

DEBT OF GRATITUDE



Federal loan repayment assistance offers relief for young legal aid lawyers discovering that high loan payments and low salaries don't add up.

by Cynthia L. Cooper



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FINAL NOTICE

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As a result of the skyrocketing costs of law school, legal services leaders are now facing a genuine human-resource crisis. Recent graduates are being forced to abandon their public-interest career plans out of financial necessity, while young lawyers drowning in debt are leaving legal aid after brief tenures to take more lucrative jobs in the private sector. In response to this problem, Congress has approved funding for a new pilot program that offers loan assistance to qualified advocates, so they can meet their monthly expenses and continue their vital work on behalf of the poor.

Jessica Kerkhofs might still be working at Legal Aid of Nebraska if it were not for the Thursdays, twice a month, when she opened the financial budgeting software on her home computer. The figures didn't add up. Student loans totaling \$117,248 stared back at her from the screen. With monthly repayments of \$1,100, the loans gobbled up more than half of her take-home salary.

"I was freaking out about the payments," says Kerkhofs, a 2001 graduate of Creighton University School of Law in Omaha. "I would wake up in the middle of the night thinking about finances. I didn't want to shirk my responsibility. They deserve their money. It was just really difficult to deal with."

Kerkhofs started her legal services job right out of law school, carrying a heavy domestic relations caseload and an equally weighty law school debt load. In her work, she helped a neglected child move into a safe environment. She came to the aid of an Asian immigrant locked into a frightening marriage to a man who knocked out her teeth and physically abused their kids. It was gratifying and important work, to say the least.

However, Kerkhofs and her husband, a modestly paid employee of an Internet service firm, were starting their own family. They tried to get on top of their finances, scrimping, withdrawing 401(k) funds to pay off a 2001 car, consolidating loans, and accepting forbearance offers. But still, the debt was too much to manage.

Finally, Kerkhofs decided to change course rather than continue struggling against the tide. She accepted a job as a city attorney in Lincoln, Neb. The position called for an hour commute to and from work and lacked the rewards of a career providing help to those desperately in need, but the extra \$10,000 in annual salary meant she and her husband could pay their mortgage, child care expenses, and the law school loans. "We really needed a break for our

kids," says Kerkhofs, who is now the mother of a toddler and a newborn. "If there were a program at legal services where I could have gotten loan assistance, I would have stayed. I really miss that atmosphere."

High student debt constitutes a "serious impediment" for legal services programs trying to retain qualified staff attorneys, according to one-third of the 105 legal aid executive directors who responded to a December 2003 survey conducted by the Legal Services Corporation. According to the survey, nearly one-quarter of legal services lawyers who leave do so because of low salary, while 12 percent of those point directly to educational debt as their reason for jumping ship.

Getting good lawyers in the door may be even harder, according to the survey. Fifty-seven percent of program directors polled said the educational debt of recent graduates is a serious impediment to their recruitment efforts. "We have had student interns who have indicated that they could not contemplate taking a position with us because they faced large student debt upon graduation," says one respondent.

LSC President Helaine M. Barnett says the survey follows years of concern in the legal services community, in which the American Bar Association, law schools, directors of state Interest on Lawyer Trust Account funds, LSC, and other funders have all searched for ways to make careers in legal aid financially possible for those saddled with high student debt.

"Starting salaries in legal aid average \$37,500, which can make it very difficult for graduates who are faced with an average law-school debt of \$80,000 to work in legal services," Barnett says. "More than 75 percent of directors [at LSC-funded programs] indicated loan forgiveness programs would be effective for recruitment and retention of staff attorneys."

This May, LSC will implement the first-ever federally



funded Loan Repayment Assistance Program (LRAP) pilot specifically designed to help legal services attract and retain qualified advocates. The \$1 million experiment will ease the loan burden over three years for approximately 60 legal services attorneys, and as importantly, offer an opportunity to gauge the effectiveness of such a program so LSC leaders can make the case for permanent sources of funding for loan repayment assistance.

