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**LEGAL AID RECRUITMENT,
RETENTION, AND DIVERSITY:
A REPORT TO THE STATE BAR
OF CALIFORNIA**



Prepared for and at the request of the State Bar of California by The California Access to Justice Commission, in Collaboration with The Legal Aid Association of California



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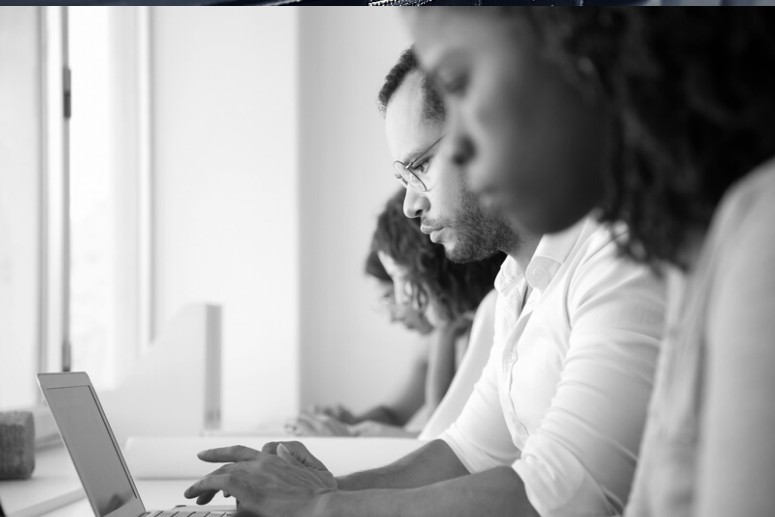
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EXECUTIVE SUMMARY



For the ideal of equal access to justice to become a reality, some very practical challenges must be overcome. To provide civil justice to people who cannot afford to pay for legal help, California needs more legal aid lawyers to serve more clients. The California Commission on Access to Justice applauds the California Legislature for two actions toward that very practical goal: a significant increase to the Equal Access Fund—to \$70 million this fiscal year and \$40 million ongoing—and expanding the pool of eligible clients. Now, however, legal aid organizations in California face additional practical challenges to recruit and retain the needed additional lawyers, and to enhance the diversity of their legal staffs. This report makes recommendations about meeting those practical challenges.

As of December 31, 2021, there was one civil legal aid attorney for every 4,000 Californians who were eligible for legal help funded by IOLTA money. **[1]** Thanks to the enactment of SB 429, which raised the income level of IOLTA-eligible clients from 125 percent to 200 percent of the Federal Poverty Level **[2]** many more Californians have become eligible. Now there is one lawyer in IOLTA-funded programs for every 7,000 eligible clients. **[3]** The Legislature has provided additional funding that can be used to meet the additional demand for legal aid. Even to bring the ratio back to its previous level, many new legal aid lawyers must be hired.

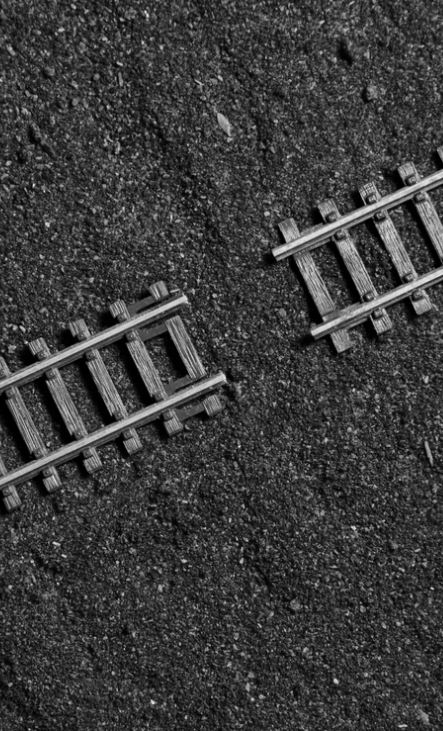


Legal aid organizations historically have asked their lawyers to accept substantially lower compensation than their peers receive. As the State Bar of California, the Legal Aid Association of California (LAAC), and others have recognized, hiring and retaining lawyers has become a major barrier to legal aid programs' effectiveness. The State Bar's 2019 *California Justice Gap Study* and LAAC's 2020 recruitment and retention report *Justice at Risk* found that legal aid organizations face serious difficulties in recruiting attorneys—job openings can stay unfilled for months—and retaining current staff. In 2018, 233 out of approximately 1,500 full-time legal aid lawyers in California left their jobs. **[4]** Our work on this report confirmed that these difficulties continue today.

Legal aid attorneys could earn substantially more if they worked for a government agency and even more from a job in a private law firm. The pay disparity poses the number one obstacle to hiring and retaining legal aid lawyers. Low compensation is compounded by the burdens of student loan payments. Over 60 percent of legal aid lawyers have educational debt, with the median amount being between \$125,000–\$149,000 and more than a third having \$200,000–\$300,000 or higher. **[5]** Further, the problem is even worse for legal aid lawyers of color who have a median educational debt range of \$200,000–\$225,000 (2014 to 2018 graduates). **[6]**

The burden of student loan payments has been placed on temporary hold since March 2020 by the moratorium on payments and interest accruals on federal student loans during the COVID-19 pandemic. However, the federal student loan moratorium will end on May 1, 2022. **[7]** There is abundant reason to expect that the recent near-standstill in new legal aid hires in California will become even worse when full student loan repayment obligations resume.

In this report, the Access Commission recommends measures to address these economic obstacles and other measures to recruit and retain the legal aid lawyers necessary for effective provision of legal services to low-income Californians provided by attorneys who more closely reflect the diversity of their clients:



Recommendation 1: California legal aid organizations should adopt and implement plans to narrow the gap between their compensation and the compensation for lawyers in government agencies. The State Bar and other legal aid stakeholders should provide support.

- **Recommendation 1.1:** The management and governing body of each California legal aid organization should be encouraged to adopt a plan to increase lawyer compensation to come closer to that of other agencies, including governmental entities, with which they compete for staff.
- **Recommendation 1.2:** Supporters of legal aid organizations should provide information to the State Legislature about the value of: (a) obtaining additional funding earmarked for legal aid compensation increases; and (b) adding language in substantive legislation or the State Budget Act to recognize expressly that Equal Access Fund money may be the direct source for legal aid staff lawyer compensation increases.

Recommendation 2: California legal aid organizations and supporting organizations should act to mitigate the burdens of student loans on prospective and current legal aid staff members.

- **Recommendation 2.1:** Legal aid organizations should consider and, if feasible, offer Loan Repayment Assistance Programs that take advantage of available tax exemptions.
 - **Recommendation 2.1.1:** The State Bar or LAAC (if funding can be made available) should engage an expert on LRAP programs to provide California legal aid organizations with training and consulting services on how to structure LRAP programs to make best use of federal and State tax exemptions.
 - **Recommendation 2.1.2:** The State Bar and other supporters of California legal aid organizations should work to educate the State Legislature about the value and financial leverage that would result if the State were to provide funding in the future for LRAP programs that take advantage of tax exemptions.
- **Recommendation 2.2:** Legal aid organizations and their supporters should take steps to improve the prospects for staff members obtaining loan forgiveness.
 - **Recommendation 2.2.1:** Training and advice for legal aid organizations (see Recommendation 2.1.1) could help them support their employees' compliance with the requirements for PSLF.
 - **Recommendation 2.2.2:** Each legal aid lawyer who has outstanding student loans should have the opportunity to receive training materials and expert consultations.
- **Recommendation 2.3:** The State Bar's LRAP and Loan Forgiveness Working Group and/or LAAC could prepare a report on student loan issues to educate the public and the State Legislature using the results of the State Bar's 2021 survey of government, legal aid, and public interest lawyers entitled *Understanding Student Loan Debt Options for Public Interest Attorneys*.





Recommendation 3: The management and governing boards of legal aid organizations should implement other measures identified in *Justice at Risk*. For recruitment, these should include internship programs and participation in fellowships. For retention, organizations should implement mentoring, career development and work satisfaction programs.

Obstacles to recruitment and retention of legal aid lawyers also impedes legal aid organizations' efforts to enhance the diversity of their lawyers at a time when the importance of such diversity is clearer than ever. As the newly-revised *ABA Standards for the Provision of Civil Legal Aid* [8] state:

A legal aid organization should function in ways that demonstrate a commitment to equity, inclusion, and diversity, as well an understanding of how racism, discrimination, and poverty intersect in this country. To the degree possible, its staff and governing body should reflect the diversity of the populations that it serves (*Id.*, Commentary to Standard 4.4.)

Similarly, the new Standard 4.5 "On Staff Diversity" [9] states:

Legal aid organizations should be intentional about hiring, including, and retaining a diverse workforce that mirrors the communities and individuals that they serve. Non-traditional approaches should be considered in efforts to reach and maintain staff and leadership diversity.

To address the compelling need to achieve greater diversity in legal aid staff, we make the following recommendations.





Recommendation 4: Legal aid organizations and their supporters should undertake focused actions to recruit and retain staff lawyers whose diversity mirrors that of their clients.

- **Recommendation 4.1:** Because student loans disproportionately affect law graduates of color, legal aid organizations should adopt measures to mitigate the burdens of student loans as a priority.
- **Recommendation 4.2:** The management and governing body of each legal aid organization should regularly and deliberately consider whether the organization “has the awareness, attitude, skills, knowledge, and resources necessary to provide assistance in a culturally competent manner and in order to be responsive to, and aligned with, the interests of those people most affected by poverty, racism, discrimination, and other forms of structural oppression” and should undertake periodic evaluations of these attributes (Standard 4.4 of the *ABA Standards for the Provision of Civil Legal Aid*).
- **Recommendation 4.3:** Legal aid organizations should use LAAC’s *Diversity, Equity, and Inclusion and Racial Justice Toolkit for Civil Legal Aid Organizations* [10] and follow Standard 4.5 of the *ABA Standards for the Provision of Civil Legal Aid*.
 - **Recommendation 4.3.1:** Legal aid organizations should sponsor and/or participate in internship or fellowship programs that are focused on diversity. We recognize, in particular, the Legal Fellowship Grants program run by California ChangeLawyers. Funders should support such programs.
 - **Recommendation 4.3.2:** Affinity Bar Associations and diverse lawyers and judges should participate with legal aid organizations and, if necessary, help to create mentorship programs linking diverse beginning and junior legal aid lawyers with experienced lawyers from outside the organization.

The State Bar of California has long been a leader in the diversity of the profession. It can continue that leadership if it engages in the activities suggested above. We make the following recommendations:

Recommendation 5: By taking the following actions, the State Bar of California can advance recruitment, retention, and diversity of the staffs of legal aid organizations.

