

# Navigating the Public Service Loan Forgiveness Program

By Keith Donnelly

## IN BRIEF

In an attempt to alleviate the burden of student debt on U.S. borrowers, the federal government offers a Public Service Loan Forgiveness program, by which eligible individuals can have the balance of their loans forgiven if they meet certain requirements. Despite being in existence for over 10 years, the program has only approved about 1% of the applications it has received. The author provides an overview of the program, explaining the eligibility requirements and covering recent and possible future developments.

**U**nder the Public Service Loan Forgiveness (PSLF) program, borrowers of eligible Federal Direct Loans who have made 120 monthly payments under a qualifying student loan repayment plan while employed in a full-time public service job may have the balance of the principal and interest due on the loans forgiven. Loan forgiveness under the PSLF program is exempt from federal taxation [Internal Revenue Code (IRC) section 108(f)].

Under the current portfolio of federal student loan debt, 42.2 million individuals hold \$1.4811 trillion dollars of federal student loans (“Federal Student Aid Portfolio Summary,” Federal Student Aid website, <https://bit.ly/3euguf6>). It is estimated that nearly one-fourth of all jobs could qualify for the PSLF program (“Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options,” U.S. Government Accountability Office GAO-15-663, Aug. 24, 2015, <https://bit.ly/3csfiHz>); as shown in *Exhibit 1*, however, as of June 30, 2019, only 1,216 of the 102,051 processed applicants (1.19%) had received forgiveness under the PSLF program since it began accepting

applicants in October 2017 (“June 2019 PSLF Report,” Federal Student Aid website, <https://bit.ly/3eqWpXg>).

If so many borrowers qualify for the program, why have so few received forgiveness? The answer is complicated. Some suggested reasons include the newness of the program, lack of borrower education, and issues concerning the administration by the Department of Education (DOE) and loan servicers contracted by DOE. In short, however, the majority of borrowers submitting applications for forgiveness have failed to satisfy PSLF program requirements.

Accordingly, this article reviews the PSLF program for individuals eligible for or currently participating in the program as part of a financial plan. Topics covered include the administration of the PSLF program, its requirements, and its future in light of expected costs and recent attempts to eliminate the program entirely.

### Administration of the PSLF Program

Congress established the PSLF program under the College Cost Reduction and Access Act of 2007 (CCRA). Specifically, the CCRA amends the Higher Education Act of 1965 (HEA) to create the PSLF program. The PSLF program encourages borrowers to enter and remain in public service jobs by offering them student loan forgiveness in exchange for doing so.

Oversight of the PSLF program rests with the DOE, which oversees the issuance of Federal Direct Loans but has hired contractors to service those loans (GAO 2015). All contracted servicers have minimum responsibilities for educating borrowers about the PSLF program; however, the DOE has contracted with a single servicer, FedLoan Servicing, to administer the PSLF program (GAO 2015).

To receive loan forgiveness under the PSLF program, borrowers must complete and file the DOE’s PSLF Application for Forgiveness upon completion of PSLF program requirements. FedLoan Servicing then reviews and forwards successful applicants to DOE for final review. If the DOE determines the



borrower has met all PSLF requirements, it directs FedLoan Servicing to forgive the balance of the principal and interest due on the borrower's qualifying loans (GAO 2015)

Borrowers need not wait until making all 120 payments to determine their status under the PSLF program. They may submit the DOE's Employment Certification Form (ECF) to FedLoan Servicing to verify PSLF employment and qualifying payments. Submission of an ECF is recommended, but not a condition, for loan forgiveness under the PSLF program.

When a borrower submits an ECF for the first time, FedLoan Servicing determines whether the borrower has a qualifying employer and qualifying loans. If the borrower meets these qualifications, the borrower's DOE-based loans, including federal loans ineligible for PSLF, are transferred to FedLoan Servicing. Thereafter, FedLoan Servicing deter-

mines the number of previous payments made by the borrower that are eligible for the PSLF program (GAO 2015).

### Qualifying Student Loans

The PSLF program only applies to Federal Direct Loans. Thus, loans that are not Federal Direct Loans do not directly qualify for the PSLF program. This includes student loans issued under other federal programs and student loans issued from private lenders such as banks.

Federal Direct Loans are loans issued under the U.S. Department of Education's William D. Ford Federal Direct Loan Program. The Direct Loan Program provides government loans directly to borrowers without the use of private lenders and, since July 1, 2010, represents the primary federal student loan program.