Congressman Frank Wolf (R-VA), Chairman of LSC's Appropriations subcommittee in the U.S. House of Representatives, was the catalyst behind the pilot's creation. At an appropriations hearing last spring, the Congressman suggested that LSC use \$1 million to implement the pilot LRAP. He then shepherded authorization of the measure through a House-Senate conference committee during last year's appropriations process. "You want people to come into legal services who are competent and capable and went to good schools," Wolf says. "With the loans these young kids have, they just can't do it." Wolf, himself a graduate of Georgetown University School of Law, was inspired by programs that help teachers who work in impoverished school districts with loan repayment assistance. "It makes sense," Wolf says. "The poor need legal services as well as the rich. It's important that we remember the poor so that equal justice is a reality."

IDEA GAINING CURRENCY

Loan repayment programs that help lawyers entering public service are rapidly gaining currency in varied sectors of the bar. In the past decade, law school tuition has increased dramatically. Tuition at public law schools rose 138 percent for residents and 119 percent for non-residents from 1992 to 2002, according to a 2003 report by the ABA Commission on Loan Repayment and Forgiveness. Tuition at private law schools rose 76 percent in that same span, hitting \$30,000 a year at some institutions.

services attorney serving a two-county area for the Tunkhannock office of North Penn Legal Services. A 1992 graduate of Widener University School of Law in Harrisburg, Pa., Carrubba is the mother of two children, ages 7 and 9. She figures that she will still have years of loans to pay off when her children enter college. Carrubba says her loan payments take one-quarter of her salary, even as she earns less than her truck-driver husband. Still, the myth persists that all lawyers make plenty of money. "I

don't think my clients or family have a clue," she says, "and some days I get really frustrated with the situation."

"Whenever you talk about it, people get very animated," agrees Joe Campagna, Jr., a senior staff attorney at North Penn Legal Services who has advocated for debt relief for legal services attorneys.

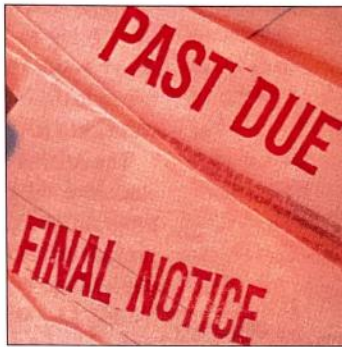
Loan repayment assistance softens the blow of school debt for attorneys willing to forsake the comparatively

high salaries of the private sector for a job in the public interest. Entry-level salaries in legal aid are roughly one-third the size of the starting wage at private firms, where new lawyers can expect to earn an average of \$90,000 out of law school, according to the ABA report.

"We hope the pilot LRAP will allow programs to recruit well-qualified graduates with a passion for public service," LSC's Barnett says. "We also hope it will help more experienced lawyers remain in legal services, which will help improve the quality of program staff and result in higher-quality service for our clients."

Signs are promising, judging by the experiences of the several dozen LSC programs that have funded their own LRAPs. "We now receive more applications from law graduates of major law schools," says one legal services director with an employee LRAP. "The program signals to staff that we care about their financial situation."

An opportunity to qualify for loan repayment assistance certainly made a difference to Jodi Mount, a 2004



PREVIOUSLY, LAWMAKERS OFFERED LITTLE TO ASSIST NON-GOVERNMENT LAWYERS—CERTAINLY NOTHING THAT MATCHES INCENTIVES OFFERED TO MEDICAL SCHOOL GRADUATES WHO GO TO WORK IN UNDERSERVED AREAS.

"The cost of a legal education is growing and the debt itself is getting proportionately bigger," says Samuel Milkes, executive director of Pennsylvania Legal Services and a member of the LSC Advisory Committee for the pilot LRAP. "Legal services are not able to keep up."

To pay for their legal educations, law students borrow... and then borrow some more. Many take on six-figure law-school loans despite still being deep in debt from deferred undergraduate loans. A *juris doctor* is earned today with accompanying promissory notes that, on average, are double what graduates faced 10 years ago, according to the ABA report.

"I didn't have anyone to foot the bill. I had to borrow the whole way through," says Kelly Carrubba, the sole legal

graduate of Georgia State University College of Law. Mount now works for the Atlanta Legal Aid Society's Senior Citizen Law Program. "I wouldn't have been able to take the job here without loan assistance," she says.

Hanging in Mount's office, not far from her diploma, is a colorful painting of six women dancing, arms raised, with one breaking free to head to the top of a hill. "I feel like I had that breaking-away," Mount says of her own career choice. Now 46 years old, she entered law school after raising two sons with her husband, an environmental clean-up estimator.

