DEPARTMENT OF EDUCATION

34 CFR Part 685

[Docket ID ED-2025-OPE-0016]

RIN 1840-AA28

William D. Ford Federal Direct Loan (Direct Loan) Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary establishes new regulations on the Public Service Loan Forgiveness (PSLF) program in the William D. Ford Federal Direct Loan (Direct Loan) program under 34 CFR 685.219 by adding or clarifying provisions to exclude employers that engage in specific enumerated illegal activities such that they have a substantial illegal purpose, including defining obligations and processes tied to making such a determination of an employer, clarifying that borrowers will receive full credit for work performed, until the effective date of the Secretary's determination that an employer is no longer a qualifying employer under the rule; and establishing methods for an employer to regain eligibility following a determination of ineligibility by the Secretary. These regulations ensure that taxpayer dollars are not misused by preventing PSLF benefits from going to individuals employed

by organizations that have a substantial illegal purpose. The revisions strengthen accountability, enhance program integrity, and protect hardworking taxpayers from shouldering the cost of improper subsidies granted to employees of organizations that undermine national security and American values through criminal activity.

DATES: These regulations are effective July 1, 2026. For the implementation dates of the regulatory provisions, see the Implementation Date of These Regulations in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Executive Summary

The Department of Education (Department) is committed to ensuring that taxpayer dollars are not used to support organizations engaged in unlawful activities. To uphold this principle, the Secretary will exclude organizations engaged in specific enumerated activities such that they have a substantial illegal purpose from being considered qualifying employers under the Public Service Loan Forgiveness (PSLF) program. The activities indicative of a substantial illegal purpose include aiding and abetting violations of Federal immigration laws, supporting

terrorism or engaging in violence for the purpose of obstructing or influencing Federal Government policy, engaging in the chemical and surgical castration or mutilation of children in violation of Federal or state law, engaging in the trafficking of children to another State for purposes of emancipation from their lawful parents in violation of Federal or State law, engaging in a pattern of aiding and abetting illegal discrimination, and engaging in a pattern of violating State laws. This action aligns with President Trump's Executive Order *Restoring Public Service Loan Forgiveness*, Executive Order 14235 (Mar. 7, 2025) directing the Department to revise PSLF eligibility criteria to prevent Federal funds from subsidizing activities that undermine national security and American values. The final rule clarifies the definition of a qualifying employer, specifies activities constituting a substantial illegal purpose, outlines the impact on borrower eligibility, and ensures employers are notified and given an opportunity to respond before any adverse decision by the Secretary. These measures strengthen the integrity of the PSLF program and protect American taxpayers from supporting organizations engaged in illegal activities such that the organization has a substantial illegal purpose.

Purpose of This Regulatory Action

SUMMARY OF THE MAJOR PROVISIONS OF THIS REGULATORY ACTION

The final regulations –

* Amend § 685.219(b) to modify the existing structure of the subsection into the regulatory paragraph structure.

* Amend § 685.219(b) to add definitions for: aiding or abetting, chemical castration or mutilation, child or children, foreign terrorist organizations, illegal discrimination, other Federal Immigration laws, substantial illegal purpose, surgical castration or mutilation, terrorism, trafficking, violating State law, and violence for the purpose of obstructing or influencing Federal Government policy.

* Amend § 685.219(c) to establish that on, or after, July 1, 2026, no payment made by a borrower shall be credited as a qualifying payment for PSLF for any month that a qualifying employer is no longer eligible as a qualifying employer for the PSLF program. Borrowers will receive full credit for work performed until the effective date of the Secretary's determination that an employer engaged in illegal activities such that it has a substantial illegal purpose under the rule.

* Amend § 685.219(e) to require the Secretary to notify borrowers of a qualifying employer's status if the qualifying employer is at risk of becoming or becomes ineligible to participate in the PSLF program.

* Amend § 685.219(g) to clarify that a borrower may not request reconsideration of a determination by the Secretary that resulted in the employer losing status as a qualifying employer because the employer has a substantial illegal purpose.

* Add § 685.219(h) to establish that the Secretary determines by a preponderance of the evidence, and after notice and opportunity to respond, and consideration of materiality, that a qualifying employer has engaged in activities enumerated in paragraph(b)(30) on or after July 1, 2026, such that the employer has a substantial illegal purpose. Also, the Secretary will presume certain actions are conclusive evidence that the employer engaged in activities such that it has a substantial illegal purpose.

* Add § 685.219(i) to establish that the Secretary will initiate the process for determining whether a qualifying employer engaged in activities such that it has a substantial illegal purpose when (1) the Secretary receives an application in which the employer fails to certify that it did not participate in activities that have a substantial illegal purpose, or (2) the Secretary otherwise determines that the qualifying employer engaged in such activities under the standard set forth in § 685.219(h). The Secretary made a minor technical change from the NPRM to remove an extraneous word “which” from (i)(1)(ii). Further, paragraph (i)(2) clarifies that the

Secretary may consider organizations that share the same identification number or other unique identifier to be separate entities if the organization is operating separately and distinctly from another entity with the same identification number (i.e., for the purpose of determining whether an employer sharing such identifier is eligible).

* Add § 685.219(j) to establish that an employer that loses PSLF eligibility and desires to regain eligibility could regain qualifying employer status either (1) 10 years from the date the Secretary makes a determination under the process in subsection (i), or (2) after the Secretary approves a corrective action plan.

* Add § 685.219(k) to require that, if an employer regains eligibility to participate in the PSLF program, the Secretary updates, within 30 days, the qualifying employer list.

Background

The PSLF program was established by the College Cost Reduction and Access Act of 2007 (CCRAA), Pub. L. 110-84, 121 Stat. 84. In particular, the CCRAA amended section 455(m) of the Higher Education Act of 1965, as amended (HEA), to allow for cancellation of remaining loan balances for eligible Direct Loan borrowers after they made 120 monthly payments under a qualifying repayment plan while working in a qualifying public service.

Following the enactment of the CCRAA, the Department promulgated PSLF regulations at 34 CFR 685.219, which became effective on July 1, 2009. *See Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program*, 73 FR 63232 (Oct. 23, 2008).

Since its original promulgation, 34 CFR 685.219 has been amended seven times. *See* 74 FR 55972 (Oct. 29, 2009); 77 FR 76414 (Dec. 28, 2012); 80 FR 67204 (Oct. 30, 2015); 85 FR 49798 (Aug. 14, 2020); 87 FR 65904 (Nov. 1, 2022); 88 FR 43064 (July 6, 2023); 88 FR 43820 (July 10, 2023). Of these amendments, two amendments promulgated in 2020 and 2022, respectively, have substantively changed the criteria for qualifying employment for the purposes of participation in PSLF. In 2020, the definition of "public service organization" was substantively changed to allow employees of organizations engaged in religious activities (regardless of whether the borrower's duties included religious instruction, worship services, or any form of proselytizing) to be eligible for PSLF. This change was made in response to the United States Supreme Court decision in *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 582 U.S. 449 (2017), and the United States Attorney General's October 7, 2017, Memorandum on Federal Law Protections for Religious Liberty, https://www.justice.gov/archives/opa/press-

release/file/1001886/dl. This memorandum was written pursuant to Executive Order 13798 on *Promoting Free Speech and Religious Liberty* (May 4, 2017) and was intended to ensure that faith-based entities are not discriminated against due to their religious beliefs and that borrowers choosing to work for such entities (which met the definition of public service organization) could gain the same benefits afforded to borrowers working for non-faith-based entities. In 2022, the Department changed the term "public service organization" to the term "qualifying employer" under 34 CFR 685.219 and substantively changed the underlying way the definition functions. In these regulations, subsection (v)(A) of the definition of qualifying employer referenced another term: "non-governmental public service." Previous iterations of 34 CFR 685.219 provided a list of public services that, if provided by a private organization, allowed it to qualify as a "public service organization," but did not offer any definition for the enumerated public services (except for certain public health roles, which relied on definitions provided by the Bureau of Labor Statistics). This list aligned closely with section 455(m)(3)(B) of the HEA, which defines "public service job." Although the 2022 rule incorporated the bulk of previous version's list of public services into the definition of "non-governmental public service," it also provided specific definitions for each

public service incorporated into that definition. Furthermore, the 2022 rule clarified that private organizations providing a non-governmental public service had to be nonprofit organizations to be considered a qualifying employer for the purposes of PSLF, substantially limiting employer eligibility.

The Department, in this final rule, establishes that to be considered a qualifying employer for purposes of the PSLF program, an organization must not engage in illegal activity such that it has a substantial illegal purpose. Organizations that break the law such that they have a substantial illegal purpose are actively harming the public good. *See Mysteryboy Inc. v. Comm'r*, 99 T.C.M.(CCH) 1057 (T.C. 2010). This rule prevents Federal funds from subsidizing harmful illegal activities through a program designed to reward public service.

Below, we address the Secretary's broad authority to engage in rulemaking on this topic and provide a brief discussion of the relevant statutory authority regarding what type of organization constitutes a qualifying employer for the purposes of PSLF, the implementation of that authority, and relevant changes to 34 CFR 685.219 since its original promulgation. Additionally, we discuss how the illegality doctrine utilized by the Internal Revenue Service (IRS) serves as a basis for the Department to promulgate regulations to exclude organizations that have

engaged in certain illegal activities from the definition of qualifying employers.

The negotiated rulemaking committee that convened June 30 through July 2, 2025, considered draft regulatory text and did not reach consensus because one negotiator disagreed with the draft regulatory language.

On August 18, 2025, the Secretary published a notice of proposed rulemaking (NPRM). The NPRM included the Department's proposed regulations, and these final regulations reflect and respond to the public comments received on the regulatory proposals in the NPRM. These final regulations also contain changes from the NPRM, which are fully explained in the Analysis of Public Comments and Changes section of this document, where applicable.

Cost and Benefits: As further detailed in the Regulatory Impact Analysis (RIA), the final regulations will have meaningful implications for borrowers, taxpayers, and the Department. The regulatory changes outlined in this final rule are designed to strengthen the integrity of the PSLF program by ensuring that only borrowers employed by organizations engaged in lawful activities and legitimate public service remain eligible for loan forgiveness. By excluding employers engaged in activities such that they have a substantial illegal purpose, the rule aims to better align PSLF eligibility with the program’s statutory intent: to encourage Americans to pursue public service careers

that improve their communities. Furthermore, the rule will ensure that the Department is not indirectly subsidizing employers engaged in activities that have a substantial illegal purpose that harm fellow Americans.

For borrowers, the final rule will remove PSLF eligibility whenever they are employed by organizations that do not qualify under the revised criteria. In cases where an employer is deemed to have engaged in activities that breach Federal or State law, affected borrowers will no longer receive credit toward loan forgiveness for the months worked after the determination date of ineligibility as made by the Secretary. However, borrowers will receive full credit for work performed until the effective date of the Secretary's determination that they are no longer a qualifying employer for the purposes of the PSLF program. Although this may delay or prevent loan forgiveness for a subset of borrowers, the overall design of the regulations, including advance notice, transparency around determinations, and employer recertification pathways, help prevent unexpected or retroactive harm. These borrowers will retain the ability to pursue PSLF through eligible employment elsewhere, thereby preserving the program's intended purpose.

For taxpayers, the final rule reduces the risk of improper use of taxpayer funds by ensuring that credit toward loan forgiveness is only granted in circumstances

where individuals are actually engaging in lawful public service. Employers that engage in unlawful activity are not serving the public interest because their actions harm their communities and the public good. By limiting PSLF eligibility to borrowers employed by organizations that do not engage in unlawful conduct, the rule reinforces appropriate commonsense stewardship of Federal funds. Although the exact budgetary impact will depend on the number and size of employers that do not meet the revised definition in this final rule, the regulations are expected to reduce PSLF-related discharges in cases where forgiveness would otherwise go to borrowers employed at organizations acting contrary to the public good.

For the Department, the rule introduces new administrative responsibilities that include reviewing employer conduct, issuing determinations, notifying borrowers of status changes, and entering into and overseeing corrective action plans. Although these tasks will require the reallocation of Department staff and system resources, the use of existing standards, such as definitions grounded in Federal law and doctrines adopted by other agencies, and processes, will allow the Department to administer the regulations efficiently and consistently to prevent improper payments. As in other regulations administered by the Department, the final rule also codifies a clear evidentiary framework, such as relying on

court judgments or plea agreements, which limit the need for new investigative and adjudicative processes.

