



July 11, 2023

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

VIA ELECTRONIC SUBMISSION

RE: "Solicitation for Public Comments on Application and Employment Certification for Public Service Loan Forgiveness" (Docket No. ED-2023-SCC-0079)

Dear Secretary Cardona:

The Student Borrower Protection Center (SBPC) appreciates the opportunity to comment on the Department of Education's (ED) most recently revised Application and Employment Certification for Public Service Loan Forgiveness (PSLF) form.¹ The SBPC commends the Biden Administration for its continued dedication to delivering the promise of the PSLF program to millions of public service workers. However, these changes have only scratched the surface of what's possible. Below we have outlined a list of actions the Administration must take in order to finally deliver on the promise of PSLF student debt cancellation.

Background on the PSLF program

The PSLF program was created in 2007 as a straightforward idea: if Americans use their education in service of others for ten years, their student loans should be relieved. Unfortunately, the implementation of the program has largely strayed from its congressional intent.²

When the first borrowers became eligible for PSLF cancellation in 2017, a decade of mishandling and undermining by the federal government and the student loan industry,³ combined with arbitrary and narrow regulations,⁴ led to a 99 percent rejection rate.⁵ The Biden Administration has taken great strides to right this wrong, first by implementing the PSLF Waiver period, which loosened many of the self-imposed hurdles to the program, and then by further cementing many of these new policies via negotiated rulemaking last year.

¹ <https://www.regulations.gov/document/ED-2023-SCC-0079-0001>.

² 153 Cong. Rec. S9536 (daily ed. July 19, 2007), <https://www.govinfo.gov/content/pkg/CREC-2007-07-19/html/CREC-2007-07-19-ptl-PgS9534.htm>.

³ <https://protectborrowers.org/public-service-loan-forgiveness/>.

⁴ 34 C.F.R. § 685.219.

⁵ <https://www.nytimes.com/2019/07/24/upshot/student-debt-forgiveness-already-happening.html>.



The SBPC estimates that only 22 percent of potentially eligible public service workers are on track for PSLF and just five percent of PSLF borrowers have had their loans cancelled.⁶ One of the leading reasons for this is the overwhelming administrative burden placed on public service workers who are eligible for PSLF cancellation, but are caught in the web of red tape and unnecessary paperwork. In order to address this process, ED should seek to remove the administrative burden placed on public service workers wherever possible. Recent academic research into administrative burden highlights three primary categories:⁷

1. *Learning costs*: These are the costs applicants and participants face in learning about a program and its embedded complexities, including if they are eligible, what the benefits of the program are, how to navigate the application process, and its various rules in order to maintain eligibility.
2. *Psychological costs*: These are the costs that applicants and participants face when participating in unpopular programs and the stigma they carry, including the stress arising from the programs processes.
3. *Compliance costs*: These are the costs applicants and participants face in the time it takes to complete applications and recertifications, provide documentation of their eligibility, and respond to discretionary demands to keep their benefits. This is frequently referred to as a "time tax," describing the hours, days, and weeks that accumulate as program participants encounter countless forms, place calls to only sit on hold for hours, provide duplicative documentation, and then repeat the same process months later when they must recertify for the program.

The Biden Administration has begun to address this with the President signing the *Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government* executive order in December 2021.⁸ Federal Student Aid was one of 35 High-Impact Service Providers designated by the Administration to put customers at the center of everything they do, recognizing the importance of delivering relief to the tens of millions of borrowers struggling with the weight of student debt.

⁶ <https://protectborrowers.org/new-analysis-more-than-9-million-public-service-workers-with-federal-student-loans-eligible-for-debt-cancellation-fewer-than-2-percent-have-received-relief-and-only-15-percent-on-track/> (estimating over 9 million borrowers have employment that qualify them for PSLF); <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data> (ED reported in March 2023 that it had received cumulative applications from PSLF 2,018,181 unique borrowers with eligible employment and positive loan balance, and has discharged loans for 500,519 unique borrowers through PSLF).

⁷ Donald Moynihan, Pamela Herd, and Hope Harvey, "Administrative Burden: Learning, Psychological, and Compliance Costs in Citizen-State Interactions," *Journal of Public Administration Research and Theory* 25 (1) (2015): 43-69, available at <https://doi.org/10.1093/jopart/muu009>.

⁸ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/13/fact-sheet-putting-the-public-first-improving-customer-experience-and-service-delivery-for-the-american-people/>.



We believe that ED has a unique opportunity to apply lessons learned from its successful student debt relief application to the long-troubled PSLF application, and help borrowers stay on track for PSLF.

