

Discussion Paper: Restoring Public Service Loan Forgiveness (PSLF)

Session 1, June 30 – July 2, 2025

Issue: Restoring Public Service Loan Forgiveness (PSLF) Program

Statutory citation: Section 455(m) of the Higher Education Act of 1965, as amended (HEA)

Regulatory citation: Section 685.219

Summary of Issue

Illegal activities, including illegal immigration, human smuggling, child trafficking, pervasive damage to public property, and the disruption of the public order are a threat to our national security and to the social and economic stability of the United States. The Department has an overriding governmental interest in promoting policies to thwart such unlawful conduct.

Congress has granted the Secretary broad authority to promulgate regulations to administer the Direct Loan Program and to carry out her duties under Title IV of the HEA. *See, e.g.*, 20 U.S.C. 1221e-3, (“The Secretary . . . is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department”); *see also* 20 U.S.C. 1082, 3441, 3474, 3471.

Additionally, on March 7, 2025, President Trump signed Executive Order (E.O.) 14235, Restoring Public Service Loan Forgiveness directing the Secretary of Education to propose revisions to 34 CFR 685.219 that ensure that loan cancellation under the Public Service Loan Forgiveness (PSLF) Program excludes organizations that engage in activities that have a substantial illegal purpose.

Thus, in order to prevent taxpayer-funded PSLF benefits from being improperly paid to individuals who are employed by organizations that are not providing public service and are in fact, engaged in activities that are a threat to the public, the Secretary is proposing regulations that would exclude from the group of PSLF qualifying employers, any organizations that engage in activities that have a substantial illegal purpose.

Background

Section 455(m) of the Higher Education Act of 1965, as amended, established the PSLF Program under which the Secretary cancels outstanding balances on *Eligible Direct Loans* for borrowers who are employed *full-time* in a *public service job* after they make 120 monthly payments under a *qualifying repayment plan*.

Except for the term, *public service job*, which is defined by statute at 20 U.S.C. 1087e(m)(3), the italicized terms above are specifically defined in the current regulations at 34 CFR 685.219(b).

The purpose of the PSLF Program is to encourage individuals to enter and continue in full-time public service employment by cancelling the remaining balance of their Direct loans after they satisfy the public service and loan payment requirements of the regulations at 34 CFR 685.219.

As of December 2024, over a million borrowers have received PSLF. This amount includes over 700,000 borrowers who received limited waiver discharges that the prior Administration used taxpayer funds to pay off the loan balances of borrowers who did not make the minimum 120 monthly payments required by the statute.

Proposal

The Secretary proposes to amend the PSLF regulations to ensure that the definition of *qualifying employer* excludes organizations that engage in activities that have a substantial illegal purpose.

Specifically, the proposal would amend 34 CFR 685.219 as follows:

1. Revise the definition of a *Qualifying Employer* – The Department proposes to revise the definition of *qualifying employer* to ensure that organizations that engage in activities that have a substantial illegal purpose are not considered to be qualifying employers.

2. Define activities that have a *substantial illegal purpose* – The Department proposes to define specific activities as having a substantial illegal purpose. By providing clear definitions for determining whether an organization is not a qualifying employer under the PSLF Program, the Department would enable borrowers and employers to better understand what activities could exclude employers from being considered a qualifying employer. To the extent possible, the Department proposes to adopt definitions that are already established in federal or state law. The Department proposes adding definitions for: “aiding or abetting”; “other Federal immigration laws”; “terrorism”; “Foreign Terrorist Organizations”; “chemical castration or mutilation”; “surgical castration or mutilation”; and “illegal discrimination” ~~and “violating state tort laws”~~.

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3. Establish when a qualifying employer has engaged in activities that have a *substantial illegal purpose* – The Department proposes to establish a standard by which the Secretary would determine that a qualifying employer would be deemed as having engaged in activities that have a substantial illegal purpose and therefore no longer qualifies as a *qualifying employer* for the purposes of PSLF.

4. Address the impact on a borrower’s eligibility for cancellation under the PSLF Program – The Department proposes that, effective on or after July 1, 2026, and based on an evidentiary standard as defined in the proposed regulations, no payment by the borrower for any month the Secretary determines that the qualifying employer engaged in activities that have a substantial illegal purpose would count toward the borrower’s eligibility for cancellation under PSLF.

