority acceptees to encourage their enrollment. The Dean "tracks" acceptees, i.e., as far as practicable, she records where an acceptee enrolls, if another school offered more financial assistance, and other information which will help her "to know where we stand."

The Admissions Chair pointed to a continuing increase in minority enrollment in

recent years. For the 1989-1990 first-year class, the minority enrollment is 14%. The BLSA student stressed that the number of minority students impacts on "how comfortable one feels" at the School, and called for a commitment to a goal of 25% minority representation over the next three years. This emphasis on increased enrollment reflects this student's expressed concern that the recent "disaster" at [another law school] not be allowed to happen here.¹

E. Financial Assistance

The School participates in the "standard" loan programs, such as the Perkins Loan and the Stafford Student Loan, and offers a number of other programs exclusively for minority students, such as the Harris Fellowship program.² Also, a local foundation has established a fund to support the legal education of black students who permanently reside either in the School's home county or in a contiguous county of New York State. The School currently offers five full-tuition scholarships for which minorities are eligible. The Assistant Dean for Financial Aid reported that for the 1989-1990 academic year, minority students comprised 11.57% of the total number of students enrolled and received 47.5% of the total grant/loan awards from the Law School's institutional fund. The Law School also has scholarships for the School's summer legal institute (which is described in the next section).

Despite current offerings, the BLSA student called for more work in this area. Perceiving that other schools have made sufficient funds available to their students, the

¹That law school's 1989-1990 first-year class includes 0 Blacks.

²The Harris Fellowship Program provides fellowships for highly qualified minority students who meet financial need requirements. Government funds and the School's own contribution cover all tuition and fees and provide a monthly stipend.

BLSA President suggested that the administration look to and copy programs from other schools. The student put the onus squarely on the School. As first-generation-lawyers, most minority students cannot turn to "an uncle in the business." Further, more extensive financial assistance would directly attest to the administration's dedication to minority student support. Currently, the BLSA student reports, many minority students here are so concerned with financial problems as to be distracted from their studies. ("How can you give the law undivided attention with bill collectors knocking?") The BLSA student also called for more attention to other student concerns such as child care and adequate housing near campus.

II. MINORITY STUDENT RETENTION AND SUPPORT

A. Summer Institute

The Summer Institute is intended as an introduction to legal education. The program provides a head start for those who have decided to attend law school, but the course also serves as a "testing ground" for those trying to decide whether they have the interest and propensity for legal studies. As with regular law school courses, faculty incorporate case and statutory analyses and research techniques into the syllabus. Applicants need only have completed two years of college. Enrollment in no way factors into admissions decisions.

B. Academic Support

The School currently provides two academic support programs: a first-semester, faculty-staffed Enhancement Program and a less formal, student-run Law Fellows Program.

1. Enhancement Program

The faculty coordinator observed that though the program is not targeted exclusively at minorities, it "involves them (i.e., minorities) heavily," and there is a strong effort to

attract minority students into the program. Through consideration of LSAT and undergraduate GPA, admissions staff create a list of approximately 30 students whose credentials evidence a probable need for substantive support. The faculty coordinator said that there is no "bright line" indicator to determine who will be invited into the program; an invitee may have a low LSAT or low GPA or both. The faculty coordinator recalled that of 30 invitees, more than 20 were minority students.

Invitations to an orientation meeting are hand-delivered to the students, but attendance at the orientation meeting, like participation in the Enhancement Program, is wholly voluntary. Only about half of the invitees attended that meeting, an attendance which the coordinator called "somewhat lower than [expected]," and he was not sure why that was so. A follow-up with those students who did not attend drew another four or five students into the program. During the fall of 1989, 17 students participated in the Enhancement Program; 15 were minorities.

Enhancement Program enrollees have weekly review sessions with the instructors of their first-year classes, generally to review the past week's work. Some instructors also provide opportunities for practicing writing "examination-style questions."

The Standing Committee on Minority Recruitment and Retention is reviewing the Enhancement Program, and some interviewees disagreed as to the need for postenrollment substantive support. In the Admissions Chair's experience, minority enrollees usually graduate, and he attributes low attrition to the ability to more accurately select qualified students. By contrast, both student representatives favored expansion of current support programs. The BLSA student asserted that a small student population requires constant

support. He pointed out that the loss of four black students (by, for example, two probationations and two expulsions) would diminish the second-year black population by 25%.

The BLSA student praised the Dean of Admissions for her promise of an "open door" to any student in need of academic support, although the Dean's travel schedule restricts such access, especially for first-year students. Mirroring his recommendation for more admissions staff, the BLSA student called for the dedication of more personnel to academic support efforts. He would also "refocus" the program, which tends to offer substantive help, because most minority students possess, in this student's opinion, significant substantive knowledge but cannot adequately transfer that knowledge to their written work. For these students written proficiency (or the lack thereof) is, then, the greatest obstacle to academic success, the student concluded.

2. Law Fellows and Student-Run Programs

Participants discuss course work and related problems with third-year Fellows during weekly one-hour sessions for each first-year course. Sessions are informal and attendance is voluntary.

