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AN INSTITUTIONAL COMMITMENT TO MINORITIES AND DIVERSITY: THE EVOLUTION OF A LAW SCHOOL ACADEMIC SUPPORT PROGRAM

JACQUELYN H. SLOTKIN*

INTRODUCTION

The population of the United States is becoming increasingly ethnically diverse.¹ As ethnic and cultural diversity increases, the need also increases for professionals in all fields who speak the languages and who understand the cultural backgrounds of these groups. The need for minority lawyers² in the United States, and in particular along the Mexican border and on the West Coast, is beyond dispute. For example, the Hispanic population in San Diego County has increased to 20%, yet only 1.5% of the lawyers are of Hispanic

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1. There is a difference in the definitions and perceptions of the terms minority and diversity. Diversity is not a synonym for minority. The term minority includes African American, Native American, Asian (including Alaskan Native, Filipino, Korean, Vietnamese, Pacific Islander, other Asian), Cuban, Mexican-American, Puerto Rican, and other Hispanic. Diversity can mean almost anybody: women, gays and lesbians, "ethnic" whites, and those who are culturally, educationally, socially, and/or economically disadvantaged to name just a few. For a discussion of these terms in corporate America, see Leon E. Wynter, *Business & Race*, WALL ST. J., Dec. 21, 1994, at B1.

2. Only 3% of San Diego lawyers identified themselves as African American, Hispanic, or Asian. There has been no official count of minority lawyers in San Diego. Experienced representatives of the local minority bar associations (Pan Asian Lawyers of San Diego, Earl B. Gilliam Bar Association of San Diego County, La Raza Bar Association) have estimated these numbers from their organizations' directories. Letter from Milton K. Low, Past President, Pan Asian Lawyers of San Diego, to Jonnie Estell, Assistant Dean of Minority Affairs, California Western School of Law (Nov. 25, 1991); letter from Douglas A. Oden, Past President, Earl B. Gilliam Bar Association of San Diego, to Jonnie Estell, Assistant Dean of Minority Affairs, California Western School of Law (Nov. 19, 1991); letter from Manuel Ramirez, Past President, La Raza Bar Association, to Jonnie Estell, Assistant Dean of Minority Affairs, California Western School of Law (Nov. 23, 1991) (all letters on file with the author).

In California, nearly 45% of the population is minority, yet only 9% of the lawyers are minority. See Susan H. Russell & Cynthia L. Williamson, Demographic Survey of the State Bar of California 6-7 (SRI Project 2310 Final Report, 1991).

descent.³ San Diego is directly north of the Mexican border, and the North American Free Trade Agreement has created an abundance of immigration, trade, and public policy issues.

Additionally, as a social issue, minority underrepresentation in the legal profession leaves minority populations without effective leadership and without minority legal representation.⁴ Cesar Chavez, then-President of the United Farm Workers Union, addressed this issue during a UCLA Law School protest:

We need to have diversity, but we need the right kind of diversity. We need to have people who will go into the community, and take the cases of the working class people, take our causes and fight for us.

. . . . We need to have students who identify with the community go back and help us.⁵

Given this severe underrepresentation of minorities in the legal profession,⁶ law schools have begun to realize their obligation to

3. Letter from Manuel Ramirez, to Jonnie Estell, *supra* note 2. This is an estimate only. There has been no survey of the number of Hispanic lawyers in San Diego. See also *infra* table note 7.

4. See Russell L. Jones, *The Legal Profession: Can Minorities Succeed?*, 12 T. MARSHALL L. REV. 347, 354 (1987) ("An increase of minorities in the legal profession will advance the ultimate goal of the profession: providing justice. This can be achieved if our pluralistic society is represented by a more diverse field of advocates to competently represent all interests."); see also Charles L. Finke, *Affirmative Action in Law School Academic Support Programs*, 39 J. LEGAL EDUC. 55, 59 (1989); Vernon E. Jordan, Jr., *The View from the Podium, Speech to the 1992 Convention of The Washington, D.C. Bar Association* (June 25, 1992), in 34 B.C. L. REV. 1, 9 (1992). Jordan stated:

I believe that America and its legal profession are evolving to become more inclusive, more effective, more positive forces in the world. Our role is . . . to bring the promise of diversity to the one profession above all that should embody the principles of freedom, justice and opportunity for all Americans of all colors, races, genders and backgrounds.

It is up to us to desegregate America's most prestigious, influential--and segregated--profession.

Id.

5. Cesar Chavez, *Speech* (1988), in *UCLA Law School's Faltering Commitment to the Latino Community: The New Admissions Process*, 9 CHICANO L. REV. 73, 85-86 (1988).

6. See Claudia MacLachlan & Rita Henley Jensen, *Progress Glacial for Women, Minorities*, NAT'L L.J., Jan. 27, 1992, at 1 (reporting employment statistics for the largest law firms with the most lawyers, most prestigious clients, and highest billings). African Americans represent only 2% of lawyers at the largest firms and Hispanics 1.2%. *Id.* at 31. Only 2.7% of associates are African American. *Id.* African Americans comprise barely 1% of the more than 25,000 partners in the largest 251 firms; 44 of the top firms had no minority partners;

provide minorities with access to a quality legal education. This Article profiles the ongoing efforts of one private, free-standing law school to fulfill its commitment to diversity in education.

California Western School of Law (CWSL) is one of two ABA accredited, private law schools in San Diego, California. In the sixth largest city in the United States, according to 1990 census figures, the City of San Diego is nearly 40% non-white.⁷ Yet only 3% of the San Diego attorneys identify themselves as members of any of the traditionally underrepresented racial groups.⁸

Before the 1990-91 academic year, minorities made up less than 3% of the matriculating student body of CWSL.⁹ The school took

61 had only one. *Id.*

7. Population figures for the City of San Diego by race and ethnicity are: total population 1,110,140; African American 104,259; Native American 6,798; Asian/Pacific 130,943; Hispanic 229,341. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, 1990 CPH-1-6 CENSUS OF POPULATION AND HOUSING, SUMMARY POPULATION AND HOUSING CHARACTERISTICS-CAL. 53 (1990). The percentages below are arrived at by dividing the number of minority residents and minority lawyers by the total San Diego population and total number of San Diego Lawyers. There is no official count of the number of minority lawyers in San Diego. The number of minority lawyers is based on responses from minority bar organizations. Letter from Milton K. Low to Jonnie Estell, *supra* note 2; letter from Douglas A. Oden to Jonnie Estell, *supra* note 2; letter from Manuel Ramirez to Jonnie Estell, *supra* note 2.

	San Diego Population	Percentage of San Diego Population	No. of San Diego Lawyers	Percentage of San Diego Lawyers
Asian	130,943	11.8%	59	.6%
African American	104,259	9.4%	110	1.2%
Hispanic	229,341	20.7%	140	1.5%
All others	645,597	58.1%	9,300	96.8%

8. Traditionally under-represented racial groups are defined as African American, Hispanic, Asian/Pacific Islander, and Native American. *See, e.g.*, BUREAU OF THE CENSUS, *supra* note 7, at 53. For purposes of this paper, many of these categories have been expanded with specific ethnicities.

9. Interview with Diane Shragg, Registrar, California Western School of Law, in San Diego, Cal. (Sept. 1994). In 1987-88, 19 minority students were enrolled at California Western School of Law (or 3.2 percent of a total registered student body of 585 students in

tentative steps to address this issue. In April of 1989, the faculty voted to establish the Minority Affairs Committee in order to enrich the intellectual and social environment of the law school, to bring the school into compliance with the ABA's and the Association of American Law Schools' (AALS) guidelines for institutional diversity,¹⁰ and to address the Law School Admission Council (LSAC) Report.¹¹

Spring 1988). In 1988-89, 22 minority students were enrolled (or 3.4% of a total registered student body of 631 students in Spring 1989). In 1989-90, 21 minority students were enrolled (or 3% of a total registered student body of 759 students in Spring 1990). Shragg has stated "these numbers change every day" during each school year because students drop out for personal and/or academic reasons. These are the highest enrollments for each year.
Id.

10. A.B.A. STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS S.211 (1961) ("The law school shall maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on ground of race, color, religion, national origin, sex or sexual orientation."); ASSOCIATION OF AMERICAN LAW SCHOOLS, 1993 HANDBOOK § 6-4(a), (c) (1993).

The AALS Bylaws require that:

A member school shall provide equality of opportunity in legal education for all persons, including faculty and employees with respect to hiring, continuation, promotion and tenure, applicants for admission, enrolled students, and graduates, without discrimination or segregation on the ground of race, color, religion, national origin, sex, age, handicap or disability, or sexual orientation.

Id. § 6-4(a).

In addition, the AALS requires that a law school "shall seek to have a faculty, staff and student body which are diverse with respect to race, color and sex." *Id.* § 6-4(c).

