



September 21, 2021

The Honorable James Kvaal
Under Secretary of Education
U.S. Department of Education
400 Maryland Ave. SW
Room 7E307
Washington, DC 20202

Re: Request for Information Regarding the Public Service Loan Forgiveness Program

Docket Number: ED-2021-OUS-0082

Dear Under Secretary Kvaal:

Thank you for the opportunity to write on behalf of AccessLex Institute in response to the July 26, 2021, Federal Register Request for Information regarding the administration of the Public Service Loan Forgiveness (PSLF) program. Below you will find AccessLex Institute's recommendations to improve the administration of the PSLF program by the U.S. Department of Education (ED).

AccessLex Institute, in partnership with its nearly 200 nonprofit and state-affiliated ABA-approved member law schools, has been committed to improving access to legal education and to maximizing the affordability and value of a law degree since 1983. We advocate for policies that make legal education work better for students and society alike; conduct research on the most critical issues facing legal education today; seek to expand access to legal education for underrepresented students through research, grantmaking, data analysis, and the dissemination of information and resources; and aim to increase first-time bar exam passage nationwide.

Public Service and Student Debt

1. What are the direct and indirect effects of student debt on America's public service workforce?

Though higher education is still one of the best investments a person can make, the debt that many take on to go into public service careers can come with both direct and indirect consequences. Because public service positions tend to pay lower wages than those in the private sector, the most obvious direct effects are those related to a borrower's finances once those loans come due. Many public service workers enroll in income-driven repayment (IDR) plans because their wages are too low to make the

required monthly payments under the standard 10-year repayment plan. And it is not unusual for public service workers' student loans to negatively amortize because their monthly payments calculated under the IDR plan, designed to be reasonable under their circumstances, do not cover all of the accumulating interest or any of the principal balance. Then, as their loan balances balloon over time, their credit scores will decrease because of the increasing debt (regardless of the fact they may pay on time every month).

Indirect effects of student loan debt on public service workers include the psychological burden and feeling of hopelessness that a borrower can experience upon seeing their loan balance increase while making full payments each month. Large loan balances can also restrict a borrower's ability or willingness to invest in other ways, such as buying a home, saving for retirement, having children, or getting married.

2. What are the direct and indirect benefits of PSLF for America's public service workforce, including the effects of PSLF on individual borrowers, on the labor market, on communities, and on the populations served by public service workers?

The PSLF program encourages individuals to pursue and persist in public service careers that benefit communities across this country, many of which have been historically underserved. It has been a vital recruiting tool for incentivizing the best and the brightest to serve millions of Americans, especially in high-need and rural areas. Regarding the legal community, PSLF can significantly support the people who need legal services the most by fostering an environment for public service lawyers to continue in the field. For example, although roughly 58.5 million Americans are eligible for legal services-funded assistance (i.e., civil legal aid to low-income individuals), only 1.5 million are served each year due to a lack of capacity and resources.¹ Having access to PSLF means these attorneys can focus on providing their clients more consistent, high-quality representation – something that benefits society broadly – without heeding the siren song of higher paying private industry work.

As for the indirect benefits, PSLF can relieve borrowers from the psychological burdens and feelings of hopelessness that can be experienced from having debt that one feels they will never be able to repay. The program also provides borrowers with a 10-year timeline for receiving student loan forgiveness which can enable public service workers to comfortably plan ahead to buy a home, save for retirement, have children, or get married.

3. Does PSLF provide a strong incentive for borrowers to engage in public service work? How are public service workers' employment decisions affected by their debt and by PSLF?

Yes, the PSLF program provides a strong incentive for borrowers to engage in public service work. A recent survey of young lawyers found that of the 20 percent of respondents who are pursuing PSLF, 80 percent indicated they are employed in public service positions because of PSLF.² The program makes it

¹ Legal Services Corporation. (2019). 2019 Annual Report. <https://www.lsc.gov/our-impact/publications/annual-reports/2019-annual-report>

² AccessLex Institute and American Bar Association (2021). Student Debt: The Holistic Impact on Today's Young Lawyer. https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/2021-student-loan-survey.pdf.

feasible for recent law graduates and other professionals, many of whom have substantial student loan debt, to choose to enter public service careers, such as legal aid attorneys, teachers, and social workers, that are typically compensated at a level that can make it difficult for them to repay their student loans under a standard repayment plan. Without PSLF, many individuals would likely be effectively forced to pursue higher paying careers that would enable them to pay off their student loans rather than careers in the public sector.

Experiences with Public Service Loan Forgiveness

4. What borrower experiences should the Department and Congress consider when making improvements to PSLF?

Pursuing and applying for PSLF should not be a complicated process full of inconsistent information. The requirements should be clearly laid out, information from loan servicers and ED should be consistent, there should be opportunities to appeal rejections, and the application process should be straightforward, transparent and efficient. When making improvements to PSLF, ED and Congress should ensure that these principles are met.

