

# Nonprofits & Student-Loan Forgiveness: Action Needed

08.24.21 | Linda J. Rosenthal, JD



The troubled Public Service Student Loan Forgiveness Act is getting a shot in the arm.

The U.S. Department of Education (DOE), spearheading this resuscitation effort for the PSLF, wants input by September 24, 2021, from the nonprofit sector about how best to proceed. The National Council of Nonprofits urges that our community submit as many separate responses as possible.

In the past, we've seen that federal agencies carefully consider these "public comments" and often act favorably on them. The Treasury Department, for instance, solicits input on proposed tax regulations. While this is mandated by law as part of standard procedure, thoughtful submissions can make a difference.

## *Public-Service Debt Cancellation*

In 2007, in the last months of the Bush Administration, Congress acted to deal with the growing problem of the massive student-loan debt falling on the shoulders of the young-adult population around the nation. It was a clear burden not only for the borrowers themselves but also for the American economy. Recent graduates ordinarily shift into purchasing mode, buying cars or even homes. But that was stifled or eliminated entirely by the crushing level of student-loan obligations.

"Granting some relief in certain cases was a no-brainer win-win for everyone. Or so it seemed at the time," we explained in *Public Service Loan Forgiveness: Glitches* (April 15, 2019).

To qualify for PSLF, an applicant must (1) work for a government agency or for certain types of nonprofits; (2) work full-time; (3) have Direct Loans (or consolidate other federal student loans); (4) repay the loans on an "income-driven repayment plan; and (5) make 120 qualifying payments. At the end of the 10-year-period, the applicant is supposed to have the student loans wiped out. It would

benefit college graduates with a viable career path that would lead to debt cancellation. It would also help the nonprofit sector by bringing in staff with education and enthusiasm who might otherwise go into the private sector for higher salaries.

But the PSLF “...turned out to be a complex law with lots of ambiguities and uncertainties.” It was also structured so the Department of Education “is, essentially, a trillion-dollar bank, serving more than 40 million student borrowers.” But without the capacity in-house to “administer the paperwork, run the call centers, and handle the day-to-day servicing of these loans” there was little choice but to turn to contractors.

There were clues all along that the PSLF was beset with problems. The full extent of the failure, though, became all-too evident at the ten-year-mark when the first of the public-service loan cancellations were to begin. Data was showing that “99 percent of applications for loan forgiveness” were being denied. See, for example, *Panicked Borrowers, and the Education Department’s Unsettling Silence* (April 7, 2017), Ron Lieber, *The New York Times* and *Why Public Service Loan Forgiveness Is So Unforgiving* (October 17, 2018) Cory Turner, *NPR*.

By August 2018, Seth Frotman, the student-loan watchdog from the The Consumer Protection Financial Bureau, resigned in disgust. The (outside) loan servicers “...with a big assist from the Education Department, were wreaking havoc with the Public Service Loan Forgiveness Program,” he wrote in a scathing letter when he stepped down.

And an audit report in September 2018 from the General Accountability Office confirmed this conclusion that an important factor in the program’s current mess was that the DOE “failed to provide the necessary, specific, written instructions to the outside firm[s] hired to run the program.”

There were myriad ways that borrowers were left hanging out to dry almost from the beginning of the application process through to the time for seeking confirmation of the student loan forgiveness. “Major administrative failings had left both the program’s administrator and borrowers in a state of confusion about the program’s rules.”

### *Interim Corrections*

In our April 2019 update, we told you about two important positive developments addressing the problems in the Public Student Loan Forgiveness Program.

First, there was a follow-up oversight report on February 12, 2019 by the Office of the Inspector General (OIG) of the Department of Education. See *Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans*. The OIG pulls no punches. He exposes “failures to follow federal rules by the loan servicers who manage the student loans and collect the payments” as well as deficiencies of the Federal Student Aid (FSA) department of DOE which oversees the student loans. The FSA “rarely penalized loan servicers when errors” were found. More specifically, these deficiencies included a “lack of accountability provisions to hold servicers accountable for noncompliance” and a “lack of performance metrics” for the services.” *An Update on Student Loans for Nonprofit Workers* (February 19, 2019) Marian Conway, *The Nonprofit Quarterly*.

The OIG ordered the FSA to develop and submit a “final corrective action plan” within 30 days.

Second, by the date of that post, there had already been “least three lawsuits in the past few years by private plaintiff-borrowers as well as by the American Bar Association and by the Attorney General of Massachusetts, Maura Healey. One of these lawsuits came to a conclusion in late February 2019 as a federal judge upheld the claims of 3 of 4 of the lawyer/borrower-plaintiffs.” See lengthy ruling.

We concluded noting “[t]his an evolving story that affects huge numbers of public-service-employee student loan borrowers as well as the many nonprofit organizations that have participated in the Public Service Loan Forgiveness program – or who want to benefit from a vast pool of talent in the future.”

### *Suggestions Now Welcome*

The Acting Under Secretary of the U.S. Department of Education, Julie Margetta Morgan issued a call several weeks ago for public input. See *We Want to Hear From You: Strengthening the Public Service Loan Forgiveness Program* (July 23, 2021) Timothy Lawson, *Official Blog of the U.S. Department of Education*.

“Fixing the PSLF Program has been a priority for the Biden-Harris Administration since day one,” she explains. “While we have identified many opportunities for improvement by talking to experts and borrowers and reviewing our procedures, we want to hear from you as well. That’s why, today, we are issuing a Request for Information about PSLF.”

There have been steps taken already to help borrowers, including creating a single application that certifies employment, counts payments, and allows borrowers to check on their status toward forgiveness under PSLF and Temporary Expanded PSLF (TEPSLF).” And last year, the Department “changed its previous policy and now counts lump-sum payments and prepayments as qualifying payments for the purposes of loan forgiveness through the PSLF Program.”

There is also now available a new PSLF Help Tool to make it easier for borrowers to determine their eligibility.”

Improvements are continuing, but there is “more work to do” to bring the PSLP Program back to a condition where it can “live up to its promise.” The DOE is asking anyone interested to help them “identify and resolve challenges with the PSLF Program by answering questions, including the following:

- What features of PSLF are most difficult for borrowers to navigate?
- What barriers prevent public service workers with student debt from pursuing PSLF or receiving loan forgiveness under PSLF?
- 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?”

They ask to “hear from the people who rely on this program about what is working and, more importantly, what isn’t working” also to hear from “ experts across the nation about the challenges public service workers face and their ideas about how the PSLF Program can work better.” See

*Request for Information Regarding the Public Service Loan Forgiveness Program* (July 26, 2021).

U.S. Department of Education Notice, Federal Register.

### *Conclusion*

This is an important and welcome opportunity for nonprofit organizations as well as the many sector workers who have been, and will continue to be, affected and assisted by the Public Service Loan Program, to have a say about correcting problems and reforming it so that it serves the win-win purpose that the 2007 Congress originally intended.

Comments are due on or before September 24, 2021; instructions are in the *Federal Register* notice.

Among the many issues for the new Department of Education to consider, and for which our community may have valuable ideas and suggestions, is the effect of COVID-19's past and continuing disruptions on nonprofit employers and employees. How will short or long shutdowns affect eligibility for this Program?

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