Taken together, these regulations represent a necessary evolution of PSLF oversight. The costs associated with employer review and administration are modest and proportional to the benefits gained, including reducing improper payments and increasing transparency, program integrity, and taxpayer protection. Most importantly, this final rule strengthens the fundamental purpose of PSLF — to encourage borrowers to enter occupations that improve their communities and advance the public good while also guarding against the diversion of Federal benefits to organizations that harm their fellow Americans by engaging in illegal conduct.

Implementation Date of These Regulations: These regulations are effective on July 1, 2026. Section 482(c) of the HEA requires that regulations affecting title IV programs be published in final form by November 1, prior to the start of the award year (July 1) to which they apply.

Public Comment: On August 18, 2025, the Secretary published an NPRM for these regulations in the Federal Register; 13,989 parties submitted comments on the proposed regulations.

Analysis of Public Comments and Changes

The Department has grouped issues according to the regulatory section or subject and themes, with appropriate

sections of the regulations referenced where applicable. We discuss other substantive issues under the sections of the regulations to which they pertain. In instances where individual submissions appeared to be duplicates or near duplicates of comments prepared as part of a write-in campaign, the Department posted one representative sample comment along with the total comment count for that campaign to *www.Regulations.gov*. We considered these comments along with all the other comments received. In instances where individual submissions were bundled together (submitted as a single document or packaged together), the Department posted all the substantive comments included in the submissions along with the total comment count for that document or package to *www.Regulations.gov*. Generally, we do not address minor, non-substantive changes (such as renumbering paragraphs, adding a word, or typographical errors) within this final rule. Additionally, we generally do not address changes or comments recommended by commenters that the statute does not authorize the Secretary to make (such as forgiving all student loans), or comments pertaining to operational processes. Analysis of the comments and of any changes in the regulations since publication of the NPRM follows.

Process for Out-of-Scope Comments

We do not address comments that are out of scope. For purposes of this final rule, out-of-scope comments are

those that are not addressed in the NPRM altogether. Generally, comments that are outside of the scope of the NPRM are comments that do not discuss the content or impact of the proposed regulations or the Department's evidence or reasons for the proposed regulations.

Request to Extend Public Comment Period

Comments: Several commenters explicitly urged the Department to extend the comment period. They argued that the proposed changes were introduced without adequate opportunity for meaningful public participation. Additionally, commenters argued that there was a lack of transparency and stakeholder engagement. They suggested that the short comment period undermined trust and fairness, claiming that important legal aid, nonprofit, and advocacy groups had little chance to weigh in.

Discussion: The Department disagrees with the commenters. The Department fully complied with the Administrative Procedure Act (APA) and requirements for negotiated rulemaking in the HEA. The comment period provided through the initial public hearing, negotiated rulemaking, and NPRM notice and comment process met the requirements established in law, giving the public numerous opportunities to provide feedback. Indeed, nearly 14,000 comments were received across diverse stakeholder groups, including those referenced by the commenters, within the established timeframe, demonstrating that interested parties were aware

of the proposed changes and able to share feedback. In addition, the public engagement process, including the public comment period referenced by commenters, that the Department followed here is consistent with other title IV, HEA rulemakings. *See e.g.,* Student Assistance General Provisions, 87 FR 41878 (proposed July 13, 2022)(providing for a 30-day comment period); Financial Value Transparency and Gainful Employment, 88 FR 32300 (proposed May 19, 2023) (providing for a 32-day comment period). The public has had ample opportunity to engage and provide feedback throughout the Department's rulemaking process. No substantive input has been ignored.

Changes: None.

Public Service Loan Forgiveness (§685.219)

General comments

Comments: Several commenters provided overarching commentary on the NPRM rather than commenting on specific provisions. Some commenters expressed their opinion that the rule was poorly conceived and duplicative of existing law, while others claimed that it will create confusion and uncertainty for both borrowers and employers. A recurring theme was the perception that the NPRM lacked clarity on how it will be implemented. Several commenters questioned whether the proposed framework would be administered fairly and consistently. Others stated that finalizing the rule

would undermine confidence in the whole Direct Loan program.

Discussion: The final rule is not duplicative because the Department does not currently consider whether an otherwise qualifying employer engages in illegal activities such that it has a substantial illegal purpose for PSLF-eligibility purposes. The Department does not agree that the rule will cause confusion because the Department will provide notice to both borrowers and employers in the event an employer is no longer eligible because the Department has determined it engaged in illegal activities such that it has a substantial illegal purpose.

The Department does not think that the rule will undermine confidence in the PSLF program because the rule will ensure that PSLF benefits are only being received by employees of organizations that are serving the public interest. By limiting eligibility in this way, the rule ensures that taxpayer funds are only used to indirectly subsidize employment at employers who are not breaking the law. As such, this final rule should increase confidence in the PSLF program by reducing improper payments to borrowers working for employers who are breaking the law and harming their respective communities.

Changes: None.

General Support for the Regulations

Comments: Many commenters expressed gratitude and strong approval for the Department's efforts to reform the PSLF program. They characterized the program as historically confusing, plagued by denial of benefits, and saw the proposed reforms as a long-overdue fix that will restore trust and usability.

Discussion: The Department agrees with the commenters and appreciates their support. The PSLF program has faced significant challenges over the years, including high denial rates, administrative barriers, and widespread confusion among borrowers. This final rule delivers clarity, fairness, and accountability for borrowers and qualifying employers under PSLF. It strengthens transparency and ensures PSLF is restored to its intended focus on public service for the betterment of communities. This final rule ends the subsidization of employment at organizations that are not only failing to serve the public interest but are actually doing harm by engaging in illegal conduct.

Changes: None.

Comments: Some commenters highlighted that strengthening the integrity of the PSLF program directly supports the recruitment and retention of professionals in public service careers such as teaching, nursing, social work, and government service. They emphasized that these reforms make

it more feasible for individuals to dedicate their careers to public service without the burden of unmanageable debt.

Discussion: The Department agrees that the PSLF program makes it easier for borrowers to pursue public service careers; however, the rule is unlikely to materially alter those incentives like the commenters suggest. This is because the rule does not expand eligibility for the program and is thus unlikely to induce new borrowers, who are not currently participating or would not otherwise be inclined to participate, to work for a qualifying employer. We agree, however, that strengthening the program's integrity will likely improve public perception and support its long-term sustainability.

Changes: None.

Comments: Some commenters stressed that PSLF is not only beneficial for borrowers but also for the communities they serve. By making it possible for professionals to remain in public service roles, PSLF helps stabilize organizations that provide education, healthcare, safety, and social services. Several commenters noted that healthy, stable public service organizations generate positive externalities for the economy and society.

Discussion: The Department partially agrees with the commenters. PSLF is clearly beneficial to borrowers and the organizations that employ them, but it is also very costly for taxpayers who ultimately must bear the cost of loan

forgiveness. Although this rule ensures PSLF has clear and consistent standards for qualifying public service employers in communities across the country, in some cases the program has created perverse incentives for colleges and universities to increase tuition costs and load unsustainable levels of debt onto students.[1] Moreover, the waivers provided by the last Administration – waiving payments specifically required by statute – provided PSLF loan cancellation benefits to thousands of borrowers who were sometimes years away from eligibility or who would never have been eligible under the statutory requirements of the program.[2] Unlike the temporary and legally questionable actions taken by the last Administration, this final rule addresses a key shortcoming of the PSLF program — granting benefits for employment at organizations engaged in illegal activities such that it has a substantial illegal purpose — through the proper rulemaking process.

Changes: None.

Comments: Several commenters emphasized that strengthening PSLF will restore public trust, not only in the program itself, but also in the Federal Government's ability to deliver on its promises to support public service careers. They argued that years of denial, poor communication, and

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[1] Preston Cooper & Alexander Holt, *Turn Public Service Loan Forgiveness into a State Block Grant*, CTR. ON OPPORTUNITY AND SOC. MOBILITY: AEIDEAS (Apr. 17, 2025), https://cosm.aei.org/turn-public-service-loan-forgiveness-into-a-state-block-grant/.

[2] Kaitlin Mulhere, *It Just Got a Lot Easier to Qualify for Public Service Loan Forgiveness*, MONEY (Oct. 6, 2024), https://money.com/public-service-loan-forgiveness-changes-waiver/.

unclear rules eroded faith in public service initiatives, and that these reforms provide a chance to demonstrate that government programs can work effectively, transparently, and fairly.

Discussion: The Department agrees that strengthening the PSLF program is essential for the restoration of taxpayer trust in PSLF. This final rule ensures that PSLF benefits are not misdirected to those working for organizations that are not serving the public interest. Years of inconsistent administration, ill-conceived waivers, and confusing standards have eroded public confidence in the PSLF program. This rule reverses that trend and delivers much-needed clarity, transparency, and accountability for borrowers and employers.

Changes: None.

Comments: Approximately 70 comments noted borrowers from underrepresented and economically disadvantaged backgrounds are more likely to pursue careers in public service as a result of the PSLF program. Some comments cited a report commissioned by the National Legal Aid & Defender Association to suggest borrowers are more likely to struggle with student loan debt in the absence of the PSLF program.[3] They praised the PSLF program as a way to level the playing field, enabling a more diverse and representative public service workforce.

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[3] National Legal Aid & Defender Association (NLADA), Public Service Loan Forgiveness and the Justice System (Mar. 2025), https://www.nlada.org/pslf-and-justice.

Discussion: The Department disagrees that PSLF advances equity and inclusion efforts that improperly use racial goals. PSLF is race-neutral and was not designed with any specific targeting of benefits to borrowers from underrepresented or economically disadvantaged backgrounds. Rather, PSLF is intended to provide financial incentives to borrowers from all backgrounds to work in jobs in the public service sector with qualifying employers. In some cases, the value of PSLF benefits to borrowers may help to incentivize those borrowers to seek employment or to remain employed with PSLF qualifying employers rather than seeking employment in other sectors. This final rule supports this objective by ensuring that PSLF benefits are not improperly granted to any borrower employed by an organization that does not meet the definition of a qualifying employer, regardless of the borrower's racial or socioeconomic background.

Changes: None.

General Opposition to the Regulations

Comments: Several commenters opposed the proposed rule in its entirety. Some commenters expressed their distrust of the Department's motives, suggesting that the rule was less about protecting program integrity and more about restricting access to loan forgiveness. Others feared that the rule will deter participation in public service jobs,

and ultimately harm both borrowers and the communities that rely on them.

Discussion: The Department rejects the broad, unsubstantiated claims by these commenters. The standards in this rule bring clarity, consistency, and needed accountability to the PSLF program. The Department's motives are not pretextual or designed to limit access to PSLF beyond removing eligibility for organizations that engage in illegal activities such that they have a substantial illegal purpose. If an organization is found to have a substantial illegal purpose, any borrower working for such an employer may look for alternative employment with a qualifying employer if they wish to pursue PSLF. The Department acknowledges that borrowers who remain with an employer that loses eligibility will not receive credit toward loan forgiveness for months of employment at that employer who would have otherwise qualified prior to this final rule. These borrowers will have a choice to seek employment with a different qualifying employer. However, the Department believes that any harm to borrowers is outweighed by the Federal Government's interest in not allowing PSLF benefits to flow to borrowers who work for employers engaged in illegal conduct. The Department agrees that this final rule will serve as a deterrent for borrowers who may want to work for employers who are engaged in illegal activities such that the employer has a

substantial illegal purpose and believes that kind of deterrence is appropriate as it creates incentives for organizations to avoid engaging in illegal activity. Furthermore, the Department emphasizes that this rule provides borrowers with advance notice regarding the types of activities that may constitute a substantial illegal purpose, thereby disqualifying an employer under the PSLF program. This transparency enables borrowers to make informed decisions about whether to begin or continue employment with a given organization. Additionally, borrowers will have sufficient time to assess their employment options and whether those options are impacted by these final regulations.

Changes: None.

Comments: Several commenters observed that PSLF is already "overly complicated and poorly managed." They argued that adding what they viewed as subjective eligibility rules may deepen borrower confusion, making it harder for professionals in government and nonprofit work to continue through the PSLF program. They argued that borrowers will be penalized by their employer's activities rather than by their own individual actions.

