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 11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 OAKLAND DIVISION

14
 15 **THE PEOPLE OF THE STATE OF**
CALIFORNIA,
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 Plaintiff,
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 v.
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UNITED STATES DEPARTMENT OF
EDUCATION, et al.,
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 Defendants.
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Case No. 4:20-cv-03676-YGR

**STIPULATED DISMISSAL WITHOUT
PREJUDICE**

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1 IT IS HEREBY STIPULATED, by and between the parties that the above-captioned
2 action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).
3 The reasons for this Stipulation are as follows:

4 1. The People of the State of California, through the California Attorney General,
5 filed this Administrative Procedure Act action against Defendants the United States Department
6 of Education (“ED”) and then-Education Secretary Betsy DeVos (collectively, “Defendants”) on
7 June 3, 2020, alleging that Defendants had failed to implement the Public Service Loan
8 Forgiveness/Temporary Expanded Public Service Loan Forgiveness (“PSLF/TEPSLF”) program
9 as required by statute. [Dkt. 1.] The State of California sought, *inter alia*, declaratory and
10 injunctive relief against Defendants in the form of an order that, among other things, would
11 require ED to “provide public servants with a simple process to apply for TEPSLF and a
12 meaningful opportunity to obtain relief consistent with [the] congressional statutory mandate.”
13 [*Id.*]

14 2. Starting in November 2020, ED began taking steps to improve administration of
15 the PSLF/TEPSLF program. These steps included implementation of a combined application and
16 employment certification form covering both PSLF and TEPSLF, expanding loan repayments
17 qualifying for PSLF/TEPSLF to include lump-sum payments and prepayments, and launching a
18 PSLF Help Tool to assist public service borrowers.

19 3. On January 29, 2021, following a change in administrations and upon a stipulation
20 by the parties, the Court vacated the hearing date on Defendants’ motion to dismiss and set a
21 compliance deadline that afforded the new leadership at ED time to become familiar with the
22 issues in this case and gave the parties time to attempt to informally resolve this action. [Dkt. 25.]
23 At the request of the parties, the Court has continued its compliance deadline several times to
24 allow the parties to engage in settlement discussions. [Dkts. 27, 29, 31.] On September 28, 2021,
25 for statistical purposes only, the Court deemed Defendants’ motion to dismiss withdrawn without
26 prejudice. [Dkt. 32.]

27 4. Following the swearing in of the current Education Secretary Dr. Michael Cardona
28 on March 2, 2021, ED has committed to addressing the barriers to attaining federal student loan

1 forgiveness under the PSLF/TEPSLF program and to providing debt relief to public service
2 workers.

3 5. ED has taken several recent steps to further its commitment to improving its
4 administration of the PSLF/TEPSLF program. For example:

5 6. On July 26, 2021, ED published a request for information in the Federal Register
6 soliciting information, research, and suggestions regarding the administration of the
7 PSLF/TEPSLF program, to inform determinations about operational and technical improvements.
8 The response period closed September 24, 2021 and comments are under review.

9 7. On August 6, 2021, ED announced plans to establish a negotiated rulemaking
10 committee that would meet in October, November, and December of 2021 to prepare proposed
11 regulations for programs authorized under Title IV of the Higher Education Act, including the
12 PSLF/TEPSLF program (“Negotiated Rulemaking on PSLF”).

13 8. On October 6, 2021, ED announced that it is creating the “Public Service Loan
14 Forgiveness Limited Waiver Opportunity,” which, for a set period of time, will allow borrowers
15 in public service to receive credit for federal student loan debt repayments that otherwise would
16 not qualify for PSLF/TEPSLF. Under this limited waiver opportunity, prior loan payments will
17 count as qualifying payments for PSLF/TEPSLF regardless of loan type, repayment plan, or
18 whether the payment was made in full or on time.

19 9. ED also announced that it would help military service members access
20 PSLF/TEPSLF by allowing months spent on active duty to count toward forgiveness, even if the
21 service member’s loans were on a deferment or forbearance at the time.

22 10. ED has also recently committed to the following:

- 23 • Notifying by email certain groups of borrowers who may be eligible for
24 PSLF or TEPSLF to inform them that they may qualify if they submit
25 certain additional documentation. This notification will inform those
26 borrowers how to submit such documentation to ED. The groups of
27 borrowers ED will target for outreach include borrowers who have been
28 denied TEPSLF due to not meeting requirements related to the amount of

1 their final payments but may now qualify. ED will announce these efforts
2 on its relevant websites and social media accounts;

- 3 • Reviewing PSLF and TEPSLF applications denied prior to November 1,
4 2020, for PSLF and TEPSLF eligibility. ED has committed to provide, in
5 the event the denial is affirmed, notice to each borrower that states the
6 reason for denial, the number of payments remaining for the borrower to
7 achieve PSLF or TEPSLF relief, and the process by which the borrower
8 may obtain reconsideration of the denial; and
- 9 • Making available to federal student loan borrowers no later than April 30,
10 2022, an interim reconsideration process for borrowers who believe that
11 their PSLF/TEPSLF applications were improperly denied.

12 11. ED is also currently in the process of conducting its Negotiated Rulemaking on
13 PSLF, which may result in regulations that would supplant the interim reconsideration process
14 and interim denial notices discussed above.

15 12. ED is also continuing to work to ease the PSLF application process by pursuing
16 steps such as improving ED's database of PSLF-qualifying employers, creating an option to
17 digitally sign PSLF applications, and automating the PSLF application process for federal
18 employees by matching ED data with information held by other federal agencies.

19 13. In light of the progress and commitments that ED has made since the filing of this
20 action, the parties stipulate to dismissal of this action in its entirety without prejudice. In so
21 stipulating, the parties agree that ED is on the right track but more work needs to be done to make
22 the PSLF/TEPSLF program more accessible to public service workers.

23 THEREFORE, the parties, through their undersigned attorneys, HEREBY STIPULATE
24 AND AGREE that:

- 25 i. The above-captioned action is dismissed without prejudice pursuant to Federal Rule of
26 Civil Procedure 41(a)(1)(A)(ii); and
- 27 ii. All parties will bear their own fees and costs.

1 DATED: December 6, 2021

Respectfully submitted,

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3 ROB BONTA
Attorney General of California

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MARCIA BERMAN
Assistant Director, Federal Programs Branch

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5
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Counsel for Defendants

14 *Attorneys for Plaintiff the People of the*
15 *State of California*

16 **ATTESTATION OF SIGNATURES**

17 I, Rose C. Goldberg, hereby attest, pursuant to Local Civil Rule 5-1(h)(3) of the Northern
18 District of California, that concurrence in the filing of this document has been obtained from each
19 signatory hereto.
20

21 /s/ Rose C. Goldberg
22 ROSE C. GOLDBERG (SBN 310196)
Deputy Attorney General
23 *Attorney for Plaintiff the People of the State*
24 *of California*