



July 29, 2022

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

The Honorable Miguel Cardona
United States Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

RE: Urgent Need to Extend, Expand, and Harmonize the Limited Public Service Loan Forgiveness Waiver

Dear President Biden and Secretary Cardona:

We, the undersigned Attorneys General of Illinois, Massachusetts, California, Colorado, Connecticut, the District of Columbia, Delaware, Hawaii, Iowa, Maryland, Michigan, Minnesota, North Carolina, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, and Wisconsin commend your administration's historic efforts to remedy fundamental problems with the Public Service Loan Forgiveness ("PSLF") Program through the Limited PSLF Waiver and the recent decision to count certain forbearance periods toward loan forgiveness.¹ Although, through the waiver, your administration has temporarily relaxed many of the complex rules that contributed to the PSLF Program's failure, we believe additional action is needed to support our public service workers and ensure they can access the benefits they so justly deserve.

Specifically, to help address the pervasive misconduct of federal loan servicers that our offices have helped to uncover, including forbearance steering, servicing errors, and failures to advise, we believe the Limited PSLF Waiver should automatically count *all* forbearance periods toward loan forgiveness. For the waiver and the PSLF Program to succeed, we also believe it is critically important to extend the waiver at least until new PSLF regulations take effect and to grandfather in waiver benefits for borrowers who miss administrative deadlines. Further, to ensure that all

¹ *Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs*, April 19, 2022 press release, available at <https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs>.

public service workers get equal access to forgiveness, the waiver should be made available to all federal loan borrowers, including all Parent PLUS borrowers and to those joint consolidation borrowers who are presently locked out of PSLF.

Finally, we are concerned that while the recently announced Income-Driven Repayment and PSLF Account Adjustment (“One-Time IDR and PSLF Adjustment”) complements the Limited PSLF Waiver, the two programs need to be harmonized to avoid borrower and servicer confusion, including by aligning deadlines and certain other terms.

As you know, the pandemic has placed a tremendous strain on public service workers, many of whom served on the frontlines making difficult personal sacrifices to keep our communities safe, healthy, and educated. These sectors, including our healthcare and education workforces, are suffering employee burnout and shortages. It is of the utmost importance that the PSLF Program function to alleviate the financial strain associated with student debt and support these critical sectors as our nation continues its recovery. We believe this can only be accomplished through expansion and extension of the waiver.

I. The Limited PSLF Waiver Seeks to Rectify Fundamental, Programmatic Issues with PSLF But Does Not Go Far Enough to Redress Servicer Misconduct

Created by Congress, the PSLF Program was intended to provide debt relief to federal loan borrowers who work for at least ten years in public service.² The program quickly fell short of expectations, and far too many borrowers had their applications for loan forgiveness denied. As the U.S. Department of Education (the “Department”) itself concluded, PSLF “is an important-but largely unmet-promise to provide debt relief to support the teachers, nurses, firefighters, and others serving their communities through hard work that is essential to our country’s success.”³ Due to the program’s stringent requirements for qualifying monthly payments, many borrowers have had their applications rejected simply because they made payments a day late or a dollar short. Other borrowers have made payments on Federal Family Education Loans (“FFELs”) or under common repayment plans that do not qualify for forgiveness. As detailed more fully below, student loan servicers have contributed to the high PSLF denial rates. Servicers have steered borrowers into short- and long-term forbearances, made servicing errors, failed to advise borrowers of the need to consolidate into the Direct Loan Program, incorrectly told borrowers they were ineligible for PSLF, and recommended non-qualifying repayment plans. As a result, the initial PSLF rejection rate was over 99%.⁴

² See 20 U.S.C. 1087e(m); 34 CFR § 685.219.

³ *Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul*, U.S. Department of Education, Oct. 6, 2021, available at <https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

⁴ *Untangling Student Loan Forgiveness: Who Qualifies For Three Complicated Programs For Public Service Workers*, Forbes, February 8, 2022 (“Because of PSLF’s complicated eligibility criteria, and due to alleged mismanagement of the program by the Department of Education and its contracted loan servicers, the program suffered from extraordinarily high denial rates of 98% or more”), available at <https://www.forbes.com/sites/adamminsky/2022/02/08/untangling-student-loan-forgiveness-who-qualifies-for-three-complicated-programs-for-public-service-workers/?sh=224706bb4371>.