Discussion: The Department disagrees. Under this final rule, borrowers will receive full credit for work performed until the effective date of the Secretary's determination that an employer engaged in illegal activities such that it

has a substantial illegal purpose. Borrower payments will not count toward time to forgiveness when payments are made after a determination that an employer is an ineligible employer for the PSLF program. The Department believes that any confusion that may be created by this final rule will be outweighed by the corresponding benefits to the integrity of the PSLF program and reductions in indirect benefits to organizations engaged in illegal activity. The focus of this rule is appropriately on employers, as Congress requires the Department to ensure that borrowers are working for a qualifying employer before providing PSLF benefits to a borrower. This final rule is not intended to punish borrowers. The Department is not taking away any credit toward loan forgiveness for any qualifying payment that was made before their employer was deemed ineligible. A determination that an employer is no longer an eligible employer within the PSLF program has no bearing on a borrower's current or future participation in loan forgiveness programs. However, the Department acknowledges that some borrowers may lose access to PSLF benefits due to their employer's unlawful actions — actions potentially beyond borrowers' control but which the Department cannot overlook. The Department believes this is necessary to prevent future benefits from going to employees of employers that have engaged in illegal activities such that the employer has a substantial illegal purpose.

Changes: None.

Comments: Many commenters argued that the NPRM lacked clear standards, and that PSLF could be subject to shifting interpretations depending on the political environment. They warned that this uncertainty makes the program appear arbitrary and would leave both employers and employees vulnerable to sudden disqualification. This unpredictability, they argued, would undermine trust in PSLF and weaken its intended role as a stable incentive for public service.

Discussion: The Department rejects the claim that PSLF is left open to shifting political winds. This rule provides strong, clear standards anchored in law, not ideology. That clarity provides certainty for borrowers, confidence for employers, and accountability for taxpayers. Qualifying employers will only face uncertainty if they decide not to follow the law. Employers who follow the law will not be disqualified, and because most organizations follow the law, the Department believes the commenters' concerns about widespread changes in incentives to enter public service as a result of the rule are significantly overstated. By codifying objective standards, this final rule ties forgiveness to lawful public service for purposes of the PSLF program.

Changes: None.

Comments: Commenters claimed that the rule does not explicitly describe how determinations will be made, what counts as activity contrary to law, or how appeals will function. They argued that the absence of detail could create uncertainty for both borrowers and employers.

Discussion: The Department rejects the claim that the rule lacks clarity as to how determinations will be made. The Secretary will weigh any evidence presented showing that an organization's activities violated any laws and make a determination if those violations rise to the level of substantial illegal purpose. The Secretary will look to see if there is a pattern of behavior by the organization, the gravity of the violation, and generally exclude evidence of technical violations of law. When reviewing an employer's conduct, the Secretary will consider any reliable evidence, including countervailing evidence provided by the employer. This final rule also establishes a reconsideration process for employers when they have been determined ineligible. Employers may seek review, submit documentation, and receive written explanations of the Secretary's determination. This approach ensures transparency, protects taxpayers, and maintains borrower confidence. Furthermore, the Due Process Clause of Fifth Amendment ensures that all entities that are subject to a Departmental adjudication are entitled to an unbiased adjudicator. This ensures that all entities have an adjudicator who has not prejudged the

law or the facts, as applied, and that all decisions are supported by reliable evidence.

Changes: None.

Comments: Some commenters noted that, when borrowers lose PSLF benefits, it affects not just them but the communities they serve. Professionals might leave public service for private-sector roles, reducing the workforce available to meet urgent needs in education, healthcare, and social services. Commenters expressed specific concerns about borrowers employed in rural areas where finding another job may be difficult in the event their employer loses PSLF eligibility. They noted that alternative employment options in these areas may be rare, and borrowers may be forced to relocate for other employment opportunities in the event there are no other qualifying employers in their area.

Discussion: The Department acknowledges that it is possible if a borrower loses access to PSLF benefits due to this final rule that he or she could leave public service to find a job in the private sector. However, the degree to which this is likely to occur is speculative and will vary widely based upon the borrower's skills and abilities, where the borrower is living, other employment opportunities in the local community, and whether the borrower wants to continue to work in public service. The Department disagrees with the commenter that these

speculative equities outweigh the benefits of the rule, which has been previously discussed.

The Department acknowledges there may be potentially fewer qualifying employers in rural communities than in more urbanized areas; however, as shown in Table 5.4 of the Regulatory Impact Analysis of this final rule, over 1 million borrowers have received PSLF benefits to date across more than 20 sectors of the economy. The Department must balance concerns that disqualification of qualifying employers in an area with few qualifying employers may result in fewer choices for borrowers seeking to benefit from PSLF against its primary responsibility to safeguard American taxpayer dollars and interests by ensuring that PSLF benefits are only received for work at qualifying employers that are serving the public interest.

The Department also disagrees with the assertion that this rule will have a significant macroeconomic impact on labor markets in education, healthcare, and social services in most areas. The commenter did not provide sufficient evidence to support this claim, and the Department finds no basis to conclude that such widespread effects are likely. As noted in the Regulatory Impact Analysis, because we expect most organizations to voluntarily comply with the rule, the Department anticipates that it will take action to remove eligibility for less than ten organizations per year. As presented in Table 5.2 of this final rule, to

date, approximately 30 percent of borrowers receiving forgiveness through PSLF were employed by non-governmental entities. Accordingly, the Department believes the commenters' assertion is overstated and that this rule will not materially reduce the available workforce in education, healthcare, and social services.

Changes: None.

Comments: Several commenters noted that nonprofits, advocacy organizations, and religious institutions may self-censor or avoid lawful but controversial work for fear that PSLF eligibility could be withdrawn based on political interpretations. They stressed that PSLF should not create disincentives for organizations to pursue their missions independently, whether in areas like immigration, reproductive health, or civil rights.

Discussion: The Department does not believe the rule will require nonprofits, advocacy organization, or religious institutions to self-censor to avoid losing eligibility as a qualified employer. This final rule explicitly includes references to the U.S. Constitution relating to protecting rights under the First Amendment. This final rule could not, even without such explicit references, be enforced in a manner that contravenes the First Amendment; therefore, commenters' concerns that the Department will impede upon the First Amendment rights of these organizations are overstated and not consistent with the Department's own

legal limitations. Lawful activity will not disqualify an organization, no matter how controversial or unpopular it may be. The Department will enforce the PSLF program neutrally and transparently, consistent with the law. Nonprofits and advocacy groups are free to pursue their missions without fear of interference from the Department, provided their actions are lawful. This rule strikes an appropriate balance between preserving independence, protecting borrowers, and safeguarding taxpayers while keeping the PSLF program focused on lawful, public service as the American people expect.

Changes: None.

Legal Authority

General Legal Authority to Change and Clarify

Comments: Some commenters questioned the Department's authority to redefine or expand disqualification standards through regulation. They emphasized that the PSLF program was created by Congress with specific statutory language, and any meaningful change to qualifying employment categories should come directly from amendments to the statute rather than regulatory changes. They are worried that regulatory overreach could invite legal challenges, create uncertainty, and ultimately destabilize PSLF for borrowers. Also, some commenters stated that the Department was overreaching its authority, politicizing the PSLF

program, and introducing unnecessary complexity into the program.

Discussion: The Department rejects the suggestion that this rule exceeds its legal authority. The HEA grants the Secretary explicit power to regulate title IV programs. PSLF is a title IV program, and its proper administration requires clear, enforceable standards that are often established and implemented through regulations issued by the Secretary. Establishing objective standards through the rulemaking process is not overreach and avoids politicizing the PSLF program. It is a lawful and common exercise of authority delegated by Congress. Borrowers deserve clarity and taxpayers deserve accountability, both of which this final rule provides. Furthermore, under the illegality doctrine, courts and the IRS have established that revocation of statutory benefits to organizations engaged in illegal activities is proper if its purposes and activities are illegal or otherwise contrary to public policy. *See Bob Jones Univ. v. United States*, 461 U.S. 574, 591 (1983)[4]; *see also Rev. Rul. 75-384*, 1975-2 C.B. 204

[4] *Bob Jones University* is frequently invoked when discussing the so-called "public policy doctrine," under which an organization's Section 501(c)(3) tax-exempt status may be revoked for engaging in conduct that is not specifically illegal. This occurs where there "can be no doubt that the activity involved is contrary to a fundamental public policy." *Bob Jones Univ.*, 461 U.S. at 592. In *Bob Jones University*, the Court determined that this standard was met, because the organizations' actions (i.e., the maintenance of racially discriminatory admissions policies) ran contrary to "every pronouncement of this Court and myriad Acts of Congress and Executive Orders." *Id. at* 593. Although the public policy doctrine is similar to (and often discussed alongside) the illegality doctrine, the evidentiary bar set in *Bob Jones University* is different and applicable when revocation of an organization's tax-

("[i]llegal activities, which violate the minimum standards of acceptable conduct necessary to the preservation of an orderly society, are contrary to the common good and the general welfare of the people in a community and thus are not permissible means of promoting the social welfare . . .") Therefore, this rule fulfills the Department's obligation to enforce PSLF consistent with its statutory purpose – to only benefit those borrowers working for organizations that truly serve a public purpose by helping, not harming, their communities. This rule makes certain borrowers receive forgiveness only for lawful public service by shielding forgiveness from abuse. The Department is faithfully executing the law, not expanding it.

Changes: None.

Comments: Several commenters pointed specifically to 20 U.S.C. 1087e(m)(3)(B), which outlines definitions of public service job categories, and questioned whether the Department has authority to alter or clarify these categories through rulemaking. They argued that, by

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exempt status is based on conduct which is not explicitly illegal. *Id. at* 591 ("A corollary to the public benefit principle is the requirement, long recognized in the law of trusts, that the purpose of a charitable trust may not be illegal or *violate established public policy*.")(*emphasis added*). By contrast, the bar for revoking an organization's Section 501(c)(3) tax-exempt status for engaging in or encouraging illegal activity is different, because actions that violate laws are inherently contrary to public policy in that the political branches (legislative and executive branches through bicameralism and presentment) have created positive law to counter the conduct at issue. *See I.R.S. Gen. Couns. Mem.* 34631 (Oct. 4, 1971) (*citing I.R.S. Gen. Couns. Mem.* 31376 (Aug. 14, 1959)).

creating new standards of disqualification, the Department may be venturing beyond clarifying existing law into substantively redefining the statute, a role they asserted belongs solely with Congress.

Discussion: The Department disagrees that the amendments made in this final rule are ultra vires. Section 1087e(m)(3)(B) provides the statutory categories, but it is the Department's responsibility to interpret and apply those categories in a way that ensures PSLF operates as the statute requires. This rule does not rewrite the statute. It fills out the statutory scheme Congress placed under the Department's supervision. In defining a public service job under the HEA, Congress listed 18 distinct categories of jobs. Within four of those categories ("public health," "public interest law services," "early childhood education," and "government"), Congress provided parentheticals to provide some additional detail as to what types of jobs within each of those categories they meant to include or exclude. In addition, within the list of public service jobs, Congress included employment at an organization that is described in Section 501(c)(3) of the Internal Revenue Code. In the list of all 18 distinct categories, there is considerable overlap among the categories. For example, the categories of "military service," "law enforcement," "public library sciences," and "public education" are also included within the

"government" category. Likewise, there is overlap between "public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a nonprofit organization)" and organizations that are described in Section 501(c)(3) of the Internal Revenue Code.

To make sense of these overlapping and arguably duplicative categories, it is important to consider the level of generality at which Congress approached the problem. Indeed, Congress provided for a long list of eligible professions to broadly ensure that all professions that advance the public interest were included in the list. This provides an important clue in interpreting the underlying statute, as the Department must presume that Congress would not want PSLF benefits to be received by employees of organizations that the Department knows are not serving the public interest. This includes organizations that are breaking the law, which is contrary to the public interest. Surely, Congress would not want to reward organizations that break the law and have a substantial illegal purpose by indirectly subsidizing their organizations by providing loan forgiveness to their employees.