5. What features of PSLF are most difficult for borrowers to navigate?

There are several features that have proven to be difficult for borrowers to navigate, including:

- Verifying eligible employment and the nuances regarding which employers outside of government and 501(c)(3) non-profit employers are eligible;
- Assessing loans to ensure that they are Direct Loans and therefore PSLF-eligible;
- Avoiding ineligible repayment plans and choosing an appropriate plan;
- Receiving consistent guidance from student loan servicers;
- Navigating the PSLF employment certification form – where to find it, how often to fill it out, who to give it to at their employer, and who to send it to; and
- The tax difference between PSLF forgiveness versus IDR discharge (i.e., planning for taxable discharge versus tax-free forgiveness with PSLF).

6. What role do loan servicers play in making it easier or harder for borrowers to access PSLF?

Loan servicers play a critical role in a borrower's ability to access PSLF. For many borrowers, servicers are the first point of contact when trying to navigate the PSLF process. When a servicer provides inaccurate information, it can be the difference between a borrower being approved or erroneously denied for forgiveness after 10 years of public service work. In fact, a recent report by the Consumer Financial Protection Bureau found that student loan servicers routinely provided inaccurate information about eligibility for PSLF or Direct Consolidation Loans, which hindered borrowers' ability to receive debt forgiveness.³ One way to mitigate this would be through a common loan servicing manual, which could ensure consistency and quality of practice across agencies that service these loans and reduce the amount of inconsistent information borrowers receive.

³ Consumer Financial Protection Bureau, Supervisory Highlights: Issue 24, Summer 2021.
https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-24_2021-06.pdf.

7. What barriers prevent public service workers with student debt from pursuing PSLF or receiving loan forgiveness under PSLF?

The biggest barrier preventing public service workers with student debt from pursuing or receiving PSLF loan forgiveness is a persistent misunderstanding of program requirements and misinformation surrounding eligibility, which leads to a substantial number of denials, that then leads to a mistrust of the program and a reluctance to pursue PSLF.

8. For borrowers who have or had loans other than from the Direct Loan program, what have your experiences been when trying to access or participate in PSLF?

Despite the clarity on StudentAid.gov around what types of loans are eligible for PSLF, holders of Federal Family Education Loan Program (FFELP) and Perkins Loans still do not understand that they have to consolidate their FFELP loan into a Direct Consolidation loan to be eligible for PSLF. A targeted educational campaign around this important step early in repayment would go a long way in helping borrowers understand how to navigate the process.

9. How can communications about PSLF requirements be improved?

A 2018 Government Accountability Office report on PSLF implementation issues found that there were potential inconsistencies in the information provided to servicers regarding borrowers' loan payment history.⁴ In addition, borrowers were provided with little to no guidance regarding how to identify payment counting errors critical for determining their forgiveness eligibility.⁵ To remedy this, ED should give borrowers better up-front information about whether they qualify for PSLF, how many payments are counted and why, and what they can do to dispute any issue with how their progress is determined. Providing borrowers with more transparency regarding their eligibility for forgiveness and the means to dispute and correct issues that may arise would undoubtedly reduce the number of denials the program currently experiences.

10. What are the common questions that borrowers have about PSLF?

AccessLex Institute has a team of Accredited Financial Counselors that offers free loan repayment and financial education programming and counseling to students and borrowers. Based on our experience, these are the most common questions that we hear from borrowers regarding PSLF:

- How can I tell if my payments are counting toward PSLF?
- Why has the approval rate for PSLF been so low thus far?
- Will PSLF be an available option for future borrowers if they choose to pursue forgiveness through public service work?
- What requirements must I follow to increase my chances of achieving loan forgiveness?

⁴ U.S. Gov't Accountability Off., GAO-18-547, Public Service Loan Forgiveness: Education Needs to Provide Better Information for the Loan Servicer and Borrowers (2018).

⁵ *Id.*

Opportunities to Strengthen PSLF for Borrowers Who Currently Work in Public Service

11. What operational steps can the Department take to strengthen PSLF and better serve public service workers who currently owe student debt, including borrowers who have already applied for and been denied PSLF?

The switch to a single PSLF Form and the creation of the PSLF Help Tool have been helpful to borrowers.

The upheaval regarding the imminent departure of FedLoan Servicing and the transfer of millions of borrowers to another PSLF servicer should be the primary operational focus for ED. The focus should be on identifying a servicer who is able to provide comprehensive, robust training for all customer service representatives, and who has the resources to develop an infrastructure for seamlessly tracking, reporting, and communicating program requirements and ongoing progress to borrowers. While finding a qualified and diligent servicer is necessary for success in the transition and operation of the PSLF program, it is also critical that ED and/or Congress compensate the servicer(s) in a manner that promotes and allows for higher touch customer service for this program.

