



September 17, 2025

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue SW, 5th Floor
Washington, DC 20202

Docket ID ED-2025-OPE-0016

To whom it may concern:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA) and our 3,000 member institutions, we respectfully submit to the U.S. Department of Education our comments on its notice of proposed rulemaking (NPRM) to amend the regulations of the Public Service Loan Forgiveness (PSLF) program (Docket ID ED-2025-OPE-0016).

NASFAA represents more than 29,000 financial aid professionals who serve 16 million students each year at colleges and universities in all sectors throughout the country. NASFAA member institutions serve nine out of every 10 undergraduates across the country.

The Department's proposed plan to narrow the definition of qualifying employers for Public Service Loan Forgiveness (PSLF) purposes undermines the bipartisan support of PSLF that has been in place for nearly two decades.

The PSLF program is vital for communities nationwide, incentivizing college graduates to enter essential public service fields, particularly in underserved areas. It helps attract and retain professionals like teachers, health care providers, and social workers. Borrowers make a significant 10-year commitment to public service, and foundational program rules should not be subject to frequent review and potential reversal. Altering the definition of a qualifying employer while individuals are actively pursuing qualification, or creating future ambiguity, is unfair and erodes confidence in the program's reliability.

The Department must maintain a consistent and objective definition of qualifying employers to ensure PSLF continues to strengthen communities by offering talented professionals a stable, predictable, and fair path to work in vital public service fields.

We disagree with the broad authority the proposed rule grants the Secretary to make "substantial illegal purpose" determinations based on a preponderance of the evidence. First, only the courts can determine what constitutes illegal activity. Second, those determinations must be based on actual law. ED admits in the NPRM that borrowers "as well as their employers will also benefit from the approach of using existing law, as doing so applies consistency, familiarity, and fairness." Yet, ED has not produced relevant law to support how it would make its determinations of illegal purpose, such as with trafficking. Giving

the Secretary of Education authority to determine an activity illegal, absent any laws prohibiting such activity, undermines the judicial process and will result in protracted legal uncertainty for borrowers and the communities they serve.

Separate from ED's authority to adjudicate these cases, we have concerns about the adjudication process and ED's ability to manage such a process. The process laid out in §685.219(h) lacks essential details, including time frames for ED to provide initial notice to employers, for employers to respond, and for ED to review such responses and make a final determination. We recommend ED follow due process procedures already established in other areas of regulation, such as the borrower defense to repayment rules at §685.206.

We also lack confidence that ED has the resources to manage such a process. ED's massive reduction in force last March, backlogs of 74,500 PSLF buyback requests and 1 million IDR forgiveness applications, and mounting complaints from financial aid offices¹ all point to an agency that is not equipped to take on new, complex, and time-consuming activities, especially where expertise lies elsewhere — in the courts.

We support the provision that would allow the Secretary to consider an organization operating under a shared identifier, such as a larger university system, as separate and distinct entities for the purposes of determining PSLF eligibility under this new rule. This, along with the provision that employers can provide more information about their organizational structure during the notice and response phase, provides essential protection for public service employees, ensuring that the actions of one department or campus do not unfairly penalize potentially thousands of uninvolved borrowers working in other parts of the same system. Like our concerns about due process above, however, the details of how ED would operationalize these provisions are missing from the proposal, and we fear that, in fact, entire organizations could lose eligibility due to the actions of a single area operating independently.

We appreciate the Department's decision to make the rule proactive and not deny borrowers' prior earned qualifying months of repayment in cases where their employer is later found ineligible. We believe ED should provide additional protections for individuals working at employers deemed ineligible during their tenure by adding a legacy provision to allow them to continue earning credit toward PSLF and denying only new employees hired after the date of determination. This protects not only borrowers, but the communities these individuals serve, since a mass exodus of public servants could leave significant gaps in critical fields, especially given the research ED cites in the NPRM that "public service employees cited PSLF as a significant factor in their decision to pursue and remain in public service," and that ED estimates the areas most likely to be impacted by the regulations will be "legal services, governance, social work, healthcare, K-12 education, and higher education." Smaller and rural communities will likely feel the impact when individuals providing these services pursue other employment due to their employer losing PSLF-eligible employer status.