RECRUITMENT AND RETENTION:

- **Recommendation 5.1:** Encouraging each legal aid organization to adopt a plan for raising lawyer compensation to equal at least the entry level for lawyers at the low end of government agencies, including consideration of compensation mechanisms other than or in addition to raising salaries.
- **Recommendation 5.2:** Providing training to legal aid organizations' managers, and engaging and paying a consultant to provide them with individualized advice about how to establish tax-sheltered LRAPs and how to provide employees with the regular certifications that debtors must submit to maintain their eligibility for Public Service Loan Forgiveness.
- **Recommendation 5.3:** Providing or supporting training and advice for legal aid lawyers on compliance with the requirements for PSLF.
- **Recommendation 5.4:** Providing the State Legislature with information on the low levels of compensation for legal aid staff lawyers and the burdens of student loan debt, and advocacy supporting funding for pay raises and employer LRAPs.
- **Recommendation 5.5:** Continuing to support legal aid programs in improving work conditions and satisfaction in ways detailed in *Justice at Risk* and Standard 4.5 of the *ABA Standards for the Provision of Civil Legal Aid*.





ENHANCING DIVERSITY:

- **Recommendation 5.6:** Encouraging California lawyers, as donors, and other funders others to support paid internships and fellowships—with a focus on diversity for legal aid programs—in legal aid organizations (Recommendation 4.3.1).
- **Recommendation 5.7:** Encouraging the California Lawyers Association and local and affinity bar associations to organize mentoring programs (Recommendation 4.3.2), and encouraging California lawyers to participate.
- **Recommendation 5.8:** Encouraging legal aid programs' efforts to follow Standards 4.4 and 4.5 of the *ABA Standards* and implement measures described in LAAC's *Diversity, Equity, and Inclusion and Racial Justice Toolkit for Civil Legal Aid Organizations* (Recommendations 4.1, 4.2, and 4.3).

We thank the State Bar for sponsoring this report and for its continuing efforts to improve the California legal profession, including especially the institution of legal aid for low-income Californians.

SOURCES FOR THIS REPORT

Zach Newman and Salena Copeland of the Legal Aid Association of California provided research and participated in drafting and editing this report, as did Catherine Blakemore and Jack Londen of the Access to Justice Commission. We have obtained input on this report and recommendations from members of the Access Commission’s committees on Legal Aid Funding and Racial Justice and Intersectionality, and it will be submitted for final approval by the Executive Committee after we receive comments from the State Bar staff.

We have reviewed literature including the State Bar’s *Justice Gap Study* and its *Report Card on the Diversity of California’s Legal Profession*, [11] LAAC’s *Justice at Risk* report, and OneJustice’s data compilations on the compensation of legal aid organizations in California.

In addition, in collaboration with LAAC, we issued two questionnaires—one to legal aid Executive Directors and the other to legal aid staff members—seeking ideas about the pressing recruitment and retention issues for civil legal aid programs.

Three Access Commission personnel have participated over the past year in the State Bar’s LRAP and Loan Forgiveness Working Group. The members of that Working Group are:

- Heather Anderson
 - Banafsheh Akhlaghi
 - Catherine Blakemore
 - Eric Isken
 - Judge Erica R. Yew
 - Jack Londen
 - Panida Rzonca
 - Judge Kristin Rosi
-
- With support from Erica Carroll, Elizabeth Hom, Doan Nguyen, and Christopher McConkey.

The State Bar’s staff compiled extensive research on options for addressing the burdens of student loans. That work led us to do research on changes in federal tax law related to student loan payments and to consult with an expert on student loan mitigation options. In support of the Working Group, Erica Carroll and the research staff of the State Bar conducted a survey of over 16,000 California lawyers in government, legal aid and other nonprofit jobs to report to the Working Group on student loan burdens and to inform this study’s assessment of options to mitigate those burdens.

BACKGROUND

THE NEED FOR LEGAL AID LAWYERS OUTSTRIPS THE FUNDING FOR LEGAL AID ORGANIZATIONS

As the State Bar’s *Justice Gap Study* documents, civil legal problems and opportunities touch the lives of almost everyone. To be treated justly and obtain results that reflect a correct application of legal rules and procedures on the merits, almost everyone requires at least some assistance. For some of the legal issues with the most impact, assistance is essential to obtain justice. Legal aid organizations have existed for more than 100 years in California to serve indigent people who lack the economic means to pay for that assistance themselves. [*] This means that legal aid organizations and their staffs must obtain funding from sources other than the clients they serve. California provides 100 legal aid organizations with funding through the IOLTA program and the Equal Access Fund. [12]

The Access Commission thanks and salutes the State for increasing the amount of the ongoing EAF appropriation and for even larger one-time funding for 2021, but we note that low interest rates have reduced IOLTA funding. However, as we have noted, with the welcome expansion of the IOLTA client base to include Californians whose income is 200 percent of the Federal Poverty Level under SB 498, there are even more eligible clients—a ratio of 7,000 clients for every legal aid lawyer in California. [13]

[*] Modest income people also are unable to afford market rates for lawyers for many legal issues that affect their lives. The Access Commission seeks to address this problem; however, the focus of this report is on legal aid organizations and the low-income clients eligible for their services.



LEGAL AID

Legal Aid Recruitment, Retention, and Diversity

The *Justice Gap Study* stated in 2019 that:

Reports from State Bar-funded legal aid organizations indicate they cannot resolve every case presented to them: help was inadequate for 63 to 70 percent of problems reported [because of] insufficient resources, conflicts of interest, and the problem type not aligning with an organization’s mission or priorities. [14]

The Executive Summary also reported that:

Low-income Californians approached State Bar-funded legal aid organizations for help with over 450,000 civil legal problems and **were fully served for only 30% of those problems.**

Id. (Emphasis in original.) While the recent funding increases have helped significantly, there is no evidence that this problem has been solved.

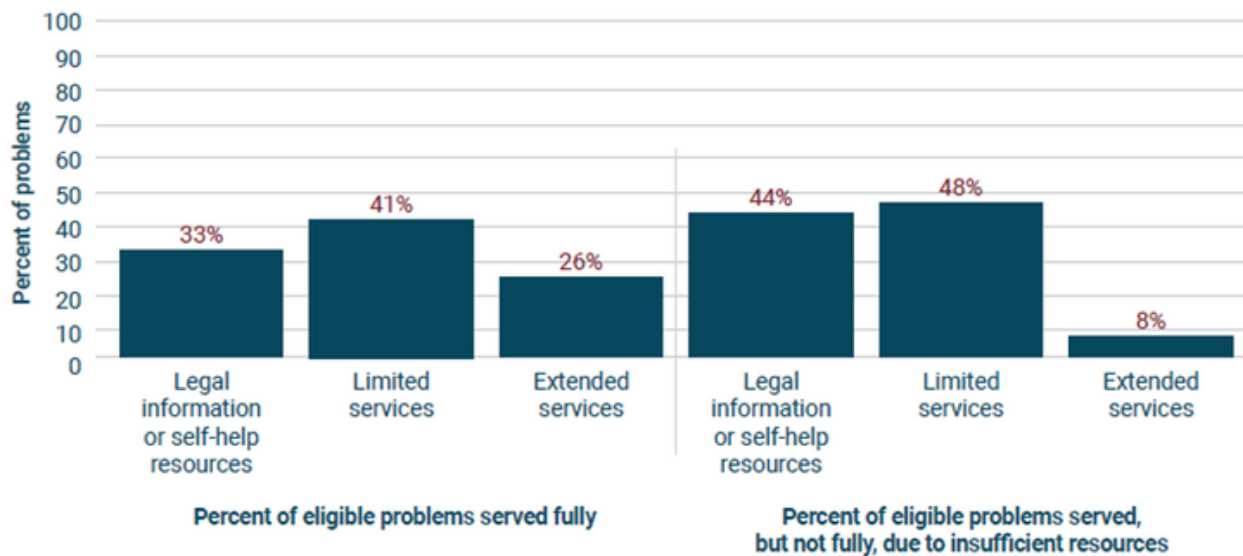
Use of fund increases to recruit and retain more lawyers is not only justified, it is necessary and urgent. To be sure, there are methods of service delivery, such as self-help training, that can be increased without increasing the time spent by staff lawyers. But the evidence demonstrates that “extensive” [15] representation by lawyers is the method of providing legal help that is in most short supply—especially taking into account the seriousness of the interests involved and the difficulty of the matters. [16] The *Justice Gap Study* observed:

The majority of problems for which clients [of legal aid programs] were fully served are resolved through providing legal information, advice, or self-help resources for clients to solve problems on their own (33 percent) or by providing “limited services,” which include services that were brief and/or uncomplicated—such as writing a letter or preparing straightforward documents—in order to resolve the case (41 percent). “Extended services” are the most resource-intensive and indicate that the legal aid organization provided ongoing assistance—such as conducting complex legal research or providing representation in court—to bring the case to completion. This type of service resolved just 26 percent of fully served problems and represented the smallest proportion of problems for which clients are fully served. See Figure 15. [17]

Data collected from the 2019 Intake Census shows the low number of legal aid clients who received the services they needed. Together, these results indicate that legal aid programs provided extended services for less than 10 percent of the problems of eligible people who requested assistance (and even less of all). [*] This can reflect only a dramatic shortage of legal aid lawyers.

[*] The *Justice Gap Report* reported that, out of eligible people with problems, 30 percent of them were served fully; and among the 30 percent, only 26 percent (or 8 percent of problems of eligible clients with problems) received extended services. In addition, among the 22 percent who received services that did not fully meet the needs, 8 percent (1.8 percent of problems of eligible clients who sought help) received extended services. *Id.* Since many people with problems never seek help, the 9.8 percent of problems of eligible clients handled though extended services overstates the percentage of problems for which full representation by a lawyer is available.

Figure 15. Types of legal assistance provided



Based on data from the 2019 Intake Census

Normative standards for legal aid organizations, the *ABA Standards for the Provision of Civil Legal Aid*, say that organizations should either offer full representation by their own staff lawyers or participate in a local or regional system in which other providers offer full representation. This requires recruiting and retaining more lawyers.

THE HISTORIC PRACTICE OF LOW COMPENSATION FOR LEGAL AID LAWYERS

Some managers of legal aid organizations report that they have historically responded to the shortage of funding by seeking—with success—to attract staff lawyers willing to accept levels of compensation distinctly lower than what lawyers earn from other types of employers. As shown below, this disparity continues today.



Legal Aid Recruitment, Retention, and Diversity

In addition, when funding to legal aid organizations has increased, managers of the organizations report that their historic practice has been to hire more lawyers or otherwise expand service capacity instead of using funding increases to reduce the disparity in compensation levels compared to lawyers who work elsewhere. Some managers also report the worry that policymakers who approve funding increases would be less likely to do so in the future if substantial portions went to raises sufficient to close the pay gap. [*]

Today, though, aspiring legal aid lawyers face at least one significantly higher obstacle to accepting the low compensation offered by legal aid jobs. Average tuition at ABA-accredited law schools nearly tripled from 1985 to 2019. [**] As a consequence, student loan balances of law school attendees grew from an average of \$82,400 in 1999–2000 to \$145,500 in 2015–2016. [18] Another source reports the average 2019–2020 level as \$160,000. [19]

The disparity in compensation for legal aid lawyers has a level that threatens the ability of legal aid organizations to hire and retain lawyers. The State Bar's 2019 *Justice Gap Study Executive Report* [20] explains:

[*] Legal aid organizations do raise compensation levels regularly, and have done so in the past three years as is discussed below. However, their rates of increase have not been enough to narrow the compensation gap as compared to what state and local government agencies pay their lawyers, as Graph 1 below shows.