The Fellows, selected for their outstanding academic achievement (and by faculty recommendation) are under general faculty supervision. (Fellow/faculty consultations are generally intended to make the sessions more worthwhile.) The current cadre of Law Fellows includes several minority students.

Student organizations supplement the School's program. BLSA coordinates a Legal Skills program "which attempts to provide . . . requisite skills to compete successfully in law school." Also, both LLSA and BLSA have a "buddy program" which pairs upperclass and

new students.

C. Law School Atmosphere

1. Minority Student Organizations

"The quest for black equality is a dynamic, daily struggle, the success of which critically and uniquely depends upon the vitality and unity of black people." Thus begins a description of the BLSA chapter. The chapter "serves to foster . . . unity . . . to instill a greater awareness . . . of the needs of the black community and to encourage a greater commitment to those needs, and to vigorously work towards the eradication of institutional racism."

Descriptions of the new Latin Law Student Association reflect the concern for minority student unity. LLSA is described as an outgrowth of BLSA, the result of the "increased enrollment of minority students of Hispanic descent . . ." Literature explains that "the existence of cultural differences required individualized attention to [the distinct needs of Hispanic students]. Thus the separation of [LLSA] from BLSA serves not to divide, but to enrich both groups."

BLSA and LLSA also serve more specific goals, such as countering "first-day jitters." The two groups hold a summer meeting with new students simply to get acquainted, so that the new students can see familiar faces during the first days of the new academic year.

Efforts to promote minority student unity have met with some obstacles in the form of negative opinion and ill-conceived comments. The BLSA student recalled a recent orientation session during which a minority professor advised new minority students to forestall BLSA/LLSA membership until they "got their acts together." At the same event

another professor "reminded" minority students that "most of you are here on a special program" (a possible allusion to the "special" scrutiny of minority applications). The BLSA student said that these statements--especially the latter observation--had the effect of making the new students feel that they did not really belong here. The BLSA representative is concerned about the negative ramifications that this orientation experience may have "planted." "If you feel that you belong, that comfort goes a long way in terms of adjustment, and in terms of how well you can perform," the student mused.

2. Minority Presence

Both student leaders called the administration "somewhat supportive" of their groups, but they differed in their opinions of how the administration demonstrates that support. They both cited minority recruitment efforts and the Dean's willingness to meet with students as examples of support. The BLSA student stated that he wants to see the number of minority students and minority faculty significantly increased before a glowing report can be made. He continued, "Until the numbers [of minority students and minority faculty] really start increasing, it's neither here nor there with me." However, the administration has supplemented the BLSA budget to provide for BLSA students to attend the National BLSA Convention.

The BLSA student deemed the rapport between minority faculty and black students "somewhat mixed" because students tend to approach one black professor here more than the other. Moreover, that contact tends to be informal. Other than "a good rap in the hallway," the BLSA student said, minority students do not approach the faculty. By contrast, the BLSA student continued, "everyone approaches the Dean of Admissions," a situation

which he considers illustrative of the role which staff other than faculty can play in enhancing school atmosphere. An increase in the minority population at all levels, from janitor to professor, would improve the overall atmosphere, the BLSA student said. In the BLSA student's opinion, a great sense of apathy pervades the School, even among the minority community. He would combat that apathy by bringing in more minorities--not just faces but people with an awareness of the issues facing minority students.

The LLSA representative pointed out that, lacking an Hispanic faculty member, Hispanic students also turn to the two black professors for advice. This student was, nevertheless, optimistic about future diversification of the minority faculty. She lauded the School's efforts to recruit minority faculty, which efforts she considers evidence of the School's overall interest in minority issues. The administration has asked minority students to meet with minority faculty candidates--an openness which the LLSA student had not seen before.

In discussions with faculty about faculty candidates, the BLSA student made it clear that new minority faculty would be looked to by minority students for advice and support. Somewhat to the BLSA representative's surprise, one black professor suggested that faculty candidates might neither want to advocate "minority issues" nor want to meet with students. To these "reservations" the BLSA student responded, "This school does not need that kind of minority faculty member." In reflecting upon that exchange, the BLSA student repeated his criticism that programs which "increase numbers without adding substance" do not answer the underlying problems which, supposedly, inspired the minority recruitment programs. The LLSA student, in a similar vein, called for a stronger commitment to minority issues by the

current faculty, minority and white alike.

III. CURRICULUM AND LAW SCHOOL ACTIVITIES

A. Curricular Attention to Minority Concerns

The Curriculum Committee has reviewed and approved courses which have, over time, attracted significant minority student interest, e.g., Law and Race, but the Curriculum Committee has not identified any legal issues of "special" interest to minority students. The Curriculum Committee has not reviewed the curriculum with the specific goal of integrating minority issues into the program.³

Interviewees discussed at great length the current state of affairs regarding systematic attention to minority issues in the curriculum. Current offerings apparently devote little attention to the issue of race. Both minority student leaders mentioned Law and Race as the only course of its kind at this time, and minority interest in that course has been significant. According to the LLSA student, a recent offering of Law and Race enrolled 30 students, of whom fully one fourth were minorities.