Our offices are intimately familiar with the problems PSLF borrowers have experienced. Borrowers seek our assistance when their PSLF applications are denied, when their accounts are subject to errors, when they receive inadequate or incorrect information from loan servicers, or when they fall victim to student loan debt relief scams. As a result, we have repeatedly advocated for changes relating to PSLF. For example, in October 2018, a group of Attorneys General identified FFEL borrowers being locked out of forgiveness as one of the PSLF Program’s fundamental problems and demanded that such borrowers “should not be made to consolidate their loans into Direct loans today and make another ten years of payments. To do so would be fundamentally unfair.”⁵

As such, we have been pleased by many of the important changes provided by the Limited PSLF Waiver. The waiver enables borrowers with FFEL and other non-Direct Loans to consolidate into the Direct Loan Program while receiving credit toward forgiveness for past payments. The waiver also provides that all prior repayment periods will be credited toward forgiveness, regardless of repayment plan, whether a payment was made, or whether it was made in-full or on-time. Recently, the Department announced that certain forbearance and deferment periods will also count as qualifying payments. While these important changes temporarily resolve many of the problems with the PSLF Program’s administration, we continue to believe *all* forbearance time must automatically count toward forgiveness to properly address a fundamental issue affecting access to PSLF: servicer misconduct.

II. The Department Should Count All Forbearance Periods Toward PSLF to Address Servicer Misconduct

As many, including the Department, have observed, the PSLF Program is complex and difficult to navigate, even for sophisticated borrowers.⁶ Servicer misconduct exacerbates these difficulties and has harmed PSLF borrowers since the program’s inception.⁷ Our offices have repeatedly

⁵ October 4, 2018 Multistate Letter to Department of Education.

⁶ The Department noted in its October 6, 2021 press release about the Limited PSLF Waiver that the changes being made “are important steps toward a better and stronger PSLF program, one that will move away from the current situation in which too few borrowers receive forgiveness, and too many do not receive credit for years of payments they made because of complicated eligibility rules, servicing errors or other technicalities.” *Fact Sheet*, supra note 3; see also *A Guide to Big Changes for Public Service Loan Forgiveness*, New York Times, October 8, 2021 (noting that qualifying for PSLF “is complicated” and “[u]ntold numbers of applicants have met with bitter disappointment after misunderstanding the requirements or receiving incorrect information from their student loan servicers when they asked for help”), available at <https://www.nytimes.com/article/public-service-loan-forgiveness-changes.html>; *Untangling Student Loan Forgiveness: Who Qualifies For Three Complicated Programs For Public Service Workers*, Forbes, February 8, 2022 (“Because of PSLF’s complicated eligibility criteria, and due to alleged mismanagement of the program by the Department of Education and its contracted loan servicers, the program suffered from extraordinarily high denial rates of 98% or more”), available at <https://www.forbes.com/sites/adamminsky/2022/02/08/untangling-student-loan-forgiveness-who-qualifies-for-three-complicated-programs-for-public-service-workers/?sh=224706bb4371>.

⁷ *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, Consumer Financial Protection Bureau, June 2017, at pp. 27-43 (summarizing PSLF borrower complaints related to (1) servicer delays and defects in the loan consolidation process; (2) servicers enrolling borrowers into non-qualifying repayment plans, despite borrowers expressing interest in PSLF; and (3) servicers providing inaccurate counts of qualified payments made by borrowers, among other problems), available at <https://files.consumerfinance.gov/f/documents/201706cfpbPSLF-midyear-report.pdf>.

identified servicer misconduct as a major problem and called on the Department to protect against the same for prospective PSLF applicants:

- “Identifying servicer failures and holding servicers accountable is necessary in order to help borrowers and to correct these problems moving forward.”⁸
- “Servicer misinformation and errors are prevalent, and inadequate servicer oversight and accountability are at the core of many problems with PSLF/TEPSLF.”⁹

Your administration has indicated that the Limited PSLF Waiver is intended to “restore the promise of PSLF.”¹⁰ While its decision to automatically count forbearance periods toward forgiveness for service members¹¹ and certain lengthy forbearance periods for all borrowers¹² are important steps toward achieving this mandate, we believe *all* forbearance periods must be automatically counted to effectively redress servicer misconduct. Our dedicated public servants – teachers, firefighters, nurses, police officers – deserve such relief. The rules and requirements governing IDR plans, forbearance, and PSLF are complicated, often confusing, and frequently changing, making the task of identifying or proving servicer error or misconduct difficult for any borrower. Even for outside reviewers, account errors and forbearance steering can be difficult to detect.

A. Pervasive Forbearance Steering Harmed PSLF Borrowers

As our offices are all too familiar, federal student loan servicers have historically steered financially distressed borrowers into voluntary forbearances rather than counseling them about the benefits of more affordable and PSLF-qualifying income-driven repayment (“IDR”) plans. State and federal lawsuits against Navient focused squarely on the practice of forbearance steering, alleging that Navient pushed struggling borrowers into forbearance because it was fast, easy, and enabled the company to save money by getting borrowers off the phone quickly. The practice, however, was extremely harmful to borrowers who desperately needed accurate and fulsome counseling to navigate the complex web of federal loan repayment options.

During forbearance, borrowers suffer interest accruals and adverse credit effects, and are not making qualifying payments toward PSLF, often due to servicer errors or misconduct. Failure to automatically count periods of forbearance toward loan forgiveness ignores pervasive and well-established servicing problems and inappropriately shifts the burden to borrowers to identify and prove that they were victims of servicer misconduct.

⁸ August 28, 2019 Multistate Letter to the Department of Education, *available at* https://illinoisattorneygeneral.gov/pressroom/2019_08/Letter_to_ED_on_PSLF_response.pdf.

⁹ September 24, 2021 Multistate Letter to the Department of Education, *available at* https://illinoisattorneygeneral.gov/pressroom/2021_09/PSLF%20RFI%20Comment%20Letter-9-24-21.pdf.

¹⁰ *Fact Sheet*, *supra* note 3.

¹¹ *Fact Sheet*, *supra* note 3 (“Eliminate barriers for military service members to receive PSLF. The Department will allow months spent on active duty to count toward PSLF, even if the service member’s loans were on a deferment or forbearance rather than in active repayment”).

¹² *Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs*, *supra* note 1.

Recently, a group of 39 state Attorneys General reached a \$1.85 billion settlement with Navient over improper forbearance steering practices among other issues.¹³ As part of that settlement, Navient agreed to injunctive provisions aimed at preventing forbearance steering going forward. For example, before placing borrowers into forbearance, Navient agreed to provide information on IDR plans and to offer to quote the borrower's IDR payment. Navient also agreed to create "alternative repayment specialists" and "PSLF specialists"—employees trained to counsel borrowers about all repayment options, including PSLF.

Navient is not the only servicer to mishandle IDR. As the Department has acknowledged in announcing its determination to count certain forbearance periods toward loan forgiveness, Navient was not the only federal loan servicer to engage in forbearance steering: "FSA reviews suggest that loan servicers placed borrowers into forbearance in violation of Department rules, even when their monthly payment under an IDR plan could have been as low as zero dollars."¹⁴

In addition, the Consumer Financial Protection Bureau ("CFPB") recently entered a consent judgment with EdFinancial in which the Bureau alleged that the company made various misrepresentations to borrowers with FFEL loans about their eligibility for PSLF.¹⁵ Specifically, the Bureau alleged that EdFinancial misrepresented that FFEL borrowers could not receive PSLF, misrepresented that FFEL borrowers were making payments toward PSLF before loan consolidation, misrepresented to borrowers that certain jobs were not eligible for PSLF, and described loan forgiveness programs to FFEL borrowers without mentioning PSLF. The Department itself has recognized¹⁶ that these issues are not limited to EdFinancial and are, in fact, pervasive:

We have no reason at all to think that these issues – which dated from at least January 2017 through at least February 2021 – were unique to EdFinancial. To the contrary, they may well reflect the longstanding approach to how others were handling these same issues during the same period and perhaps even now.