[**] According to the organization Law School Transparency, the reported 1985 average tuition was \$17,871 (in 2019 dollars) and \$49,312 in 2019, or 276 percent of the 1985 amount. [https://data.lawschooltransparency.com/costs/tuition/#:~:text=Inflation%20has%20been%20a%20factor,was%20%2449%2C312%20\(2019%20dollars\)](https://data.lawschooltransparency.com/costs/tuition/#:~:text=Inflation%20has%20been%20a%20factor,was%20%2449%2C312%20(2019%20dollars).).

Despite increased funding for legal aid in recent years, recruitment and retention of attorneys has become an acute issue for legal aid organizations in California. A 2010 survey by the Legal Aid Association of California (LAAC) found that over one-third of attorneys working in legal aid left within three years of being hired. This trend appears to be accelerating, with legal aid organizations reporting in LAAC's most recent 2019 survey that one-third of their attorneys left within two years.

This problem is compounded by recent difficulties in recruiting, with smaller pools of applicants for open positions. Between October and November 2019, almost 60 attorney positions had been posted by over 20 legal aid organizations throughout California in the preceding two months. One executive director reported receiving as few as five applicants for a position that typically would have seen over 100 applications in years past.

According to LAAC's most recent study, the primary factors impacting recruitment and retention are low salaries, few career advancement opportunities, and burnout. Salaries at legal aid organizations are drastically lower than their equivalents in private practice, and even in government. *Id.* at 17 [endnotes omitted].



LAAC’s 2020 *Justice at Risk* report showed a recruitment crisis that still continues. Many organizations have shared that they are struggling to hire attorneys when they are able to fund a new job opening, causing delays in starting new work or expanding projects. But when legal aid jobs cannot be filled and the existing staff lawyers are already overworked, raising legal aid pay is essential to serve more needs—particularly for clients whose problems can most effectively be addressed by a lawyer.

Since 2019, legal aid organizations have begun to respond to this challenge by increasing compensation. Compared to the \$57,000 median starting salary in 2019 reported by LAAC in *Justice at Risk*, the 2021 survey by OneJustice of compensation levels shows an average starting salary of around \$64,000. This increase has not, however, closed the gap with other comparable legal jobs. Here are current comparisons with the average entry-level pay of lawyers in government agencies:

Graph 1: Starting Legal Aid Salary vs. Starting Government Job Salary

While the average legal aid salary appears to have increased over the past couple of years, it is still far below average government legal job salaries. On average, the salaries for entry-level legal aid positions can be around \$25K or more below the entry-level salaries for government legal jobs.

Legal Aid	\$64,206
Deputy Attorney General	\$89,730
County Counsel	\$94,617
Public Defender	\$99,616
District Attorney	\$100,539

“Legal Aid” presents the average starting salary, from OneJustice’s salary report. The entries for government jobs are average salaries of the top and bottom salaries in the salary range (same for Graph 2) for entry-level, no experience required positions, averaged across counties. For both Graph 1 and Graph 2, the entries for government jobs are based on available data from a selection of the counties used in LAAC’s *Justice at Risk* report for continuity, including San Francisco, Fresno, and Sacramento, and one addition, Solano County.

Substantial pay disparities continue. This is not a problem limited to recruitment. Low compensation affects retention as well. Here are comparisons at more senior levels:

Graph 2: Senior or Supervising Legal Aid Attorney Salary vs. Comparable Experience Government Jobs

The starting salary gap is exacerbated with increases in experience. The gap between lower salaries in legal aid grows from entry-level to around five years of work experience. This results in the fact that people leave legal aid to join government entities.

Legal Aid	\$92,451
Deputy Attorney General	\$136,644
County Counsel	\$149,774
Public Defender	\$160,638
District Attorney	\$149,476

The specified experience level may differ due to different position titles and exact experience required. The supervising, senior attorney position is compared to a government position of likely similar time (approximately four or five years). The legal aid entries do not take into account director-level, non-Executive Director positions.

The Deputy Attorney General pay scale differs from the other government jobs insofar as it features sublevels within the pay scale, beginning at "A" and going through "D." Source: https://www.calhr.ca.gov/Pay%20Scales%20Library/PS_Sec_15.pdf. To compare meaningfully with the averages for the other government jobs, we included the average of "A" level and "B" level in order to approximate the starting salary (although we have been told that there are very few hires at the "A" level). Additionally, we included the pay scale for Deputy Attorney General III for Graph 2's focus on more experienced positions, which appeared to be the closest to the years of experience requirements. Job description source: <https://www.calhr.ca.gov/state-hr-professionals/Pages/5730.aspx>.

The first section of our recommendations, below, identifies ways of supporting increased compensation levels for legal aid staff lawyers.

BURDEN OF STUDENT LOANS

Our second set of recommendations addresses the burden of debt. The low prevailing compensation for legal aid attorneys is compounded by the increased reliance on borrowing to finance the costs of undergraduate and law school education. The *Justice Gap Study's* Fact Sheet on "Legal Aid Recruitment and Retention Challenges" [21] states:

The most widely cited reason for law students to abandon their initial intent to pursue public interest careers (i.e., "public interest drift") was the need to repay educational debt.

The high amounts of debt reflect, of course, the high prices charged by law schools for tuition. The schools' ability to charge as much as they do is, at least in part, a consequence of reliance on student loans because they allow schools to charge based on the future earnings prospects of students instead of their short-term ability to pay. (See the *Justice Gap Study Executive Report* at 19–20.) Both tuition levels and loan terms and interest rates reflect typical expected earnings. (Comments made during the preparation of this report included a forceful argument that, as compared to measures to mitigate student loan debt alone, a more fundamental reform in support of access to justice generally would be to reduce law school tuition levels. This would make it possible for more people to become lawyers and provide legal help at lower cost. Lower law school tuition would benefit all, not only lawyers in public service and their clients.) They are thus inherently burdensome for prospective legal aid lawyers, whose earnings prospects are substantially lower than what is typical. The amounts of debt and interest that are built into the current system of post-secondary education finance will routinely deter many law students from pursuing this career.

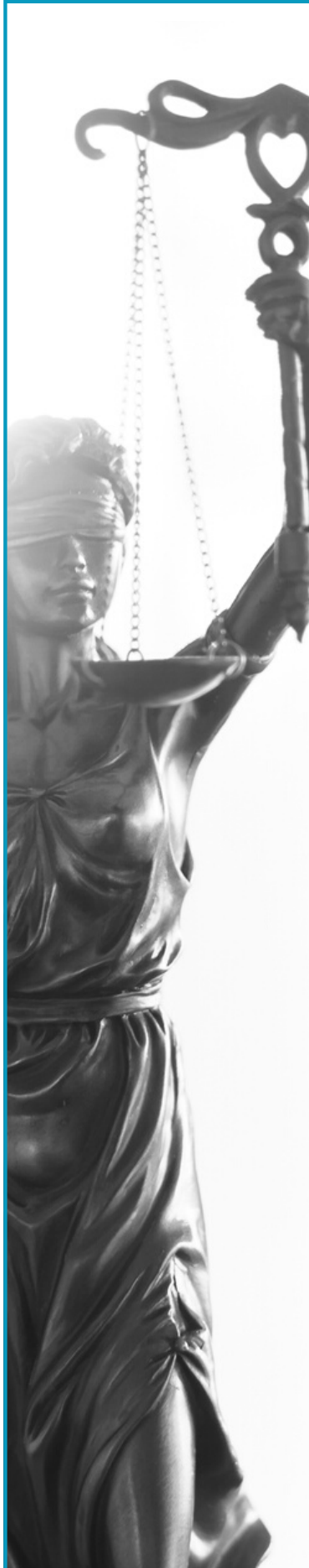
An example demonstrates this problem:

Assume that: A new legal aid lawyer at an Alameda County legal aid program earns an average starting salary of \$64,000 and has \$200,000 in public student loan debt.

- The new lawyer's net income after taxes and student loan payments is \$45,252. **[22]**
- The lawyer participates in an income-driven repayment (IDR) program with initial loan payments of \$4,416 per year.
- \$33,699 is the current after-tax minimum cost of living in Alameda County for a single earner with no children. **[23]**
If the legal aid lawyer has one child to support, the minimum cost of living is \$71,885.

Comparable amounts for other urban areas are:

- San Francisco: \$42,207 and \$87,085.
- Los Angeles: \$31,191 and \$65,208.
- San Diego: \$32,691 and \$66,112.



The example shows that accepting a starting job at a legal aid organization in any urban area in California means forgoing an opportunity to take vacations, purchase a home, support a family, or plan for retirement. These amounts assume an income-driven repayment (IDR) plan starting out at \$4,416 per year in loan payments. At standard repayment rates, loan payments would be \$27,720 per year, leaving an Alameda County legal aid lawyer with \$22,863 after taxes and loan payments in a market with a minimum cost of living that is thousands of dollars higher.

Moreover, the IDR payment program has another serious deficiency in that at the interest rates that California lawyers report paying currently, IDR payments fall short of covering the interest accruing on the borrower's loan balance. That interest deficiency itself generates an interest charge, so the loan balance gets larger over the years, not smaller. It is also a (somewhat surprising) fact that the interest rates reported in the State Bar survey results for federal Direct Loans are higher than for private loans, based on State Bar survey results. (The Millennial age cohort of survey respondents reported paying a mean interest rate of 6.17 percent on Federal Direct Loans, and a mean average interest rate of 5.27 percent on private law school loans. The State Bar of California, *Understanding Student Loan Debt Options for Public Interest Attorneys* [Unpublished data], (2021).) For both of these reasons, twenty years out of law school, our Alameda County legal aid lawyer will have paid over \$136,000 (all of it for interest) and still owe \$249,000, \$49,000 more than the amount initially borrowed. [24]

Obtaining loan forgiveness therefore is essential. Responses to the State Bar's recent survey indicate that over 75 percent of legal aid and government lawyers in California have hoped to receive Public Service Loan Forgiveness (PSLF) after ten years. Currently, however, the most recent Department of Education report indicates that 98 percent of the applications received for PSLF were rejected. [25] If the hypothetical Alameda County legal aid lawyer continues making income-driven payments for 25 years, they may receive loan forgiveness under programs other than PSLF. [26] But after 10 years, in which they will have paid over \$50,000 in interest, if the lawyer leaves legal aid (perhaps because here PSLF application is denied) for a higher paying job, their loan balance will then be \$241,000. If they then pay under the standard ten-year repayment plan, they would pay an additional \$93,000 in interest while paying the loan off. Their total payments, including the original \$200,000 borrowing amount, interest paid while at legal aid for ten years, and interest paid for the next ten years would be \$343,000.

It is important to note that these totals are highly dependent on the interest rates charged. Future reforms and changes in prevailing interest rates could lower the federal interest rates. But at present, prevailing interest rates are expected to rise. [27] So while these amounts may change, it appears arithmetically unlikely that our exemplary legal aid lawyer would be able to reduce their loan balance at all while paying under the Income-Driven Repayment program—which is the only alternative that they could afford.

