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GRADUATE, UNDERGRADUATE AND EQUITY AFFAIRS

OFFICE OF THE PRESIDENT
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September 17, 2025

Tamy Abernathy
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

RE: Comments on Docket ID ED-2025-OPE-0016, William D. Ford Federal Direct Loan (Direct Loan) Program

Dear Ms. Abernathy:

The University of California (UC) welcomes the opportunity to comment on the Department of Education's proposed rule regarding amendments to the Public Service Loan Forgiveness (PSLF) program under 34 C.F.R. § 685.219. The University supports the Department's goal of ensuring the integrity of the PSLF program; however, as a public higher education institution of close to 300,000 students and with 2.5 million alumni, we have concerns about the proposed rule's potential impacts on both our graduates who are working in public service careers and current students who wish to pursue a career in the public sector.

Federal Doctrines and Definitions

The University shares the goal of ensuring that the PSLF program is operated with integrity consistent with its statutory and regulatory obligations. However, the proposed rule includes language and doctrinal references that are either vague in their application and/or insufficient in providing institutions, employers, and/or borrowers sufficient clarity. The proposed rule includes language to exclude employers that engage in activities with a "substantial illegal purpose" and proposes a vague standard that does not give employers fair notice of the conduct prohibited.

The Department cites *Iowaska Church of Healing* v. *Werfel* as an example of, and justification for, adjusting the definition; however, in that case the court upheld the IRS's denial of 501(c)(3) status because the organization's primary organizational and operational purpose was illegal on its face. Since the court's reasoning in *Iowaska* was fact-specific and involved facially illegal activity, it does not support the Department's proposed definition, which does not provide clarity on how the Department will determine that an employer is engaging in a "substantial illegal purpose."

Further, PSLF's primary purpose is to provide a financial benefit to individuals, not organizations. In *Iowaska*, the court upheld the IRS's focus on the organization's purpose and denial of a benefit (otherwise known as a tax exemption) to the organization itself. This contrasts with the Department proposing to deny a benefit (loan forgiveness) to an individual for the actions of their employer, an action not supported by the PSLF statute (20 U.S.C. § 1087e). Denying loan forgiveness to a deserving individual because of their employer's "alleged actions" is unfair and undermines the PSLF program's goal of promoting public service.

The University is also concerned with the proposed definitions for terms such as "aiding or abetting," "illegal discrimination," and "violating State law," all of which could be subject to interpretation on a state-by-state basis. For example, a court ruling or legal settlement against a large public employer poses the risk of arbitrarily and unfairly disqualifying an entire entity and its agencies, such as police and fire departments. While the Department may distinguish employers under a shared identification number, we are concerned that the default may be to disqualify the entire organization.

The Department references federal criminal code 18 U.S.C § 2 for the definition "aiding and abetting," where the standard for conviction requires proof beyond a reasonable doubt and where this applies to an individual. However, the Department proposes a lower standard of "preponderance of the evidence," and would apply this standard to employers. This approach is inconsistent with the referenced federal code and undermines the established purpose of both frameworks.

Impact on Borrowers

The proposed rule states that no payments would be credited as qualifying for any month after a determination that an employer engages in activities with a "substantial illegal purpose." However, borrowers may not be aware of such activities, as the notification process only occurs once an employer is at risk of or has lost its status. This creates a risk that a borrower makes payments for months that they believe are qualifying, only to find out that the payments they made do not count because of an employer's actions unknown to them. Historical issues with PSLF were tied to inadequate information on program requirements. The ambiguity of what would be determined "substantial illegal purpose" will require substantial training for front-line loan servicer staff and may still result in payment counting errors and delays in processing PSLF applications. The program could receive complaints reminiscent of previous criticisms of the program as a result of this change.

Finally, the proposed rule prohibits a borrower from requesting reconsideration of a final determination by the Secretary that an employer lost its qualifying status. This places the entire burden on the employer to challenge a determination, which may not happen, leaving borrowers with no recourse. Expecting borrowers to transition to other qualifying employers if their current employer is disqualified would be extremely disruptive to such borrowers' careers and it may be unrealistic for some borrowers, depriving them of obtaining loan forgiveness under PSLF. Withholding an individual benefit in this scenario is egregious and punitive, and any recourse is better addressed with the organization on any finding or error.

Recommendations

The University would like to offer some recommendations for consideration.

The Secretary should rescind the proposed regulations: The rule allows the Secretary to make a series of arbitrary judgments, such as using vague standards like “preponderance of evidence” or how “violating State law” would be, that have negative implications for federal student loan borrowers who have launched public service careers, as well as future graduates who would otherwise pursue careers in public service. These arbitrary judgments are not supported by the current statute (20 U.S.C. § 1087e) and exceed the Secretary’s authority under existing law.

However, if the Department continues to move forward with finalizing and implementing this proposed rule, we recommend the following changes be made to mitigate the potential adverse impact this proposal may have on borrowers:

- **Provide a Clear and Consistent Standard**. We recommend providing greater specificity on how “materiality” will be considered in PSLF determinations and how the Department will apply the standard of a “preponderance of the evidence.” Clear examples of what does and does not constitute a “substantial illegal purpose” could help both institutions and borrowers understand the new criteria.
- **Offer a Grace Period for Disqualified Employers**. The rule outlines a 10-year period for a disqualified employer to regain eligibility or for the employer to submit a corrective action plan. We recommend offering a grace period during which payments from borrowers would still count as qualifying while an employer is actively working with the Department to address the issues. This would allow employers to rectify issues without penalizing innocent borrowers who have made career choices based on their perceived eligibility for PSLF.
- **Enhance Borrower Notification and Appeals**. We urge the Department to establish a process for the Department to provide timely and proactive notification to borrowers when an employer is under review for a “substantial illegal purpose.” Additionally, a clear and accessible borrower-initiated appeals process with the Department should be included. While we understand the Department’s desire to streamline the process, an avenue for borrowers to present evidence of their lack of knowledge or involvement in illegal activities is crucial to ensure fairness.

Thank you for your consideration of these comments. If the proposed regulation is not rescinded, we hope that the changes we have suggested will strengthen the PSLF program and protect both taxpayer dollars and encourage individuals to pursue careers in public service.

Sincerely,

Shawn Brick, M.P.P.
Associate Vice Provost, Student Financial Support
University of California, Office of the President

cc: Provost and Executive Vice President Katherine S. Newman, Academic Affairs
Senior Vice President Meredith Turner, External Relations and Communications
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