

September 24, 2021

ATTORNEY GENERAL RAOUL URGES DEPARTMENT OF EDUCATION TO FIX BROKEN PUBLIC SERVICE LOAN FORGIVENESS PROGRAM

To Date, the Department of Education Has Denied Nearly All PSLF/TEPSLF Applications

Chicago — Attorney General Kwame Raoul, as part of a coalition of 22 attorneys general, today urged the U.S. Department of Education to take robust action to fix the broken Public Service Loan Forgiveness (PSLF) program. Since borrowers first became eligible for relief in 2017, almost all PSLF applications have been rejected, leaving millions of public servants in the lurch. These teachers, nurses, public interest attorneys, social workers, first responders, service members and others incurred significant student loan debt in order to gain the skills necessary to educate, heal and protect our communities – under the promise that a portion of these loans eventually would be forgiven. In today’s letter, Raoul and the coalition applaud the Department of Education’s commitment to improving implementation of the PSLF program and urge the department to act quickly to fix the failures in the program’s administration.

“Thousands of student loan borrowers dedicated themselves to public service with the promise of loan forgiveness after 10 years,” Raoul said. “I encourage the U.S. Department of Education to uphold its promise and provide relief for those borrowers who have completed the program’s requirements and have dedicated themselves to serving their communities.”

A bipartisan Congress created the PSLF program in 2007 to encourage student loan borrowers to enter public service jobs in return for forgiving the remaining balance of their federal student loans after 10 years of on-time loan payments. When the first wave of borrowers applied for loan forgiveness in 2017, the Department of Education denied applicants at the alarming rate of 99%. In 2018, a bipartisan Congress gave the department a second chance to deliver on PSLF’s critical promise by creating the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program. Despite this emergency fix, relief continues to be out of reach for nearly all who apply. To date, the department has denied 96% of TEPSLF applications.

Drastic action by the department is required to make the promise of PSLF forgiveness a reality for the nation’s dedicated public servants. Raoul and other state attorneys general have a unique perspective on how to improve administration of PSLF/TEPSLF resulting from their experience investigating and holding student loan servicers accountable for violating the law, including misadministration of the PSLF/TEPSLF program. [In today’s comment letter](#), Raoul and the attorneys general urge the department to:

- Provide immediate relief to borrowers who have been harmed by the misadministration of the PSLF/TEPSLF program.
- Improve servicer oversight and accountability by carefully selecting a new servicer that will be responsive to borrowers and creating new incentives and operating procedures that put borrowers first.
- Extend the pause on payments on student loans that started in response to the COVID-19 pandemic.
- Conduct broad outreach to all borrowers potentially interested in forgiveness, including those who have yet to apply and those who have already received denials.
- Affirmatively correct errors discovered for all affected borrowers.

The Illinois Attorney General’s office has long been a national leader in investigating and enforcing consumer protection violations in the higher education field. Earlier this year, Gov. JB Pritzker signed legislation

initiated by Raoul to protect student loan borrowers. [Public Act 102-0583](#), Raoul's "Know Before You Owe" measure, ensures that student borrowers have information about their federal aid eligibility before they turn to more costly private loans, while [Public Act 102-0298](#) protects student loan borrowers from student loan debt relief companies that often prey on borrowers by charging high fees for services they cannot provide, such as loan forgiveness and cancellation. The legislation was enabled by Raoul's rollout of the state's first Student Loan Ombudsman, a position created to provide resources for student borrowers who are struggling to make student loan payments. Since 2019, Raoul's office has discharged more than \$14 million in fraudulent private student loans.

In addition to the state attorneys' general letter, Raoul's Student Loan Ombudsman joined a [comment letter](#) submitted to the Department of Education by eight state student loan ombudspersons, which highlighted borrower issues with the program and urged changes.

Joining Raoul in filing the state attorneys' general comment letter are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia and Washington.



State of California
Office of the Attorney General

ROB BONTA
ATTORNEY GENERAL

September 24, 2021

Submitted via the Federal eRulemaking Portal

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

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

RE: Docket ID ED-2021-OUS-0082

Dear Secretary Cardona and Mr. Gaina:

We, the undersigned Attorneys General of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Washington submit the following written comments in response to the Department's July 26, 2021 request for information to improve access to the Public Service Loan Forgiveness (PSLF) program through operational, technical, and policy improvements.

