

LAWYERS FOR AMERICA OVERVIEW NALP 2015

What is Lawyers for America?

LfA is a two year fellowship program designed to provide hands on legal experience to law students in the public and nonprofit sector starting in the third year of law school, followed by a post-graduate year of full-time employment. LfA provides practical experience at a single placement site to enable the in-depth learning and skill-building that develops from repetition. LfA is a nonprofit organization incubated by UC Hastings, College of the Law. The program is designed to be replicated by law schools nationwide.

Overview

LfA fellows spend both semesters of their third year in an externship with a public interest or government placement. During their third year, fellows work in their placement for 32 hours per week for about eight months, including a portion of the traditional winter break. After they graduate they have three months to study for the bar exam and take a vacation. They then return to their placement and work full time for a year, earning a stipend paid by LfA and supported by a fee charged to their placement site.

Fellows receive 20 months of closely supervised work experience by the time they complete their fellowship. They will have earned recommendations from their supervisors and have built a reputation in the legal community. If placements have openings at the end of the fellowship, then fellows are in an excellent position to be considered for permanent employment. If they do not receive an offer it is anticipated they will be sought after hires by a variety of legal employers.

How did the fellowship start?

The fellowship was created to meet two needs. One is to provide students with hands on, practical experience that is more in-depth than a summer or semester-long externship, as demanded by today's employers and the competitive legal environment. The founders designed the fellowship after the medical school model where two classroom years of study are followed by two clinical years of practice. Fellows receive close supervision and oversight to make sure they are building the skill set they need to do high level legal work right after taking the bar exam. Second, the fellowship addresses the need to provide public interest and public service organizations with additional staffing beyond what their budgets can afford, to help close the justice gap. Non-profits and public service organizations can provide representation to low income and indigent clients they would otherwise not be able to serve without the help of fellows.

What is the benefit for schools joining LfA?

The program is designed to be replicated by schools nationwide. The law school benefits from developing strong ties to employers in their community and providing public interest and public service employment opportunities to students while they are still enrolled in school. LfA fellows are employed full time at graduation. Schools will develop a network of post-LfA alums who will create opportunities for future students and mentor them. There is relatively little cost to the school to run the program beyond finding placement partners, an administrative role, and supervision of the students during their third year. The LfA nonprofit assists in contract development and implementation.

What is the benefit to students?

Students receive on the job training in a field of interest while in school and have a job lined up when they graduate. Fellows' externship fieldwork is supervised by clinical faculty during their third year. They will have far more extensive training and practical experience by the end of their fellowship than their peers have at the same point in their careers, a benefit when seeking permanent positions. Participating sites agree not to lay off a fellow who does not pass the bar exam the first time. There is a provision made for an unpaid leave to study for and retake the exam. Fellows are eligible to receive financial aid during their third year and federal public service loan forgiveness credit post bar. Fellows begin earning a salary and benefits

as soon as they go back to their placement after taking the bar exam. The placement will provide in-depth training and adequate supervision to fellows due to their investment in a long-term working relationship.

What is the school's role in running the program?

During the students' third year the law school is responsible for designating a faculty member to (1) advise students on courses they should take during their 2nd and 3rd years to fulfill graduation requirements, (2) supervise the students at their placement sites in cooperation with the placement's supervisors, (3) ensure a classroom component to provide substantive knowledge that supports their externship, (4) make sure fellows receive the type of assignments from their placements that are expected of new lawyers, (5) provide feedback to fellows on their work from Agency supervisors, and (6) comply with ABA Standard 305, which governs learning outside the classroom. Schools advertise the program to their students during their first and second year. Students apply in the spring of their second year of law school. Schools create an application process for their students, in cooperation with the participant sites. Schools work with participant sites to enter into partnership agreements.

At UC Hastings students work 32 hours per week at their placement during their 3rd year. They are required to take eight classroom units and 16 field units through their placements. During their first semester of their third year fellows are required to take a one unit legal externship class that meets ABA requirements. Fellows take this course with students enrolled in externships for credit. This year during their second semester fellows took a one unit Advanced Legal Externship course. The classroom component covers such matters as case theory, fact development, implicit bias, witness interviewing, and relevant practical skills. Law schools have leeway to design their externship class in compliance with ABA requirements and based on their school's credit requirements.

