



HERBERT S. GARTEN
LOAN REPAYMENT ASSISTANCE PROGRAM

Program Description

March 2020

Program Description

I. OVERVIEW

Beginning in 2005, the Legal Services Corporation (LSC) has made forgivable loans to attorneys employed by LSC-funded legal services programs (LSC grantees) to help them repay their law school debt. LSC implemented the Herbert S. Garten Loan Repayment Assistance Program¹ (LRAP) to help LSC grantees recruit and retain qualified attorney staff. Attorneys who are selected may receive forgivable loans for up to three (3) years depending on their continued eligibility and available funding. For each annual term, the loan payment may be forgiven as long as the participating attorney remains employed for the full annual cycle at the employing LSC grantee and otherwise remains eligible. This Program Description applies to new applications submitted for the cycle that commenced October 1, 2019.

Using a lottery system, LSC will select approximately 125 eligible attorneys (the actual number of loans made each year depends on available funding) to participate. Each loan recipient, referred to as a Participating Attorney (PA), will receive an LRAP loan, which must be used to pay qualifying law school loans and accrued interest. If the PA stays employed in good standing with the same LSC grantee through the required twelve months, as certified by the executive director of that grantee, then LSC will forgive the loan (presuming the PA meets all other terms and conditions of the loan agreement.) If the PA stops working at that grantee during those twelve months, then the entire loan must be paid back to LSC, unless LSC determines the PA had good cause as described below.

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

All PAs must agree to participate in any evaluation of the LRAP program. Evaluation activities may include the completion of surveys and participation in interviews.

II. PROGRAM RULES FOR PARTICIPATING ATTORNEYS

A. Requirements

1. Each applicant must submit a completed LRAP Application Form and all required supporting documents and certifications by the appointed deadline.
2. At the time of initial application or renewal, the applicant must be employed full-time as a licensed attorney at an LSC grantee as that term is defined by the grantee.
3. **To receive loan forgiveness, the PA must remain in full time employment with the employing LSC grantee for the entirety of the LRAP loan term for which they are applying or renewing their participation (October 1 through September 30 of the following year).**

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.

4. At the time of initial application, the applicant must have a reasonable expectation of employment at the grantee for three years beginning with October 1 of the calendar year before the application. For example, a March 16, 2020 applicant must have a reasonable expectation of employment at their current grantee from October 1, 2019, through September 30, 2022. Fellowship recipients or special-grant funded attorneys may apply for LRAP assistance provided they have a reasonable expectation of continued employment for the full three-year period, even if the fellowship or special-grant term lasts less than three years.
5. At the time of initial application, the applicant cannot have been employed as an attorney by the employing LSC grantee for more than five years (60 months cumulative).
6. At the time of initial application, the applicant must have a total outstanding debt of at least \$75,000 in eligible law school loans, as described in Section B, below.
7. At the time of initial application, a PA's total annual income and net worth² may not exceed:

LSC Grantee's Service Area	Annual Income	Net Worth
48 States, D.C., territories, and other service areas	\$62,500	\$35,000
Alaska	\$78,125	\$35,000
Hawaii	\$71,875	\$35,000

8. At the time of initial application, the applicant may not have:
 - previously received LRAP loans covering 36 months or more (cumulatively); or
 - defaulted on a previous LRAP loan; or
 - included a previously-received LRAP loan in any bankruptcy filing as a dischargeable debt.
9. An applicant is not required to first apply to, and maximize participation in, any other loan repayment assistance program for which the applicant is eligible. The receipt of other loan repayment assistance will not decrease the amount of the LRAP. However, LSC requests information on the applicant's participation in other loan repayment assistance programs for research purposes aimed at further improving the LRAP.
10. If selected for an LRAP, the applicant must execute an LRAP Promissory Note to receive the first LRAP loan. In the following two years, the PA will have to execute a new LRAP Promissory Note for each year, if eligible.
11. In order for LSC to forgive an LRAP loan, the PA **must** remain employed with their LSC grantee for the entirety of the annual loan term to which they have applied or renewed their participation (October 01 through September 30 of the following year). **If the PA does not remain employed with that LSC grantee during those twelve months, then the PA must repay to LSC all loan disbursements.**

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.

12. 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 grantee employing the PA.

B. Eligible and Ineligible Uses of Loan Principal

1. Eligible Uses

LRAP loans may be used for 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 loans used to pay for law school (*e.g.*, Nellie Mae, Sallie Mae, TERI)
- Loans related to preparing for or taking bar exam(s)

2. Ineligible Uses

LRAP loans may ***not*** be used for payment of the following loans:

- Undergraduate or other non-law school related 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

Use of LRAP loans for payment of ineligible loans or any other purpose contrary to the terms of the LRAP Promissory Note, will automatically place the LRAP loan into default and the PA 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 \$75,000, and must meet the other requirements of the 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 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 termination of employment for any reason from the LSC-funded legal services program that employed the PA at the time of application. 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 their 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. LRAP Loan Principal Distribution

The amount of the LRAP loan will be up to \$5,600 annually for all PA's selected to participate in LSC's LRAP. The LRAP loan principal will be distributed in two, six-month payments. LRAP loan principal distributions are provided to the PA by mail to the PA's home address or other secure means in two disbursements of up to \$2,800 each pursuant to the following schedule:

- Disbursement for employment during October 1–March 31 will be made after May 01; and
- Disbursement for employment during April 1–September 30 will be made after November 01.

The first payment will be disbursed only 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.

The second payment will be disbursed only after LSC receives an Executed Certification Form indicating that the PA remained employed in good standing for the time period covered by the second disbursement. The participating LSC-funded legal services program that employs the PA, 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 employed in good standing with that LSC grantee for the applicable time period covered by the disbursement.

