

UCLA

Chicana/o Latina/o Law Review

Title

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Permalink

<https://escholarship.org/uc/item/2bt6b475>

Journal

Chicana/o Latina/o Law Review, 9(1)

ISSN

1061-8899

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Publication Date

1988

DOI

10.5070/C791023072

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SPEECHES

UCLA LAW SCHOOL'S FALTERING COMMITMENT TO THE LATINO COMMUNITY: THE NEW ADMISSIONS PROCESS

I. INTRODUCTION

*Adriene Rodriguez*¹

Thank you all for coming to our administration protest today. It's nice to see that we have Raza members here not only from the undergraduate and law school associations, but also from the Los Angeles Latino community. People have come today from East Los Angeles College, Cal State University, Los Angeles, and Pasadena City College. We also have people here from the University of San Diego School of Law, and from the East Los Angeles Immigration Project. It appears that a large number of Raza students have shown up to support our protest, and I speak for the entire La Raza Law Students Association in expressing our gratitude for your support.

Last Spring, 1987, we stood on these same steps and protested the proposed changes to the Law School's admissions and retention policies. In spite of severe student protests, the law school administration chose, nevertheless, to change the admissions process and retention policies. We requested student input, yet student input was denied us. And when it was denied, the administration and faculty thought that we would just lay down and take it. Take the thread bare admissions process that they forced upon us and work within it. But La Raza Law Students Association refused to legitimize their new admissions procedures. We withdrew from the process in an effort to show our disapproval. La Raza Law Students Association did not actively recruit prospective Latino student to come to this law school. We conducted no interviews, nor did we review applicants' files.

1. Class of 1989, Co-Chairperson, UCLA La Raza Law Students Association 1987-88.

Many people ask us why we withdrew from the process, why we refuse to legitimize the new policies, and what we think is illegitimate about these policies and procedures? Well, what we think is illegitimate is the centralization of power that has resulted from these changes. When once there were six faculty members making decisions regarding minority applicants, there is now only one administrator, Michael Rappaport,² who decides upon the admission or rejection of all minority applicants who apply for diversity admissions. That's sick. How can one person decide what is a diverse community? Not even one minority person could decide what constitutes a diverse community for Latinos, Native Americans, Asian-Pacific Islanders, and Blacks who are here at this law school.

UCLA School of Law, as a public institution, has a responsibility to Los Angeles and to California. By the year 2000, over thirty percent of the population of California will be Latino, not to mention a substantial increase in the percentage of Blacks and Asian-Pacific in this State. With those kinds of statistics, UCLA School of Law should be committed to a diversity program that ensures representation for these communities, that ensures that these communities will have competent lawyers returning back to the communities. But instead of being committed to diversity, the law school has taken steps to pare down and eventually reverse our goal of competent and proportional legal representation.

UCLA School of Law has a reputation for being a liberal, progressive-minded institution, and the current law school administrators think that they can ride on that reputation. We want to show them that they can't ride on their reputation. We won't let them ride on past reputation. They must show their commitment *now*! Not only must they show their commitment by providing a diverse student body, they must also show their commitment by providing a diverse faculty. At this law school, we have only two Black tenured professors. We have only three Black tenure track professors. We have one Latino tenure track professor, and we have absolutely no Asian-Pacific professors here at this law school. Those statistics are appalling for a public school that serves a large and culturally diverse community, such as the one we have here in Los Angeles.

Many people say that UCLA is racist. What we want today from this rally, and from everybody here, is to let the administration know that we'd like to have a dialogue. We'd like to discuss with the faculty and the administration an alternative admissions process. The method that the administration has chosen entails a centralizing of power in one person, Michael Rappaport. Not only does this method completely eliminate student input, it is summarily rejecting applicants without proper evaluation. The law school

2. Dean of Admissions at UCLA School of Law.

uses the rationalization that the new procedure makes the admissions process more efficient. But centralizing the power and eliminating student input is not the only way to streamline admissions. There are other methods, but the administration has refused to look at them—they do not even want to consider an alternative.

Today, we want the administration to recognize the legitimacy of our complaints. We will not have our complaints dismissed as paranoia. Our fear of losing representation is a real fear, it is a real concern for our communities, and we intend to fight these cut backs through protests and demonstrations such as the one we have organized here today. Thank you.

II. HISTORICAL BACKGROUND

*Esteban Lizaro*³

Introduction

We have invited you here today, to formally announce La Raza Law Students Association's⁴ withdrawal from the current law school admissions process. We want the law school community, the greater UCLA community, and most importantly, our Latino community to understand precisely why we have taken this action.

We refuse to legitimize a process that is of no service to our community. We refuse to participate in discussions with people who do not listen. We refuse to believe that Dean Prager⁵ or anyone else in the law school administration understands our community's problems, because each time that we try to tell them our concerns we get arrested.⁶ We do not want to hear about the law school's ten years of commitment to affirmative action, when we have seen our people suffer through ten years of protests and arrests. We are tired of their rhetoric, and we are here to inform you of the truth!

The history of affirmative action at this institution is not one of commitment, instead it is a history of coercion, conciliation, and attrition, and then more coercion, more conciliation, and more attrition. In other words, affirmative action at this law school has been a complete failure, and today we give it a dishonorable discharge.

3. UCLA School of Law, Class of 1989.

4. Hereinafter, LRLSA.

5. Dean, UCLA School of Law.

6. In April 1987, several UCLA law school students were arrested after taking over the law school's records office in protest of the administration's proposed changes in the diversity admission's process.

A. History

1. Background

In 1968, responding to pressure from people in the political and social arena, the law school instituted the LEOP program.⁷ This program had two key components that no longer exist today: First, the program was directed to helping truly disadvantaged Third World students in admissions, and retention. To achieve this goal, the LEOP program provided separate financial aid to meet the needs of the economically disadvantaged, and it provided mandatory faculty taught tutorials. The second component provided for meaningful student input into the admissions process. Minority students were to make recommendations as to which law school applicants should be admitted under LEOP. The language in the LEOP program guidelines established a presumption that student recommendations were to be followed.