The proposed rules include a provision that an employer deemed to have engaged in activities with a

¹ https://www.nasfaa.org/uploads/documents/Impact_ED_FSA_Cuts_on_FAOs_Results.pdf

substantial illegal purpose must wait 10 years before it can petition to regain its PSLF-eligible status. We are concerned that this 10-year ban is excessively punitive and counterproductive. This policy will primarily harm potential future, uninvolved employees by limiting their public service employment options. A five-year period is a more reasonable time frame for an organization to demonstrate it has met the department's conditions, striking a better balance between compliance and rehabilitation.

We support ED's proposal that employers maintain eligible status in cases where the Secretary approves a corrective action plan prior to issuing a final determination. However, we believe there is a drafting error in the regulatory text at (i)(1)(ii) which reads, "Determines that the qualifying employer engaged in activities that have a substantial illegal purpose under subsection (h) of this section, unless, prior to the issuance of the Secretary's final determination, the Secretary which includes the factors set forth in subsection (j)(2) of this section." The missing language appears to be (in italics), "Determines that the qualifying employer engaged in activities that have a substantial illegal purpose under subsection (h) of this section, unless, prior to the issuance of the Secretary's determination, *the Secretary approves a corrective action plan* which includes the factors set forth in subsection (j)(2) of this section.

We believe an important potential scenario was not covered in negotiations. In §685.219(j), ED does not address cases where illegal purpose is established by state law that is later rescinded or overturned. In such instances, ED should automatically restore eligible employer status to all organizations that lost eligibility based on such laws and retroactively approve payments borrowers made during the period of ineligibility. Further, if ED were to pursue future ineligibility for such employers, it should have to begin the process for determining when an employer engaged in activities that have a substantial illegal purpose anew.

We wish to note broadly that the proposed rule contains several contradictions, internal inconsistencies, and, worse, presents as statements of fact things that are simply not true. For instance, ED chooses to define illegal discrimination based solely on federal law because, "Limiting the scope to only Federal laws will help reduce the burden on the Department when assessing whether a qualifying employer engages in illegal discrimination as there are many State laws addressing discrimination," but invokes reliance on state law to define the medical treatments and "trafficking" the administration believes to be illegal. Why is ED concerned about the burden of reliance on variable state laws in some circumstances but not others?

Several arguments in the *Benefits of the Proposed Regulations* are unsupported. ED argues that the proposed regulations will "...streamline the PSLF process by providing more explicit eligibility criteria..." but the eligibility criteria are already explicit; these regulations only narrow the eligibility criteria. ED claims these changes will "...make it easier for borrowers to track their progress..." toward PSLF, but provides no evidence for improvements to the payment tracking process to support this claim. ED says in the NPRM that many borrowers cite confusion about employer eligibility for PSLF, per recent data from the Consumer Financial Protection Bureau. But, again, ED provides no evidence for its claims in the

NPRM that the rules make the process more “transparent” or “efficient” or how it would “result in faster processing of PSLF applications and fewer errors.”

We ask ED to reconcile the seeming conflict between its statement, “The Department anticipates growth in public service recruitment and retention in the future,” against its estimates that the proposed rule changes will result in more than \$1.5 billion in savings from borrowers who will no longer receive PSLF.

We appreciate the opportunity to comment on the Department’s proposed rules, but we maintain our fundamental position that the Department should not create a new process for determining employer ineligibility. Established legal and regulatory bodies, such as the Internal Revenue Service and the court system, already serve this function, and their findings should be the basis for any change in PSLF eligibility.

If you have any questions regarding these comments, please [contact us](#) or NASFAA’s Senior Policy Analyst, [Megan Walter](#).

Regards,

A handwritten signature in black ink that reads "Melanie E Storey". The signature is written in a cursive style with a large, sweeping flourish under the name.

Melanie Storey
President and CEO, NASFAA

