

Congress of the United States
Washington, DC 20510

May 5, 2021

The Honorable Miguel Cardona
Secretary of Education
United States Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Secretary Cardona:

We write to urge the U.S. Department of Education (“Department”) to take immediate action to ensure that our public servants—many of whom are serving on the front lines of responding to the COVID-19 pandemic—are able to access the loan forgiveness they have earned by fixing the Public Service Loan Forgiveness (PSLF) program using the administrative flexibilities provided to you by Congress during periods of a national emergency.

Congress created the PSLF program in 2007 to provide student loan relief for those who are pursuing careers in public service, providing a benefit for the employees who devote their careers to helping their communities. Compensating our first responders, teachers, public health workers, nurses, and other essential public servants by forgiving the remainder of their student debt after ten years of service ensures that those who wish to pursue these noble careers have a light at the end of the tunnel.

Unfortunately, previous implementation failures by the Department, complex program rules, and widespread malfeasance by the student loan industry have precluded many from accessing this important benefit. After the first round of forgiveness initially became available to PSLF borrowers more than three years ago, approval rates for the program have remained below 2.5%.¹ The program has been beset by numerous “donut holes” that disqualify certain types of loans, repayment plans, and the payments themselves, leading to extraordinary confusion and distrust of the PSLF program and, by extension, the federal government.

We appreciate recent steps the Department has taken to improve the PSLF program, including streamlining the application process, posting more information online, and revisiting rules around the calculation of lump sum and advance payments. However, more must be done.

Especially now, as our nation works to combat COVID-19 and build back better from this pandemic, the federal government must fulfill its promise to our public service workers who placed themselves in harm’s way to serve their community during this unprecedented time. The Department has an opportunity to uphold the promise to our public servants by taking administrative action to provide them with relief.

¹ U.S. Department of Education. Federal Student Aid Data Center. PSLF Report. November 2020.
<https://studentaid.gov/sites/default/files/fsawg/datacenter/library/pslf-nov-2020.xls>

Accordingly, we ask that the Department invoke the *Higher Education Relief Opportunities for Students (HEROES) Act of 2003*, which provides authority to “waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV” during a period of national emergency.² We urge you to take action to waive or modify counterproductive restrictions, barriers, and donut holes in PSLF, including to:

1. **Expand the definition of “eligible loan” to provide relief for borrowers with any type of federal student loan and prior payments on consolidation loans:** Congress gave all borrowers with federal student loans of any type, including Federal Family Education Loans (FFEL), the right to convert their loans to Direct Loans and qualify for PSLF. However, loan borrowers have long struggled to take this preliminary step at the start of their careers—missing the opportunity to timely consolidate and instead being forced to restart the clock on their loans. To remedy this, the Department can expand the definition of an “eligible loan” under PSLF to include all federal student loans, including loans issued under part B, D, or E of the Higher Education Act or under the Public Health Service Act. Further, the Department should deem payments made on component loans prior to any consolidation as qualifying for PSLF.
2. **Expand the definition of a qualifying payment plan for all borrowers:** At least 1.4 million borrowers are unknowingly enrolled in ineligible repayment plans after previously taking steps to get on track for PSLF.³ These problems are widespread. Borrowers have been deceived by student loan companies, provided incorrect information, or enrolled by default in plans excluded from PSLF eligibility or that would otherwise limit their potential forgiveness. In 2018, Congress created the Temporary Expanded Public Service Loan Forgiveness Program (TEPSLF) as a limited fix for borrowers in the wrong repayment plan, including “graduated” and “extended” repayment plans, but unfortunately, this program has also been subject to unnecessary application barriers and very low approval rates. To remedy these issues, the Department should make all repayment plans eligible for PSLF.
3. **Waive the restriction that a borrower be employed in public service at the time of forgiveness:** Due to program errors, many federal student loan borrowers have unfortunately given up hope on PSLF. Some borrowers who have remained employed in public service are also not actively submitting paperwork because they are not eligible due to the aforementioned donut holes or believe themselves to be ineligible. Additionally, many public-sector jobs have been lost due to the pandemic, with millions still finding themselves still out of work as the economy recovers. Since the flexibilities

² H.R. 1414, Higher Education Relief Opportunities for Students Act of 2003, <https://www.congress.gov/108/plaws/publ76/PLAW-108publ76.pdf>.

³ Student Borrower Prot. Ctr. & Am. Fed’n of Tchrs., Broken Promises: The Untold Failures of ACS Servicing (Oct. 2020), https://protectborrowers.org/wp-content/uploads/2020/10/Broken-Promises_ACS.pdf (“ACS’s servicing errors were so egregious that both the Department of Education and Congress took targeted action to address certain discrete harms caused by ACS. In 2010, for example, after ACS failed to enroll hundreds of borrowers pursuing PSLF into an eligible repayment plan, the Department of Education authorized a one-time waiver to allow certain borrowers who had been enrolled in the wrong repayment plan to request credit toward PSLF.”).

we are requesting will expand the calculation of qualifying payments, borrowers who completed their 10 years of service while repaying their student loans should be newly eligible for forgiveness, regardless of whether they are currently employed in public service at the time of the forgiveness.

