

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Attorney General for the District of Columbia (Attorney General), pursuant to section 9 of the District of Columbia Poverty Lawyer Loan Assistance Repayment Program Emergency Act of 2006, effective October 25, 2006, D.C. Act 16-512 (Act), __ DCR ____, any substantially identical successor legislation, and Mayor's Order 2006-161, dated November 8, 2006, hereby gives notice of the adoption, on an emergency basis, of a new Chapter 24 of Title 1 of the District of Columbia Municipal Regulations (DCMR). The rules establish requirements and procedures for providing educational loan repayment assistance to lawyers who live and work in the District of Columbia and are employed in areas of legal practice that serve low income or underserved District of Columbia (District) residents. Pursuant to the Act, participants in the newly created District of Columbia Poverty Lawyer Loan Assistance Repayment Program (Program) who maintain eligible employment may receive government funded loans for the purpose of repaying eligible debt from reasonable educational expenses associated with obtaining a law degree. Under the Act, these loans shall be forgiven when participants satisfy required service obligations.

Section 4 of the Act requires the Attorney General to: 1) establish an application and eligibility review process for the Program; 2) certify a list of eligible employment; 3) determine levels of participant contribution; and 4) appoint an Administrator within thirty (30) days of the Act's effective date. Issuance of these rules on an emergency basis is necessary to satisfy this statutory deadline and to ensure that the financial assistance the Program offers becomes available promptly to attorneys who represent low-income District residents. Due to the high cost of legal education and the limited compensation typically paid to attorneys who serve the poor, the District is facing a critical shortage of attorneys who are financially able to accept employment in positions that meet the legal needs of the District's most vulnerable citizens. Promulgation of the rules on an emergency basis is therefore necessary to protect the public welfare by ensuring that these citizens receive access to the justice system. The emergency rules were adopted on November 20, 2006 and shall remain in effect for up to one hundred twenty (120) days, until March 20, 2007, unless superseded by another rulemaking notice.

The Attorney General also gives notice of his intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 1 DCMR is amended by adding the following new Chapter 24:

CHAPTER 24**DISTRICT OF COLUMBIA POVERTY LAWYER LOAN ASSISTANCE
REPAYMENT PROGRAM****2401 SCOPE**

2401.1 The purpose of this chapter is to establish requirements and procedures for the

District of Columbia Poverty Lawyer Loan Assistance Repayment Program (Program).

- 2401.2 The Program provides educational loan repayment assistance to eligible lawyers who maintain eligible employment in areas of legal practice that serve low income and underserved District residents. Loans shall be made to Program participants for the purpose of repaying eligible debt from reasonable educational expenses associated with obtaining a law degree. These loans shall be forgiven when participants satisfy required service obligations.
- 2401.3 The Attorney General shall be responsible for implementing the Program in accordance with this chapter and the District of Columbia Poverty Lawyer Loan Assistance Repayment Program Emergency Act of 2006, effective October 25, 2006, D.C. Act 16-512, __ DCR __ (Act), and any substantially identical successor legislation.
- 2401.4 Loan repayment assistance provided pursuant to the Program is subject to the availability of funds specifically appropriated for this purpose. Nothing in this chapter shall be construed as creating an entitlement to this assistance or to acceptance as a Program participant.

2402 ADMINISTRATION

- 2402.1 The District of Columbia Bar Foundation is appointed as the Administrator for the Program.
- 2402.2 In implementing the Program, the Administrator shall:
- (a) Publicize and provide information about the nature and requirements of the Program to potentially eligible lawyers and law students;
 - (b) Develop a list of eligible employment;
 - (c) Establish and publicize application deadlines;
 - (d) Develop and distribute application forms and informational materials;
 - (e) Receive and evaluate completed applications;
 - (f) Determine the eligibility of applicants, their debt, and their employment;
 - (g) Select participants for the award of benefits;
 - (h) Determine the level of loan repayment assistance to be awarded;
 - (i) Award loans in accordance with the criteria stated in this chapter and the

Act;

- (j) Secure the execution of promissory notes by participants;
- (k) Receive and administer funds appropriated for the payment of loan repayment assistance;
- (l) Disburse semi-annual loan payments to selected participants;
- (m) Verify semi-annually continuing participant eligibility and compliance with service obligations;
- (n) Forgive loans made to participants upon the participant's satisfactory completion of the service obligation;
- (o) Develop a schedule for the repayment of loans that are not forgiven and collect the repayment amounts;
- (p) Participate in annual financial and management audits of the Program; and
- (q) Provide financial and statistical reports concerning the Program as required by the Attorney General.

