



## A TAX-ADVANTAGED LOAN REPAYMENT ASSISTANCE PROGRAM FOR LEGAL AID LAWYERS

**The Problem:** *A Crisis Exists in Recruiting and Retaining Legal Aid Lawyers.* Legal aid openings now stay unfilled for months. Retaining experienced lawyers is, if anything, a bigger problem. Currently one third of California legal aid lawyers leave for other jobs each year. Candidate lawyers considering legal aid jobs and veteran lawyers deciding whether to stay report that the number one concern is money, and former legal aid lawyers surveyed, said \$15,000 (median), or \$9,000 after tax, would have made a difference in their decision to leave.<sup>i</sup> Entry level California legal aid lawyers make \$25,000 less than the low end of the range for government lawyers in the same community. For experienced lawyers the money gap is even larger.<sup>ii</sup>

Student loan payments are a major factor. Over 84% of entry-level candidates and over 75% of all 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. The problem is even worse for legal aid lawyers of color with a median educational debt range of \$200,000–\$225,000 (2014 to 2018 graduates).<sup>iii</sup>

### **An example of the burden of student loan payments:**

A legal aid lawyer with \$150,000 in federal loans must pay – under the lowest, income driven payment plan (IDR-SAVE) based on the average California legal aid salary (\$92,000 five years in) – \$5,812 per year in principal and interest, and also pay \$2,383 in taxes on the income used for loan payments. That leaves disposable income after taxes and student debt barely over the MIT-calculated minimum living wage in urban California for a single lawyer with no children, and well short for a lawyer with a family. A fully-funded LRAP could cover the \$5,812 in student loan payments without incurring the \$2,383 in taxes – an **\$8,195** benefit at a cost of \$5,812.

**LRAP, a Partial Solution:** *The most efficient answer to the money problem is a tax-advantaged LRAP for legal aid lawyers.* Student loan payments ordinarily are paid with after tax dollars; and ordinarily if an employer cover loan payments the benefit is taxable. However, a nonprofit – the California Access to Justice Commission(CalATJ) in this case -- can make new loans to refinance the principal and interest payments of a participating lawyer. CalATJ can then cancel these refinance loans for lawyers who to stay on the job. Although most loan cancellations are taxable, the program is designed to comply with Internal Revenue Code section 108(f), which excludes cancelled student loans from the debtor's taxable income. This option improves upon many current

LRAPs— whose recipients must pay taxes on LRAP distributions used to make loan payments.

**California's New LRAP:** The State Legislature has authorized California Legal Services Organizations (LSOs) to contribute IOLTA funds and Equal Access Funds (from a State appropriation) to CalATJ fund LRAPs, subject to guidelines issued by the Legal Services Trust Fund Commission.<sup>iv</sup> With funding from LSOs' contributions, CalATJ can make LRAP distributions to legal aid attorneys who sign up. LSOs are permitted to earmark their contributions to limit who can participate in LRAPs the LSO will fund, covering what loan types (e.g. federal only, or law school only) and how much of monthly payments will be covered (with an optional dollar or percentage cap).

Participants will provide documentation of their ongoing student loan payments. They will sign a loan agreement under which CalATJ will make periodic distributions to each participant in amounts that are equal to (if funding permits) or less than the participant's current student loan principal and interest payments. The loan agreements will provide that CalATJ will cancel the obligation to repay the distributions used to reimburse payments on student loans during the time while the participant has remained employed in a California legal aid nonprofit. As noted above, this is designed to comply with Section 108(f) of the Internal Revenue Code.

Legal aid lawyers who make 120 qualifying payments – including those that are reimbursed or paid by LRAP programs – may qualify for Public Service Loan Forgiveness of their federal loans. As a result, with full funding and full participation by California LSOs, they will be able to tell their new recruits and experienced lawyers: ***“Work for California legal aid and we will cover your student loan payments. Stay for ten years and your loans will be forgiven.”***

CalATJ is also providing training on establishing PSLF eligibility, and on the new federal Income-driven repayment plan known as SAVE – which can avoid the increase in loan balances that has resulted from previous IDR plans.

The Legislature has appropriated \$250,000 for CalATJ's administrative costs, and LSOs will not be charged for LRAP administration.

CalATJ thanks **Heather Jarvis**, a nationally-known student loan expert, for her advice, support, and skilled training presentations.

If you have questions, please email [LRAP@CalATJ.org](mailto:LRAP@CalATJ.org) or [jlonden@CalATJ.org](mailto:jlonden@CalATJ.org).

<sup>i</sup> Legal Aid Association of California, *Justice At Risk* (2020), <https://www.laaonline.org/about/laac-research/> at pages 27-28.

<sup>ii</sup> See our report: *Legal Aid Recruitment and Retention*, <https://calatj.org/publication/legal-aid-recruitment-retention-and-diversity-2022/> at pages 15-16.

<sup>iii</sup> *Justice at Risk* at 32.

<sup>iv</sup> Available at <https://calatj.egnyte.com/dl/Rv3tOOX31z>