AMERICAN BAR ASSOCIATION
ADOPTED BY THE HOUSE OF DELEGATES
August 9-10, 1988

RECOMMENDATION

BE IT RESOLVED, that the American Bar Association encourages law schools, state and local bar associations, and federal and state lawmakers to establish Loan Assistance Repayment, Loan Forgiveness, and Income-Sharing Programs for law school graduates accepting low-paying, legal, public interest employment.

REPORT

Survey after study after survey conclude that the past decade's doubling of legal tuitions combined with law students' increased reliance on educational loans have saddled the newest members of our profession with stifling debts that too often dictate and distort career choices, exacerbate a maldistribution in both legal talent and legal services, and delimit society's equal access to legal representation. This Recommendation encourages the establishment of Loan Assistance Repayment Programs at our nations' law schools in an attempt to counter several disturbing trends, viz.,
--over 45% of graduating law students cite their loan obligations as either "determinative" or a "very important factor" in directing the career paths they choose, according to comprehensive surveys conducted by the George Washington University National Law Center;

--in 1984, a typical law student incurred legal educational debts averaging $25,000 by the time of graduation, with a monthly loan repayment obligation of approximately $315.00;

--current loan programs find most public-interest and government lawyers spending from one-fourth to one-third of their meager salaries on monthly loan repayments;

--year after year, the Legal Service Corporations of the various states report a persistent shortage in the number and caliber of law students who are financially able to accept low-paying jobs, with most students giving educational debt as the primary reason for being unable to accept Legal Service positions;

--there is a wide and growing divergence between the lucrative starting salaries offered by many private firms, and salaried positions in academics, public interest, and government service (with public interest organizations offering average annual salaries of $21,792, and legal aid and Legal Services' attorneys averaging $17,000 annually);

--the American Bar Association Journal, reporting the findings of a Harvard study, reveals that the vast majority of the legal needs of the poor go unserved, with private attorneys volunteering their efforts through pro bono programs currently providing only 6.8% of the legal needs of the poor;

--documenting a 46% decline in the percentage of law graduates entering public service employment since 1975, and a one-third decline in the percentage of graduates choosing government service, the National Association for Law Placement draws the grim conclusion: Low public interest salaries combined with increasing graduate debts effectively preclude many law graduates from serving the underrepresented, and make it difficult for public interest attorneys to remain in their chosen careers.
By easing the paths of those law school graduates who desire, but cannot afford, to pursue legal public interest, academic, and government work, the development of Loan Assistance Repayment Programs is one important step toward realizing several of the long-range Goals and Objectives of the American Bar Association. Goal II mandates both improving the delivery of legal services to all sectors, particularly to the poor, through private bar involvement (Goal II, Objective 2), and supporting adequate funding for the provision and delivery of legal services (Goal II, Objective 3). Goal IX requires promotion of full and equal participation in the profession by minorities and women, which groups suffer disproportionately from loan repayment obligations.

The various Loan Assistance Repayment Programs are guided by the philosophy that the legal community should work together to ensure that bright, young lawyers are given the meaningful option of accepting public-spirited, but poorly compensated legal employment. Currently, some fourteen law schools boast several years of successful operation of loan assistance repayment and loan forgiveness programs. Many other law schools are considering establishing programs of their own. [Please see "Appendix A".] A few states, notably California and Maryland, are exploring legislative proposals designed to facilitate loan assistance repayment initiatives. This Recommendation places the ABA at the vanguard of this movement both to develop funding sources in private foundations, law school alumni, and state and local bar associations, and to explore the use of state and federally legislated incentives, exemptions, and deductions to aid these efforts.

Patterned after the already existing loan assistance repayment and loan forgiveness programs in several professions, including medicine and education, and tracing extant programs in many of our law schools, this Recommendation is intended to encourage law schools, the legal community, and federal and state governments to establish and experiment with a variety of loan assistance repayment and loan forgiveness mechanisms. [For a detailed comparison of existing Loan Assistant Repayment Programs, please consult "Appendix B".] Quite deliberately, this Recommendation does not endorse any one source of funding or recognize any one best method or program. Instead, it leaves it to local and state bars, private attorneys, and individual law schools to fashion complementary loan assistance repayment and forgiveness programs. Still, most of the existing and proposed programs feature these elements:
--eligible law school graduates have a percentage of their consolidated monthly loan payment assumed by the Loan Assistance Repayment Program. This loan repayment deferral phase provides, in effect, non-interest loans to graduates who have secured low-paying legal employment, to help ease the burden of loan repayment;

--after a specified number of years, usually three years, some of the programs, while continuing with monthly assistance repayments, provide for a gradual retiring of debt principal, with a percentage of the programs' repayment assistance loans gradually forgiven. After 7-10 years of continuous public interest or public sector work, graduates are freed altogether from their legal educational debts;

--qualifying employment must be law-related, and "public interest" is narrowly defined to mean employment for a 501(c)(3) or (c)(4) non-profit entity or government agency (including, e.g., office of the District Attorney, Public Defender, and Prosecutor);

--strict employment salary caps are set beyond which a program participant would no longer be eligible for the same degree of repayment assistance or loan forgiveness.