We applaud the Department's commitment to addressing the significant barriers that public servants face in accessing PSLF. Public servants across the country, including state employees, provide critical services. They are our teachers, nurses, public interest attorneys, social workers, first responders, and servicemembers. They have incurred significant student debt in order to gain the skills necessary to educate, heal, and protect our communities. And they rely on the promise of PSLF to support themselves and their families as they serve us.

Drastic action by the Department is required to make the promise of loan forgiveness through the PSLF program a reality for the nation's dedicated public servants. Since borrowers first became eligible for relief in 2017, almost all PSLF applications have been denied. Likewise,

relief under the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program, which Congress created as an emergency fix in 2018 to address PSLF's near-total denial rate, is out of reach for nearly all who apply. To date, the Department has denied 96% of TEPSLF applications.

The inaccessibility of the PSLF/TEPSLF program compromises our states' ability to recruit and retain our workforces. Without loan forgiveness, many individuals cannot repay their significant student loan debt while caring for themselves and their families on public service salaries. The inaccessibility of PSLF/TEPSLF is particularly harmful given that many states are already experiencing severe shortages in critical public service fields, such as education and medicine. When our residents cannot rely on the support promised through PSLF/TEPSLF, their ability to engage in public service is comprised, and our ability to provide critical public services to our residents suffers.

To be clear, many borrowers pursuing PSLF/TEPSLF, including public servants in our offices, are well-informed consumers. They strive to stay informed of program requirements, do their due diligence to track payments either through the PSLF employment certification form or bank account records, and are putting time and effort into trying to make PSLF work. Informed, educated consumers are struggling to navigate this system. The abysmal PSLF/TEPSLF forgiveness rates are not due to user error. They are the result of a system so broken that not even the loan servicer paid to administer the program can ensure that borrowers who should get forgiveness actually do. This is an untenable situation.

State attorneys general have a unique perspective on how to improve administration of PSLF/TEPSLF. We have substantial experience investigating and holding student loan servicers accountable for violating the law, including misadministration of the PSLF/TEPSLF program. In addition, state attorneys general have insight into the barriers borrowers encounter in trying to access PSLF/TEPSLF, and the harms they experience when their access is denied. In our law enforcement capacities, we receive pleas for help from public servants in our own offices and across our states, detailing their struggles to access loan forgiveness. Common problems that borrowers report to us include erroneous qualifying payment counts; lengthy processing times for program documents and decisions; and incomplete, inaccurate, and/or inconsistent guidance from their loan servicer. We welcome this opportunity to use our expertise on loan servicer misconduct and borrowers' experiences to provide recommendations to support the Department's efforts to ensure public servants get the forgiveness they were promised.

To start, the Department can and must provide immediate relief to borrowers who have been harmed by the misadministration of the PSLF/TEPSLF program, through loan discharges, credits for qualifying payments, and other remedies. While fixing administration of the program going forward is essential, the Department must not leave behind borrowers who have already suffered from the flaws in its implementation. Borrowers who have dedicated a decade of their lives to service should get the relief they were promised through immediate student loan debt cancellation. To fulfill Congress' broad intent to alleviate public servants' loan burdens, the

Department should cancel these borrowers' debt regardless of loan type, loan status, or repayment plan. The Department has the authority to provide this relief and the public policy imperative to do so is clear. Likewise, borrowers still on the ten-year path to forgiveness should get full credit for their service through restoration of qualifying payment counts. Importantly, borrowers should not be required to submit additional documentation or jump through hoops to access the relief they have already earned. The Department should use the extensive student loan data at its disposal to automate the debt cancellation and credit process to the fullest extent possible.

We also implore the Department to seize the impending transition in PSLF/TEPSLF servicer, due to FedLoan's decision not to renew its contract, as an opportunity to significantly improve servicer oversight and accountability. Servicer misinformation and errors are prevalent, and inadequate servicer oversight and accountability are at the core of many problems with PSLF/TEPSLF. The Department should tackle this central issue by creating new servicer incentives and operating procedures that put borrowers first. For instance, servicers should be closely monitored for errors and for misleading borrowers, and should be held accountable financially for poor service. These pro-borrower reforms should apply to all federal student loans servicers whose business relates to PSLF/TEPSLF, not only to whatever company is contracted with as a replacement for FedLoan.

