

LEGAL SERVICES CORPORATION

HERBERT S. GARTEN
LOAN REPAYMENT ASSISTANCE PROGRAM

Program Description

October 1, 2009 (Updated January 2012)

Program Description

I. Overview

Since 2005, the Legal Services Corporation (LSC) has made forgivable loans to attorneys employed by LSC-funded programs to help them repay law school debt. The LSC Herbert S. Garten Loan Repayment Assistance Program¹ (LRAP) is intended to help programs recruit and retain qualified attorney staff. Attorneys, who are selected to participate in LSC's LRAP, receive loans for up to three (3) years, as long as they remain eligible and if funding is available. The description of the LSC LRAP contained in this Program Description applies to new applications submitted on or after October 1, 2011.

LSC will make loans of up to \$5,600 to a limited number of eligible attorneys. The loan recipient, henceforth referred to as Participating Attorney (PA), must use the LSC LRAP assistance to pay qualifying law school loans and accrued interest. The PA also must meet all terms and conditions of the LSC LRAP. The LRAP debt will be forgiven by LSC at the end of each LRAP loan term so long as the PA remains in good standing with a LSC-funded legal services program throughout the term, as certified by the executive director of the PA's program.

A PA's participation in the first year of the LSC LRAP is based on eligibility demonstrated in the initial application and selection to participate. To participate in the LSC LRAP for a second and third year, the PA must submit information demonstrating continued eligibility. If otherwise eligible, a PA will remain eligible in the second and third years even if the PA's salary and/or net worth exceed the LSC LRAP initial eligibility requirements. All loans are contingent upon funds being available.

All applicants, including those not receiving LSC LRAP assistance, must agree to participate in any evaluation of the LSC LRAP. Evaluation activities may include the completion of surveys and participation in interviews.

II. Program Rules for Participating Attorneys

A. Requirements

1. Each PA must submit a completed LSC LRAP Application Form and all required supporting documents by the appointed deadline.
2. At the time of initial application, a PA must have no more than five years (60 months) experience with the LSC-funded legal services program that employs the PA.

¹ In January 2009, the LSC Board of Directors renamed the Loan Repayment Assistance Program in honor of Herbert S. Garten, a LSC Board member and longtime champion of equal justice in his home state of Maryland.

3. A PA must be a full-time employee of an LSC-funded legal services program (that is, work at least 35 hours per week or its equivalent per the program's pay period).
4. At the time of initial application, a PA must have a total outstanding debt of at least \$50,000 in eligible law school educational loans, as described in Section B, below.
5. At the time of initial application, a PA may have a total annual income from all sources that is no more than \$55,000 and a total net worth of no more than \$35,000.² Attorneys working for Alaska Legal Services Corporation are eligible for the LSC LRAP if their total annual income from all sources is no more than \$61,300. Attorneys working for Alaska Legal Services Corporation may not have a net worth in excess of \$35,000.
6. A PA may not have previously received 36 months of LSC LRAP loans or defaulted on a previous LSC LRAP loan. A PA also may not have included a previously received LSC LRAP loan in any bankruptcy filing as a dischargeable debt.
7. A PA is not required to first apply to, and maximize participation in, any other loan repayment assistance program for which the PA is eligible. The receipt of other LRAP assistance will not decrease the amount of the LSC LRAP. However, LSC requests information on the applicant's participation in other LRAPs for research purposes aimed at further improving the LSC LRAP.
8. A PA must apply for the LSC LRAP by completing an Application Form, including all required documentation, loan data and certifications, and, if accepted, by executing a Promissory Note.
9. Prior to receiving each loan payment, a PA must provide a Certification of Employment and Good Standing executed by the executive director of the LSC-funded legal services program for which the PA works.
10. If a PA receives LSC LRAP assistance, the PA is expected to complete three years of employment with the participating LSC-funded legal services program after receiving an LRAP Loan.

² Income sources include but are not limited to the PA's wages and salaries, interest, dividends, realized capital gains, gifts and trust income. Net worth consists of the sum of the value of financial assets (e.g. cash, value of checking and savings accounts, stocks, bonds) and non-financial assets (e.g., equity in real estate) minus any debts (e.g., mortgage loans, student loans, consumer credit). Equity in the home in which the PA lives is not included in the net worth calculation.

B. Eligible and Ineligible Loans

1. Eligible Loans

The LSC LRAP will provide assistance, as approved by LSC, toward the payment of the following educational loans incurred for law school expenses (“eligible law school loan(s)”), on the condition that they can be verified through a lending institution:

- Federal Stafford Loans (Subsidized/Unsubsidized)
- Supplemental Loans for Students (SLS)
- Federal Perkins Loans
- Law Access Loans (LAL)
- Law Student Loans (LSL)
- Law-school-based loans
- Other educational (e.g., Nellie Mae, Sallie Mae, TERI) loans used to pay for law school
- Bar exam/Bar study loans

2. Ineligible Loans

The LSC LRAP will *not* provide assistance toward payment of the following loans:

- Non-law school educational loans
- Non-educational loans
- Educational or non-educational loans from family members
- Educational or non-educational commingled loans with spouses or partners or parents
- Credit card debt loans

PAs are responsible for any tax and/or legal consequences or implications if they use LSC LRAP funds to pay for any of these ineligible loans or debts. In addition, if LSC LRAP funds are used for purposes contrary to the terms of the Herbert S. Garten Loan Repayment Assistance Program Promissory Note (“Promissory Note”), the PA will be in default of the provisions of the Promissory Note and will be required to repay to LSC the principal and interest pursuant to the terms of the Promissory Note.

