September 17, 2025

Secretary McMahon
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Tracey St. Pierre
Director, Office of the Executive Secretariat
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Public Service Loan Forgiveness Proposed Rule, Docket ID ED–2025–OPE–0016

Dear Secretary McMahon and Director St. Pierre:

We, the undersigned Attorneys General of California, Colorado, Massachusetts, New York, Arizona, Connecticut, Delaware, the District of Columbia, Hawai‘i, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and Wisconsin, write in opposition to the U.S. Department of Education's ("Department") Notice of Proposed Rulemaking proposing amendments to the Public Service Loan Forgiveness program (the "Proposed Rule" or "Rule"), published in the Federal Register at 90 Fed. Reg. 40154 on August 18, 2025. The Proposed Rule is unlawful and will harm student borrowers, public service employers, and those who benefit from the work done by public servants. We urge the Department to abandon the Proposed Rule and retain the current regulation at 34 C.F.R. § 685.219.

In 2007, Congress recognized that when student borrowers graduate with significant debt burdens, pursuing public service careers may not be financially viable. To enable student borrowers to enter public service and alleviate their debt burdens, a bipartisan coalition in Congress created the Public Service Loan Forgiveness ("PSLF") Program, signed into law by President George W. Bush.[1] To receive PSLF, a borrower must meet certain requirements, including performing a decade of work in a public service job while making 10 years (120 months) of qualifying payments on a Direct Loan. At the end of that time, if all the requirements are met, the borrower's remaining loan balance is forgiven.

To date, the PSLF Program has enabled over one million Americans—including police officers, firefighters, military personnel, teachers, nurses, and social workers—to pursue public

[1] 20 U.S.C. § 1087e(m).

service careers by providing them with over $85 billion dollars in student loan forgiveness.[2] Without PSLF, an estimated 3.6 million current public service workers would be saddled with more than $250 billion in additional student loan debt in the next decade.[3] The Department's Proposed Rule would generate significant uncertainty for the millions of borrowers who have already committed to work in public service and for countless additional student borrowers who now may be unable to do so because of the steep costs of higher education and the wage gap between the public and private sectors.[4]

The PSLF Program is vital not only to the dedicated public servants who rely on it but also to the public service employers and communities across our country who depend on them. PSLF allows employers to recruit talented and educated employees despite the marked disconnect between high student debt burdens and lower public service salaries. This is of critical importance to the undersigned Attorneys General. Many state employees are eligible for, actively pursuing, or have already benefited from PSLF as a means of managing significant student debt.

The Rule proposes to revise the definition of "qualifying employer"[5] in the PSLF regulation, which currently includes all U.S. federal, state, and local government entities and all 501(c)(3) non-profits. *See* 34 C.F.R. § 685.219. Specifically, the Proposed Rule would amend the definition of "qualifying employer" to "not include organizations that engage in activities that have a substantial illegal purpose." *See* 90 Fed. Reg. 40154, 40175 (proposed Aug. 18, 2025) (to be codified at 34 C.F.R. § 685.219(b)(27)(ii)). The Rule, in turn, proposes to define "substantial illegal purpose" as six specific categories: (1) aiding or abetting violations of immigration laws; (2) supporting terrorism; (3) engaging in "chemical and surgical castration or mutilation of children"; (4) child trafficking; (5) engaging in a pattern of aiding and abetting illegal discrimination; or (6) engaging in a pattern of violating State laws of trespassing, disorderly conduct, public nuisance, vandalism, and obstruction of highways. *Id.* at 40175 (to be codified at 34 C.F.R. § 685.219(b)(30)). The Rule would create a process by which the Department would determine which employers have a substantial illegal purpose, rendering any payments made by employees

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[2] U.S. Dep't of Educ., Public Service Loan Data (through July 31, 2025), https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data (last visited Sept. 5, 2025).

[3] Student Borrower Protection Center, Project 2025 PSLF State-by-State Map, https://protectborrowers.org/project-2025-pslf-state-by-state-map/ (last visited Sept. 3, 2025).

[4] *See, e.g.*, Morrissey and Sherer, Economic Policy Institute, "The public-sector pay gap is widening. Unions help shrink it." (Aug. 29, 2024), https://www.epi.org/publication/widening-public-sector-pay-gap/ (last visited Sept. 17, 2025).