4. **Establish data-sharing agreements to automatically qualify borrowers for PSLF using administrative data:** While the current PSLF employment certification and application process requires borrowers to proactively submit information about their employer for the Department to determine potential eligibility, there are millions of employees for whom the Department could easily determine qualification for PSLF. The Department should establish secure data-sharing agreements with the Department of Defense and Office of Personnel Management to automatically identify public service workers who have outstanding federally held student debt. Furthermore, the Department should consider establishing similar data-sharing agreements with state governments that have employment records. For any borrower with a positive match to these databases, the Department should automatically calculate the number of qualifying payments in accordance with the above flexibilities.

After the Department has implemented the above flexibilities, borrowers should receive direct communications about these changes. For borrowers who have already expressed an interest in PSLF, the Department has existing capabilities to determine the number of eligible payments, regardless of whether employment certification has been provided. Qualifying payment counts should be updated in accordance with the new eligibility, similar to the Department's recent implementation of lump sum and advance payment recalculations. A borrower whose newly calculated payments equal 120, or 10 years of service, should have their loans automatically canceled without any further paperwork. Borrowers who would newly be within reach of forgiveness but who need only certify their employment should receive extensive outreach from the Department to ensure they are aware of the new rules.

While these steps will help to address issues for past implementation failures, we also urge the Department to take proactive steps to simplify the process, provide more transparency, and bolster oversight of the program and loan servicers to ensure that the PSLF program is implemented in accordance with congressional intent.

We stand ready to work with you on this important issue. Now is the time to fix PSLF and finally allow the program to benefit the millions of dedicated teachers, nurses, first responders, service members, and other public servants who have depended on this relief.

Sincerely,

/s/ Tim Kaine
United States Senator

/s/ Kirsten Gillibrand
United States Senator

/s/ John P. Sarbanes
U.S. Congressman

/s/ Tammy Baldwin
United States Senator

/s/ Richard Blumenthal
United States Senator

/s/ Cory A. Booker
United States Senator

/s/ Sherrod Brown
United States Senator

/s/ Benjamin L. Cardin
United States Senator

/s/ Robert P. Casey, Jr.
United States Senator

/s/ Catherine Cortez Masto
United States Senator

/s/ Richard J. Durbin
United States Senator

/s/ Tammy Duckworth
United States Senator

/s/ Margaret Wood Hassan
United States Senator

/s/ Mazie K. Hirono
United States Senator

/s/ Angus S. King, Jr.
United States Senator

/s/ Amy Klobuchar
United States Senator

/s/ Patrick Leahy
United States Senator

/s/ Edward J. Markey
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/s/ Alma S. Adams, Ph.D.
United States Congresswoman

/s/ Donald S. Beyer Jr.
United States Congressman

/s/ Suzanne Bonamici
United States Congresswoman

/s/ Kathy Castor
United States Congresswoman

/s/ Tony Cárdenas
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/s/ David N. Cicilline
United States Congressman

/s/ Suzan K. DelBene
United States Congresswoman

/s/ Mark DeSaulnier
United States Congressman

/s/ Dwight Evans
United States Congressman

/s/ Eleanor Holmes Norton
United States Congresswoman

/s/ Chrissy Houlahan
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/s/ Sara Jacobs
United States Congresswoman

/s/ Barbara Lee
United States Congresswoman

/s/ Carolyn B. Maloney
United States Congresswoman

/s/ Gwen Moore
United States Congresswoman

/s/ Jeffrey A. Merkley
United States Senator

/s/ Robert Menendez
United States Senator

/s/ Jon Ossoff
United States Senator

/s/ Alex Padilla
United States Senator

/s/ Gary C. Peters
United States Senator

/s/ Jacky Rosen
United States Senator

/s/ Brian Schatz
United States Senator

/s/ Jeanne Shaheen
United States Senator

/s/ Tina Smith
United States Senator

/s/ Chris Van Hollen
United States Senator

/s/ Mark R. Warner
United States Senator

/s/ Elizabeth Warren
United States Senator

/s/ Reverend Raphael Warnock
United States Senator

/s/ Sheldon Whitehouse
United States Senator

/s/ Ron Wyden
United States Senator

/s/ Joe Neguse
United States Congressman

/s/ Dean Phillips
United States Congressman

/s/ C.A. Dutch Ruppersberger
United States Congressman

/s/ Abigail Spanberger
United States Congresswoman

/s/ Marilyn Strickland
United States Congresswoman

/s/ Eric Swalwell
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/s/ David Trone
United States Congressman

/s/ Lauren Underwood
United States Congresswoman

CC: The Honorable Lloyd J. Austin III
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