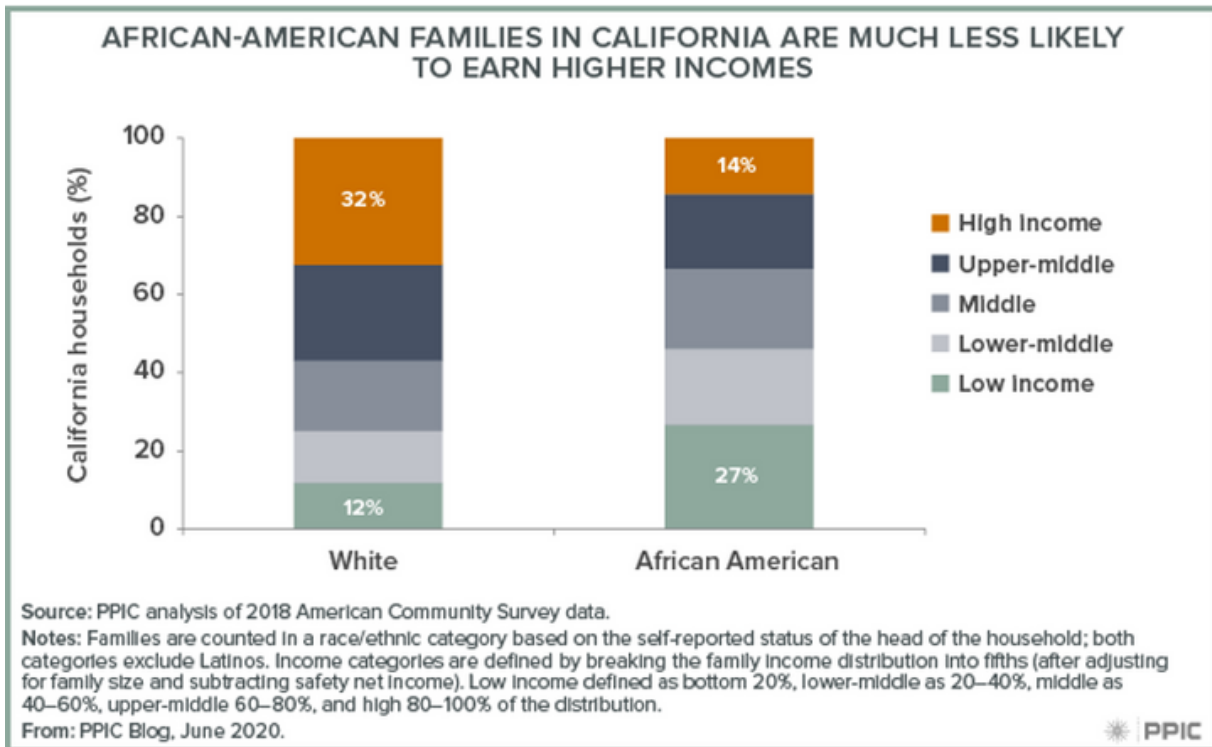
In short, the burden of student loans for the lawyer in our example could easily transform the below-market level of compensation into one that makes it impossible to continue or even consider a legal aid career, at least in urban areas of California.

The second section of our recommendations, below, proposes potential measures to mitigate the burden of student loans.



SYSTEMIC RACIAL DISPARITIES COMPOUND THE ECONOMIC OBSTACLES

Among many forms of disparity affecting Black or Indigenous people and other people of color (BIPOC people), a constant factor is economic inequality. Both income and wealth are distinctly unequal (see the below graph [28]).



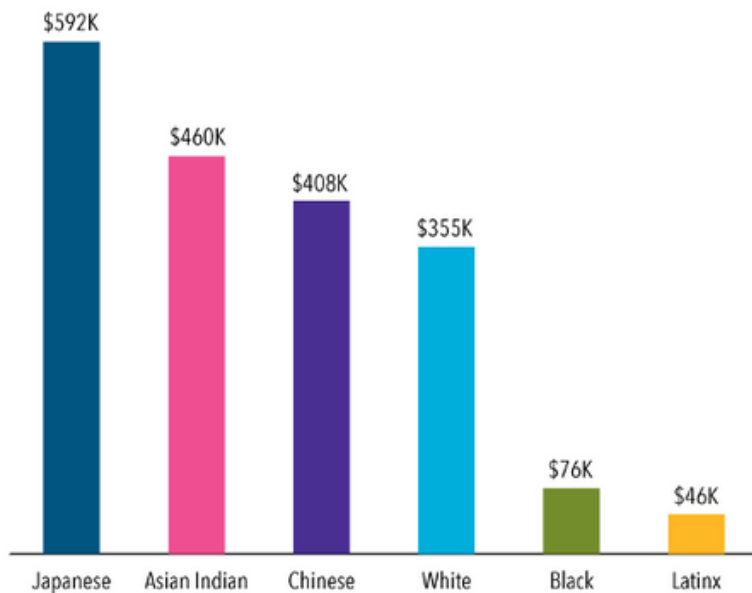
According to the Public Policy Institute of California (PPIC) [29]:

Overall, Latino workers earn, on average, less than 60 cents per dollar earned by white workers. Although some of this difference can be attributed to recent Latino immigrants with lower skills, even Latinos born in the United States face substantial wage gaps. Between 1979 and 2000, there was little change in wage differences between U.S.-born Latinos and whites in California: Latino men earned between 81 and 83 cents for every dollar earned by white men, and Latina women earned between 79 and 85 cents for every dollar earned by white women.

Black and Latinx families possess more limited economic resources to support the educational costs and the start of careers of young adults (see, for example, the below graph [30]).

In the Los Angeles Area, Black and Latinx Californians Have Significantly Less Wealth Than Do Other Groups

Household Median Net Worth by Race and Ethnicity, 2014



Note: Data are for Los Angeles and Orange counties.

Source: 2014 National Asset Scorecard and Communities of Color survey. See Melany De La Cruz-Viesca et al., *The Color of Wealth in Los Angeles* (Duke University, The New School, the University of California, Los Angeles, and the Insight Center for Community Economic Development: March 2016).



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Independent Analysis. Shared Prosperity.

COVID-19 economic disruptions exacerbated these disadvantages. [31] Thus, the economic reality of below-market pay and high student debt hurdles that can impede recruitment of a new lawyer to a legal aid job will more often and more profoundly affect a Black or Latinx lawyer. Student loans also impose disproportionate burdens on Black and Latinx men and women. [32]

Law school enhances the disparities in levels of student debt: “In 2016, U.S. Department of Education and National Center for Education Statistics found racial disparities in cumulative school debt: Black students held \$198,760, Hispanic students held \$149,573, and White students held \$100,510.” [33] *Justice at Risk* reports that “[a]ttorneys of color have a median range of \$200,000 - \$225,000, and White attorneys have a median range of \$175,000 - \$199,000.” [34] Measures to mitigate low compensation and high student debt burdens for legal aid lawyers are crucial to improving the diversity of the staffs of legal aid organizations.

DIVERSITY IS VITAL IN THE LEGAL AID SECTOR

The State Bar’s 2020 *Report Card on the Diversity of California’s Legal Profession* [35] presents data on the representation of demographic groups in sectors of the legal profession including the nonprofit sector:

REPORT CARD ON THE DIVERSITY OF CALIFORNIA’S LEGAL PROFESSION

The State Bar of California

Table 4
Racial/Ethnic, Gender, LGBTQIA+, and People with Disabilities Representation by Employment Settings Compared with Statewide Attorney Population

	Attorneys Statewide	Law Firm	Corporate In-House Counsel	Government Sector	Nonprofit Sector
Race/Ethnicity					
White	68%	69%	63%	61%	56%
Hispanic/Latino	7%	6%	5%	9%	13%
Asian	13%	11%	18%	13%	13%
Black/African American	4%	2%	4%	6%	5%
American Indian/Alaska Native	0.3%	0.2%	0.1%	0.3%	0.2%
Native Hawaiian/Other Pacific Islander	0.3%	0.3%	0.5%	1%	0.3%
Middle Eastern/North African	1.5%	2%	2%	1%	1%
Multiracial	5%	6%	6%	7%	9%
Other Race, Ethnicity, or Origin	2%	2%	2%	2%	2%
Total	100%	100%	100%	100%	100%
Men					
White	42%	44%	35%	29%	20%
Hispanic/Latino	4%	3%	3%	4%	3%
Asian	6%	6%	8%	5%	3%
Black/African American	2%	1%	2%	2%	1%
American Indian/Alaska Native	0.1%	0.1%	0.1%	0.1%	0.1%
Native Hawaiian/Other Pacific Islander	0.2%	0.1%	0.2%	0.3%	0.1%
Middle Eastern/North African	1%	1%	1%	1%	0.4%
Multiracial	2%	3%	3%	3%	3%
Other Race, Ethnicity, or Origin	1%	1%	1%	1%	1%
Women					
White	26%	25%	28%	32%	36%
Hispanic/Latino	3%	3%	2%	5%	9%
Asian	7%	6%	10%	8%	9%
Black/African American	2%	1%	2%	4%	4%
American Indian/Alaska Native	0.1%	0.1%	0.03%	0.2%	0.2%
Native Hawaiian/Other Pacific Islander	0.2%	0.2%	0.3%	0.3%	0.2%
Middle Eastern/North African	1%	1%	1%	1%	1%
Multiracial	2%	3%	3%	4%	6%
Other Race, Ethnicity, or Origin	1%	1%	1%	1%	2%
Total	100%	100%	100%	100%	100%
LGBTQIA+	7%	6%	7%	9%	14%
People with Disabilities	5%	3%	2%	4%	5%

These data show, first, that the legal profession does not reflect the diversity of California. Although representation of Latinx, Black, and Asian women, LGBTQIA+ people and people with disabilities in the nonprofit sector exceed their proportions of the legal profession as a whole, these groups are still under-represented compared to the population as a whole. The shortfall is even greater when we consider the imperative for legal aid organizations to “function in ways that demonstrate a commitment to equity, inclusion, and diversity, and competence in responding to that diversity, as well as an understanding of how racism, disability discrimination, and poverty intersect in this country and in its service area. **To the degree possible, its staff should reflect the diversity of the populations that it serves.**” (Commentary to Standard 4.5, *ABA Standards for the Provision of Civil Legal Aid* (emphasis added).)



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For California programs funded by the Legal Services Corporation, Latinx people made up 38.7 percent of the clients served in 2020; Black clients were 18.5 percent, Asian clients were 6.5 percent, and Native American/Indigenous people were 2.2 percent. **[36]** The makeup of legal aid staffs falls dramatically short of the proportions of the Black, Latinx, and Native American/Indigenous clients the programs serve. A great deal of progress remains to be made, including, but also going beyond, reducing the barriers to recruitment and retention.

The third section of our Recommendations below identifies measures to increase the diversity of lawyers employed in California legal aid organizations.

RECENT INCREASES IN STATE FUNDING FOR LEGAL AID CREATE NEW OPPORTUNITIES

Given the challenges to improving recruitment, retention, and diversity of legal aid staffs, the very recent substantial increases to support for legal aid in the 2021–22 State Budget comes at an opportune time.