Furthermore, although it is possible that the IRS could take independent action to revoke Section 501(c)(3) tax-exempt status from an organization engaging in illegal

conduct, that same organization (absent action from the Department) could remain eligible for PSLF (assuming it still met the requisite criteria for nonprofit organizations) and continue to employ individuals in public service jobs if those jobs meet another part of the definition under 20 U.S.C. 1087e(m)(3). For example, an organization that is organized as a nonprofit and provides State-funded prekindergarten services could lose Section 501(c)(3) status under the Internal Revenue Code but remain an eligible employer under previous versions of the Department's regulation. Similarly, an organization that the Department determines has a substantial illegal purpose may continue to be exempt under Section 501(c)(3) because its tax-exempt status has not been revoked, a determination made by the IRS. This final rule provides that the Department can act in these circumstances, removing eligibility when the Department finds the organization has engaged in illegal activities such that it has a substantial illegal purpose.

This rule advances the statutory scheme Congress created in section 455(m)(3)(B) of the PSLF statute in the HEA, which includes multiple references to public service in defining public service job.

Changes: None.

Comments: A significant number of commenters argued that the Department lacks statutory authority to apply a

"preponderance of the evidence" standard in making employer disqualification determinations. Commenters claimed the "preponderance of the evidence" standard is inappropriately low. They contended that such a standard is inappropriate for decisions with major financial consequences and instead urged exclusive reliance on final judicial or administrative findings. Some commenters indicated that Congress needs to provide explicit authorization for the Department to proceed with this evidentiary framework.

Discussion: The Department rejects the claim that it lacks authority to establish an evidentiary standard and has utilized this same standard in other title IV regulations. This rule does not preclude legal activities that assist groups mentioned by the commenters. This includes any lawful work performed by legal aid attorneys, nonprofit law offices, community legal clinics that provide direct legal services, public defense, civil rights litigation and advocacy organizations, and other activity that support low-income or disadvantaged people.

The Department will solely enforce this rule against organizations that participate in illegal activity such that they have a substantial illegal purpose. Congress, through the HEA, granted broad authority to regulate title IV programs. The preponderance of the evidence standard is well established in administrative law for civil adjudications and is fair and consistent with longstanding

Federal practice. It ensures decisions are grounded in fact, not speculation, and allows the Department to act promptly to protect both borrowers and taxpayers. Here, in applying the preponderance of the evidence standard to the substantial illegal purpose test, the Secretary will need to find that it is more likely than not that an organization's illegal activity is more than an insubstantial part of its activities that advance an illegal purpose. Plea agreements or admissions of illegal conduct in settlements could provide sufficient proof of unlawful activity to warrant program action, ensuring accountability without waiting for final judicial or administrative findings that could otherwise delay enforcement and allow misconduct to persist. The Department has the responsibility to safeguard PSLF and ensure taxpayer funds are directed only to encourage lawful public service. This evidentiary framework provides the Department with discretion to act swiftly to ensure that taxpayer resources are not wasted to ensure fairness for employers and borrowers.

Changes: None.

Comments: Commenters raised concerns that PSLF program eligibility could be used as a political tool to compel alignment with an administration's priorities. They suggested that this could limit free speech and advocacy

while potentially undermining the independence of public service groups.

Discussion: The Department rejects this unsubstantiated concern. The standards for qualifying employment are not intended, nor do they regulate policy preferences, advocacy, or discriminate based upon viewpoint.

The standards are limited to ensuring that employers meet statutory requirements for lawful public service activities. Organizations that abide by Federal law and the laws of the State in which they operate will not be subject to potential loss of eligibility. PSLF employer eligibility is not conditioned on political alignment or conformity with any administration policies. Determinations regarding whether an organization has engaged in illegal activities such that it has a substantial illegal purpose will be objective and based on evidence such as judgments of State or Federal courts, guilty pleas of the organization, or statements by the organization admitting that it engaged in such conduct (such as in a settlement agreement). It will not be colored by the policy preferences of an employer. Here, the Department is not regulating viewpoint and will enforce the regulation in a manner that does not take viewpoint into account. This approach does not interfere with the policy preferences or advocacy efforts of public service organizations and safeguards taxpayer funds by ensuring benefits are delivered only to organizations that

are not engaged in illegal activities such that they have a substantial illegal purpose. The Department will administer the PSLF program neutrally to keep the program focused on its purpose of supporting careers in qualified public service, notwithstanding the policy preferences or viewpoints of the public service employer.

Changes: None.

Comments: Many commenters expressed concern that the Department will apply the rule in a way that punishes organizations based on political ideology or affiliation rather than on legitimate unlawful conduct. They worried that nonprofit and advocacy organizations could be stripped of PSLF eligibility because their missions or policy stances differ from the administration.

Discussion: The Department will administer the PSLF program in a manner that provides borrowers with the benefits required by statute, while ensuring the responsible stewardship of taxpayer resources. As discussed in the previous comment, the Department cannot take action against an employer because of their viewpoint or policy preferences. However, when employers break the law, such that the organization has a substantial illegal purpose, the Department may take action to safeguard the integrity of the PSLF program by removing eligibility from that employer. The Department cannot and will not prejudge the facts or the law with respect to specific employers, but

organizations that follow the law will not be subject to adverse action under this final rule.

Changes: None.

Comments: Some commenters expressed concern that even if the Department does not intend to use PSLF in a political way, the lack of precise definitions and safeguards could create the perception of arbitrary or politically motivated enforcement. They emphasized that the appearance of bias can be as damaging as actual bias, eroding public trust and discouraging organizations from engaging in lawful advocacy work.

Discussion: The Department recognizes that it is possible that enforcement under the regulation could be perceived as politically motivated, but perceptions are not often reality. The perception of some members of the public as to why the Department takes an action should not control or impair the Department's ability to take action, lest the Department become captive to popular perception of the underlying motivation whether true or not. The Department does not intend to take enforcement action based on pretextual grounds. Adverse action will be taken only where the evidence demonstrates that an organization has a substantial illegal purpose.

If the Department takes action under this regulation, impacted entities will receive notice and an opportunity to respond prior to any determination.

Changes: None.

Comments: Some commenters claimed that this rule is an overreach of executive power and unconstitutional because it creates new disqualification standards not explicitly authorized by Congress. Other commenters argued that the proposed rule deals with a major question under the Major Questions Doctrine and that the Department lacks a clear congressional authorization to promulgate the rule.

Discussion: The Department disagrees that the rule is a form of executive overreach or that it is unconstitutional. The HEA gives the Secretary clear and broad authority to regulate title IV programs, such as PSLF. This final rule is firmly within that authority.

The history surrounding the creation and use of the illegality doctrine is instructive in assessing whether this rule is unconstitutional or is a form of executive overreach. Indeed, courts have upheld the use of the illegality doctrine in the context of administering the Internal Revenue Code relating to organizations that engaged in activities that are illegal or otherwise contrary to public policy. *See e.g., Bob Jones Univ.,* 461 U.S. at 591 (holding that an organization may be denied tax-exempt status if its purposes or activities are illegal or otherwise contrary to public policy), *Church of Scientology of Cal. v. Comm'r*, 83 T.C. 381 (1984) (upholding revocation of tax-exempt status for a religious

organization because of its conspiracy to defraud the United States, which violated established public policy). These cases demonstrate that the Department is implementing established legal standards when determining whether organizations are engaging in public service by examining whether they engage in activities that are illegal such that they have a substantial illegal purpose. These actions, like those taken by the IRS, are not unconstitutional nor do they amount to executive overreach. Furthermore, the Department disagrees that the rule is a major question under the Major Questions doctrine. The doctrine generally requires Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance. *West Virginia v. EPA*, 597 U.S. 697, 716(2022)(internal quotations omitted). There is not a bright line standard for what constitutes a major question, but courts look to the breadth of the authority asserted and its economic and political significance. The Supreme Court has found that the Major Questions Doctrine is implicated, for example, where the actions of an agency impact the price of energy for nearly all Americans, where the Secretary attempts to cancel upwards of $500 billion in Federal student loan debt for millions of borrowers, and where millions of health insurance subsidies would be impacted. *See e.g., West Virginia*, 597 U.S. at 716; *Biden v. Nebraska*, 600 U.S. 477, 505 (2023), *King v. Burwell*, 576

U.S. 473, 135 (2015). Here, the Department estimates that this final rule may impact less than ten employers per year across the country. Furthermore, the rule makes no substantive changes to the legality of certain actions but changes the consequences for breaking the law where an employer has a substantial illegal purpose. The Major Questions Doctrine, as articulated by the Supreme Court, is not applicable when a rule impacts less than ten employers per year and does not prohibit lawful conduct.

Changes: None.

Comments: Many commenters provided examples of organizations aiding refugees and asylum seekers, which they believe to be lawful activities. Commenters were concerned that depending on political motivations, these actions could be deemed "illegal." Commenters believed that advocacy or humanitarian groups could face disqualification despite acting within the law.

Discussion: The Department disagrees with the commenters' concerns. In the first instance, Federal law prohibits individuals from aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime against the United States. 18 U.S.C. 2. Any individual who engages in such practices to assist illegal immigrants in breaking Federal law may violate 18 U.S.C. 2. Federal law does not prohibit individuals from advocating for illegal immigrants or representing them in Federal immigration court.

Organizations that do not aid or abet in criminal activity will not be disqualified from participating in the PSLF program, while organizations that participate in unlawful behavior may have a substantial illegal purpose depending on the nature of the offenses. PSLF determinations under this final rule will not be made based on the political views or policy preferences of the organization. Rather, any decisions will be made based upon the factual record of the underlying actions the organization has taken and whether such actions violate the law. This rule does not preclude legal activities that assist groups mentioned by the commenters. The Department will only enforce this rule against organizations that participate in illegal activity such that they have a substantial illegal purpose.

Changes: None.

Comments: Commenters argued that existing statutes governing nonprofit conduct (for example, IRS regulations, State charity laws, and criminal statutes) already prohibit organizations from engaging in illegal activity. Creating additional rules through PSLF is seen as duplicative and unnecessary. Commenters also argued that there may be the potential for an irreconcilable conflict to arise for public service professionals where actions mandated by laws like the Individuals with Disabilities Education Act (IDEA), Emergency Medical Treatment and Active Labor Act (EMTALA), and Family Educational Rights and Privacy Act of

1974 (FERPA) or actions required by professional code, could be subjectively misinterpreted as illegal activities that have a substantial illegal purpose.

Discussion: The Department acknowledges that rules at the Federal and State levels broadly prohibit nonprofit organizations from engaging in illegal conduct, but the Department disagrees that this final rule is duplicative of those efforts. Indeed, as explained previously, Congress created a broad definition of public service job to capture a broad array of public service employment. Even if the IRS or a State takes action to revoke an organization's tax-exempt status, the organization may still satisfy the definition of a public service employer and, therefore, would remain eligible for participation in the PSLF program. Accordingly, the Department would need to act to ensure that any organization that engages in illegal activities such that it has a substantial illegal purpose is not able, through its employees, to benefit from the PSLF program.

The Department considered alternatives here, namely that because the IRS could take independent action, it may not be necessary for the Department to make the changes in this rule. However, just like all executive branch agencies, the IRS has resource constraints that limit its ability to act against organizations under the illegality doctrine and must exercise some degree of prosecutorial

discretion. This means that, at least at times, the illegality doctrine will be underenforced. In other words, there may be instances where some organizations that have a substantial illegal purpose continue to have IRS tax-exempt status.

The Department has a heightened interest in ensuring that the PSLF program is administered in a manner that safeguards against improper payments. Indeed, the median balance forgiven for borrowers through PSLF is $65,000 so the Department has a significant monetary interest in ensuring that only months of work in lawful public service employment are counted toward forgiveness.[5] The Department's interest here stands separate and apart from any interest the IRS has in taking action to revoke tax-exempt status, because Congress assigned the Department the responsibility to administer and oversee the PSLF program. Because of the Department's independent interest in preventing misuse of taxpayer resources, as well as the fact that the IRS may not always revoke the tax-exempt status of organizations engaging in activities that amount to having a substantial illegal purpose, the Department does not believe that this final rule is duplicative.

