



State of California  
Office of the Attorney General

**ROB BONTA**  
ATTORNEY GENERAL

May 17, 2022

*Submitted via the Federal eRulemaking Portal*

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

RE: Agency Information Collection Activities; Comment Request; Public Service Loan Forgiveness Reconsideration Request; Docket ID No. ED-2022-SCC-0039

Dear Secretary Cardona:

As the Attorney General of the State of California, I write in response to your request for comment<sup>1</sup> and to express my appreciation for the important steps that the United States Department of Education (ED) is taking to address the significant problems borrowers face in accessing the Public Service Loan Forgiveness (PSLF) and Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program. ED's new interim reconsideration process and other recent reforms are essential to making PSLF/TEPSLF accessible to the nurses, teachers, servicemembers, and other public servants who provide critical services across California. Yet, in order for ED to fully deliver on its promise that "[s]tudent loans were never meant to be a life sentence,"<sup>2</sup> further improvements to the PSLF/TEPSLF program are needed.

California recently dismissed its PSLF/TEPSLF lawsuit<sup>3</sup> against ED when the Department agreed to take meaningful and specific actions to fix PSLF/TEPSLF.<sup>4</sup> ED's commitments both

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<sup>1</sup> Agency Information Collection Activities; Comment Request; Public Service Loan Forgiveness Reconsideration Request, 87 Fed. Reg. 15415 (Mar. 18, 2022).

<sup>2</sup> U.S. DEP'T OF EDUC., *Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs* (Apr. 19, 2022), <https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs>.

<sup>3</sup> *California v. U.S. Dep't of Educ.* (Case No. 4:20-cv-03676, N.D. Cal.).

<sup>4</sup> California Attorney General, *Biden Administration's Sweeping Overhaul of Public Service Loan Forgiveness Program Achieves Goals of Lawsuit* (Dec. 6, 2021), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-biden-administrations-sweeping-overhaul-public-service>.

resolved our lawsuit and a parallel action brought by the American Federation of Teachers.<sup>5</sup> Among other things, ED created the “Limited Waiver Opportunity,” through which public servants can receive PSLF/TEPSLF credit for otherwise ineligible payments. ED launched the Limited Waiver Opportunity during our discussions in October 2021.<sup>6</sup> ED also committed to create the interim reconsideration process at issue in its request for comment, for borrowers whose PSLF/TEPSLF applications were improperly denied, which it introduced in April 2022.<sup>7</sup>

Although these are significant steps forward, ED cannot stop here. Millions of public servants serve their communities for limited pay while carrying significant student loan debt, relying on ED’s promise to forgive their loans after ten years of faithful service. However, in reality public servants have been subjected to years of near-total PSLF/TEPSLF denials and widespread misconduct by the loan servicers responsible for assisting them. This has left a legacy of broken PSLF/TEPSLF eligibility accounting and borrower confusion. Fortunately, ED has the power to implement additional measures now to fix these longstanding problems.

As a preliminary matter, the interim reconsideration process should be available to all public servants, not just those whose PSLF/TEPSLF applications have been denied. As ED is well aware, PSLF/TEPSLF is a ten-year program that requires borrowers to satisfy specific loan and repayment plan requirements each step of the way. And borrowers can encounter problems, such as servicer misconduct, at any stage. ED must therefore clarify and emphasize on its interim reconsideration platform, which is currently unclear, that reconsideration is open to all borrowers regardless of where they stand on the decade-long path to forgiveness. To stay on track for forgiveness, borrowers need a viable avenue to challenge inaccurate payment counts, improper denials of qualifying employment, and other problems as they arise.

It is also imperative that ED factor in servicer misconduct in its interim reconsideration process. As has been well documented, the staggering PSLF/TEPSLF denial rate is in large part due to confusing and inaccurate information that servicers have given borrowers about PSLF/TEPSLF, delaying or preventing borrowers from becoming eligible for forgiveness. The interim reconsideration platform should specifically invite borrowers to share information about issues they have encountered with servicers with respect to PSLF/TEPSLF. And ED should make clear that documentation of servicer misconduct is not required, as this is often not in borrowers’ possession. Rather, ED should rely on borrowers’ accounts and resolve reconsideration requests favorably when servicer misconduct is implicated.<sup>8</sup>

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<sup>5</sup> *Weingarten v. Cardona* (Case No. 1:19-cv-02056, D.D.C.).

<sup>6</sup> U.S. DEP’T OF EDUC., *U.S. Department of Education Announces Transformational Changes to Public Service Loan Forgiveness Program*, (Oct. 6, 2021), <https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness>.

<sup>7</sup> U.S. DEP’T OF EDUC., *Submit a Request for Public Service Loan Forgiveness (PSLF) Reconsideration*, <https://studentaid.gov/manage-loans/pslf-reconsideration>.