C. Loan and Financial Information Required from PAs

At the time of initial application, a PA must have eligible law school loans, with a total outstanding debt on these eligible law school loans of at least \$50,000, and must meet the other requirements of the LSC LRAP. A PA will be required to provide lender documentation on each loan being submitted with the initial application. *If law school debt has been consolidated with undergraduate and/or graduate school debt,*

the PA will be asked to calculate the law school debt. The Application Form and Instructions describe these requirements in detail. A PA also must certify compliance with the income and asset eligibility criteria.

A PA must notify the LSC LRAP Coordinator in writing of any errors, omissions and/or significant changes in the application information and/or other information provided to LSC within 30 days of learning of such errors, omissions, and/or changes, including departure from the PA's LSC-funded legal services program. Failure to provide this information may affect the PA's eligibility for the program and the PA's Promissory Note repayment obligations for early departure from a LSC-funded legal services program.

Once a PA is determined to be financially eligible for the program, any change in the PA's income or assets will not affect the PA's future eligibility for the program.

D. Use of the LSC LRAP Funds

All LSC LRAP funds received by PAs must be applied to eligible law school loan payments.

E. LSC LRAP Loan Principal Distribution

The LSC LRAP loan principal for the term, which runs from October 1 to September 30 of the fiscal year in which the PA is participating, will be distributed in two six-month payments. LRAP loan principal distributions are mailed to the PA's *home* address in two disbursements of up to \$2,800 each pursuant to the following schedule:

- Payment for the period October 1 – March 31 will be mailed after April 15; and
- Payment for the period April 1 – September 30 will be mailed after October 15.

The first payment will be disbursed after LSC receives the executed Promissory Note with the required information completed and an executed Executive Director Certification of Employment and Good Standing form (Executed Certification Form) for the time period covered by the first disbursement.³ The second payment will be disbursed after LSC receives an Executed Certification Form for the time period covered by the second disbursement. The PA's legal services program, as the PA's employer, is not involved in the LRAP loan relationship, other than to verify through the Executed Certification Form that the PA remains in good standing in the PA's

³ The Executive Director Certification of Employment and Good Standing forms will be emailed to the PA by LSC staff for timely completion by the executive director of the PA's LSC-funded legal services program consistent with the distribution

eligible legal services program for the applicable time period covered by the disbursement. The amount of the LRAP loan will be up to \$5,600 annually for all PA's selected to participate in LSC's LRAP.

Since eligible law school loan payments typically are due in monthly installments, PAs are expected to retain the LSC LRAP loan principal distribution for use in making the PA's monthly payments on eligible law school loans. (See Section B. 1, above.) In the event that the LSC LRAP loan principal distributed to the PA exceeds the PA's monthly payments in a particular distribution period, the PA will be required to apply that excess to the payment of his or her other remaining eligible law school loans, as defined in Section B. 1, above.

PAs may apply the LSC LRAP loan principal distribution to make a lump sum payment towards the amount outstanding on eligible law school loans. However, under no circumstances may PAs use a LSC LRAP loan principal distribution to defray living expenses or any debt other than eligible law school loans.

Interest on the LSC LRAP loan will accrue at the rate of 6 percent per annum. The LRAP loan principal distribution, plus interest, will be forgiven if the PA remains in good standing with the PA's eligible legal services program throughout the LRAP loan term, as certified by the executive director of the LSC eligible legal services program.

F. Loan Default

A default occurs when a participating attorney ("PA")

- voluntarily resigns from employment with a participating legal services program.
- voluntarily or non-voluntarily experiences a change in employment status with a participating legal services program (*e.g.* is reduced from full- to part-time, etc.).
- is terminated from employment with a participating legal services program.

A default may occur at any time after the PA is selected to participate in the LRAP Program (*e.g.* before the first loan payment is received or at any time during the loan term).

Notice of Default: The PA is responsible for informing the LRAP Coordinator of any anticipated default. Upon receiving notice from a participating legal services program or the PA directly that a default has or will be occurring, the LRAP Coordinator may investigate and obtain additional information about the circumstances surrounding the default. The LRAP Coordinator will request that the PA submit a Petition for Forgiveness or will submit the loan balance to the Office of Legal Affairs (OLA) for collection.