As the CFPB's Director, Rohit Chopra, noted, "Illegal conduct by a student loan servicer can be ruinous for borrowers who miss out on the opportunity for debt cancellation."¹⁷ Had borrowers

¹³ Attorney General Raoul Announces \$1.85 Billion Settlement with Student Loan Servicer Navient, Illinois Attorney General's Office, Jan. 13, 2022, available at

https://www.illinoisattorneygeneral.gov/pressroom/2022_01/20220113.html.

¹⁴ Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs, supra note 1.

¹⁵ See CFPB Sanctions Edfinancial for Lying about Student Loan Cancellation, Consumer Financial Protection Bureau, Mar. 30, 2022, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sanctions-edfinancial-for-lying-about-student-loan-cancellation>; see also Stipulation and Consent to the Issuance of a Consent Order, *In the matter of: Edfinancial Services, LLC*, 2022-CFPB-0001, Mar. 30, 2022, available at https://files.consumerfinance.gov/f/documents/cfpb_edfinancial-services_stipulation_2022-03.pdf.

¹⁶ FSA Letter to FFEL Program Participants – Responsibilities to Borrowers Seeking to Benefit from the Public Service Loan Forgiveness Program, Department of Education, Mar. 30, 2022, available at <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-03-30/fsa-letter-ffel-program-participants-responsibilities-borrowers-seeking-benefit-public-service-loan-forgiveness-program>.

¹⁷ CFPB Steps Up Scrutiny of Student Loan Servicers That Deceive Borrowers About Public Service Loan Forgiveness, Consumer Financial Protection Bureau, Feb. 18, 2022, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-steps-up-scrutiny-of-student-loan-servicers-who-deceive-borrowers-about-public-service-loan-forgiveness/>.

been provided with accurate information about PSLF, many may have avoided forbearance and utilized IDR plans.

Separately, in 2019, the New York Attorney General's Office sued the Pennsylvania Higher Education Assistance Agency ("PHEAA"), which serviced the PSLF Program under the name FedLoan Servicing, over allegations that it mismanaged the PSLF Program, including through steering borrowers into forbearance. The parties reached a settlement this year, and, as part of the settlement, PHEAA is reviewing certain accounts for, among other errors, erroneously applying forbearance and deferments and providing incorrect information about PSLF and IDR eligibility.

Through both intentional and unintentional misconduct, federal servicers have pushed borrowers into forbearances of varying lengths, made servicing errors, and failed to provide accurate information and advice about how to access vital programs like PSLF and IDR. These behaviors have harmed PSLF borrowers and justify counting all forbearance time toward forgiveness.

B. IDR Recertification Delays and Problems Harmed PSLF Borrowers by Forcing Repeated Short-Term Forbearance Use

Servicer-driven forbearance use does not exclusively involve long-term forbearance. PSLF borrowers have been frequently and repeatedly pushed into short-term forbearances by loan servicers, resulting in missed opportunities to make qualifying payments toward loan forgiveness.

For example, the Navient litigation revealed a common servicer practice of repeatedly enrolling borrowers in shorter-term forbearances lasting three-to-six months apiece. While many of these borrowers may not have accumulated 36 months of forbearance in total, and thus would not be eligible to have their periods of forbearance credited toward PSLF or IDR forgiveness under the Department's current plans, these borrowers suffered the same negative consequences as borrowers with 12-month periods of forbearance. In addition, servicer delays in processing IDR requests have resulted in short-term forbearances. In 2017, the Massachusetts Attorney General sued FedLoan Servicing, alleging that, among other things, the company had delayed in processing IDR applications, causing borrowers to be placed into forbearance and thereby robbed of the opportunity to make qualifying payments toward PSLF. Of the Massachusetts borrowers who filed claims as part of the resolution of that lawsuit, over 700 had misapplied forbearance periods credited to qualifying PSLF payments under a Department-approved remediation. This result demonstrates the frequency with which forbearance has been misapplied to PSLF borrowers. The New York Attorney General's recently settled suit against FedLoan Servicing also contained similar allegations, and its settlement provides for review of borrowers' accounts for delays in processing IDR applications.