**Exhibit 1**  
**PSLF Applicant Statistics as of June 30, 2019**

Total Number of PSLF Applications	110,729
PSLF Applications with Processing Complete	102,051
PSLF Approved Applications	1,216
Total Loan Balances Discharged	\$52,045,282
Average Balance Discharged	\$61,592

Eligible Federal Direct Loans include those shown in *Exhibit 2*.

Borrowers holding federal student loans ineligible for the PSLF program may consolidate the loans into a Direct Consolidation Loan. This allows borrowers not immediately qualifying for the PSLF program to obtain a Federal Direct Loan. Loans eligible for consolidation include Federal Family Education (FFEL) Loans, Federal Perkins Loans, Health Education Assistance (HEAL) Loans, and other



### Exhibit 2 Federal Direct Loans Eligible for the PSLF Program

Direct Unsubsidized Loans	Available to undergraduate, graduate, and professional students but not based on financial need
Direct PLUS Loans	Available to graduate or professional students, as well as parents of dependent undergraduate students
Direct Consolidation Loans	Allow borrowers to combine eligible federal student loans into a single loan with a single servicer

Federal Direct Loans (“Direct Loan Consolidation,” Federal Student Aid website, <https://bit.ly/2VxxNDA>). Private loans are not eligible for consolidation.

Direct Consolidation Loans are convenient because they provide for a single monthly payment; however, this is not without PSLF drawbacks. Under the consolidation process, a single, consolidated loan is issued, from which the proceeds are used to satisfy balances of the loans subject to consolidation. Thus, PSLF payments made prior to the consolidation process do not count toward the 120-payment requirement. Instead, borrowers of

Direct Consolidation Loans must restart PSLF payment progress (“PSLF Program,” Federal Student Aid website, <https://bit.ly/2XGodRi>).

#### Qualifying Repayment Plans

To qualify for the PSLF program, borrowers must make payments under a qualifying repayment plan. Qualifying repayment plans include those under 1) an income-driven repayment (IDR) plan; 2) a standard 10-year repayment plan; and 3) a standard, graduated, or extended repayment plan, to the extent monthly payments under the plan equal or exceed-

ing the standard 10-year repayment plan, as measured from when the loan entered repayment [HEA section 455(m)(1)(A)].

IDR is an umbrella term for repayment plans under which monthly payments are a percentage of the borrower’s discretionary income (“Income-Driven Repayment Plans,” Federal Student Aid website, <https://bit.ly/3evpfWC>). IDR plans include the following:

- Income-Contingent Repayment (ICR)
- Income-Based Repayment (IBR)
- Pay As You Earn (PAYE)
- Revised Pay As You Earn (REPAYE).

IDR plans generally provide the lowest monthly payment and therefore the greatest PSLF benefits (“PSLF Help Tool,” Federal Student Aid website, <https://bit.ly/2xyXdst>); this is shown in *Exhibit 3*. Borrowers, however, must qualify for, and elect to enroll within, an IDR plan. Absent these measures, repayment on a Federal Direct Loan defaults to a standard repayment plan, which is not based on income and can yield significantly fewer PSLF benefits.

As shown in *Exhibit 4*, IDR plans base monthly payments on a percentage of a borrower’s discretionary income. Discretionary income equals the extent to which a borrower’s federal adjusted gross income (AGI) exceeds a percentage of the Department of Health and Human Services’ federal poverty guidelines for the borrower’s family size. In this framework, the PAYE and IBR for post-July 1, 2014 borrowers’ plans generally provide for the lowest monthly payments.

The standard 10-year repayment plan also represents an eligible repayment plan [HEA section 455(m)(1)(A)(ii)]. This plan, however, is structured to repay the entire loan over the 10-year period. Thus, a borrower making all 120 payments through a standard 10-year repayment plan would have no remaining balance to be forgiven under the PSLF program.

Finally, PSLF eligible repayment plans include a standard, graduated, or extended

### Exhibit 3 Modeling of the PSLF Program\*

IDR Plan	Qualifying Loans	First Month Payment	Last Month Payment	Total Paid in PSLF Program	Total Forgiven in PSLF Program	PSLF Repayment Period
ICR	\$50,000	\$459	\$541	\$61,080	\$26,380	10 years
IBR for pre-July 1, 2014 borrowers	\$50,000	\$266	\$486	\$44,174	\$50,636	10 years
IBR for post-July 1, 2014 borrowers	\$50,000	\$177	\$324	\$29,450	\$66,550	10 years
PAYE	\$50,000	\$177	\$324	\$29,450	\$66,550	10 years
REPAYE	\$50,000	\$177	\$324	\$29,450	\$62,448	10 years

\*Based on Federal Student Aid Repayment Estimator. Assumes a single borrower with no dependents living in New York with federal AGI of \$40,000 that increases by 5% per year and \$50,000 in Direct Loans (of which \$20,000 are subsidized) with a 6% interest rate (using 2019 poverty guideline levels). See repayment calculator at <https://bit.ly/3crMG19>.