11. LAW SCHOOL ADMISSION COUNCIL, THE CHALLENGE OF MINORITY ENROLLMENT: SEEKING DIVERSITY IN THE LEGAL PROFESSION (1983) (describing the recruitment effort to increase the number of minorities who apply to law schools). The LSAC has been described as "a membership organization of all nationally accredited law schools in the United States." Drew S. Days, *Minority Access to Higher Education in the Post-Bakke Era*, 55 U. COLO. L. REV. 491, 494 n.15 (1984). It assists individual schools in the admission process and arranges "a variety of centralized services, such as the Law School Admission Test (LSAT)." *Id.*

For further analysis of the LSAC's role in promoting diversity, see Leslie G. Espinoza, *Empowerment and Achievement in Minority Law Student Support Programs: Constructing Affirmative Action*, 22 U. MICH. J.L. REF. 281, 283-85 (1989) (describing the 1988 LSAC summary report, *Minority Affairs Comm., Law School Admission Council, Summary Report on the LSAC Questionnaire on Special Law School Programs for Minority Students (1988)*, on special law school programs for minority law students). The 1988 LSAC report was based on responses to a questionnaire to all LSAC member law schools. Of the 180 law schools polled, 128 responded. *Id.* at 281 n.4. Eighty-one law schools have minority recruitment programs, 51 have summer orientation programs, 59 have a tutorial program, and 58 have other special programs for minority students. *Id.* More than half of the 128 responding schools had no academic support program for minorities. *See id.*

The Committee's goals were not only to enhance the school's racial and cultural diversity but also to broaden the cultural and economic diversity of the entire legal profession. The Minority Affairs Committee itself modeled diversity. Its members included faculty and staff, Hispanics, African Americans, gays and lesbians, and straight whites.¹² Following several months of study, the committee recommended to the faculty that the school establish a Department of Minority Affairs, headed by a full-time Director of Minority Affairs. The Department would actively recruit and provide support for students from underrepresented racial and ethnic communities. In January 1990, CWSL became the first law school in California with a full-time Director of Minority Affairs.¹³

In December of 1990, CWSL's faculty adopted a Mission Statement which expressed the institution's commitment "to using the law to solve human and societal problems. Our mission is to train ethical, competent and compassionate lawyers, representative of our diverse society"¹⁴ The Department of Minority Affairs became a key component of fulfilling this mission.

Due to the Director's aggressive recruiting effort, minority recruitment increased dramatically. The Fall 1990 entering class of 309 students included fifty-one students from racial, ethnic, and cultural diversity categories, or 16.5% of the whole.¹⁵ This entering

12. California Western is committed to diversity on the faculty and the administration. The faculty is 47% female and 19% minority including four African American professors (three female, one male), two Hispanic professors, one female Mexican-American professor, and one Asian professor. Telephone Interview with Lenore Fraga, Chief Financial Officer, California Western School of Law (Oct. 12, 1995). All minority faculty are tenured or on tenure track. At the administrative level, 45 of 62 administrators are female and 17% of the 62 administrators are minorities. *Id.* The Assistant Dean of Students and Minority Affairs and her assistant are African American women.

Our minority faculty are role models for minority law students. All serve on the Minority Affairs Committee; serve as special tutors, advisors, mentors, even friends of our minority students; and participate in the Academic Success Summer Program.

13. Jonnie M. Estell earned a B.A. from the National College of Education, Evanston, Illinois, with a dual degree in English and education with honors and an M.A. from Point Loma College, San Diego, California, in guidance and counseling with a pupil personnel services credential. Jonnie Estell was elevated to Assistant Dean of Minority Affairs in 1991. She became Assistant Dean of Students and Minority Affairs in 1993.

14. California Western School of Law, Mission Statement, adopted by a vote of the faculty on Dec. 6, 1990 (on file with the author) [hereinafter CWSL Mission Statement].

15. Interview with Diane Shragg, *supra* note 9. Minority enrollment at California Western for the previous three years, 1987, 1988, and 1989, averaged 3.1% of the student body. *See supra* note 9. Of the fifty-one minority students in the 1990 fall entering class,

class included nine African American students, twenty-two Asian students (including three Filipino, three Korean, and four Vietnamese students), one Native American student, two Puerto Rican students, three Mexican-American students, three other Hispanic¹⁶ students, and eleven other¹⁷ students.

This hoped-for increase in minority recruitment and enrollment brought fresh challenges. Because minority students generally have a more difficult time in law school than nonminority students,¹⁸ a program¹⁹ was instituted to support these students through the first year of law school. Traditionally, the first year of law school is the hardest year, and the year when the most students leave law school due to poor performance, lack of motivation, and/or lack of interest.²⁰ This Article describes the evolution of one program which

twenty-nine received a "Dean's Scholarship for Ethnic and Cultural Diversity." The 16.5% figure includes five students enrolled in the Masters of Comparative Law program.

16. This "other Hispanic" category includes persons from Cuba and El Salvador.

17. "Others" include, but are not limited to: East Indian, Alaskan Native, Italian, Egyptian, Israeli, Taiwanese, Canadian, and Aboriginal.

18. See Derrick A. Bell, *Law School Exams and Minority-Group Students*, 7 BLACK L.J. 304 (1981) (discussing minority groups' difficulties with law school exams). "Since most minority students come from less than upper-class backgrounds, and since their law school careers are likely to be also burdened with at least some racially-oriented difficulties, the cultural barrier of exams is likely to have a disproportionate effect on Blacks and other minority groups." *Id.* at 307. See generally *A Report on the NBA/ABA Legal Education Conference: An Assessment of Minority Students' Performance in Law School: Implications for Admission, Placement, and Bar Passage*, 20 U.S.F. L. REV. 525 (1986) [hereinafter *NBA/ABA Conference*].

19. For an overview of the history of academic support programs in higher and legal education, see Paul T. Wangerin, *Law School Academic Support Programs*, 40 HASTINGS L.J. 771, 773-77 (1989).

The AALS proposed a section on Academic Support. The section met during the January 1995 AALS Annual Meeting in New Orleans. A section devoted to Academic Support (where member schools can share ideas, strategies, and experiences) can only help to strengthen programs across the country.

20. See David E. Neely, *Minority Participation in Legal Education: Innovative Approaches Toward Racial Parity*, 20 U.S.F. L. REV. 559, 563 (1986); see also Portia Y.T. Hamlar, *Minority Tokenism in American Law Schools*, 26 HOW. L.J. 443, 535-37 (1983). Neely spoke with more than 350 students from southern universities and colleges. Neely, *supra*, at 562 n.8. He observed that "[a] large proportion of black and Hispanic students appear to suffer from low morale, motivation, self-esteem, and aspiration." *Id.* at 563.

At California Western, from interviews with, and observations of, our Academic Support Program participants, I have found that many of the participating minority law students have particular problems with basic writing and reading skills, lack of confidence, and family pressures. This is not to imply that all minority students have these problems. Many do quite well and do not need, and are not eligible for, academic support.

was developed to meet these new challenges: The CWSL Academic Support Program.

Part One of this Article outlines, discusses, and describes CWSL's Academic Support Program developed and implemented in 1990 for our minority students. The goal of the program has been to enhance academic success by mitigating psychological isolation and prior educational disadvantages. Part Two summarizes the 1990-91 Academic Support Program's successes and unexpected achievements, and the failures and frustrations of the program.

Part Three describes CWSL's student and institutional responses to the program and reviews the subsequent changes and improvements, short and long term. This part also identifies my concerns for the program. The faculty and administration have continued support for, and commitment to, ethnic diversity. We are successfully attracting and retaining ethnically diverse students who pass the bar.²¹ We are meeting our goal of ameliorating the continuing under-representation of minorities in the legal profession. However, each year we have modified the program, which is in its sixth year. The faculty, the Minority Affairs Committee, the Dean of Students and Minority Affairs, and the faculty director of academic support continue to evaluate and compare the various program components with retention and bar passage data to determine which combination is working best.

I. PROGRAM DESIGN

A. *Educational Philosophy*

California Western School of Law is devoted "to a humane and supportive educational environment."²² Legal educators have the responsibility to provide "an educational program that attempts to develop [a successful] self-concept, resources with which to cope with failure, and feelings of success and ability."²³ Legal education, due

21. See *infra* notes 73-75 and accompanying text.

22. CWSL's Mission Statement, *supra* note 14.

23. See Herbert B. Wilson, Evaluation of the Influence of Educational Programs on Mexican-Americans 3 (March, 1968) (prepared for the National Conference on Educational Opportunities for Mexican-Americans, April 25-26, 1968, Austin, Texas, and sponsored by ERIC Clearinghouse on Rural Education and Small Schools, A Unit of the Educational Resources Information Center of the Bureau of Research, U.S.O.E., New Mexico State University, Las Cruces, N.M.) (unpublished manuscript on file with the author and the *Thomas M. Cooley Law Review*). Dr. Wilson was my doctoral advisor at the University of

to the use of the confrontational Socratic method²⁴ and with one exam determining a grade for a semester's work in most courses, tends to cause many students to experience high levels of anxiety and feelings of poor self concept.²⁵ Students with already existing poor self-images when they enter law school tend to do poorly in school, particularly students of color.²⁶ There is a need to provide methodologies, techniques, and skills to help these law students develop feelings of self-worth, of successful participation, and of belonging.²⁷

Many ethnic groups, including Hispanic, African American, Native American, Asian, and Filipino, have experienced difficulties and failures at every stage of the acculturation process.²⁸ Anglo-American culture derives primarily from northern European cultures²⁹ with its rugged individualism "ideal" which emphasizes self-assertion, individualism, and aggression.³⁰

Arizona, 1972-1976, and this statement reflects his educational philosophy which he incorporated into his field work, into his research in multicultural education, and into his teaching.