A fall 1988 seminar on group defamation and freedom of speech addressed the question of "whether the First Amendment precludes government action (criminal, civil, or administrative) to protect minority group members and women from speech that debases members of the group, that tends to create hostility against them, and that by its very utterance inflicts injury upon them." The seminar drew only four enrollees (one black and three white), and students have not approached the instructor to request that he teach it

³According to one faculty interviewee, a specially formed committee has recently begun a general content review of the curriculum. As of this writing, further details about the preliminary work and/or recommendations of that special committee are not available. This section details the past and current curricular attention--or lack thereof--to the interplay of race and the law.

again nor does the instructor anticipate that he, or any other faculty member, will teach it again. The instructor suggested that the issue of group defamation is only "tangential" to the interests of most students.

Students expressed frustration at what they perceived as a tendency of faculty and students to avoid the issue of race. The LLSA student said that none of her first-year professors discussed minority issues though, she said, the opportunity arose on a number of occasions.

Though agreeing that minority issues could receive greater attention, the students differed both in the level of their criticisms and in their theories of why the issue is avoided. The LLSA student, though acknowledging that instructors are limited in the time that they can devote to any issue, opined that discussion of some substantive areas should include discussions of race as a matter of course. The BLSA student was more specific, opining that the faculty are aware of the issues but generally incapable of handling them. Turning again to Law and Race as an example, the BLSA student noted that a white professor teaches that course, though the BLSA student credits the instructor with trying to relate effectively the material.

Students have approached the administration with their concerns in the hope that the administration could encourage instructors to pay more attention to racial issues. However, these discussions have only, thus far, solicited recommendations that the students go directly to the Curriculum Committee. But, as mentioned above, the Curriculum Committee has not reviewed course content. Students criticized this inaction as being detrimental to the entire student body. One student interviewee asserted that discussion of minority issues would not

only benefit minority students, because many nonminorities are also interested in racial issues. It was also suggested that discussion of such issues prepares students for later roles. The BLSA student asserted that students who cannot be activists now cannot become activist professionals.

One faculty interviewee spoke at great length in support of the idea that attention to racial issues prepares students to become lawyers. The instructor of the Criminal Justice Clinic devotes much time to making his clinical students aware of ways in which race affects students' ability to communicate with, and effectively represent, clients. This professor observed that gender, race and class all affect interviewing, case planning, trial preparation, and jury selection. He also discusses issues such as homophobia. It is this professor's belief that students must understand others unlike themselves in order to better communicate with them.

The Criminal Justice instructor also provided some observations on why, in his view, colleagues have difficulty in addressing the issue of race. It is this professor's experience that failure to discuss these issues when they arise inside, and outside, the classroom can increase nonwhite students' alienation from the law school community. In private conversations, students have admitted to this professor that they find the law school classroom atmosphere somewhat insensitive and unresponsive to minority student concerns. He also noted that while a discussion of racial issues can put people on the defensive, it is a necessary dialogue which must be done sensitively, and within an historical context where possible. Each student, white and nonwhite, must be aware of differences between themselves and others, and in the case of nonwhite students, they must consider how they will function and

communicate with a predominantly white legal system. This "education" should, the professor mused, include reinforcement of even the most rudimentary truisms--such as the simple fact that there are both fair and unfair white judges.

This instructor recommended that a course on Equality and Inequality--a course on the role of law both in creating and preventing social change--be required of all first-year students, thus reaching the greatest number of students at the earliest time. Further, the Criminal Justice instructor called for institution-wide adoption of attention to race as a means towards training future lawyers. Individual initiative would, he asserted, be insufficient to the task. (He also complained that clinical instructors too often bear the onus of addressing issues of diversity.) The Criminal Justice instructor admitted optimism about the prospects for faculty-wide attention to the matter of race and the law. He called the Dean "receptive" and hopes soon to see a faculty colloquium on the issue.

B. Clinical Programs

1. Policies

A Clinical Policy Committee is charged with overseeing the general policies and development of clinical programs. The Clinical Policy Chair noted that this and other schools have begun to use more of a balance between live client representation and simulated skills training. (School literature describes the Director of Clinical Programs as having a special interest in "developing simulation-based programs of clinical education.") The Clinical Policy Committee addresses such issues as whether students should handle divorce cases or whether there should be more focus on either criminal or civil matters. The Clinical Policy Chair suggested that neither he nor anyone else would know how policy

decisions would affect either minority student participation or minority client representation, but he admitted that a study to determine the effect of policy decisions on minority participation would make "an interesting empirical study."

While expanding its use of simulation-based clinical training, the School continues to espouse dedication to the service of live clients. The School operates a "Neighborhood Law Office"--described as the "core of the School's clinical programs"--which provides legal services to low-income members of the community. A founding faculty member is quoted as saying that "a heightening of the sense of justice and injustice, an awareness of the actual impact of our legal system on real people, can best be achieved in a clinical setting." Further, School literature concludes that in offering legal service to low-income individuals the Neighborhood Law Office "exposes law students to the importance of incorporating public service into their professional activities."