Furthermore, in selecting a new company to service the PSLF/TEPSLF portfolio of loans, the Department's criteria must prioritize responsiveness to borrowers and proper handling of PSLF/TEPSLF applications. Successful borrower outcomes are the critical measure of performance for this servicer. The servicer selected should have the capacity to process PSLF/TEPSLF applications promptly, and provide borrowers with direct and consistent answers to their questions. The servicer should also have more oversight and more robust training for the customer service representatives advising borrowers on PSLF/TEPSLF and those processing applications. Importantly, representatives communicating with borrowers should not have performance measurements based on the number of phone calls they process, but rather the quality of information given along with resolution of a borrower's concerns.

We ask that the Department take every step necessary to ensure that the transition in PSLF/TEPSLF servicer not harm borrowers. We are gravely concerned that this transition in servicers, as is so often the case with involuntary servicer transfers, will result in errors and irregularities in borrowers' student loan accounts, hinder borrowers' access to critical information about their repayment status, and exacerbate the crisis of PSLF/TEPSLF denials. To prevent a repeat of this unfortunate history, the Department should take proactive steps to protect borrowers. For instance, the Department should set up robust systems and procedures now that ensure borrowers will not lose PSLF/TEPSLF qualifying payment counts or experience interruptions in access to payment histories.

In addition, the Department should shelter borrowers from the significant risk of harm that will arise during the servicer transition by further extending the pause on payments on

student loans that started in response to the COVID-19 pandemic. We applaud the Department for extending the pause on payments until January 31, 2022. However, we are concerned that this extension provides insufficient time to protect borrowers from problems that may result from the PSLF/TEPSLF servicer transition. The pause on payments has helped borrowers support themselves and their families during tremendously challenging times and continue to make progress on the path to PSLF/TEPSLF forgiveness. A further extension would help borrowers weather the double storm of the ongoing pandemic and the impending servicer transition. The current payment pause should be extended at least until the transfer is successfully completed, for loans that are affected by the servicer transfer as well as other loans.

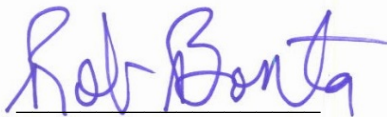
The Department must also give borrowers the information and guidance they need to access PSLF/TEPSLF by conducting broad outreach to all borrowers potentially interested in forgiveness, including those who have yet to apply and those who have already received denials. Broad outreach is critical to addressing the widespread borrower confusion that has resulted from misadministration of the program, including loan servicer errors and misconduct. Outreach materials should include clear information about PSLF/TEPSLF eligibility and application requirements. Department outreach materials should also include guidance for borrowers who may have been misled by loan servicers on options for addressing the resulting issues with their PSLF/TEPSLF eligibility. The Department's outreach should target student loan borrowers broadly, with a particular focus on borrowers who work in public service while in non-qualifying repayment plans or with Federal Family Education Loan (FFEL) program loans.

To help the millions of borrowers already harmed by the misadministration of PSLF/TEPSLF, the Department must affirmatively correct errors discovered for all affected borrowers. It should also insist that its new servicer proactively inform borrowers of these corrections and ensure that these errors do not recur for other borrowers in the future. In addition, the Department should improve its process for borrowers to contest PSLF/TEPSLF payment count errors, wrongful denials, and other problems. A clear and simple reconsideration process is essential in light of the PSLF/TEPSLF program's near-total denial rate and the prevalence of servicer errors and misconduct. This process should be widely advertised to borrowers and its procedures and requirements clearly explained. It should also provide tailored guidance to borrowers who were misled by servicers on how to correct their PSLF/TEPSLF accounts. As things stand now, public servants often do not know where to turn when they are unjustly denied payment credits or forgiveness.