By 1976, the two components were under attack. Financial aid and faculty taught tutorials had been significantly eroded. The presumption regarding student input was on its way out. Regarding student input, a Faculty Admissions Task Force voted to have the presumption stricken because it was "administratively cumbersome" and it placed "a great time burden" on the admissions process. The faculty ratified the decision of the Task Force despite intense student opposition. Concerned Anglo and Third World students felt that an affirmative action candidate's potential could not be measured adequately without input from other Third World students. In response to the faculty approved changes, one hundred fifty students staged a sit-in protest that shut down the law school. Subsequent negotiations between faculty and students resulted in admission guidelines that gave substantial weight to the student recommendations.

But in April, 1978 more changes were implemented. In prior years, an average of sixty six Latinos were being accepted to the law School. In 1978, however, UCLA School of Law accepted only thirty three Latinos. Although the total number of Latino applicants had dropped by twenty percent, the admitted number of Latinos actually represented a fifty percent drop. Efforts to ameliorate the situation were ignored by the faculty. The students again sacrificed enormous amounts of time striking over the cut in affirmative action. The final result — in the face of heated student protests, the faculty ratified the actions of the Admissions Committee.

In Summer of 1978, the Supreme Courts decided *Regents of University of California v. Bakke*.⁸ *Bakke* held that a quota system

7. Legal Education Opportunity Program.

8. 438 U.S. 265 (1978).

used by the University of California, Davis Medical School was unconstitutional because admission under the quota system was based exclusively on race. Consequently, schools all over the country rushed to "Bakke proof" their admissions programs. Forgotten by UCLA School of Law's *Bakke* Committee was the importance of addressing the needs of disadvantaged minority students, and addressing the needs of the minority communities. As a result, in the fall of 1978, the three Third World student organizations⁹ proposed policies that required *disadvantage* to be a primary factor in determining eligibility as an affirmative action candidate. But the *Bakke* Committee, in their *Karst Report of 1978-79*, explicitly rejected those proposals. The students also called for mandatory interviews of affirmative action candidates by the Third World organizations.¹⁰ The consensus among minority students was that, as Third World students, we were in a better position than the white middle class faculty to determine which applicants were deserving of special admissions. As one Chicano said of the faculty, "they identify minorities by superficial characteristics, such as skin color and surname, rather than identifying students who have the minority perspective." Contrary to the student proposal, the *Karst Report* did not adopt mandatory interviews, and the questionnaires were made an optional part of the admissions process.

More importantly, the *Karst Report* changed the focus of the admissions program, from affirmative action to a "Diversity Program." UCLA School of Law no longer sought to identify disadvantaged students, rather it sought to identify diversity students. All applicants could be considered under the Diversity Program so long as that applicant had an interesting background or unique life experiences. For example, an applicant who was well travelled could qualify as a diversity candidate.¹¹ The *Karst Report* marked a dramatic shift in the admissions process because it enabled the law school to recruit minorities that would make the institution look good. UCLA School of Law lost all commitment to serving disadvantaged students, or the communities that those disadvantaged students came from.

In 1979, in response to the *Karst Report*, outraged students carried out a hunger strike which culminated in a rally much like the

9. La Raza Law Students Association, Asian-Pacific Law Students Association, and the Black Law Students Association [hereinafter LRLSA, APLSA, and BLSA respectively].

10. Out of state applicants would be offered mandatory questionnaires.

11. Those applicants who identified themselves as minority applicants had the option of being interviewed by the appropriate Third World student group. If all the members of the Third World organization agreed that the applicant was deserving of special admissions, efforts would be made on the part of the Third World organization to persuade the Admissions Committee to accept the applicant. But, the Admissions Committee was under no obligation to accept the recommendation.

one we have today. In fact, Cesar Chavez and Professor Ken Graham also spoke at that rally. Isn't it ironic how history repeats itself. Despite promises by the law school that no reduction in the number of Third World students would result from the *Karst Report* changes, only twenty two "Spanish surnamed" students were among the first Diversity class.

In 1981, the struggle for minority admissions continued. The Chairperson of the Admissions Committee proposed to implement an admissions process without *any* student input. Furthermore, the chairperson sought to exclude Asians from the Diversity Program, absent the presence of any other diversity criteria. Two hundred fifty students protested the 1981 proposals. As a result of the protests, these proposals were eventually withdrawn. In March, 1982 a proposal to admit certain "clear cut" diversity applicants without *any* student input was reasserted.¹² Although twenty demonstrators stormed the law school office, the proposal was passed.

2. *Chronology of the Current Admissions Policies*

March 4, 1987: Dean Prager issued a memo to the Third World organizations concerning the law school's sagging bar passage rate. In her memo, Dean Prager made the connection that the low bar passage rate was related to the admission of Third World students to the law school. The leaders of the Third World student groups expressed skepticism over the statistics which Dean Prager used, and all the leaders expressed dismay that the Dean would target the law school's Third World population as the source of the problem. Dean Prager assured students that no immediate action would be taken; she stated that her intent was only to initiate a dialogue on the problem. Despite student requests, the validity of Dean Prager's statistics was never verified.

April 3, 1987: Dean Prager and the faculty pushed for solutions to the problem of low bar passage. The Dean established a Short Term Committee to propose solutions. The proposals were to be presented at the upcoming April 17, 1987 faculty meeting. A coalition of Third World students, Anglo students, women, and gay and lesbian students protested this unsensible and frantic rush to find a quick-fix solution to the problem. Dean Prager assured stu-

12. A clear cut applicant is one whose undergraduate record and Law School Admissions Test score indicate a high likelihood of success in law school. The objection to the clear cut applicant coming in under the Diversity Program is that he/she can compete within the regular admissions process and is not necessarily deserving of special admissions through the Diversity Program. Moreover, since the Diversity Program has a ceiling on the number of students that are admitted through that program, the clear cut applicant might be displacing a disadvantaged student whose goal it is to work in the community. The goal of the Third World organizations is to admit those disadvantaged students who will serve the community.

dent leaders that proposed changes in the admission procedures would not be presented to the faculty. However, she was quite sure that retention proposals would be on the agenda. Only one student, Therese Terlaje, was permitted on the Short Term Committee. Ms. Terlaje reported that very little time was actually spent on discussing retention; instead, the agenda focused almost exclusively on changes to the admissions procedures. Students worked diligently, sometimes around the clock, displacing valuable study time, to formulate rational alternate proposals that would not adversely affect the admission of Third World students.

