Guide to Law School LRAPs

Prepared by the LRAP Work Group of the NALP Public Service Section

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Overview

A growing number of law schools nationwide have established Loan Repayment Assistance Programs (LRAPs) for graduates who pursue public sector careers, including work with both public interest and government employers. Schools have created these programs utilizing various resources, including but not limited to their financial aid and development offices, state bar associations, and partnerships with other law schools in the state. These programs vary from school to school, but the goal of each program is the same: to assist graduates who have taken lower paying jobs, primarily in the public interest and public service arena, in paying back their student loans.

The creation of income-driven repayment plans (notably Income-Based Repayment (IBR) and Pay As You Earn (PAYE)) and Public Service Loan Forgiveness (PSLF) has shaped the evolution of the LRAP programs in a large number of law schools. In fact, many law schools have modified their existing LRAPs to dovetail with these federal programs. This is trend is discussed in more detail in Part II of this Guide.

LRAPs are important vehicles in both helping graduates manage educational debt and creating and nurturing a culture of public service among law students and graduates. This Best Practices Guide (Guide) is designed to be a resource for law school professionals and will discuss:

I. Fundamental Considerations in Structuring LRAPs
II. Tying LRAPs to Federal Loan Forgiveness and Repayment Programs
III. Resources for Additional Research and Support

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1 For more information on LRAPs generally, comprehensive information is provided by the American Bar Association and Equal Justice Works, see:
http://apps.americanbar.org/legalservices/probono/lawschools/pi_lrap.html
http://equaljusticeworks.org/ed-debt/students/loan-repayment-assistance-programs
Fundamental Considerations in Structuring an LRAP

Program Structure

Employment Type

Most law school LRAPs limit program eligibility to certain types of employment—most commonly law-related positions with IRS Revenue Code 501(c)(3) non-profit organizations and government agencies. In fact, because qualifying employment for most LRAPs closely resembles that of the federal government’s PSLF program, some schools explicitly state that in order to qualify for their program, a participant’s employment must also qualify under PSLF.² ³ There are a select number of schools, however, that include public interest-focused work at private law firms and other for-profit organizations and an even fewer number of schools that allow even broader categories of private sector employment.

There are three common trends in the treatment of judicial clerkships. The most common trend is to toll the LRAP enrollment window for graduates who secure judicial clerkships. Tolling gives judicial clerks from schools that restrict when a graduate may enter their LRAP program additional time to secure LRAP-qualifying employment after their clerkship ends. Schools with longer enrollment periods typically do no grant the extensions since the judicial clerkship would not interfere with enrollment in the program. Two less common trends in LRAP programs regarding judicial clerkships are to either completely fund clerkships as qualifying employment or fund clerkships if the participant promises or plans to enter into qualifying employment once the judicial clerkship is over. In the second of the two options mentioned the participant is typically granted a loan during the clerkship that must be paid back if the participant does not participate in qualifying employment following his or her judicial clerkship term.

It is important to note that some states administer LRAPs that support the law graduates of the state. Those LRAPs, typically affiliated with the state bar, often have more restrictions on qualifying employment than stand-alone LRAPs administered by individual law schools.

² Qualifying employment for PLSF is limited to full-time work for a local, state, federal or tribal government; a 501(c)(3) organization; or for AmeriCorps or Peace Corps. Full-time work at a private not-for-profit employer that is not a tax-exempt organization under Section 501(c)(3) may qualify if the public service organization provides certain specified public services, including public interest law services. See http://studentaid.ed.gov/repay-loans/forgiveness-cancellation/charts/public-service.
³ LRAP policies restricting qualifying employment and leveraging the government programs are aimed at conserving available funding and helping to ensure the sustainability of law school programs.
Applicable Educational Debt

Law school LRAPs typically limit qualifying debt to the loan amount borrowed by the participant for the purpose of pursuing his or her J.D. at the sponsoring law school. Although some programs include undergraduate or other graduate debt and/or debt incurred at other law schools (in the case of transfer students, for example), most do not. In addition to limiting qualifying debt to loans originated through the law school, since many schools are now tying their LRAPs to federal income-driven repayment plans and PSLF, those schools typically only cover Federal loans.⁴ A select number of LRAPs include bar study loans.⁵

Income Considerations

A majority of law school LRAPs have an income ceiling and/or base their award on a participant’s income. How a participant’s income is calculated varies among programs. Most take spousal income and dependents into account but a small number of schools calculate a participant’s income solely based on their annual salary.⁶ There seems to be a split among programs on how and whether to consider an applicant’s assets when calculating the applicant’s adjusted income.