Mount wanted to pursue a career in elder law after caring for a grandmother and great aunt, both important influences in her life. "I enjoy interacting with elderly peo-

7 QUESTIONS ON DEBT RELIEF

1 What is an LRAP?

An LRAP is a Loan Repayment Assistance Program. LSC's LRAP is being created to help relieve the financial burden on current and aspiring legal aid attorneys struggling to meet their financial obligations because of high educational debt.

2 Why is LSC funding a pilot LRAP?

Because a majority of legal services directors report difficulty attracting and retaining high-quality staff attorneys due to the high costs of a legal education and the low starting salaries of legal aid.

3 Do advocates really need this help?

The average starting salary for a lawyer at an LSC-funded program is \$37,500, while the average educational debt of a law-school graduate exceeds \$80,000. Law school tuition has more than doubled over the past decade.

4 Who is eligible to participate?

Approximately 10 federally funded legal aid programs will be selected to participate in the program this spring. Newly hired lawyers and staff attorneys from those programs with less than three years of experience and an annual outstanding debt of at least \$2,400 can apply for loan assistance.

5 Are there income limitations to qualify?

Yes. To qualify, attorneys must have annual salaries under \$45,000, household incomes under \$90,000, and be subject to other limitations on assets.

6 How much loan assistance is available?

Congress approved the expenditure of \$1 million, which means lawyers chosen to participate will receive up to \$5,000 annually for up to three years.

7 Will this program become permanent?

LSC has requested an additional \$1 million from Congress for FY06 to continue funding the pilot LRAP. LSC has designed an evaluation mechanism into the current LRAP. If the program is successful in meeting its objectives, LSC leaders and their supporters may seek additional, permanent sources of funding for loan repayment assistance.

ple," Mount says. In her legal services position, she makes rounds at senior homes and visits with clients in wheelchairs. She helped one 87-year-old woman with a hip injury to secure coverage for nursing-home costs. "She had grown very depressed, just wished she was out of the way," Mount says. "You can see you've taken a lot of pressure off their lives. It makes you feel good."

Yet Mount almost did not get the chance to help. The amount of debt Mount incurred for her legal studies, \$62,000, nearly kept her from her dream job. "I wasn't even going to apply to legal aid," she says. "But when I interviewed, they told me about the loan assistance. I talked to my husband and did the math, and we decided it was worth it."

The Atlanta Legal Aid Society has funded its own loan assistance program since 1977, says Steve Gottlieb, the program's executive director. The LRAP is structured to provide a maximum of \$500 per month after recipients pay a monthly deductible of \$65. Mount says she is eligible for \$3,600 per year in repayment help—enough to make a decisive difference. "Everybody asks about the program," Gottlieb says. "It's absolutely clear that we are able to recruit new lawyers with it."

Lawyers from approximately 10 LSC-funded programs will be selected to participate in the federally funded LRAP this year, according to LSC Program Counsel John Eidleman, who has been involved in the pilot's design.



Many tough questions had to be addressed about eligibility in order to make the program fair, reach the neediest, and provide for a reliable evaluation mechanism, he says.

For the programs selected, the pilot will permit new hires or lawyers with less than three years of service to apply for loan repayment assistance. Those selected will be eligible to receive as much as \$5,000 per year for three years. Participating attorneys must have an outstanding annual debt of at least \$2,400 from eligible sources, such as federal Stafford loans and Law Access Loans. Under a means analysis, they must have annual salaries under \$45,000, household incomes under \$90,000, and be subject to other limitations on assets to qualify. In addition, the lawyers must commit to stay with the legal services program for the period of the pilot, which is expected to be three years.

One difference between the loan assistance offered through local legal services offices and the assistance offered by LSC may lie in the tax implications. Employer-based loan repayment assistance is taxed as income, but non-employer loan assistance is not taxable. Experts who have reviewed the LSC pilot contend that the federal loan assistance should be exempt from taxes, although no definitive Internal Revenue Service ruling addresses the subject, Eidleman says. The tax savings could make a difference of \$300 to \$400 each month for the lawyer-recipients, says Atlanta's Gottlieb.

