



August 12, 2022

Mr. Jean-Didier Gaina
U.S. Department of Education
400 Maryland Ave. SW
Room 2C172
Washington, DC 20202

RE: Docket ID ED-2021-OPE-0077

Dear Mr. Gaina:

The PSLF Coalition consists of over 90 public service agencies and organizations providing vital public services including education, healthcare, public safety, and law enforcement. Our alliance is committed to supporting the United States Department of Education in its administration of Public Service Loan Forgiveness pursuant to Higher Education Act of 1965 (HEA), 20 U.S.C. 1001, et seq., as amended.

PSLF Coalition organizations are employers that understand firsthand how PSLF helps mitigate the challenge of recruiting and retaining public service workers. PSLF makes a career in public service possible for Americans burdened by the costs of higher education and student loan debt; however, we share the Department's concern that too many borrowers have been unable to access PSLF, in part due to restrictive regulatory requirements creating unnecessary burdens for borrowers, servicers, and the Department.

Thank you for proposing significant improvements to the regulations governing Public Service Loan Forgiveness (PSLF) and for inviting specific feedback. The PSLF Coalition offers the following comment to the Notice of Proposed Rulemaking (NPRM) published in the Federal Register on July 13, 2022.

The Department should continue the PSLF Limited Waiver through July 1, 2023

To reduce confusion and ensure fairness, the terms of the Limited Waiver should be applied until the revised regulations take effect. If the PSLF Limited Waiver is discontinued after October 31, 2022, there will be eight months before the July 1, 2023 effective date of these revised rules during which the unwieldy former regulations will apply. Implementing three



different sets of rules (the old regulations, the Limited Waiver, and the new regulations) over such a short period will create confusion for borrowers and employers and will pose significant administrative challenges to the Department and its loan servicing partners.

The Coalition strongly urges the Department to continue the terms of the Limited Waiver until the effective date of the revised PSLF regulations. If the Department is convinced that it lacks the authority to continue the terms of the Limited Waiver, it should instead fast-track implementation of these revised rules.

Public Service Jobs

The Department's current regulations inappropriately limit the scope of employment that qualifies for forgiveness under PSLF by focusing on the borrower's employer rather than their public service function, and should be revised. The plain language of the HEA clearly contemplates public service job-functions being performed by borrowers not employed by government or nonprofit employers and is broad enough to cover other types of employment, including independent contractors providing public services.

In 2007, the College Cost Reduction and Access Act, Pub. L. No. 110-84, 121 Stat. 784 created Public Service Loan Forgiveness (PSLF) under which the Department must "cancel the balance of interest and principal" of qualifying student loans belonging to an individual who (1) is not in default on the loans, (2) makes 120 monthly payments after October 1, 2007, on the loans, and (3) is "employed in a public service job" at the time each payment is made and at the time of forgiveness. 20 U.S.C. § 1087e(m)(1).

The HEA enumerates more than a dozen public service job-functions and defines a public service job as encompassing a series of specified professions, as well as specific categories of employer (government and 501(c)(3) nonprofits).

The Department's interpretation of the statute has negatively impacted borrowers who are working in qualifying public service jobs but who do not work directly for a qualifying employer, including those who do so as contractors and with for-profit companies.

The Department should clarify that certain independent contractors who work full-time in public service jobs, as listed in 20 U.S.C. § 1087e, are eligible for PSLF



We appreciate the Department's awareness and concern that some public service workers have been excluded from PSLF because they work as contractors, rather than as W-2 employees of a qualifying employer. The NPRM specifically requested feedback on whether certain contractors should be included in PSLF.

The PSLF Coalition recommends that the Department revise its proposed definitions to explicitly state that a contractor performing a public interest job as defined in 20 U.S.C. § 1807(e) is eligible for PSLF.

Specifically, the Department's proposed definitions of "employee or employed", "non-governmental public service", and "qualifying employer" should be revised. The Department suggested language such as "only for the purposes of PSLF, eligible borrowers include a borrower who works as a contractor at a qualifying employer if that qualifying employer is willing to certify the periods worked by that individual". The PSLF Coalition agrees that the suggested language would clarify that student loan borrowers who are otherwise eligible for PSLF will no longer be excluded from participation because they receive 1099-NEC tax forms rather than W-2s.

