



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

Proposed Regulatory Text for Issue Papers #4 and 5: Public Service Loan Forgiveness
Session 2: November 1-5, 2021

§685.219 Public Service Loan Forgiveness Program.

(a) *General.* The Public Service Loan Forgiveness Program (PSLF) is intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their Direct loans after they satisfy the public service and loan payment requirements of this section.

(b) *Definitions.* The following definitions apply to this section:

AmeriCorps position means a position approved by the Corporation for National and Community Service under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573).

Early childhood education program means an early childhood education program as defined in Section 103(8) of the Act (20 U.S.C. 1003).

Eligible Direct loan means a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct PLUS loan, or a Direct Consolidation loan.

Emergency management services mean services that help remediate, lessen, or eliminate the effects or potential effects of emergencies that threaten human life or health, or real property.

Employee or employed means an individual:

(1) ~~who is hired and paid by a public service organization to whom an organization issues an IRS Form W-2; or~~

(2) who receives an IRS Form W-2 from an organization that contracts services providing human resources or other administrative requirements.

Full-time -

(1) means working in qualifying employment in one or more jobs ~~for the greater of—~~

~~(A)~~ (A) At least 30 hours per week, or

(B) At least 30 hours per week throughout a contractual or employment period of at least eight months in a 12-month period, such as elementary and secondary school teachers, in which case the borrower is deemed to have worked full time; or

~~(C)~~ (C) The equivalent of 30 hours per week as determined by multiplying each credit hour taught per week by 2.5 hours worked each week, in non-tenure track employment.

Commented [A1]: For Negotiators: ED proposes adding a few additional definitions to help clarify what employment qualifies under these categories and clarifying others with more streamlined language.

Commented [A2]: For Negotiators:
Early childhood education means (1) a Head Start program or Early Head Start program including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;
(2) a State licensed or regulated child care program;
(3) a program that—
(i) serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and
(ii) is—
(A) a State prekindergarten program;
(B) a program authorized under section 619 or part C of the Individuals with Disabilities Education Act; or
(C) a program operated by a local educational agency.

Commented [A3]: For negotiators: We would like to understand how other states calculated other conversions they have suggested and how they justified those numbers.

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~~(2) Unless the qualifying employment is with two or more employers, the number of hours the employer considers full time.~~

~~(2) When determining whether a borrower works full-time, the Secretary includes vacation or leave time provided by the employer or leave taken for a condition that is a qualifying reason for leave under the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) and (3) is not considered in determining the average hours worked on an annual or contract basis toward the number of hours worked per week.~~

~~Government employee means an individual who is employed by a local, State, Federal, or Tribal government, but does not include a member of the U.S. Congress.~~

~~Law enforcement means service performed by an employee of a public service organization that is publicly funded and whose principal activities pertain to crime prevention, control or reduction of crime, or the enforcement of criminal law.~~

~~Military service, for uniformed members of the U.S. Armed Forces or the National Guard, means “active duty” service or “full-time National Guard duty” as defined in section 101(d)(1) and (d)(5) of title 10 in the United States Code, but does not include active duty for training or attendance at a service school. For civilians, “Military service” means means service on behalf of the members of the U.S. Armed Forces or the National Guard, or veterans of those organizations, so long as such services are provided because of the individual’s status as being a member of that group or former member of the U.S. Armed Forces or the National Guard performed by an employee of a public service organization.~~

~~Non-tenure track means adjunct, contingent, part time, and full-time faculty, teachers, or lecturers at institutions of higher education who are not on tenure-track lines.~~

~~Other-school-based services means the provision of services to schools or students in a school or a school-like setting that are not public education services.~~

~~Peace Corps position means a full-time assignment under the Peace Corps Act as provided for under 22 U.S.C. 2504.~~

~~Public health means nurses, nurse practitioners, and nurses in a clinical setting; and those engaged in health care practitioner occupations, health care support occupations, and counselors, social workers, and other community and social service specialist occupations, as such those terms are defined by the Bureau of Labor Statistics.~~

~~Public interest law refers to legal services provided by a public service organization that are funded in whole or in part by a local, State, Federal, or Tribal government.~~

~~Public safety services mean services that seek to prevent the need for emergency management services.~~

~~Public service means services provided directly by employees of an organization where the organization has devoted a majority of its full-time equivalent employees to working in at least~~

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one of the following areas: emergency management, military service, public safety, law enforcement, public interest law services, early childhood education, public service for individuals with disabilities and/or the elderly, public health, public education, public library services, school library, or other school-based services.