ED should also stop issuing retroactive denials of borrowers who have previously been certified as having satisfied monthly payment obligations. Navigating the current PSLF process is difficult enough and borrowers who rely on servicers to provide them with critical information should not be penalized for inconsistencies between a servicer and ED after an approval has already been made.

12. What steps can the Department take to improve borrowers' experiences in applying for PSLF?

Borrowers wishing to pursue PSLF are forced to switch to the sole federal loan servicer administering the PSLF program. The result for some borrowers has been an inaccurate transfer of information resulting in fewer payments being counted toward eligibility than were made. To mitigate these types of errors, ED should allow borrowers to file employment certification forms through any student loan servicer or platform that ED uses to process loan payments. This will help to limit inconsistencies, such as when data is transferred between servicers.

In addition, the process for applying for PSLF is complicated and outdated. Borrowers are required to complete PSLF forms, track down all their qualifying employers, and have them complete and sign the forms. Some borrowers must then send the forms by mail to the PSLF servicer. This process is unnecessarily complicated and time-consuming, and ED should instead make the processing of all PSLF forms electronic. Providing borrowers with a fully electronic system to upload and process all forms would ensure a more streamlined and efficient process.

13. What steps or improvements can servicers make to improve borrowers' experiences in applying for PSLF?

ED should require servicers to provide borrowers with better up-front information about whether they qualify for PSLF, how many payments are counted and why, and what they can do to dispute any issue with how their progress is determined. Providing borrowers with more transparency regarding their eligibility for forgiveness and the means to dispute and correct issues that may arise would reduce the number of denials the program currently experiences.

14. What can the Department do to better partner with employers to ensure that all borrowers know about the benefits of PSLF?

ED should establish a database of qualifying federal and state employers to help automatically qualify borrowers. To date, ED has not provided servicers or borrowers with reliable information for determining employers that qualify a borrower for loan forgiveness.⁶ The lack of information obfuscates the loan forgiveness process and hampers borrowers' ability to make informed decisions regarding their employment. ED should also develop a common loan servicer manual so that borrowers are receiving accurate and consistent information about the program across the board.

The Effects of the COVID-19 Pandemic on Student Loan Borrowers Working in Public Service

15. How has the COVID-19 pandemic affected borrowers' ability to access PSLF?

The legislative response to the pandemic has impacted distinct groups of borrowers in different ways. The *Coronavirus Aid, Relief, and Economic Security (CARES) Act* provisions have generally been beneficial for current borrowers in repayment and on the path to PSLF, as suspended payments still count toward the 120 required monthly payments. If borrowers were in repayment before the pandemic and meeting all the requirements for PSLF, then the suspension of payments from March 2020 through January 2022 has been very advantageous.

For recent graduates who were in their grace period when the *CARES Act* payment suspension began, the suspension caused confusion around how to enter "repayment" correctly to ensure suspended payments counted toward the 120-payment requirement. Some borrowers asked our counselors if they could forgo their grace period to get payments counted sooner, or what they needed to do to be considered eligible when their 6-month grace period was technically supposed to end.

For those who were in deferment, forbearance, or default when the pandemic suspension began, this period presented a unique opportunity to stabilize their financial situation and explore how to re-enter repayment on IDR plans and pursue PSLF. However, neither ED nor loan servicers undertook a targeted educational campaign aimed at these specific borrowers that spelled out their options in a practical, step-by-step way.

Generally speaking, the *CARES Act* provisions have given many borrowers relief, options, and continued progress toward PSLF, but did not require targeted education initiatives by ED, loan servicers or institutions to reinforce these benefits. There is still an opportunity to do so.

16. Are there any considerations about PSLF that the Department should bear in mind as it prepares for the end of the COVID-19 administrative forbearance on Direct Loans?

ED should ensure that every paused payment is accurately counted towards PSLF. Additionally, as ED prepares to resume repayment, it should ensure that potential PSLF applicants are informed well in advance, multiple times, and in multiple ways about the expiration of the payment pause so that a qualifying payment is not delayed or missed. Lastly, ED should make sure that borrowers are aware of

⁶ *Id.*

the departure of several student loan servicers, how this may impact them moving forward, who their new servicer will be, and how to transfer existing PSLF-related information.

Thank you for considering our recommendations for ways that ED can better improve the administration of the PSLF program. If you have any questions or would like additional information, you can reach me at cchapman@accesslex.org. You can also contact Nancy Conneely, our Managing Director of Policy, at nconneely@accesslex.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris S", written over a light gray rectangular background.

Christopher P. Chapman
President and Chief Executive Officer