With respect to the commenter's assertion that the rule is duplicative because State taxing authorities or

[5] FY25 Department of Education Justifications of Appropriation Estimates to the Congress, Volume II, Student Loans Overview, page 9.

other parts of State government may also act against organizations engaged in activities that amount to having a substantial illegal purpose, the Department disagrees. State action has no bearing on eligibility for the PSLF program, so any State action will not necessarily impact employer eligibility for PSLF, which necessitates the need for the Department to be able to take independent action.

Regarding the comments raising the potential for the rule to conflict with existing Federal laws or State professional codes, the Department does not believe this rule conflicts with any laws. If there were a conflict between Federal law and State law with respect to the illegal conduct considered by the Secretary under this final rule, ordinary principles of Federal preemption law would apply. *See McCulloch v. Maryland*, 17 U.S. 316, 427 (1819) (holding that a State law in conflict with Federal law is without effect). Nothing in this final rule directly preempts State law, and instead broadly defers to State law. The Department is not aware of any conflicts between this final rule and existing Federal and State laws.

Changes: None.

Illegality Doctrine

Application of the Illegality Doctrine

Comments: Commenters argued that the Department's proposal improperly utilizes the illegality doctrine developed by the IRS and the courts by applying doctrines developed in a

tax context to a statutory loan forgiveness program. Some commenters also argued that the Department has misconstrued the illegality doctrine to cover a much wider range of conduct and activities than the doctrine has been applied to by the IRS, which could open the door to political misuse, disqualifying organizations based on contested interpretations of law rather than clear violations. Additionally, some commenters questioned the Department's authority to identify specific types of illegal conduct as a basis for determining that an organization is not a qualifying employer for the purposes of the PSLF program, instead of considering all illegal conduct.

Discussion: The Department disagrees that it is improper for the Department to rely on the illegality doctrine when determining whether an employer qualifies for participation in the PSLF program. PSLF is a statutory benefit designed to encourage public service. The illegality doctrine provides a starting point for the Department to base the concept of excluding organizations with a substantial illegal purpose from PSLF, as the illegality doctrine provides a clear basis for denying certain statutory benefits to organizations whose aims and activities are harmful to the public interest. Furthermore, the substantial amount of case law that has been generated regarding the illegality doctrine demonstrates that courts have long recognized that government benefits are not

required to flow to organizations whose purposes conflict with law. *See*, *e.g.*, *Bob Jones Univ.*, 461 U.S. at591 (holding that an organization may be denied tax-exempt status if its purposes or activities are illegal or otherwise contrary to public policy); *Church of Scientology*, 83 T.C. at 506 (holding that denial of an organization's Section 501(c)(3) tax-exempt status was proper where the purpose of the organization was engaging in criminal tax fraud); *Mysteryboy*, 99 T.C.M. (CCH) 1057 (holding that an organization that promoted activities which are prohibited by Federal and State laws did not qualify for tax-exemption under Section 501(c)(3)).

As mentioned above, the history surrounding the creation and use of the illegality doctrine is instructive in assessing whether this final rule is unconstitutional or is a form of executive overreach. Indeed, courts have upheld the use of the illegality doctrine in the context of administering the Internal Revenue Code to revoke tax-exempt status from organizations that have a substantial illegal purpose. The Department rejects the supposition that the illegality doctrine can only be applied within the context of Section 501(c)(3) of the Internal Revenue Code. The way the IRS interprets the Internal Revenue Code is very similar to what the Department is doing in interpreting the phrase "public service." *See e.g.*, *Rev. Rul. 75-384*, 1975-2 C.B. 204 (finding that an organization

which encouraged civil disobedience did not qualify for tax-exemption as a Section 501(c)(4) organization operated exclusively for the promotion of "social welfare," on the basis that "[i]llegal activities, which violate the minimum standards of acceptable conduct necessary to the preservation of an orderly society, are contrary to the common good and the general welfare of the people in a community and thus are not permissible means of promoting the social welfare"). Courts and the IRS have established that denial or revocation of an organization's tax-exempt status is appropriate when its purposes and activities are illegal or otherwise contrary to public policy. *See Bob Jones Univ.*, 461 U.S. at 591; *Rev. Rul. 75-384*, 1975-2 C.B. 204 . Both the amount of time and attention an organization spends on the unlawful activities and the seriousness of the unlawful activities are relevant considerations. *See, e.g., I.R.S. Gen. Couns. Mem. 34631* (Oct. 4, 1971)(stating, as an example, that "[a] great many violations of local pollution regulations relating to a sizable percentage of an organization's operations would be required to disqualify it from 501(c)(3) exemption" but "if only .01% of its activities were directed to robbing banks, it would not be exempt").[6] Taken together, the Department believes

[6] The Department understands and acknowledges that IRS General Counsel Memoranda("GCMs") do not represent binding precedent. However, because GCMs demonstrate the way the IRS approached a discrete situation, they include persuasive legal analysis which may be applicable in analogous situations. The GCMs cited within this final rule are cited only as examples that the Department looked to while crafting this rule.

that the illegality doctrine can clearly be applied in scenarios outside of just those where the IRS has utilized it in the past, so long as it is used to respond to conduct that is clearly unlawful and substantial in nature.

In crafting this rule, the Department looked to President Trump's Executive Order on *Restoring Public Service Loan Forgiveness*, Executive Order 14235 (Mar. 7, 2025), which identified the forms of unlawful activity that would merit denying an organization qualifying employer status for the purpose of the PSLF program. Although the Department believes that it would be legally permissible for the Department to deny qualifying employer status to organizations for a wider range of unlawful conduct than those set forth in that Executive Order, the Department believes that the Executive Order clearly indicates the areas that the President has identified as being of greatest concern. Furthermore, the Department's enumeration of specific forms of unlawful activity is consistent with the broad powers of prosecutorial discretion of the executive branch. *See United States v. Nixon*, 418 U.S. 683, 693 (1974)(*citing Confiscation Cases*, 74 U.S. 454 (1869); *United States v. Cox*, 342 F.2d 167, 171 (5th Cir.), *cert. denied sub nom. Cox v. Hauberg*, 381 U.S. 935 (1965))("[T]he Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case . . ."); *United States v. Fokker Servs. B.V.*, 818 F.3d 733, 741

(D.C. Cir. 2016) (*citing Cmty. for Creative Non-Violence v. Pierce,* 786 F.2d 1199, 1201 (D.C. Cir. 1986); *ICC v. Bhd. of Locomotive Eng'rs,* 482 U.S. 270, 283 (1987)) ("[J]udicial authority is . . . at its most limited when reviewing the Executive's exercise of discretion over charging determinations.")(cleaned up); *Wayte v. United States*, 470 U.S. 598, 607 (1985) (*citing United States v. Goodwin*, 457 U.S. 368, 380, n. 11, (1982); *Marshall v. Jerrico, Inc.,* 446 U.S. 238, 248 (1980)) ("In our criminal justice system, the Government retains broad discretion as to whom to prosecute."(cleaned up)).

The Department understands the March 7, 2025, Executive Order as being a directive from the President regarding how he would like the Department to exercise our prosecutorial discretion in taking enforcement actions where organizations are engaged in illegal conduct, and this final rule is focused on specific illegal conduct that he has determined that the Department should focus on. Finally, the Department believes that the identification of specific forms of unlawful activity will have the effect of reducing uncertainty for borrowers when considering prospective employers and for employers when making business decisions.

Changes: None.

Lack of Statutory Authority

Comments: Many commenters claimed the Department lacks statutory authority under the HEA to impose new disqualification standards in the PSLF program. They argued that Congress already defined "qualifying employment" to include work at government entities, certain nonprofits, and organizations exempt from tax under Section 501(c)(3) of the Internal Revenue Code because they are described under Section 501(c)(3) and that the Department cannot narrow or redefine this scope by regulation. Several commenters raised separation-of-powers concerns, stating that only Congress, not an executive agency, can amend the PSLF eligibility framework. Commenters warned that this expansion of administrative discretion could destabilize the program.

Discussion: Commenters' claims that the Department lacks authority under 20 U.S.C. 1087e are misplaced. Congress has expressly delegated broad rulemaking authority to the Secretary under the HEA to administer the title IV programs, including PSLF. That authority includes clarifying employment qualifications and establishing conditions under which loan forgiveness may be granted. Although Federal agencies may not create new programs, they are charged with the implementation and oversight of programs created by Congress. That authority includes enumerating procedures for the program and providing clarity for compliance and elimination of improper payment

uses. In addition, as stated above, the HEA authorizes the Department to take action to prevent employees of organizations that have a substantial illegal purpose from receiving benefits under the PSLF program. Congress would not have wanted public funds to support employment that harms the public because it advances illegal activity.

Changes: None.

Duplication of Existing Legal Regimes

Comments: Many commenters argued that existing regulatory regimes already prohibit unlawful activity by nonprofits, charities, and public service organizations. They pointed to IRS oversight, State charity laws, and criminal statutes as sufficient safeguards. They argued that layering additional PSLF-specific disqualification standards is duplicative, unnecessary, and could create conflicting enforcement regimes. Commenters warned that this approach risks burdening compliant organizations and confusing borrowers, while doing little to improve PSLF program integrity.

Discussion: The Department disagrees with the view that the PSLF program should rely exclusively on other enforcement mechanisms and other Federal agencies to enforce the provisions of programs enacted under the HEA. As stated previously, tax exemption, State charity oversight, and criminal prosecution all serve distinct purposes, but none are designed to administer title IV loan forgiveness. PSLF

is a Federal benefit program, and it requires its own eligibility safeguards to ensure taxpayer resources are not diverted to unlawful activity. The Department cannot abdicate this responsibility to outside agencies. This final rule complements, rather than duplicates, existing law. It uses established legal definitions and works in tandem with the IRS, State, and other Federal entities, while maintaining the Department's independent responsibility to administer the PSLF program – a responsibility that Congress clearly provided to the Department. A determination by the Department regarding whether an organization satisfies the requirements to be considered a qualifying employer for the purposes of PSLF is not a determination by the Department regarding that organization's tax-exempt status.

Borrowers deserve certainty and taxpayers deserve assurance that their dollars are used to encourage lawful activities that promote the public good. This framework delivers both by aligning PSLF with lawful public service and protecting the program's integrity.

Changes: None.

Viewpoint Discrimination First Amendment – Free Speech and Association

Comments: Commenters asserted that the proposed rule violates the First Amendment to the U.S. Constitution by conditioning PSLF program eligibility on the political or

ideological missions of employers. They argued that excluding borrowers based on their employer's policy positions constitutes impermissible viewpoint discrimination. Commenters also expressed concern that the rule could reduce lawful advocacy and infringe upon employees' rights to freely associate with nonprofit organizations engaged in public service.

Discussion: The Department rejects the claim that this final rule will result in a reduction of lawful advocacy and public service. The United States Supreme Court has repeatedly emphasized that government cannot condition access to public benefits on the surrender of constitutional rights, including freedom of speech and association. *See e.g., Perry v. Sindermann*, 408 U.S. 593, 597 (1972)(stating "this Court has made clear that even though a person has no right to a valuable governmental benefit and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially, his interest in freedom of speech.")(cleaned up).

The Department continues to assert that PSLF employer determinations will not be based on the viewpoint or advocacy positions of nonprofit or governmental employers or their employees. Instead, the Department will anchor

eligibility exclusively in lawful service to the public, consistent with 20 U.S.C. 1087e(m)(3)(B), which defines qualifying employment to include all government and Section 501(c)(3) organizations. Borrowers and employers may continue to engage in lawful advocacy without fear that PSLF will be used as a tool of ideological enforcement.

Changes: None.

Due Process and Vagueness

Comments: Commenters voiced constitutional concerns under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, specifically in relation to the phrase "substantial illegal purpose." They described this language as vague, ambiguous, and subject to shifting interpretation depending on political context. They said the rule is unconstitutionally void for vagueness because key terms are ambiguous, subjective, overly broad, ill-defined, lack objective standards, and therefore fail to provide adequate notice of prohibited conduct.

According to commenters, the absence of clear definitions deprives borrowers and employers of fair notice and creates the risk of arbitrary enforcement. Commenters also stated that granting broad discretion to the Secretary without certain procedural safeguards could undermine due process by enabling decisions that could be inconsistent, opaque, or politically motivated.

Additionally, some commenters said the disqualification process violates constitutional due process by failing to provide adequate procedural safeguards and lacks a clear process for notice, a formal hearing, or a meaningful appeal to a neutral adjudicator.