Addressing ED's Onerous Administrative Burden on PSLF Borrowers: Learning Cost

While the premise of the PSLF program is simple, the application is anything but that.⁹ In reviewing the revised Application and Employment Certification for PSLF, we were disappointed to see that the form grew in length even though multiple questions were removed. Although the current and proposed forms only require 2 of their many pages to be completed and submitted, the overall length of the application, including its instruction pages, matters. In our borrower engagement initiatives, we often hear that new applicants are overwhelmed by the length of the application, and the numerous definitions, requirements, and other programs they must learn in order to become eligible. And for some public service workers whose first language is not English, or who have limited English proficiency, this is made even more difficult. Despite a long standing executive order directing them to do so,¹⁰ ED has not published the Application and Employment Certification for PSLF in any language other than English.

As noted above, only 22 percent of public service workers with student loans have taken the steps necessary to certify their employment or apply for PSLF successfully. It is unlikely that the PSLF program will reach the millions of public service workers it was created to support as long as ED requires every single individual to submit paperwork annually for 10 years, nor is it likely that ED's contracted PSLF student loan servicer could even handle that paperwork volume if they were to. The current and proposed system sets the stage for failure. If this administration hopes to deliver on the promise of PSLF, its ultimate success relies on the ability of ED and Federal Student Aid to automate and streamline the application and certification of PSLF for the millions of borrowers it already has employment information about. ED should also automate the program through data matches with federal and state government agencies to ensure the maximum number of eligible borrowers are put on track for PSLF.

In addition, our review of the revised Application and Employment Certification for PSLF form found an alarming amount of repetition between pages 3 and 8. We encourage ED to consolidate this repetitive language, allowing it to reduce the number of pages substantially. Sufficiently doing so may be the difference between success and failure for millions of borrowers who find the nine page application too daunting to complete.

Addressing ED's Onerous Administrative Burden on PSLF Borrowers: Psychological Cost

Only one empirical study has been conducted on the mental health and well-being of PSLF-eligible borrowers, which found disturbing results. Respondents with between 37 to 60

⁹ <https://youtu.be/AMkYfBIerOk?t=2210>.

¹⁰ <https://www.justice.gov/crt/executive-order-13166>.



remaining payments need increased psychological and socioemotional support, as suicidal thoughts and non-prescription drug use is elevated in these individuals.¹¹ Once borrowers successfully reach PSLF cancellation, these figures drop significantly. This led the authors to suggest, "easing these individuals' mental distress before forgiveness **should be a priority**" (emphasis in original). For millions of borrowers, the PSLF program remains something of a black box. They fill out the application, submit it, and begin receiving auto-generated letters that have been known to provide inaccurate and false information. Sometimes they learn that their previous student loan servicer lost all or a portion of their payment history, so those payments cannot be reviewed. Sometimes they find out they were rejected from the PSLF program, without clear reasoning as to why, causing them to give up on PSLF. For those that persist, it can take months, or even years, to receive an updated, accurate payment count on how close they are to PSLF cancellation.

One of the reasons for this is the poor track record of the PSLF student loan servicers, PHEAA and MOHELA. Significant attention, ranging from investigative journalism to government enforcement actions, has been spent on servicer misconduct, which ultimately contributed to the Biden Administration's implementation of the PSLF waiver as a remedial measure. For this reason, we will not address the PSLF program's fraught servicer history in detail, other than to underscore that as a result of this history, borrowers understandably and reasonably approach the program with skepticism. It is therefore all the more important that the Application and Employment Certification for PSLF be accessible and clear.

Every rejection letter sent to a qualified teacher, firefighter, or public servant creates real harm to an individual, and undermines the entirety of the PSLF program as public service workers lose trust in the government and its ability to provide meaningful assistance that it has promised. ED should, and must, seek to use the information it already has on hand to deliver this crucial benefit to borrowers.

Further complicating matters is the online-only appeals process instituted by ED. When things go wrong-and they often do for these borrowers¹²-there is little recourse. They can try calling the PSLF student loan servicer, but borrowers have reported call wait times that can stretch over three hours.¹³ As a result, ED has created a PSLF Reconsideration process,¹⁴ which is reflected on the revised Application and Employment Certification for PSLF form and is only found online. In order to begin to restore trust with the millions of borrowers who have been improperly denied, ED should consider developing a process in which borrowers can seamlessly

¹¹ Collier, Daniel and Fitzpatrick, Dan, Jubilee and Jubilation: An Examination of the Relationship between Public Service Loan Forgiveness and Measures of Well-Being (November 22, 2022). Student Borrower Protection Center Research Paper, Available at SSRN: <https://ssrn.com/abstract=4285022>.