One new trend showing up in LRAP income calculations are cost of living adjustments. This approach takes into consideration that participants living in areas where the cost of living is higher may have a harder time making their student loan payments than participants earning the same salary in less expensive cities. At this point, very few schools are taking cost of living into consideration when calculating LRAP benefits.

LRAP Benefit Structure

Law schools assist graduates in qualifying employment by funding payments toward their student loans. The most common method used by law schools is to provide funds in the form of a forgivable loan. Schools typically forgive these loans after the participant completes a designated term of qualifying employment. The loans can be subsidized or non-subsidized.⁷ A few school LRAPs provide grants to the graduates, but that method is far less common.

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⁴ The IBR and PAYE repayment plans provide for monthly payment obligations based on the participant’s income, while PSLF provides for loan forgiveness for otherwise qualified participants that are employed in qualifying employment for a period of 120 months. Both programs are limited to Federal loans.
⁵ Usually this amount is limited to $10,000, but some schools have a lower limit.
⁶ In a vast majority of schools, annual income is based on the participant’s income minus deductions for dependents. Spousal income is often considered as well.
⁷ In the latter case, during the period prior to the loan being forgiven, the loan bears interest.
Providing forgivable loans has a couple of benefits over grants. First, it creates an incentive for participants to remain in public interest or government work for a longer period of time. Additionally, it may help participants avoid the potential tax liabilities that a grant carries. Under section 108(f) of the IRS Tax Code, student loans that are forgiven in return for work at a broad array of jobs, including at 501(c)(3) nonprofits, are not considered income. As such, forgivable loans allow schools to assist some graduates without increasing their tax liability.

Benefit amounts vary widely among programs. Some LRAPs base benefits on the participant’s income and monthly loan repayment obligation, whereas other programs provide the same award to every participant, regardless of income or monthly loan payment. Some programs offer benefits to all eligible applicants and others offer a predetermined number of awards, distributed according to a specific set of priorities.

**LRAP Funding Sources**

Given that LRAPs vary from school to school, there is no *one size fits all* approach to funding an LRAP. Rather, program funding is individual to the school’s available, or attainable, resources. Be sure to keep in mind that even a very low budget can fund an LRAP program assisting a few graduates.

Listed below are examples of the varying sources of LRAP funding. Note that this list is not exhaustive and often LRAPs are funded using a combination of sources.

- **Student Fee.** Allocating a student fee dedicated to the LRAP works for many schools, especially when donor funds are not available. It also creates a program that is not dependent on state funding.
- **Alumni Donations.** Gaining support from your Development Office is often helpful in raising money. It can be helpful to let the Development Office know that many schools have found recent graduates are more likely to donate to help out fellow students who are doing public interest work than to any other appeal.
- **Starting with a Budget.** Some LRAPs begin with a standing budget. Further money is raised through the Development Office.
- **General Operating Funds.** LRAP funding is a line-item in the law school budget.
- **Endowment.** If feasible, use interest-only funds from a generous donation.

Budgets for LRAPs vary greatly depending on the size of the program. Even a small budget can assist some of your graduates struggling with loan repayment. Starting small and growing over time is very common.

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8 A common requirement is that the participant continues in qualifying employment for a period of six months to one year before the loan provided by the school is forgiven.