PSLF=Public Service Loan Forgiveness  
IDR=Income-Driven Repayment  
ICR=Income-Contingent Repayment  
IBR=Income-Based Repayment  
PAYE=Pay As You Earn  
REPAYE=Revised Pay As You Earn

repayment plan to the extent monthly payments under the plan equal or exceed the standard 10-year repayment plan, as measured from when the loan entered repayment [HEA section 455(m)(1)(A)(iii)]. For example, certain extended or graduated repayment plans have monthly payments that increase over the payback period such that they may exceed the standard 10-year repayment plan. By and large, however, payments under these plans will not meet the eligibility criteria necessary for the PSLF program.

In March 2018, Congress provided for temporary expanded public service loan forgiveness to aid borrowers denied under the PSLF program for having made nonqualifying payments under certain standard, graduated or extended payment plans. Much like under the PSLF program, borrowers have found limited success in this opportunity.

Regardless of participation in an IDR, standard, graduated, or extended repayment plan, the borrower must make 120 qualifying payments. This does not, however, mean all 120 payments must be made under a single, qualifying repayment plan [“Master Promissory Note,” Federal Student Aid website, <https://bit.ly/2RHWQCM>]. For example, suppose a borrower makes qualifying payments under a standard 10-year repayment plan and then switches to an IDR plan. Assuming the majority of the 120 payments come from an IDR plan, the initial payments count toward the 120-payment requirement. Thus, borrowers switching plans generally do not lose prior payments made under a qualifying, but different, repayment plan.

### 120 Monthly Payments

To qualify for the PSLF program, borrowers must have made 120 qualifying payments on or after October 7, 2007 [HEA section 455(m)(1)(A)]. A qualifying payment is on time, required, for the full

Exhibit 4 IDR Repayment Plans*			
Repayment Plan	Monthly Payment	Yearly Discretionary Income	Maximum Repayment Period
ICR	Generally, 20% of monthly discretionary	Federal AGI less 100% of borrower's poverty threshold	25 years
IBR for pre-July 1, 2014 Borrowers	Generally, 15% of monthly discretionary income	Federal AGI less 150% of borrower's poverty threshold	25 years
IBR for post-July 1, 2014 Borrowers	Generally, 10% of monthly discretionary income	Federal AGI less 150% of borrower's poverty threshold	20 years
PAYE	Generally, 10% of monthly discretionary income	Federal AGI less 150% of borrower's poverty threshold	20 years
REPAYE	Generally, 10% of monthly discretionary income	Federal AGI less 150% of borrower's poverty threshold	20–25 years, depending on loan portfolio

\*Based on 34 CFR sections 685.208, 685.209, and 685.221. Assumes a single taxpayer with no dependents.  
 IDR=Income-Driven Repayment  
 ICR=Income-Contingent Repayment  
 AGI=Adjusted Gross Income  
 IBR=Income-Based Repayment  
 PAYE=Pay As You Earn  
 REPAYE=Revised Pay As You Earn

Exhibit 5 Examples of Careers Potentially Eligible for the PSLF Program		
<ul style="list-style-type: none"> <li>▪ First responder</li> <li>▪ Government employee</li> <li>▪ Military service member</li> <li>▪ Public safety</li> <li>▪ Law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public service lawyer</li> <li>▪ Nurse</li> <li>▪ Doctor</li> <li>▪ Dentist</li> <li>▪ Other healthcare employee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public teacher</li> <li>▪ Other public education</li> <li>▪ Public librarian</li> <li>▪ Social worker</li> <li>▪ Not-for-profit employee</li> </ul>

amount due, while employed in a full-time public service job, and made under a qualifying repayment plan.

The borrower must make 120 qualifying payments; however, the payments need not be consecutive. If a borrower makes payments while working for a qualifying employer, leaves for a non-qualifying employer, and then returns to a qualifying employer, all payments made while working for a qualifying employer count toward the 120 payments requirement.

In addition, a qualifying payment must be on time and required. A payment is on time if it is made within 15 days of the

scheduled due date. A payment is required if the borrower is in repayment status on a loan. Accordingly, payments made while a borrower is in deferment, a grace period, or forbearance do not count toward the 120-payment requirement.

Finally, a qualifying payment must be for the full amount due. The full amount due is determined by the repayment plan in which the borrower participates and is generally reflected on the billing statement provided by the loan servicer. If the borrower has multiple loans, the billing statement may provide for a single payment amount reflective of the cumulative value of the full amount due under each loan



(“About Payments,” Navient website, <https://bit.ly/2Vbhmhb>).