24. See Duncan Kennedy, *How the Law School Fails: A Polemic*, 1 YALE REV. OF LAW AND SOC. ACTION 71, 73 (1970) (critiquing the Socratic method and describing the Socratic dialogue, consisting of harassing students with aggressive questioning and leading students through the steps of legal reasoning); see also Donald K. Hill, *Law School, Legal Education, and the Black Law Student*, 12 T. MARSHALL L. REV. 457, 486 (1987). Professor Hill describes the teaching methodology of the fifth century B.C. Greek philosopher, Socrates, who engaged people in conversation, seeking, in question form, to induce young men to think clearly and to act reasonably. *Id.* (citing G. KREYCHE, 13 THINKERS PLUS: A SAMPLER OF GREAT PHILOSOPHERS 3 (1984)). Law students learn by listening to questions posed by the professor, thereby learning to ask themselves the right questions. *Id.* See generally, Russell L. Weaver, *Langdell's Legacy: Living with the Case Method*, 36 VILL. L. REV. 517 (1991).

25. See Lawrence Silver, *Anxiety and the First Semester of Law School*, 1968 WIS. L. REV. 1201 (discussing the anxiety associated with, and the causes of failure in, first year law study).

26. Wilson, *supra* note 23, at 13-16; see, e.g., Sandra A. Garcia & Katurah Presley, *An Assessment and Evaluation Program for Black University Students in Academic Jeopardy: A Descriptive Analysis*, 9 J. COMMUNITY PSYCHOL. 67, 69 (1981); see also Hamlar, *supra* note 20, at 536; Wangerin, *supra* note 19, at 780.

27. Wilson, *supra* note 23, at 13-16; see also Lawrence D. Salmony, Academic Support Program Workbook, A Report to the Law School Admission Council 7-8 (Working Draft, Oct. 15, 1991) (unpublished manuscript, on file with the author).

28. See, e.g., John H. Chilcott, *Some Perspectives for Teaching First Generation Mexican-Americans*, in READINGS IN SOCIO-CULTURAL FOUNDATIONS OF EDUCATION 358, 359 (John Chilcott, et al. eds., 1968) (discussing acculturation, the process of becoming adapted to a new culture, of first generation Mexican-Americans).

29. *Id.* at 360.

30. *Id.*

In contrast, a Mexican-American student's personal ideal often focuses on "a series of close, primary, dependent associations with friends and relatives."³¹ Mexican-American students conceive of themselves as group members who cannot "go it alone."³² Additionally, there can be language problems if English was learned as a second language.³³ Finally, poverty, lower class status, and little parental support for education are often part of the Mexican-American culture.³⁴ Higher education is expensive; and it is difficult and almost impossible,³⁵ due to the demanding course load, to work during the first year of law school.

African American students are also "confused [by] legal education, and bewildered by the graduate environment."³⁶ Many students feel threatened by teachers, tests, and assignments and may experience a sense of isolation in the law school milieu.³⁷ African American students often have difficulties with writing and grammar--contractions, syntax, and vocabulary (Black English)--and need help to make the transition to standard English.³⁸ Socioeconomic status has considerable impact on a person's decision to attend law school.³⁹ Students who are most likely to attend law school are from more affluent families; unfortunately, the average African American does

31. *Id.*

32. *Id.*

33. *See id.* at 361.

34. *Id.* at 368.

35. For example, CWSL permits students to work a maximum of five hours per week during the first year of law school. 1996-97 CALIFORNIA WESTERN SCHOOL OF LAW BULLETIN 13 (1995) [hereinafter CWSL BULLETIN].

36. Ronald C. Griffin, *Hill's Account: Law School, Legal Education and the Black Law Student*, 12 T. MARSHALL L. REV. 507, 508 (1987).

37. *Id.*

38. *Id.* at 510-11; *see also* Donald K. Hill, *Law School, Legal Education, and the Black Law Student*, 12 T. MARSHALL L. REV. 457, 496 (1987).

39. Eulius Simien, *The Law School Admission Test as a Barrier to Almost Twenty Years of Affirmative Action*, 12 T. MARSHALL L. REV. 359, 375 (1987); *see also* Alexander W. Astin, *Prelaw Students--A National Profile*, 34 J. LEGAL EDUC. 73, 75 (1984). Simien states that "[African Americans] are disproportionately represented among those persons below the poverty level." Simien, *supra* at 376 (citing *Recent Social and Economic Trends* (a reprint from the *Statistical Abstract of the United States, 1979*)). In a 1981 study, over half of the students surveyed who "identified themselves as pre-law majors came from families with annual incomes of more than \$35,000.00." *Id.* at 375 (citing Astin, *supra*).

not fit into that category.⁴⁰ Legal education is expensive, and working during the first year of law school can promote failure.⁴¹

Asian American law students are also confused about legal education.⁴² In my experience over the past five years, I have observed that many of these students, though generally not socioeconomically disadvantaged, share the acculturation problems of African Americans and Mexican-Americans. Many come from close-knit families, are family dependent, and often have language problems associated with learning English as a second language. Many Asian students do not participate in study groups, preferring to study alone. Some Asian students are reluctant to ask for help from professors and other students.

Many minority law students have a more difficult time in law school than nonminority students.⁴³ All students come to law school from varying backgrounds, though with similar career objectives. One commentator, discussing the role a student's background has on the need for academic support, observed that "[i]f all students came to law school from similar backgrounds, possessed similar tools and resources, and followed similar career objectives, then providing academic support only to some might well be unfair to those not chosen. Such homogeneity does not exist"⁴⁴ Another commentator, observing that minority students do not fully participate in law school, stated

Seldom do minority students pursue issues in class; seldom do they ask questions in class; seldom do they follow a professor to his or her office to discuss points of the day's lecture on which they were not clear. Seldom does one see minority students in the halls waiting to talk to a professor.⁴⁵

40. Simien, *supra* note 39, at 375; see also Edward J. Littlejohn & Leonard S. Rubinowitz, *Black Enrollment in Law Schools: Forward to the Past?*, 12 T. MARSHALL L. REV. 415, 422 (1987).

41. See Hamlar, *supra* note 20, at 536-37.

42. See Carolyn Jin-Myung Oh, *Questioning the Cultural and Gender-Based Assumptions of the Adversary System: Voices of Asian-American Law Students*, 7 BERKELEY WOMEN'S L.J. 125, 127 (1992) (discussing the differences perceived by Westerners of the people of East Asia). Oh observed that "Asian systems do not stress independence and autonomy of the individual, but rather" place great emphasis on the family; Asian culture stresses harmonious relationships rather than confrontation. *Id.*

43. See NBA/ABA Conference, *supra* note 18, at 525-58.

44. Finke, *supra* note 4, at 57.

45. Espinoza, *supra* note 11, at 298.

Thus, given these cultural differences which cause many minority students difficulties and failure within the law school environment, and looking for a way to minimize such cultural characteristics as isolation, language and writing difficulties, and socioeconomic disadvantage, I researched current literature of educational psychology and learning theory. My search led to learning theory's "hottest topic[] in the literature of education in recent years," metacognition.⁴⁶ Essentially, effective learning requires students to take responsibility for directing their education and becoming more independent learners.⁴⁷

Metacognition is a learner's awareness of the learning process itself.⁴⁸ For example, students using the metacognitive approach would monitor, then change, their learning and studying activities as the situation demands.⁴⁹ A 1987 study by Nist and Simpson with high risk students at the University of Georgia suggests "that independent learning skills may be important for promoting long term grade improvement for high risk and probationary students."⁵⁰ The

46. Paul T. Wangerin, *Learning Strategies for Law Students*, 52 ALB. L. REV. 471, 474 (1988). This Article has five intended audiences. First, this Article provides law students with useful information about learning strategies that can help them improve their academic performance. Second, this Article provides first year law school professors with fresh ideas on how to address studying strategies; law school administrative personnel and faculty responsible for first-year orientation programs, "introduction to law" courses or workshops; teachers of legal writing courses with detailed discussions of argumentation, case briefing and review techniques; and organizers of academic support programs with insight into the application of learning theory to the study of law.

47. See Claire E. Weinstein, *Fostering Learning Autonomy Through the Use of Learning Strategies*, 30 J. READING 590, 590-92 (1987); Claire E. Weinstein & Richard E. Mayer, *The Teaching of Learning Strategies*, in HANDBOOK OF RESEARCH ON TEACHING 315, 316 (Merlin C. Wittrock ed., 3d ed. 1986).

48. Wangerin, *supra* note 46, at 474-75.

49. *Id.* at 477. For example, Wangerin describes the standardized method for studying, note taking, and review. "[A]s long as students are led to believe that studying consists of standardized approaches to different tasks, they will perceive no need to monitor their study activities and to modify those activities as the situation demands." *Id.* Instead, students using metacognition would recognize that class assignments should be read one way if the goal is memorizing and another way if the goal is generating ideas for writing a research paper. See *id.*

50. Wangerin, *supra* note 19, at 792 (citing Sherrie L. Nist & Michele L. Simpson, *Facilitating Transfer in College Reading Programs*, 30 J. READING 620, 624 (1987)). According to Wangerin, Nist and Simpson's "work involved what [learning] theorists . . . call 'transfer.' Transfer is a process that occurs during . . . reading instruction in which 'responsibility for skill or strategy use shifts gradually from the teacher to the student.'" *Id.* (quoting James F. Baumann & Peg Q. Ballard, *A Two Step Model for Promoting Indepen-*

importance of independent learning skills is that "[s]tudents trained to become independent from teachers [will] continue to do acceptable academic work after academic support . . . ends."⁵¹

Since many minority law students face cultural differences, prior educational disadvantages, and communication difficulties, CWSL's Academic Support Program was developed to help put students in charge of their learning. My goals as faculty director of the program were to encourage these students to become confident, independent learners; to improve language and writing skills; and to become successful law students and successful attorneys.