2402.3 The Attorney General shall conduct an annual financial and management audit of the Program.

2403 SCOPE, TERMS, AND CONDITIONS OF ASSISTANCE

2403.1 Loan repayment assistance under the Program shall consist of a loan made by the Administrator to a participant for a period of one (1) year. Subject to the availability of funding, the Administrator may renew the loan annually in one (1) year increments.

2403.2 Each loan shall have an associated service obligation as specified in § 2406. A participant shall maintain eligible employment, as defined in § 2405, of at least thirty-five (35) hours per week for forty-five (45) weeks per year for each year of service obligation.

2403.3 A participant shall comply with the eligibility requirements stated in § 2404 throughout his or her participation in the program.

2403.4 The Administrator shall forgive the loan if the participant completes the service obligation and maintains his or her eligibility for the Program pursuant to § 2403.2 and § 2403.3.

2403.5 Subject to the availability of funding and subject to the limitations stated in this

chapter, the Administrator shall make loans to participants that are sufficient to repay all of the participant's eligible debt.

- 2403.6 If a participant has consolidated eligible debt with undergraduate or graduate school loans from government, commercial, or educational institutions, the Administrator and the participant may treat the full amount of consolidated loan payments first coming due as eligible debt, up to the total amount of eligible debt owed, for the purposes of awarding and receiving loan repayment assistance under the Program.
- 2403.7 The Administrator shall not award a loan to a participant in excess of twelve thousand dollars (\$12,000) per year or six thousand dollars (\$6,000) semi-annually.
- 2403.8 The maximum amount of loan repayment assistance a participant may receive under the Program is sixty thousand dollars (\$60,000).
- 2403.9 If a participant fails to maintain eligible employment or fails to comply with Program eligibility requirements as specified § 2403.2 and § 2403.3, the participant shall repay any loan or loan renewal that has not been previously forgiven based on the participant's prior completion of the associated service obligation.
- 2403.10 A participant shall execute a promissory note that sets forth the amount of the loan, the service obligation, and the participant's obligation to repay the loan and any renewal increments not subsequently forgiven due to the participant's failure to maintain eligible employment or comply with Program eligibility requirements.

2404 APPLICANT ELIGIBILITY

- 2404.1 To be eligible to participate in the Program, an applicant shall, at the time of application and throughout participation in the Program:
- (a) Hold, or presently plan to secure, eligible employment; provided that a participant must hold eligible employment:
 - (1) Before any payment may be disbursed; and
 - (2) Continuously throughout the service obligation after disbursement of the first payment;
 - (b) Be a resident of the District of Columbia;
 - (c) Be a lawyer;
 - (d) Have an adjusted gross annual income of less than sixty-five thousand

dollars (\$65,000);

- (e) Have exhausted all other available avenues for loan repayment assistance, including participation in any available law school debt repayment program;
- (f) Have no current service obligation from a scholarship;
- (g) Be in a satisfactory repayment status on all eligible debt; and
- (h) Execute a release to allow the Administrator access to records, credit information, and information from lenders necessary to verify eligibility of debt and determine loan repayments.

2404.2 A law student attending the David A. Clarke School of Law (or a successor entity) at the University of the District of Columbia who is in his or her final year of study may apply and be approved for loan repayment assistance if the applicant demonstrates that he or she will meet all the requirements of this section before the first payment is disbursed.

2404.3 An applicant who submits an application based on his or her present plan to secure eligible employment may be approved for loan repayment assistance if the applicant demonstrates that he or she will hold eligible employment within ninety (90) days after the application is approved and the loan is awarded.