LAAC has prepared a summary of the impact of the State Budget Act of 2021 on California legal aid organizations. [37] In pertinent part, it states:

California's budget now includes a significant investment of one-time and multi-year funding to support the legal aid safety net for California's most vulnerable residents. . . . [T]he budget bill signed in late June contains unprecedented resources for legal aid. That budget . . . contains \$50 million dollars in new state funding for civil legal aid through the state's Equal Access Fund (EAF), \$80 million in federal funding from the American Rescue Plan Act for civil legal services for homelessness prevention over three years, and \$20 million in new funding for civil legal services for seniors. After narrowly holding on to level funding last year, this year's budget represents a historic investment in legal aid.

FUNDING (BY YEAR, IN MILLIONS)

YEAR	2020	2021	2022	2023	2024
EAF (GENERAL FUNDS)	\$20	\$20	\$70*	\$40**	\$40**

* AVAILABLE NOW TO SPEND OR CARRY OVER TO LATER YEARS

** PLEDGED, SUBJECT TO CONFIRMATION IN FUTURE STATE BUDGETS

Of the \$70 million in 2022, \$50 million is one-time funding and \$5 million is earmarked for infrastructure and innovation grants, not for ongoing operational expense. That \$5 million may also be earmarked in subsequent years.

In the recommendations below, we identify possible uses of funding to enhance recruitment, retention, and diversity of legal aid staffs. While not sufficient to solve these problems, the recent increases may allow legal aid organizations receiving the new funding to implement some of the recommendations.

RECOMMENDATIONS AND DISCUSSION

From the State Bar’s *Justice Gap Study*, LAAC’s *Justice at Risk* report, responses to our questionnaires, and other sources it is clear that low compensation is the number one obstacle to recruitment and retention of lawyers by legal aid organizations. *Justice at Risk* reported that among legal aid lawyers considering leaving their jobs, more than 60 percent reported “financial pressure due to low salary as a major or one of the primary reasons they may leave.” [38] Respondents to the Access Commission’s 2021 questionnaires—both managers and staff members of legal aid organizations—made the same point.

Anecdotal evidence confirms this understanding. A former Executive Director reported that after their California legal aid organization raised salaries to become more competitive with government attorneys’ pay rates, the organization not only stopped losing staff but also succeeded in filling long-open slots. Significantly, however, many of the new hires were from other California legal aid organizations. This example illustrates the commitment legal aid attorneys have to representing indigent clients but more importantly that the problem of inadequate legal aid staff compensation must be addressed across the board or else pay increases by some legal aid organizations will compound the recruitment and retention difficulties for others and the overall pool of legal aid lawyers will not increase.

To raise pay, legal aid organizations must, of course, reconcile the cost of pay raises with the organizations’ funding. Recent funding increases, including a portion that is expected to continue, provide an opportunity to consider increasing compensation for staff lawyers. If money is available for increased compensation, legal aid organizations must decide the strategic issue whether to spend the money to raise pay rather than in other ways.

RECOMMENDATION 1

California legal aid organizations should adopt and implement plans to narrow the gap between their compensation and the compensation for lawyers in government agencies. The State Bar and other legal aid supporters should support these efforts.



As noted above, the traditional practice has been to pay legal aid lawyers less than other lawyers of equal experience and qualifications receive. The practice has arisen, at least in part, from the tradeoff that may exist between serving more clients and paying staff more. LAAC's *Justice at Risk* report from 2019 notes that legal aid Executive Directors expressed reluctance to raise compensation reported that given the choice, they would hire a larger number of lawyers. [39]

However, today legal aid job openings can remain unfilled for months, and service projects cannot go forward because no lawyer can be hired to do the work, it may be necessary to choose the other option, and raise lawyer pay with what might turn out to be one-time increases to the organization's funding.

Our recommendation is not that legal aid organizations must choose to increase pay rather than add lawyers at the same pay or use funds in other ways that increase the organization's capacity. That will be a key strategic judgment to be made by the organization's management and governing body. We recommend, though, that legal aid organizations can adopt the policy of raising the relative level of their lawyers' compensation. The Access Commission considers this a valid strategic option that may be necessary for the hiring and retention of lawyers in the numbers that a legal aid organization may need.

RECOMMENDATION 1.1

The management and governing body of each California legal aid organization should be encouraged to adopt a plan to increase lawyer compensation to come closer to that of other agencies, including governmental entities, with which they compete for staff.

In deciding each legal aid organization's strategy, its governing board and management should consider adopting a compensation plan to reduce pay disparities over a definite period of time. Such decision-making must, of course, take account of applicable collective bargaining agreements, applicable employment law, and the provisions of contracts with funders.

We recognize that there could be individualized reasons why an organization cannot or should not now increase staff lawyers' rates of pay. However, we conclude that, in general, California legal organizations should increase lawyer pay; and doing so should be encouraged as a legitimate strategic choice. Compensation increases are warranted and are probably the most effective strategy to address recruitment and retention concerns that exist now, and to expand the lawyer services which are critical to legal aid clients. We encourage EAF recipients to consider using the current increase to ongoing funding to begin a program of compensation increases to reduce the existing disparities this report documents.

Regarding the amount of the needed increase, several sources of guidance may be available:

- One source is a comparison of the legal aid organization’s current salary scale and the compensation scale of government agencies operating in the same geographic area(s). Government agencies are appropriate sources of comparative data for at least two reasons. First, data about their salary levels can readily be obtained. **[40]** Second, they hire far more lawyers than other nonprofits, so legal aid lawyers are more likely to regard a government agency job as an option if they leave legal aid.
- The charts presented and explained in the Background section of this Report, although illustrative only, suggest that legal aid lawyers currently make at least \$25,000 less at entry level and more than \$40,000 less at the supervisory level than is paid by the government agencies that are in the lower part of the range of agency pay. (Legal aid programs considering gap-narrowing pay increases should, of course, conduct their own review of comparable agency pay levels.)
- Another source is the legal aid organization’s median pay compared to the median pay rate for lawyers of similar experience at other legal aid organizations in comparable geographic markets. **[41]**
- It is also legitimate to consider staff lawyers’ statements and manager’s judgments about the compensation amounts necessary for the organization to timely fill job openings and retain current staff—which may be based on what raises staff lawyers say they need. According to *Justice at Risk*, a majority of legal aid lawyers who had left their jobs reported that a pay increase of \$10,000 to \$15,000 would “maybe, probably or definitely” have affected their decision to leave their position. **[42]**

A pay increase to narrow the gap at entry level may have a greater impact on recruitment of new lawyers than on retention of experienced staff. However, carrying the amount of an entry-level increase up the salary scale will still be a meaningful increase to more senior legal aid staff lawyers. Given limits on funding and uncertainties about how large a pay raise will ultimately be best, it makes sense to start with an across-the-board increase in an amount based on the pay disparity at the entry level.

Legal Aid Recruitment, Retention, and Diversity

It may not be the best choice, or even feasible, for the legal aid organization to commit to closing the entire gap between its compensation and government agencies' compensation for lawyers, even at the low end of the range and even at entry level positions. But the organization should raise their lawyers' pay enough to close the part of that gap that they can.



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Increases in base salaries are not the only, or necessarily the best, mechanism. For example, in Recommendation 2.1, below, we suggest the implementation of employer LRAP programs covering \$5,250 per year in loan payments. This could be a way of increasing compensation. (Investments in LRAPs inherently involve issues of equity among lawyers with different levels of student loans, and among staff lawyers and other employees of the organization. In a particular program, these issues may limit the substitution of LRAP dollars for straight pay raises).

Use of bonuses is another option. We received reports that some organizations use signing bonuses for recruitment and to address the needs of new lawyers who had little or no income during bar review periods. We also heard about one-time "retention" bonuses after X years on the job.

The expected \$20 million ongoing EAF increase statewide is wonderful news. But it is not enough. If it is continued into the future, it would not cover an increase at the entry level to equal the low-end of government lawyers' pay. To cover half of the \$20,000 entry-level gap with a \$12,500 raise, with an equal dollar amount added to pay up the scale to the 1,766 legal aid lawyers in California would cost over \$25 million (including a 20 percent cost of benefits). And, of course, the ongoing \$20 million EAF increase must be used for other purposes as well as pay increases.

The amount that a legal aid organization should allocate for pay raises will, again, be a strategic judgment by management and the governing board of the organization. The current increase does, however, provide an opportunity to make some progress in narrowing the compensation gap.

RECOMMENDATION 1.2

Supporters of legal aid organizations should provide information to the State Legislature about the value of: (a) obtaining additional funding earmarked for increases to the compensation of legal aid lawyers; and (b) adding language in substantive legislation or the State Budget Act to recognize expressly that Equal Access Fund money may be the direct source for increases to legal aid lawyers' compensation.

As discussed in the Background section, the shortage of staff lawyers is a major constraint on the legal help that is available to low-income people. As open positions remain unfilled for months at a time, it is clear that low pay for legal aid lawyers can stand in the way of meeting the legal needs of all Californians.

The State Bar can, in partnership with the Access Commission and LAAC, work to inform and persuade lawmakers regarding the importance of increasing salaries enough to reduce the disparity between legal aid and government agencies' pay for lawyers of comparable experience and qualifications.

In summary, increasing pay for legal aid lawyers has become a necessity if legal aid organizations are to be able to fill open positions and keep experienced lawyers. While legal aid organizations must decide whether and when to choose higher pay instead of hiring more lawyers at the same pay, and the organizations should continue to develop and offer a range of service delivery methods, both normative standards and the results of surveys demonstrate that full representation by staff lawyers is essential, and increasingly scarce. In short, the option to pay more to recruit and retain lawyers must be available if our state is to provide low-income clients with the legal services they need.



RECOMMENDATION 2

California Legal Aid organizations and supporting organizations should act to mitigate the burdens of student loans on prospective and current legal aid staff members.



The *Justice at Risk* report found student loan payment obligations to be a major impediment to legal aid recruitment and retention. Twenty-eight percent of lawyers considering leaving legal aid jobs said that “financial pressure due to student loans is a major or one of the primary reasons that may cause them to leave.” [43] Attorneys of color carry a significantly larger average student loan debt than White attorneys, increasing the obstacles to staff diversity. [44] Since March 2020, because of the COVID-19 pandemic, federal student loan payments and interest accruals have been suspended. That is currently scheduled to end on May 1, 2022. [45] The end of the moratorium will re-impose a large payment burden on already underpaid legal aid lawyers.

RECOMMENDATION 2.1

Legal aid organizations should consider and, if feasible, offer Loan Repayment Assistance Programs that take advantage of available tax exemptions.

Loan repayment assistance plans (LRAPs) are offered by some schools, government agencies, and employers. They can pay principal and interest on student loans. Until recently, the payments were treated as taxable income to the borrower. Consequently, although the borrower would not be required to make the payments, they would be taxed as if they had received the payment amounts as income. The new Alameda County legal aid lawyer described in the Background section would have a marginal tax rate (including federal and state income tax, Social Security, Medicare, and State Disability Insurance) of 40.1 percent on \$64,000 in salary), so if their school or an agency had covered their \$4,416 in loan payments on a basis that does not obtain a tax exemption, they would have owed \$1,771 in income taxes on the LRAP benefits.

