



Public Service Loan Forgiveness Negotiated Rulemaking

Background

On April 3, 2025, the U.S. Department of Education (ED) [published](#) an intent to establish a [negotiated rulemaking committee](#) to discuss Public Service Loan Forgiveness (PSLF), Pay As You Earn (PAYE), Income-Contingent Repayment (ICR), “or other topics that would streamline current federal student financial assistance programs.” On April 29 and May 1, 2025, ED held public hearings where The Leadership Conference on Civil and Human Rights provided public comment. ED subsequently made a call for negotiators.

Committee Nominations, Representation, and Expertise

On June 2, 2025, The Leadership Conference on Civil and Human Rights submitted a [letter](#) nominating Chavis Jones of the Lawyers’ Committee for Civil Rights Under Law to represent the civil rights community and Jaylon Herbin of the Center for Responsible Lending to represent consumer advocates. No individual was selected to serve in a dedicated civil rights community seat.

Abby Shafroth from the National Consumer Law Center (NCLC), a member of The Leadership Conference, was selected as an alternate for a combined seat representing “civil rights organizations, consumer advocates, and legal assistance organizations that represent students and/or borrowers.” In an email to negotiators, the list of issues to be considered was narrowed to only address employer eligibility in PSLF, and no explanation was given for why the list of issues was narrowed. Presumably, most individuals were nominated with the expectation that the bulk of the conversation would be consumed by broader student loan issues. There were no negotiators with any expertise in nonprofit tax law, criminal law, immigration law, national security, or medicine (the legal issues that are actually implicated by the actual text the negotiators were responsible for discussing).

ED held the negotiated rulemaking session for three days from June 30 to July 2, 2025. The committee did not reach consensus. The next step will be for the Department of Education to publish a Notice of Proposed Rulemaking (NPRM) and receive comments from the public. Because the committee did not reach consensus, ED has flexibility to publish a rule that is different from the text they provided during the negotiated rulemaking (negreg). The department will then need to review the comments before publishing a final rule. In order for the rule to go into effect on July 1, 2026, the department will need to publish a final rule before November 1, 2025, and we expect the department will be working on that timeline.

Although there was no dedicated seat for the civil rights community during the negotiation, voices from the civil rights community were heard during the PSLF public comment period. On July 1, 2025, [Tania Valencia](#) from The Leadership Conference, [Magin Sanchez](#) from UnidosUS, [Jaylon Herbin](#) from the Center for Responsible Lending, [Chavis Jones](#) from the Lawyers' Committee, and [Ray Li](#) from the Legal Defense Fund provided public comment.

About Public Service Loan Forgiveness (PSLF)

PSLF is a federal program authorized under the Higher Education Act of 1965 that forgives the remaining balance on Direct Loans¹ for borrowers who have made 120 qualifying payments² under an Income-Driven Repayment Plan and who work full-time (or 30 hours per week) for a qualifying employer.³

The Higher Education Act defines a qualifying employer for the purposes of PSLF as:

- (i) A United States-based Federal, State, local, or Tribal government organization, agency, or entity, including the U.S. Armed Forces or the National Guard;*
- (ii) A public child or family service agency;*
- (iii) An 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;*
- (iv) A Tribal college or university; or*
- (v) A nonprofit organization that—*
 - (A) Provides a non-governmental public service as defined in this section, attested to by the employer on a form approved by the Secretary; and*
 - (B) Is not a business organized for profit, a labor union, or a partisan political organization.*

¹ Although federal Direct Loans are the only type of loan eligible for PSLF, Federal Family Education Loan (FFEL) Program loan or Perkins Loan and Parent PLUS loans, are eligible if consolidated into a Direct Consolidation Loan. Borrowers should visit [StudentAid.gov](https://studentaid.gov) to identify what type(s) of federal loan they have and verify eligibility for PSLF.

² For more information on the requirements of a qualifying monthly payment, see: [“Public Service Loan Forgiveness FAQ.”](#)

³ [Title 34 of the Code of Federal Regulations \(34 CFR §685.219\(b\)\).](#)

PSLF Executive Order

The draft language that the negotiators discussed is based on the [president's executive order on Public Service Loan Forgiveness](#), which also directs the department to regulate. No executive order or regulation can contradict the law. The executive order and draft text provided during the negotiated rulemaking would change the definition of “qualifying employers” in the law to exclude those organizations with a “substantial illegal purpose.” The language of “[substantial illegal purpose](#)” is not education policy language but instead tax code language. Organizations with a “substantial illegal purpose” are ineligible for 501(c)(3) status. ED does not and cannot make determinations about an organization’s nonprofit status, but the PSLF proposal creates a scenario in which the IRS and Department of Education are making separate determinations about whether organizations are engaged in a “substantial illegal purpose.”

ED’s Proposed Changes to Statutory Eligibility of Employers

The executive order and draft text describe the disfavored activities that would constitute a “substantial illegal purpose” as those organizations working to support undocumented people; providing gender affirming health care; supporting diversity, equity, and inclusion programs; and exercising the right to peaceful protest.

