

September 17, 2025

Linda McMahon
Secretary, U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Submitted via regulations.gov

RE: Legal Aid Comments on Proposed Changes to Public Service Loan Forgiveness Rules, Docket ID ED-2025-OPE-0016

Dear Secretary McMahon,

We, the undersigned 70+ legal services organizations that work on behalf of low-income people, submit this comment in response to the Department of Education's request for comments on its proposed rule to add new restrictions to the definition of qualifying employers for the Public Service Loan Forgiveness (PSLF) program.¹

The Higher Education Act defines qualifying public service jobs for PSLF as work for nonprofit 501(c)(3) employers and work for "public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a nonprofit organization)," among others.² Despite this explicit statutory definition, the Department's proposed rule would redefine qualifying employers by placing new conditions on qualification and attempt to grant the Secretary novel new authority to revoke 501(c)(3) and legal services employers' qualifying status based on Secretarial findings that the employer engaged in certain types of activities disfavored by the President.³ Because the Secretary lacks legal authority to depart from the clear definition of public service jobs provided in the Higher Education Act, because the proposed rule threatens the integrity and reliability of a program that nonprofit legal services organizations rely on to recruit and retain staff to provide legal assistance to low-income people, and because the proposed rule would threaten the freedom of legal services organizations and chill them from providing important services to all lawful clients, we urge the Department to withdraw the proposed rule and to maintain its existing PSLF regulations.

¹ U.S. Dep't of Education, Notice of Proposed Rulemaking, 90 Fed. Reg. 40154 (Aug. 18, 2025), *available at* <https://www.federalregister.gov/documents/2025/08/18/2025-15665/william-d-ford-federal-direct-loan-direct-loan-program>.

² 20 U.S.C. § 1087e(m)(3)(B).

³ The proposed rule follows from President Trump's Executive Order "[Restoring Public Service Loan Forgiveness](#)," (May 7, 2025).

I. Congress Defined Public Service Employment to Include Full-Time Work at All 501(c)(3) Nonprofits and Nonprofits that Provide Legal Services to Low-Income Communities, and the Secretary Lacks Authority to Revoke Such Qualification

PSLF was created in 2007 by a bipartisan act of Congress to encourage people to pursue public service work by forgiving the remaining balance of their federal student loans after they complete ten years of public service work while making required student loan payments.⁴ To achieve this purpose, Congress defined “public service jobs” expansively, objectively, and politically neutrally. The authorizing PSLF legislation specifically defines “public service jobs” to include full-time work for government, nonprofit 501(c)(3) employers, and “public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a nonprofit organization),” among others.” 20 U.S.C. § 1087e(m)(3)(B). This statutory definition of public service jobs is clear and unambiguous.

The Department of Education’s PSLF regulations have long been faithful to this statutory definition, with earlier versions of the regulations largely repeating the statutory language, and the current version defining a qualifying public service employer to be inclusive of any “United States-based Federal, State, local, or Tribal government organization, agency, or entity,” any “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,” as well as other non-501(c)(3) nonprofits that meet the statutory definition for public service jobs, including those providing “public interest law services.” 34 C.F.R. § 685.219(b).⁵ By remaining faithful to the objective definition for public service jobs established in statute, the regulations have made it a largely straightforward and nonpolitical matter for employers, borrowers, and the Department of Education alike to determine whether an employer qualifies for participation in the PSLF program. This is especially true for nonprofit 501(c)(3)s, which are automatically qualifying employers based on their 501(c)(3) status. The objective standards have provided borrowers and employers much needed predictability regarding ongoing qualification for a program that requires 10 years of qualifying public service work to result in any borrower benefit.

The proposed rule, in contrast, would break dramatically from the statutory definition of public service jobs by providing the Secretary of Education with unprecedented new authority to determine that government, legal services, and 501(c)(3) nonprofit employers are no longer “public service” employers if the Secretary deems that they have engaged in certain disfavored conduct. Under the Department’s proposal, the Secretary could revoke the public service employer designation based on the Secretary’s extra-judicial determination that the employer has engaged in activities with a “substantial illegal purpose” related to immigration, discrimination,

⁴ Pub.L. 110-84 §401 (2007).

⁵ The statutory and regulatory definitions are also inclusive of additional types of public service employment, but because legal assistance organizations typically qualify for PSLF under the 501(c)(3) or nonprofit public interest legal services provisions, we focus on those here.

transgender people, terrorism, or certain conduct associated with protest. Worryingly, in most instances, these determinations would be made solely by the U.S. Department of Education, without requiring the government to prove in court that the employer has in fact broken any law. To retain PSLF eligibility, the employer would then have to wait either ten years since the last Secretarial finding of engagement in such activities, or until the employer enters a corrective action plan with the Secretary for the cessation and correction of undesired activities.