Public service for individuals with disabilities means work performed for or to assist individuals with disabilities (as defined in the Americans with Disabilities Act (42 USC §12102)) that is performed because of the individual's status as an individual with a disability.

Public service for the elderly means services that are provided to individuals who are aged 65 years or older and that are provided because of the individual's status as someone of that age.

Public education service means the provision of educational enrichment and/or support to students in a school or a school-like setting.

Public library service means the operation of public libraries or services that support their operation.

School library services means the operations of school-libraries or services that support their operation.

Public service organization~~Qualifying employer~~ means:

(1) ~~A~~ United States-based Federal, State, local, or Tribal government organization, agency, or entity;

~~(ii) A public child or family service agency;~~

(2) A non-profit organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code; or

(3) ~~An~~ private organization that-

(i) provides a public service as defined in this section, attested to by the employer on a form approved by the Secretary; and-

(ii) -Is not a business organized for profit, a labor union, or a partisan political organization.

(iii) The Secretary may substantiate the employer's attestation based on a review of information in the Secretary's possession about the employer.

~~(iii) -Is not a business organized for profit, a labor union, or a partisan political organization, or-~~

~~(iv) -notwithstanding (iii), is an organization providing medical services at a nonprofit or public hospital or other non-profit or public health care facility.~~

Qualifying repayment plan means:

(1) An income-based repayment plan under §685.221;

Commented [A4]: For Negotiators – We are interested in your thoughts on this definition. We are trying to do a few things. First, listing the types of government service that can qualify. Second, we are trying to make clear that organizations like the UN, WHO, etc. are not qualifying employers (even if employees of State that make up American delegations are Federal employees who qualify), but also that foreign governments are not qualifying employers. Third, we are mindful of the fact that Tribal governments have the right to self-determination and generally operate outside the scope of Federal or state law.

- (2) An income-contingent repayment plan under §685.209;
- (3) The 10-year standard repayment plan under §685.208(b) or consolidation standard repayment plan with a 10-year repayment term under §685.208(b); or
- (4) Except for the alternative repayment plan, any other repayment plan if the monthly payment amount is not less than what would have been paid under the 10-year standard repayment plan under §685.208(b).

(c) *Borrower eligibility.* (1) A borrower may obtain loan forgiveness under this program if ~~he or the borrower she~~—

(i) Is not in default on the loan for which forgiveness is requested;

(ii) Is employed full-time by a ~~public service organization~~qualifying employer or serving in a full-time AmeriCorps or Peace Corps position—

(A) ~~During the month for which~~ When the borrower ~~makes-satisfied~~ the 120 monthly payments described under paragraph (c)(1)(iii) of this section; and

~~(B) At the time of application for loan forgiveness; and~~

~~(C)~~ At the time the remaining principal and accrued interest are forgivenborrower applies for forgiveness under paragraph (e) of this section; and

(iii) ~~Makes-Satisfied the equivalent of 120 separate~~ monthly payments after October 1, 2007, as described in paragraph (c)(2) of this section, on eligible Direct loans, for which forgiveness is sought. Except as provided in paragraph (c)(2) of this section for a borrower in an AmeriCorps or Peace Corps position or who qualifies for partial repayment of his or her loans under the student loan repayment programs under 10 U.S.C. 2171, 2173, 2174, or any other student loan repayment programs administered by the Department of Defense, the borrower must make the monthly payments within 15 days of the scheduled due date for the full scheduled installment amount; and

~~(iv) Makes the required 120 monthly payments under one or more of the following repayment plans—~~

~~(A) Except for a parent PLUS borrower, an income-based repayment plan, as determined in accordance with §685.221;~~

~~(B) Except for a parent PLUS borrower, an income-contingent repayment plan, as determined in accordance with §685.209;~~

~~(C) A standard repayment plan, as determined in accordance with §685.208(b); or~~

~~(D) Except for the alternative repayment plan, any other repayment plan if the monthly payment amount is not less than what would have been paid under the Direct Loan standard repayment plan described in §685.208(b).~~

Commented [A5]: For negotiators: ED incorporated this into the definition of a qualifying repayment plan above.