What is the benefit for employers to join?

Participants will benefit from 20 months of a fellow providing legal services to their clients at a reduced cost. Fellows are considered employees of LfA. The geographical location of the placement determines the fee and the stipend. The fee covers the salary and benefits for the fellow. LfA handles all the administrative costs and pays the stipends to fellows once they join the placement post bar. Participants might find fellowships to be named gift opportunities at a cost level that could be attractive to their supporting donors and foundations. In the San Francisco Bay Area participants pay \$47,000 to the LfA nonprofit, which pays for a \$35,000 stipend, fully-paid health insurance for the year, employer-side payroll taxes, and workers' compensation and other insurance. LfA does not provide a bar study stipend.

Difficulties in Implementing LfA

Faculty push back can be a factor at schools that want to implement LfA. Some faculty are reluctant to have students in an intensive yearlong program with one employer rather than taking primarily doctrinal courses. Clinical faculty may also fear the impact of LfA on other clinic enrollment. Education and outreach to students early in their first and second year of school are important so they can plan the bar courses, clinics and practical courses they need to take in order to be able to participate in the program as well as graduate and take the bar. The stipend is lower than starting salaries for non-LfA positions in order to make the program attractive to employers. However, this may prevent students from applying for the program in some areas where the cost of living is high.

How to talk to your school about LfA?

Entry level hiring at government and nonprofits is at an all-time low throughout the nation. However the need for legal representation for low income and indigent populations remains high, and government agencies struggle to meet the legal needs of the people. LfA is an excellent opportunity to have your students get hands on, practical lawyering experience while they are in school and have a paid position upon completion of the bar exam. In addition they will have a competitive advantage over their peers at other schools when they are competing for long-term positions upon completion of their fellowships.



*Professor Marsha Cohen, Founding Executive Director
Professor David Faigman, Founder & Chairman of the Board*

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Lawyers for America: A Success for Fellows and Their Employers ***A Great Opportunity for Your Law School***

Lawyers for America is a program that enables law students to spend most of their third year in an actual practice context and then guarantees them a full-time, paid, one-year fellowship after graduation. We are delighted with the early success of the program, which was incubated and piloted at UC Hastings College of the Law. The LfA pilot at UC Hastings has two classes of Fellows and is about to pick a third.

The first five Fellows, who did their training year as 3Ls with the Contra Costa County PD and DA, returned to those offices after taking the California Bar. Four of the five passed that exam, exceeding the overall first-time applicant pass rate of 61 percent, thus demonstrating that spending one's 3L year almost entirely engaged in hands-on legal practice need not significantly interfere with the ability to pass the bar. The barpassers were sworn in immediately and can now take full responsibility for their caseloads. Both the Fellows and their supervisors are very pleased with the program. Another milestone will come in late summer 2015, when these first Fellows enter the permanent job market. We anticipate they will be sought-after hires given their unique level of experience (and some may receive job offers from their fellowship sites if positions are available).

Six Fellows from the Class of 2015 are in the middle of their training year as 3Ls with the Contra Costa County PD and Superior Court, the Berkeley City Attorney, the Center for Biological Diversity, and the First District Appellate Project. Like their predecessors, they too will be employed at graduation and serve a year at these offices. UC Hastings is beginning its application process now for the Class of 2016, to be trained and serve with the Contra Costa and Solano County PDs, the Contra Costa DA, the Port of Oakland, the Center for Biological Diversity, Consumers Union, Disability Rights California, and Legal Services for Prisoners with Children (a total of 11 Fellow opportunities).