Mid-April, 1987: The April 17, 1987 faculty meeting was postponed until May 1, 1978, just one week before finals.

May 1, 1987: The faculty meets. They vote to change retention standards. Although, by the faculty's own statistics, the new retention standards would mean only minor shifts in the law school's future bar passage rate, the students knew with accuracy that ten living breathing bodies at the law school would be failed out as a result of these changes.

Two hours after the retention vote, another vote is carried out, drastically altering the Diversity Program.¹³ Effective student input on any diversity candidate is completely wiped out. No longer would students sit on faculty subcommittees and advocate for candidates recommended by the various Third World organizations. No longer would faculty even see applicants' files. Under the new system, students would be admitted by the Dean of Admissions¹⁴ in consultation with the Chairperson of the Admissions Committee,¹⁵ pursuant to the *Karst Report*. The reason given for these changes — consistency in admissions and administrative efficiency.

B. *Disfavor With the Present System*

The centralized decisionmaking which has been established is counter to every tenant of a democratic process. To allow one man, Michael Rappaport, to decide how to make a student population diverse is inherently contradictory. The process completely trivializes student input. No adequate monitoring procedure is established to ensure that Dean Rappaport is doing his job. The process has incredible potential for misuse. The current procedure, as outlined by Dean Rappaport and Admissions Chairperson Trimble, affords no checks and balances. If any student or professor disagrees with Dean Rappaport's decision, there is no appellate procedure. Although under the current system, LRLSA, APLSA, and BLSA

13. This came after repeated reassurances by Dean Prager that no changes would be made to the admissions procedures.

14. Michael Rappaport.

15. Professor Trimble.

can continue to make recommendations on prospective candidates, those recommendations can be totally disregarded by the Admissions Dean.¹⁶

The May 1, 1987 faculty vote included the proposition that the Admissions Committee would serve in a monitoring capacity; however, even today,¹⁷ eleven months after the new procedure was ratified, no guidelines have been adopted as to how this monitoring process will be accomplished. Each member of the faculty admissions committee, has openly admitted that this year's Admissions Committee will set the precedent for how this new procedure will operate on a day to day basis for future years. The precedent that has been set thus far is one of lethargy, non-commitment, and lack of concern.

Though we appreciate that time is a major concern of the faculty, we believe that the faculty has a responsibility to spend quality time on the admissions process. The Diversity Program is one of the most attractive and important characteristics of this law school; it deserves far more faculty input than is given under the current process. As to the day to day operations of the new admissions process, the Admissions Committee has met a total of three times, for two hours each meeting. The fact that the faculty supports this kind of time saving mechanism only gives credence to LRLSA's contention that UCLA School of Law is not committed to affirmative action.

This institution uses the rhetoric of genuine student involvement to build a positive national reputation. However, the reality is that this school has not allowed any student involvement regarding the admissions changes. When the issue was first brought to the attention to those students outside the Third World organizations, many Anglo students could not understand why they were never informed of any possible changes in admissions. They asked why the entire law school community wasn't brought into the bar passage/diversity problem. Regardless of how anyone looks at the picture, the truth is that neither Dean Prager, nor the law school faculty wanted the entire law school community involved in last Spring's "Diversity Discussion."

At most law schools, the Anglo population complains about the displacement of white students because of affirmative action

16. As a result of this rally, a monitoring process has been established by the Admissions Committee. (April 17, 1988 Admissions Committee meeting.) However, the process involves channelling disagreements through Dean Rappaport and Admissions Chairperson Trimble. This type of monitoring process is of no use given the fact that Dean Rappaport and Chairperson Trimble are not responsible to anyone but themselves. They are in charge of making all admissions decisions, and overseeing their own work through the control they retain over the monitoring process.

17. March 30, 1988.

programs. Last year, however, many students at this law school expressed a different concern. Anglo students said that they chose to come to UCLA because of this school's reputation for a diverse environment. It became clear that UCLA's affirmative action rhetoric and its reputation of having a progressive environment was attracting students who were not even applying under Diversity Admissions.

As for those concerned with displacement, the political reality is that there will continue to be some brown, yellow, and black faces at this institution. So the question you should be asking yourselves is *by whom* are non-minorities being displaced? Would non-minorities rather be displaced by someone who deserves affirmative action, or a token? Because quite frankly, the bottom line is that either way, displacement will occur. The real question then becomes which minorities should benefit from special admissions programs.

C. *La Raza Law Students Association's Position*

LRLSA stands firm that an affirmative action program should recognize a person's ability to overcome severe obstacles. Overcoming obstacles, in some way, makes that person more deserving of affirmative action than someone who has had a more advantaged background. Proponents of affirmative action recognize that a history of discrimination has produced many obstacles that have remained long after laws were enacted to ensure that people are treated equally. Historically, discrimination is often discussed in the context of our Black brothers and sisters. However, the Latino community has not escaped severe discrimination of its own. Especially here in the Southwest, our people have been the subject of intense hatred and exploitation. But the *Karst Report* explicitly rejected disadvantage as the focus of the Diversity Program. The *Karst Report* recommended that disadvantage should be only one of many factors to be considered.

Because of our concern over this form of covert tokenism, LRLSA emphasizes an applicant's community based involvement. We feel that community involvement is crucial in identifying potential Latino and Latina attorneys who will return to the community. At the same time, students who have participated in community activities make an important contribution to a diverse environment while at the law school. Our evidence on Dean Rappaport indicates that he gives no weight to community involvement when he evaluates an applicant. LRLSA is convinced that the present criteria embraces tokenism. As a member of the Admissions Committee, I have reviewed many files, and I am convinced that the current process smacks of tokenism.