Other commenters stated that the rule is procedurally unjust because it denies individual borrowers due process by failing to provide a clear, sufficient, or accessible appeals process to challenge an employer's disqualification. Commenters argued that employees are more directly and personally harmed under the rule, and as such, they should have recourse to correct potential errors, especially as some employers may choose not to challenge their disqualification.

Discussion: The Department takes these due process concerns seriously. Courts have long held that vague standards fail when they create uncertainty and invite arbitrary enforcement. *See e.g., Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972) ("It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined."). A law can be considered void for vagueness when an average citizen cannot generally determine what persons are regulated, what conduct is prohibited, or what punishment may be imposed. *See Johnson v. United States*, 576 U.S. 591, 595 (2015); *see also Kolender v. Lawson*, 461 U.S. 352, 357–58 (1983)

(stating that a law is void unless it is defined with "sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement"); *Vill. of Hoffman Estates v. Flipside, Hoffman Ests., Inc.*, 455 U.S. 489, 498 (1982) ("A law that does not reach constitutionally protected conduct and therefore satisfies the overbreadth test may nevertheless be challenged on its face as unduly vague, in violation of due process."); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972) ("Living under a rule of law entails various suppositions, one of which is that (all persons) are entitled to be informed as to what the State commands or forbids." (*quoting Lanzetta v. New Jersey*, 306 U.S. 451, 453 (1939) (cleaned up)). This rule clearly defines to whom the requirements apply, the conduct that is prohibited and the consequence of engaging in illegal activities for an employer who qualifies in the PSLF program. This final rule does not create new substantive prohibitions; it merely changes the consequences for the organization that is engaging in illegal activity such that it has a substantial illegal purpose. The underlying legal prohibitions are broad, but broad prohibitions are permitted so long as there is adequate notice of what is prohibited. Furthermore, the clear and defined parameters of the rule will help the Department avoid arbitrary enforcement of the

rule, which is an important goal of the void for vagueness doctrine.

The Department acknowledges that its original definition in the draft regulations first presented to the negotiated rulemaking committee was broader and less precise than what was proposed in the NPRM. To ensure employers and borrowers have fair notice, and after having discussed issues and concerns during negotiated rulemaking, the Department refined the definition of "substantial illegal purpose" and several other definitions in the NPRM to better clarify the illegal activities that could lead to an employer being disqualified from participation in PSLF.

Additionally, under the process proposed in the NPRM, in section 682.219(j), employers will be provided with a notice, a transparent record, and an opportunity to review, respond, and rebut the Department's findings to a neutral adjudicator, thereby ensuring that due process is afforded to all impacted stakeholders and applied fairly and consistently. The rule also provides an opportunity for employers to regain eligibility by following a corrective action plan to come into compliance after a loss of eligibility. If the processes established in this final rule do not resolve a concern, employers can seek judicial review of the Department's decisions in Federal court. The Administrative Procedure Act (APA) provides default rules establishing procedures for judicial review of Federal

agency actions. 5 U.S.C. 706. If an employer has exhausted the administrative remedies established in this rule and meets all of the other legal requirements to file a complaint, it can challenge the Department in Federal court.

Finally, the Department believes that employers are better situated than borrowers to respond to preliminary findings from the Department about the employer's eligibility. Employees may not have sufficient information to provide the Department with a full evidentiary framework to consider because they may not be privy to employer actions or decisions. Employers may include information in their submissions regarding the impact eligibility determinations may have on their employees.

Changes: None.

Equal Protection Concerns

Comments: Several commenters raised concerns that the proposed rule may violate the Fifth Amendment's Due Process Clause, asserting it disproportionately targets organizations that serve marginalized populations and could unlawfully deprive borrowers and employers of PSLF benefits without adequate notice, procedural safeguards, or a meaningful opportunity to be heard. Commenters argued that altering program eligibility or redefining qualifying employment could constitute an arbitrary or retroactive deprivation of benefits on which participants had

reasonably relied. Several other commenters also asserted that the proposed rule violates the Due Process Clause of the Fifth Amendment by altering PSLF eligibility criteria in a manner that could deprive borrowers or employers of benefits without adequate procedural safeguards. Some commenters further alleged that the rule would have a disproportionate effect on nonprofit entities serving marginalized or disadvantaged populations, raising concerns under both due process and equal protection principles implicit in the Fifth Amendment.

Approximately 50 commenters further contended that the rule would disproportionately affect organizations serving marginalized or disadvantaged populations, such as those providing legal services, social support, and educational or healthcare access to low-income, minority, and immigrant communities. These commenters asserted that narrowing PSLF eligibility based on organizational mission or activities could effectively exclude nonprofit employers that advance equity and civil rights goals (e.g., in work related to immigrant communities, LGBTQ+ individuals, or racial justice initiatives), thereby compounding inequities the program was designed to mitigate.

Discussion: The Department agrees that the PSLF program must be administered in a neutral manner, without targeting organizations because of their viewpoint or activism. The Department would have no basis to remove eligibility from

nonprofits engaged in work related to immigrant communities, LGBTQ+ individuals, or racial justice if those organizations are following the law. As such, the Department disagrees that this final rule would unfairly disadvantage the referenced types of groups.

As discussed throughout, the Department promulgates this rule under its authority in 20 U.S.C. 1087e(m) and HEA to administer the PSLF program and ensure consistent, lawful application of its requirements. In evaluating comments addressing constitutional issues, the Department considered whether any aspect of this rule implicates procedural or substantive rights under the Fifth Amendment.

The Department carefully considered concerns regarding the Fifth Amendment and concludes that the rule is fully consistent with constitutional requirements. The rulemaking process provides notice and an opportunity for public comment, as required under the Administrative Procedure Act (5 U.S.C. § 553), satisfying the procedural component of due process. This final rule applies prospectively and does not rescind previously granted loan forgiveness or otherwise retroactively alter qualifying employment determinations. Accordingly, it does not implicate a constitutionally protected property interest. *See Bd. of Regents v. Roth*, 408 U.S. 564, 577 (1972) ("To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have

more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. It is a purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined.")

With respect to the alleged disparate impact on organizations serving marginalized populations, the Department emphasizes that PSLF eligibility is determined according to statutory criteria established in 20 U.S.C. § 1087e(m). Eligibility determinations are made by considering the activities employers engage in that are unlawful either under Federal or State law, without respect to the impact it may or may not have on individuals based upon any protected characteristics. This final rule interprets those provisions in a neutral manner, without regard to the employer's mission, ideological orientation, or the population it serves. The mere disparate impact of a facially neutral rule does not, without evidence of intentional discrimination, establish a constitutional violation. *See Washington v. Davis*, 426 U.S. 229, 242 (1976)(holding that a law which is "neutral on its face and serving ends otherwise within the power of government to pursue," was valid under the Equal Protection Clause despite the law adversely impacting individuals from one race more than others).

The Department therefore finds that the rule neither infringes upon due process rights nor results in an unlawful disparate treatment or denial of equal protection under the Fifth Amendment.

Accordingly, the Department continues to assert that lawful advocacy or provision of services to immigrant communities, LGBTQ+ individuals, or racial justice organizations does not disqualify an employer from participating in the PSLF program. Only where a determination has been made that an organization is engaging in illegal activities such that it has a substantial illegal purpose will PSLF eligibility be at issue.

Changes: None.

Contract Concerns

Comments: Some commenters felt that the rule violates the Contracts Clause by unilaterally renegotiating the terms of existing agreements with borrowers, which they argue breaks the trust of individuals who made significant career and financial decisions in good-faith reliance on the government's promise and allows the Department to withdraw promised benefits based on its opposition to a borrower's work. Similarly, some commenters argued the rule violates legal principles like promissory estoppel, and that the government is legally and morally obligated to honor its

commitment after borrowers have upheld their end of the agreement through years of service and payments.

Discussion: The Department rejects the contention that the rule violates the Contracts Clause by unilaterally renegotiating the terms of existing agreements with borrowers. In the first instance, the Contracts Clause only applies to States, not the Federal Government. Furthermore, the contractual instrument the Department uses when originating loans, the master promissory note (MPN), explicitly disclaims the notion that terms and conditions of Federal student loans are fixed and cannot be changed through the legal process. When a borrower signs an MPN, the MPN is valid for additional Federal student loans the borrower takes out for ten years, with certain exceptions. This means that borrowers may receive multiple or serial loans for up to ten years from the date the borrower signed the MPN. By signing the MPN, borrowers agree to the terms and conditions of the loans while acknowledging that terms and conditions of those loans may be changed.

Specifically, the MPN explicitly states that its terms and conditions "are determined by the HEA and other federal laws and regulations."[7] MPN at 3. Section 1 of the Borrower's Rights and Responsibilities Statement (BRR) provided with the MPN further clarifies that amendments to

[7] Master Promissory Note (MPN) Direct Subsidized Loans and Direct Unsubsidized Loans William D. Ford Federal Direct Loan Program, OMB No. 1845-0007 (retrieved Oct. 22, 2025), available at https://studentaid.gov/mpn/subunsub/preview.

the HEA and other Federal laws and regulations may amend the terms of the MPN and cautions that "[d]epending on the effective date of the amendment, amendments to the [HEA or other federal laws and regulations] may modify or remove a benefit that existed at the time that you signed this MPN." MPN at 6. Therefore, by signing the MPN, the borrower acknowledges the possibility that the terms of the agreement between themselves and the Department can be changed and that currently offered benefits may not be available in the future.

The Department rejects the contention that this rule is barred by promissory estoppel. The doctrine of promissory estoppel is commonly understood to be inapplicable in disputes between private parties and the Federal Government. Michael J. Cole, *Don't "Estop" Me Now: Estoppel, Government Contract Law, and Sovereign Immunity if Congress Retroactively Repeals Public Service Loan Forgiveness*, 26.1 Lewis and Clark L. Rev. 154, 169 (2022) (*citing Hubbs v. United States*, 20 Cl. Ct. 423, 427–28 (1990), aff'd, 925 F.2d 1480 (Fed. Cir. 1991); *Eliel v. United States*, 18 Cl. Ct. 461, 469 (1989), aff'd, 909 F.2d 1495 (Fed. Cir. 1990); *Schwartz v. United States*, 16 Cl. Ct. 182, 185 (1989); Ralph C. Nash & John Cibinic, Promissory Estoppel: A Theory Without a Home in Government Contracts, 3 THE NASH & CIBINIC REP. ¶ 52 (July 1989)). Breach of contract disputes involving the Federal

Government are governed by the Tucker Act (28 U.S.C. § 1491(a)(1)) and Contract Disputes Act (41 U.S.C. §§ 7101-7109), neither of which allow the private parties to obtain relief when they are harmed by the Federal Government's promises.

Even if promissory estoppel was applicable to the Department, the required elements for a promissory estoppel claim could not be satisfied by a borrower whose employer loses its qualifying employer status as a result of this rule. The doctrine of promissory estoppel is rooted in detrimental reliance and requires proof that there was a promise or representation made, that the promise or representation was relied upon by the party asserting the estoppel in such a manner as to change his position for the worse, and that the promise's reliance was reasonable and should have been reasonably expected by the promisor. *See L. Mathematics & Tech., Inc. v. United States*, 779 F.2d 675, 678 (Fed. Cir. 1985). Here, the borrower would fail to satisfy the required elements for a promissory estoppel claim because they expressly acknowledged and agreed to the possibility of changes to benefits that existed when they signed the MPN. The MPN disclaims the idea that the terms and conditions of a Federal student loan are unalterable, meaning that any reliance interest is not reasonable. Furthermore, such a borrower would struggle to demonstrate that they were harmed as a result of this reliance, as the

borrower would still have received a measurable benefit as a result of working for the formerly-qualifying employer, as all qualifying payments made by the borrower before the date of the organization's loss of qualifying employer status will continue to be counted as such, meaning that the borrower will have made progress toward loan forgiveness through PSLF as a result of their employment.