Options exist now for an employer to offer LRAP benefits structured to reduce or avoid the tax on employee-borrowers whose payments are covered by their employer. First, at the end of 2020, Internal Revenue Code section 127 was amended to exclude up to \$5,250 in employer educational assistance payments from an employee’s gross income. [46]

Legal aid programs that enact LRAPs complying with this provision can make principal and interest payments on student loans for their employees, and up to \$5,250 in payments will not be taxed to the employee—saving them \$1,771 in federal and state taxes. (California adopts the federal definition of taxable income, so the LRAP would avoid federal and state income taxes.) This provision expires at the end of 2025 unless Congress extends its life. Second, as an alternative to using Section 127, it is possible for nonprofits to fund LRAP programs structured to cover and then forgive student loan principal and interest obligations in a way that qualifies for exemption from taxable income to the borrower pursuant to Internal Revenue Code section 108(f). This option avoids some limitations under Section 127 and will not expire at the end of 2025, but may require the employer to contract with a refinancing entity. **[47]**

These options can remove a weakness of LRAPs—the fact that recipients otherwise must pay taxes on deemed income that they did not receive in cash. The difference in income after taxes for the employee compared to making the loan payments without the LRAP and tax exemption would be over \$7,400 per year for a Section 127 program, at a cost of \$5,250 to the employer. The Section 108(f) approach could allow even larger amounts of tax-exempt LRAP assistance per year.

Tax-sheltered LRAPs can create a particularly focused retention incentive, since leaving the job with a program for another job without LRAP benefits would mean that thereafter the employee would not only need to repay their loan without the LRAP, but also pay with after-tax income.

In addition to a tax-sheltered LRAP, recent tax changes allow deduction of up to \$2,500 in student loan interest by borrowers who make less than \$85,000 per year. **[48]** The maximum deduction is reduced for taxpayers who make more than \$70,000 and eliminated above \$85,000. The current average pay for California legal aid lawyers is \$82,000. This means that most can obtain some benefit from the deductibility of student loan interest.

Taking full advantage of the tax provisions could increase the average legal aid lawyer's after-tax income by almost 10 percent. By taking advantage of tax provisions, the cost to the employer would be thousands less than that benefit to the employee. We therefore urge legal aid organizations to learn about and consider implementing a tax-sheltered LRAP.

Because of the multiplier effect from tax-exemption, legal aid programs may decide to fund increased LRAP benefits from their existing sources. However, a better solution would be to find new sources.

One source should be law schools. They receive higher revenue because of student loans that make a portion of law graduates' future earnings available to cover tuition set at levels that are affordable for lawyers who will earn much more than legal aid lawyers. The most efficient structure of law school LRAP programs appears not to be the customary one, in which the school makes payments on behalf of its graduates. Instead, the school could create arrangements with a third party pursuant to Internal Revenue Code Section 108(f) to defray loan payments that would be exempt from their graduates' taxable income.

Another source could be State funding, targeted to this use. This is discussed in Recommendation 2.1.2 below.

Recommendation 2.1.1:

The State Bar, the LSTFC, or LAAC (if funding can be made available) should engage an expert on LRAP programs to provide California legal aid organizations with training and consulting services on how to structure LRAP programs to make best use of federal and State tax exemptions.

The tax provisions that can shelter LRAP benefits from taxation involve a number of conditions and requirements. To satisfy those conditions, and to implement an otherwise valid and prudent LRAP provision, labor law and collective bargaining agreements must also be considered. Implementing an LRAP could raise equity issues as between lawyers and other employees, and among employees who have no student loans or pay less than the amount the LRAP would cover for other employees.

It will require care, specialized knowledge of tax and employment law, and some degree of sophistication to design and implement an LRAP program that takes advantage of the tax provisions while complying with other requirements and minimizing equity and morale problems. Legal aid organizations may need expert advice. Since the same issues will arise for many legal aid organizations, a single source of consulting services for all the organizations would be efficient and most effective.

Accordingly, we recommend that one or more sponsoring organizations offer: (a) training on these opportunities for legal aid program managers; and (b) subsidized services of an expert consultant who would be available to review LRAP proposals and advise program managers on their implementation. For example, the implementation of (b) might involve providing two hours of free (i.e., subsidized) one-on-one consulting by an expert on LRAP design issues for legal aid program managers who have completed the training on basic concepts.

We have conferred with Heather Jarvis, a student loan mitigation expert. She confirms that these services could benefit any legal aid organization. She is willing to prepare cost estimates for these services.

Recommendation 2.1.2:

The State Bar and other supporters of California legal aid organizations should work to educate the State Legislature about the value and financial leverage that would result if the State were to provide funding in the future for employer LRAP programs that take advantage of tax exemptions.

The analysis above demonstrates that funding used for tax-exempt LRAP benefits could deliver 40 percent or more after-tax benefit (based on their marginal tax rate) to legal aid lawyers than the cost of the program. Coupled with the need for more legal aid lawyers to provide extensive services to clients whose problems require nothing less, there is a compelling case for legal aid programs to establish such LRAP programs. Given other needs for the increases in funding already appropriated, a strong case can be made for new State funding to legal aid programs earmarked for LRAP programs.

We recommend that supporters of legal aid participate in making this case to the State Legislature. We recommend advocacy in favor of employer LRAP programs because of the tax exemption, a major advantage.

It seems clear that it would be an efficient use of State funding for Legislature to add earmarked funding for such employer LRAP programs.

There may be other approaches, now or in the future, equally deserving of consideration to provide loan repayment assistance, but at this time, the Access Commission believes this to be the most beneficial approach to providing loan repayment assistance.



RECOMMENDATION 2.2

Legal aid organizations and their supporters should take steps to improve the prospects for staff members obtaining loan forgiveness.

Congress created the Public Service Loan Forgiveness (PSLF) program in 2007, offering borrowers under federal Direct Loans the opportunity to obtain forgiveness of their loan balance after 120 qualifying monthly payments made while in specified public interest and government jobs. The purposes included attracting people to accept and stay in these jobs, and PSLF clearly had that effect. The State Bar's survey of legal aid lawyers and government attorneys included the question, "Have you ever worked with the intention of applying for public service loan forgiveness (PSLF) through the Federal PSLF program?" About 75 percent of respondents answered "Yes." [49]

This contrasts sharply with the percentage of borrowers who have succeeded in obtaining PSLF loan forgiveness. Out of 275,000 applications, the United States Department of Education has granted only 2 percent. [50] Indeed, 172 of the respondents to the State Bar survey reported that their own applications for PSLF had been denied.

The low success rate of applicants for PSLF has generated court challenges in cases that are currently stayed for settlement discussions with the Justice Department and the Department of Education (ED). [51] PSLF is a creature of a statute that imposes requirements the Department of Education (ED) does not have discretion to dispense with. In many cases, borrowers violated technical requirements they did not know about, or received bad advice from loan originators or loan servicing agents. ED reports that many of the unsuccessful applications could be granted in the future. [*]

[*] "Over 82% of borrowers who do not yet qualify for forgiveness have eligible loans that have been in repayment less than 120 months, meaning they could not yet have accumulated the required 120 months of qualifying employment or qualifying payments. One notable problem here relates to borrowers who consolidated older federal student loans into new Direct Loans and then were made to start over on a brand-new clock; they did not get credit for employment or payment activity on their prior loans. This issue merits further consideration. In the meantime, however, close to half the borrowers who do not yet qualify for PSLF on this basis are held back by this treatment of their consolidated loans. The remaining 18% of borrowers who do not yet qualify for forgiveness divide as follows: 14% do not yet have 120 months of qualifying employment; 4% have met all requirements except for 120 qualifying payments."

Department of Education Updates Series of Student Aid Quarterly Data Reports, U.S. Dept. of Ed. (June 14, 2021), <https://www.ed.gov/news/press-releases/department-education-updates-series-student-aid-quarterly-data-reports>.

Under the PSLF authorizing legislation, ED does not have discretion to excuse noncompliance with requirements that trip up many borrowers. On July 26, 2021, ED issued a “Request for Information Regarding the Public Service Loan Forgiveness Program,” for which the submission period ended September 24, 2021. [52] ED has announced that it is considering fundamental changes to the PSLF program, but has not announced what changes it is likely to make. [53] Changes that require legislation may be difficult to accomplish.



Recommendation 2.2.1:

Training and advice for legal aid organizations (see Recommendation 2.1.1) could help them support their employees’ compliance with the requirements for Public Service Loan Forgiveness PSLF).

The reporting requirements for a borrower to qualify for PSLF include information from and about the employer. Heather Jarvis noted that legal aid programs could design their compensation information system to assist their employees in meeting PSLF reporting requirements. For example, employers must provide a periodic certification that, if not timely made, can result in employee loan payments not being counted toward the 120 qualifying monthly payments that are required. In addition, employer LRAP programs should be designed so that they will count toward the required 120 monthly payments.

In short, the training and expert consultations we have already recommended should cover ways for the legal aid organization to support employees who seek to obtain PSLF.

Recommendation 2.2.2:

Each legal aid lawyer who has outstanding student loans should have the opportunity to receive training materials and expert consultations.

Based on discussions with lawyers representing plaintiffs in litigation against ED, we understand that the very high rate of rejections so far of applications for PSLF has resulted primarily because the borrowers had inadvertently failed to comply with restrictive statutory requirements. Years after getting bad advice or making a mistake on their own, borrowers are very often surprised to find that their loan payments have not counted toward the required ten years of qualifying payments.

Legal aid programs would help their staff members avoid such errors and surprises by providing them with training and individualized assessments and advice from a competent student loan consultant. Preferably, all new employees should receive a check-up and advice on their student loans; and employees should be able to obtain competent advice when they encounter a student loan problem or are considering a change in student loan arrangements. The training could be delivered online, using an application integrating an interactive questionnaire for the participant to inform an advisor about the participant's circumstances for efficient individualized consultations (expert system software such as Neota Logic could be used to develop the training/interactive questionnaire).

Initially, all legal aid staff who have student loans should receive the training and consultations. After the initial sessions, the workload would contract to new hires—who are (regrettably) few in number, making for a very manageable task going forward.



RECOMMENDATION 2.3

The State Bar’s LRAP and Loan Forgiveness Working Group and/or LAAC could prepare a report on student loan issues to educate the public and the State Legislature using the results of the State Bar’s survey of government, legal aid, and public interest lawyers.

The State Bar’s 2021 survey, *Understanding Student Loan Debt Options for Public Interest Attorneys*, which provides insights and detailed information about the burdens and the high stakes of student loans for legal aid, government, and other nonprofit lawyers in California. The data can be used to illustrate the reasons for supporting LRAP programs and new consultations and assessments to enable eligible lawyers to qualify for PSLF. The data can give concrete reality to the clear inequities of the Public Services Loan Forgiveness program and the operation of interest-driven loan repayment programs as currently structured and operated. This report would provide evidence for the work with the Legislature suggested in Recommendation 2.1.2.