Bakke explicitly held that an admissions decisions cannot be

made on the basis of race alone. But the current system uses race alone, without giving any weight to community involvement or disadvantage. The current system is therefore, completely unacceptable. Affirmative action programs were not designed to help just any black, brown, or white applicant, affirmative action was designed to help those who are disadvantaged from years of societal oppression.

Today, LRLSA does not seek a return to the old Diversity Admissions process. Today, we do not eulogize the admissions process that we lost last year. Today, we do not cry out that the law school faculty and Dean lack commitment to affirmative action, or that they have betrayed the Latino community by their actions last Spring! Rather, we eulogize that meaningful student input was lost years ago! We are here to say that this institution is not interested in seeing Latino attorneys return to serve their community. We reach out to the law school community, the UCLA community, and our Latino community at large to proclaim that UCLA School of Law lost its commitment to affirmative action and the Latino community years ago! Today, we seek support from our community to institutionalize at this law school true commitment — commitment that goes further than the admissions process that we fought so desperately to keep last year! We want a commitment to graduating more minority attorneys who will go back and serve the community.

Our struggle is for our community, and right now we need our community to struggle with us. The faculty at this law school has adequately displayed that it is deaf to the concerns of the Latino law students. Their message to us is clear — “We do not care about your input. That is why we have consistently disregarded your input in major decisions affecting admissions procedures. And that is why we are more than happy to disregard your input as to who may be considered a qualified Latino diversity candidate. What is more, we don’t even care if you spin your wheels evaluating files and making recommendations. We are not going to monitor the process or allow you a forum for your specific disagreements with the Admissions Dean. But spend your time needlessly anyway; we’ve already found a process that saves us a lot of time.”

A university administrator explained how the school is always able to get away with this attitude. It’s a matter of time. As he explained, students are only around for three to four years. The faculty is around much longer. They have time to wait around for a new group of students and a new political climate. But some faculty have responded by arguing that since their investment in terms of years is much greater than the students’, their commitment to this institution should be seen as greater than the students’ com-

mitment. Little did I realize just how true this may be. LRLSA is committed in a general way to the welfare of this institution. But our primary commitment is to our Latino community! We will not sacrifice the admission of Latino applicants simply because the faculty misperceives the problem and lacks initiative. They must do better than that. They must find a more viable solution for the low bar passage problem.

Conclusion

The evidence speaks for itself. Just how committed is UCLA to Latinos at the graduate level? In the UC information digest, we find that the UC public university system has managed to increase its graduate Latino enrollment by only 74 students from 1976 to 1986. That's an incredible statistic! But what is even more incredible is that during the same period, 1976 to 1986, UCLA as an individual campus managed to attract not even one more Latino into its graduate programs. In fact, UCLA had one less.¹⁸

Where is this institution's commitment? Is it in the composition of its faculty? Look again! Not one Latino or Latina tenured faculty person at this law school. One might think this virtually impossible at a major law school located in Los Angeles, California, a city with the second largest Latino population outside of Mexico City. We are talking about a city in which half of all young people enrolled in high school are Latino. This is outrageous considering that UCLA claims to be truly committed to the Latino community.

Let me inform you that several Latino professors recently circulated a letter to UCLA expressing their concerns regarding the lack of Latino professors. It seems that law schools are losing forty three percent of their eligible Latino faculty to private practice. One reason identified by these professors is the law school's inability to hire more than Latino law professor at a time. "We need colleagues with whom we can identify".

Just last year, UCLA School of Law had only one Latino law professor, Professor Jose Bracamonte. Professor Bracamonte was well liked and well respected by the entire law school community, but we lost Professor Bracamonte to the private sector. This professor fought courageously beside students in resistance to the proposed changes law school changes. Yet we lost Professor Bracamonte, and then this institution claims to be committed to the Latino community. LRLSA is tired of the kind of commitment that leaves our communities educationally disadvantaged, economically deprived, and politically weakened. We are tired of this law school claiming to support our community, yet acting in ways that

18. Enrollment dropped from 386 to 385 students.

contribute to our people's disadvantage. If the current admissions process is all this law school can muster in support of our community, then its commitment to the Latino community is not our commitment! We are tired of listening to your words. Now we want action!

III. A WORKER'S PERSPECTIVE

*Cesar Chavez*¹⁹

*Estamos aquí ahora en estos momentos, aquí en esta escuela de leyes protestando la discriminación en contra de nuestra gente y en contra de los estudiantes minoritarios que no les permiten y no les van a permitir, si siguen con estas políticas que están adoptando, el derecho de venir a la escuela para poder salir con su educación como abogados, para que puedan regresar a los barrios para extender esos derechos. Estamos con ustedes porque su causa es justa.*²⁰

As President of the United Farm Workers, I am one of the few speakers who comes before you who has asked you to do things for us. The problems which you face, your concern about discrimination, and your concern about the admissions process, is our concern. Beyond just being minority and being poor, we are concerned because throughout the years it has been the students in this country who have made it possible for farm workers to achieve justice. And we're here today to support you. In 1965, we came to ask for your support, and since that time we've been coming to UCLA, and we've been received well. You've done work for us, and as we say, we need to do work for you.

You have a just cause, and we're here supporting your cause. It's a very just cause, and it's really ridiculous the position that the administration has gotten itself into. You know, if the press would only write about it, the administration would have a lot of headaches, because their position is an untenable position.

You see, the issue is a workers' issue: Who are we fighting for today to come into this university? What is the fight all about? It's about working class families, and the kids who come from working class families, in many cases very much exploited, who don't have the money to be able to have the things that creates an education. Working class students come here because we are exploited in the fields and in the factories, because we don't have the money to at-

19. President, United Farm Workers Union.

20. We are here now at this moment, at this school of law, protesting the discrimination against our people and against the minority students, who are not permitted, and will not be permitted, if they [the law school administration] continue with these policies that are being adopted, the right to attend school, so that they can leave with their education to become attorneys, so that they can return to the community to extend those rights to others. We are here with you because your cause is just.

tend the private schools, because our parents work for peanuts for a day in the fields or a day in the factories. That's what produces the student that we're now fighting for, to make sure that he's admitted, that she's admitted here in this university.