2405 ELIGIBLE EMPLOYMENT

2405.1 Eligible employment shall consist of employment as an attorney with a non-profit organization that provides direct civil legal services to low-income or underserved District of Columbia residents. Qualifying organizations shall consist of those organizations that receive funding from the District of Columbia Bar Foundation to provide direct legal services to the poor or underserved, or that are approved by the Administrator as providing eligible employment for the purposes of the Program.

2405.2 Eligible employment shall not include employment with the federal government or the District of Columbia government, or employment as the Administrator of the Program.

2405.3 Qualifying organizations certified by the Attorney General as providing eligible employment are listed in Attachment 1.

2406 SERVICE OBLIGATIONS

2406.1 Each participant receiving an initial one (1) year loan under the Program shall, as a service obligation, complete one (1) year of eligible employment. Each

subsequent one (1) year renewal of the loan shall require the completion of an additional one (1) year of eligible employment.

2406.2 The initial loan and each renewal shall be forgiven upon the participant's completion of the specific service obligation associated with the initial loan or the applicable renewal.

2407 APPLICATION PROCESS

2407.1 Each applicant shall submit a completed application package, provided by the Administrator, which includes the following:

- (a) An Application for Assistance Form that contains information about:
 - (1) The applicant;
 - (2) The applicant's bar admission status;
 - (3) The applicant's residency; and
 - (4) Other available loan forgiveness programs and applicable scholarship service obligations;
- (b) Loan Information Forms that contain specific information about the applicant's educational debt;
- (c) Lender Certification Forms, completed by the applicant and the lender, that verify the details of the applicant's educational debt;
- (d) An Employer Certification Form, completed by the applicant and his or her employer, that establishes the applicant's salary and that demonstrates the eligibility of the employment under § 2405;
- (e) Proof, such as copies of filed federal or District income tax returns, provided by the applicant, of the applicant's adjusted gross annual income; and
- (f) Any other relevant information required by the Administrator.

2407.2 An applicant shall be ineligible for loan repayment assistance if the application is incomplete, if it is determined that the applicant made false statements in the application packet, or if any of the eligibility requirements set forth in § 2404 are not met.

2407.3 The Administrator shall complete its review of the application, determine the applicant's eligibility, and notify the applicant in writing of its decision within

forty-five (45) days after the application deadline.

2407.4 If additional funds are available, the Administrator may accept mid-year applications. The Administrator shall complete its review of the application, determine the applicant's eligibility, and notify the applicant in writing of its decision within forty-five (45) days after its acceptance of a mid-year application.

2408 FUNDING CRITERIA

2408.1 If the needs of all Program participants exceed the funding available for the Program in any fiscal year, the Administrator shall apportion the available funds among participants giving preference to:

- (a) Graduates of an accredited public law school in the District of Columbia;
- (b) Participants who have committed to a longer service obligation;
- (c) Participants who have graduated from an accredited law school within the last three years; and
- (d) Participants who have a high debt to adjusted gross annual income ratio as compared to other participants.

2408.2 In addition to the preferences stated in § 2408.1, the Administrator may consider all relevant facts and circumstances in awarding loans and setting the level of benefits when funding is insufficient to fully repay each participant's eligible debt, up to the maximum amount provided in § 2403.8. These circumstances shall include the financial needs and resources of each participant and the availability of other sources of loan repayment assistance.

2409 AWARD AND DISBURSEMENT OF ASSISTANCE

2409.1 The Administrator shall award loans to participants to the extent funds are available in accordance with the criteria in section 2408.

2409.2 The Administrator shall disburse the first payment for each loan within ninety (90) days after the application is approved and the loan is awarded.

2409.3 The Administrator shall disburse loan payments to participants in semi-annual installments to the extent funds are available, in accordance with the criteria in section 2408, until repayment of the eligible debt is complete, the maximum amount of loan repayment assistance stated in § 2403.8 is reached, or the participant no longer meets the eligibility requirements stated in § 2404, whichever occurs first.

