

**AMERICAN BAR ASSOCIATION
ADOPTED BY THE HOUSE OF DELEGATES
August 11-12, 2003**

RESOLVED, That the American Bar Association reaffirms its encouragement of law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial lawmakers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower-paying government and public service legal employment.

REPORT

Introduction

In August 1988, the ABA House of Delegates adopted the following policy: “*Be It Resolved*, That the American Bar Association encourages law schools, state and local bar associations, and federal and state lawmakers to establish Loan Assistance Repayment, Loan Forgiveness, and Income-Sharing Programs for law school graduates accepting low-paying, legal, public interest employment.”¹ Recognizing that rising law school tuitions and escalating student debt made it a challenge for law graduates to pursue a public service legal career, the House adopted this policy to authorize the ABA to promote programs, such as loan repayment assistance programs (“LRAPs”), to help many law graduates realize their dreams of providing much-needed legal assistance to the poor or serving their communities through work for state or local government. At the time the House of Delegates adopted this policy, the average private law school tuition was \$9,577, the average non-resident public law school tuition was \$5,930 and the resident public law school tuition was \$2,267.² The average law school debt was approximately \$25,000, with a monthly loan repayment obligation of approximately \$315.00.³ A handful of law schools and one state had created LRAPs to facilitate law graduates pursuing and remaining in public service employment.

Today, this problem has reached a crisis stage. Many more law school graduates are forced to forego their dreams of public service despite their deep commitment to ensuring equal justice for millions of people who receive inadequate or no legal assistance. The rising cost of a legal education is forcing law students to borrow at increasingly higher rates, and law school graduates’ debt has skyrocketed. Between 1992 and 2002, the cost of tuition for public law schools has risen 134% for residents and 100% for non-residents, while private law school tuition has increased by 76%.⁴ For 2001- 02 graduates, the average annual private law school tuition was \$24,144, while the average public law school tuition for residents was \$9,376 and for non-residents was \$18,131.⁵ As a result of

¹The Commission and its co-sponsors request that the House affirm this 1988 policy by adopting the following proposed recommendation: “*RESOLVED*, That the American Bar Association reaffirms its encouragement of law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial lawmakers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower-paying government and public service legal employment.” “Government and public service legal employment” includes a variety of public service legal employment settings, including federal, state and local prosecutor offices, public defender offices, legal services organizations, federal, state and local government agencies and other nonprofit public interest law organizations.

² ABA Section of Legal Education and Admissions to the Bar.

³ Report No. 123, submitted by the ABA Law Student Division, 8/88.

⁴ ABA Section of Legal Education and Admissions to the Bar.

⁵ ABA Section of Legal Education and Admissions to the Bar.

rising tuitions, the vast majority of law students borrow to attend law school.⁶ The ABA estimates that the median amount borrowed by 2002 private law school graduates was \$70,147, while one private lender estimated that the median law school debt for 2001 graduates was \$84,400.⁷ Monthly law student loan repayment obligations often exceed \$1,000.

Public service salaries have risen at a much slower rate than private sector salaries. For 2001 law graduates, the median entry-level public interest legal salary was \$35,000, and the median entry-level salary for state government positions was \$36,000.⁸ In contrast, the median private practice salary was \$90,000.⁹

As costs, caseloads and debt continue to increase, large debt burdens carried by law graduates have made it increasingly difficult for public service employers to recruit and retain attorneys. As a result, low-income people and communities, already vastly underserved¹⁰, may receive even less representation. A recent study conducted by Equal Justice Works, the National Association for Law Placement and the Partnership for Public Service found that law school debt prevented 66% of student respondents from considering a public interest or government job.¹¹ Therefore, students graduating from law school are making real-life job choices partly based on their indebtedness.

⁶ 87% of law students borrow funds to finance their legal education. National Center for Education Statistics, *Student Financing of Graduate and First Professional Education, 1999-2000* (2002) [hereinafter NCES Report].