LSC's approach models the loan repayment assistance programs established using state Interest on Lawyers' Trust Accounts (IOLTA) funds. Paul Doyle, director of the Florida Bar Foundation's LRAP program for legal aid attorneys, says his Foundation is able to provide debt relief to 50 attorneys in public interest jobs up to a maximum of \$6,000 annually, and the funds are not taxable because they are not paid by the employer. Lawyers in Florida are eligible for loan assistance if they have between two and five years of employment with legal services. "We designed it to target the years of most vulnerability," Doyle says. "A number of lawyers come out of school and take a job at legal services and don't really realize the impact their loans will have until they start work. The feedback we've gotten from staff attorneys is overwhelmingly positive."

Law schools are also trying to ameliorate the loan burdens with their own LRAP programs, according to Karen Lash, formerly of Equal Justice Works, a Washington D.C.-based organization that advocates for law students pursu-

ing public-interest careers. A Fall 2004 Equal Justice Works report found that 81 of 243 law schools across the country offer some form of loan repayment assistance and another 22 schools were considering endowing LRAPs. By comparison, only 47 law schools had LRAPs in 2000.

The federal government also offers loan assistance to certain employees in sensitive jobs. For instance, 160 Department of Justice lawyers are able to take advantage of loan forgiveness each year. However, prior to the LSC program, lawmakers offered little to assist non-government lawyers—certainly nothing that matches incentives offered to medical school graduates who go to work in underserved areas. "There is much more aid going to relieve doctor debt than lawyer debt," Lash notes.

Recruitment of qualified attorneys in rural areas is even harder without debt relief, says Douglas German, executive director of Legal Aid of Nebraska. "Because of scarce resources, it's easy for a statewide program to gravitate to an urban focus, but to do so you abandon all those folks in the rest of the state. To keep a statewide focus, you have to be able to attract and retain good people."

A successful national LRAP could encourage companion efforts in the states, planners hope. Legal aid programs selected for the pilot will be encouraged to work with their local law schools and state leaders to secure additional funding sources for debt relief. "One factor is what the program will do to make sure the whole pot is growing for young lawyers," Eidleman says. "Otherwise, the concern is that there won't be a future generation of legal services lawyers who can meet our clients' needs." Pennsylvania's Milkes agrees: "We're going to need a combination of resources. It's a big problem and no one sector can solve it. No one sector feels that they alone *should* solve it."

The pilot LRAP to debut later this spring is just the beginning, LSC leaders hope. The Corporation is requesting another \$1 million in its Fiscal Year 2006 budget request to continue the loan forgiveness pilot program. "If the pilot is successful, as we expect it will be, it will enhance the ability of our grantees to recruit and retain well-qualified attorneys," LSC President Barnett says. "We hope this pilot will lead to additional, permanent funding for loan forgiveness for legal services lawyers."

While the LSC program is modestly funded at present, it will play an essential role in testing theories about student debt as a barrier to recruitment and retention, Lash says. "I suspect you'll have a lot of people saying 'but for'—'but for my LRAP, I would not be able to do this work.'" ■



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DIFFICULT CHOICES

Ami Sanghvi is absolutely clear in her conviction that she will take a public service position after she graduates from Fordham University School of Law in New York City this May. She spent two years between college and law school working at the Urban Justice Center as a legal advocate for homeless people. Now she is looking for permanent employment in a nonprofit organization that offers a combination of client and policy work on poverty issues. "It would be a huge competitive edge for legal aid to have loan forgiveness," Sanghvi says.

Fordham's law school has a loan forgiveness program, but the majority of its funds go to students who take government positions, says Assistant Dean Stephen Brown. Meanwhile, the gap in pay between the public and private sector continues to widen, he says.

Sanghvi, the daughter of once-struggling immigrant parents from India, is willing to forgo the big salaries of private firms. She plans to live modestly with a roommate in one of the less-expensive outer boroughs of New York. But

with \$110,000 in college and law school loans to repay, getting help with her debt is a top consideration. "As I start to live paycheck by paycheck, every little bit will matter," she says. "I thought about the loans before law school and throughout law school. I didn't grow up with financial privilege. I don't have fears that I won't be able to do the fancy things that I'm used to because I was never used to them. I need to feel like there is value in my work, and I thought it would be silly not to go to law school because of loans." But Sanghvi says some of her classmates are making different choices. "I know many who were going to enter public service, and now it's a very small number of those who are actually doing it," she says. "I have friends who say they want to make some money and pay off loans. There's a fair amount of shame about that decision. People say, 'I know I'm selling out for a couple of years, but I'll come back.'"

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