Retroactivity Concerns

Comments: Several commenters expressed concerns that the rule is impermissibly retroactive because it adds new requirements that impact existing participants, creates uncertainty, and violates the holdings of cases such as *Landgraf v. USI Film Prod*uctions, 511 U.S. 244 (1994), and *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988), which require express Congressional authorization for rules with retroactive effect. Other commenters argued that the rule improperly penalizes organizations for lawful past conduct. A few commenters suggested that, to prevent unfair outcomes and impermissible retroactivity, any new restrictions must be applied prospectively to new borrowers, new loans, or new employees who begin service after the rule's effective date. Many commenters stated that current borrowers should not be impacted if their employer loses eligibility to participate in PSLF as a result of this rule.

Discussion: The Department disagrees that this final rule has retroactive effect on any current qualifying employers or borrowers employed by such organizations. An organization can only lose or be denied qualifying employer status under this final rule if it engaged in illegal activities such that it has a substantial illegal purpose on or after July 1, 2026, the effective date of this final rule. Those activities are all clearly enumerated within the final rule. The Supreme Court has stated that "considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly." *Landgraf*, 511 U.S. at 265. This rule complies with that principle by identifying the prohibited activities and providing that the conduct occurring before a future date will not be a factor when the Department considers whether the organization has a substantial illegal purpose. Both employers and borrowers will have approximately eight months between the publication of this final rule and its effective date, providing sufficient time to understand the types of illegal conduct that could result in an employer losing PSLF eligibility.

With regard to borrowers employed by organizations that are currently qualifying employers, this final rule has no retroactive effect because any qualifying payment that the borrower made during the period of time that such

employer was considered a qualifying employer will continue to count as such, including any payments made during the employer reconsideration process, even if the employer ultimately loses that status. In any case, an organization cannot lose or be denied qualifying employer status unless it engaged in illegal activities such that it has a substantial illegal purpose on or after July 1, 2026, meaning that payments made by borrowers employed by a qualifying organization could not possibly cease to be considered qualifying payments until the effective date of this final rule, at the very earliest. Taken together, the rule cannot and does not have a retroactive effect.

Furthermore, the Department rejects the argument that this final rule conflicts with the Supreme Court's rulings in the *Landgraf* and *Bowen* cases. In *Landgraf*, the Supreme Court rejected the plaintiff's argument that new remedies created by the Civil Rights Act of 1991 should apply in a sexual harassment case, even though the harassment and her resignation occurred before the legislation was passed, with the Court concluding that statutes burdening private rights are not presumed to have retroactive effect unless Congress clearly intended such retroactive effect. *See* 511 U.S. at 270, 285, 286. In *Bowen*, the Supreme Court found that the Secretary of Health and Human Services had exceeded his rulemaking authority by promulgating a wage index rule in 1984 under which Medicare reimbursements paid

to hospitals that had been disbursed since 1981 would be recouped, because Congress did not explicitly give the Secretary of Health and Human Services the power to promulgate rules with retroactive effect. *See* 488 U.S. at 204, 210, and 211. This final rule is not in conflict with the Supreme Court's rulings in *Landgraf* or *Bowen* because it only concerns conduct occurring on or after July 1, 2026, and because payments made by borrowers employed by the organization during the period it was a qualifying employer will still be counted toward PSLF forgiveness, regardless of whether the organization later loses its qualifying employer status.

Furthermore, the Department disagrees that this final rule penalizes past lawful conduct. All the activities included within the definition of "substantial illegal purpose" require a violation of relevant State or Federal laws on or after July 1, 2026. An organization will not, and cannot, be penalized for past lawful conduct. To the extent that an organization engages in conduct which later becomes illegal as a result of a change in State or Federal law, only conduct occurring after the effective date of such a change could be considered relevant when considering whether the organization has a substantial illegal purpose, as the conduct was not illegal until that point in time.

Finally, the Department rejects the argument that any new restrictions on qualifying employment must only be

applied to new borrowers. The MPN signed by each borrower explicitly states that its terms and conditions "are determined by the HEA and other federal laws and regulations." MPN at 3. Section 1 of the BRR that is provided with the MPN further clarifies that that amendments to the HEA and other Federal laws and regulations may amend the terms of the MPN and specifically cautions that "[d]epending on the effective date of the amendment, amendments to the [HEA or other Federal laws and regulations] may modify or remove a benefit that existed at the time that you signed this MPN." MPN at 6. Because borrowers have been forewarned about the possibility of such changes, the Department believes it is unnecessary to grandfather in existing borrowers, especially when such an approach could result in the Department treating two borrowers differently when both are employed by the same organization, at the same time, and both are making payments. This result would be unfair to borrowers, would undermine the purpose of this final rule, and pose practical difficulties in terms of administration.

Definitions General (§ 685.219(b))

Comments: Commenters objected to the introduction of new, undefined concepts such as "substantial illegal purpose," "aiding or abetting," or "violating State law." Without precise definitions, they argued, these terms invite inconsistent application across States and agencies.

Discussion: The Department disagrees that these terms are undefined or not well understood. These terms are clearly defined in the regulation, and in many instances are cross referenced to existing law that prohibits the underlying conduct. The concept of aiding and abetting is purposefully broad as it prohibits assisting in numerous types of criminal activity, but it is well understood by courts and the public. Likewise, the phrase "violating State law" is intentionally broad and encompasses a wide array of conduct, but it is also sufficiently clear and puts employers on notice that State law violations may be considered when determining if an organization has a substantial illegal purpose. Lastly, the term "substantial illegal purpose" is also clearly defined in the regulation and puts organizations on notice that the Secretary will consider any illegal conduct from the enumerated list and weigh it to determine if the organization has a substantial illegal purpose.

The purpose of using such terms is to set clear standards for PSLF program eligibility, not to create new interpretations. The Department will also rely on existing findings of unlawful activity by courts or other regulators where appropriate. To the extent that State laws may vary, the Department will defer to the judgments of State courts in determining what constitutes unlawful activity within the jurisdiction where the conduct occurs.

In instances where an organization has locations in more than one State and only broke the law in one or a few States, the Department may still find that the organization has a substantial illegal purpose by weighing all the relevant evidence. However, the Department will not find an organization to have engaged in illegal activity (and weigh that evidence under the substantial illegal purpose test) if the underlying conduct occurred in a State in which the conduct was legal. In other words, unless the State where the conduct occurs prohibits such conduct, the organization has not engaged in illegal conduct, and the Department will not use that conduct as a basis for removing employers from the PSLF program.

Changes: None.

Comments: Many commenters argued that the definitions provided in the rule are either too vague or sweep too broadly, creating uncertainty for both borrowers and employers. They worried that broad terms could invite inconsistent or arbitrary application, leaving organizations unclear about their eligibility status and borrowers without reliable assurances. Other commenters emphasized that definitions must be precise enough to avoid politicization but flexible enough to cover genuinely unlawful conduct.

Discussion: The Department agrees that its definitions are broad but disagrees that they are too vague to be clearly understood. As mentioned above, this final rule establishes

definitions that are anchored in law, have precise meanings that provide sufficient notice, are written in a manner in which they can be applied uniformly, and are generally understood by the public.

Changes: None.

Aiding or Abetting (§ 685.219(b)(1))

Comments: Commenters expressed concern that extending PSLF disqualification to organizations deemed to have "aided or abetted" unlawful activity would open the door to subjective interpretations. They questioned what level of involvement or association constitutes "aiding" and were worried that entities providing indirect support, such as legal advice, medical care, or humanitarian assistance, could be unfairly swept into disqualification. Commenters additionally expressed concern about the application of the definition of "aiding and abetting" from 18 U.S.C. 2 to organizations, rather than individuals, and argued that such application is improper because corporations are legal concepts that do not have or share intent. Additionally, commenters urged the Department to clarify that lawful representation of a client accused of participating in substantial illegal activity does not constitute participation in said illegal activity, and requested the Department provide a 'safe harbor' for the activity representation.

Discussion: The Department rejects the idea that ordinary, lawful assistance such as legal advice, medical care, or humanitarian support could trigger PSLF disqualification. Attorneys do not break the law, or adopt the views of their clients, by representing individuals in legal proceedings. This includes representing clients who may be unpopular, like terrorists. As such, the Department will not take action against legal employers under this final rule who are lawfully representing clients, including public defenders, or under the Legal Services Corporation Act.

The term "aiding and abetting" carries a settled legal meaning: intentional participation in unlawful activity. It does not cover lawful support or incidental association. As such, the Department does not believe that it needs to provide a 'safe harbor' consideration for these instances, as they are representative of lawful action undertaken by the eligible employer. Such actions are not illegal and thus would not be considered when determining if an employer has a substantial illegal purpose. The Department believes that it is necessary to include the concept of aiding and abetting within this final rule to address the issue that organizations that are going beyond lawful support or incidental associations are enabling or encouraging others to engage in certain unlawful activities. As such, organizations are just as at odds with the public interest as an organization that directly

carries out unlawful activities. For example, if an organization has numerous employees who, at the direction of their employer, aided and abetted in acts of terrorism, the Department could clearly move to disqualify the employer and disallow PSLF benefits from flowing to its employees.

When considering, for PSLF eligibility purposes, whether an organization has aided and abetted illegal discrimination or violations of Federal immigration laws, the Department will carefully examine the balance of the evidence to determine both whether certain unlawful activities occurred and whether there is "objective indicia" that the organization sought to further those unlawful activities. *See e.g., Presbyterian & Reformed Pub. Co. v. Comm'r*, 743 F.2d 148, 155 (3d Cir. 1984) ("The difficulties inherent in any legal standard predicated upon the subjective intent of an actor are further compounded when that actor is a corporate entity. In such circumstances, courts forced to pass upon a potentially illicit purpose have looked for objective indicia from which the intent of the actor may be discerned." (footnote omitted)). The Department may look to established legal standards associated with employer liability for acts of employees when making these determinations. Isolated incidents of unlawful conduct are unlikely to be sufficient to demonstrate that the employer engages in activities that

result in the culmination of it having substantial illegal purpose. However, if there is a pattern and practice where numerous employees have engaged in illegal conduct, at the direction of or with the acquiescence of the employer, the Department may weigh that evidence more strongly in determining if the employer has a substantial illegal purpose, consistent with the doctrine of *respondeat superior*. *See e.g., Williams v. Clerac, LLC*, 635 F. Supp. 3d 607, 613 (N.D. Ohio 2022) (stating that, under the *respondeat superior* doctrine, "if the employee tortfeasor acts intentionally and willfully for his own personal purposes, the employer is not responsible" unless the action was "calculated to facilitate or promote the business for which the [employee] was employed," the employer "fails to take action where the employer knows or has reason to know that one employee poses a risk to other employees," or if the employer "specifically and explicitly ratifies the employee's [tortious] act and adopts it as the employer's own."(cleaned up)); *Mylan Labs., Inc. v. Akzo, N.V.*, 2 F.3d 56, 63 (4th Cir. 1993)("[A] corporation is liable for the criminal acts of its employees and agents done within the scope of their employment with the intent to benefit the corporation.")

Changes: None.

Chemical Castration or Mutilation (§ 685.219(b)(3))

Comments: Several commenters stated the definition of "chemical castration or mutilation" is especially unclear and controversial. They noted that Federal and State law already regulate medical procedures and questioned why the PSLF program should independently define or police such conduct. Other commenters noted that, without clarity, legitimate medical providers could be penalized simply for offering lawful procedures that might be politically contested. Other commenters recommended various amendments to the definition of "chemical castration or mutilation."

Discussion: The Department disagrees. The definition of chemical castration or mutilation is not about lawful medical practices; it is about ensuring that PSLF funds do not support the castration or mutilation of children in violation of Federal or State law. Medical providers performing activities within the bounds of Federal and State law will not be affected. Only conduct that is prohibited by Federal law, or State law in the State where the conduct occurs, is at issue. The standard is anchored in law and will be applied narrowly, based on clear evidence of illegality under Federal law or State law.

Consistent with President Trump's Executive Order on *Protecting Children from Chemical and Surgical Mutilation*, Executive Order 14187 (Jan. 28, 2025), the Department will be guided by the definition of "chemical and surgical

mutilation" outlined in that Executive Order. As discussed in the NPRM, the Department searched for the most appropriate definition of chemical castration or mutilation and located the January 28, 2025, Executive Order, *Protecting Children From Chemical and Surgical Mutilation*, which provides the basis for the proposed definition. For further discussion and additional sources regarding the rationale for this decision, see *William D. Ford Federal Direct Loan (Direct Loan) Program*, 90 FR 40154, 40159-40160 (Aug. 18, 2025).