2410 PARTICIPANT RESPONSIBILITIES AND REVIEW OF ELIGIBILITY

- 2410.1. Upon receipt of notification of a loan award, the participant shall promptly execute a promissory note, as required under § 2403.10, within the deadline established by the Administrator. Failure to timely execute the note may result in forfeiture of the loan.
- 2410.2 The participant shall apply all loan assistance proceeds to the repayment of the participant's eligible debt. It shall be the responsibility of the participant to negotiate the terms and conditions of debt repayment with the lending institution, and any penalties associated with early debt repayment shall be the responsibility of the participant.
- 2410.3 The participant shall promptly notify the Administrator of any change in status that might affect the participant's eligibility for the Program under § 2404.
- 2410.4 The participant shall semi-annually provide the Administrator with documentation sufficient to establish the participant's continuing eligibility for the Program.

2499 DEFINITIONS

- 2499.1 The following terms and phrases shall have the meanings ascribed:

Act – the District of Columbia Poverty Lawyer Loan Assistance Repayment Program Emergency Act of 2006, effective October 25, 2006, D.C. Act 16-512, __ DCR __, and any substantially identical successor legislation.

Adjusted gross annual income – has the same meaning as provided in D.C. Official Code § 47-1803.02(b).

Administrator – the person or entity appointed to administer the Program.

Applicant – an individual who applies for loan repayment assistance from the Program.

Attorney General – the Attorney General for the District of Columbia.

Eligible debt – outstanding principal, interest, and related expenses from loans obtained for reasonable educational expenses associated with obtaining a law degree made by government and commercial lending institutions or educational institutions, but not loans extended by a private individual, or group of individuals, including families.

Eligible employment – employment that meets the requirements of § 2405 and section 2(6) of the Act.

Lawyer – a graduate of an accredited law school who is licensed to practice law in the District of Columbia, authorized under the provisions of Rule 49(c)(9) of the District of Columbia Court of Appeals to practice law in the District of Columbia, or a member in good standing of the highest court of any state and has submitted an application for admission to the District of Columbia Bar.

Participant – an eligible lawyer whose application to the Program has been approved.

Program – the District of Columbia Poverty Lawyer Loan Assistance Repayment Program.

Reasonable educational expenses – the cost of tuition for law school as well as the costs of education considered to be required by the school's degree program, such as fees for room, board, transportation and commuting costs, books, supplies, and educational equipment and materials that are part of the estimated student budget of the school in which the participant was enrolled.

Service obligation – the duration of eligible employment necessary to sustain participation in the Program.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Laurie A. Ensworth, Senior Assistant Attorney General, Legal Counsel Division, 1350 Pennsylvania Avenue, N.W., Suite 409, Washington, D.C. 20004. Copies of these proposed rules may also be obtained without charge at this address.

ATTACHMENT 1

CHAPTER 24

DISTRICT OF COLUMBIA POVERTY LAWYER LOAN ASSISTANCE REPAYMENT
PROGRAM

QUALIFYING ORGANIZATIONS PROVIDING ELIGIBLE EMPLOYMENT

Advocates for Justice and Education
Archdiocesan Legal Network
Asian Pacific American Legal Resource Center
Ayuda
Bread for the City Legal Clinic
Break the Cycle – Washington, DC Office
Capital Area Immigrants' Rights Coalition
Central American Resource Center
Children's Law Center
Columbus Community Legal Services
D.C. Bar Pro Bono Program
D.C. Coalition Against Domestic Violence – SAFE Project
D.C. Employment Justice Center
D.C. Law Students in Court Program
DV LEAP
Human Rights First
Lawyers for Children America – Washington, D.C. Program
Legal Aid Society of D.C.
Legal Counsel for the Elderly
Mid-Atlantic Innocence Project
Neighborhood Legal Services Program
Our Place, D.C.
US Committee for Refugee & Immigrant Children - DC
University of the District of Columbia School of Law - Community Development / Small
Business Clinic
University Legal Services
Washington Lawyers' Committee for Civil Rights & Urban Affairs
 Disability Rights Project
 EEO Intake Project
 Immigrant & Refugee Rights Project
 DC Prisoners Rights Project
Washington Legal Clinic for the Homeless
Whitman-Walker Clinic Legal Services Program
Women Empowered Against Violence