This model for high-quality intensive practical training for students, connected with an initial paid position with a government agency or legal nonprofit immediately after the bar, offers benefits to all parties. The student Fellows receive excellent training and an initial stable job experience that, other than through a very small number nationwide of postgraduate fellowships and government honors programs, is generally unavailable. It is anticipated that Fellows will never need to volunteer to receive post-graduate opportunity, as so many graduates now are doing in the public service and public interest sectors. Partner law offices pay LfA for Fellows at a rate that is very inexpensive compared to first-year attorneys, and in return receive their services for a full post-graduate year, following an intensive 3L training period, which makes that expenditure worthwhile. The financial commitment of partners and the set time of the Fellowship together inspire investment in the training of the Fellows that may be lacking when new staff are volunteers. Law school participants get the opportunity to add a very different type of clinic experience to those already offered, as well as the myriad benefits of having some students whose post-graduation employment at partner offices is assured during their second year of law school. The only cost to law schools, beyond staff commitment to engaging partners and administering the application process, is supervising the 3L externships and providing the

relevant classroom component (offset by savings as the Fellows would otherwise be registered in classes or clinics).

Why join LfA rather than creating a similar program?

- Fellows will be part of something “bigger” than their law school. A nationally-known program will attract prospective students who might, after their Fellowship, seek employment in a different job market where they will want their experience to be understood and appreciated.
- LfA is becoming known in the service/access to justice movements. LfA is a partner with the Aspen Institute’s Franklin Project, <http://tinyurl.com/FranklinProject>, promoting universal service by young people, and has been recognized as an innovator by American Lawyer Media’s *San Francisco Recorder*, <http://tinyurl.com/RecorderInnovators>.
- LfA is applying to the newly-announced AmeriCorps Partnership Challenge. Partnership with AmeriCorps would enhance understanding of the service mission of LfA, assure the Fellowship’s recognition as public service, and entitle most Fellows to education awards totaling almost \$8,500 that can be used for repayment of qualified student loans.
- Fellows are employed by contract, and thus not on payrolls or in benefits systems of partners, and do not gain any post-fellowship employment rights that might otherwise accrue. LfA collects the partner fees, maintains a health insurance plan for the Fellows post-graduation, and handles payroll and paperwork burdens, and will have economies of scale in doing so.
- Putting Fellows on law school payrolls could entail significant costs or provide post-fellowship employment rights, and might be considered post-graduate employment of your own students.
- Fees for Fellows within a geographical area, and Fellow stipends, must be uniform regardless of law school, so cooperation among LfA affiliates will be enhanced.

Are there partnership opportunities available?

- Potential partners beyond the Bay Area have reached out to LfA since its inception. Word of mouth from satisfied initial partners is likely to engender increasing interest over time. While law schools are now funding post-graduate positions at government agencies and legal nonprofits, the long-term sustainability of that practice must be considered. The LfA funding model is designed to be sustainable, as part of partners’ budgets; the need for additional positions to meet the justice needs served by potential partners is endless.

How quickly could we create an LfA program on our campus?

- To create initial LfA partnerships to be filled by members of your current 2L class you would first need to seek out and cement those partnerships and then fill available positions. The first year some interested students might find themselves ineligible (because they would exceed the law school’s limit on non-classroom units or have too many remaining required or critical classroom courses). A small rollout for the Class of 2016 should be possible, followed by expansion for students in the Class of 2017, who could plan their curricular choices with LfA in mind.

For more information, contact Professor Marsha N. Cohen, Founding Executive Director, cohenm@uchastings.edu, 415.565.4676, and visit www.uchastings.edu/lawyersforamerica.



*Professor David Faigman, Founder & Chairman of the Board
Professor Marsha Cohen, Founder & Executive Director*

Lawyers for America (“LfA”) is a nonprofit organization incubated by UC Hastings, whose dual goals are to support a new model for legal education and enable a greatly-expanded affordable pool of legal staffing to help meet the “justice gap,” the large unmet need for the assistance of lawyers.

LfA provides a two-year Fellowship program that comprises the third year of law school and first post-graduate year. With demand building for lawyers who can start practice with well-honed skills, LfA affords the option to complement two classroom years with a lengthy clinical practice experience at a single site, to enable in-depth learning and the type of skill-building that arises through repetition.