Similarly, when servicers miscalculate IDR payments or fail to timely communicate paperwork deficiencies, borrowers are forced into short-term forbearances to avoid delinquency while errors and problems are corrected.¹⁸ For example, faulty servicer communications concerning the need

¹⁸ See *Settlement Backs Up Overhaul of Loan Forgiveness Program*, Inside Higher Ed, October 14, 2021, available at <https://www.insidehighered.com/news/2021/10/14/departments-education-settles-loan-forgiveness-lawsuit>.

to annually recertify for IDR, such as those described in state and federal lawsuits against Navient, have also led to chronic late IDR recertifications that routinely forced borrowers into short-term forbearances.¹⁹ These faulty communications caused numerous borrowers to discover that they had failed to recertify only after they had received a bill for a much higher payment amount.²⁰ In some cases, this bill vastly exceeded the amount borrowers had been charged before enrolling in IDR, leaving borrowers with no option but to use forbearance. Due to the time needed to process paperwork and generate billing statements, these borrowers were often placed in forbearance for at least two to three months.²¹

Many borrowers were also placed into short-term forbearances when trying to switch from the Income-Based Repayment (“IBR”) plan to new and advantageous IDR plans like Pay as You Earn (“PAYE”) and Revised Pay as You Earn (“REPAYE”). While regulations effectively require borrowers to make one \$5 forbearance payment to leave IBR, borrowers routinely experienced at least two months of forbearance due to the practice of requiring the \$5.00 payment to be made and its due date to pass before the PSLF servicer would even begin processing the IDR request and generating a billing statement for the new annual payment period.²² All of these examples illustrate how problematic short-term forbearance use harmed borrowers seeking PSLF.

It is unfair and counterproductive to require PSLF borrowers who have been placed into forbearances of less than 12 months at a time, or less than 36 months cumulatively, to “seek account review by filing a complaint with the FSA Ombudsman.”²³ Not only will this approach result in many borrowers not obtaining relief to which they should be entitled, it will administratively burden FSA and require intricate and unnecessarily complex line-drawing as between similarly situated borrowers. Borrowers should not be required to affirmatively apply to have periods of forbearance counted toward PSLF. Rather than burdening borrowers and

¹⁹ For years, federal loan borrowers who had consented to electronic communications (as most do) did not actually receive IDR recertification notices by email. Instead, servicers often sent emails directing borrowers to access IDR recertification notices separately through a website. Notably, it was not uncommon for neither the email’s subject line nor its contents to provide an indication of the purpose, importance, or time-sensitivity of the notice. For example, the subject line of an email sent by Navient read: “Your Navient account information,” with the body of the email stating only that “A new education loan document is available online. Please log in to your account to view it.” A federal court likened Navient’s email to receiving an envelope, opening it, and finding that the letter instructed the recipient to call a phone number to receive more information as to what the letter concerns. *Consumer Fin. Prot. Bureau v. Navient Corp.*, No. 3:17-CV-101, 2017 U.S. Dist. LEXIS 123825 at *63, n.11 (M.D. Pa. Aug. 4, 2017).

²⁰ Borrowers could not readily distinguish these communications from routine updates to the servicer’s privacy policy or other non-essential communications.

²¹ As servicers improved their methods of communication concerning the need to provide income and family size information, seamless IDR recertification rates have significantly increased.