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(2) A borrower will be considered to have made –monthly payments under paragraph (c)(1)(iii) of this section by—

(i) Paying the full scheduled amount due for a monthly payment under the qualifying repayment plan;

~~(i)~~(ii) Paying in multiple installments that equal the full scheduled amount due for a monthly payment under the qualifying repayment plan;

(iii) Paying a lump sum or monthly payment -amount equal to or greater than the full scheduled amount in advance of the borrower's scheduled payment due date for a period of months not to exceed the period from the Secretary's receipt of the payment until the borrower's next annual repayment plan recertification date under the qualifying repayment plan in which the borrower is enrolled; (2) If a borrower makes a lump sum payment on an eligible loan for which the borrower is seeking forgiveness by using all or part of a Segal Education Award received after a year of AmeriCorps service, or by using all or part of a Peace Corps transition payment if the lump sum payment is made no later than six months after leaving the Peace Corps or if a lump sum payment is made on behalf of the borrower through the student loan repayment programs under 10 U.S.C. 2171, 2173, , or any other student loan repayment programs administered by the Department of Defense,, the Secretary will consider the borrower to have made qualifying payments equal to the lesser of —

~~(i)~~(iv) Receiving one of the following deferments:

(A) A cancer treatment deferment under section §455(f)(3) of the Act;

(B) A Peace Corps service deferment under §682.210(k), as applicable to Direct Loan borrowers under §685.204(j);

(C) An economic hardship deferment under §685.204(g); or

(D) A military service deferment under §685.204(h);

(v) Deferring or forbearing payments--

(A) One time, for up to 12 months, due to service in an AmeriCorps position, if the borrower subsequently applies a Segal Education award to the borrower's eligible Direct Loans; ~~or~~

(vi) On a Direct Consolidation Loan, meeting the criteria in paragraph (c)(2)(i)-(iii) on an eligible Direct Loan that was consolidated.

(3) Service as a member of the U.S. Congress is not qualifying employment.

(4) Under paragraph (c)(2)(iii) of this section, a borrower will be deemed to have satisfied the number of monthly repayment obligations that is the lesser of-

Commented [A6]: For negotiators: Unfortunately, our read of the statute is that we are not legally allowed to count the 9 payments made while on a rehabilitation agreement as qualifying payments for PSLF because we cannot count payments made while in default.

Commented [A7]: For Negotiators: ED moved this from an earlier place in the regulatory text.

(i) The number of ~~payments-months~~ resulting after dividing the amount of the ~~lump-sum~~ payment received under paragraph (c)(2)(iii) of this section by the monthly payment amount the borrower would have been obligated to make under paragraph (c)(2) of this section had the borrower not received the deferment or forbearance; or by the monthly payment amount the borrower would have made under paragraph (c)(1)(iv) of this section; or

(ii) Twelve payments.

(d) *Forgiveness Amount.* The Secretary forgives the principal and accrued interest that remains on all eligible loans for which the borrower meets the requirements of paragraph (c) of this section as of the date the borrower satisfied the last required monthly payment obligation. ~~Loan forgiveness is requested by the borrower. The Secretary forgives this amount after the borrower makes the 120 monthly qualifying payments under paragraph (c) of this section.~~

(e) *Application Process.* (1) ~~Notwithstanding paragraph (f) of this section, After making the 120 monthly qualifying payments on the eligible loans for which loan forgiveness is requested, a borrower may request a determination of loan forgiveness on a form provided approved by the Secretary.~~ (2) ~~If the Secretary determines that the borrower meets the eligibility requirements for loan forgiveness under this section, the Secretary--~~

~~(2) To receive a determination under paragraph (1) of this section--~~

(i) A borrower shall provide information about the borrower's employment and employer on a form approved by the Secretary, which must generally be certified by the employer, except when the Secretary possesses sufficient information to determine the borrower's employment and employer.