5. Give employers the opportunity for notice and the ability to respond – The Department proposes to provide notice to employers and the ability to respond to any Department findings

relating to whether the employer has engaged in an activity that has a substantial illegal purpose. A final judgment by a state or federal court, plea of guilty or *nolo contendere*, or settlement that includes admission by the organization that it engaged in activities that have a substantial illegal purpose would constitute conclusive evidence of engaging in activities that have a substantial illegal purpose. This process ensures that employers have the ability to challenge and present evidence prior to the Department making a final decision.

Proposed amendatory text in redlines to represent additions and edits and paragraph restructuring in new paragraph (b):

34 CFR § 685.219 – Public Service Loan Forgiveness

* * *

(b) Definitions. The following definitions apply to this section:

(1) Aiding or abetting has the same meaning as defined under 18 U.S.C. 2.

* * *

(2) AmeriCorps service...

* * *

(3) Chemical castration or mutilation means -

(i) the use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; and

(ii) the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual's physical appearance with an identity that differs from his or her sex.

* * *

(4) Child or children for the sole and specific purpose of this section means an individual or individuals under 19 years of age.

* * *

(5) Civilian service to the military...

* * *

(6) Early childhood education program...

* * *

(7) *Eligible Direct Loan...*

* * *

(8) *Emergency management...*

* * *

(9) *Employee or employed...*

* * *

(10) *Foreign Terrorist Organizations* mean organizations on the list published under paragraph (a)(2)(A)(ii) under the Immigration and Nationality Act (8 U.S.C. 1189).

* * *

(11) *Full-time...*

* * *

(12) *Illegal discrimination* means a violation of any Federal discrimination law including, but not limited to, the Civil Rights Act of 1964 (42 U.S.C. 1981 *et seq.*), Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*).

* * *

(13) *Law enforcement...*

* * *

(14) *Military service...*

* * *

(15) *Non-governmental public service...*

* * *

(16) *Non-tenure track employment...*

* * *

(17) *Other Federal Immigration laws* mean any violation of the Immigration and Nationality Act (8 U.S.C. 1105 *et seq.*) or any other Federal immigration laws.

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(18) *Other school-based service...*

* * *

(19) *Peace Corps position...*

* * *

(20) *Public education service...*

* * *

(21) *Public health...*

* * *

(22) *Public interest law...*

* * *

(23) *Public library service...*

* * *

(24) *Public safety service...*

* * *

(25) *Public service for individuals with disabilities...*

* * *

(26) *Public service for the elderly...*

* * *

(27) *Qualifying employer means:*

(i)

(A) A United States-based Federal, State, local, or Tribal government organization, agency, or entity, including the U.S. Armed Forces or the National Guard;

(B) A public child or family service agency;

(C) An organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code;

(ivD) A Tribal college or university; or

(vE) A nonprofit organization that—

(A1) Provides a non-governmental public service as defined in this section, attested to by the employer on a form approved by the Secretary; and

(B2) Is not a business organized for profit, a labor union, or a partisan political organization; and

(ii) Does not include organizations that engage in activities that have a substantial illegal purpose, as defined in this section.

* * *

(28) *Qualifying repayment plan...*

* * *

(29) *School library services...*

* * *

(30) *Substantial illegal purpose means –*

(i) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws;

(ii) supporting terrorism, including by facilitating funding to, or the operations of, cartels designated as Foreign Terrorist Organizations consistent with 8 U.S.C. 1189, or by engaging in violence for the purpose of obstructing or influencing Federal Government policy;

(iii) engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law; or the

(iv) engaging in the trafficking of children to states for purposes of emancipation from their lawful parents in violation of Federal or State law, in violation of applicable law;

(v) engaging in a pattern of aiding and abetting illegal discrimination; or

(vi) engaging in a pattern of violating State tort laws, as defined in paragraph (34) of this subsection, including laws against trespassing, disorderly conduct, public nuisance, vandalism, and obstruction of highways.

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(31) *Surgical castration or mutilation* means surgical procedures that attempt to transform an individual's physical appearance to align with an identity that differs from his or her sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy their natural biological functions.

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(32) *Terrorism* is defined under the Crimes and Criminal Procedure (18 U.S.C. 2331).