G. Loan Forgiveness in Event of Default

1. Process for Requesting Forgiveness of Loan Amount in event of a Default; Adjudication of Petitions for Forgiveness:
 - a. **Authority to Forgive Loan Amount in event of Default:** When a PA is in default, LSC may, in its sole discretion, forgive the PA's outstanding loan balance if good cause for the default is established.
 - b. **Petition for Forgiveness:** Within 30 days of a default, a PA who wishes to seek forgiveness must submit a written Petition for Forgiveness (Petition) to the LRAP Coordinator at LRAPcoordinator@lsc.gov, explaining why good cause exists for the default. This Petition must be in PDF format attached to an email and include the following:
 - i. PA's contact information
 - ii. Date of departure from the PA's LSC funded program
 - iii. Circumstances which caused or contributed to the PA's departure from the LSC funded program as set forth below in Section II(E)(3)(b)(1) or (2).
 - c. **LSC Review of the Petition:** If the reason for the default falls within one of the enumerated circumstances set forth in Section II(E)(3)(b)(1) below, then good cause is automatically established and the LRAP coordinator will adjudicate the Petition. If the reason does not fall within Section II(E)(3)(b)(1), then the LRAP Coordinator will review the Petition and determine if the circumstances presented constitute good cause. The LRAP Coordinator will then make a recommendation on whether good cause exists. The reasons underlying the LRAP Coordinator's recommendation and LSC's decision will be appropriately documented, in writing, and placed in the PA's LRAP file.
 - d. **Notification of Determination:** A final decision on the PA's Petition will be made within 30 business days of its receipt, and a Notice of Determination either approving or denying the petition will be sent to the PA via email. LSC's decision is final and not appealable.
2. Good Cause for Purposes of Forgiveness

LSC, in its sole discretion, will determine what constitutes "good cause", but will use the following guidelines when determining whether good cause exists:

- a. The following circumstances, if supported by the appropriate documentation, will automatically constitute good cause:**
- i. Death of the PA
 - ii. Short- or long-term disability, or serious illness/injury of the PA that results in voluntary resignation from or change in employment status with a participating legal services program;
 - iii. Short- or long-term disability or serious illness/injury of a member of the PA's immediate family (*i.e.* spouse, domestic/civil partner, child, sibling, or parent) that results in voluntary resignation from employment or a reduction in employment status (*e.g.* from full-time to part-time), if the disability, illness, or injury requires the PA to act as a caregiver.
 - iv. Voluntary resignation from employment because a spouse or domestic/civil partner is involuntarily transferred out-of-state or the area (*e.g.* military transfer, plant relocation, etc.);
 - v. Voluntary resignation from employment because the PA has received notice from the participating legal services program of an impending reduction-in-force, layoff, prolonged furlough, or material reduction-in-hours, pay or benefits or employment status; or
 - vi. Involuntary reduction in hours to less than full time employment (less than 35 hours per week).
- b. The following circumstances will NOT constitute good cause:**
- i. Termination for cause, as determined solely by the participating legal services program.
 - ii. Voluntary resignation from employment in order to take another position that is not with an LSC grantee (*e.g.* a private sector position, a Public Defender or District Attorney position, or any other public interest-sector position).
 - iii. Voluntary resignation from employment in order to voluntarily relocate to be closer to family, a spouse's job, or otherwise or
 - iv. Voluntary reduction in hours to care for a child.
- c. Catch-All**

As it is difficult to anticipate or enumerate each and every circumstance that would constitute "good cause", other compelling circumstances that may arise will be reviewed on a case-by-case basis to determine whether good cause exists.

H. Submitting a LSC LRAP Application/Renewal Application

The LSC LRAP application process is an electronic process. **Please read Instructions for Completing the LSC LRAP Application appropriate to your situation (i.e. new applicant or renewing participant) before completing the forms.**

A completed application includes:

- The electronic submittal of the Application form with all appropriate boxes checked (failure to check all appropriate boxes will result in ineligibility for the program); and
- Loan documentation (documentation for each loan, plus any necessary explanatory material, **combined into one PDF file** and attached to the Application.)

PAs who have completed their first or second year and wish to participate in years two or three will be required to complete a Renewal Application Form

A completed renewal application includes:

- The electronic submittal of the Application form with all appropriate boxes checked (failure to check all appropriate boxes will result in ineligibility for the program)

III. Tax Consequences of Receiving LSC LRAP Assistance

The LSC LRAP is designed to take advantage of the provisions of section 108(f) of the Internal Revenue Code. In consultation with legal counsel, LSC believes it has structured the LSC LRAP so that the loan amounts forgiven by LSC when a PA completes each LRAP loan term are not considered taxable income to the PA, and thus do not have to be reported as such. However, there is no authoritative legal guidance available to determine with certainty the proper tax treatment of these financial benefits. LSC does not give tax advice. Each PA remains responsible for federal and state income tax consequences on individual returns.

PAs have the option to treat the forgiveness of their LRAP as taxable income. PAs are encouraged to seek independent legal advice for any questions about their particular tax situations.

Please direct any questions about the LSC LRAP to LRAPcoordinator@lsc.gov.