We were pleased to see the Department's announcement of a negotiated rulemaking process to begin this year that includes PSLF/TEPSLF as a topic. We ask that this rulemaking specifically include the creation of a formal appeals process that would permit borrowers to contest erroneous PSLF/TEPSLF denials and other issues, such as mistaken qualifying payment counts. Though a robust informal reconsideration process is beneficial and can be accomplished without rulemaking, it is not enough. The prevalence and complexity of PSLF/TEPSLF servicing problems demands a formal appeals process, with strong safeguards for borrowers' rights, and thorough and timely consideration of borrowers' requests for a fair shot at forgiveness.

In sum, we are encouraged by the Department's commitment to putting much-needed student debt relief within reach for the millions of public servants in our states and across the country. The Department has recently taken some steps in the right direction, including consolidating the PSLF and TEPSLF application forms and creating a new PSLF Help Tool. But the Department has the authority to and must do more to successfully implement the PSLF/TEPSLF program. The time for action is now. We hope that the Department will act quickly to take the critical steps that remain, the majority of which do not require rulemaking. Our public servants have waited long enough.

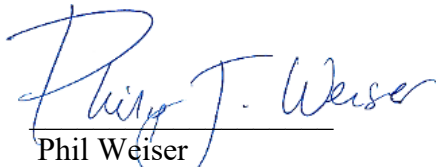
Sincerely,



Rob Bonta
California Attorney General



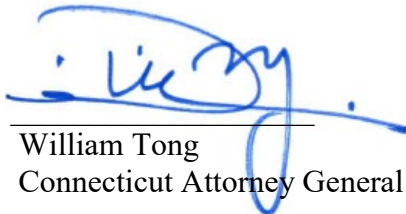
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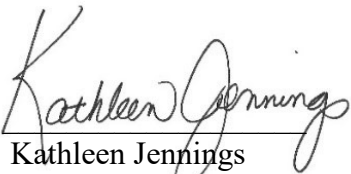
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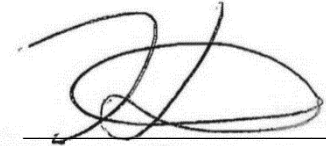
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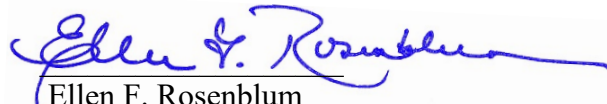
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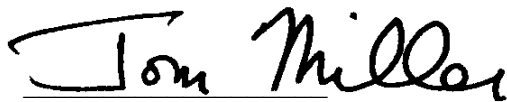
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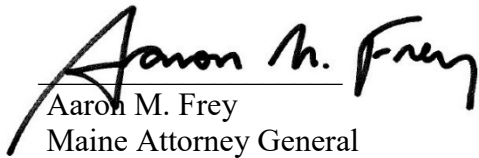
Ellen F. Rosenblum
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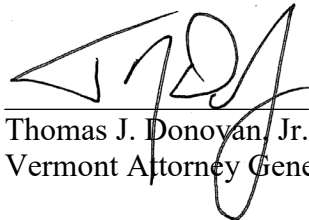
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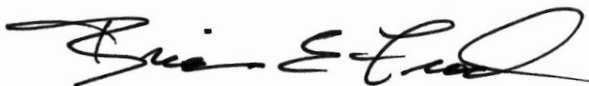
Peter Neronha
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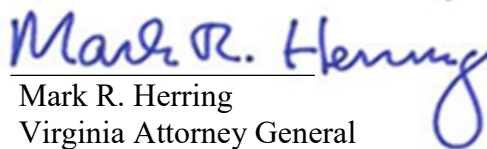
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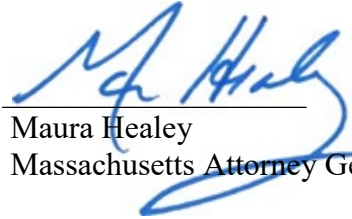


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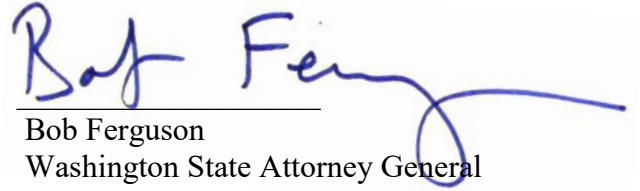


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Virginia Attorney General

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Maura Healey
Massachusetts Attorney General



Bob Ferguson
Washington State Attorney General

September 23, 2021

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

Secretary Cardona:

We, the undersigned State Student Loan Ombudspersons from Colorado, District of Columbia, Illinois, Maine, Massachusetts, Nevada, Virginia, and Washington write on behalf of borrowers who have dedicated their careers to public service yet continue to be denied the student loan forgiveness promised to them.