This Recommendation urges the American Bar Association to encourage law schools, the legal community, and legislators to develop Loan Assistance Repayment Programs, in order to help remove student debts as one of the principal obstacles to the noble pursuit of a public interest, government, or teaching career.

Such encouragement from the American Bar Association should include, but not be limited to, supporting and facilitating solicitation of contributions from the legal community and the organized bar, and promoting legislative and private initiatives to facilitate government support of Loan Assistance Repayment Programs. The implementation of Loan Assistance Repayment Programs should supplement and strengthen the existing commitment of law schools and the legal community in providing scholarship funds for minority and disadvantaged law students.
Together, the ABA, local and state bar associations, our law schools, and state and federal government can act to ease educational debt burdens, thereby enabling law school graduates to seek the legal work that best suits their desires and best serves the interest of all in attaining "equal justice under law."

Appendix A: Law Schools' Existing and Proposed Loan Assistant Repayment Programs.
Appendix B: Comparison of Elements of Existing Loan Assistance Repayment Programs.
Appendix C: Selected Bibliography.

Respectfully Submitted,

Sara D. Smith
Chairperson, Law Student Division

Andrew L. Siegel
Division Delegate,
Law Student Division

Charlotte A. Wereb
Division Delegate,
Law Student Division

August, 1988
APPENDIX 'A'

EXISTING LOAN ASSISTANCE REPAYMENT PROGRAMS

BOSTON COLLEGE
COLUMBIA UNIVERSITY
CORNELL UNIVERSITY
GEORGETOWN UNIVERSITY
HARVARD UNIVERSITY
NEW YORK UNIVERSITY
NORTHWESTERN UNIVERSITY

STANFORD UNIVERSITY
UNIVERSITY OF CHICAGO
UNIVERSITY OF MICHIGAN
UNIVERSITY OF PENNSYLVANIA
UNIVERSITY OF SOUTHERN CALIFORNIA
UNIVERSITY OF VIRGINIA
YALE UNIVERSITY

PROPOSED LOAN ASSISTANCE REPAYMENT PROGRAMS

AMERICAN UNIVERSITY
BOSTON UNIVERSITY
CATHOLIC UNIVERSITY
DUKE UNIVERSITY
FRANKLIN-PIERCE COLLEGE OF LAW
GEORGE WASHINGTON UNIVERSITY
INDIANA UNIVERSITY-BLOOMINGTON
NORTHEASTERN UNIVERSITY
OHIO STATE UNIVERSITY
STATE UNIVERSITY OF NEW YORK-BUFFALO
SUFFOLK UNIVERSITY
UNIVERSITY OF CALIFORNIA-BERKELEY
HASTINGS COLLEGE OF LAW
UNIVERSITY OF FLORIDA
UNIVERSITY OF IOWA
UNIVERSITY OF NOTRE DAME
UNIVERSITY OF TEXAS, AUSTIN
UNIVERSITY OF WISCONSIN
UNIVERSITY OF VERMONT
### Comparison of Existing Loan Assistance Repayment Programs

#### (Section One)

<table>
<thead>
<tr>
<th>ELIGIBILITY</th>
<th>BOSTON COLLEGE</th>
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<th>GEORGETOWN</th>
<th>HARVARD</th>
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<td>yes</td>
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<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>generally not *3</td>
<td>generally not *3</td>
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#### EXAMPLE OF GRADUATE'S YEARLY SHARE OF LOAN PAYMENT

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<th>Annual Salary of</th>
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<td>$24,000</td>
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#### CONSIDERATION OF SPOUSE'S INCOME AND INDEBTEDNESS IN COMPUTING ANNUAL GROSS INCOME

- Spousal income in excess of $20,000 included in AGI. A $5,000 deduction per dependent and a $1,200 living allowance is provided.
- Based exclusively on graduate's AGI.
- "2" deduction per child if spouse is employed the max. combined income is $43,000; $4,000 deduction per child.
- $3,600 deduction per child.

#### LEAVES, UNEMPLOYMENT

- Up to 2 years for child care, relocation, further education, etc.
- To be decided on a case-by-case basis.
- Leaves granted for disability or unemployment.
- May leave for any reason; no time limit.

#### LOAN FORGIVENESS

- When Does Forgiveness of Program Loans Begin?
  - After 3 years

- Forgiveness Per Year
  - 10% fourth year
  - 15% thereafter

- 100% Forgiveness of Program Loans by Year
  - 6
  - 10
  - 2
  - 10

#### CLASSES ELIGIBLE FOR PARTICIPATION

- 1983 on
- 1984 on
- All classes
- All classes

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*Note: *3 = not applicable

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Comparison of Existing Loan Assistance Repayment Programs (Section Two)