* * *

(33) *Trafficking* means transporting a child or children from their State of legal residence to another State without permission or legal consent from the parent or legal guardian for purposes of emancipation from their lawful parents or legal guardian, in violation of applicable law.

* * *

(34) *Violating State law* means a final, non-default judgment by a State court of:

- (i) trespassing;
- (ii) disorderly conduct;
- (iii) public nuisance;
- (iv) vandalism; or
- (v) obstruction of highways.

* * *

(35) *Violence for the purpose of obstructing or influencing Federal Government policy* means violating any part of 18 U.S.C. 1501 *et seq.* by committing a crime of violence as defined under 18 U.S.C. 16.

(c) *Borrower eligibility.*

* * *

(2) Except as provided in paragraph (c)(4) of this section, A a borrower will be considered to have made monthly payments under paragraph (c)(1)(iii) of this section by—

* * *

(4) Effective on or after July 1, 2026, through a standard as described in paragraph (h) of this section, no payment shall be credited as a qualifying payment for any month

subsequent to a determination that a qualifying employer engaged in activities that have a substantial illegal purpose, as described in this section.

(e) Application process.

* * *

(9) If the Secretary has notified the employer that they may be an ineligible employer under subsection (h) of this section, the Secretary notifies the borrower of the employer's status.

(10) If the Secretary has determined the employer is no longer a qualifying employer under subsection (h) of this section, the Secretary notifies the borrower of the employer's status.

(11) If the Secretary approves a corrective action plan under (j)(2), the Secretary notifies the borrower of the employer's status.

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(g) Borrower Reconsideration process.

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(7) Notwithstanding paragraph (g)(1) of this section, a borrower may not request reconsideration under this paragraph (g) based on the Secretary's determination that the organization lost its status as a qualifying employer due to engaging in activities that have a substantial illegal purpose under the standard described in paragraph (h) of this section.

(h) Standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose. (1) The Secretary determines by a preponderance of the clear and convincing evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions (by gauging both frequency or severity) and will not find that the organization has a substantial illegal purpose if it has only engaged in illegal activities or actions that are minor or purely technical. In making such determination, the Secretary shall presume that any of the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

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(1) A final judgment by a State or Federal court, whereby the employer is found to have engaged in activities that have a substantial illegal purpose;

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(2) A plea of guilty or *nolo contendere*, whereby the employer admits to have engaged in activities that have substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have substantial illegal purpose; or

(3iii) A settlement that includes admission by the employer that it engaged in activities that have a substantial illegal purpose described in paragraph (h) of this section.

(2) Nothing in this subsection shall be construed to authorize the Secretary to determine an employer has a substantial illegal purpose based upon the employer or its employees exercising their First Amendment protected rights.

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(i) *Process for determining when an employer engaged in activities that have a substantial illegal purpose.* The Secretary will determine that a qualifying employer violated the standard under paragraph (h) of this section when the Secretary:

(1) Receives an application as referenced under subsection (e) of this section which the employer does not certify that it did not participate in activities that have a substantial illegal purpose; or

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(2) 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; Determines that the qualifying employer engaged in activities that have a substantial illegal purpose under subsection (h).

(1) The Secretary will determine that a qualifying employer violated the standard under paragraph (h) of this section when the Secretary:

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(i) Receives an application as referenced under subsection (e) of this section which the employer does not certify that it did not participate in activities that have a substantial illegal purpose; or

(ii) 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.

(2) Notwithstanding subsection (i)(1), the Secretary may, in the event an employer is operating under a shared identification number or other unique identifier, consider the organization to be separate for the purposes of determining whether an employer is eligible.

(j) *Regaining eligibility as a qualifying employer.* An organization that loses eligibility for failure to meet the conditions of paragraph (b)(27) of this section may regain eligibility to become a qualifying employer after —

(1) Five years from the date the Secretary determines the organization engaged in activities that have a substantial illegal purpose in accordance with paragraph (h) of this section, if, at or after that time, the organization certifies on a borrower's subsequent

application that the organization is no longer engaged in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section; or

(2) The Secretary approves a corrective action plan signed by the employer that includes

(i) a certification that the employer is no longer engaging in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section;

(ii) a plan describing the employer's compliance controls that are designed to ensure that the employer will not engage in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section in the future; and

(iii) any other terms or conditions imposed by the Secretary designed to ensure that employers do not engage in actions or activities that have a substantial illegal purpose.