[5] The Department's first PSLF regulations had a defined term "public service organization" that was "derived from the statutory definition of 'public service job' in [20 U.S.C. § 1087e(m)(3)(B)]." 73 Fed. Reg. 63232, 63242 (Oct. 23, 2008). In 2022, the Department amended the regulation to replace the term "public service organization" with the term "qualifying employer" in defining which types of employers qualified under PSLF to "provide greater certainty, simplicity, and clarity." 87 Fed. Reg. 41878, 41932 (July 13, 2022); *see also* 87 Fed. Reg. 65904 (Nov. 1, 2022). Both "public service organization" and "qualifying employer" have always aligned with Congress's definition of "public service job" in the Higher Education Act, 20 U.S.C. § 1087e(m)(3)(B).

at such an organization following that determination ineligible for PSLF. *Id.* at 40175–76 (to be codified at 34 C.F.R. §§ 685.219(c), (h)).

THE PROPOSED RULE IS UNLAWFUL

The Proposed Rule violates the Constitution and the Administrative Procedure Act.

Congress dictated that the Department "*shall* cancel the balance of interest and principal due" on any Federal Direct Loan for a borrower who "has been employed in a *public service job* during the period in which the borrower makes" 120 qualifying payments. 20 U.S.C. § 1087e(m)(1) (emphases added). "Public service job" is defined to include (among other things) "a full-time job in . . . government (excluding time served as a member of Congress) . . . or at an organization that is described in section 501(c)(3) of Title 26 and exempt from taxation under section 501(a) of such title." *Id.* § 1087e(m)(3)(B)(i).

Congress spoke clearly: the Department of Education must cancel the Direct Loan balance of any borrower who has worked in government or at a 501(c)(3) non-profit for ten years while making qualifying payments—with no exceptions except for members of Congress themselves. Yet, after 16 years, the Department now seeks to upend this longstanding, common-sense understanding of the law and purports to create unlawful exceptions to Congress's clear statutory command.

The Proposed Rule is not supported by the "so-called 'illegality doctrine,'" which empowers the Internal Revenue Service (IRS)—and not the Department of Education—to determine whether a 501(c)(3) organization is engaged in illegal conduct that disqualifies it from non-profit status. *See* 90 Fed. Reg. at 40156–57. Congress has not granted the Department any power to execute this entire body of "new administrative responsibilities," *see id*. at 40155, or to exclude from PSLF non-profit organizations that *still meet* the IRS's own 501(c)(3) standards.

The undersigned Attorneys General have significant concerns that the Department will employ the Proposed Rule in ways that engage in content and viewpoint discrimination that is unlawful under the First Amendment. These concerns are only compounded by the vagueness of the Proposed Rule, and the expansive discretion the Proposed Rule affords to the Secretary to revoke a qualified employer's status based on the preponderance of the evidence, the Department's determination of "materiality," and inconsistent evidentiary requirements. *See id.* at 40163; *see also FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). Further, because "substantial illegal purpose" is defined only in regulation, it could change from year to year based on the whims of the Department.

The Proposed Rule is built on the flawed premise that the Department, not Congress, determines what work "serves the public good." *See* 90 Fed. Reg. 40156. The Department admits that this is a value judgment based in part on the President's "public policy" as articulated by Executive Order 14235, *see id*. at 40160–61, *see also id.* at 40166 ("[T]hese changes will focus on ensuring that PSLF benefits are directed only to those borrowers who are employed by

organizations that serve the public good and *uphold public policy*. . . .") (emphasis added). But the Proposed Rule fails to engage meaningfully with the concern that the purpose of the Proposed Rule is "to target qualifying employers that did not align with the current Administration's values." *Id.* at 40164.[6] And the Department's attempt to substitute its values for Congress' clearly expressed criteria is in violation of the Separation of Powers and the Presentment Clause of the Constitution.

Each of the Proposed Rule's supposed "substantial illegal purpose[s]," *see* 90 Fed. Reg. at 40175, is vague and not designed to ensure that employers serving "the public good" benefit from PSLF. They represent a cherry-picked list of the current Administration's political priorities.[7] Including these specific categories in the Proposed Rule is pretextual—it is not in the service of public good, but instead to cause a chilling effect on those public service employees and employers that, among other things, work with transgender youth, immigrants, and those who seek to exercise their First Amendment rights.