The Clinical Director holds a general information meeting each spring. Interested students must then submit a letter of intent, and each instructor interviews applicants. The Director noted that students must seriously consider the time commitment involved in clinical enrollment. "Students live, eat, and breathe clinic," the Director observed.

Clinical students receive advanced training in interviewing, counseling clients, fact gathering, legal research and writing. Seminars, audio-visual simulations, and individual student-faculty conferences supplement actual court practice. As to special training in dealing with members of different racial groups, the Clinical Director said that the level and specificity of efforts in this area differ with each instructor. However, each of the clinical instructors--all of whom met with the Clinical Director to discuss the questions posed by the

Commission's survey--identified the matter of "student sensitization" as an important issue. (More detailed discussion of the instructors' comments appears in the individual program descriptions, below.)

2. Programs

a. Constitutional Law Clinic

This clinic is not scheduled to begin representing clients until the spring 1990 semester; however, the Instructor provided some observations on his expectations in terms of program focus and clientele. He noted that violations of constitutional law affect, in most instances, the poor, minorities, women, aliens and dissenters. Thus, those groups roughly define the potential client base. (At the time of our interview the Instructor mentioned that he had already interviewed some prospective clients from each of the above-listed groups. The Instructor has reportedly targeted several cases connected with recent events at Tompkins Square Park. The Clinical Director projected that minorities would account for 25% of the future clientele.)

The Instructor plans to make student "sensitization" (i.e., the effort to sensitize students both to the cultural differences between themselves and their clients and to how those differences affect their professional relationships) a component of his clinic. Devising a systematic method by which to undertake that sensitization has, the instructor explained, proven somewhat problematic. The Instructor said that he and many of his colleagues feel that the materials currently available on the issue of cultural sensitization are wholly

inadequate to the task of the clinical instructor.⁴ Moreover, the problem is apparently exacerbated by a lack of alternate materials. Though the Instructor has spoken with colleagues to seek out novel materials, he foresees ultimately having to rely on his own experiences as source material.

At the time of our interview, seven students had enrolled for this new clinic; one is a minority.

b. Criminal Justice Clinic

The Criminal Justice Clinic handles misdemeanor cases in state courts. Minorities makes up from two thirds to three fourths of the clientele, and six of the ten student participants are also minorities (five Blacks and one Hispanic). The Criminal Justice Instructor called this 60% minority enrollment "higher than usual"; he usually has three or four minority students in the program.

The Criminal Justice Instructor detailed the application and interviewing procedures which led to the current enrollment. For the spring "clinical recruitment" event, the instructor had third-year students talk about their own experiences. Subsequently, he received applications from 25 to 30 students, each of whom he personally interviewed (for approximately one hour each, he recalled). Each applicant also had to submit a writing sample. The instructor queried applicants on their career interests and on whether they planned to become either a prosecutor or a defender. He also queried students on a range of ethical dilemmas.

⁴At a recent conference called "Dealing With Differences" New-York-City-area clinical instructors discussed ways to integrate the issue of student/client differences into the clinical curriculum. See Case Study E at pp. 27-28, above.

In selecting students, the Criminal Justice Instructor tries for a "balance" in terms of prior work experience, academic performance, demonstrated interest in criminal law, race, gender, age and any other background experience or information which would add to the group's overall diversity.

The fall semester of this year-long course involves three components. A seminar provides instruction on interviewing, case planning and client counseling. A simulated trial uses the facilities of a local courthouse; mirroring the student selection procedure, the Instructor gathers mock trial participants who reflect differences in society. Students also work as externs in local offices of either Legal Aid or district attorneys, where students handle all aspects of legal representation from interviews through actual in-court representation. In the spring semester, all ten students work as public defenders, drawing upon the experience of the fall semester for actual client defense. According to the Criminal Justice Instructor (as reported by the Clinical Director) the "special training" of students in dealing with minorities is integrated into all aspects of the Clinic. As to the level of clinic participants' race consciousness and/or the need to heighten students' awareness, the Criminal Justice Instructor asserted that he integrates race-sensitive issues into the course curriculum and encompasses discussions on the role of race in judicial and jury decision-making. The instructor believes that many enrollees have taken this course on the Thirteenth and Fourteenth Amendments, which deals specifically with race-sensitive issues such as jury selection and capital punishment.

c. **Federal Litigation Clinic**

This program handles matters such as child abuse cases and violations of Title VII.

The Clinical Director estimated that 75% of the clients are minorities. He noted as a caveat that this program handles a very small caseload. None of the clinic's nine students is minority. The Federal Litigation Instructor said that it is not usual for this clinic to draw no minority students.

Echoing the thoughts of the Criminal Justice Instructor, the Federal Litigation Instructor considers racial sensitization of students to be "part of the general lawyer training of the clinic."

C. Student Clerkships

Student clerkships are administered as "externships," coordinated by the Placement Office. The LLSA representative reported that some minority students may not apply because of their perception that the criteria (e.g., participation on Law Review, top 10% of the class) are particularly stiff. The BLSA student pointed out that the fact that student clerkships are unpaid positions may also account for low minority student participation.