B. CWSL's Academic Support Program 1990-91

The Minority Affairs Committee devoted a great deal of time and attention to structuring its first support program for diversity students. Past experience at CWSL and other law schools⁵² has shown that psychological isolation and prior educational disadvantage can easily have a debilitating effect on promising students from minority communities. In order to enhance prospects for academic success, the Committee developed a modest support program with four components.⁵³

1. Fast Start 1990-91

A pre-session enhanced orientation, Fast Start, was held from August 20-24, 1990. All minority students were encouraged to attend

dence in *Comprehension*, 30 J. READING 608, 608 (1987)). Wangerin equates the transfer process with "the process of developing independent learning." *Id.*

51. *Id.* at 793.

52. See, e.g., Espinoza, *supra* note 11 (describing The University of Arizona's Academic Support Program and an overview of the LSAC Report on special programs for minorities); Finke, *supra* note 4 (describing the University of Oregon Law School's Academic Support Program).

53. See *infra* text accompanying notes 54-70. An early-entry summer school program where students are conditionally accepted for fall law school admission pending successful completion of summer school courses was not considered due to California Western's trimester system which impacts faculty staffing and classroom utilization. California Western admits two first year classes, a fall class and a spring entering class.

Paula Lustbader, Director of the University of Puget Sound Law School Academic Resource Program, has stated that summer programs which "audition" students for law school are "unfair" since these programs stress grades. Anthony Monahan, *Propelled Performance Boosting the Risky Law Student*, *STUD. LAW.* 21, 22 (Dec. 1990). "[S]tudents should be allowed the whole first year to catch on, to prove themselves." *Id.* (quoting Paula Lustbader).

this one-week program. The purpose of Fast Start was to provide a supportive environment for social and academic transition to law student life.

Full-time, tenured professors gave students an introduction to the first-year experience. Students were given an overview of the first-year curriculum, participated in a diagnostic legal writing session, and attended classes on legal writing and the fundamentals of legal analysis.⁵⁴ At the end of the session, each student had an exit evaluation with both the legal writing professor and the legal analysis professor. Additionally students had the opportunity to meet alumni, mentors, academic advisors, and other faculty; to meet each other and form friendships in a relaxed atmosphere; and to generally get a feel for law school and for downtown San Diego.

2. The Mentor Program

The Director of Minority Affairs established a mentor program with minority members of the Bar to provide career counseling and social and psychological support. Participating attorneys included CWSL minority alumni and members of the Earl B. Gilliam Bar Association (African American), La Raza (Hispanic), Pan Asian Bar Association (Asian American), and the San Diego Filipino Bar Association.

The Mentor Program provides the students with a link between the law school and the community. Individual meetings with attorneys in the Mentor Program expose students to diverse areas of law practice. More than 20% of the San Diego attorneys who identify themselves as minorities participate in the mentor program.

3. Counseling

The Director of Minority Affairs has a master's degree in

54. Fast Start is like the Council on Legal Education Opportunities (CLEO) programs which were developed to keep the profession diversified. The Council on Legal Education Opportunities, in Washington, D.C., assists minority students with its summer prelaw institutes held at seven sites around the country each year. Monahan, *supra* note 53, at 21. CLEO programs "focus on legal writing, research, and analysis skills for minority students." *Id.* Students must meet low-income requirements. CLEO is a "national effort to identify students who would probably not otherwise find their way to law school." *Id.* (quoting Denise Purdie, Executive Director, Council on Legal Education Opportunities). See also Wangerin, *supra* note 19, at 774-77.

guidance and counseling.⁵⁵ Counseling within the institution has been provided on a one-to-one basis by the Director of Minority Affairs and volunteer professors. Counseling helps students adjust to occasional personal and professional difficulties caused by pressured interactions with other students and professors, along with balancing the competing demands of family and law school. Personal counseling was helpful, caring, and available. The Director established monthly counseling sessions involving two or more faculty members and minority students to allow free discussion of law school and professional issues under relaxed conditions.

4. Academic Support Program

In order to develop successful, independent learners, I created a program which included a legal analysis course integrated with tutorial support in which students formed teaching "partnerships"⁵⁶ or study groups. Our program, which included understanding of the substantive material, focused on how to write law school exams.⁵⁷ Legal Skills A, an optional legal analysis course, was offered to all incoming students whose objective entering credentials were below a defined level ("at risk" students).⁵⁸ The program was offered to minority students and to all students with the lowest predictors. The eligibility factors included ethnicity, low GPA/LSAT index, and age.⁵⁹ All students opting to take Legal Skills A had to defer the required Legal Skills I⁶⁰ until the spring trimester.

55. See *supra* note 13.

56. See Sherrie L. Nist & Michele L. Simpson, *Facilitating Transfer in College Reading Programs*, 30 J. READING 620, 622-23 (1987); see also Wangerin, *supra* note 19, at 793 (describing the work of Nist & Simpson).

57. Cf. Bell, *supra* note 18, at 307 (criticizing support programs that stress substantive material over exam-writing skills).

58. Students were selected for participation based on GPA, LSAT, and Index, which is a ranking done by the Educational Testing Service for individual law schools based on a variable weighing of a student's LSAT score and GPA.

59. CWSL BULLETIN, *supra* note 35, at 8. Because of CWSL's trimester system, students have the option of completing their legal education in two years. See *id.* Because of this two-year option, the law school attracts a number of older, second-career students. California Western looks at factors besides an applicant's GPA/LSAT index and personal statement for admission purposes. California Western takes into account an applicant's LSAT writing sample as well as life and work experience. See *id.* at 36-37.

60. Legal Skills I is a required legal research and writing two-unit course normally taken in the first trimester. See *id.* at 14.

a. The Peer Tutors

Ten CWSL students were recruited as peer tutors for the academic support program. All were selected, after competitive interviews, on the basis of their interpersonal skills; academic standing; interest in participating in a new, innovative program; and past tutoring/teaching experience. The tutors were paid \$1,200.00 per semester.⁶¹ Each of the tutors was assigned two or three Skills A students from the same substantive section.⁶²

The tutors completed a one-day preparation course, which included academic exercises, sensitivity training concerning the special needs of minority students, review of the purpose and goals of the program, and discussion of teaching techniques and learning strategies.⁶³ *The Tutor's Guide*,⁶⁴ a videotaped program prepared by and

61. This compensation is comparable to the amount paid to honors instructors (teaching assistants) in the Legal Research and Writing Program at CWSL. Tutors are expected to spend 2 ½ hours with their students in sessions, attend their students' substantive classes, meet with students' substantive professors, prepare for tutorials, and meet with me to review tutorial preparation and teaching techniques. The tutors' job required between five and ten hours per week.

62. First year students are divided into three large group sections. Minority and diversity students are assigned equally throughout the three sections.

63. Each tutor received a notebook containing my school and home phone numbers, names and telephone numbers of all tutors, selected law review articles, individual substantive professors' syllabi for the trimester, sample tutorial schedules, a list of available secondary sources available in the tutorial center, and outlines of the instructional videos. *THE TUTOR'S GUIDE* (University of California Los Angeles Tutorial Center 1987) (copy on file with the *Thomas M. Cooley Law Review* and the author). The training day included discussion of: the learning theory, metacognition, and techniques for helping students to become independent learners; various law review articles discussing cultural stereotyping and how to deal with feelings of prejudice; techniques for commenting on student written work (end comments rather than too many within-the-page comments) and a practice session on commenting; and time management for tutorial sessions. Tutors shared their first year problems and frustrations with one another and were encouraged to discuss those problems with their students. I stressed the need for tutors to develop relationships with their students where students are encouraged to yell, cry, complain, laugh, and share--like a family. I encouraged tutors 1) to discuss the standardized approaches to successful first year law study--preparing for and attending class, briefing, summarizing, outlining, and taking practice exams, and 2) to understand and explain to their students the metacognitive approach where students must learn to monitor and readjust their study habits and activities as the situation demands--though these modifications are often better understood after first trimester exams. See Wangerin, *supra* note 19, at 791-94. Tutors were encouraged to request casebooks and/or secondary sources not already available. Tutors were assigned rooms for tutorial sessions where they posted schedules for their sessions.

64. *THE TUTOR'S GUIDE*, *supra* note 63.

filmed at the University of California Los Angeles Tutorial Center, was required viewing. The Guide consists of ten-minute videos on various subjects: strategies and difficulties of being a tutor, a tutorial plan, diagnosis of problems, Socratic method, encouraging active learning skills, managing group tutorials, the tutor as counselor, bridging cultural gaps, tutoring the writing process, and tutoring English as a Second Language (ESL) students. The tapes were also available in the library for review during the semester.

Tutors attended weekly meetings with me during the semester. The purpose of these weekly meetings was to define objectives for the course, to discuss teaching techniques, and to review weekly tutorial sessions; to work out problems with individual students; to share materials; and to critique, evaluate, and make changes in the program so that we could, with flexibility, meet the needs of our Skills A students. The peer tutors also attended the classroom portion of Skills A for the first four weeks. Tutors attended their students' substantive classes (a minimum of one substantive class each week) for those professors they had not had for course work. In this way, the tutors developed a relationship with their students' substantive professors and knew what material was being covered and emphasized.

b. The Tutorials

The tutorial sessions focused on developing study skills, logging⁶⁵ and briefing cases in preparation for substantive classes, note taking, issue spotting and analysis exercises. Sessions also stressed preparing substantive class outlines in preparation for exam-taking, taking regular practice exams including feedback and evaluation, and discussing personal problems. The tutors did not teach content; students presented and taught the material to one another.⁶⁶ If questions arose about specific content, the tutors, with

65. Logging was developed by Professor Scott Ehrlich for his upper division Legal Analysis course. Unlike briefing, logging is a contextual exercise which requires students to read the applicable treatise section and table of contents of their casebooks before reading the assigned case. I modified the form used by Professor Ehrlich's second year students to include those briefing sections necessary for class preparation and recitation. See *infra* Appendix A for an example of the log form used by the Skills A students (published with Professor Ehrlich's permission).