Qualified employers can and will certify the hours worked by borrowers as contractors of the organization

Additionally, the Department should revise its PSLF Form to instruct employers that they may certify hours worked by non-employees. To reduce confusion among organizational officials, the Department should clarify that qualifying employers may certify hours of nonemployee independent contractors for the purposes of PSLF.

Qualified employers already certify PSLF qualifying employment for W-2 employees but have previously been instructed not to certify employment for contractors to whom they issue a 1099-NEC (nonemployee compensation). Governmental and non-governmental public service organizations already track the hours worked by independent contractors engaged in public service. This tracking allows such organizations to certify the hours worked by its contractors. For consistency, the Department should allow borrowers who contract with more than one qualifying employer to combine the hours worked at each employer to reach the 30-hour per week full-time requirement.



Qualified employers that do not presently track hours of independent contractors can implement changes necessary to enable this certification by the July 1, 2023 implementation date.

Organizations providing early childhood education should be considered “qualifying employers” even when they are structured as for-profit entities

We urge the Department to revise and strengthen the regulations to ensure that all early childhood educators working in licensed, regulated and registered settings- including for-profit and nonprofit settings and family child care - are eligible to apply for PSLF.

Unlike the public K-12 system which provides free access to education for all age-eligible children and youth, there is no parallel system for our country's youngest children. As a result, the early childhood education (ECE) system is a mixed-delivery system with providers that are center-based community programs (both nonprofit and for-profit), family child care programs (which can be structured as nonprofits, for-profits and sole-proprietorship), and public programs such as Head Start and state/locally funded public PreK programs. Early childhood educators in all of these settings provide an essential service - supporting the development and education of young children and providing safe care.

The average wage of an early childhood educator, regardless of whether they work in a nonprofit or for-profit setting, is \$10.60/hour. This is far from a living wage. Yet, this is also a profession that requires complex skills and knowledge to support young children's development and education. Higher education is essential in helping educators gain and strengthen these competencies, but it is out of reach for so many who are early childhood educators because it is unaffordable. Thus, PSLF is an important incentive for recruiting and retaining a well-prepared, effective early childhood education workforce.

Previously, the Department has interpreted the statute to mean that only early childhood educators working in nonprofit or public settings are eligible for PSLF. However, the statute does not require that early childhood educators must work for a nonprofit or public early childhood education provider. In addition, the statute does not specify how PSLF applicants must verify their employment. Therefore, we strongly encourage the Department to use its regulatory authority to clarify that eligibility for PSLF includes early childhood educators working in licensed, regulated and registered for-profit and family child care settings and to allow options, beyond submitting the employer's Federal EIN, for providing evidence of employers' eligibility. Through a combination of self-attestation, submitting evidence of the



ECE employer's state license or evidence of state registration, and/or submitting individual tax returns early childhood educators can demonstrate that they are providing educational services and that they work for eligible ECE employers (i.e., employers that are licensed, regulated and registered by the state).

Support for Specific Provisions

We stand ready to support the Department's efforts to effectuate legislative intent, clarify eligibility requirements, and simplify administration. The PSLF Coalition expresses our support for:

- allowing qualified employers to certify the work of independent contractors engaged in public service
- allowing borrowers providing enumerated public services (such as early childhood education) to participate in PSLF even when employed by a for-profit
- the proposed revision to the definition of "full-time"
- the expansion of what counts as an eligible monthly payment including the Department's proposal to count lump sum payments, payments made in multiple installments, payments made on a Direct Loan prior to consolidation, and certain periods of forbearance and deferments
- the establishment of a "hold harmless" provision
- the Department's expressed intention to use data matching and not require borrower application when feasible
- the proposal to eliminate any requirement to recertify public service employment at the time of forgiveness
- the establishment of a formal reconsideration process

We would welcome the opportunity to discuss these suggestions in further detail. Please contact Aoife Delargy (adelargy@equaljusticeworks.org) with any questions. Thank you for your efforts to improve the regulations governing the administration of Public Service Loan Forgiveness.

Signed,
The PSLF Coalition