If we have anything going for us, it is the student who is here, the minority student, the Chicano student here today, who is advocating for the one who will come tomorrow. And if they cut that one off, if the university destroys that, there's no continuity. And if there's no continuity, we won't have students. And I know it's been a long struggle, for you and those who came before you, to maintain the level of enrollment that you have now. And the administration, whether they know it or not, is really dealing a death blow to the whole idea of minority enrollment here at the law school. Inequalities persist in education, in economics, and in politics. We need to stand together, and we need to have more people coming out of this law school and working for the people. You don't see too much of that.

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. What good will it do if everybody who comes to the law school goes out and wants to make money and forgets those of us who are staying behind? That's the issue.

UCLA is a public institution. Dean Susan Prager²¹ and Chancellor Young²² have a responsibility, beyond their responsibility to the students here at this institution. They have a responsibility to society. This university is here because it's allowed to be here by society. Not by the Chancellor, not by the Dean, but by society. And if the university does not respond to the needs and the wants of society, it cannot long persist, it cannot long be here.

You see, what they're doing is a foolish short term tactic. In the long term they're in trouble because all they need to do is to get the people on the outside to know what they're doing, get a reputation, and then they're going to be in a lot of trouble. And it's our job to go back, to the fields and the factories, and let people know about UCLA. Let them know because when the high school graduates begin to say "*No, allí con UCLA no más*,"²³ that's going to hurt the university. It's a foolish policy. It's a policy that they cannot maintain, especially and particularly because UCLA is a public institution; it has an obligation to the community, and you are the community, you people who are represented here today.

UCLA can best serve the community by admitting students

21. Dean, UCLA School of Law.

22. Chancellor, University of California, Los Angeles.

23. No, there at UCLA, no more.

who identify with the community. We need to have students who identify with the community go back and help us. We don't have enough yet. We need those kinds of students, and we're here fighting for that because we know that out of every 100 minority students that go to the university, a handful go and fight with us, only a handful come. Something happens between the time they get their degree and they pass the bar. Something happens to many of them. And we need to just get numbers, and out of those numbers we will get a certain percentages to come and help us.

UCLA is a public institution and they have an obligation to actively recruit people of color. Let me tell you how shameful it is. I found out that the law school does not have any tenured minority faculty. No Mexican-Americans, no Asians, no Native Americans, two Blacks — big deal. Isn't that ridiculous? If the community finds this out, UCLA is in a lot of trouble, a lot of trouble. Actually, I don't want to be identified with UCLA, that's for sure. But I do want to be identified with you students who come here and fight for your rights, our rights. And I come here and stand with you because you're fighting the good fight. You're fighting for the working class people in this country.

We in the United Farm Workers Union are also fighting, we brought the fight to you a long time ago. And in three words I'll tell you what that fight is: don't eat grapes, *don't eat grapes!*

You know it's ironic that here at the School of Law, the defenders of the Constitution will not give valuable and meaningful input to the students. Isn't that ridiculous? What in the hell are they afraid of? We need to return the system to one of checks and balances. We've got to remove the centralized decision making that has been established because that is not going to work. We want to have meaningful input from the students who know the community, who are able to make judgments about who qualifies under diversity, because you know the community better than anybody else, you come from there.

The university says that the bar passage rate is down, but that's like saying, the baby is dirty, we're going to wash the baby, but we're going to throw away the baby with the bath water. How ridiculous can it be for the law school to scapegoat the minority students, and say that it's because of you that we are not getting a higher passage rate on the bar. That's ridiculous. That position in the public mind would not fly. What the law school needs to do is to begin to answer some tough questions. Instead of scapegoating the minority law students, why not do something about increasing their chances of passing. I don't know who is advising them, but it seems from what I hear and what I see that the law school is open for a lot of ridicule in the press, if the press ever gets there.

We object to the bad faith tactics employed by the law school because we in the Farm Workers' Union know what it's like. What I can't understand is how in the world can Dean Prager and other faculty members refuse to bargain with you? How in the world can they get away with that? You're saying bargain with us, sit down at the table and have meaningful bargaining on both sides. Why won't they do that? The only other people who won't do that that I know of in the whole world are the growers. That's not a very intelligent policy. It's a policy that leaves them open for a lot of ridicule. I call on them to sit down right away and bargain with you, but bargain in good faith. Sit down and listen to your complaints and try to meet them, especially if they're trying to shut you out of the admissions process. But the law school is not going to do that.

To have the power in the hands of one person who knows beans about minority students, how in the world can they be successful? To have Dean Rappaport²⁴ make those decisions on his own, how can he hope to get away with it? Well, he'll get away with it because nobody challenges him. But if he gets a challenge beyond the confines of this school, he's going to have a hell of a time defending that position.

We think that La Raza Law Students Association is correct in their demands, we think that the demands are proper, we think the demands are so proper that the faculty on the Admissions Committee should be changed by the demands that they have before them. If I were you, my demands would be a lot more stringent. But your demands could be met, and if they do not bargain in good faith they should have to respond to a wider community.

You see, to effectively eliminate those minority students that we need back in the *barrio*²⁵ can be a tremendous blow to those of us who fight out there in the *barrio* to keep things going. It's a tremendous blow to us. We've got to have these minority students, the ones that are going to go back and do some work for their people.

Who else is in a better position to define who those students should be? Tell me, who? The students of course. I don't think Dean Rappaport even knows what *verdolagas*²⁶ are, or *capirotada*,²⁷ or *menudo*,²⁸ so how in the hell can he make those decisions? That's beyond me. It should work so well, having the students join and help make those decisions. The administration is foolish. The administration could be ridiculed for this position. I don't under-

24. Dean of Admissions, UCLA School of Law.

25. Community.

26. A spinach-like vegetable.

27. A baked dessert made out of sweet bread and cheese. It is traditionally eaten during holidays.

28. A spicy Mexican soup made with hominy and tripe.

stand how so called "highly educated people" can get themselves into this kind of a position. I don't.

Brothers and sisters your demands are so just that you can put them on the table of public opinion and you would win hands down. You have a just demand and we're with you on those demands because not only are they just but they're necessary. We're with you, and we stand with you when you say you want to decentralize the diversity admissions system here at the law school. And we're with you to provide, as before, a system of checks and balances within the admission process, to ensure that it yields results consistent with the goals of the diversity program. Otherwise, it's not a diversity program.