The Access Commission suggests that the Legislature should consider providing additional funding, if the budget permits, earmarked for recruitment and retention of legal aid lawyers—for example, through funding earmarked for LRAPs.






RECOMMENDATION 3

The management and governing boards of legal aid organizations should implement other measures identified in *Justice at Risk*: For recruitment, these should include internship programs and participation in fellowships. For retention, organizations should implement mentoring, career development and work satisfaction programs.

LAAC's *Justice at Risk* contains specific, detailed action recommendations for recruitment and retention of legal aid lawyers that we endorse.

Recruitment: *Justice at Risk* makes nine recommendations for enhancing recruitment and hiring of new lawyers:

1. Pay higher salaries. (We have suggested above the use of signing bonuses as a mechanism to enhance recruitment and increase compensation in a targeted way that does not commit as much money for as much time as raising base compensation.)
2. Prioritize the recruitment, interviewing, and hiring processes.
3. Be more proactive about recruitment and start it earlier.
4. Make job postings inviting, informative, and transparent.
5. Balance application and interview objectivity with applicant individuality.
6. Respond to law students' perceptions and knowledge.
7. Enhance the intern pipeline.
8. Make Internal Changes and Undertake Specific Requirements to Increase Diversity
9. Conduct Specific Recruitment and Provide Incentives for Rural or Less Attractive Locations.



All are important. One that we single out is to maximize the paid internships for law students in legal aid organizations. The LAAC report's survey found that 20 percent of attorney respondents had interned, clerked, or worked at the legal aid organization where they accepted permanent employment. [54] Seventy-one percent of recently-hired staff lawyers had interned, clerked, or worked while in law school for that or another legal aid organization. [55]

Justice at Risk reports that 62 percent of the legal aid organizations offering internships did not pay the interns. [56] A large legal aid organization with a successful internship program paid its interns, and reported that it had no difficulty filling the slots. It is important to pay law student interns not only to value their time, but it also reduces their debt burden, making it easier for them to consider a career in legal aid at graduation. Moreover, many law students will have the option of paid summer jobs at private law firms. For students struggling to cover the costs of law school and living in California, unpaid summer jobs are simply not an option. Paying law student interns makes legal aid internships more attractive for students who cannot afford to work for free.

ChangeLawyers supports fellowship programs to provide paid positions while enhancing diversity in the profession. [57] As we note in Recommendation 4.3.1, supporters of legal aid should contribute to these programs.

Retention: *Justice at Risk* recommends, in addition to higher salaries and help with student loans (discussed above), three measures to improve retention of legal aid attorneys:

1. Provide career advancement opportunities and professional development;
2. Improve practices for assignment and supervision of lawyers' work assignment; and
3. Work on diversity, equity and inclusion.

Through partnerships with LAAC and others, these objectives could be advanced through the coordination of technical assistance for grantees to consult with experts, develop policies, and incorporate best practices. This could include, in coordination with LAAC and the Access Commission:

- Identifying convenings, webinars, or panels around burnout and mental health and wellness in legal aid and sharing that information with grantees.
- Identifying model policies and/or a best practices toolkit, in consultation with HR and DEI directors at legal aid and law firms, around flexible scheduling/autonomy, sabbaticals, remote work time, and special support for parenting staff with caregiving duties. This could also include results-oriented information and studies from other sectors, including outside of the legal sector. Though it may be beyond the scope of the Bar to develop these toolkits, the Bar should identify existing resources and share those with grantees or work with LAAC to develop them.
- Launching a campaign around the development of teach-outs, panels, or informational videos related to increasing leadership, mentorship, and training opportunities for staff, especially BIPOC and other lawyers of diverse backgrounds, to reach management- and executive-level positions.



RECOMMENDATION 4

Legal aid organizations and their supporters should undertake focused actions toward recruiting and retaining staff lawyers whose diversity mirrors that of their clients.

“To the degree possible, [the legal aid organization’s] staff . . . should reflect the diversity of the populations that it serves.” (*Standards*, Commentary to Standard 4.4.) For many reasons recognized in the Standards, achieving staff diversity facilitates more effective service to the client communities that legal aid organizations serve.

RECOMMENDATION 4.1

Because student loans disproportionately affect law graduates of color, legal aid organizations should adopt measures to mitigate the burdens of student loans as a priority.

The burdens of student loans impede hiring and retaining of lawyers from all backgrounds at legal aid organizations. But student loans impose higher hurdles for Black and Latinx lawyers. According to the Bar’s report on *Public Interest Drift Findings*, we know that Black and Latinx students were more likely to have law school loan debt than white students (9 percent of Black and Latinx students did not take out loans compared to 22 percent of white students). Among those who had debt, the median debt amount for Black and Latinx students was 26 percent higher than White students. In the law school focus groups conducted by LAAC for *Justice at Risk* and the Bar’s reports, this was a common theme.

The information and graph in the Background section demonstrate that Black and Latinx borrowers average higher student loan debt than White borrowers. A published data compilation on “Student Loan Debt by Race” states (as of July 10, 2021) [58] states that:

- “Black and African American college graduates owe an average of \$25,000 more in student loan debt than White college graduates.”
- “Four years after graduation, 48% of Black students owe an average of 12.5% more than they borrowed.”
- “40% of Black graduates have student loan debt from graduate school while 22% of White college graduates have graduate school debt.”
- “Over 50% of Black student borrowers report their net worth is less than they owe in student loan debt.”

To achieve diversity in legal aid staffs, it is therefore essential to do everything feasible to mitigate the burdens of student loans. This is discussed in Recommendation 2 above.

RECOMMENDATION 4.2

The management and governing body of each legal aid organization should regularly and deliberately consider whether the organization “has the awareness, attitude, skills, knowledge, and resources necessary to provide assistance in a culturally competent manner and in order to be responsive to, and aligned with, the interests of those people most affected by poverty, racism, discrimination, and other forms of structural oppression” and should undertake periodic evaluations of these attributes, as described in Standard 4.4 of the *ABA Standards for the Provision of Civil Legal Aid*.

A prerequisite to effective recruitment and retention of diverse lawyers and staff is that the legal aid organization embody cultural humility and competence and humility in its attitude toward and services to clients. In the words of Standard 4.4.: [59]

Each legal aid organization has a fundamental responsibility to establish a relationship of confidence and trust with the clients it represents and to understand and respond to the needs of all the multicultural communities and clients it serves, including those with disabilities or are racially, culturally, or linguistically diverse. Building accountability with the clients and communities served is critical to ensuring that the work of the legal aid organization is responsive to, and aligned with, the interests of those people most affected by poverty, racism, discrimination, and other forms of structural oppression. This Standard encourages legal aid organization to build long-term relationships with clients and communities in ways that acknowledge lived experiences, create partnerships that can shift power to communities, and challenge the structural oppressions and exclusionary practices that created the need for legal services.

This is crucial for legal aid organizations and for staff members of all racial and ethnic groups and cultural and economic backgrounds. Unless this awareness and set of skill is promulgated throughout the organization, the burdens placed on BIPOC lawyers and staff members will be disproportionate. Recruitment and retention will suffer, as will the ability of the legal aid organization to carry out its function.

We commend the guidance of Standard 4.4 to California legal aid organizations on how to embody and implement these attitudes.

RECOMMENDATION 4.3

Legal aid organizations should use LAAC’s *Diversity, Equity, and Inclusion and Racial Justice Toolkit for Civil Legal Aid Organizations* and follow Standard 4.5 of the *ABA Standards for the Provision of Civil Legal Aid*.

LAAC published in April 2021 a detailed guide for legal aid organizations to use in enhancing their staff diversity. [60] We fully endorse it. A more general set of recommended steps for effective recruitment of diverse staff lawyers, entitled “How to Recruit and Build a Culture of Diversity and Inclusion,” appears in the Commentary to Standard 4.5 of the revised *Standards for the Provision of Civil Legal Aid*.

Recommendation 4.3.1: Legal aid organizations should sponsor and/or participate in internship or fellowship programs that are focused on diversity. We recognize, in particular, the Legal Fellowship Grants program run by California ChangeLawyers. Funders should support such programs.

As noted in the discussion of Recommendation 3, *Justice at Risk* found that internships and fellowship programs have a significant positive effect on recruitment of lawyers into legal aid jobs. Legal aid programs should operate or participate in fellowship programs that draw diverse law students to work at legal aid organizations.

To be able to participate in an internship or fellowship program may lessen public interest drift for students from low- or moderate-income backgrounds, including some students of color. [61] We urge supporters and funders to contribute to programs that provide stipends for diverse law students to participate in legal aid fellowships. In addition to the State Bar, a California organization focused on enhancing diversity in the legal profession is ChangeLawyers. [62] It funds an existing fellowship program, described as follows:

Through the Legal Fellowship Grants, California ChangeLawyers provides diverse law students and recent law graduates with opportunities to work at legal organizations committed to providing services to the most vulnerable communities in California. [63]

We suggest that an effective way to promote more diversity among staff lawyers in California legal aid organizations is for funders, grant makers, and donors including law firms and lawyers to contribute to this ChangeLawyers program, and for legal aid organizations to seek to participate in it.



Recommendation 4.3.2: Affinity Bar Associations and diverse lawyers and judges should participate with legal aid organizations and, if necessary, help to create mentorship programs linking diverse beginning and junior legal aid lawyers with experienced lawyers from outside the organization.

Mentorship programs for law students provide valuable advice and exposure to role models. [64] Opening such programs to newly hired legal aid lawyers could provide guidance and perspective that would support their progress as professionals. Participation by lawyers and judges from diverse backgrounds, similar to those of the participating legal aid lawyers, could help the lawyers' career development. The State Bar and California Lawyers Association should encourage lawyers to participate in these programs.

A number of recommendations above include references to actions that the State Bar could undertake. For clarity and convenience, we restate those recommendations here:

RECOMMENDATION 5

By taking the following actions, the State Bar of California can advance recruitment, retention, and diversity of the staffs of legal aid organizations:

RECRUITMENT AND RETENTION:

- **Recommendation 5.1:** Encouraging each legal aid organization to adopt a plan for raising lawyer compensation to equal at least the entry level for lawyers at the low end of government agencies, including consideration of compensation mechanisms other than or in addition to raising salaries (Recommendation 1.1).
- **Recommendation 5.2:** Providing training to legal aid organizations' managers, and engaging and paying a consultant to provide them with individualized advice about how to establish tax-sheltered LRAPs and how to provide employees with the regular certifications that debtors must submit to maintain their eligibility for Public Service Loan Forgiveness (Recommendations 2.1.1 and 2.2.1).
- **Recommendation 5.3:** Providing or supporting training and advice for legal aid lawyers on whether their arrangements comply with all the requirements for PSLF (Recommendation 2.2.2).
- **Recommendation 5.4:** Providing the State Legislature with information on the low levels of compensation for legal aid staff lawyers and the burdens of student loan debt, and advocacy supporting funding for pay raises and employer LRAPs (Recommendations 1.2, 2.2, and 2.3).
- **Recommendation 5.5:** Continuing to support legal aid programs in improving work conditions and satisfaction in ways detailed in *Justice at Risk* and Standard 4.5 of the *ABA Standards for the Provision of Civil Legal Aid* (Recommendation 3).