At the beginning of the 3L training year, LfA Fellows begin to work essentially full-time (a minimum of 32 hours a week) for a partner nonprofit or government law office, with a classroom component and continuing faculty supervision provided by Hastings. Fellows work all year, on a worker’s rather than a student’s schedule. After eight months of work, and following graduation, Fellows have a three-month break to take the bar and a short vacation before returning to their Fellowship placement for a full service year.

During the 3L year Fellows are tuition-paying, scholarship-eligible students; during the post-bar year Fellows receive a stipend of \$35,000 (plus fully-paid health insurance), and should be eligible for loan repayment programs. At the end of the post-bar year, LfA Fellows have no entitlement to continued employment. It is anticipated that Fellows will begin to seek post-fellowship employment in the spring of their post-bar year.

Students interested in the LfA experience need to plan their 2L course schedule carefully to assure they have sufficient “non-classroom” credits for the program and that they have met any prerequisites. Fellows work closely with LfA’s Academic Director and other faculty to ensure that they can balance the demands of participation with other academics and bar preparation.

The application process for LfA Fellowships is now ongoing for the Class of 2016. Applications are screened by a Hastings committee, and then forwarded to partner sites for final selection.

The Fellows from the Class of 2014 are now in their service year with the Contra Costa County District Attorney (4) and the Contra Costa County Public Defender (1). Fellows from the Class of 2015 are now in their training year with the Berkeley City Attorney (2), Center for Biological Diversity, Contra Costa Public Defender, Contra Costa Superior Court, and the First District Appellate Project. Fellows are being selected from the Class of 2016 to serve with the Center for Biological Diversity, Consumers Union, Contra Costa District Attorney (2), Contra Costa Public Defender, Disability Rights California, Legal Services for Prisoners with Children, Port of Oakland, and the Solano Public Defender.

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**MEMORANDUM OF AGREEMENT
BETWEEN LAWYERS FOR AMERICA AND
UNIVERSITY OF [XXXXXX] LAW SCHOOL**

I. PURPOSE

This Memorandum of Agreement (“Agreement”) between Lawyers for America and University of [xxxxxx] Law School describes the rights and responsibilities of each with respect to implementing the Lawyers for America Fellowship program at University of [xxxxxx] Law School.

II. BACKGROUND

The mission of the Lawyers for America Fellowship Program is to improve the lawyering skills of new lawyers while expanding the availability of legal services for those who cannot afford to hire lawyers and for the public by providing two-year work experiences in the public and nonprofit sectors.

The mission is accomplished through the cooperation of law schools, participating government agencies and legal nonprofits, and law students interested in devoting most of their third year of legal education to clinical experience and committed to returning for a year’s additional paid service to their clinical agency site thereafter.

III. DEFINITIONS

For purposes of this MOA, the following definitions will apply:

- A. “Lawyers for America” is the nonprofit organization, incorporated in the State of California, which is recognized under section 501(c)(3) of the Internal Revenue Code (FEIN 45-4716513).
- B. “Law school” shall mean University of [xxxxxx] Law School.
- C. “Program” shall mean the Lawyers for America Fellowship Program, which is a two-year program comprised of an Externship year that is the Fellow’s third year of law school and the Fellowship year that is the Fellow’s first year after graduation and taking a bar examination.

IV. BRANDING AND PROMOTION

- A. The program may be referred to as “Lawyers for America” or “Lawyers for America at University of [xxxxxx] Law School (or any form of the law school’s name),” at the law school’s discretion.
- B. Descriptions of the program in public relations materials such as brochures and websites will somewhere indicate (for example, by means of asterisk and footnote) that Lawyers for America was founded at UC Hastings College of the Law. Websites will include a link to the Lawyers for America website (currently www.uchastings.edu/lawyersforamerica).

V. THE LAW SCHOOL’S OBLIGATIONS

A. The law school will designate a faculty member to supervise the activities of the Fellows during their externship year at each placement site. The law school, through this or another faculty or staff member, will provide adequate counseling to students interested in Lawyers for America to enable them to determine an appropriate course of study for their second year at the law school that will prepare them adequately for a third year comprised primarily of an externship and for studying for and taking a bar examination. The law school will assure that the Fellows receive work assignments of the type expected of legal trainees and first-year attorneys, worthy of the credit which is being assigned to the externship component, and of a progressively more responsible and more complex nature.