We are with you to allow for student input. And that is absolutely the most important goal. If they do not give you input, they're in trouble. How can they live with their conscience if they don't let students speak up, in a meaningful place, at a place across the table to bargain and negotiate in good faith, instead of putting you outside on the street. How can they do that? Because we all know that unless we have concrete goals and timetables to provide for minority admission, we have nothing.

We're with you, and we stand with you in your just demands. And we need to get everybody else involved because you see, the biggest weapon we have is the weapon of ridicule. How can they stand there and do what they're doing and not be ridiculed? How can they stand there and refuse to meet with you, in a meaningful negotiation, and not get hit with it. I hope that the press will go and ask them questions, hot questions, hard questions and let them try to answer them. Brothers and sisters, they cannot do it. If you have another demonstration, let me know in time. I would like to bring farm workers here to let this university know that we also feel for you because what you're trying to do is really to help us. Thank you very much.

IV. A FACULTY MEMBER'S PERSPECTIVE

*Kenneth Graham*²⁹

When I was invited to speak, I was told that this was an "educational forum." Apparently the previous speakers have forgotten that at the law school, "education" is supposed to be dull and painful. I am here to remedy that deficiency. To do that, I would like to begin by reading to you several dry paragraphs from this authority: a book entitled *Legal Education and Admissions to The Bar in*

29. Professor of Law, UCLA School of Law.

California.³⁰

The authors here are discussing the problem of "part-time" legal education in California (by which they mean "night law school"). Here's what they have to say:

In the abstract there is no more reason why a lawyer should be permitted to take his professional training at night on a part-time basis than there is for letting a doctor work his way through a night medical school. However, if part-time legal study were not possible, a substantial number of able and ambitious young men and women would be barred from the legal profession because of their economic position. This has happened, to a considerable extent, with the medical profession with not too happy results. It would be far more serious if it happened with the legal profession. Under our form of government, law is so closely related to politics and to the operation of government that any barrier to the legal profession which would keep out the economically less fortunate would have serious political repercussions and would ultimately impair the functioning of the democratic process. Even with the road to the legal profession open to all, it tends to become [as de Tocqueville pointed out as long ago as 1835 (citation omitted)] an essentially conservative group, largely concerned with maintaining social and economic status quo. If the legal profession were to be recruited, as the medical profession now tends to be, mainly from the sons and daughters of the well-to-do, this tendency might well be accentuated to the degree seriously against the public interest.³¹

Now you might think that these are the rantings of some 1960's drug-crazed radical. But in fact, this is a publication which was commissioned and printed for the Board of Governors of the State Bar of California. The year was 1949.

Now notice this. Thirty years before *Bakke*³² was decided, here was a group of lawyers, many of them from conventional, big time law firms³³ who were able to distinguish legal education from

30. STATE BAR OF CALIFORNIA, LEGAL EDUCATION AND ADMISSIONS TO THE BAR IN CALIFORNIA: REPORT OF THE SPECIAL SURVEY BOARD (1949).

31. *Id.* at 82.

32. *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978). This decision of the United States Supreme Court involved the minority admissions program of the medical school at the University of California, Davis. It was relied upon by the faculty of the UCLA Law School to justify a series of changes in the admissions policy of the Law School that tended to favor the admission of applicants from well-to-do families.

33. Here is the description of the authors given in the Report:

The Chairman of the Special Board has been Joseph A. McClain, Jr., of St. Louis, Mo., General Counsel of the Wabash Railroad Company since 1945, and Chairman of the Section of Legal Education and Admissions to the Bar of the American Bar Association from 1946 to 1948. Mr. McClain practiced law in Georgia from 1924 to 1926. He then became a member of the faculty of the law school of Mercer University, Macon, Ga., where he served as professor of law, and later as dean, until 1933. From 1933 to 1934 he was

medical education. And yet here at UCLA with our high powered Constitutional Law faculty, a majority of the faculty was unable to distinguish the case and thought that *Bakke*, even though it deals with medical schools, must somehow also require the same thing for this law school.

But I digress. Continuing to talk about this same problem, our authors point out the results of the existing educational policy in California. They say:

The result is a strange one: a relatively small number of students, many of who could well afford to pay tuition [this was when the University of California did not have "tuition"] are be-

professor of law at the University of Georgia, then dean and professor of law at the University of Louisville, Louisville, Ky., until 1936, when he became dean of the Law School of Washington University, St. Louis, Mo., where he remained until 1942, when he became Vice President and General Counsel of the Terminal Railroad Association of St. Louis, leaving that position for his present one in 1945. Mr. McClain holds degrees in law from Mercer University and Yale, and honorary degrees in law from Mercer and Tulane Universities.

Associated with Mr. McClain as a member of the Special Board has been Thomas F. McDonald of St. Louis, Mo., a member of the Missouri bar actively engaged in practice in St. Louis since 1919. Mr. McDonald was Chairman of the Grievance Committee of the St. Louis Bar Association from 1932 to 1935, and President of that Association from 1935 to 1936. He has been Secretary of the Missouri State Board of Law Examiners since 1932, and is a member of the Executive Committee of the National Conference of Bar Examiners. He is Director for Missouri of the American Judicature Society and was Chairman of the Board of Directors of that Society in 1940 and 1941. Mr. McDonald is a veteran of World War I, and a Past Commander of the St. Louis Post of the American Legion. He holds degrees in law from the University of Michigan, including an honorary degree awarded in 1936 for public service to the legal profession.

The Director of the Survey and the third member of the Special Board was Sidney Post Simpson of New York, N.Y., a practicing lawyer of New York City and professor of law at New York University Law School. It is with deep regret that his death on October 6, 1949, is recorded. He made an invaluable contribution to the Report by reason of his broad understanding of and experience in the field of legal education, and with his passing the profession lost one of its ablest scholars.