From the [executive order](#):

The Secretary of Education shall propose revisions to 34 C.F.R. 685.219, Public Service Loan Forgiveness Program, in coordination with the Secretary of the Treasury as appropriate, that ensure the definition of “public service” excludes organizations that engage in activities that have a substantial illegal purpose, including:

- (a) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws;*
- (b) supporting terrorism, including by facilitating funding to, or the operations of, cartels designated as Foreign Terrorist Organizations consistent with 8 U.S.C. 1189, or by engaging in violence for the purpose of obstructing or influencing Federal Government policy;*
- (c) child abuse, including the chemical and surgical castration or mutilation of children or the trafficking of children to so-called transgender sanctuary States for purposes of emancipation from their lawful parents, in violation of applicable law;*
- (d) engaging in a pattern of aiding and abetting illegal discrimination; or*
- (e) engaging in a pattern of violating State tort laws, including laws against trespassing, disorderly conduct, public nuisance, vandalism, and obstruction of highways.*

This Proposal Is Unlawful

This proposal violates the law in at least two ways:

- 1) Under the First Amendment, the government is prohibited from engaging in viewpoint discrimination.
- 2) The department does not have the authority under the Higher Education Act to limit access to PSLF by denying employers' participation.

Larger Context

The intent here isn't truly about PSLF (for which changes would need to be made by Congress to the actual law) but is instead about 501(c)(3) designation and civil society more broadly (note — the text of the proposal language isn't limited to 501(c)(3) activities and so would include disqualifying public employees who work for a state or local government that the secretary of education determined had done these things). The administration's proposal, its vague language, and the references made during negotiated rulemaking to ED staff negotiating around "compliance" suggest that the intent here is for the administration to have an additional tool to threaten, cajole, extort, and bully nonprofits and governments away from disagreeing with their policy priorities and worldview.

Next Steps

We are expecting a draft regulation to be published in the Federal Register during July or August and a brief opportunity for the public to comment. **It will be incredibly important for organizations and individuals to be heard!** There is no limit to the number of comments an individual or organization can submit or join, but it is very clear that individual, unique comments make the most difference in forcing the department to slow down in its pursuit of this unlawful and unjust rulemaking. **What is most important is that comments make the points that (1) this proposal constitutes unlawful viewpoint discrimination in violation of the First Amendment, and (2) ED does not have the authority to limit employer participation in the PSLF program.** Comments are also a great opportunity to lift up the critical value of public service generally and of the PSLF program specifically.

APPENDIX: List of Negotiators

The following negotiators were selected for the committee:

- **Civil Rights Organizations, Consumer Advocates, and Legal Assistance Organizations that Represent Students and/or Borrowers**
 - Primary: Betsy Mayotte, The Institute of Student Loan Advisors
 - Alternate: Abby Shafroth, Student Loan Borrower Assistance Project
- **Federal Family Education Loan Leaders and/or Guaranty Agencies**
 - Primary: Scott Buchanan, Student Loan Servicing Alliance
 - Alternate: Alex Ricci, National Council of Higher Education Resources
- **Financial Aid Administrators at Postsecondary Institutions**
 - Primary: Alyssa Dobson, Slippery Rock University
 - Alternate: Helen Faith, University of Virginia
- **Organizations Representing Taxpayers and the Public Interest**
 - Primary: Thomas John Aiello, National Taxpayers Union
 - Alternate: Laurel Taylor, Candidly
- **Private Nonprofit Institutions of Higher Education, Including Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions (Institutions of Higher Education Eligible to Receive Federal Assistance Under Title III, Parts A and F, and Title V of the HEA)**
 - Primary: C. Todd Jones, Association of Independent Colleges and Universities of Ohio
 - Alternate: Heather Boutell, Vanderbilt University
- **Proprietary Institutions of Higher Education**
 - Primary: Mary Lyn Hammer, Champion College Solutions
 - Alternate: April Boyd, The College of Health Care Professionals

- **Public Institutions of Higher Education, Including Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions (Institutions of Higher Education Eligible to Receive Federal Assistance Under Title III, Parts A and F, and Title V of the HEA)**
 - Primary: Tracy A. Ireland, The Board of Regents of the University System of Georgia
 - Alternate: Kaity McNeill, The University of North Carolina System Office
- **State Officials, Including State Higher Education Executive Officers, State Authorizing Agencies and State Attorneys General**
 - Primary: Rebecca Stanley, Fifteenth Judicial Circuit Solicitor's Office
 - Alternate: Charles J. Smith III, Frederick County State's Attorney's Office
- **Student Loan Borrowers in Repayment**
 - Primary: Emeka Oguh, PeopleJoy
 - Alternate: Sarah Doran, St. Vrain Valley Schools
- **U.S. Military Service Members, Veterans, or Groups Representing Them**
 - Primary: Robert H. Carey, Jr., National Defense Committee
 - Alternate: Faisal Sulman, Student Veterans of America (SVA)
- **Federal Negotiator**
 - Negotiator: Tamy Abernathy, Department of Education
- **Office of General Counsel (non-voting)**
 - OGC: Jacob Lallo, Office of General Counsel