9 A number of schools explain this situation as one of the primary reasons that they provide forgivable loans.
Tying LRAPs to Federal Forgiveness & Repayment Program

The introduction of the College Cost Reduction and Access Act (CCRAA) and the subsequent legislative and executive actions expanding its reach (collectively, the Federal Forgiveness Programs)\(^\text{10}\), has not only eased the financial burden of servicing student loans for graduates, it has done the same for law school Loan Repayment Assistance Programs (LRAPs) across the country. In the seven years since the federal loan forgiveness and repayment legislation was enacted, law schools have restructured their existing LRAPs to coordinate with the Federal Forgiveness Programs. Law schools that previously could not afford LRAPs have leveraged CCRAA to create programs that provide generous benefits to graduates at the lowest possible cost. In their article, “Coordinating Loan Repayment Assistance Programs with New Federal Legislation,” authors Philip Schrag and Charles Pruett identified the key to coordinating LRAPs with the Federal Forgiveness Programs as structuring LRAPs “so that the federal programs do most of the heavy lifting, allowing the most effective use of limited law school LRAP funds.”\(^\text{11}\)

**Benefits of the Federal Forgiveness Programs: IBR, PAYE and PSLF**

**Income-Driven Repayment Plans**

Under the CCRAA a new type of payment plan was created for student debt holders, Income-Based Repayment (IBR).\(^\text{12}\) Unlike a fixed 10-year Standard Repayment Plan (10-year plan), loan payments on IBR are variable and are calculated annually based on the borrower’s annual income and family size. IBR is available to all student loan borrowers with federal loans who have a partial financial hardship.\(^\text{13}\) For eligible borrowers, IBR monthly payment obligations are capped at 15 percent of discretionary income\(^\text{14}\) and will never exceed the amount originally

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\(^{10}\) This includes the College Cost Reduction and Access Act of 2007, the Health Care and Education Reconciliation Act of 2010 and President Obama’s Pay As You Earn executive order.


\(^{12}\) The Health Care and Education Reconciliation Act of 2010 created a more generous version of IBR that provides loan forgiveness after 20 years of repayment and caps the borrower’s monthly payment obligation at 10 percent of discretionary income. This improved version of IBR takes effect on July 1, 2014, and will only be available to new borrowers that take out loans on or after that date. We will not discuss the new version of IBR in this article.

\(^{13}\) For the purposes of IBR eligibility, a partial financial hardship exists when a borrower’s monthly payment obligation, calculated on a 10-year plan, represents more than 15 percent of his or her discretionary income.

\(^{14}\) Discretionary income is defined as the difference between the borrower’s adjusted gross income (AGI) and 150 percent of the U.S. Department of Health and Human Services Poverty Guideline amount for the borrower’s family size (and state).
owed on a 10-year plan. Furthermore, IBR debt is forgiven by the federal government after 25 years of payments. Absent a Congressional fix, this forgiven debt will be taxed.

For example, a borrower with an adjusted gross income (AGI) of $45,000 and $125,000 of federal student loan debt would be required to pay approximately $4,200 annually under the IBR plan. Under a 10-year plan, the same borrower would have to pay approximately $17,250 annually. Even under a 25-year plan, the borrower would have to pay approximately $10,400 annually. Both fixed repayment plans have a payment obligation that represents a significant portion of a borrower’s available income.

In a 2012 executive order, President Obama introduced Pay As You Earn (PAYE), an income-driven repayment option even more generous than IBR. PAYE operates similarly to IBR, but caps monthly payment obligations at 10 percent of discretionary income and provides taxable loan forgiveness after 20 years. PAYE is limited to new borrowers.

**Public Service Loan Forgiveness**

At the same time that CCRAA created IBR, it also created the Public Service Loan Forgiveness Program. While IBR is available to any borrower with enough federal loan debt relative to income, to be eligible for PSLF, a borrower must be employed full-time (a minimum of 30 hours per week or more) at a government organization, a 501(c)(3), or with certain types of private organizations doing service work. In addition, the borrower must make 120 payments (10 years) on qualifying loans while employed by one of the public service employers listed above. Qualifying loans include Direct Loans and certain other loans consolidated with Direct Loans, which should cover all the educational debt of most current law school students. Loans taken out by parents are not eligible.

At the end of 10 years of payments (which do not have to be continuous), the borrower’s remaining debt is forgiven, with no tax implications for the borrower. Borrowers must be enrolled in a qualifying repayment plan to be eligible for the benefits of PSLF. When used in conjunction with LRAPs, PSLF allows public service law school graduates to pay little to nothing on their law school loans and be free of law school debt at the end of 10 years in public service.