⁷ Estimates of the average and median debt for law school graduates vary. The ABA Section of Legal Education and Admissions to the Bar reports the following as average debt of 2002 law graduates: \$70,299 (private law schools); \$44,649 (public law schools) (Source: 2001-2002 Annual Questionnaire). Access Group, a private nonprofit lender, estimates the median debt for 2000 law graduates as \$84,400 (memo of July 2002 prepared by Jeffrey E. Hanson, Ph.D., Director of Debt Management, Access Group). This figure reflects borrowers who borrowed at least one Law Access Loan from Access Group while in law school. Those who borrowed only federal loans and/or the Bar Exam Loan but no Law Access Loan are not included in the analysis. Finally, the National Center for Education Statistics estimates the average debt of 1999-2000 law graduates at \$62,103 (http://www.nces.ed.gov/surveys/npsas/table_library/tables/npsas98.asp).

⁸ National Association for Law Placement, *Jobs & J.D.'s: Employment and Salaries of New Law Graduates and Starting Salaries: What New Law Graduates Earn (2001 Graduates)* (available at www.nalp.org).

⁹ Id.

¹⁰ In its 1994 Legal Needs Study, the ABA estimated that 80% of low-income persons cannot solve their legal problems in large part because of the unavailability of affordable legal services. American Bar Association, Consortium on Legal Services and the Public, *Agenda for Access: The American People and Civil Justice, Final Report on the implications of the Comprehensive Legal Needs Study*, pages 4-9 (1996); Institute for Social Research at Temple University, *Report on the Legal Needs of the Low-Income Public: Findings of the ABA Comprehensive Legal Needs Study*.

¹¹ *From Paper Chase to Money Chase: Law School Debt Diverts Road to Public Service*, Equal Justice Works, National Association for Law Placement and Partnership for Public Service, November 2002 (available at <http://www.equaljusticeworks.org/finance/index.php?view=detail&id=5595>).

Discussion

Recognizing the impact of educational debt on law graduates' ability to enter and remain in public service jobs and the importance of this issue to the legal profession and society, ABA

Immediate Past President Robert Hirshon made it a priority of his Presidential term. In 2001, at

Mr. Hirshon's request, the ABA Board of Governors created the Commission on Loan Repayment and Forgiveness ("Commission") to examine and report on the effects of the increasing educational debt burdening law school graduates and to seek changes that would lower this barrier to public service. The Commission, which will sunset in August 2003, will present its final report to the Association during the August 2003 Annual Meeting. It will also produce a State LRAP Tool Kit¹² for states seeking to establish a LRAP and a LRAP brochure promoting the benefits of law school LRAPs targeted to law school deans.

During its two years of existence, the Commission has worked closely with other national organizations to raise consciousness about these important issues among the bar, legislators and law schools. Although the Commission has realized some success in raising the profile of these important issues, much more work remains.

In response to the issue of staggeringly high debt loads, a number of solutions have developed for relieving the debt burden of some law graduates, including public service fellowships and scholarships and LRAPs. LRAPs provide financial aid to law school graduates, typically those working in the public interest sector, government, or other lower-paying legal fields. In most cases, this aid is given to graduates in the form of a forgivable loan to help them repay their annual educational debt. Upon completion of the required service obligation, the LRAP administrator will forgive or cancel these loans to program participants. Most LRAPs contain limits on the amount of income a recipient can earn while participating in such a program. There are various types of LRAPs, administered by law schools, state bar foundations, federal and state governments and public service employers, providing debt relief to some law graduates.

Since the adoption of the 1988 LRAP policy, a number of exciting developments have occurred. Currently, eight statewide LRAPs exist: Arizona, Florida, Maine, Maryland, Minnesota, New Hampshire, North Carolina and Texas.¹³ Although these programs have made a great impact in their respective states, they have limited funding and are not able to provide funding to all qualified applicants. In 2001 and 2002, the California and Georgia legislatures enacted authorizing legislation to create a statewide LRAP, but

¹² *State LRAP Tool Kit*, ABA Commission on Loan Repayment and Forgiveness, May 2003 (available at www.abalegalservices.org/lrap).