PA's must apply the LRAP loan to make monthly payments or a lump sum payment towards the amount outstanding on eligible law school loans. Under no circumstances may PA's use a LRAP loan principal distribution to defray living expenses or any debt other than eligible law school loans. See Section II.B above.

E. Loan Forgiveness

Interest on the LRAP loan will accrue at the rate of 6 percent per annum commencing with the execution of each LRAP loan. 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 (October 1 through September 30 of the following year), as certified by the executive director of the LSC eligible legal services program. As discussed below, **if the PA does not remain employed in good standing for the entire loan term, then the PA will be in default and must return to LSC the entire loan including the amount of the first disbursement, unless LSC grants written default forgiveness.**

F. Loan Default

A default occurs when a PA's employment at the employing LSC grantee ends before September 30 of the year of the loan (2020 for 2020 loans) for any of the following reasons.

- voluntarily resignation
- voluntarily experiences a change in employment status (*e.g.*, asks for and is granted a reduction from full- to part-time).
- is terminated from employment by the LSC grantee that employed the PA.

- reaches the end date of the fellowship program or special-grant funded employment and does not continue employment with the LSC grantee that employed the PA.
- uses or permits the use of any of the LSC LRAP funds to pay for an Ineligible Loan as defined in section II-B-2, above.

A default may occur at any time after the PA is selected to participate in the LRAP Program.

Notice of Default: The PA is responsible for informing the LRAP Coordinator of any actual or anticipated default. Upon receiving notice from the employing LSC grantee or the PA that a default has or will be occurring, the LRAP Coordinator may investigate and obtain additional information about the circumstances surrounding the default. LSC will take actions to collect on the loan under the terms of the Promissory Note if the PA does not repay the entire loan, including all disbursements received, except for any amounts forgiven by LSC in writing as discussed below.

Petition for Forgiveness:

1. Process for Requesting Forgiveness of Loan Amount in event of a Default

- 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 by prorating the amount of the LRAP loan distribution due to the PA, if good cause for the default is established under this Section (see below).
- Petition for Forgiveness:** Within 30 days of a default (as measured from the actual date of the default), a PA who wishes to seek forgiveness of the distribution 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:
 - PA's contact information;
 - Date of default and type of defaults (*e.g.*, date of departure from, or change in employment status at, the LSC grantee that employed the PA);
 - A description of the circumstances that caused or contributed to the PA's default; and
 - Which of the below-listed reasons for a good-cause default applies.
- LSC Review of the Petition:** The LRAP Coordinator will review and make recommendations to the Director of the Office of Program Performance on all petitions. The Director of the Office of Program Performance will determine whether good cause exists and whether, or to what extent, to forgive the loan.
- Notification of Determination:** LSC will make a final decision on the PA's Petition within 30 business days of its receipt, and will send a Notice of Determination either approving or denying the petition 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 whether "good cause" has been established, but will use the following guidelines when determining whether good cause exists:

- The following circumstances, if supported by the appropriate documentation, constitute good cause:**
 - Death of the PA (for which any reasonable notice from the PA's employer or others is sufficient to meet the petition requirement above);

- 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 the LSC-funded legal services program that employs the PA;
- 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; including both half-relations and step-relations) that results in voluntary resignation from employment or a reduction in employment status (*e.g.*, from full-time to part-time) in order for the PA to act as a caregiver for the family member with the disability, illness, or injury;
- 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.); or
- V. Voluntary resignation or involuntary layoff from employment because the PA has received notice from the employing LSC grantee that, due to a loss of funding or other factor necessitating a reduction in staffing, there is an impending reduction-in-force, layoff, prolonged furlough, or material reduction in hours, pay, benefits, or employment status.

b. The following circumstances will NOT constitute good cause:

- i. Termination for cause, as determined solely by the LSC grantee that employed the PA;
- ii. Voluntary resignation from employment in order to take another position (*e.g.*, a private sector position, a Public Defender or District Attorney position, or any other public interest-sector position, including a position at another LSC grantee);
- iii. Voluntary resignation from employment in order to voluntarily relocate to be closer to family, a spouse's job, or otherwise; or
- iv. Voluntary resignation from employment to care for an infant or child.
- v. Voluntary reduction in hours for any purpose other than those indicated in the preceding subsection.

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.

G. Submitting a LRAP Application/Renewal Application

The LRAP application process is an electronic process. **Please read Instructions for Completing the 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 of the LRAP and wish to participate in years two or three must complete and submit electronically a Renewal Application Form with all

appropriate boxes checked (failure to check all appropriate boxes will result in ineligibility for the program).

H. Submitting a change of address or name change

Should the need arise during the loan term for the PA to change either their mailing address and/or name as indicated on either their application or promissory note, and provided that such change would affect the PA's ability to receive and/or deposit a LRAP loan distribution, the PA must complete a Change of Mailing Address / Change of Name Form and submit it to the LRAP Coordinator at LRAPcoordinator@lsc.gov.

The Change of Mailing Address / Change of Name Form is available on the LRAP page of the LSC website at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/loan-repayment-assistance-program>. It can also be obtained by request from the LRAP Coordinator at LRAPcoordinator@lsc.gov.

Unless otherwise received by the LRAP Coordinator as explained above, all payment distributions will be made out, addressed and mailed to the information provided on the PA's promissory note.

III. TAX CONSEQUENCES OF RECEIVING LRAP ASSISTANCE

PAs are entirely responsible for any taxes or tax consequences of an LRAP loan, LRAP forgiveness, or an LRAP default. The 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 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 LRAP to LRAPcoordinator@lsc.gov.