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15 For the purposes of PAYE eligibility, a partial financial hardship exists when a borrower’s monthly payment obligation, calculated on a 10-year plan, represents more than 10 percent of his or her discretionary income.

16 New borrowers had no outstanding balance on a Direct Loan or FFEL Program loan as of Oct. 1, 2007, or had no outstanding balance on a Direct Loan or FFEL Program loan after receiving a new loan on or after Oct. 1, 2007. To be eligible, borrowers must also have received a disbursement of a Direct Loan on or after Oct. 1, 2011. (See http://studentaid.ed.gov/repay-loans/understand/plans/income-driven, last visited August 1, 2014.)

17 Although there are several qualified plans, IBR and PAYE are typically the most generous. We have not discussed Income-Contingent Repayment here because it is generally not considered most beneficial to the borrower.
Types of Restructured LRAPs

Although LRAPs vary from school to school, two main models have emerged in the years since the Federal Forgiveness Programs were introduced. The primary difference between the two structures is that one is designed to address the negative amortization effect of the federal income-driven repayment options. Since the monthly repayment obligation calculated by IBR and similar repayment plans may not cover accruing interest, graduates’ outstanding debt may actually grow over the course of repayment. Schools that build negative amortization protection into their LRAPs seek to shield graduates that leave public service from this “growing debt phenomenon.” The vast majority of schools, however, have decided against building in such protection and have designed their programs for career public servants that will earn federal PSLF. For these graduates, the growing balance of accrued interest and principal will be forgiven by the federal government after their ten years of qualifying public service employment.

Income-Driven Repayment LRAPs: LRAPs without negative amortization protection

The most popular type of restructured LRAP is the Income-Driven Repayment LRAP. Law schools with this program structure tie their graduates’ LRAP benefits to the amount they would be required to pay under IBR or PAYE. While some schools require actual enrollment in an income-driven repayment plan, others just assume enrollment for the purposes of calculating LRAP benefits. Once a graduate’s monthly IBR or PAYE obligation has been established, the law school’s contribution formula is applied to his or her adjusted income.19 Graduates whose adjusted income falls below the law school’s income threshold receive LRAP benefits equal to 100 percent of their monthly IBR or PAYE obligation. For graduates whose adjusted income sits above the income threshold, but below the income ceiling, the law school covers a pre-established percentage of the IBR or PAYE obligation. Law schools do not provide any LRAP support for graduates whose income exceeds the income ceiling. Under this LRAP structure, graduates who enroll in IBR or PAYE, remain under the income threshold and earn Public Service Loan Forgiveness pay nothing out-of-pocket towards their legal education.

18 As of this writing, very few schools have plans to integrate Pay As You Earn into their LRAPs. Our research only identified one school that bases loan repayment assistance benefits on PAYE repayment obligations for eligible students and another that allows graduates to choose to go into either PAYE or IBR, but does not promote PAYE.
19 Each school uses different factors in calculating adjusted income. Examples include the graduates’ income, spousal income, number of dependents, and assets.
20 The income thresholds of surveyed law schools ranged from $50,000-$75,000 but other schools may be higher or lower.
21 The income ceilings of surveyed law schools ranged from $75,000-$135,000 but not all researched LRAPs have income ceilings.
Income-Driven Repayment Plus LRAPs: LRAPs with negative amortization protection

On the front end, the introduction of income-driven repayment plans has been instrumental in encouraging service-minded students to pursue modest-paying public sector positions right out of law school. On the back end, however, graduates express concern about the consequences of enrolling in such repayment plans if they do not ultimately earn PSLF. This concern typically stems from the income-driven repayment practice of loan interest capitalization and the associated negative amortization.

During the first three years a borrower is on IBR or PAYE, if his or her reduced payment does not cover the accruing subsidized loan interest, the government will pay it. After the initial three years, and for all unsubsidized loans, the unpaid interest on the loan accrues but is not compounded as long as a borrower continues to have a partial financial hardship.\(^{22}\) This means that for most borrowers, the interest accrues only on the original principal and not the unpaid interest balance.\(^ {23}\) If a borrower in IBR no longer has a partial financial hardship, however, or if a borrower in either IBR or PAYE decides to leave those plans for any reason, all of their accrued interest is capitalized and added to their total loan balance.

