



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

Issue Paper #5: Public Service Loan Forgiveness (PSLF) Eligibility
Session 1: October 4-8, 2021

Issue: Employer Eligibility and Full-Time Employment

Statutory citations: 455(m) of the Higher Education Act of 1965, as amended

Regulatory citations: 34 CFR §685.219

Summary of Issues: Under section 455(m) of the Higher Education Act of 1965, as amended, the Secretary will cancel outstanding balances on eligible loans for borrowers who are employed in public service jobs. This issue paper explores employer eligibility of organizations that provide a public service as its primary function and clarifies the definition of full-time employment.

All levels of government and 501(c)(3) organizations are qualifying employers for public service loan forgiveness (PSLF). The statute also includes qualifying jobs at employers that are not government or 501(c)(3) organizations if they provide certain services, such as public health and public interest law services. Many of these services are undefined, and those that have definitions may be unclear to borrowers seeking to determine employer qualification. The Department is working to determine which other types of employers provide public service as a primary function of their organization and whether these organizations would be considered as qualifying employment for PSLF.

Under current regulations, full-time employment is defined as working in one or more jobs for the greater of an annual average of at least 30 hours per week (or an average of 30 hours per week for at least eight months for a contractual or employment period) or the number of hours certified by the employer as full-time if working for two or more employers.

The Department has identified several areas in the regulations governing eligibility issues that can be improved and further streamlined:

- It is difficult to determine if an organization should qualify as an employer for PSLF purposes if that organization does not have 501(c)(3) status but provides public service as its primary function. This lack of clarity creates confusion for borrowers.
- Under 34 CFR §685.219(b), employers have flexibility in defining full-time employment by the number of hours the employee works per week. This creates different eligibility thresholds standards when one employer considers 40 hours a week as full-time, and another employer considers 35 hours a week as full-time, even though the underlying requirement in the law is at least 30 hours.
- Individuals whose pay is based upon academic credit hours or courses taught, such as adjunct professors or contingent faculty, have trouble converting their course load into hours worked per week. Employers may also not know how to do that conversion, making them reluctant to

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certify employment. This can create a barrier for adjunct professors and similarly situated individuals to make progress toward receiving a discharge.

- A borrower's "annual average" hours must be full-time and should be recalculated on an ongoing basis to account for any fluctuations in hours worked that result in dropping from full-time to part-time employment.

Solution: The Department believes that Public Service Loan Forgiveness must better deliver on its promises. While the Administration is working on multiple pathways to address challenges in this program, improved regulations can make it easier for borrowers to understand and meet the requirements for the program and provide greater clarity to employers. To accomplish these goals and address the issues identified above, the Department proposes the following initial solutions for discussion with the negotiating committee:

Define the primary services of a private organization. The Department is currently seeking ideas on how best to define the primary service an organization provides if it is not a 501(c)(3) or government organization but seeks to qualify as a public service employer for PSLF purposes. The Department proposes to establish a primary service definition to ensure employers perform one of the public services included in the law as a primary function of the organization. The Department seeks ideas on what should be included in such a definition.

The Department would also like to query the Committee for ways to define what services must be provided to qualify as a public service employer. For example, are there existing definitions for these services used by other federal agencies that the Department could rely upon? Proposals related to this paragraph or the one above it that can be automated are especially welcome.

Clarify the definition of full-time employment. The Department proposes defining full-time as 30 hours for all borrowers, removing the criteria that set full-time employment at the greater of 30 hours or how the employer defines full-time employment. The Department also proposes to use a credits-taught-to-hours-worked conversion factor to help adjunct instructors. The Department recommends starting the suggested threshold at 2.5 work hours per credit hour because this aligns the federal student aid definition of full-time for a student (12 credit hours) with the 30-hour work requirement.

The Department would also incorporate existing operational practice into regulations by asking employers to certify the average hours worked for the time covered by an employment certification, instead of an entire year. This will help borrowers who work in seasonal eligible employment to be considered full-time for the months they are engaged in that work.