The Department lacks authority to impose these new, politically-charged, subjective conditions on the definition of public service employment for the PSLF program. First, the plain language of the statute authorizing the PSLF program explicitly defines “public service jobs” for the purpose of PSLF eligibility to mean work for 501(c)(3) employers and nonprofit legal services organizations serving low-income communities, among others. That language is clear and unambiguous, leaving no room for the Secretary to substitute her own judgment. Second, nowhere in the authorizing statute does Congress grant express or implied authority to the Secretary to redefine public service jobs or to create and impose additional substantive restrictions like those in the proposed rule.

Finally, nothing in the authorizing PSLF statute, the Higher Education Act more broadly, or in any other statute cited by the Department authorizes the Secretary of Education to enforce and adjudicate immigration, anti-terrorism, or state healthcare laws that originate outside the Higher Education Act against organizations that operate outside the education sector. Yet that is precisely what the proposed rule purports to empower the Secretary of Education to do, by authorizing her to make her own legally- and economically- significant determinations as to whether employers are violating these disparate bodies of state and federal law, and punishing the employers and their employees with student debt based on such determinations. Because the proposed rule conflicts with authorizing statute and exceeds the Secretary’s legal authority, the proposed rule is unlawful and should be withdrawn.

II. If Finalized, the Proposed PSLF Restrictions Will Reduce Low-Income Families’ Already Limited Access to Civil Justice by Reducing Recruitment and Retention of Legal Aid Attorneys

PSLF helps ensure that talented attorneys can afford to choose and remain in careers at civil legal aid organizations—which pay far less than the public and private legal sectors—without being burdened by long-term federal student debt. Civil legal aid is often critical to upholding legal rights and addressing a range of basic needs, from preventing homelessness caused by unlawful foreclosures, to recovering unpaid wages illegally withheld, to obtaining food and medicine for critically ill children, to enabling domestic violence survivors to reach safety and financial security. If implemented, the proposed rule will undermine a key financial support that is critical to attracting legal aid attorney applicants and retaining experienced staff, diminishing the already

stretched capacity of civil legal aid organizations to provide these and other vital legal services to low-income families and their communities.

By ensuring that talented attorneys can afford to work for civil legal aid organizations, PSLF indirectly supports a lifeline for millions of low-income families and individuals facing major health, safety, housing, and financial crises throughout the United States. The largest portion of the civil legal aid system—130 nonprofit organizations funded by the federal Legal Services Corporation (LSC)—assists over 5.2 million people with civil legal problems annually.⁶ Over 550 non-LSC funded organizations provide additional civil legal aid to millions more.⁷

While legal aid programs serve millions of low-income people, there are presently more people in need than capacity. The civil legal aid system is struggling to meet the high demand for its services due to funding shortages. The Legal Services Corporation (LSC) reported that in 2021, three of four low-income households experienced one or more legal problems.⁸ Among households under 125% of the federal poverty level, the following percentages reported having one or more legal problems: 70% of senior households, 76% of veteran households, 83% of households with children, 98% of households with recent domestic violence, and 77% of rural households.⁹ Yet, despite the serious legal needs of low-income households, states have just 2.8 civil legal aid attorneys per 10,000 people in poverty.¹⁰ In 2021, due to the lack of sufficient funding for the necessary legal aid staff, LSC-funded organizations were unable to provide any or enough legal help for an estimated 1.4 million civil legal problems for which low-income people sought their assistance.¹¹ That same year, 92% of low-income households with serious legal problems received no or insufficient legal assistance.¹²

The proposed PSLF rule will exacerbate this “justice gap” between the civil legal needs of low-income Americans and the resources available to meet those needs. Hiring and retaining lawyers is a major barrier to legal aid programs’ effectiveness. Legal aid organizations face serious difficulties in recruiting attorneys—job openings can stay unfilled for months—and retaining current staff.¹³ Job turnover diverts resources to training new employees. Two primary reasons for the staffing challenges are low salaries and high educational debt, and PSLF is critical to help address these challenges.

⁶ Legal Services Corp., [LSC 101: Understanding Civil Legal Aid](#).

⁷ Nat’l Center for Access to Justice, [Justice Index, Attorney Access](#) (2021).