66. See Nist & Simpson, *supra* note 56, at 622-23. Educational theorists, Nist and Simpson, believe "that students do not really understand [material] until they can explain it in their own words." *Id.* at 622. Incorporating this technique into our tutorial groups, one student plays the role of teacher, and the other students in the group play the role of student.

their students, visited substantive professors.

The tutorials were modeled on the traditional law school study group, although I had chosen the participants. Students were assigned to tutorial groups based upon their designated large section. In this way, students were reviewing substantive courses specific to their particular group of professors. I attempted to place tutors with groups where the tutor had had at least two of the substantive professors. Tutorials met for a minimum of two and one half hours per week, in one long session or two shorter sessions. In addition, the tutors met with students individually on an as-needed basis.

The Academic Support Program was assigned a room in the law school building designated the tutorial center. The tutors and I collected outlines, hypotheticals, previous exams given by the substantive professors (all of which are available on reserve in the library as well), and sets of flashcards. Tutors kept progress notes and personal evaluations for each student in the student's file.

I held regular office hours for the tutors and the participating students--to field problems, answer questions, and rearrange students and tutors if necessary so that the composition of the tutorial group remained an environment which was educationally sound and where learning took place. The main objectives of the tutorials were to foster group formation to avoid solitary studying, as well as to develop independent learning skills and effective self-teaching. As a law student, I discovered I finally understood the difference between a trespasser, an invitee, and a licensee when I could articulate the differences to my study partners;⁶⁷ therefore, students were assigned to explain and to teach specific material each week, and to develop hypotheticals, teaching aids, and examples relevant to the assigned area. The tutors were study group facilitators, not teachers of substantive material.

c. The Classroom Component

Legal Skills A was a two-credit, pass/fail course. Twenty-five students met in a classroom format one session per week for seventy-five minutes. Legal Analysis, an upper division course developed by CWSL professors Scott Ehrlich and Janeen Kerper, provided the model for Skills A. It was necessary, however, to modify Legal

The teacher-student explains the material to the other students.

67. See also Wangerin, *supra* note 19, at 793 (discussing generally the work of Nist & Simpson).

Analysis to meet the skill levels and needs of incoming first trimester students who had little or no knowledge of substantive law. The course did not impose undue preparation demands on the students beyond that which they should have been doing to prepare for substantive classes and final exams.

Course coverage in Legal Skills A included: time and stress management techniques, class preparation and study skills (note taking, briefing, logging), issue spotting, improved reading skills using the SQ3R system,⁶⁸ teacher study, legal analysis (common law, element analysis), outlining (substantive class outlines and exam outlines), and exam preparation and exam-taking. In the last third of the trimester, the course focused almost exclusively on exam-taking, beginning with in-class hypotheticals which required students to spot issues and outline an exam answer. Also, there were in-class exams each week. For a sixty-minute exam, no student could start writing for at least fifteen minutes; during that time the students were required to outline their answer. The answers were critiqued, graded, and commented on by the professor, then discussed in tutorial sessions. The last two weeks were devoted to multiple choice and short answer questions and psychological techniques for exam-readiness.

Virtually all successful academic support programs involve multiple learning systems -- using different approaches at different times with students.⁶⁹ The course included a mixture of formal lecture; collaborative large and small group discussion; working with a partner to read and critique each other's outlines and hypotheticals;

68. See Wangerin, *supra* note 46, at 496-99 (discussing the SQ3R reading system); see also JAMES DEESE & ELLIN K. DEESE, *HOW TO STUDY* 42-43 (3d ed. 1979); FRANCIS P. ROBINSON, *EFFECTIVE STUDY* 15-40 (4th ed. 1970). SQ3R stands for survey, question, read, recite, and review. DEESE & DEESE, *supra*, at 42; ROBINSON, *supra*, at 33. The SQ3R system is contextual and divides the reading process into five steps: the first two steps involve pre-reading activity, the middle step consists of the reading itself, and the last two steps involve post-reading activity. Wangerin, *supra* note 46, at 496. The system can be adapted to casebook reading by law students. *Id.* at 499. Efficient reading is not speed reading. *Id.* at 496 & n.83.

69. Teaching is an art. Teaching that involves oral participation gets students involved. In small and large group work, students can learn to communicate and to function effectively. For a discussion of the basic approaches to learning and teaching, see generally MICHAEL JOSEPHSON, *LEARNING AND EVALUATION IN LAW SCHOOL* (1984); WALTER LOBAN ET AL., *TEACHING LANGUAGE AND LITERATURE* (Willard B. Spalding ed., 1961); David A. Kolb, *On Management and the Learning Process*, in *ORGANIZATIONAL PSYCHOLOGY* (David A. Kolb et al. eds., 2d ed. 1974).

and issue spotting assignments, reading assignments, and written work (summarizing classes, preparing substantive class outlines, checklists, IRAC exercises, exams). Students were also required to "log"⁷⁰ their courses for the first five weeks of the course. The logs were critiqued by the tutors and by me. There seemed to be few complaints by the students that logging was additional work beyond briefing cases. Obviously, logging substantive courses helped students to place the cases in an understandable context and helped to prepare students to participate in class.

Logging, in contrast to briefing, is a contextual exercise which requires students to read the applicable treatise section and table of contents in their casebooks before reading the assigned case. The logging forms were available outside my office door. I found that first-year students who were not taking Skills A were using the forms. Many of the Skills A students continued to log all their courses throughout the semester, although they only were required to log for five weeks.

Twenty-five students participated in the first Legal Skills A class. All twenty-five were high risk students (minority and/or low index).⁷¹ There were sixteen female and nine male participants: five African Americans, eight Asians, five Hispanics, two Native Americans, two Filipinos, two East Indians, and one of Egyptian descent.⁷²

d. The Second Trimester

The second trimester of the Academic Support Program included intensive weekly tutoring sessions in Civil Procedure. At that time, Civil Procedure was a five-unit (as compared with Property, Contracts, and Torts which are three-unit courses), one trimester course at California Western. Because of its intensity in the second trimester curriculum, students enthusiastically responded to the opportunity for tutorials. Two or three students met once or twice weekly with the assigned tutor. In this second trimester, the students participating in the program took Legal Skills I (legal research and legal writing) with the incoming January first-year students.

Legal Skills A was not offered to the incoming January first-year students due to program cost and to faculty allocation problems. The

70. See *supra* note 65 and accompanying text.

71. See *supra* text accompanying notes 58-59.

72. This student's parents were born in Cairo and immigrated to the United States in 1963.

Director of Minority Affairs had encouraged most at-risk students to start school in the fall trimester when all academic support services would be available.

As the following section illustrates, CWSL developed, in 1990-91, a successful and innovative recruitment and retention program. The success of the program was due to the relationship of recruitment, academic support, and commitment by the law school community. Part two summarizes the successes, achievements, frustrations, and failures of the Academic Support Program's first year.

II. SUMMARY OF THE SUCCESSES AND UNEXPECTED ACHIEVEMENTS, FRUSTRATIONS AND FAILURES OF OUR FIRST ACADEMIC SUPPORT PROGRAM

A. *Successes and Unexpected Achievements*

Ultimate success of any program depends on the consistency of the institutional commitment to the program's goals and to continual evaluation and change as required. Retention rates are one way to gauge the effectiveness of programs for minority students.⁷³ The success of our program is best evidenced by the fact that CWSL's 1990-91 disqualification rate for first-year minority students who took final examinations was only 3% higher than the disqualification rate for all first-year students taking final examinations.⁷⁴

Of the twenty-five original participants in the fall 1990 Academic Support Program, fourteen earned at least a seventy-four (74) cumulative grade point average⁷⁵ and were eligible to return for

73. See Finke, *supra* note 4, at 59. Finke contends that "[o]ne benefit of a successful program is that a larger number of minority-group members will finish law school and practice law" which increases the numbers of minorities who serve minority communities. *Id.*

74. Interview with Michael O'Keefe, Academic Associate Dean, California Western Law School, in San Diego, Cal. (Sept. 13, 1994). Since active minority recruitment and academic support were only in their first year, and since previous total student body make-up was only 3% minority until the 1990-91 school year, any retention data would not be statistically helpful.

75. California Western maintains competitive academic standards. Grades in all courses are subject to a curve. Students must complete their first year with at least a 74 cumulative grade point average (CGPA) in their substantive courses in order to be in good standing and eligible to go on to second year. California Western School of Law, Statement of Academic Policies § 7.21 (July, 1995) (on file with the author) [hereinafter Academic Policies]. A 74 CGPA is equivalent to a 2.0 GPA based on a 4.0 scale. A student whose grade point average

second-year law study. Three students left school during the year for family, financial, or other reasons, and did not return. Two students left school during the first trimester, then restarted in fall 1991. Five students received cumulative grade point averages below 73.5 and were disqualified with no right to restart. One student earned a grade point average above 73.5 and was eligible to restart as a first-year student in fall 1991.

