



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.

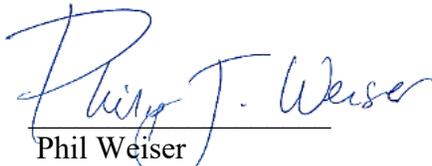
Sincerely,



Rob Bonta  
California Attorney General



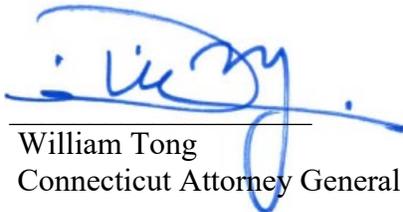
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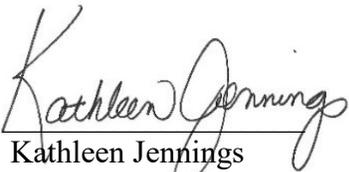
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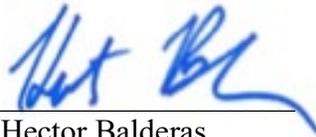
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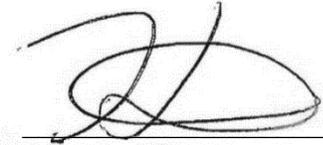
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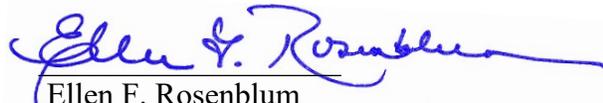
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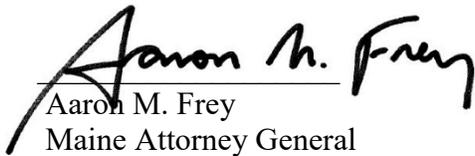
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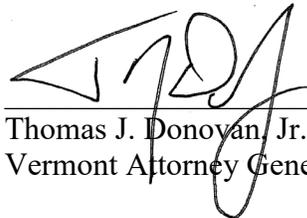
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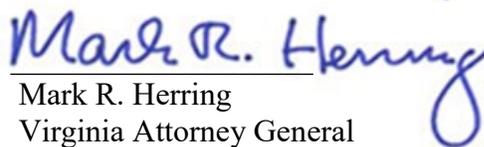
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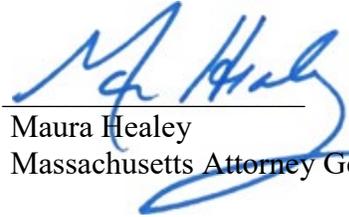


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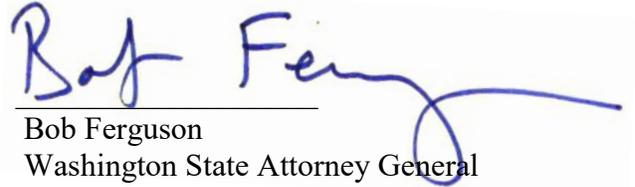


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