⁸ Legal Services Corp., [The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans](#) 8 (April 2022).

⁹ *Id.* at p. 29.

¹⁰ American Bar Ass’n, [Profile of the Legal Profession 2023](#) 9.

¹¹ The Justice Gap, *supra*, at p. 9. *See also* Legal Services Corp., [2026 FY Budget Request](#) 9 (2025).

¹² *Id.* at p. 8.

¹³ *See, e.g.*, Legal Aid Ass’n of Cal., [Justice at Risk: More Support Needed for Legal Aid Attorneys in California](#) (Jan. 2020); Matt Reynolds, [Civil legal aid lawyers are often the last line of defense. Why are there so few of them?](#), americanbar.org (Apr. 1, 2024).

The number one obstacle to hiring and retaining legal aid lawyers is the financial pressure caused by low pay.¹⁴ In California, for example, entry level California legal aid lawyers make \$25,000 less than the low end of the range for government lawyers in the same community.¹⁵ For experienced attorneys, the gap is even larger.¹⁶ Low pay combined with the increasing costs of housing and other costs of living, such as supporting children, causes financial pressure on those pursuing legal aid careers.¹⁷ Given these pressures, attorneys who are inclined to choose a career in civil legal aid are increasingly opting to work for the public or private sector, where they can earn substantially more.¹⁸

A second obstacle to hiring and retaining legal aid lawyers is the burden of student loans needed to afford the education and credentials to become an attorney.¹⁹ One study, for example, reported that over 84% of entry-level legal aid lawyer candidates and over 75% of all legal aid lawyers in California have educational debt, with the median amount being between \$125,000 and \$149,000, and more than a third having \$200,000 to \$300,000 or more.²⁰ Given these large student loan balances, the PSLF program has been a decisive factor in legal aid organizations' ability to recruit and retain talented attorneys despite offering salaries far below market rate.

If the proposed regulation is implemented, employer qualification for PSLF will become much more unpredictable and harder to rely on. The uncertainty as to what conduct the Secretary will deem to have a "substantial illegal purpose," and the possibility that the Secretary's determinations may extend to conduct that has not been deemed unlawful by the courts – or may even change dramatically over short periods of time – may cause organizations to unintentionally run afoul of the regulation. And by giving the Secretary of Education substantial new discretion to revoke PSLF eligibility in the future for organizations that are currently eligible, the proposed rule undermines workers' ability to rely on the PSLF program in making career decisions. This will impact career decisions by potential and current legal aid attorneys, who must consider whether a career at a legal aid organization will provide the financial support necessary for long-term financial health.²¹ Without assurance that a decade of employment in legal aid will reliably lead to student loan forgiveness, many are likely to choose employment elsewhere.

In short, legal aid organizations rely heavily on the PSLF program to recruit and retain adequate staff to meet the legal needs of low-income people. By reducing the reliability of the PSLF program, the proposed rule would lead to a reduction of essential civil legal aid services necessary to the long-term health and safety of low-income communities across the country.

¹⁴ Cal. Access to Justice Comm'n, [Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California](#) 14-16 (Feb. 2022).

¹⁵ Legal Aid Recruitment, *supra*, at p. 15.

¹⁶ *Id.* at p. 16; Justice at Risk, *supra*, at pp. 21-31.

¹⁷ Justice at Risk, *supra*, at pp. 21-24.

¹⁸ Justice at Risk, *supra*, at pp. 24-28.

¹⁹ *Id.* at pp. 31-30.

²⁰ *Id.* at pp. 31-32.

²¹ *Id.* at pp. 30, 33-36.

III. If Finalized, the Proposed Rule Will Deter Legal Services Organizations from Providing Essential, Lawful Civil Legal Aid to Immigrants and Other Vulnerable Populations

Civil legal aid work fundamentally involves disputes about what the law means and the scope and application to a particular client's factual circumstances. And more than most, attorneys understand that they cannot know for certain how a particular decisionmaker will interpret and apply a law. Legal services organizations thus understand that the proposed new restrictions on disfavored activities with "substantial illegal purpose" involving issues of immigration, terrorism, discrimination, protest, and transgender identity could easily be misapplied to punish valid, good faith, and legally permissible work on behalf of clients in extremely difficult circumstances. As a result, if finalized, the proposed rule will create a chilling effect on the willingness of legal service providers to operate and engage in certain areas of work that align with their mission and that are needed to enforce and vindicate a range of important federal laws, despite their operating in strict compliance with all state and federal governing regulations.