Borrowers who pay less than the full amount due have not made a full payment (Alexandra Hegji, “The Public Service Loan Forgiveness Program: Selected Issues,” Congressional Research Service Report, Oct. 29, 2018, <https://bit.ly/2XE4wcT>). If the borrower has multiple loans, a payment for less than the full amount due is applied in proportion to the current amount due for each loan. For example, if a borrower has a monthly payment of \$500, reflecting five loans each with a \$100 full amount due, and makes a \$400 payment, then one-fifth of the payment (\$80) is applied to each loan. In this case, the borrower has not paid the full amount due for any loan.

Borrowers with multiple loans who pay less than the full amount due can, however, specify an alternative payment application. Using the same facts, a borrower may request the \$400 payment be applied evenly to four loans, leaving one loan unpaid for \$100. Thus, the payment for the month with respect to the specified loans is considered for the full amount due.

Borrowers who pay more than the full amount due also face PSLF challenges. First, borrowers can only receive credit for one payment per month. Borrowers making a lump sum payment equivalent to multiple future month payments or making multiple payments per month have not expedited the PSLF process. Generally, the most efficient route to loan forgiveness under the PSLF program requires 120 payments be made over a 10-year period.

Second, to the extent a monthly payment exceeds the full amount due, an overpayment is applied to the next month’s payment. Depending on the amount of overpayment, the next due date on the loan could be extended a month or more into the future; this is known as being “paid ahead.” Payments made while in paid-ahead status do not count toward the PSLF program.

Paid-ahead status can be challenging when, as an employment incentive, an employer makes a lump sum payment on a borrower’s loans. Not only does the lump sum payment count as a single payment, thereby reducing the effective value of the payment to the employee, but it may also cause the borrower to enter paid-ahead status, thus extending the time necessary to receive loan forgiveness under the PSLF program.

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**The HEA and PSLF regulations do not provide quantitative measures for determining the public service necessary to render a private not-for-profit organization PSLF eligible.**

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To avoid some of the issues of paid-ahead status, borrowers can request a specific overpayment be applied to the principal of the loan instead of a future month’s payments, or request their loan servicer remove the ability to enter paid-ahead status.

#### **Employment in a Public Service Job**

To qualify for the PSLF program, borrowers must be employed in a full-time public service job during the period in which the borrower makes each of the 120 qualifying payments and at the time of loan forgiveness [HEA section 455(m)(1)(B)]. Being employed means being hired and paid; volunteer hours are ineligible [34 CFR section 685.219(b)]. Likewise, being employed by a nonqualifying employer that contracts with or provides services to a public service organization is ineligible.

Full-time employment is generally defined as working in a qualified job for the greater of 1) an annual average of at least 30 hours per week, or, for a contractual period of at least eight months, an average of 30 hours per week; or (2) the number of hours the employer considers full-time [34 CFR section 685.219(b)].

Vacation time or qualifying leave time under the Family and Medical Leave Act of 1993 are not considered in this calculation [34 CFR section 685.219(b)]. Furthermore, borrowers working part-time in different public service jobs may generally aggregate work hours to meet the full-time employment standard.

The HEA defines a “public service job” as a full-time job in emergency management, government, military service, public safety, law enforcement, public health (including nurses and professionals engaged in healthcare practitioner and support occupations), public education, social work in a public child or family service agency, public interest law services, early childhood education, public service for individuals with disabilities or the elderly, public or school-based library sciences, or an IRC section 501(c)(3) organization that is exempt from taxation under IRC section 501(a).

Under IRC section 501(c)(3), a tax-exempt organization is one organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals. Such an organization cannot have any part of net earnings benefit a private shareholder or individual. Furthermore, a tax-exempt organization is substantially limited in its lobbying and cannot participate in political campaign activities. *Exhibit 5* provides examples of careers potentially eligible for the PSLF program.