Student Loan Ombudspersons are government officials, who amongst other things, are tasked with resolving student loan servicing complaints and helping borrowers understand their rights and responsibilities under the terms of their loans. We work on the frontlines of the student loan debt crisis and hear firsthand about the myriad of problems, barriers, and frustrations that borrowers experience when trying to understand and pursue Public Service Loan Forgiveness (PSLF) and Temporary Expanded Public Service Loan Forgiveness (TEPSLF). When borrowers fail to receive adequate customer service and support from their student loan servicers, many turn to us. We have heard from thousands of borrowers that the PSLF program is not working and is causing significant stress and financial hardship. It is imperative that you take swift and immediate action to uphold the federal government's promise of loan forgiveness to public servants.

The problems that borrowers experience understanding, applying for, and receiving PSLF/TEPSLF are quite common and alarmingly widespread. The problems and complaints we frequently observe include:

- Lack of knowledge concerning PSLF/TEPSLF, including failures by servicers to inform borrowers about PSLF/TEPSLF and its requirements when borrowers inquire about the program or notify servicers of public service employment;
- Undue complexities in the program that make it difficult for borrowers to successfully navigate the path to forgiveness;
- Misinformation from servicers, including misrepresentations that borrowers are on track for forgiveness, when in fact, they have a non-qualifying loan type or are in a non-qualifying repayment plan;
- Servicers steering borrowers toward forbearance as opposed to other programs that are available to them (*e.g.*, PSLF, TEPSLF, and Income Driven Repayment (IDR)), which impedes progress towards loan forgiveness;

- Delays in processing IDR applications and recertifications, or problems accurately calculating IDR payments, resulting in forbearance and the loss of opportunities to make qualifying payments toward forgiveness;
- Payment records not accurately transferring from one servicer to another;
- Inconsistent and frequently revised qualifying payment and/or qualifying employment counts and an inability to get information or explanations concerning changes and discrepancies; and
- Failures by servicers to advise borrowers that consolidation restarts the clock on forgiveness, particularly when borrowers have qualifying and non-qualifying loan types.

This is just a sampling of the problems and complaints that we have observed as State Student Loan Ombudspersons. The result in any scenario is an increase in a borrower's student loan debt, which has long-term financial consequences.

Currently, many borrowers are waiting many months to have their qualifying payments estimated or to have their loans evaluated for forgiveness. For example, a borrower in Massachusetts waited over five months for her forgiveness application to be reviewed. While the ongoing pandemic has understandably put a strain on many industries, including student loan servicing, borrowers should not have to wait so long for something so crucial to their financial well-being.

In Washington state, a borrower has been waiting months to have her loans evaluated for forgiveness. She has worked in public schools for over 28 years and has diligently made payments since 2009. Despite paying over \$500 a month, her debt has grown to more than \$100,000 in over a decade of repayment. She consolidated her loans in 2016 under guidance from her servicer but learned only recently that she will not be eligible for forgiveness until 2027. She plans to retire soon and will not be working for a public employer in 2027. Thus, despite decades of faithful public service and loan payments, she will not be eligible to receive the forgiveness that is owed to her and will instead enter retirement with a mountain of debt.

Issues with application submission, the employer certification, and the number of qualifying payments, are ongoing and very discouraging to borrowers. Recently, a borrower in Nevada was given the incorrect number of qualifying payments after submitting her employer certification form. She was missing over 24 months of qualifying payments in her count towards the 120 payments. The Nevada Student Loan Ombudsperson contacted the servicer, and the representative told the Ombudsperson that the borrower had not made any payments during those 24 months. The borrower has been on an IDR plan since the beginning of repayment, but her monthly payment for the first 24 months was \$0 due to her income. The Ombudsperson requested a manual recount of the payments which took over six months to complete. Had the Ombudsperson not been available to the borrower, the borrower may have accepted the incorrect information given by the servicer's representative. Similarly, a Massachusetts borrower was given an incorrect qualifying payment count. After pushing for answers, it was discovered that

payments made to a prior servicer hadn't been counted because the current servicer's system was registering payments for only part of the borrower's consolidation loan. It thus incorrectly appeared to the servicer that these payments were underpayments, when in fact, they were full payments that qualified towards PSLF.