ENHANCING DIVERSITY:

- **Recommendation 5.6:** Encouraging California lawyers, as donors, and other funders to support paid internships and fellowships—with a focus on diversity for legal aid programs—in legal aid organizations (Recommendation 4.3.1).
- **Recommendation 5.7:** Encouraging the California Lawyers Association and local and affinity bar associations to organize mentoring programs (Recommendation 4.3.2), and encouraging California lawyers to participate.
- **Recommendation 5.8:** Encouraging legal aid programs' efforts to follow Standards 4.4 and 4.5 of the *ABA Standards* and implement measures described in LAAC's *Diversity, Equity, and Inclusion and Racial Justice Toolkit for Civil Legal Aid Organizations* (Recommendations 4.1, 4.2, and 4.3).

The California Access to Justice Commission recognizes and thanks the State Bar of California for its continuing leadership in supporting legal aid organizations, and supporting access to civil justice generally in California. We are grateful for the opportunity the State Bar has provided for us to do this work and present this report.



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END NOTES

[1] We received data from the State Bar of California supporting these estimates: 1,766 Full Time Equivalent lawyers (including part-time and temporary) employed by IOLTA recipient legal aid organizations, based on the most recent count, from 2019; and 7.3 million Californians below the 125% Federal Poverty Level. $7,290,962 \div 1,766 = 4,130$.

[2] SB 498, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB498.

[3] The State Bar calculated in December 2020 that the increase in income eligibility to 200% would mean that there are 12.5 million eligible clients. See “Exploring IOLTA Statutory Change to Increase Threshold from 125 Percent of the Federal Poverty Level,” Exhibit B, a presentation to the Legal Services Trust Fund Commission dated December 15, 2020, available at <https://calatj.egnyte.com/dl/RZAyVZFPNo>. $12,496,818 \div 1,766 = 7,076$.

[4] *Justice at Risk* at 10.

[5] *Id.* at ii–iii.

[6] *Id.*

[7] Biden-Harris Administration Extends Student Loan Pause Through May 1, 2022, US Dept. of Ed. (Dec. 22, 2021), <https://www.ed.gov/news/press-releases/biden-harris-administration-extends-student-loan-pause-through-may-1-2022>.

[8] American Bar Association, *ABA Standards for the Provision of Civil Legal Aid* (2021), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/lsc-laid-standards-rev2.pdf.

[9] *Id.*

[10] Available at <https://www.laaonline.org/about/laac-publications/>.

[11] The State Bar of California, *Report Card on the Diversity of California’s Legal Profession* (2020), <https://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-Diversity-Report.pdf>.

[12] See Business & Professions Code Sections 6210–6228.

[13] See FN 3.

END NOTES

[14] <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Study-Executive-Summary.pdf> at 13.

[15] The term “extensive” is used in data collection to distinguish brief advice from lawyers.

[16] See California Access to Justice Commission, *Enhancing the Justice Map: Report to the State Bar of California* at 4–5 (June 2021).

[17] *Justice Gap Study* at 45–46.

[18] Education Department statistics from <https://nces.ed.gov/programs/coe/indicator/tub>.

[19] *Average Student Loan Debt for Law School*, Credible (Nov. 1 2021), <https://www.credible.com/blog/statistics/average-law-school-debt/#average-law-school-debt>

[20] The State Bar of California, *California Justice Gap Study, Executive Report* (2019), <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Study-Executive-Summary.pdf>.

[21] The State Bar of California, *California Justice Gap Study, Legal Aid Recruitment and Retention Challenges – Findings and Recommendations* (2019), <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Fact-Sheet-Pipeline-Rec-Ret.pdf>.

[22] The lawyer will owe \$14,538 in federal and state income taxes, assuming a \$2,500 deduction (the maximum) for student loan interest. The income after taxes is \$49,668. See *Loan Simulator*, Federal Student Aid, [https://studentaid.gov/loan-simulator/borrow-more/results/\(resultsPanel:results-panel//infoPanel:info-panel\)](https://studentaid.gov/loan-simulator/borrow-more/results/(resultsPanel:results-panel//infoPanel:info-panel);); *Income tax calculator California*, Talent.com, <https://www.talent.com/tax-calculator/California-72000#:~:text=If%20you%20make%20%2472%2C000%20a,marginal%20tax%20rate%20is%2041.1%25>.

[23] Amy Glasmeier, *Living Wage Calculator*, Massachusetts Institute of Technology (2020), livingwage.mit.edu. This is without including any amounts for entertainment, vacation or holiday expenses, savings for home ownership, or any individual contribution to retirement savings.

[24] *Simulate Borrowing More Money*, Federal Student Aid, [https://studentaid.gov/loan-simulator/borrow-more/results/\(resultsPanel:blank-results-panel//infoPanel:info-panel\)](https://studentaid.gov/loan-simulator/borrow-more/results/(resultsPanel:blank-results-panel//infoPanel:info-panel)).

[25] *Public Service Loan Forgiveness Data*, Federal Student Aid, <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

[26] *Income-Driven Repayment Plans*, Federal Student Aid, <https://studentaid.gov/manage-loans/repayment/plans/income-driven#repayment-period>.

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[27] *Fed officials discussed raising rates sooner and faster in 2022*, NY Times (Jan. 5, 2022), <https://www.nytimes.com/2022/01/05/business/economy/federal-reserve-minutes-interest-rates.html>.

[28] *Racial Disparities are Widespread in California*, Public Policy Institute of California (PPIC) (June 3, 2020), <https://www.ppic.org/blog/racial-disparities-are-widespread-in-california/>.

[29] *Racial/Ethnic Wage Inequalities Persist in California*, PPIC (May 7, 2003), <https://www.ppic.org/press-release/raciaethnic-wage-inequalities-persist-in-california/>.

[30] *The Racial Wealth Gap: What California Can Do About a Long-Standing Obstacle to Shared Prosperity*, California Budget & Policy Center (Dec. 2018), <https://calbudgetcenter.org/resources/the-racial-wealth-gap-what-california-can-do-about-a-long-standing-obstacle-to-shared-prosperity/>.

[31] *Tracking COVID-19 in California*, COVID19.ca.gov (Sept. 21, 2021), <https://covid19.ca.gov/state-dashboard/#ethnicity-gender-age>.

[32] American Association of University Women, *Deeper in Debt: Women & Student Loans*, <https://www.aauw.org/resources/research/deeper-in-debt/>.

[33] 2021 California Lawyer Association Annual Meeting presentation, “Student Loan Debt, Equity, and Diversifying the Legal Profession: How Law Schools and Law Firms Can Rise to the Challenge” at 9.

[34] *Justice at Risk* at 32.

[35] *The State Bar of California, Report Card on the Diversity of California’s Legal Profession* (2020), <https://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-Diversity-Report.pdf>.

[36] LSC, *Grantee Client Demographics*, <https://www.lsc.gov/spotlight-blog/grantee-client-demographics>.

[37] Prepared by the Legal Aid Association of California, in consultation with statewide partners. Please contact Salena Copeland, Executive Director, at SCopeland@LAAOnline.org if you have questions about funding sources.

[38] *Justice at Risk* at 21.

[39] *Justice at Risk* at 79.

END NOTES

[40] Government agency compensation amounts are publicly available on county salary webpages and, for the executive branch, the California Department of Human Resources (particularly relevant for Sacramento, San Francisco, and Los Angeles based legal aid organizations). To facilitate the comparisons we recommend, the LSTFC or LAAC (if funded to do so) could compile data on the government lawyers' salary amounts in the 58 counties and in major cities for use by the legal aid organizations.

[41] OneJustice conducts an annual survey of legal aid salaries. It is available upon request from OneJustice.

[42] *Justice at Risk* at 28.

[43] *Id.* at 30.

[44] *Id.* at 32.

[45] *Coronavirus Info for Students, Borrowers, and Parents*, Federal Student Aid, <https://studentaid.gov/announcements-events/coronavirus>.

[46] 26 U.S. Code § 127, as amended by the Consolidated Appropriations Act of 2020.

[47] A firm called Fosterus offers a 108(f) loan refinancing service for nonprofits, at <https://fosterus.org/>. See also <https://calatj.egnyte.com/fl/DdkXftAl6L#folder-link/> for a one-page description.

[48] 26 U.S.C. §221(a).

[49] Question 24 and responses. The State Bar of California, *Understanding Student Loan Debt Options for Public Interest Attorneys* [Unpublished data], (2021).

[50] *Request for Information Regarding the Public Service Loan Forgiveness Program*, Federal Register (July 26, 2021), <https://www.federalregister.gov/documents/2021/07/26/2021-15831/request-for-information-regarding-the-public-service-loan-forgiveness-program>.

[51] Litigation on the borrower defense rule includes *Manriquez v. Cardenas*, Case No. 17-cv-07210-SK (N.D. Cal) and other cases. *Cases*, The Predatory Student Lending Project, <https://predatorystudentlending.org/cases/>.

[52] *Request for Information Regarding the Public Service Loan Forgiveness Program*, Federal Register (July 26, 2021), <https://www.federalregister.gov/documents/2021/07/26/2021-15831/request-for-information-regarding-the-public-service-loan-forgiveness-program>.

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[53] Cory Turner, *NPR Exclusive: Troubled Public Service Loan Forgiveness program will get overhaul*, NPR (Oct. 21, 2021), <https://www.npr.org/2021/10/01/1041872045/education-dept-plans-to-overhaul-the-troubled-public-service-loan-forgiveness-pr>.

[54] *Justice at Risk* at 53.

[55] *Id.*

[56] *Id.*

[57] *Immigration Fellowship Job Application*, California ChangeLawyers, <https://www.changelawyers.org/changelawyer-fellowships.html>.

[58] *Student Loan Debt by Race*, Educationdata.org, <https://educationdata.org/student-loan-debt-by-race>.

[59] "Standard 4.4 on Race Equity, Disability Diversity, Cross-Cultural Sensitivity, and Cultural Humility," *ABA Standards for the Provision of Civil Legal Aid* (2021), https://www.americanbar.org/groups/legal_aid_indigent_defense/resource_center_for_access_to_justice/standards-and-policy/updated-standards-for-the-provision-of-civil-legal-aid/standard-4-4-on--race-equity--disability-diversity--cross-cultur/.

[60] Available at <https://www.laaonline.org/about/laac-publications/>.

[61] This is anecdotal information captured in the focus groups for the *Justice at Risk* and *Public Interest Drift* (part of the *Justice Gap Study*) reports.

[62] *Who We Are*, California ChangeLawyers, <https://www.changelawyers.org/who-we-are.html>.

[63] *CCJFG Member Spotlight: California ChangeLawyers*, Northern California Grantmakers (Aug. 14, 2020), <https://ncg.org/news/ccjfg-member-spotlight-california-changelawyers>.

[64] A listing of such programs in the Bay Area can be found at <https://calatj.egnyte.com/fl/DdkXftAl6L#folder-link/>.