New York Times, May 16, 2002, p. A25

Learning From Diversity

By Jeffrey S. Lehman

On Tuesday, the Sixth Circuit Court of Appeals upheld the University of Michigan Law School's admissions policy, in which race is one of the many factors that can influence a decision. The ruling leaves in place a policy that is as cautious a form of affirmative action as one may find in higher education.

When 361 students enrolled at our law school this past fall, only 26 were African-American. That is 7 percent of the class in a nation where 13 percent of the citizens are black. A more aggressive affirmative action policy could easily have admitted many more black students, yet our policy led us to reject 70 percent of black applicants. (We rejected a lower percentage of white applicants.)

Some critics have called our admissions policy insufficiently attentive to the cause of racial justice. They find it shameful that we enroll so few black students and turn away so many. But our policy was not designed to compensate for segregation and discrimination in American society, past or present. It was designed to enroll a group of highly talented students who will, after three years of study, be as well prepared as possible for the modern legal profession. (We pursue other important values as well; our desire to sustain a continuity of identity for the law school leads us to favor Michigan residents and children of alumni.)

How does a school enroll a class that will end up as competent as possible at graduation? It is a matter of predictive judgment, not science. We consider each applicant's analytic ability and work ethic as revealed by grades, test scores, work experience, essays and letters of recommendation. Since legal education depends on intense interactions among students and teachers, we also consider what difference an applicant's presence would make to the mix.

> A law school's cautious use of affirmative action.

Enrolling students who have studied abroad or served as interns on Capitol Hill contributes to lively and sophisticated classroom dialogue. So does enrolling a racially integrated class. And students who learn at integrated campuses are better prepared to succeed in the courthouses and companies of America in 2002.

Some critics have argued that our admissions policy should not consider race at all. They contend that in light of the damage done by race consciousness throughout history, the law school should be rigidly colorblind, setting an example that will lead society in that same direction. This suggestion is wishfully utopian, as attractive as the ideal of colorblindness may be. Admissions policies like ours did not create race consciousness, nor are they the linchpin that keeps it in place. Race consciousness is every bit as strong in California and Texas today as it was before affirmative action was banned from their public universities.

Our policy follows the guidelines for the appropriate consideration of race in university admissions established by the Supreme Court in the Bakke case 24 years ago. It is both realistic and pragmatic. That is why Secretary of State Colin Powell and former President Gerald Ford have spoken out in support of our admissions policy, as have General Motors, 3M and 30 other major corporations. The court decision maintains a sensible balance. Colorblindness is an ideal, not an idol, and the Constitution does not require us to sacrifice effective education and integration in its name. □