¹³ *Id.*

neither legislature has appropriated funds to support a program. Therefore, the programs are not operating in these states.

A number of state and local bar associations have created task forces or special committees to explore the debt burden issue and develop solutions. For example, in 2001, the President of the New York State Bar Association created a Special Committee on Student Loan Assistance for the Public Interest to develop a plan to assist new attorneys in pursuing public service careers by reducing their educational debt.¹⁴ In 2002, the Washington State Bar Board of Governors created a Student Loan Crisis Task Force.

This issue has also caught the interest of local bar foundations. For example, in June 2002, the Chicago Bar Foundation announced a donation of \$100,000 to establish the Anderson Fellowship, a 10-year public interest law fellowship. The Anderson Fellowship will honor and assist one recent law school graduate working in public service in the Chicago-area with repayment of his/her law school loans.

The number of law schools sponsoring LRAPs has increased, but the number remains limited. Only approximately 56 of the 187 ABA-accredited law schools sponsor programs. Furthermore, the funding for these programs is limited, so that most schools are unable to provide assistance to all applicants. A national report published in 2000 found that of approximately 47 schools offering LRAPs in 2000, 70% of the total LRAP monies went to graduates of six law schools.¹⁵ Consequently, a program's existence does not ensure that a law school graduate will benefit from a program. A smaller number of law schools offer public interest scholarships. At least fourteen out of the nation's 187 ABA-accredited law schools, such as Boston College Law School, Fordham, Georgetown and New York University, have established scholarship programs for students who intend to pursue careers in public interest or service law.¹⁶

About forty public interest employers, including some legal services offices, have established LRAPs.¹⁷ These are often endowed through private donations or supported through operating funds.

¹⁴ New York State Bar Association Special Committee on Student Loan Assistance for the Public Interest, "Attracting Qualified Attorneys to Public Service" (June 2002).

¹⁵ *Financing the Future: NAPIL's 2000 Report on Law School Loan Repayment Assistance and Public Interest Scholarship Programs* (NAPIL is now known as Equal Justice Works).

¹⁶ *Id.* Most of these scholarship programs require that recipients complete service in public interest employment for a specified number of years following graduation. For students accepting employment in non-qualifying placements, many schools impose a moral obligation to repay the scholarship funds awarded.

¹⁷ Equal Justice Works, et al., *supra* note 11, at 35.

Finally, the federal government offers very limited options to assist graduates seeking legal careers in public service, including the income-contingent repayment option (“ICR”) of the William D. Ford Federal Direct Loan Program and loan forgiveness for prosecutors under the Perkins Loan Program.¹⁸ Federal agencies have the authority to create loan repayment assistance programs as an incentive in federal recruiting and retention efforts. Agencies may provide up to \$6,000 of annual assistance, with a maximum over time of \$40,000. There is no budgetary authority for these programs, so an agency must fund its loan repayment program from its own budget. In 2001-02, four agencies -- Health and Human Services, General Services Administration, Department of Energy and NASA -- set up programs, but the programs provided repayment only to eight employees. Senate employees may also be eligible for loan forgiveness.¹⁹

Conclusion

The ABA should reaffirm its support for law schools, state and local bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial law makers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower-paying public service legal employment. The number of entities offering LRAPs or public service scholarships is limited. Although some progress has been made over the past few years and national momentum around the issue has grown, there remains an urgent need for more programs to assist law graduates who wish to enter and remain in public service legal employment.