D. Bar Review

There is no in-house, pregraduation class to prepare students for a bar examination. The Dean reports that a number of scholarships from formal bar review courses are available, a "significant number" of which are provided to minority students.

Reportedly, there has been some resistance by the faculty to teaching "jurisdiction-specific," as opposed to "national," law. The BLSA student told of his recommendation to the Curriculum Committee that the School develop and offer a course on the New York Civil Procedure Law and Rules. The Dean reportedly stated that offering so "state-specific" a course could affect the School's reputation as a "national-law" school. Rigid dedication to

a "national approach" would, the BLSA student opined, seem to ignore the facts that most students enrolled here are both from New York and plan to practice, if ever, in New York State.

E. Law Review

Students may earn Law Review membership through any of four procedures. The top five students of each first-year "section"⁵ receive offers of Review membership. These students need not submit a writing sample. Another five new members are chosen from among students who participate in an anonymous writing competition. A third contingent of 15 to 20 members is chosen on the basis of a combination of grades and performance in a writing competition. Finally, second-year students may also enter the year-end writing competition to be eligible for a one-year membership.

No efforts have been made to increase minority representation on the Review. The predominant opinion of the current Editorial Board, as relayed to the Review Advisor, is that qualification for Review membership is "performance related" (i.e., academic performance evidences qualification for membership).

For the 1989-1990 academic year, the second-year staff counts 40, including two minorities. The Editorial Board counts 23; one Associate Editor is a minority.

No programmatic efforts are made to include articles on race-specific issues in the Review. The School has a tradition of symposia issues, which account for one half of all pages published in a year. In some years, the Advisor noted, race has provided the issue for

⁵An entering class is divided into three sections. Each section is like an entering class in miniature; the top students in each section are deemed to be on academic par.

a symposium, but the focus changes yearly. Review staff solicit articles for symposia issues, but other pieces come unsolicited. Students may formulate their own topics, subject only to advised guidelines of timeliness, focus, complexity, etc.

F. Moot Court Programs

Once first-year academic rankings are released (during the summer) the top 120 students are invited to apply for the Moot Court Board. Usually, about 30 applications result; the Faculty Advisor had no statistics on the minority representation in the most recent applicant pool. The Student Director of the Board (the Board's only third-year member) reviews all applications to identify the most promising 12-15 students. Students who also qualified for journals are interviewed to reassess their ability to dedicate time to both activities. Moot Court Board is essentially an option for those students not affiliated with a journal, the Faculty Advisor said. He recalled that one Black and one Asian American have interviewed and accepted Board membership during the last two or three years.

The Faculty Advisor observed that the program here is somewhat unique in the state. The Moot Court Board handles only the preparation of bench memoranda for use in the first-year program. Application for interscholastic Moot Court competition is not an open application system here. (The Faculty Advisor opined that open applications draw only those who are vaguely interested.) The number of interscholastic competitions the School participates in is limited by budgetary and administrative constraints.

For a competition in Labor Law, Labor Law professors simply recruit their best students. One Asian-American student participated in the labor competition in 1989, but no minorities were recruited the year before.

A regional competition is open only to second-year students. This competition also serves, somewhat, as a training competition for the School's National Moot Court team. Those members of the Moot Court Board who have been doing the best work are asked to enter this competition. The faculty also recommend some other students. The Advisor knew of no minority students who had competed in the regional program.

For the National Moot Court Competition the Advisor contacts the top 150 non-journal affiliated students. That solicitation garners, typically, six applications, from which the Advisor tries to recruit the best three students. The Advisor did not recall having seen any minorities participate on the School's national team.

The Faculty Advisor does not consider the School's limited Moot Court programs as a source for concern that students are being denied an activity which can bolster later career opportunities. Among the legal profession, the Advisor asserted, there is a fairly accurate perception that Moot Court competition experience is not a significant career boost. What one can learn from Moot Court is less than many think, he said. The experience of Moot Court competitions is not, he continued, representative of actual appellate practice.⁶ Moreover, though the Advisor would concede that Moot Court participation is one area in which faculty could undertake novel approaches to student recruitment so as to increase minority participation, the Advisor also believes that the real issue for career advancement of minorities lies in diversifying journal memberships. However, faculty have, in his experience, little real influence over member selection procedures for journals.

⁶The Advisor mentioned that an ABA committee on the federal judiciary recently excoriated moot court competitions as nonrepresentative of actual federal appellate practice.

IV. MINORITY JOB PLACEMENT

A. On-campus Interviewing

The School disseminates a statement which declares that on-campus interviewers may not discriminate. The School does not, however, require prospective employers to sign-off on a formal antidiscrimination policy. The Placement Director has never heard a minority student complain of a discriminatory on-campus interview.