<table>
<thead>
<tr>
<th>Eligibility</th>
<th>New York University</th>
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<th>U. of Chicago</th>
<th>U. of Michigan</th>
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<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<th>Example of Graduate's Yearly Share of Loan Payment</th>
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<th>$24,000</th>
<th>$1,215</th>
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<th>$880</th>
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<td>Consideration of Spouse's Income and Indebtedness in Computing Annual Gross Income</td>
<td>$8,000 Plus Spousal Educational Debts Are Deducted; $4,000 Deduction Per Child</td>
<td>5</td>
<td>2</td>
<td>Spousal Income Above $20,000 Is Computed Into AGI; $3,000 Deduction Per Child</td>
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<td>Spousal Income is Added to Participant's Income in Determining AGI; No Deduction for Children</td>
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</table>

| Leaves, Unemployment | 6 Month Disability Leave is Allowed | Up to One Year for Childcare, Relocation or Further Education | May Leave for Any Reason; Must Re-Enter Within 10 Years | May Leave for Any Reason; Must Re-Enter Within 3 Years | Undetermined |

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<th>Loan Forgiveness</th>
<th>When Does Forgiveness of Program Loans Begin?</th>
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<th>Yes</th>
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<td>Forgiveness Per Year</td>
<td>After 3 Years</td>
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Comparison of Existing Loan Assistance Repayment Programs
(Section Three)

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<tr>
<td>Law School (GISL, ALAS, NDSL, FISC &amp; University Loans)</td>
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<td><strong>EXEMPLARY OF GRADUATE'S YEARLY SHARE OF LOAN PAYMENT</strong></td>
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<td>Annual Salary of:</td>
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<td><strong>CONSIDERATION OF SPOUSE'S INCOME AND INDEBTEDNESS IN COMPUTING ANNUAL GROSS INCOME</strong></td>
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<td></td>
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<td>Spousal income not considered; $3,500 per dependent if solely responsible for support; $1,750 if jointly responsible</td>
<td>$15,000 plus spousal educational debts are deducted; $5,000 deduction per child</td>
<td>$10,000 deduction for spouse, if spouse's AGI is more than $10,000; no deduction for children</td>
<td>Spousal income not considered in calculation of AGI</td>
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<td><strong>LEAVES, UNEEMPLOYMENT</strong></td>
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<tr>
<td>Allowed as long as ineligible employee for 3 out of 5 years following grad.</td>
<td>Up to 2 years for child care, relocation, etc.</td>
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<td><strong>LOAN FORGIVENESS</strong></td>
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<td></td>
<td></td>
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<tr>
<td>When Does Forgiveness of Program Loans Begin?</td>
<td>Direct Grants provided from year one</td>
<td>Beginning of 3rd year 25%</td>
<td>After 7th year The extent and rate of forgiveness will depend on program funding 25%</td>
<td>After 2 years 6</td>
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<td>Forgiveness Per Year</td>
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<tr>
<td>100% Forgiveness of Program Loans by Year</td>
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<td><strong>CLASSES ELIGIBLE FOR PARTICIPATION</strong></td>
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1. In the first three years, the participant's annual contribution is 3% of AGI. Thereafter, it increases by 1% per year up to 10% of AGI.
2. Graduates who are married will be treated as having the higher of (a) their own income, or (b) half of the joint income.
3. Private firm employment may be considered if the work is in the public interest (see program descriptions).
4. Although not eligible for deferment or forgiveness benefits, undergraduate loans are deducted in the determination of adjusted gross income.
5. A married graduate will be eligible for zero interest loans equal to the lesser of repayment in excess of 10% of the graduate's AGI or in excess of 5% of the combined AGI of the graduate and her spouse. An unmarried graduate will be eligible for program loans to meet annual education loan repayment obligations in excess of 10% of the graduate's annual gross income.
6. Forgiveness begins after 10 years in program or after 4 years if the graduate is 40 or older.
APPENDIX 'C'

SELECTED BIBLIOGRAPHY


ABA Journal, "The ABA and the Poor," p.56 (December 1, 1987).


Kelleher, Kathleen. The NAPIL Connection (April, 1988).

Legal Services Corporation. Fact Book (Table 1, 1984).


GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

No. ____________
(Leave Blank)

Submitting Entity: Law Student Division

Submitted By: Sara D. Smith, Chairperson

1. Summary of Recommendation(s).

Proposes that the American Bar Association encourages law schools, state and local bar associations, and federal and state lawmakers to establish Loan Assistance Repayment, Loan Forgiveness, and Income-Sharing Programs for law school graduates accepting low-paying, legal, public interest employment.

2. Approval by Submitting Entity.

This resolution was approved by the Law Student Division Assembly and Board of Governors at its 1987 Annual Meeting in San Francisco.

3. Previous submission to the House or relevant Association position.

The Law Student Division is not aware of any previous submission.

4. Need for Action at This Meeting.

Action is needed as soon as possible in order that the Association establishes a policy in favor of Loan Assistance Repayment Programs for law school graduates excepting low-paying legal public interest employment.

5. Status of Legislation. (If applicable.)

Not applicable.
6. **Financial Information.** (Estimate of funds required, if any.)

   No Association funds required.

7. **Disclosure of Interest.** (If applicable.)

   Not applicable.

8. **Referrals.**


9. **Contact Person.** (Prior to meeting.)

   Sara D. Smith, Chairperson.

10. **Contact Person.** (Who will present the report to the House.)

    Andrew L. Siegel, Division Delegate.
    Charlotte A. Wereb, Division Delegate.