¹² https://protectborrowers.org/acs_investigation/.

¹³ <https://www.businessinsider.com/student-loan-borrowers-cant-reach-company-mohela-pslf-debt-relief-2022-10>.

¹⁴ <https://studentaid.gov/manage-loans/pslf-reconsideration>.



apply for an ED conducted reconsideration through the Application and Employment Certification for PSLF form when borrowers submit the form directly to ED.

Addressing ED's Onerous Administrative Burden on PSLF Borrowers: Compliance Cost

All too often, those who are most in need of the vital cancellation programs offered by the Higher Education Act are the least able to navigate ED's byzantine processes. ED must use the opportunity of updating the Application and Employment Certification for PSLF form to eliminate burdensome and unnecessary paperwork by automating the process wherever ED has already collected the information necessary to do so. The White House has already mandated ED do this, and highlighted the PSLF program, in particular:

"Public Service Loan Forgiveness candidates, including civil servants and active-duty service members, will be able to apply for the program with less paperwork than currently and without having to fill out forms with information they have already provided to the Federal government previously."¹⁵

For too long, paperwork and bureaucratic barriers-along with illegal practices by the private-sector firms that service and collect on these loans-have prevented millions of student loan borrowers from accessing this critical relief. While it is unknown how many public service workers simply give up after they begin this process, we do know that thousands of applicants are rejected for minor paperwork errors including checking the wrong box or formatting a date incorrectly.¹⁶ This newly proposed form does nothing to reduce these administrative burdens, and in many instances doubles down on a process that has shown time and time again to simply not work and runs against the directive provided by President Biden.

For example, when borrowers enroll in Income-Driven Repayment plans they must submit proof of income, such as a pay stub or a letter from their employer.¹⁷ ED should use this existing data to begin to automatically certify borrowers who work in the public service for PSLF, rather than require these borrowers to complete a second form that collects duplicative data.

¹⁵ Supra 8.

¹⁶ See <https://protectborrowers.org/pheaa-ecf-denials/> and https://www.politico.com/news/2021/09/21/teachers-rejected-loan-forgiveness-program-51_3396.

¹⁷ See <https://studentaid.gov/sites/default/files/IncomeDrivenRepayment-en-us.pdf>. Part of President Biden's executive order called for a "no-wrong door" approach, where interacting with one Federal program can help get them connected with other benefits and streamline enrollment for which they are eligible.

Additionally, the Application and Employment Certification for PSLF form remains oriented



towards first-time applicants. Once ED has the necessary information from a PSLF-track borrower, it should either:

1. Allow the borrower to self-attest to their continued employment status as long as they remain in their current employment; or
2. Send the borrower a completed PSLF application to sign and return, without employer involvement.

Recertification should be made as simple and automatic as possible, with the least lift required from participants who are not providing new information other than continued employment.

ED's Revised Application and Employment Certification for PSLF Form

We believe that the primary goal of the revised Application and Employment Certification for PSLF form should be to reduce the administrative burden outlined above. This should include removing inaccessible language and replacing it with clearly written plain language, translating the form into multiple languages, removing questions not related to PSLF eligibility, and dramatically reducing the length of the form. Additionally, ED should ensure that definitions and guidance provided to borrowers on the form are aligned with the new PSLF regulations.

FSA Response: Thank you for your comments. We appreciate your concern, but we must ensure that we are collecting the appropriate information to administer the PSLF program.

Feedback on the Revised Application and Employment Certification for PSLF Form and how it Could be Strengthened and Streamlined:

Section 2: Borrower Request, Understandings, and Certification

- The "I request" paragraph, and subsequent checkbox for borrowers who believe their loans should be cancelled under PSLF, should be re-written in plain language to be more accessible to the average student loan borrower.
 - o As currently written, it suggests broader eligibility for PSLF, not whether you qualify for cancellation at the moment-i.e. have 120 qualifying payments. A potential alternative could be to include two statements from which a borrower can select either "I believe that I have reached the number of qualifying payments required for PSLF cancellation" and "I do not believe I have reached the number of qualifying payments required for PSLF cancellation yet and am seeking to update my number of qualifying payments."

FSA Response: Thank you for your comments. We will consider this for future form updates.

No Change

- The second sentence in the checkbox paragraph says that the forbearance won't count



toward qualifying PSLF time. This should be removed.