²² For example, to facilitate a switch from IBR to REPAYE, a Massachusetts borrower was billed \$5 for a reduced payment forbearance, which was due on September 7, 2018. The borrower made the \$5 payment on time. However, due to the time needed for processing and generating a billing statement, the servicer was unable to start the borrower’s next REPAYE annual payment period until the November 7, 2018, and applied a second forbearance to cover the month of October 2018.

²³ <https://www.ed.gov/news/press-releases/departments-education-announces-actions-fix-longstanding-failures-student-loan-programs>.

taxpayers with an unnecessary and inherently flawed claims process, we urge you to give our public service workers credit for all the months of service they have provided.

III. The Limited PSLF Waiver Should be Made Equally Available to All Borrowers

Our offices also remain concerned about the waiver's exclusion and disparate treatment of certain pockets of distressed borrowers, including certain Parent PLUS loan borrowers and certain joint consolidation loan borrowers.

Parent PLUS loan borrowers have the fewest repayment options and are often deeply indebted due to their ability to borrow up to the full cost of attendance.²⁴ Moreover, in our experience, federal loan servicers have often failed to advise Parent PLUS loan borrowers of the need to consolidate into the Direct Loan Program to access PSLF and IDR. Under the waiver, if a parent borrower happens to have outstanding loans for their own education and consolidates those loans with a Parent PLUS loan, the entire resulting consolidation loan will receive waiver benefits for the period in which the parent's student loans were in repayment.²⁵ However, Parent PLUS loan borrowers who do not have their own student loans to consolidate with a Parent PLUS loan are locked out of waiver benefits. There is no legal or policy justification for treating Parent PLUS borrowers differently than public service workers who borrowed for their own education.

Similarly, while we recognize that it affects a smaller number of borrowers, we are concerned that the waiver has not been made available to borrowers who took out joint consolidation loans with their spouses through the FFEL Program. Joint consolidation loans have proven in many cases to be highly problematic, particularly when marriages dissolve or in situations involving physical, emotional, or economic abuse. Public service workers with FFEL joint consolidation loans deserve equal access to debt relief.

IV. The Limited PSLF Waiver Must Be Extended and Certain Aspects Should be Grandfathered.

Given the essential benefits provided by the Limited PSLF Waiver, and the fact that fundamental problems with the PSLF Program will immediately return (likely in an exacerbated form) upon the waiver's end, we have grave concerns about plans to end the waiver just two months after the federal student loan portfolio is scheduled to resume repayment and before the Department's new PSLF regulations take effect.

Operationalizing and explaining the waiver has been an incredible challenge for the Department and its servicers, which struggled to rework the PSLF Program's infrastructure to account for the waiver. Despite these efforts, forms and communications have made inaccurate and confusing claims. Forms have, for example, falsely stated that consolidating will restart the

²⁴ If consolidated into a Direct Loan, Parent PLUS loans are eligible for PSLF and TEPSLF; however, the only available income-driven plan for a Consolidation Loan that includes a Parent PLUS loan is Income-Contingent Repayment, which is often the most expensive income-driven plan.

²⁵ This policy will also force many Parent PLUS loan borrowers to take the undesirable step of consolidating their Parent PLUS loans with their student loans, which will narrow their income-driven repayment plan options to Income-Contingent Repayment, which is typically the most expensive income-driven plan.

clock on loan forgiveness, inaccurately stated that qualifying payment counts included the waiver when they did not, and misrepresented which repayment plans count toward forgiveness under traditional PSLF rules.

Additionally, some servicers may have been slow to train staff on the waiver. At least one major federal loan servicer recently informed the Massachusetts Attorney General's Office that in response to the CFPB's February 2022 bulletin, it conducted a review of its borrower communication templates, scripts, and training materials to ensure they were updated to account for the waiver. The notion that servicers may have delayed in training staff and updating communications until the CFPB issued guidance outlining servicers' obligations to provide complete and accurate information regarding the availability of the Limited PSLF Waiver, eligibility requirements, and the associated benefits is extremely concerning.