<sup>8</sup> ED has authority to modify, compromise, and waive or release borrower loans. *See* 20 U.S.C. § 1082(a) *et seq.*

Relatedly, as many comments submitted thus far have noted, servicers improperly steer many public servants struggling to make loan payments into forbearances or deferments. On April 19, 2022, ED announced that it will “conduct a one-time account adjustment that will count forbearances of more than 12 months consecutive and more than 36 months cumulative toward forgiveness under IDR and PSLF.”<sup>9</sup> This is a positive step. However, given the pervasiveness of servicer misconduct, ED should automatically count all forbearances and deferments, regardless of consecutive or cumulative length, toward PSLF/TEPSLF.

Each of ED’s measures to provide relief to public servants, including the interim reconsideration process, should place minimal burden on borrowers. Currently, the reconsideration portal asks borrowers to provide various pieces of documentation and information, such as notices from ED’s own loan servicer and borrowers’ W-2 forms. Such time-consuming requests will tend to discourage borrowers from seeking the relief they are due. Given that ED likely already has access to or could easily access all or much of this information, placing such burdens on borrowers is unnecessary. Instead, ED should only request additional documentation from borrowers to supplement the information already at ED’s disposal.

Likewise, ED should minimize the burden on borrowers to confirm PSLF/TEPSLF-eligible payments moving forward. On April 6, 2022, ED announced that it will “establish new partnerships to ensure that borrowers working in public service are automatically credited with progress toward forgiveness, eliminating paperwork that prevents many borrowers from getting help.”<sup>10</sup> Establishing partnerships with federal, state, local, and tribal government employers, as well as nonprofit employers, to automate the certification process for as many borrowers as possible would be a significant improvement to current systems. I urge ED to move quickly on fully implementing this needed simplification of the PSLF/TEPSLF process.

ED must also do more to make loan forgiveness accessible to a core PSLF/TEPSLF constituency—servicemembers. In connection with California’s litigation, ED reaffirmed its commitment to help servicemembers access PSLF/TEPSLF by allowing months spent on active duty to count toward forgiveness, even if the servicemember’s loans were on a deferment or forbearance at the time.<sup>11</sup> ED further committed to automate the application process for federal employees through data matching. I was therefore especially dismayed to hear recently, more than half a year since ED made these commitments, that servicemembers are still encountering barriers in accessing PSLF/TEPSLF. Recent news indicates that some servicemembers’ deferment periods are still not being recognized as PSLF/TEPSLF eligible, and some

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<sup>9</sup> U.S. DEP’T OF EDUC., *Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs* (Apr. 19, 2022), <https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs>.

<sup>10</sup> U.S. DEP’T OF EDUC., *Biden-Harris Administration Extends Student Loan Pause Through August 31* (Apr. 6, 2022), <https://www.ed.gov/news/press-releases/biden-harris-administration-extends-student-loan-pause-through-august-31>.

<sup>11</sup> Stipulated Dismissal, *California v. U.S. Dep’t of Educ.* (Case No. 4:20-cv-03676, N.D. Cal.), (Dec. 6, 2021), <https://oag.ca.gov/system/files/attachments/press-docs/35-main.pdf>.

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servicemembers' formal documentation of their military service is being rejected.<sup>12</sup> This is all the more reason for ED to act quickly to fully implement its commitment to automatically provide PSLF/TEPSLF credit to servicemembers, and other federal employees, through data matches.<sup>13</sup>

Finally, ED should make the Limited Waiver Opportunity permanent or, at minimum, extend the deadline from October 31, 2022, by at least six months. Many borrowers likely will not try to access the Limited Waiver Opportunity until they are again confronted with the crushing weight of their student loans when the payment pause expires on August 31, 2022. This leaves only two months for many borrowers to take the steps necessary to benefit from this needed opportunity for relief. This is inadequate. Given the wide scope of problems plaguing PSLF/TEPSLF and the ongoing challenges stemming from the pandemic, borrowers should be afforded more time to untangle their PSLF/TEPSLF accounts and access the Waiver.

I applaud ED for the measures it has committed to and the progress it has made thus far. However, to truly remedy what ED acknowledges has been “years of administrative failures that effectively denied the promise of loan forgiveness,”<sup>14</sup> ED must take more drastic action. To start, I urge ED to take the steps described above, and from there, to continue to expand PSLF and TEPSLF access. Public servants' commitment to our communities has been unwavering in the face of a pandemic and economic challenges. Delivering on the promise of PSLF/TEPSLF is the least we can do to thank them.

Sincerely,



ROB BONTA  
California Attorney General

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<sup>12</sup> See Steven Yoder, *Student Loan Forgiveness Program for Military Borrowers Slowly Improves*, WASH. POST (Apr. 22, 2022), <https://www.washingtonpost.com/education/2022/04/22/student-loan-forgiveness-military-borrowers/>.

<sup>13</sup> U.S. DEP'T OF EDUC., *U.S. Department of Education Announces Transformational Changes to Public Service Loan Forgiveness Program*, (Oct. 6, 2021), <https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness>.

<sup>14</sup> U.S. DEP'T OF EDUC., *Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs* (Apr. 19, 2022), <https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs>.