- o This is not reflected in the regulations, which state clearly that any time in administrative forbearance counts towards PSLF.

FSA Response: The regulations establish specific forbearances that count as a payment equivalent for PSLF. The forbearance applied when a borrower requests a forbearance in Section 2 of the PSLF Form is a general forbearance which is not established as a payment equivalent in the regulations regarding PSLF.

No Change

Section 3: Before you Begin

- ED should move this to Section 1 in order to ensure that borrowers see it prior to beginning the form.

FSA Response: Thank you for your comments. We will consider this for future form updates.

No Change

Section 4: Employer Information

- Remove "employer website."
 - o This question has no bearing on a borrower's eligibility for PSLF, nor does it provide any information that helps the Department or its contracted student loan servicers to process the application. Asking unnecessary questions only adds to the compliance cost that PSLF-eligible borrowers face.

FSA Response: Thank you for your comments. We will consider this in future form updates.

No Change

- Remove "employment status."
 - o Pursuant to the new PSLF regulations, a borrower is eligible for PSLF if they work 30 hours or more a week, and it does not matter if their employers define full-time or part-time as ED does in its regulations. ED has historically failed to understand, or been too stubborn to resolve, the complications they impose on employers and employees by asking if any employee is full-time for "PSLF purposes." Since ED no longer relies on an employer's categorization of an employee's status, it should remove this unnecessary question. ED should simply ask how many hours a week an employee works, and its dedicated PSLF servicer and ED can use the reported hours to determine eligibility.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.



No Change

- ED should clarify, in plain terms, that if a borrower has multiple non-consecutive periods of employment with the same employer or has consecutive employment with the same employer but with varying hours worked, the borrower should submit separate forms for each period.
 - ED should add a line following the question on average hours per week worked, such as: "If you have consecutive employment with the same employer, but your hours varied significantly over the employment period, you can submit separate forms."

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

Section 6: Instructions for Completing This Form

- ED should reduce onerous requirements that only serve to be a time-consuming and error-prone process, such as date formatting that can result in a borrower being rejected from PSLF.
 - The "(mm/dd/yyyy)" requirement is unnecessary and cumbersome. ED should accept dates in any legible format.

FSA Response: Thank you for your comment, however, we disagree. It is necessary to establish a date standard for accurate processing. However, the PSLF servicer has received guidance to not reject forms with fully spelled out months.

No Change

- "Question 1" contains confusing language. The suggestion that some borrowers will need to "obtain your employer's FEIN/EIN directly, because the FEIN/EIN on your W-2 may be that of a different organization" is unclear.
 - If someone is one of the contractors who will be counted as an employee under the new PSLF regulations, ED should clarify if they need the employer that pays them or the employer for which they did work to sign the form.

FSA Response: Thank you for your comment. We have updated the language.

- "Question 4" contains confusing language. To the average reader, it is not clear what employment start date they should use.
 - We suggest rewriting this language, and considering inverting the examples provided to begin with the borrower's circumstances, not the step they should



take. For example, "If this is the first time you are submitting this employer for certification, then enter the date you began your employment with this employer." This should be done for each scenario of employment start date.

FSA Response: Thank you for your comment. We will consider this in future form updates.
No Change

- o Additionally, the proposed form currently seems to have a typo: "If you have continued to be employed in the same **employment status** (Question 5) began [sic] employment with this employer."

FSA Response: Thank you for your comment. The form has been corrected.

- "Question 5" should be removed.
 - o As discussed above, it no longer matters if an employee is considered "full-time" or "part-time" by their employer. If the question is removed from the form, this Question 5 should also be removed.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

- "Question 6" should reflect the adjunct multiplier that certain employers are permitted to use per ED's revised regulations, as well as explain how the multiplier should be used.
 - o ED should also consider noting some state laws or collectively bargained contracts exceed ED's regulations, which should be used in place of ED's multiplier.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

Section 7: Definitions

- Under the "PSLF Employer Database," we suggest noting that the Database may contain errors.
 - o This may reduce borrower confusion and concern if their employer isn't listed or comes up as ineligible, and that they should still apply if they believe their employer meets the PSLF criteria.

FSA Response: Thank you for your comments. We will consider this in future form updates.

No Change



- Under "Authorized Official," add that one employer can have more than one authorized official.
 - Many large employers, such as the University of California system or Kaiser Permanente, may have multiple locations and multiple authorized officials.

FSA Response: Thank you for your comments. We will consider this in future form updates.