Furthermore, even while customary loan servicing activities have been suspended, the Department and the PSLF servicer have struggled to answer borrowers' calls. Borrowers have reported experiencing hold times exceeding an hour in trying to speak with the PSLF servicer. In fact, the outreach from concerned consumers was so great that the Department itself asked borrowers to limit their calls to the Department for advice: "Please let us focus on helping you. Give us time and try not to flood our phone lines."²⁶ Borrowers have also experienced three-to-four-month delays in having employment certifications approved and the Department has acknowledged significant ongoing backlogs in approving employers.

More than nine months into the waiver, many borrowers, particularly FFEL borrowers, remain understandably confused. Some are still unaware of the benefits available through the waiver and the steps they must take to access them. Additionally, given that large numbers of borrowers have not been required to actively deal with their loans throughout the payment pause, many will not consider the Limited PSLF Waiver until they return to repayment status, are put in touch with a servicer, and are again required to grapple with their loans. Ending the waiver on October 31, 2022 would provide only two months for borrowers to take the critical steps necessary to receive waiver benefits.

Additionally, during this period, PSLF borrowers will be confronted with the transfer of servicing to the Missouri Higher Education Loan Authority ("MOHELA"), the newly appointed PSLF servicer. MOHELA's ability to service PSLF borrowers and address the complexity of the PSLF Program is largely untested. MOHELA should not immediately be tasked with rushing borrowers through the process of accessing waiver benefits while simultaneously explaining the steps required to resume making qualifying PSLF payments once the waiver ends.

More time will also benefit borrowers by allowing them to get additional information and advice from a variety of resources. PSLF's requirements are very difficult for the Department, servicers, and advocates to explain, and even harder for borrowers to understand, and the Limited PSLF Waiver adds to this complexity. In fact, because the waiver reverses longstanding PSLF Program rules (e.g., that consolidation restarts the clock on forgiveness), many borrowers are wary of taking the steps necessary to secure or maximize waiver benefits.

²⁶ Feb. 7, 2022 Letter from Richard Cordray, Department of Education, *available at* <https://studentaid.gov/sites/default/files/pslf-coo-message-2022-02-07.pdf>.

Amidst major servicing transfers—including the introduction of a new and untested PSLF servicer and the entire federal portfolio transitioning back into repayment—we believe that ending the waiver on October 31, 2022 will deprive public service workers of the time and support necessary to access waiver benefits. Moreover, we believe that inordinate confusion and harm to public service workers will result from reimposing the failed traditional PSLF rules on November 1, 2022, only to change those rules again when new and sorely necessary PSLF regulations become effective.

Ensuring that the waiver is ultimately successful and that borrowers can move forward with updated payment counts and continue earning qualifying payments toward loan forgiveness after the waiver’s end requires extensive planning. Public service borrowers must be set up to succeed by returning them to an improved PSLF landscape that borrowers and servicers can realistically navigate. Subjecting borrowers and servicers to repeated PSLF rule changes over a relatively short period risks fundamentally and irreversibly undermining the cohesion of the PSLF Program and thwarting borrowers’ ability to understand what they must do to pursue forgiveness. For these reasons, we strongly recommend extending the waiver at least until new PSLF regulations take effect.

An extension is also necessary for the Department to complete the important work it has begun with states and other government employers to implement the bulk employment certification processes that were announced in conjunction with the Limited PSLF Waiver—including for service members and federal employees.²⁷ If implemented during the waiver, bulk employment certifications offer the opportunity to help thousands of deserving public servants who will otherwise be effectively locked out of PSLF.

Further, we believe the benefits of the waiver should be grandfathered in and made retroactively available to borrowers who consolidate into the Direct Loan Program or submit employment certification forms after the waiver’s ultimate expiration. In other words, borrowers who apply for PSLF after the waiver’s expiration should receive all of the benefits of the waiver – including PSLF credit for time spent in any repayment plan, on any loan type, including FFEL loans – from the date of the PSLF Program’s inception in 2007 to the expiration of the waiver. This is especially true for FFEL borrowers, who have repeatedly been told that their loan types are ineligible for PSLF. It is simply unfair to require borrowers to make another ten years of payments because they failed to consolidate or submit employment certification during the period of the waiver.