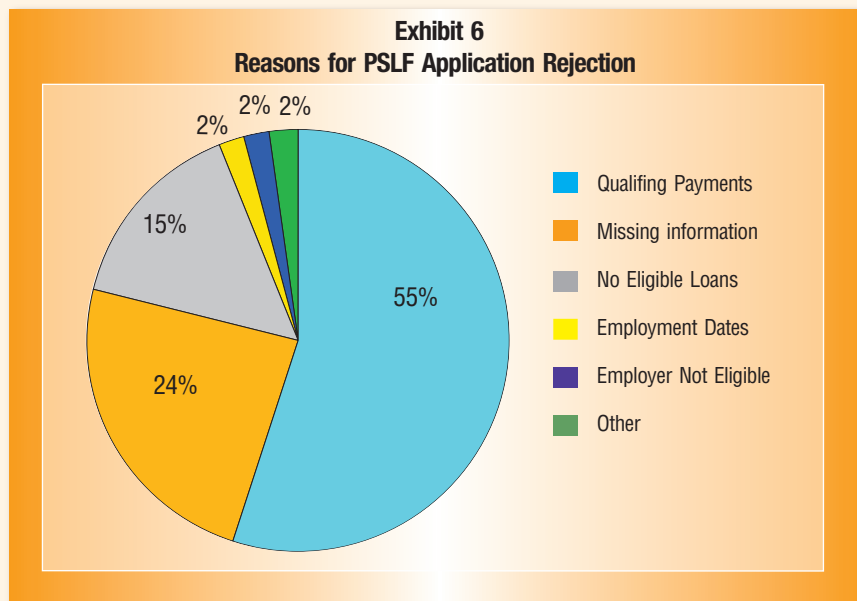
Interestingly, PSLF regulations also define a “public service job” to include certain private not-for-profit organizations that

provide a public service [34 CFR section 685.219(b)]. Such organizations generally include all of the job categories used in the HEA definition of a public service job; however, such organizations cannot be organized for a profit, cannot be a labor union or partisan political organization, and cannot be engaged in religious activities, unless the activities are unrelated to religious instruction or worship services.

The HEA and PSLF regulations do not provide quantitative measures for determining the public service necessary to render a private not-for-profit organization PSLF eligible. Instead, the ECF and the PSLF Application for Forgiveness state that the “primary purpose” of a private not-for-profit organization must be to provide a public service. Because “primary purpose” is not defined, borrowers employed by private non-for-profit organizations may be uncertain as to whether they are eligible for the PSLF program. Hypothetically, a borrower in this situation could submit an ECF to FedLoan Servicing to determine employer eligibility. Recent developments, however, have tested the reliability of ECF determinations made by FedLoan Servicing.

In December 2016, the American Bar Association (ABA) sued the DOE, alleging mismanagement of the PSLF program [American Bar Association v. U.S. Department of Education, 1:16-cv-02476 (U.S. District Court for the District of Columbia)]. Under the facts of the suit, FedLoan Servicing, through ECF review, recognized the ABA as a qualifying employer for purposes of the PSLF program. Thereafter, however, the DOE retroactively revoked this determination, alleging the ECF represents “provisional guidance” and reserving the ultimate right to determine PSLF employer eligibility.

Ultimately, the district court found that the DOE improperly changed the terms of the PSLF program and ruled in favor of the ABA. At the time of this writing, the DOE has restored loan payment credits to



affected individuals and does not plan to appeal the ruling (“ABA Encouraged by Recent Developments in Public Service Loan Forgiveness Lawsuit,” ABA website, Aug. 26, 2019, <https://bit.ly/34IpKI0>). Nevertheless, the case calls into question the management of the PSLF program and the credibility assigned to FedLoan Servicing ECF determinations.

#### Future of the PSLF Program

*Exhibit 6* shows the most common reasons for the rejection of PSLF applications. To be sure, few applicants have been granted forgiveness under the PSLF program; however, this trend is likely to reverse in the future. Congress enacted the PSLF program in October 2007, and, as a practical matter, applicants could only meet the 120 payments requirement beginning in October 2017. The passage of time should allow more individuals to meet this requirement and encourage new waves of applicants.

Predicting future PSLF applicant success can be difficult because applicants can only apply for the PSLF program upon meeting its requirements. Based in part on ECF submissions, however, current estimates predict that successful PSLF applicants should eventually stabilize at 200,000 borrowers

per year (Gregory Crespi, “Could the Benefits of the Public Service Loan Forgiveness Program Be Retroactively Curtailed?” *Connecticut Law Review*, June 2019, <https://bit.ly/3acamor>). Under these estimates, each borrower would receive a median amount of \$60,000 of student debt forgiven, providing the federal government with a total cost of \$12 billion per year.

Concerns about future PSLF program costs have not been unnoticed. In 2014, the Obama administration proposed limiting borrower forgiveness under the PSLF program to \$57,500 per borrower. In 2017, the Trump administration more broadly proposed to prospectively eliminate the PSLF program. Under this proposal, new borrowers would no longer qualify for the PSLF program; however, borrowers who had taken out loans prior to these changes would be “grandfathered” into the program. While neither proposal was ultimately enacted into law, borrowers should monitor future legislative action regarding the PSLF program. □

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