Since the ABA adopted its original LRAP policy in 1988, the issue of law student debt has reached a crisis point. Between 1992 and 2002, the cost of tuition for public law schools has risen 134% for residents and 100% for non-residents, while private law school tuition has increased by 76%.²⁰ These tuition figures do not include living expenses during school (which average approximately \$13,000 per year).²¹ Public service salaries do not keep pace with private sector salaries. Public service employers often experience difficulty recruiting and retaining lawyers. A recent study found that 68% of public interest employers reported difficulty recruiting the lawyers they need. 62% of these public interest employers also reported difficulties retaining experienced lawyers.

Together, the ABA, local and state bar associations and foundations, IOLTA programs, local, state, territorial and federal lawmakers, public service employers and law schools can act to ease educational debt burdens, thereby enabling law school graduates to seek

¹⁸ 20 U.S.C. § 1087ee (a).

¹⁹ 2 U.S.C. § 60c-5.

²⁰ ABA Section of Legal Education and Admissions to the Bar.

²¹ *Id.*

and remain in public service employment. Law graduates with dreams of serving their communities through legal aid work or representing the community through a prosecutor's or defender's office often cannot pursue their dreams because educational debt constrains their choices. Moreover, the government and legal assistance providers are being deprived of some of the most qualified and dedicated young lawyers. Without further action, public service employers will continue to lose new recruits and experienced attorneys to higher private salaries. As the leading professional association representing the legal profession, it is vital that the ABA reaffirm its support for this important policy at this crucial juncture.

Respectfully Submitted,

Curtis M. Caton Hon. Frank M. Coffin
Co-Chairs
Commission on Loan Repayment and Forgiveness

August 2003

GENERAL INFORMATION FORM

Submitting Entity: Commission on Loan Repayment and Forgiveness

Submitted By: Curtis M. Caton and Judge Frank M. Coffin, Co-Chairs

1. Summary of Recommendation(s).

The recommendation urges the ABA to reaffirm its encouragement of law schools, state and local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial law makers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower-paying government and public service legal employment.

2. Approval by Submitting Entity.

Approved by the Commission on Loan Repayment and Forgiveness on May 12, 2003 by majority vote. The vote was held via email.

3. Has this or a similar recommendation been submitted to the House or Board previously?

Yes. In August 1988, the Law Student Division proposed House Resolution Number 123, which the House adopted. The attached recommendation reaffirms this policy, which is more than ten years old.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

In February 1988, the ABA House of Delegates adopted Resolution Number 123 expressing support for the creation of programs, such as loan repayment assistance or loan forgiveness programs, for law school graduates accepting lower-paying public service jobs. The attached recommendation proposes to reaffirm this policy, which is more than ten years old.

5. What urgency exists which requires action at this meeting of the House?

The ABA should reaffirm its support for law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial law makers to establish programs to enable law graduates to accept and remain in lower-paying public service legal employment. The number of entities offering LRAPs or public service scholarships is limited. Although some progress has been made over the past few years and national momentum around the issue has grown, there remains an urgent need for more programs to assist law graduates who wish to enter and remain in government and public service legal employment.

6. **Status of Legislation.** (If applicable.)

Not applicable.

7. **Cost to the Association.** (Both direct and indirect costs.)

Not applicable.

8. **Disclosure of Interest.** (If applicable.)

Not applicable.

9. **Referrals.**

On May 14, 2003, the Commission distributed copies of the recommendation with report to: Commission on IOLTA, Criminal Justice Section, Government and Public Sector Lawyers Division, Law Student Division, Section of Legal Education and Admissions to the Bar, Standing Committee on Legal Aid and Indigent Defendants, Standing Committee on Pro Bono and Public Service and Young Lawyers Division. The following entities have voted to co-sponsor the recommendation: Commission on IOLTA, Criminal Justice Section, Government and Public Sector Lawyers Division, Section of Legal Education and Admissions to the Bar, Standing Committee on Legal Aid and Indigent Defendants and Standing Committee on Pro Bono and Public Service. Requests to co-sponsor the recommendation are pending with the Law Student Division and Young Lawyers Division.

10. **Contact Person.** (Prior to the meeting.)

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11. **Contact Person.** (Who will present the report to the House.)

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