B. During the externship year, the law school will provide Fellows with adequate faculty supervision and resources, including an academically-sound classroom component that meets ABA requirements and provides Lawyers for America Fellows with substantive knowledge that complements their Externship. The law school will determine how many units of credit will be provided for the classroom component and the externship component of the externship year, and how each is to be evaluated and graded. The externship will last throughout the year, essentially full-time, including between academic semesters on the schedule of their placement site. The faculty supervisor will ensure adequate and appropriate feedback about all aspects of the work of Fellows, including arranging for feedback from Agency supervisors. The law school will require the faculty supervisor to maintain communication with Agency supervisors to ensure the quality and integrity of the overall Fellow experience.

C. The law school will be responsible for enforcement of its student code of conduct policies, including ethical responsibilities, throughout the term of the Externship. After a Fellow's graduation, the law school will have no continuing responsibility with respect to that Fellow during the Fellowship year of the Program.

D. The fee for agencies to have an LFA fellow, and the stipend to be paid to the Fellows for the Fellowship year, will be uniform within the geographic area of the Fellows' service. The location of the Fellow's work site, rather than the Fellow's law school, will determine the fee and the stipend. The first law school to develop relationships in a geographic area will set the fee and the stipend, with the approval of Lawyers for America. The fee will be based upon an estimate of half the median fully-allocated cost of a first-year attorney in the geographic area for nonprofits and government. The stipend will be approximately 75 per cent of the fee, to enable sufficient funds for payment of taxes, health and workers' compensation insurance, and other overhead of Lawyers for America. While the stipend shall be the same for all Fellows in the geographic area regardless of placement, the law school may vary the fee among placements based upon their costs of legal staffing.

E. Neither law schools nor participating nonprofits and government agencies may supplement the stipend of Fellows. Law school programs that assist graduates with loan reimbursement will not be considered stipend supplements. Need-based financial aid awards to Fellows, provision of tuition-free course work, or other academic benefits during their Externship year will not be considered stipend supplements.

VI. LAWYERS FOR AMERICA'S OBLIGATIONS

A. Lawyers for America will, to the extent practicable and legally permissible, provide support to the law school including, but not limited to, acting as a clearinghouse for contracts, curriculum, and other matters that will make the Program run more effectively.

B. Lawyers for America, as the employer of the Fellows during the Fellowship year, will utilize the money provided by agencies for the law school's Fellows in accordance with its contractual obligations. In addition to paying each Fellow the stipend, Lawyers for America will pay all required employment taxes, and will arrange for basic health insurance in such amount and coverage as Lawyers for America in its discretion may decide, and will maintain any required workers' compensation coverage. Lawyers for America will certify the full-time employment of the Fellows during the Fellowship year, as needed, for such purposes as qualification for loan repayment programs.

C. Lawyers for America will engage in no activity in conflict with its nonprofit/tax-exempt status.

VII. CONTRACTUAL ARRANGEMENTS

A. The law school and LFA will cooperate in drafting the agreements that will govern the relationships among the law school, LFA, the agencies, and the Fellows.

B. Contracts among Lawyers for America, the law school, the work site, and the Fellows will cover the critical aspects of their relationships. Those will include requirements that

1. Fellows be chosen in accordance with all legal requirements,
2. The academic and training aspects of the Fellowship (during both the externship and the Fellowship year) provide adequate support for and training of the Fellows,
3. Adequate time be provided between the externship and Fellowship years for Fellows to study for and take a bar examination and a short vacation,
4. The work sites assure substantial and appropriate supervision of the work of the Fellows,
5. Govern absence and illness by Fellows,
6. Govern early termination by Fellows or Agencies, both for cause and not for cause, and
7. Make provision for mutual indemnity and arbitration of disputes.

Marsha Cohen, Executive Director
For Lawyers for America

For

Date

Date

Approved as to form:

Elise Traynum
General Counsel

Date