Civil legal aid organizations lawfully provide legal assistance in a wide variety of civil matters that we fear could be misinterpreted by the Secretary of Education to constitute activities that have a substantial illegal purpose under the proposed rule. For example, when assisting a non-citizen victim of human trafficking to apply for a T-Visa,²² an attorney cannot know in advance whether the application will be approved or denied. The attorney can only prepare a case to the best of their ability based on the legal standards and individual facts, as is their ethical duty. While legal services organizations are confident that a court of law would not find the legal services attorney to have violated immigration laws simply because some clients are ultimately found ineligible for immigration relief, we are concerned that providing such immigration legal services could be deemed inconsistent with public service by the Secretary under the proposed rule and could threaten the organization's PSLF eligibility.

Similarly, we fear that assisting a non-citizen victim of domestic violence to obtain food or cash aid for which they are eligible while they apply, on their own or through another organization, for status under the Violence-Against-Women-Act or a U-Visa²³ could be wrongly viewed by the Secretary as aiding and abetting violations of federal immigration laws just because the client has not yet been approved for the immigration relief they are seeking. Despite confidence that the federal courts would find such services legal, a different determination by the Secretary of Education, who can come to a novel finding without full legal process, could cost the organization and its employees dearly.

²² The T-Visa allows victims of human trafficking to remain in the United States to heal, stabilize, and assist law enforcement agencies in the detection, investigation, and prosecution of human trafficking cases.

²³ The U-visa is a nonimmigrant visa for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.

As another example, when serving a community with one or more large groups of non-English speakers, legal aid organizations sometimes provide assistance through a Limited English Proficiency (LEP) project, which may include interpretation services and/or connection with an advocate who speaks their language. The languages covered are based on the needs of the particular communities present in the area served by the legal aid organization, balanced against available resources. Some legal aid organizations fear that the proposed definition of “substantial illegal purpose” as including “engaging in a pattern of aiding and abetting illegal discrimination” could be misapplied to revoke PSLF eligibility for legal aid organizations with LEP projects, either because they do provide specialized language assistance targeted to non-English speakers or because they do not provide language assistance for speakers of all foreign languages. Again, while legal aid organizations are confident in the lawfulness of these programs, we are concerned that the Secretary can make her own legal determinations and impose devastating consequences on legal aid organizations without obtaining a judicial decision first.

Notably, many of the types of legal services at risk of being chilled and deterred by the proposed rule are not just legally *permissible* services for nonprofits to provide, but are services that are important to enforcing the laws created by Congress and that Congress has even encouraged legal organizations to provide. For example, Congress passed the Trafficking Victims Act of 2000 to combat modern “slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.”²⁴ Similarly, Congress passed the Violence Against Women Act to ensure that women who have been subjected to domestic violence, sexual assault, and other specified crimes can obtain the services they need to protect themselves and to improve law enforcement against perpetrators.²⁵ Congress recognized the importance of civil legal aid organizations to achieve the purposes of these laws and federal law explicitly permits such organizations to assist immigrant survivors (including children) of trafficking, sexual assault, domestic violence and other specified crimes.²⁶ If the proposed PSLF rule is implemented, it will undermine the purpose of these and other similar laws by causing a substantial reduction in legal assistance necessary to ensure the safety and long-term well-being of victims and their families.

IV. The Proposed Rule Undermines the Legal Services Corporation Act

Finally, the proposed PSLF rule conflicts with the Legal Services Corporation Act. President Nixon and Congress created LSC in 1974 to fund high-quality civil legal assistance for people unable to afford private attorneys.²⁷ In creating LSC, Congress aimed to promote equal access to justice, improve economic opportunities for low-income people, and reaffirm faith in the legal system.²⁸ Congress specified that “attorneys providing legal assistance **must have full freedom**

²⁴ 22 U.S.C. § 7101(a).

²⁵ Pub.L. 109-162, § 104, 119 Stat. 2960 (2006).

²⁶ 22 U.S.C. § 7105(b)(1)(B); Pub.L. 109-162, § 104, 119 Stat. 2960 (2006) (currently 34 U.S.C. § 20121).

²⁷ See Pub.L. 93-555, § 2, July 25, 1974, 88 Stat. 378 (codified at 42 U.S.C. § 2996).