V. The Limited PSLF Waiver and One-Time IDR and PSLF Adjustment Must be Harmonized

The recently announced One-Time IDR and PSLF Adjustment both supports and creates additional need for many of our proposed changes. Through the One-Time Adjustment, the Department intends to count any months in which borrowers were in repayment status, regardless of the payments made, loan type, or repayment plan as well as certain forbearance and

²⁷ <https://web.archive.org/web/20211006102232/https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

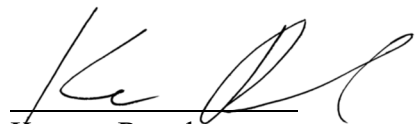
deferment periods, toward IDR and in some cases, PSLF forgiveness. The Department has publicly stated that it does not expect to complete the One-Time Adjustment any sooner than January 1, 2023.

Although the One-Time Adjustment complements the Limited PSLF Waiver in some ways, in other ways, the two programs are misaligned. While the programs offer divergent deadlines for consolidation (October 31, 2022 vs. January 1, 2023), the consequences of consolidation after the waiver's end and before the adjustment could be catastrophic for PSLF borrowers, who will lose credit for past qualifying employment periods by consolidating after the waiver's end. These differing and high-stakes deadlines create a confusing and perilous situation for both borrowers and servicers. Additionally, while the adjustment will provide certain borrowers with eligible months toward PSLF, it may simultaneously strand those borrowers, leaving them without a path to forgiveness. For example, borrowers, including retirees, who no longer work in public service but receive more than 120 eligible months toward PSLF through the One-Time Adjustment, will not be able to receive forgiveness due to the prior expiration of the waiver. Similarly, due to the prior expiration of the waiver, borrowers with Direct Parent PLUS loans who receive eligible months toward PSLF through the One-Time Adjustment may nevertheless be effectively locked out of PSLF due to their need to consolidate to access the Income-Contingent Repayment plan. Furthermore, PSLF borrowers and servicers are likely to be confused about whether borrowers must resume making payments under traditional PSLF rules at the end of the waiver in October 2022 or after the expected completion of the One-Time Adjustment in January 2023.

We urge your administration to exercise its authority to synchronize the One-Time Adjustment and Limited PSLF Waiver into a unified adjustment policy. The simplest way of doing so may be to incorporate certain critical aspects of the waiver into the One-Time Adjustment, including that qualifying employment at the time of forgiveness is not necessary and that consolidations (whether of FFEL or Direct Loans) occurring prior to the completion of the One-Time Adjustment do not negate past qualifying employment periods for PSLF.

Thank you for your consideration of these important issues. We value your partnership and welcome the opportunity to work with you to ensure the success of the PSLF Program, the Limited PSLF Waiver, and the One-Time IDR and PSLF Adjustment.

Sincerely,


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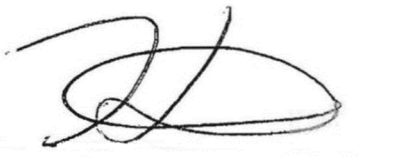
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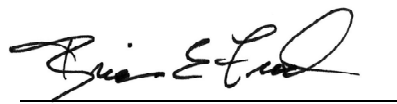
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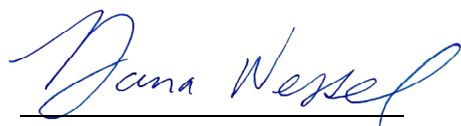
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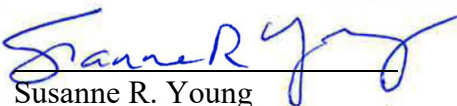
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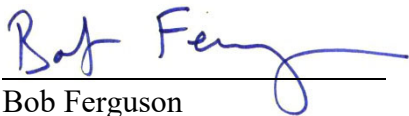
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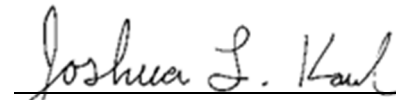
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