(ii) If the borrower is unable to secure a signature certification from an employer, the Secretary may determine the borrower's qualifying employment or payments based on the documentation provided by the borrower at the Secretary's request.

(iii) The Secretary may request reasonable additional documentation pertaining to the borrower's employer or employment before providing a determination.

~~(23)~~ If the Secretary determines that the borrower meets the eligibility requirements for loan forgiveness under this section, the Secretary -

(i) Notifies the borrower of this determination; and

(ii) Forgives the outstanding balance of the eligible loans.

~~(34)~~ If the Secretary determines that the borrower does not meet the eligibility requirements for loan forgiveness under this section, the Secretary resumes collection of the loan and grants forbearance of payment on both principal and interest for the period in which collection activity was suspended. The Secretary notifies the borrower that the application has been denied, provides the basis for the denial, and informs the borrower that the Secretary will resume collection of the loan. The Secretary ~~may shall~~ not capitalize any interest accrued and not paid during this period.

Commented [A8]: For Negotiators: ED added the "except when" text to reflect a suggestion by negotiators

(f) Application not required. The Secretary may forgive a loan under this section without an application from the borrower if the Secretary has sufficient information in the Secretary's possession to determine the borrower has satisfied the requirements for forgiveness under this section.

(g) Reconsideration Process. (1) Within 90 days of receiving a notice under paragraph (e)(4) of this section, the borrower may request that the Secretary reconsider whether the borrower's employer or any payment qualifies for PSLF by requesting reconsideration on a form approved by the Secretary. Borrowers who were denied prior to [EFFECTIVE DATE OF REGS], have 180 days from that date to request reconsideration.

Commented [A9]: For Negotiators: We added additional time for previously denied individuals.

(2) To evaluate a reconsideration request, the Secretary considers--

(i) Any relevant evidence that is Reasonably obtainable or currently in the Secretary's possession; and

(ii) Additional supporting documentation not previously provided by the borrower or employer.

(3) The Secretary notifies the borrower of the reconsideration decision and the reason for the Secretary's determination.

(4) If the Secretary grants some or all of the borrower's request for reconsideration, ~~then~~ the Secretary adjusts the borrower's number of qualifying payments or forgives the loan, as appropriate.

(5) After the Secretary makes a decision on the borrower's reconsideration request, the Secretary's decision is final, and the borrower will not receive additional reconsideration without any additional evidence.

§682.414(b) Reports.

(b) **Reports.** A guaranty agency shall accurately complete and submit to the Secretary the following reports:

(1) A report concerning the status of the agency's reserve fund and the operation of the agency's loan guarantee program at the time and in the manner that the Secretary may reasonably require. The Secretary does not pay the agency any funds, the amount of which are determined by reference to data in the report, until a complete and accurate report is received.

(2) Annually, for each State in which it operates, a report of the total guaranteed loan volume, default volume, and default rate for each of the following categories of originating lenders on all loans guaranteed after December 31, 1980:

(i) State or private nonprofit lenders.

(ii) Commercial financial institutions (banks, savings and loan associations, and credit unions).

(iii) All other types of lenders.

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(3) By July 1 of each year, a report on -

(i) Its eligibility criteria for lenders;

(ii) Its procedures for the limitation, suspension, and termination of lenders;

(iii) Any actions taken in the preceding 12 months to limit, suspend, or terminate the participation of a lender in the agency's program; and

(iv) The steps the agency has taken to ensure its compliance with § 682.410(c), including the identity of any law enforcement agency with which the agency has made arrangements for that purpose.

(4) A report to the Secretary of the borrower's enrollment and loan status information, [details related to the loans or borrower's deferments, forbearances, repayment plans, delinquency and contact information](#), or any Title IV loan-related data required by the Secretary, by the deadline date established by the Secretary.

(5) Any other information concerning its loan insurance program requested by the Secretary.

Commented [A10]: For Negotiators: We decided the best way to address improved borrower notification is to provide requirements for the guaranty agencies to report more information about the borrower to the Department through NSLDS. Doing so will then allow the Department to conduct direct outreach and minimize additional work for FFEL lenders while ensuring consistency of information sent to borrowers.