Mr. Simpson practiced law in New York and Washington, D.C., from 1923 to 1931, when he became professor of law at Harvard Law School. He continued in active teaching there until 1940, when he became Special Assistant to Assistant Secretary of War Patterson. After four years in the army and in the government service, he resumed practice in New York City in 1944, served during 1945-46 as Veterans' Education Adviser to the Practising Law Institute, and began teaching at the New York University Law School in 1946. He was Chairman of the Committee on Continuing Education of the Bar of the American Bar Association and a member of the Committee on Continuing Legal Education of the American Law Institute. He was a veteran of both world wars. In 1930 and 1931 Mr. Simpson directed a nation-wide study of the Cost of Crime for the Wickersham Commission. He was a member of the Editorial Board of the *Modern Law Review* of London, England, and co-author of standard casebooks on Equity and Judicial Remedies, as well as of the recent casebook on Law and Society, and wrote extensively on legal education. He held a degree in law from Harvard.

STATE BAR OF CALIFORNIA, *supra* note 1, at 2-3 (1949).

ing given legal education at public expense at Berkeley, while a very much larger number of students who are compelled to support themselves through law school and therefore to go to school at night are paying high rates of tuition in private institutions.³⁴

They then go on to suggest, since at that time the UCLA Law School was just about to open its doors, that to solve this problem of providing quality legal education for everyone in California, that UCLA abandon its plans to emulate Stanford (and found another rich kids school way out in Westwood). What they think UCLA should do instead is to move the campus downtown, open a night and day division, and provide a quality education at low cost to all who wanted to be lawyers in California. I read you now the conclusion of this portion of their report:

[The] solution to the problem of legal education in Los Angeles County in terms which will provide the most adequate opportunity to all students, including those of modest means, can best be brought about by the University of California at Los Angeles. The inference cannot be escaped that, although the University of California has acquired for itself a monopoly of state-supported professional education, it has failed to render that service to the people of California in the field of legal education that alone could justify such a monopoly. In the last analysis, the basic inadequacies of legal education in California to meet the needs of all people must be laid squarely to the charge of the State University. If the University of California is unwilling or unable to make publicly supported professional education law more generally available, the only ultimate recourse will be . . .³⁵

to turn over the job to someone else.

I turn now from the dull to the painful parts of this "educational forum." It seems to me that there is another question that ought to occupy your time, and it is something that you should take away from here as you go back to you classrooms. That is to say, why is it that you ought to be here? The previous speaker made the assertion that sometime in the near future Latinos would be a majority of the population of the State of California. Well, I'm not sure what was implied by that. In South Africa, Black people are a majority of the people. In Grenada, a majority of the people are Grenadeans. And in Nicaragua, a majority of the people are Nicaraguans. And yet citizens of these countries still have their aspirations for self-government thwarted by a handful of wealthy, white North Americans.

At one time, at some places in the South, it was a crime to teach a Black person to read. The idea was that education was so dangerous that if Black people ever got a hold of it, there would be

34. *Id.* at 84.

35. *Id.* at 92.

no stopping them. Well, I ask you to look around at the education that you're getting in law school today and ask if that represents a danger to anyone. One wonders why they bother to keep anybody out since if most people walked in, they wouldn't want to stay for five minutes. What I want to suggest to you is that your job is not just to come out here and cheer, but to go back in the classroom and start moving to make yourselves the kind of an education that would be of some use to ordinary people.

We can talk about almost any course you want to. In Criminal Law, you spend all your time talking about murder. Well, why murder? Well, because murder is a crime which is committed by wealthy white people who don't have to go out with a gun and hold up people in the streets.

In Property, you talk about "chain of title." Well nobody ever bothers to explain what happened to the Spanish land grants in that chain. And of course, even more tragic than that is the fate of the people who were here before the Spanish. Some of you may not be aware of this from your property class but the American Bar Association has a committee working on a project to figure out how large corporations can own the sun. (This is what is delaying broader use of solar power in the United States.) Now you may think that the idea of someone owning the sun is funny, but I want you to remember that back when the white men came to this country and wanted to buy land from the Indians, the Indians thought it was pretty funny that anyone could think that you could own land.

Finally, if you will forgive me, I close with this personal note. Some of you will be taking Constitutional Law. In Constitutional Law, you will not be spending a lot of time talking about *Bakke*; you will not be spending a lot of time talking about the economic right of ordinary people — such as the right to make a living. Rather, you will be spending all of your time talking about free speech. Why? Because free speech is the concern of intellectuals — people like me who make a living talking and writing. Well let me tell you something about free speech: it doesn't mean a God-damned thing to ordinary folks. My earliest memories as a child are waking up to hear my mother crying because my father had been fired again for saying things the boss did not want to hear. As those of you who have taken Constitutional Law know, you don't have any First Amendment rights against the boss. And when the boss owns the home, that means that not only is your father out of a job, but you have to move again. Okay? That's my suggestion, too. Let's move again.

V. AN ALUMNI'S PERSPECTIVE

Mary Lou Villar³⁶

In 1968, UCLA School of Law began a program designed to admit students who foresaw their roles as community attorneys — attorneys for the whole group of people who otherwise cannot afford legal representation. The program was called the LEOP program,³⁷ and it graduated a cadre of attorneys who went back to the communities to serve the under-represented. The reasons these graduates choose to represent those historically denied access to the legal arena is because these graduates were people whose ethnicity, economic and educational disadvantage, and prior commitment to the community had been considered as important factors in their admittance to the law school. These factors were the best indicators of future commitment.

Then in 1978, *Bakke*³⁸ was decided. *Bakke* coined the term “reverse discrimination.” 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, by allowing them access to education, jobs, and other public and private services. But, *Bakke* did say that race could be one of the factors considered. The result was that the LEOP standards were still considered for admission to this law school, however, other factors were also made a part of the admissions criteria.

Prior to the admittance of the first *Bakke* class, the minority students protested the demise of the LEOP program, for *Bakke* signaled a radical change away from the LEOP standards.

