

## Proposal for Restoring Public Service Loan Forgiveness

At root of the “Restoring Public Service Loan Forgiveness” executive order is the concern that PSLF has “misdirected tax dollars into activist organizations that not only fail to serve the public interest, but actually harm our national security and American values, sometimes through criminal means.” The EO further states, “As President of the United States, I have a duty to protect, preserve, and defend the Constitution and our national security, which includes ending the subsidization of illegal activities, including illegal immigration, human smuggling, child trafficking, pervasive damage to public property, and disruption of the public order, which threaten the security and stability of the United States. Accordingly, it is the policy of my Administration that individuals employed by organizations whose activities have a substantial illegal purpose shall not be eligible for public service loan forgiveness.”

These statements, taken together at face value, indicate that the task before this Negotiated Rulemaking committee is to stop directing tax dollars through Public Service Loan Forgiveness to support activities that harm national security and American values through illegal activities, which include illegal immigration, human smuggling, child trafficking, pervasive damage to public property, and disruption of the public order, and to determine how to identify organizations whose activities have a substantial illegal purpose should make them ineligible to participate as qualifying employers for PSLF purposes.

Given the problem identified and the intent of PSLF to assist in “alleviating worker shortages in necessary occupations,” our policy calculus must necessarily root out wasteful spending through inappropriate loan forgiveness while continuing to recognize the need to alleviate critical worker shortages in key occupations, including first responders, air traffic controllers, teachers, and health care workers. It is critically important that both of these priorities be in balance to avoid inadvertently worsening existing worker shortages while continuing to allow inappropriate forgiveness of loan balances to individuals engaged through their employment in activities with a substantial illegal purpose. There is great danger that if these priorities are not held in balance, there is tremendous potential to disqualify large employer due to the illegal activity of an isolated individual or department.

In consideration of the problem we have been tasked to address and the risks of unintended consequences of poor execution, the most effectively balanced policy withholds PSLF from isolated bad actors working for qualifying employers while creating a

an objective framework to identify employers with a substantial illegal purpose based on the criminal activity of their employees. We therefore propose that individuals convicted in a court of law of offenses in any of the five categories of illegal activities identified in draft regulatory text carried out in connection with their employment for an otherwise qualifying employer for PSLF purposes lose credit for their months of qualifying service associated with the months during which their crimes were carried out and that organizations with a critical mass of employees convicted in a court of law of offenses in any of the five categories of illegal activities identified in draft regulatory text carried out in the course of their employment for that organization lose their qualifying employer status for PSLF purposes as follows:

- Individuals convicted of offenses in any of the five categories of illegal activities identified in draft regulatory text carried out in connection with their employment shall be disqualified from receiving months of service credit toward PSLF for periods of employment during which the criminal activity is determined to have occurred.
- Organizations with a critical mass of employees convicted of offenses in any of the five categories of illegal activities identified in draft regulatory text carried out in connection with their employment shall be determined to be ineligible employers for PSLF purposes as follows:
  - For organizations with fewer than 10 FTE employees, more than one employee convicted of relevant crimes carried out in connection with their employment for that organization
  - For organizations with greater than 10 FTE employees, greater than 10% of the total FTE workforce convicted of relevant crimes carried out in connection with their employment for that organization

This proposal prevents bad actors from receiving Public Service Loan Forgiveness for illegal activities that threaten national security and American values, identifies organizations engaged in a substantial illegal purpose threatening the security of the stability of the United States, and avoids inadvertently exacerbating critical shortages or workers who are needed to protect the public interest.

To address the potential complexities of the information above, database matches with court records could be used to streamline the processes involved. If it is not feasible to consistently identify whether a crime was connected with the borrower's employment activities, the dates of the crimes occurring during employment could be substituted.

Submitted by the following negotiators and alternates:

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