Employers are given information by which they can screen students, and there has been no effort to discourage employer prescreening. Firms provide their criteria and students tend to prescreen themselves, the Director noted. However, employers coming on-campus do provide "alternate" spots (in case of a cancellation, for example), and if the Placement Director knows a student who seems to "fit" the employer's requirements, the Director will try to arrange for that student to have an interview. Nevertheless, "alternate" interview slots provide only minimal flexibility within the strict screening procedures imposed by firms, and the Placement Director stressed that the imposition of inflexible academic "cut-offs" restricts students' opportunities both here and at admittedly more elite institutions. (The Director cited several articles and studies which demonstrate that strict "top X% of the class only need apply" "cutoffs" impact on law students at all levels of legal education.) "Firms are still not looking beyond the ends of their noses," the Director said.

The LLSA student has spoken with Placement Office staff in an effort to encourage a more diversified selection of employers among on-campus interviewers. Placement staff reportedly pointed out that only large firms can afford to come on-campus.

B. General Placement Office Services

The Placement Office offers job-search assistance such as instruction on resumé and letter-writing, simulated interviews, and "job search strategies." The Office also coordinates career panels, which are arranged by practice type and/or size (e.g., panels discuss practice in large, medium, small, or international firms.) The Director recruits alumni to participate in career panels. The Placement Office has organized a local consortium program whereby School students meet with out-of-state employers at a centralized location. The Office also collects and distributes resúmes to employers unable to attend either the on-campus or consortium-organized events.

C. Minority-Specific Placement Efforts

The Placement Office tries to attract employers who will affirmatively seek out minority students. Minority-specific placement efforts rely heavily on the Director's own dedication. The Director works closely with a local District Attorney's Office in its recruitment efforts. Similarly, the Director has personally contributed to a new program sponsored by the National Bar Association through which several hand-picked, local firms have each agreed to hire for the summer at least one minority student from the School. The Director feels that he enjoys a close, on-going rapport with minority students, both individually and in working with the BLSA and LLSA chapters.

In trying to increase minority student integration across the spectrum of legal employment opportunities, the Director has had to confront the combined obstacles of inflexible reliance on academic performance and cultural insensitivity. He related the following illustrative incident:

A Hispanic student who, in addition to his law degree has two advanced degrees in sciences, applied to a firm which handles matters of law and technology. Though the student stood below the "top X% of the class" as "required" by the firm, the Placement Director felt confident that, given the student's scientific training, his good grades, and his minority status, this firm--which claims to have an affirmative action hiring policy--should accept the student. Solely on the basis of a resumé, the firm sent the student an unsigned form letter of rejection.

Taken somewhat aback by this response, the Director "cornered" the hiring partner for an explanation. The hiring partner said "We didn't know that R--- was a Hispanic name."

The Director also recalled a somewhat more egregious example of apparent discrimination against a student-clerkship applicant:

The Placement Director was "making a big push" to get a black student into a clerkship in a court where the Director enjoyed a strong rapport with two clerks (School alumni). Both alumni had left the court before the clerkship placement had been finalized. The Director called to reestablish contact with the court. In the course of his conversation with the new clerk, the Director mentioned that the applicant is black. After a short silence the clerk said, "I will have to call you back."

Upon calling back the clerk said, "Mr. [Director], we are not hiring [the student]. I want you to know that we offer interviews based on the merits and qualifications on the resumé." The Director, certain that the student's qualifications met the court's standards, "pushed back," and the student got the clerkship.

Despite occasional frustrations, the Placement Director expressed optimism for minority students' prospects among selective employers. Placement Office statistics suggest that black and Hispanic graduates by and large find full-time employment relatively soon after graduation.⁷ Moreover, the Placement Director has seen minority graduates entering a more balanced cross-section of types of legal practice, with an upward trend of law firm

⁷The School reports, on average, 90% placement within nine months after graduation. For some recent graduating classes, 100% of minority graduates were placed within nine months of graduation. (Nine months is the standard reporting period for statistics compiled by the National Association of Law Placement.)

employment for students from the middle (academically) of recent graduating classes; however, it is still the fact that most minority graduates enter "mainstream public service law," the Placement Director noted.

Interviewees at this and other schools have expressed concern that minorities too often enter public sector jobs which they really do not want. One student here suggested that this "concern" can be carried too far. The LLSA student said that the Placement Office has emphasized corporate placements. This student acknowledged the Office's efforts to promote a regional BLSA-sponsored minority job fair, but she also related that individual students have had a problem with Office staff not responding to inquiries. This situation has required, the LLSA student continued, student initiative to search out public service employment opportunities. School literature briefly describes a Public Justice Foundation which has as its goal "to provide a support network for students and to remove the barriers confronting students and lawyers interested in pursuing public interest careers." However, no interviewee made reference to that group's efforts.

The BLSA student did not share the Placement Director's enthusiasm for minority students' prospects among selective employers. He called for the Placement office to make efforts to encourage employers to adopt criteria beyond GPA and journal affiliation. It is the BLSA representative's experience that the Placement Office considers "its hands tied" because few minorities work on journals. (The BLSA student knows of only three minority students on the School's several journals.) This has led, the student continued, to a student consensus that the Placement Office is "Review oriented." That consensus, combined with the perceived comparative success of white students "hurts minority morale," the BLSA

student said. Voicing a widespread concern the BLSA student stated that there is "no reason for students to go through the legal education process if they can't get quality jobs at the end."