Another primary objective of the program is to graduate minority students who are competent, well trained, and capable of passing the bar. Of the twenty-two minority students from CWSL who took the February 1993 California bar examination, fifteen passed (68%)⁷⁶ as compared with a statewide California bar passage of 71.9%.⁷⁷ Of the eight Academic Support Program students who took the February 1993 California bar,⁷⁸ four passed the bar. An Hispanic program participant took the Maryland bar and passed. Of the five Academic Support Program participants from the fall 1990 group who took the bar in July 1993 (three of whom were repeating), three passed the bar. Two program participants who repeated did not pass the July 1993 bar but did pass on their third try.

For the February 1993 bar exam, our first time bar passage rate

is 73.5 or above has the automatic right to restart as a first year law student. Below 73.5, a student is disqualified with no right to return.

In 1994-95, California Western amended these policies. Section 7.21 states that no student whose CGPA is below 74 shall be continued into the upper division. *Id.* Such students shall be dismissed for failing to make satisfactory academic progress. However, § 7.22 permits students whose CGPA is below 74 the right to be readmitted as first-year entering students with the first entering class starting more than one calendar year from the date of dismissal. Students readmitted under this provision, however, must repeat all first-year classes regardless of original grades obtained. *Id.* § 7.22. Also, under this provision, students whose CGPA is below 74 in either trimester of the repeated first year shall be dismissed for failing to make satisfactory academic progress. *Id.* No students shall be allowed to repeat the first year more than once. *Id.*

76. Interview with Michael Dessent, Dean, California Western School of Law, in San Diego, Cal. (based on information provided from the Committee of Bar Examiners of the State Bar of California).

77. Michael J. Hall, *Pass Rate Dips 6.7 Percent*, L.A. DAILY J., June 2, 1993, at Supp.1. This figure represents the pass rate for "first-time exam takers who graduated from American Bar Association accredited law schools." *Id.*

78. This group graduated from CWSL in under three years due to the trimester program. This situation occurred because CWSL offers a trimester program. Students have the option of completing their legal studies in two years (six trimesters without a break), or in 2½ years with one trimester off, or in 3 years with 2 trimesters off (e.g. both summers off). CWSL BULLETIN, *supra* note 35, at 8.

for program participants was 50%, compared with CWSL's overall bar passage rate of 81.4% for first time California bar takers and 62.4% for all California first time bar takers. Bar passage for all minority students, support program participants and nonparticipants, was 73%. The percentages of first time bar passage among Academic Support Program participants has increased or exceeded all California first time bar takers with each bar since the program's inception.⁷⁹

The students in the Academic Support Program have also experienced success within the school environment. Two of our original twenty-five academic support program students have been elected presidents of the Student Bar Association (SBA) in successive years. Many of our participants have become peer tutors in their second and third years of law study. As tutors, they have become role models for subsequent program participants for how to succeed within the law school environment. All minority students participate in various multi-cultural student associations such as the Black Law

79. The following table reflects the relevant bar passage rates since the inception of California Western's Academic Support Program in August 1990. These numbers represent participants in the 1990-91, 1991-92, 1992-93 Academic Support Programs since these students are the first groups to graduate. This information was compiled from statistics provided by CWSL's registrar, Diane Shragg.

California Western Bar Results
California Bar FIRST TIME TAKERS

	Feb. 1993	July 1993	Feb. 1994	July 1994	Feb. 1995
Cal. 1st time takers ABA approved	62.4%	73.8%	60.7%	77.4%	78.7%
CWSL 1st time takers	81.4%	76.4%	85.45	86.5%	76.6%
CWSL--All Minority 1st time takers	73% (11/15)	40% (4/10)	54% (7/13)	80% (12/15)	67% (14/21)
CWSL--Academic Support Program 1st time takers	50% (4/8)	100% (2/2)	100% (3/3)	85.7% (6/7)	76.4 (13/17)

The February 1993 numbers do not include one Hispanic student from the 1990 support program who passed the Maryland bar on his first try. The July 1993 numbers do not include one Filipino student from the 1991 support program who passed the Hawaii bar on his first try. The February 1995 numbers do not include one Hispanic who passed the Illinois bar on her first try and one Japanese student who passed the Hawaii bar on his first try.

Student Association (BLSA), the La Raza Law Students Association, the Multi-Cultural Student Association, and the Pan Asian Law Association which were formed with the assistance of the Director of Minority Affairs.

All program participants have become active in the "Buddy System,"⁸⁰ where incoming students are paired with returning law school students. The first-year students get help from their buddy, usually a student with similar background and interests, about study habits, coping with law school, and adjusting to the San Diego community.

All tutors, including those who were Academic Support Program participants, have passed the California bar exam the first time. There are many variables which could account for this record. Tutoring first-year students in substantive courses, all of which are tested on the California bar, is excellent review for the bar exam. In addition, all tutors were accomplished students at the top of their classes. Encouraging our program participants to tutor, given this correlation between tutoring and bar passage, has become a program goal. During the Fast Start summer program, bar passage was discussed, and program participants were encouraged to do well in school with the goal of becoming a tutor in the program.

Those within the program have become its best role models. Each success is a big win for everyone. Students have been members of the school's trial teams winning national honors. Students who participated in the program have clerked for judges, public agencies, and top law firms. Students are working in public agencies and private law firms, as well as in the District Attorney's and Public Defender's offices. Students in each year from 1991 through 1995 have been chosen for law review.

The program has helped all minority students to become integral members of CWSL's community, even those students who would tend to isolate themselves and not become involved. The required tutorials and Skills A, plus participation on law review, SBA, moot court teams, tutoring, and multi-cultural organizations, have fostered respect, competition, and social and study groups -- involving students of color in the law school community and convincing others to participate in these programs.

80. The Buddy System was added to the support program by the Director of Minority Affairs in August 1991.

B. *Failure and Frustration*

Unfortunately, academic support programs will do little to help those students who lack academic ability. Even some who seemingly had academic ability based upon the colleges attended, their majors in college, and their GPA's, did not earn a seventy-four cumulative grade point average at the end of the first year.⁸¹ My frustration is the reality of academics. It is sometimes impossible to predict success even when there are academic predictors for success, given differences in maturity and motivation. It is sometimes impossible to help seemingly qualified students to achieve, and it is difficult for any program to make up deficiencies in academic background in less than one year.

There have been rumblings from a small number of students about discrimination against qualified white students, unjust and special treatment, and an end to affirmative action. It has been said that "[e]thnic prejudice is a disease . . . contracted during childhood, and one for which there is no common remedy in adulthood."⁸² There were articles and editorials and responses to those writings--on affirmative action and "color blind" admissions, First Amendment⁸³ and free speech rights--in the student newspaper, *The Commentary*. This dialogue has been beneficial in raising the consciousness of the student body to multicultural and constitutional issues.

Several steps were implemented to deal with these reactions, to attempt to lessen the stigma of the Academic Support Program, and to neutralize the discrimination against minority students and the Academic Support Program. First, professors incorporated diversity issues into the curriculum and into materials used in the classroom.⁸⁴

81. A University of California, San Diego graduate in physics and philosophy, with a 3.1 GPA and 36 LSAT did not earn a 74 CGPA. A University of California, Los Angeles graduate in history/pre-med, with a 3.4 GPA and 40 LSAT, did not earn a 74 CGPA. A State University New York (at Stonybrook) graduate with honors (3.35 GPA) in philosophy, did not earn a 74 CGPA. This information was gathered by the author who has tracked individuals in the program.

82. I. Roger Yoshino, *Children, Teachers, and Ethnic Discrimination*, in READINGS IN THE SOCIO-CULTURAL FOUNDATIONS OF EDUCATION, *supra* note 28, at 369, 374.

83. U.S. CONST. amend. I.

84. For example, the Legal Skills Program's closed universe memorandum writing problem for the fall trimester, 1991, was a burglary hypothetical where a grocery store was closed in honor of Martin Luther King Jr.'s birthday. Professors took this opportunity to discuss the significance of the holiday, which is celebrated at CWSL with the day off for students, staff, and faculty.

A program was implemented to raise cultural awareness of ethnic differences. The student body has been invited to celebrate the holidays and heroes of various cultures -- Mexican Independence Day, Martin Luther King Jr.'s birthday, Filipino Independence -- with food, speeches, and music.

Second, admissions materials were amended to describe the academic support program's components and explain how students are selected to participate. In addition, the program is discussed during the law school's new student orientation.

Finally, both the summer program and the full year of academic and tutorial support have been restructured to encourage all "at risk" students to participate, regardless of ethnicity.⁸⁵

III. INSTITUTIONAL RESPONSES AND SUBSEQUENT CHANGES TO PROGRAM

A. 1991-92 School Year -- A More Flexible Academic Support Program

In response to student evaluations of the Legal Skills A course, and with input and support from the Minority Affairs Committee, the Academic Support Program was modified for the incoming 1991 first-year class. The 1990 Legal Skills A students critiqued the special legal analysis course; overall the students rated the course very helpful but its help was outweighed by student complaints that the course was "stigmatizing."⁸⁶ Many students complained that nonparticipating students seemed critical and jealous that the identified students were receiving this special legal analysis class in addition to intensive

85. Files were reviewed by Admissions and Minority Affairs. Other "at risk" indicators include students who majored in the pure sciences, students who were eligible under ADA guidelines, students who had been away from school for many years and/or were returning for a new career.