²⁸ 42 U.S.C. §§ 2996 (1), (3), (4).

to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.”²⁹

Civil legal aid organizations and attorneys should be able to assist the communities they serve without political interference and fear of retribution. Indeed, Congress recognized the importance of ensuring that political views do not interfere with civil legal aid when it explicitly structured LSC as a quasi-private, non-profit corporation, rather than a federal agency, to insulate it from the political winds of any given moment. The Legal Services Corporation Act states that, “to preserve its strength, the legal services program must be kept free from the influence or use by it of political pressure.”³⁰ The proposed PSLF rule conflicts with the Legal Services Corporation Act by subjecting LSC organizations to new political pressures and threatening the freedom of legal aid attorneys to best serve all of their lawful clients.

The PSLF regulation is also unnecessary to ensure that civil legal aid attorneys do not engage in activities with an illegal purpose. LSC-funded civil legal aid organizations are strictly regulated by LSC.³¹ They must comply with restrictions prohibiting specified political activities, limiting which immigrants they are allowed to assist, and restricting other activities in which they may engage.³² They and non-LSC funded programs also often receive funding from interest on lawyers’ trust accounts (IOLTA) programs and other government funding that impose state and other federal law restrictions. In addition, all civil legal aid attorneys are subject to the oversight and ethical requirements of state bar associations. All of these various oversight regimes already ensure that civil legal aid attorneys refrain from illegal activity through explicit restrictions and requirements, regular monitoring, oversight and enforcement by federal and/or state agencies. There is no reason for the Secretary of Education to layer on additional restrictions or oversight over LSC conduct to ensure that LSCs are providing public service, and Congress has not authorized the Secretary to do so.

Thank you for your consideration of these comments. If you have any questions about these comments, please contact Abby Shafroth (ashafroth@nclc.org) and Robyn Smith (rsmith@lafla.org).

Respectfully submitted,

National Consumer Law Center (on behalf of its low-income clients)
Legal Aid Foundation of Los Angeles

²⁹ 42 U.S.C. §§ 2996 (6) (emphasis added).

³⁰ 42 U.S.C. §§ 2996 (5).

³¹ See 42 U.S.C. §§ 2996, *et seq.*; 45 C.F.R. §§ 1600.1 to 1644.5.

³² 42 U.S.C. § 2996f; 42 C.F.R. Parts 1604-1615, 1617, and 1626.

AIDS Law Project of Pennsylvania
Bay Area Legal Aid
Bet Tzedek Legal Services
Blue Ridge Legal Services, Inc.
California Center for Movement Legal Services
California Rural Legal Assistance, Inc.
CASA
CASH Campaign of Maryland
Center for Access to QDROs
Charlotte Center for Legal Advocacy
Colorado Legal Services
Communities Resist
Community Justice Project, Inc.
Community Legal Services in East Palo Alto
Consumer Bankruptcy Assistance Project
East Bay Community Law Center
Family Violence Appellate Project
HIAS Pennsylvania
Housing and Economic Rights Advocates
Idaho Legal Aid Services, Inc.
Indiana Legal Services, Inc.
Jacksonville Area Legal Aid, Inc.
Lakeshore Legal Aid
Land of Lincoln Legal Aid, Inc.
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Learning Rights Law Center
Legal Aid Association of California
Legal Aid DC
Legal Aid Justice Center
Legal Aid of Nebraska
Legal Aid of Sonoma County
Legal Aid of the Bluegrass
Legal Aid Society of Northeastern New York (LASNNY)
Legal Aid Society of San Diego
Legal Aid Society of San Mateo County
Legal Aid Works
Legal Services NYC
Legal Services of Eastern Missouri, Inc.
Legal Services of New Jersey
Maryland Legal Aid

MetroWest Legal Services
Montana Legal Services Association
Mountain State Justice, Inc.
National Center for Law and Economic Justice
National Center for Medical-Legal Partnership
National Housing Law Project
National Legal Aid & Defender Association
Neighborhood Legal Services
Neighborhood Legal Services of Los Angeles County
New York Lawyers for the Public Interest
New York Legal Assistance Group (NYLAG)
Northwest Immigrant Rights Project
Ohio State Chair, National Association of Consumer Advocates
Pine Tree Legal Assistance
Prism Counseling & Advocacy
Public Advocates Inc.
Public Counsel
Public Justice Center
Senior Advocacy Network
Services, Immigrant Rights and Education Network (SIREN)
Skagit Legal Aid
Southern Arizona Legal Aid, Inc.
Step Forward
Survivor Justice Center
TeamChild
The Public Interest Law Project
The Rebuild, Overcome, and Rise (ROAR) Center of UMB
Tzedek DC
UnLocal
Virginia Poverty Law Center
Western Center on Law & Poverty
Western New York Law Center