THE PROPOSED RULE WILL DETER STUDENT BORROWERS FROM ENTERING OR REMAINING IN PUBLIC SERVICE AND WILL HARM CURRENT PUBLIC SERVICE EMPLOYEES

The Proposed Rule will have a clear deterrent effect on student borrowers entering public service as well as those who are currently working in public service. As proposed, the Rule will create ongoing uncertainty as to which employers are considered "qualifying." The inevitable consequences of this change to the regulatory framework will be that many student borrowers who are considering public service careers will be deterred from doing so for fear that a future employer may have its recognition as a qualified employer stripped away. Borrowers may fear spending years in public service, only to learn that they will be unable to achieve forgiveness unless they can obtain a new job with a new employer.

Ongoing uncertainty regarding employer eligibility undermines the PSLF Program, which requires borrowers to engage in long-term financial planning by repaying their loans in specified repayment plans—typically one of the income-driven repayment plans. Without the certainty of achieving PSLF, many borrowers will be reluctant to pay under income-driven plans, which, depending on individual circumstances, may result in higher monthly payments, slower repayment progress, and more interest accrual than other available plans.

The Department's assurance that it will "provide notice to borrowers about the qualifying employer requirements when applying for or certifying eligibility under the PSLF program," 90 Fed. Reg. at 40160, is of no moment to borrowers who have built careers and dedicated years of

[6] The Department's impact analysis is likewise flawed, including its assertion that federal agencies will comply with the law, but without analysis of why that assumption would not extend to other government employers. 90 Fed. Reg. at 40170.

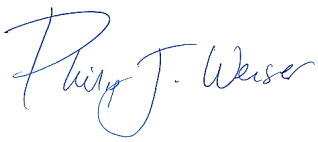
[7] The Rule's certification requirement, *see* 90 Fed. Reg. at 40176 (to be codified at § 685.219(i)(1)(i)) amplifies the defects in the "illegal purpose" definitions because it presents targeted employers with an impossible choice: either sign a certification despite the Rule's vague and uncertain parameters or decline to sign and lose eligibility.

service to an employer in reliance upon the promise of PSLF. The Department itself admits that the chilling effect will be large and that its effects will be sweeping. *Id.* at 40171 ("[W]e expect the proposed regulations to have more of a deterrent effect."); *see also id.* at 40165, 40172.

The undersigned urge the Department to abandon the Proposed Rule and retain the current regulation at 34 C.F.R. § 685.219.

Sincerely,

Rob Bonta
Attorney General of California



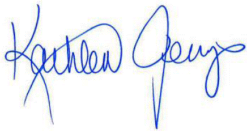
Philip J. Weiser
Attorney General of Colorado

Andrea Joy Campbell
Attorney General of Massachusetts

Letitia James
Attorney General of New York

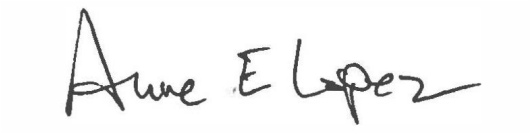
Kris Mayes
Attorney General of Arizona

William Tong
Attorney General of Connecticut



Kathleen Jennings
Attorney General of Delaware

Brian L. Schwalb
Attorney General of the District of Columbia



Anne E. Lopez
Attorney General of Hawai'i

Kwame Raoul
Attorney General of Illinois

Aaron M. Frey
Attorney General of Maine

Anthony Brown
Attorney General of Maryland

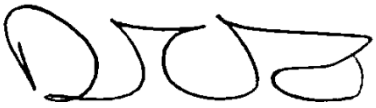
Dana Nessel
Attorney General of Michigan

Keith Ellison
Attorney General of Minnesota

Aaron D. Ford
Attorney General of Nevada

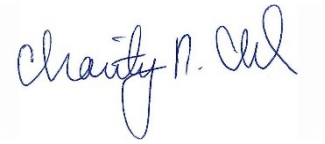
Matthew J. Platkin
Attorney General of New Jersey

Raúl Torrez
Attorney General of New Mexico



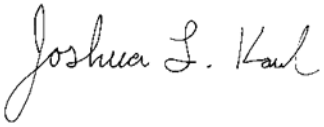
Dan Rayfield
Attorney General of Oregon

Peter Neronha
Attorney General of Rhode Island



Charity R. Clark
Attorney General of Vermont

Nicholas W. Brown
Attorney General of Washington



Josh Kaul
Attorney General of Wisconsin