86. As one commentator states, "Programs that create a visible, insular group of students, all or most of whom are easily identifiable inside and outside of class as minority students, send a message of incompetence, say to the community that the group will perform poorly, and undoubtedly impede integration of these students." Espinoza, *supra* note 11, at 289 (citing the documentary on racism, "A Class Divided" where a third-grade teacher, Jane Elliot, divided her class into two groups -- blue-eyed and brown-eyed students -- then discriminated against one of the groups. The group discriminated against performed poorly; the other group performed well. These results were opposite when the two groups were switched.).

substantive course tutoring. Most of the participating students were also dissatisfied because they were off-track: they had to make up both trimesters of Legal Skills in later trimesters.

According to the Academic Support Program students' evaluations, tutorial support seemed to be the more valuable and less stigmatizing part of the program. Therefore, the full trimester legal analysis course (Legal Skills A) was simplified and incorporated into an expanded two-week summer academic orientation program, Fast Start,⁸⁷ and into a special exam-taking seminar during the Fall trimester. Because the participating students were no longer out of sync with their first trimester peers, there were fewer complaints about special treatment for the participating students.

In the Fall 1991 trimester, all students with entering credentials below a defined level were offered the Academic Support Program, as modified.⁸⁸ Thirty-eight incoming students chose to participate in academic support: twelve African Americans, twelve Mexican-Americans, two Japanese-Americans, two Asians, two Vietnamese, one Korean, one Native American, one Cuban, one other Hispanic, one culturally disadvantaged, one hearing impaired, and two Caucasians.

Fourteen peer tutors were recruited for the program. All tutors were honor students; all were law review, Advocacy Honors Board, and/or students who participated in the Legal Skills A program in 1990.⁸⁹ I was responsible for the supervision of the tutors and tutorials. Like the previous year's program,⁹⁰ tutors met their tutorial groups, composed of two or three students, once or twice a week for a minimum of two and one-half hours and individually on an as-needed basis. In 1991, the tutorials met in study rooms spread around campus, rather than in one office, due to limited space and increased enrollment.

The tutors and director had the same responsibilities and tasks as

87. See *supra* note 54. All entering diversity students whose objective entering credentials were below a defined level were encouraged to attend the two-week academic support summer program. Forty-eight students attended the 1991 summer program.

88. The program was offered not just to minority students but to all students with entering credentials below the defined level. In the 1991 fall entering class, 26% (71 students) were students of color.

89. Three of the 14 peer tutors participated in the Legal Skills A program in 1990.

90. See *supra* part I.B.4.b.

the 1991 program.⁹¹ In addition to the previously described components, during the last month of classes and before final exams, I conducted an exam-taking seminar. The tutors and I presented a half day program. We discussed what students should be doing (and should have done) up to this point in the trimester. We explained the grading criteria to be used by the various professors for grading exams. We shared strategies to use when taking exams (spotting issues, answering call of the question(s), time management, outlining an answer before writing, mental checklists, etc.). The students then took an in-seminar practice Contracts exam. The exam was graded and evaluated by each student's tutor, then handed back during the next week's tutorial with comments. This exercise provided a basis for continuing discussion of exam-taking techniques and the substantive law.

Civil Procedure tutorials were again offered on an optional basis to the participants of the support program during the second trimester because of the intensity of the five-credit course.⁹² Of the thirty-eight participants in the 1991 program, sixteen successfully completed the first year, seven left school for various reasons during the year, twelve earned grade point averages below 73.5 with no right to restart, and three were eligible to restart (with grade point averages between 73.5 and 73.99).⁹³ This year's program, with all components except the Skills A course, produced more disqualifications than our 1990-91 program; however, there were fewer complaints about stigma, discrimination, and eligibility requirements.

B. 1992-93 Academic Support Program

The Academic Support Program continued to be sensitive to the needs and desires of the program participants, and the 1992-93 program was modified based upon tutors' and students' comments and suggestions. All diversity students were encouraged to attend the two-week summer program (newly renamed, "Academic Success") held prior to the start of the fall term.⁹⁴

91. See *supra* parts I.B.4.a-b. (describing the peer tutors, their recruitment and training, and the tutorials and the director's responsibilities).

92. In fall 1992, Civil Procedure became a two-trimester, three unit course.

93. See Academic Policies, *supra* note 75, §§ 7.21-.22.

94. The fall 1992 class was 21% minority or 54 students of color: 12 African Americans, 20 Asians, 3 Cubans, 12 Mexican-Americans, 1 Native American, 3 Other Hispanics, and 3 Puerto Ricans.

Fifty-six students participated in the 1992 tutorial support program. The peer tutors were again selected based upon academic credentials, previous tutoring experience, and participation in previous years' programs. Four of the 1991 Academic Support Program participants were tutors, two of whom were on law review and another who was student body president. One Native American student, who chose not to participate in the previous year's program because of her high entering credentials and who had excelled as a first-year student, was also selected to be a tutor.

In addition to the components from previous years' programs, this year's program had these additional elements. Attendance was mandatory and attendance was taken at tutorial sessions. A center was organized for the program with a room for regular tutorial sessions which included supplies, flashcards, outlines, hornbooks, white and black boards, and copy cards. Based on tutors' and students' requests, substantive professors conducted review sessions for all program participants.

All substantive professors from each of the substantive areas (property, torts, criminal law, civil procedure, and contracts) participated in a panel on their area. These panels stressed what to look for on their exams and how to prepare and take their exams. A question and answer portion was part of each panel. All sessions were videotaped. The videos were placed on reserve in the library for all students.

These additions and changes improved the program. Students enthusiastically evaluated the tutors and the tutorial sessions, though the students wanted more writing and analysis exercises. All program participants attended the review and exam-taking sessions conducted by their substantive professors. However, the professors participating in the review sessions complained about time constraints at the end of the trimester--every student was demanding review sessions and extra office hours. Because the program was attempting to be sensitive to participants, nonparticipants, and faculty, this component was deleted in the second trimester; and those professors who did not already give review sessions and exam-taking classes were encouraged to do so for all their first-year students.

When evaluating this year's program, the number of disqualifications after first-year final examinations for program participants was again, like the 1991-92 program, significantly higher than all first-year students. Attrition rates were increasing not decreasing. The Academic Support Program needed major modifications.

C. *The 1993-94 Academic Success Program*

The Minority Affairs Committee reviewed all previous years' academic support programs through written evaluations by the participating students and peer tutors and examined the size and impact of the program along with cost and budgetary considerations. The well-qualified minority applicant pool had been shrinking. Entering statistics for CWSL students were lower. The program needed to be adjusted to these realities.

California Western's faculty continued its institutional commitment to minorities and special admissions. Sixty-four students of color were enrolled as first-year law students (or 16.2% of the total enrollment). Fifty-seven minority students participated in the Academic Success Summer program and first-year tutorials.

It was the recommendation of the Minority Affairs Committee to the full faculty to reinstate the Legal Skills A component from the fall 1990 Academic Support Program. The faculty voted to reinstate the course. The Legal Analysis class helps students develop better analytical skills and focuses on those elements that make the successful law student and ultimately the successful lawyer. Based on an examination of admissions files which included LSAT, GPA, index, writing samples, and personal statements, many students were automatically enrolled. Additionally, the course was strongly suggested to all incoming first-year students on a space-available basis. Given this broad criteria, CWSL hoped to alleviate the stigma and prejudice associated with the original 1990-91 program. Approximately one-third of the fall entering class took Legal Analysis I (five sections, twenty-five students per section, taught by full time faculty) instead of Legal Skills I. This legal analysis course would serve as a model for a mandatory course to be offered to all first-year students in the fall 1994.

The course was an intensive, comprehensive, and practical learning experience. Emphasis was placed on study skills, time and stress management, briefing, outlining, legal analysis, and exam-taking. The legal analysis and problem-solving components concentrated on acquiring and developing issue-spotting, issue-framing, analogizing, distinguishing, and synthesizing skills. In addition to Legal Analysis, all the components from previous years including tutorial support, Academic Success Summer Program, mentors, buddies, and counseling were offered to eligible students.

With the addition of Legal Analysis I to the program, some immediate results were encouraging. Of the minority Academic

Success participants, five, or 8.7%, of the students participating in Academic Success earned first-year CGPA's in the top 10% of the class and were invited to membership on law review. Though a few previous years' program participants had written onto law review, this was the first year that minority students in the program were in the top 10% of the class. These five students had the highest grades of all first-year students of color. Fifteen minority students earned CGPA's between 80.00 and 84.99, accounting for 26.3% of the minority Academic Success participants (for a total of twenty minority Academic Success students or 35% earning CGPA's over 80.00). Another twenty-two students (38.7%) earned grades between 74.0 and 79.99. Most significantly, the Academic Success Program had the smallest percentage of participants failing out than in the previous three years of the program.

Given the data from the 1990-91 program⁹⁵ and the 1993-94 program, the legal analysis course (Legal Skills A in 1990-91 and Legal Analysis I in 1993-94) seemed to make a significant difference in our program participants' performances. The classroom component, in addition to the summer program, tutorial support, mentoring, counseling, and the buddy system, seems to have improved overall first-year performance compared with the two years (1991-92 and 1992-93) when an analysis course was not part of the program. We will, of course, need more than two years to evaluate the influence of the legal analysis course on the Academic Success Program.

D. *The 1994-95 Academic Success Program*

This year the Academic Success Summer Program became more rigorous and demanding. Because of the number of student participants,⁹⁶ four professors were required to staff the program, two teaching the legal analysis segment and two teaching legal writing. Incoming students invited to participate in Academic Success included: non-minority students whose entering credentials indicated they would benefit academically from participation in the program, students who qualified under the Americans with Disabilities Act,⁹⁷

95. See *supra* text accompanying notes 74-75. In the 1990-91 program, which included the legal analysis component, Legal Skills A, the retention rate for first year minority students was about 3% percent less than the retention rate for all first-year students. See *supra* text accompanying note 74.