Even new minority-specific initiatives have given the BLSA student reason for concern. As was mentioned above, a number of local firms have joined a new program whereby each firm will agree to hire for the summer at least one minority student. The BLSA student, who described himself as "in the top quarter of the class," admitted to being discouraged that this special summer program may be his only option for employment this summer. Moreover, this student criticized participants in the new law firm program for simply using the same restrictive criteria (i.e., GPA and journal affiliation) as do other firms, thereby essentially defeating the purpose of the program.

D. Graduate Clerkships

The Clerkship Committee convenes a general information meeting. Former clerks are on hand to discuss their experiences. From 30-50 students attend this meeting; 15 to 25 typically apply to the Committee. The Clerkship Committee then, on average, places fewer than ten clerks per year. Among these relatively small numbers, the Clerkship Chair distinctly recalled three minority students who recently "went through the entire process" (i.e., attended the information meeting, applied and received clerkship placements).

Committee members reach out to individual students to encourage their applications-- and the Chair especially encourages minority students to apply-- but the committee has not made any systematic outreach to minority students. Though the committee has not previously met with the BLSA or LLSA chapters to discuss clerkship options with minority

students as a group, the Clerkship Chair considered such a meeting a very good idea, and he is very willing to meet with the minority student organizations.

The Clerkship Committee's review of clerkship applications is highly subjective and individualized. The Committee looks for scholastic achievement and proficiency in legal research and writing; the two do not necessarily correspond, the Clerkship Chair pointed out. Speaking hypothetically, this professor averred that a student who has worked as a faculty research assistant or otherwise produced high quality written work should not be precluded from holding a clerkship simply because the student "fell off" in Tax (or some other course).

The Clerkship Committee's apparent emphasis on research and writing skills gave at least one interviewee cause for criticism. The BLSA student stressed that by focusing on a candidate's written work the Clerkship Committee is simply perpetuating the same exclusionary criteria used by law firms. Nonjournal members are here, as with other placement opportunities, effectively excluded, the BLSA student said. The BLSA student again called for more financial backing and for adoption of "expanded criteria" to determine applicant qualification. In the current atmosphere minority students are deterred from applying for graduate clerkships.

Neither the administration nor the Clerkship Committee have tried to discourage prescreening by judges; however, neither has there been concern that judicial prescreening unfairly affects applicants. The Clerkship Chair estimated that comparatively few judges (20% by his guess) stipulate strict academic criteria for clerkship applicants. Most judges

simply ask for "good people." the Chair said.⁸ Thus, he continued, in the comparatively rare instance when a judge makes a specific request (such as requiring submission of a writing sample, or asking for applicants from the top 15% of a class), honoring those requests makes sense.

Judges themselves can play a role in making clerkships a more attractive and viable placement option for minority students, the Clerkship Chair asserted. He suggested, for example, that the bench commit itself to affirmative consideration of minority candidates. Another improvement would be, he continued, for judges to follow a strict calendar rather than engaging in unregulated competition for clerks. The Clerkship Chair mused that judges, by not adopting a clear policy on minority applicants, and by engaging in cutthroat competition, "don't tell the Clerkship Committee the 'real' criteria" for selecting their clerks.

The obstacle of bureaucratic policy has also engendered some concern. The Placement Director recalled the experience of a recently-graduated Hispanic alumnus:

This highly qualified student ("He had offers all over the place.") contacted a state judge, and the judge made an offer on her own initiative. The student then met with the senior clerk of the state court system, who "vetoed" the appointment. The clerk reportedly said, in effect, "The judge had no right making an offer. That is my job." Though the judge fought the refusal, the student, despite considering the clerkship his "first-choice," accepted another offer.

Though he did not posit a direct connection between bureaucracy and low minority involvement in clerkships, the Placement Director admitted that qualified people from the school are not getting clerkships.

⁸The Clerkship Committee solicits information from every federal and New York State judge through an annual mass mailing of an information card. That card requests information on application deadlines, minimum credentials, etc. Applicants are asked to submit resumés and writing samples as well as their own preferences as to which court(s), or which judge(s), interest them.

V. FACULTY ISSUES

A. Recruitment and Hiring

Though the Chair of the Faculty Appointments Committee readily admitted that the committee is dissatisfied with the number of tenure-track minority professors currently on the faculty (i.e., two among 31; there are no minorities among the current adjunct faculty), he also asserted that the dearth of minority instructors is not due to a lack of attention. The Chair maintained that "most reasonable law faculties have been at this for years" and he opined that the Commission will generally find faculty to be "the least of our problems" in terms of familiarity with the issues and in terms of sincere efforts to increase minority participation.

The School is not setting any "ceiling" on the number of minority faculty. The Chair asserted that the School has a real commitment to increasing the minority presence in the profession generally, and on law faculties specifically. The Appointments Committee is also cognizant of a connection between having minority faculty and attracting qualified minority students. (Though the Chair believes that money (i.e., financial aid) may be the biggest concern for students trying to choose a law school, he believes that other aspects of the school environment, such as the presence of minority faculty, factor into the recruitment "equation.") In the Chair's view law schools and the legal profession primarily face a problem of financial resources. "With a million dollars we could increase the quality minority student presence, and, ultimately, the [number of] quality minority law faculty."

The Appointments Committee has discussed the need for representation by minorities other than Blacks; the Committee has met with the newly formed LLSA chapter to discuss

ways to attract Hispanic faculty. However, Asian-American students have not contacted the Appointments Committee to request expressly that more attention be paid to recruiting Asian-American faculty. This silence the Appointments Chair attributed to "middle-class" attitudes among the Asian-American students, whom he characterized as more conservative than their black and Hispanic peers. The Chair also observed that, though some student groups have been vocal in their call for minority faculty, some of the suggestions have been impractical (e.g., the suggestion that the School recruit Thurgood Marshall).

The Appointments Committee starts its search for new faculty through "conventional" sources like the AALS Registry and the annual AALS faculty recruitment convention. Appointments Committee members also maintain contact with any number of persons for possible referrals. The faculty have also discussed placing advertisements in legal periodicals (such as the ABA Journal⁹), but, according to the Appointments Chair, most faculty members consider such advertisements to be "only cosmetic."

In describing the application procedure, the Appointments Chair first stressed that the Appointments Committee looks for people "who appear to be smart," as evidenced both on paper and by personal encounters with the Committee. The Committee then looks for a record of professional achievement and/or professional discipline. Third, the Committee looks for "interesting professional experience."

When applying these procedures to a minority candidate, the Committee de-

⁹Solicitations for faculty applications have appeared in the ABA Journal throughout the term of the Commission's survey of New York Law schools. In recent months advertisements have appeared for Brooklyn Law School (Sept. and Oct. 1989), U. of Cincinnati (Sept. 1989), Loyola of Los Angeles (Sept. 1989), U. of Michigan (Sept. 1989), U. of Montana (Nov. 1989), U. of Pittsburgh (Nov. 1989), Southern Illinois U. at Carbondale (Oct. 1989), Temple U. (Oct. 1989), and Willamette U. (Nov. 1989).

emphasizes "paper credentials," tending to put aside "law review criteria." There has been some acknowledgment, the Chair continued, of personal circumstances beyond the candidate's control. The Chair hypothesized that the "life situation" of minority faculty candidates does not "position" them either to produce the sort of work or to gain the sort of work experience to bring them to law faculties. Wealth/income may factor into the "equation" since a lack of resources may "lock" minorities into local schools and local, limited work opportunities.

Despite an admittedly "flexible" consideration of the credentials of minority candidates, the Appointments Chair stressed that a minority candidate "still needs brains and needs to have shown that he/she works hard." Substantial writing is not a prerequisite. (The Appointments Chair noted that the extent of one's writing is a function of age and experience, i.e., older candidate have more opportunity to write than do younger candidates.) Prior teaching experience is, also, not a prerequisite. In fact, most new faculty do not have teaching experience.

B. Promotion and Tenure

Each "neophyte" faculty member is assigned a senior Faculty Advisor; sometimes a newcomer gets more than one Advisor. Promotion of new faculty is not so much an issue for new faculty as is contract renewal. (Nontenured faculty work on two-year contracts.)

Promotions are granted on favorable consideration of three criteria: service as a teacher; service as a scholar; and service to the law school, the community and the university at large.

At the beginning of the academic year in which a faculty member is to make an

application,¹⁰ the tenured faculty appoint a three-member subcommittee. Subcommittee members sit in on the applicant's classes, solicit student opinion,¹¹ assess the candidate's "total resumé," and make recommendations to the tenured faculty sitting as a Tenure Committee. External review of a candidate's writing is not a regular part of the tenure procedure; outside referral is likely only if none of the current faculty feels competent to assess the candidate's writing. A tenure candidate is assessed on the same criteria of service (i.e., service as teacher, scholar, and community member) used to decide eligibility for promotion.

There has been a conscious effort to resist "diluting" standards at the level of promotion or tenure applications. Affirmative action might involve an adjustment of standards at all levels, the Appointments Chair indicated, but, he continued, one is likely to find that, in application, affirmative "adjustments" are made at the hiring level.

¹⁰Under guidelines of the American Association of University Professors, a tenure decision must be made within seven years of having joined the faculty. The Appointments Chair noted that not everyone is on a seven-year "track"; some faculty come with "credits" towards tenure earned elsewhere. A two- to three-year "track" is somewhat different from a longer track, the Chair noted. As far as practicable the Chair tried to describe a "typical" tenure application.

¹¹Currently, there are no student representatives on the Tenure Committee. There has been occasional faculty discussion of including students, the Appointments Chair reported, but there has been majority (i.e., numerical majority) resistance. The Appointments Chair asserted that tenure decisions carry a serious consideration of maintaining confidentiality. That is, the faculty have expressed concern that an instructor's "trouble" with promotion or tenure not damage his/her reputation.