The law school's response to *Bakke* was a “Diversity Program.” No longer would ethnicity, disadvantage, and prior community involvement be critical factors in determining admission. Instead, the Diversity Program would admit students based on factors that would *enhance* the law school community — give it some flavor. An applicant could qualify under diversity admissions if that applicant were a second career student, or had studied abroad, or possibly if that applicant happened to have a “Spanish surname.” The law school abandoned its commitment to the LEOP standards which served as predictors of community lawyers. Forty percent of the student body is now admitted under the Diversity Program, but because this school dropped its commitment to the LEOP standards, not all forty percent are “diverse.”

36. Mary Lou Villar is an Attorney at Law. Ms. Villar graduated from UCLA School of Law, Class of 1982. She works at the East Los Angeles Legal Aid office, and she is a community activist.

37. Legal Education Opportunity Program.

38. *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978).

I was admitted in 1979, and I was a member of the first diversity class. I entered along with twenty one other Raza students; about seventeen Blacks, and approximately thirteen Asians. During my last year here, 1981-82, Dean Warren³⁹ and the then Assistant Dean Prager⁴⁰ attempted to radically change the admissions process in two ways. First they decided, in all of their arrogant omnipotence, that Asians in the law school had reached parity with their numbers in the community at large, and therefore, they would no longer be admitted as minorities under the Diversity Program. Second, Dean Warren and Dean Prager proposed to centralize the admissions process, so that all decisions fell within the sole and unfettered discretion of Dean Mickey Rappaport.⁴¹

At that time, the students protested the racist stance taken by this law school — protested that this school could dare to dictate to us who was minority and say that Asians were no longer minorities. Moreover, the students vehemently opposed placing the admissions process in the unfettered discretion of one individual. The students fought to maintain the Admissions Committee which included students from the Third World organizations, and included faculty members committed to the LEOP standards.

Because the students protested, because we demonstrated, and because we ultimately took over the Admissions Office, our demands were met. Dean Warren and Dean Prager signed an agreement that during the next year Asians would continue to be admitted under the Diversity Program, and there would be no implementation of Mickey Rappaport as God, judge, and jury in the admissions process. The Deans agreed to meet with students the following year to discuss the admissions issues.

Last year, 1987, UCLA School of Law began a plan of attack to ensure its prestigious status as a nationally ranked law school. First it upped the minimum grade point average required to remain in school, in the hopes of flunking out minorities. This position was criticized by Hastings, Loyola, USC, and Golden Gate law schools. Second, it implemented its decision which it had considered years earlier, that Mickey Rappaport would be the sole decision maker regarding who was admitted through the Diversity Program, without input from students and faculty. This move should be seen for what it is: a racist, paternalistic and pejorative stance whereby this administration would dictate to us who qualifies as minorities. It is an absolute insult for Mickey Rappaport to sit and tell us who is a minority. We are the ones who know what defines us. We are farm

39. Former Dean of the UCLA School of Law. Mr. Warren is currently a law school faculty member.

40. Susan Prager is now Dean of the UCLA School of Law.

41. Dean of Law School Admissions.

workers, single parents, poor people, people whose educations were from inner city or rural schools. Neither Mickey Rappaport nor any other one individual can define us as minorities.

It is important for the Third World organizations to have input into the admissions process because we have a sense of the history and struggle that got us here. I came to this law school, as did most of you here, because many more before us struggled through years of oppression. Those who came before us fought to make changes, and to ensure that we have a *right* to attend this school. It is that sense of oppression that must guide us and be our focal point. If we fail to maintain the sense of struggle, if we forget the countless numbers who fought to ensure our place here, then we will become what UCLA wants us to become: those thousands of lawyers whose only sense of purpose is to see how much money they can make. Those lawyers are blind to the inequities that exist because it was never a part of their lives, and it is not profitable for them to change the situation even if they do recognize that inequities exist.

We need student input to ensure that the minority students who graduate from this law school are diverse, that they do not see their law degrees as a profit license, but rather as a tool to use in balancing the injustices. Those are the lawyers who will go out into the communities to fight for social change, such as an end to racism, classicism, and sexism.

This law school maintains that by allowing minority people into this school, they have lost prestige. They claim that minority students have lowered the school's bar passage rates. But the law school's position is a racist position. It is a ploy to keep out the people who challenge this law school's posture as it relates to being responsive to the needs of our communities. UCLA School of Law does not want to be questioned about its being a mill whose purpose it is to produce corporate attorneys. But we're here to question them on this point. We're here to question them about their lack of commitment to serving anyone but those who can pay for legal representation. We're here to ensure that this school admits students who are committed to continuing the struggle, committed to ensuring access for minorities to this public institution. And we're here to question UCLA's commitment to the community by graduating more minority students who want to work in their communities.

That is why it is imperative that minority students have input into the admissions process. We can and we must have a voice in who should be admitted here. We don't want students whose desire it is to work for O'Melveny and Myers, ITT, and IBM admitted as "diversity students," there are enough who come in under the regular admissions process who will scramble for those jobs. We can not sit back and allow the school to disseminate false information,

disseminate that they are committed to affirmative action goals that were attained through many years of work. If they say that they are committed to affirmative action, then we want students admitted who will continue the struggles of those before us; students whose legacy it will be to ensure that more, not less, minority people are admitted, retained, and ultimately graduate from this law school. We must not quit the struggle until we reach parity, and that day is a long way off. Until then, we must not become complacent. We have a right to be here, to stay here, and to demand that more of us graduate. Our goal can only be accomplished by giving the students an active and meaningful role in the admissions process.

When I graduated in 1982, I was the law school commencement speaker, and believe me, it was not something that was given to me. I spoke about the institutionalized racism at this law school, I spoke about the need to provide for an alternative to the corporate attorney, and the need to respond to the community by ensuring that minority lawyers graduate from here in greater numbers. For this I was booed. People did not want to hear about the realities of racism, but the reality is that this law school is a racist institution, and it's only getting worse.

As a graduate of the first diversity class, I am proof of our ability to graduate and pass the bar the first time. I did not bring down UCLA's bar passage rate, nor did I choose their corporate law path. I chose to serve the community, those people who cannot afford legal representation. But there is still a great need. We must fight for more community lawyers, and that fight begins by saying "no" to the law school's illegitimate admissions process.

—*March 30, 1988*