96. Seventy-eight students participated in the program during the 1994-95 academic year.

97. 42 U.S.C.A §§ 12101-12213 (West 1995).

and all students of color. Of the seventy minority students in this first-year class (of 282 in the fall entering class or 25%), all but five participated in the Academic Success Summer Program.⁹⁸

The fall Academic Success Program again offered small group tutorial sessions (sixty-seven participated in tutorials), access to a student buddy, an assigned mentor (practicing attorney) in the San Diego community, and counseling as needed.

The biggest change this year was the requirement that all incoming first-year students take Legal Process, a course which grew out of the previous year's Academic Success Program's Legal Analysis course. The two-credit, 100 minute, once a week course included sessions in: legal method (an intensive three-day session); legal theory and study skills; and legal analysis, problem solving, and expression. A working group of sixteen law professors helped to develop the course. Eight faculty members taught the course, in small sections of twenty-two to twenty-five students, and cooperatively created course materials. Grading was based on a comprehensive performance-style exam, small writing assignments given throughout the semester (case logs, class note summaries, issue statements, substantive class outlines, multiple closed universe IRAC exercises), and classroom participation.

After one trimester, the practical and financial realities of the Legal Process course became obvious. Future staffing became a resource allocation nightmare. Five of the Process faculty were Legal Skills professors who had to teach legal research and writing in the spring. No substantive faculty would volunteer to teach Process as an overload to the January incoming class. Without hiring three to four full time faculty to staff Process, CWSL could no longer afford to offer Process to all first-year students. Student reaction to Process was mixed--from enthusiastic to underwhelmed.⁹⁹

98. Seventy minority students enrolled in the entering first year class of 1994: 34 Asians, 17 African Americans, 12 Mexican-Americans, 7 Other Hispanics, and 2 Native Americans.

99. Students do not always understand and cannot always evaluate the long-term benefits of a particular course. Some have described the evolution of student attitudes as following "a common pattern that often ends in cynicism and despair" toward a variety of legal doctrines, Jay Feinman & Marc Feldman, *Pedagogy and Politics*, 73 GEO. L.J. 875, 877 (1985), and student reactions to the reality that law is not "objective content, available to lawyers through their privileged access to certain secret books and mysterious processes," *id.*, but rather that "certainty is illusory and that law is an indeterminate process." *Id.* at 878.

The working group who developed the course, the co-directors of Process, and the professors who taught the course believe the course has value for every student. Some

On February 2, 1995, after recommendations from the Minority Affairs Committee, the Dean of Students and Minority Affairs, the Legal Process directors, the Curriculum Committee, Associate Dean Mike O'Keefe, and representatives from the SBA, the faculty voted to offer Legal Process only to incoming first-year students on a reverse index¹⁰⁰ basis (but to highly suggest the course for identified "at risk" students) in fall 1995, for up to one third of the first-year class.

My concern for our Academic Success Program was that the implementation of Legal Process for all first-year students would dilute the success of academic support. We have had our greatest successes, in terms of first-year retention and academic standing, in the 1990-91 and 1993-94 programs, when our students of color and identified at-risk students were offered a legal analysis course in addition to tutorial support.

In summary, CWSL's Academic Success Program has had five years of permutations. The first year's program included a legal analysis component with small group tutorials. No analysis course and only small group tutorials were offered for the next two years of the program. This was due to the program participants' complaints about stigma and about being out of sequence with other first-year students taking Legal Skills I and II. Due to depletion of the pool of qualified applicants, minority and non-minority, and due to the

substantive professors believe their first trimester exams showed improvement over previous years' exams in terms of analysis—students used the facts of the hypotheticals in their exam answers.

Legal Process was taught in three components. The first part, Legal Method, was taught in two large sections to all entering first year students during the first three days of school and before substantive classes began. The learning theory and legal analysis components were taught in small sections. Below is an anecdotal sampling of student comments about Legal Process:

1. Legal Method: "I appreciated the Legal Method portion of Process, especially the briefing exercises and the introduction to the court system;" "too difficult;" "too simplistic;" "the briefing exercises were different from the logging form taught in later portions of the course."
2. Learning theory and study skills: "This section needed to be condensed;" "...should have been taught during legal method in the first three days of school;" "frustrating...waste of time;" "valuable, especially the material on secondary sources;" "I've read this material before;" "helpful material on outlining and summarizing courses."
3. Legal analysis and problem solving: "took too much time;" "repetitive and frustrating;" "helpful, especially exam techniques;" "I'm not sure the method taught will insure success on exams."

100. See *supra* note 58 for an explanation of this term.

increasing number of program participants being disqualified at the end of the first year, the legal analysis course was included in the program in 1993-94 with changes: all defined at-risk students,¹⁰¹ all students of color, all diversity students, and any other first-year student on a space-available basis were invited to take the course.

We have had positive results with this program for our minority students. In 1994-95, the school looked at its overall budget, the cost of the Academic Success Program, and the benefits of the legal analysis course, and required legal analysis (Legal Process) for all first-year students. Now the faculty and the Minority Affairs Committee are concerned about financial and faculty resources and are planning to focus on the at-risk students and the students of color in 1995-96 which seems to be the best combination for and a more effective use of resources.

CONCLUSION

Our program is not about *Bakke*.¹⁰² Denying admission to law school is not the issue. California Western School of Law has made a commitment to students who may be at greater risk because of various characteristics such as ethnicity; age; cultural, social, economic, and educational disadvantage; disabilities; career change; and law school index (GPA and LSAT). Our focus has been how to provide academic support to all at-risk students, many of whom are from underrepresented minority groups and many of whom have academic deficiencies.

Schools with large financial resources that offer positive encouragement to students of color tend to have the highest retention

101. See *supra* note 85.

102. *University of California Regents v. Bakke*, 438 U.S. 265 (1978). This U.S. Supreme Court decision involved a minority admissions program at the University of California, Davis Medical School. *Id.* at 269-70. The decision held that it was illegal to allow race alone to be considered the determining factor in attempting to correct years of historical oppression suffered by minorities. *Id.* at 307. Race can be one factor in the admissions' criteria. *Id.* at 320.

California Western looks at many factors in the admissions process. The admissions criteria include: LSAT, GPA, undergraduate school and major, LSAT writing sample, personal statement, non-academic and academic achievements, courses taken as an undergraduate, cultural disadvantage factors, work and life experiences, and ethnicity. See CWSL BULLETIN, *supra* note 35, at 36-37.

rates among those students.¹⁰³ Our academic support program participants' retention rates, though lower than all first-year students, have shown significant improvement when the program included the legal analysis component. There are, of course, other variables which could account for this data such as more time for academic adjustment in the first trimester without the pressure of Legal Skills I. The MALDEF Study discusses the sometimes lengthy adjustment period for many minority law students.¹⁰⁴ Perhaps we will have to adjust course scheduling for all identified minority, diversity, and at-risk students to compensate for our high first-year disqualification rates. Academic deficiencies cannot be corrected in one year.

California Western School of Law continues its commitment to, and financial support for, its minority and diversity students and the Academic Success Program. The Minority Affairs Committee, the faculty, the Assistant Dean of Students and Minority Affairs, and I are constantly reevaluating and revising our program based on students' academic performance, participants' (students' and tutors') evaluations, and bar passage.

Oliver Wendell Holmes once wrote, "the most important thing in the world is not so much where we stand as in what direction we are moving."¹⁰⁵ California Western School of Law continues to attract and retain, in greater numbers each year, the best minority students who successfully complete law school and pass the bar. This program is working. The program remains flexible and responsive to change. The school's institutional commitment -- to cultural and ethnic diversity, to students who are educationally and/or economically disadvantaged, to a just society -- remains strong. Vernon Jordan once said, "[T]he direction we are moving is toward greater inclusion, greater integration, greater pluralism. . . . [A]nd change we must if the legal profession is to maintain its integrity and prosperity."¹⁰⁶

103. See Hamlar, *supra* note 20, at 537-38 (discussing Professor Henry Ramsey's study of affirmative action programs at 168 ABA law schools. Henry Ramsey was formally professor at University of California, Berkeley, and is currently judge, Alameda County Superior Court, Oakland, California.); see also *NBA/ABA Conference*, *supra* note 18, at 530.

104. SUSAN E. BROWN & EDUARDO MARENCO, JR., LAW SCHOOL ADMISSIONS STUDY 65 (1980); see Hamlar, *supra* note 20, at 535.

105. OLIVER W. HOLMES, THE AUTOCRAT OF THE BREAKFAST TABLE, 82 (1955).

106. Jordan, Jr., *supra* note 4, at 8.

3. Treatise section covering this material:

Two or three sentences explaining the rules of law covered by treatise section. Be clear and specific (need not be repeated for 2 or more cases covering the same material):

4. Important facts of this case:

5. A one sentence clear, unequivocal statement(s) of each issue in the case. The issue should be stated in a way that a lawyer of average ability would understand what the problem is in the case:

6. (a) Holding (answer to issue: ___yes,___no)

(b) Rationale of the Court:

(c) Your response to the case (Does the case make a solid, logical, persuasive statement of its holding, or is the case rigidly relying on precedent? Do you agree or disagree with the rationale of the court? Will a contemporary, knowledgeable judge agree with and reaffirm the decision?)

7. Dissents and Concurrences:

