



State of California
Office of the Attorney General

XAVIER BECERRA
ATTORNEY GENERAL

March 30, 2020

Via Federal eRulemaking Portal

Secretary Betsy DeVos
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

RE: Comment on Proposed Revisions to the Temporary Expanded Public Service Loan Forgiveness Application, Docket No. ED-2020-SCC-0021, OMB Control No. 1845-0110

Dear Secretary DeVos:

As the Attorney General of the State of California, I write to support the proposal by the U.S. Department of Education (ED) to streamline the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) application process through the creation of a single application form for TEPSLF and Public Service Loan Forgiveness (PSLF).¹ This change, however, is overdue and does not go nearly far enough to simplify the application process.

PSLF and TEPSLF are in crisis. According to ED's own data, as of December 31, 2019, essentially *all* PSLF applications—99%—have been denied by ED.² As a result, only 1,565 public servants have had their loans forgiven through PSLF.³ This is a far cry from the broad relief Congress envisioned in creating PSLF.⁴

In 2018, Congress gave ED a second chance to deliver on PSLF's critical promise. A bipartisan group of lawmakers created TEPSLF, an expanded program to provide relief to public

¹ Agency Information Collection Activities; Comment Request; Application and Employment Certification for Public Service Loan Forgiveness, 85 Fed. Reg. 5405 (Jan. 30, 2020).

² U.S. Dep't of Educ., Fed. Student Aid, *December 2019 PSLF Report* (Dec. 31, 2019), available at <https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data>.

³ *Id.*

⁴ See Consumer Fin. Prot. Bureau, *Staying On Track While Giving Back: The Cost Of Student Loan Servicing Breakdowns For People Serving Their Communities* 20 n.34 (June 2017), available at https://files.consumerfinance.gov/f/documents/201706_cfpb_PSLF-midyear-report.pdf (32 million borrowers were making payments on loans potentially eligible for PSLF at the end of 2016).



servants who were denied PSLF.⁵ Astonishingly, ED is not implementing TEPSLF as intended by Congress either. Rather than quickly implementing a simple application that would get the authorized loan forgiveness to the intended recipients, ED has created a complex process and confusion. To date, ED has denied 95% of TEPSLF applications.⁶ This is an immaterial and unacceptable “improvement” from ED’s abysmal PSLF denial rate.

Congress’s instructions to ED in the TEPSLF statute were clear: “develop and make available a *simple* method for borrowers to apply for loan cancellation.”⁷ Yet applying for TEPSLF is far from simple. In the words of the Government Accountability Office (GAO), ED has “not created a borrower-friendly TEPSLF process.”⁸ For instance, the GAO found that some of ED’s key online resources for borrowers do not include any information about TEPSLF.⁹ In addition, the GAO reports that ED does not inform borrowers how to contest a denied TEPSLF application.¹⁰ Although borrowers can request an additional review or file a complaint, ED does not mention these options in its denial letters. Given TEPSLF’s high denial rate and the documented risk of denial errors,¹¹ information on how to appeal is essential.

Likewise, the extremely low grant rate for PSLF is the result of ongoing mismanagement by ED. Per the GAO, ED has failed at basic tasks, such as providing borrowers with clear information about which employers qualify under PSLF and accurately counting qualifying loan payments.¹² GAO has also found that ED’s outreach to borrowers has been insufficient, resulting in widespread borrower confusion about program requirements.¹³ Shockingly, there are also reports that ED’s servicers have steered borrowers into taking actions that make them ineligible for relief.¹⁴

⁵ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 315-16, 132 Stat. 348.

⁶ U.S. Dep’t of Educ., Fed. Student Aid, *December 2019 PSLF Report* (Dec. 31, 2019), available at <https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data>.

⁷ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 315, 132 Stat. 348 (emphasis added).

⁸ U.S. Gov’t Accountability Office, GAO-19-595, *Public Service Loan Forgiveness: Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion* 10 (Sept. 2019), available at <https://www.gao.gov/assets/710/701157.pdf>.

⁹ *Id.* at 19.

¹⁰ *Id.* at 15.

¹¹ *Id.* at 17.

¹² U.S. Gov’t Accountability Office, GAO-18-547, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for the Loan Servicer and Borrowers* 18, 22 (Sept. 2018), available at <https://www.gao.gov/assets/700/694304.pdf>.

¹³ *Id.* at 11.

¹⁴ Consumer Fin. Prot. Bureau, *Staying On Track While Giving Back: The Cost Of Student Loan Servicing Breakdowns For People Serving Their Communities* 44 (June 2017), available at https://files.consumerfinance.gov/f/documents/201706_cfpb_PSLF-midyear-report.pdf.

The GAO recommended, among other things, that ED integrate TEPSLF requests into the PSLF application form.¹⁵ As the GAO explained, ED's requirement that borrowers applying for TEPSLF first submit a PSLF application, be denied, and then email ED to request TEPSLF, has resulted in massive confusion. Indeed, the majority of TEPSLF denials were because the borrower had not submitted a PSLF application.¹⁶

I support ED's proposal to implement the GAO's sound recommendation for a more streamlined TEPSLF application process. But ED must do more to simplify the program. ED has been aware of numerous, serious problems with its administration of TEPSLF for some time.¹⁷ Almost a year ago, for instance, members of Congress wrote to you expressing concern about widespread borrower confusion and gaps in essential information about the program. They called for "dramatically enhanced outreach" to ensure borrowers are aware of TEPSLF and have the information and service they need to obtain relief.¹⁸ Today, ED still has not taken these crucial steps, and its unacceptable denial rate is at a standstill.

ED's delay in implementing TEPSLF as Congress intended has profound consequences. Congress instructed ED to create a simple application method for TEPSLF within 60 days.¹⁹ That deadline passed two years ago. Many Californians rely on public service loan forgiveness to support themselves and their families. They forgo more lucrative jobs and structure important life decisions around the promise that their sacrifice and hard work will pay off. Being denied relief after a decade of service and assurances that you are on track can be devastating. This is not the kind of treatment our police officers, teachers, servicemembers, and nurses deserve. Moreover, public-service employers, like my office, rely on PSLF and TEPSLF to recruit and retain our workforce. When aspiring public servants are scared away by these programs' inaccessibility, states' ability to provide critical public services suffers.

ED's proposal to consolidate the PSLF and TEPSLF applications, though important, closes only a small crack in a larger broken program. I urge you to take immediate additional actions to improve ED's administration of PSLF and TEPSLF. ED must follow Congress's

¹⁵ U.S. Gov't Accountability Office, GAO-19-595, *Public Service Loan Forgiveness: Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion* 22 (Sept. 2019), available at <https://www.gao.gov/assets/710/701157.pdf>.

¹⁶ *Id.* at 9.

¹⁷ See, e.g., Letter from Senators Tim Kaine, Sheldon Whitehouse, Tammy Duckworth, and Margaret Wood Hassan to the Secretary of Education (June 19, 2018), available at <https://www.kaine.senate.gov/imo/media/doc/Kaine,%20Whitehouse,%20Duckworth,%20Hassan%20Press%20DeVos%20On%20Failure%20To%20Implement%20Public%20Service%20Loan%20Forgiveness%20Fix.pdf>.

¹⁸ Letter from 25 Members of Congress to the Secretary of Education (April 24, 2019), available at https://www.scribd.com/document/407479602/Kaine-Whitehouse-Call-On-Devos-To-Fix-Missteps-With-Implementation-Of-TEPSLF-Program?secret_password=utpm11DKyldANq6RQc1r.

¹⁹ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 315, 132 Stat. 348.

Secretary Betsy DeVos

March 30, 2020

Page 4

instruction to “ensure that borrowers are meeting the terms and conditions of . . . loan cancellation.”²⁰ At a minimum, this requires that borrowers receive clear and consistent information about program requirements and an accurate accounting of their progress. We rely on public servants for our health, welfare, and safety. They should be able to rely on ED’s promise to support them as they serve us.

Sincerely



XAVIER BECERRA
California Attorney General

²⁰ *Id.* at § 316.