Although many public service graduates will not experience the ill effects of loan interest capitalization, for those who do, several law schools have designed LRAPs that shift the additional debt burden from the graduate to the school. These LRAPs operate similarly to Income Driven Repayment LRAPs, but provide supplemental benefits to cover the interest that accrues while the borrower’s payment obligations are suppressed on income-driven repayment plans.

The three main program types are: Lump-Sum Payment Programs, Sustained Service Payment Programs and Graduated Interest Payment Programs.

Lump-Sum Payment Programs provide graduates with a one-time payment based on the length of time he or she was in the LRAP. The payment is made when the graduate leaves the LRAP for unqualified employment and is intended solely to be used to cover the cost of the negatively amortized interest accrued while he or she participated in the law school’s LRAP.

Sustained Service Payment Programs provide additional funds to graduates that can be used to pay down principal or applied to other expenses while the graduate is enrolled in the LRAP.

In the third approach, the Graduated Interest Payment model, a percentage of the borrower’s unpaid interest is added to his or her LRAP payment. This model utilizes a formula that takes

\(^{22}\) Interest capitalization is limited to ten percent of a borrower’s original loan amount in PAYE even if the borrower no longer has a partial financial hardship.\(^ {23}\) Income-Based Repayment Program Questions and Answers (Q&As) Prepared by Federal Student Aid U.S. Department of Education, February 7, 201, see http://studentaid.ed.gov/sites/default/files/income-based-repayment-common-questions.pdf.
each borrower’s salary and educational debt load into account so that the lowest earners with the highest debt (and therefore the greatest amount of negative amortization) receive the greatest benefit.

**Motivations for Restructuring LRAPs**

In a survey of law schools with restructured LRAPs, the opportunity to expand program offerings without increasing costs was cited as the motivation for engaging the LRAP redesign process. The most common LRAP expansion included increasing the income threshold and income cap levels. When Georgetown University Law Center restructured its LRAP in 2009, for example, “it was able to increase the threshold income level, below which graduates in public service paid nothing out-of-pocket toward their student loans, from $41,000 (or higher in certain metropolitan areas) to $75,000, without increasing its LRAP budget.”

Many other law schools indicated similar experiences when adopting their restructured LRAP programs. Other motivations cited for tying LRAP benefits to the Federal Forgiveness Programs included the ability to service more graduates and potential cost savings to the law school. Although each researched LRAP is unique in its offerings, they have all built upon the idea of using the law school’s limited LRAP funds to supplement, rather than replace, the Federal Forgiveness Programs.

**Additional Considerations**

As schools look to leverage the benefits of the Federal Forgiveness programs to improve their LRAPs, many are also revisiting the question of what constitutes “qualifying employment.” Some LRAPs have chosen to utilize the PSLF definition of qualifying employment while others include employment that may not qualify for PSLF, for example, unions, international NGOs, and for-profit law firms with a public interest focus. Additionally, a couple of schools have moved to a purely income-based model and no longer consider whether the work is viewed as “public interest” when offering LRAP benefits. Decisions regarding what type of employment will be eligible for LRAP benefits can be complicated and should involve both budget and philosophical considerations.

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Resources for
Additional Research and Support

Online Resources

American Bar Association (ABA)

Equal Justice Works (EJW)
- Loan Repayment Assistance Programs - http://bit.ly/1kWc6kM
- Student Debt Relief - http://equaljusticeworks.org/ed-debt

Heather Jarvis
- For a comprehensive list of LRAP and student loan resources and training opportunities, visit http://askheatherjarvis.com/tools.

IBRinfo.org
- For current information and FAQs on Public Service Loan Forgiveness and the federal income-driven student loan repayment plans, visit http://www.ibrinfo.org/.

Public Service Jobs Directory (PSJD)
- Includes online resources including a Student Loan Payment Calculator and more at http://www.psjd.org/Funding&_Debt

Articles
- “President Obama’s New ‘Pay As You Earn’ Student Loan Repayment Plan,” (memorandum from Dean William Treanor, Georgetown University Law Center, January 17, 2012; PDF) - http://aals.org/documents/StudentLoanForgiveness.pdf