No Change

- Under "Employment period," ED defines this as the period that you enter on the form, but the term is used in the regulation itself in the definition of "Full-Time: a minimum of 30 hours per week throughout a contractual or employment period."
 - Employment period should instead be defined as the duration of time that the borrower is employed, whether or not that aligns with contract dates. The definition as currently written corresponds to "certification period." Further, ED should specify that in the context of postsecondary education, and in other fields that routinely have vacation periods, consecutive contracts that begin and end with those vacation periods can be considered continuous employment periods. For example, if an adjunct professor has a contract to teach during the fall and winter/spring terms, which are separated only by a routine university closure, their "employment period" for the purpose of PSLF can commence at the beginning of the fall term and end at the conclusion of the winter/spring term. This reflects the reality that adjunct faculty regularly work schedules that are equivalent to their tenured colleagues and places them on equal footing with those colleagues for PSLF purposes. Whether they meet the required number of hours to be considered "full-time" during this employment period is a separate matter.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

- Revise "employment status."
 - Although we recommend striking the "full-time/part-time" determination, the term "employment status" is still relevant to the form in other areas. Specifically, the form instructs borrowers to submit separate certifications for the same employer for periods of time with different employment statuses. For example, if the borrower switches from working less than an average of 30 hours per week to working an average of 30 or more hours per week. The definition of "employment status" should therefore be revised to focus not on whether a borrower is designated part-time or full-time and to reflect a change in their hours relative to



the 30 hours a week threshold.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

- "Full-Time" should be revised to "Average hours per week" and should help employers understand how to calculate this.
 - ED should revise this paragraph in two ways: 1) Strike the full-time reference; and 2) Add "credit or" before "contact hours" to conform with the new regulations.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

- In the second paragraph of "full-Time," ED discusses contractual basis and periods of employment. This should be moved to the "employment period" definition.
 - Remove this paragraph from "full-time" and move it to "employment period." We also encourage you to revise the end to make explicit that working that 8 months qualifies as 12 months of certified employment, i.e., an employer can certify 12 months of employment for an employee if they work an average of 30 hours per week for a minimum of 8 months in a 12 month period..

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

Section 9: Important Information About PSLF and TEPSLF

- Under "Other Important Information" on page 8, in the second to last paragraph, ED states that PSLF application forbearances will not count towards qualifying payments.
 - This is contrary to the regulation, and should be revised to reflect that this administrative forbearance will count towards PSLF credit.

FSA Response: The regulations establish specific forbearances that count as a payment equivalent for PSLF. The forbearance applied when a borrower requests a forbearance in Section 2 of the PSLF Form is a general forbearance which is not established as a payment equivalent in the regulations regarding PSLF.

No Change



- Under "Other Important Information" on page 8, in the second to last paragraph, ED states that overpayments will be refunded or applied to other loans.
 - o ED should give the applicant the option to choose whether they want a refund or if they want any overpayments to be applied to their other loans. ED must also clarify whether applying overpayments to other loans will count as PSLF qualifying payments for those other loans.

FSA Response: Thank you for your comment. This recommendation is a policy change outside the scope of this information collection request.

No Change

- Under "Other Important Information" on page 8, in the final paragraph, ED states that PSLF-eligible borrowers can buy back qualifying payments in months they were in forbearance or deferment by paying what they would have in an IDR plan.
 - o What is the mechanism for doing this? How can a borrower know what their past payment would have been? How is a payment identified as being meant to be used in this manner rather than just an overpayment for a current month, to be applied to a future payment or toward principal?
 - o We also suggest ED revise this to explicitly say that in-school deferment periods are eligible for this process.

FSA Response: Thank you for your comment. Instructions on the "buy back" process is better placed on our website as the process does not involve the form. The PSLF Form has been revised to include a link to information on this topic.

In combination with the recent changes made through negotiated rulemaking, ED has the opportunity to reduce unnecessary and extra-statutory bureaucratic barriers to entry, reduce needless paperwork and redundancies built into the application and certification process, and finally deliver the promise of debt cancellation to these borrowers. But the situation is clear: there is no amount of tweaking the Application and Employment Certification for PSLF Form that will result in the nearly 7 million borrowers who are likely PSLF-eligible but who have not yet started the process suddenly doing so. Wherever ED has the data to automate this process for borrowers, it absolutely must. Any less would be failing to deliver on the directive President Biden mandated to your agency.

We would be happy to discuss this content and ED's ongoing work related to PSLF. Thank you for your time and consideration.

Sincerely,

