



March 25, 2021

The Honorable Dr. Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Dear Secretary Cardona:

I write to you today to request that the Department of Education (ED) issue guidance that clarifies that certain borrowers qualify for federal student loan forgiveness under the Public Service Loan Forgiveness (PSLF) program if their job's verified source of full-time income qualifies them for forgiveness, even if their employer does not qualify or if they are an independent contractor.

AccessLex Institute, in partnership with its nearly 200 nonprofit and state-affiliated ABA-approved member law schools, has been committed to improving access to legal education and to maximizing the affordability and value of a law degree since 1983. The AccessLex Center for Legal Education Excellence advocates for policies that make legal education work better for students and society alike and conducts research on the most critical issues facing legal education today.

The PSLF program, enacted with bipartisan support in 2007, encourages individuals to pursue and persist in public service careers that benefit communities across this country. PSLF has been a vital recruitment tool for the best and the brightest to serve millions of Americans, especially in high-need and rural areas. However, despite the benefits, issues with implementation have shown that there is room for improvement. One such challenge relates to the ineligibility of certain independent contractors and others engaged in public service work whose employer does not qualify them for the program, including public defenders or healthcare practitioners.

These borrowers who work full-time in jobs that are eligible for PSLF (i.e., those listed in 20 U.S.C. § 1087e) are excluded from forgiveness because ED's current interpretation of 34 C.F.R. § 685.219 does not recognize them as employees. For example, in places where public defense services are provided by a 501(c)(3) organization, or where attorneys are employed by a state or local government, public defenders are eligible for PSLF. However, in many jurisdictions the public defense system is not set up that way. There, attorneys representing indigent clients on a full-time basis are compensated directly by courts on an hourly or flat fee per case basis, or by an organization that is not a 501(c)(3) which is contracted with a court. Likewise, some healthcare providers working at public or nonprofit healthcare facilities are prohibited by state law from being employed directly by the healthcare facility, making them ineligible for the PSLF program.

We ask that ED issue guidance to clarify that a job's verified source of full-time income may be used to determine a borrower's eligibility for PSLF, if they would otherwise be considered ineligible on the basis of Employer Identification Number or other criteria not required by 20 U.S.C. § 1087e.



Such guidance would help ensure that the federal government provides borrowers with the student loan forgiveness that Congress created over a decade ago in recognition of the tremendous benefits that public servants provide to individuals in every community in this country.

Thank you for your time and attention to this matter. If you would like to discuss this issue further, please contact me at cchapman@accesslex.org. You can also reach our Director of Policy, Nancy Conneely, at nconneely@accesslex.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris P. Chapman".

Christopher P. Chapman
President and Chief Executive Officer

cc: Michelle Asha Cooper, Acting Assistant Secretary for Postsecondary Education
Jordan Matsudaira, Deputy Under Secretary
Nick Lee, Deputy Assistant Secretary for Planning, Evaluation, and Policy Development