For people of color, attaining a postsecondary credential, professional degree, and a job with the federal government is often viewed as a pathway to the middle class and financial stability. Consequently, one would think that federal employees would be exempt from the student loan debt crisis, and successful at attaining Public Service Loan Forgiveness. But the path to financial stability for people of color, and African American women in particular, has been upended by the student debt crisis. In fact, African American women as a share of the population owe more student loan debt than any other demographic group.¹

One borrower in Washington, D.C. exemplifies the PSLF quagmire that has stymied the effort of 98 percent of applicants to obtain relief. The borrower is a 58-year-old African American single mother who has worked in federal service since earning a bachelor's degree from Howard University in 1987. She tried to make up for the wage gap by completing an advanced Software Engineering degree from Johns Hopkins University in 2009. As she struggled to balance childcare, her mortgage, and living expenses, she repeatedly contacted her federal loan servicer for help addressing her student loan debt. She was offered a single remedy: forbearance. But after every forbearance, she found herself struggling more as the payments increased due to interest capitalization. The servicer never mentioned the availability of an Income-Driven Repayment (IDR) plan or PSLF to the career public servant.

When she eventually learned of PSLF and asked her servicer about the program, she was misinformed that she needed to consolidate her Parent PLUS loans with her other loans to be eligible. She consequently became discouraged and gave up on PSLF. Today, within seven years of retirement, her total student loan debt, including her Parent PLUS loans, exceeds \$100,000. Fortunately, she attended a neighborhood presentation by the District of Columbia's Student Loan Ombudsperson on PSLF. After this workshop, she applied for TEPSLF which will take care of some of her loans, though not her Parent PLUS Loans. If her servicer had provided appropriate counseling in 2009, she would have already received forgiveness.

Based on observed borrower trends and experiences, we are advocating for the following four changes to PSLF:

¹ Black women take on the most substantial debt burden with an average of more than \$41,400, according to the American Association of University Women (AAUW). Deeper in Debt 2021 Update, AAUW.org. https://www.aauw.org/app/uploads/2021/05/Deeper_In_Debt_2021.pdf

- **Simplify forgiveness.** Provide PSLF to anyone who works full-time in public service for ten years and makes payments on their loans, regardless of their loan type or repayment plan.
- **Make it automatic.** Verify employment using IRS tax information, automatically count qualifying payments, and grant forgiveness without the need for an application.
- **Grant partial forgiveness on an incremental basis.** Grant forgiveness on a monthly or annual basis, instead of making a borrower wait ten years to find out if they qualify for forgiveness. This makes progress toward forgiveness transparent for the U.S. Department of Education, the borrower, and the servicer.
- **Don't penalize borrowers who leave public service after ten years.** Grant forgiveness even if the borrower is no longer working for a qualifying employer at the time they apply for forgiveness. The approval process has taken months to complete, with borrowers waiting almost a year to be approved. There is no reason borrowers should lose eligibility if they've completed their public service and made their 120 qualifying payments.

State Student Loan Ombudspersons have worked for years to help struggling student loan borrowers navigate the broken PSLF/TEPSLF system. Our firsthand experiences with borrowers and servicers, our extensive knowledgebase, and our unbiased vantagepoint uniquely position us to help the Department repair the PSLF program and correct the many injustices that have resulted from its poor implementation.

We appreciate the Department's acknowledgement earlier this year that collaboration with the states is the best way to provide high quality service to student loan borrowers. We strongly agree with this sentiment and hope the Department continues to support us in this work. Thank you for your consideration of our comments. We are eager to work with you on redesigning PSLF/TEPSLF to ensure that it delivers on its promise to the public servants we all rely upon to keep us safe, healthy, and educated.

Sincerely,



Stephanie Sampedro
Student Loan Advocate
Washington Student Achievement Council



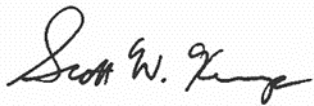
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