Changes: None.

Child or Children (§ 685.219(b)(4))

Comments: Commenters asked for clarification on how "child" is defined for purposes of PSLF program eligibility. Some commenters worried that the rule could be read inconsistently across different contexts such as Federal law, State family law, or immigration law. They urged the Department to adopt a uniform definition that would purportedly avoid ambiguity and ensure fairness across all borrowers and employers. Commenters also recommended the Department use alternative definitions such as the "age of majority", the term "18 years or younger", or exempting emancipated minors no matter what their age.

Discussion: The Department agrees that uniformity is important. The definition of child in this final rule is tied to the Executive Order on *Protecting Children from*

Chemical and Surgical Mutilation, Executive Order 14187 (Jan. 28, 2025), to avoid confusion across States or when used in different contexts. This definition will be applied consistently across the country to ensure fairness and prevent inconsistent application.

Changes: None.

Foreign Terrorist Organizations (§ 685.219(b)(10))

Comments: Commenters supported excluding groups tied to terrorism but urged the Department to anchor determinations strictly to Federal law and formal designations. They feared that vague language could allow future administrations to disqualify entities engaged in lawful advocacy or international humanitarian work. Borrowers and employers emphasized that PSLF program eligibility should track clear Federal determinations, not discretionary judgments.

Discussion: The Department agrees that PSLF program eligibility must follow formal Federal determinations. Organizations designated as foreign terrorist organizations under U.S. law will be excluded from the PSLF program. This final rule requires the Department to defer to terrorist designations already established by the Federal Government. Borrowers and employers will have certainty that decisions are neutral, grounded in evidence, and tied directly to statutory authority.

Changes: None.

Illegal Discrimination (§ 685.219(b)(12))

Comments: Commenters stated that the definition of "illegal discrimination" needs precision to avoid misuse. Commenters worried that organizations accused of discrimination, but not formally found liable, could be penalized. Others stressed that PSLF should not create new anti-discrimination standards beyond what is already defined under Federal or State law, to avoid layering duplicative or politically influenced rules.

Discussion: The Department agrees that the PSLF program should not create new discrimination standards. This final rule relies strictly on established Federal law and allegations alone will not meet the standard for disqualification. Only organizations found to have engaged in unlawful discrimination will face disqualification.

Changes: None.

Other Federal Immigration Laws (§ 685.219(b)(17))

Comments: Commenters said referencing "other Federal immigration laws" is too broad and risks sweeping in organizations providing lawful assistance to immigrants, refugees, or asylum seekers. They worried that work such as legal aid, housing support, or medical services could be mischaracterized as unlawful under shifting political climates. They requested precise language to ensure only clear and adjudicated violations of immigration law trigger disqualification.

Discussion: The Department disagrees that referencing "other Federal immigration laws" is too broad or may sweep in legal conduct. This final rule will not penalize an organization for providing lawful assistance to immigrants, refugees, or asylum seekers. Disqualification will only occur where it is determined the organization is engaged in illegal conduct, and that conduct is material enough that the organization has a substantial illegal purpose. The phrase "Federal immigration law" is broad, but it is easily understood and only applies to Federal law that regulates immigration.

Changes: None.

Qualifying Employer (§ 685.219(b)(27))

Comments: Commenters asked for greater clarity on which organizations qualify as government, nonprofit, or public service employers under § 685.219(b)(27). Some argued that uncertainty about whether certain nonprofits, quasi-governmental bodies, or contractors qualify has long plagued the PSLF program. They stressed that borrowers and employers alike need predictable criteria, particularly where functions are performed through delegated authorities, shared services, or nontraditional entities. Without clearer boundaries, they argued, borrowers risk making career choices under uncertainty, only to later discover their service does not qualify for PSLF. Other commenters stated that they feared the new rule would

perpetuate confusion rather than resolve it, noting that there was confusion over whether affiliates, contractors, or subcontractors performing public service functions on behalf of government or nonprofit entities count as qualifying employers. They warned that the absence of clear treatment for affiliates, contractors, and subcontractors invites inconsistent outcomes across service providers.

Discussion: The Department agrees that clarity is critical so that borrowers can make informed decisions. This final rule does not change the five types of organizations and agencies that are considered as a qualifying employer under the current definition in 34 CFR 685.219(b)(27). Additionally, the government entities, nonprofits, and public service organizations that currently are considered by the Department as qualified employers are listed on the Department's website.

Under this final rule, the Department will update this list only after it takes action to remove an employer, and borrowers who work for that employer will be unable to receive credit for their work toward PSLF forgiveness only after the date of the Department's determination under subsection (h) or after any reconsideration requests or actions by the employer in accordance with subsection (j) of these regulations. These determinations will not be made retroactively, meaning that borrowers will receive credit for any work prior to the Department's determination. This

final rule will ensure that borrowers have notice and will have an opportunity to change employers if they wish to continue to make progress toward loan forgiveness through PSLF.

Additionally, for a borrower to receive credit toward PSLF, the borrower must have a public service job working for a qualifying employer. Affiliates, contractors, and subcontractors that are not organizations or agencies meeting the definition of a qualifying employer do not offer public service jobs, so borrowers will not receive PSLF credit by working for those employers. This policy is not changed by this final rule.

Changes: None.

Comments: Many commenters raised questions about organizations that have both qualifying and non-qualifying functions, or that undergo restructuring, mergers, or spin-offs. They worried that borrowers could lose PSLF credit during employer transitions that are outside their control. Several commenters urged continuity protections, rules for partial qualifying service, and procedures to ensure that employer restructuring does not unfairly strip borrowers of eligibility.

Discussion: The Department recognizes the risks created by restructuring and mergers of service organizations. It is possible that restructuring or mergers could change the eligibility of employers for PSLF. Organizations must be

qualifying employers under the regulation for their employees to be eligible to participate in PSLF. If after restructuring or a merger, the employer no longer meets the definition of qualifying employer, its employees can no longer receive credit toward loan forgiveness through PSLF. The Department's regulations already account for this, and the Department is not proposing any changes in this final rule to further address this issue.

The Department acknowledges that when employers undergo these types of changes it may create uncertainty for borrowers; however, the PSLF statute is clear when a job is no longer qualifying. To give borrowers credit for working in jobs that do not qualify would violate the statute, so the Department cannot make changes to the regulations to address employers that transition out of their qualifying status.

Changes: None.

Comments: Commenters expressed uncertainty over how the PSLF program should treat quasi-governmental entities such as special districts, authorities, or instrumentalities. They pointed to wide variations in how State law defines such bodies and asked the Department to establish consistent Federal criteria.

Discussion: The Department understands that State law definitions of governmental units vary. The definition of qualifying employer includes "A United States-based

Federal, State, local, or Tribal government organization, agency, or entity, including the U.S. Armed Forces or the National Guard." This definition is broad and captures a variety of organizations and instrumentalities that have been created by State or local governments, so long as the organization is not organized for profit and is not a labor union or a partisan political organization

Changes: None.

Comments: Commenters requested standardized documentation requirements for nonprofit eligibility, such as reliance on IRS determination letters, State registration records, or other verifiable public filings. They urged the Department to avoid duplicative documentation requests and align with existing Federal and State oversight systems. Commenters also asked for clarity on whether nonprofits under investigation that are not yet found in violation remain eligible to participate in the PSLF program.

Discussion: The Department agrees that nonprofit employers must have clear, standardized documentation requirements. Borrowers and employers should not face duplicative requests or arbitrary standards. The Department will continue to take into evidence objective, verifiable records such as employer provided IRS determination letters and State nonprofit filings. The Department acknowledges that the IRS could only disclose this information pursuant to an exception under 26 U.S.C. 6103. Borrowers can also

use the PSLF Help Tool on the Department's website to find employers that the Department already believes are qualifying employers.

Qualifying employers who are under review because they may have a substantial illegal purpose will remain as qualifying employers until a determination is made by the Secretary. This approach respects due process while safeguarding the PSLF program from abuse.

Changes: None.

Substantial Illegal Purpose (§ 685.219(b)(30))

Comments: Many commenters said the phrase "substantial illegal purpose" is inherently vague and creates risk of overreach. They asked how the term "substantial" would be measured, whether it refers to the primary purpose of the organization or any significant unlawful activity, and how determinations would be documented. They emphasized the need for precision to avoid penalizing lawful entities for isolated or contested conduct.

Discussion: The Department rejects claims that the phrase "substantial illegal purpose" is too vague to be understood. The activities that are included within this term are defined in this final rule. Organizations that have engaged in an illegal activity are not automatically considered to have engaged in an activity with a substantial illegal purpose. Instead, the Secretary considers evidence of activities and whether the

materiality of those activities supports a determination that the organization has engaged in illegal activities such that it has a substantial illegal purpose. "Substantial" refers to unlawful activity that is central to an organization's purpose or operations, not incidental conduct. Determinations will be based on objective evidence, not speculation.

Changes: The Department made changes to the standard and the process in subsections (h), (i), and (j) for determining whether an organization has a substantial illegal purpose to make clear that the Secretary weighs evidence of illegal activity to determine whether that illegal activity is so substantial that the organization has a substantial illegal purpose.

Comments: Commenters asked how "substantial" would be measured in practice. They worried that isolated incidents, ongoing investigations, or unproven allegations could unfairly trigger PSLF disqualification. Many argued that only sustained and adjudicated illegal activity central to an organization's mission should be considered before disqualification of the employer. They urged the Department to establish multi-factor criteria that weigh scope, frequency, and intent to ensure that disqualification is limited to genuinely unlawful organizational purposes.

Discussion: The Department agrees that determinations must be based on real and substantial unlawful activity, not

speculation or unproven allegations. This final rule makes clear that eligibility decisions will rest on the materiality of any illegal activities or actions central to the organization's mission, not incidental actions by individuals acting outside the scope of their employment. The Department may consider allegations as a basis to start an inquiry, but the Department must develop the factual record to substantiate any allegations. The Department may also consider evidence that another entity, like a court, has adjudicated an issue when developing the factual basis for any action. Organizations will receive notice of any findings, an opportunity to respond, and an opportunity to rebut such findings. The Department will use clear and objective standards to measure "substantial," weighing the scope, frequency, and intent of the conduct.

Changes: The Department clarified the standard and made changes to the process for determining whether an organization has a substantial illegal purpose to make clearer that the Secretary weighs evidence of illegal activity that is enumerated in paragraph (b)(30) to determine whether that illegal activity is so substantial that the organization has a substantial illegal purpose.

Terrorism (§ 685.219(b)(32))

Comments: Commenters agreed that organizations engaged in terrorism should be excluded, but they stressed that the rule must be tightly tied to statutory definitions and

formal government determinations. They warned that, without such anchoring, lawful advocacy groups could be vulnerable to being labeled as terrorist-linked based on politics rather than evidence.

Discussion: The Department agrees that the PSLF program must exclude organizations engaged in terrorism, and thus eligibility decisions will be tied strictly to statutory definitions and formal government determinations. The Department will be unable to find that an organization is engaged in terrorism if the organization's conduct does not meet the elements necessary to show that they have engaged in terrorism consistent with Federal law and formal designations. The Department must develop factual evidence to support any finding, which ensures that organizations will not be targeted under this provision because of their viewpoint or political advocacy.

Changes: There are no substantive changes to the definition of terrorism. The Department removed the phrase "the Crime and Criminal Procedure" and the parenthesis around the citation to 18 U.S.C. 2331 for clarity.

Trafficking (§ 685.219(b)(33))

Comments: Commenters broadly supported excluding organizations engaged in trafficking but asked for clear standards for how determinations would be made. They worried that nonprofits providing survivor support or harm reduction services could be swept in if the definition of

"trafficking" was too broad. They urged the Department to ensure determinations rely on objective legal findings rather than discretionary judgments.

Discussion: The Department agrees that PSLF must exclude employers engaged in trafficking. Determination will be based on objective legal findings, not speculation. The Department will be unable to find that an organization is engaged in trafficking if the organization's conduct does not meet the elements necessary to show that they have engaged in such unlawful conduct. Nonprofits providing services to survivors or harm reduction work will not be penalized so long as their conduct is lawful. This final rule makes sure PSLF disqualification is narrowly applied to unlawful trafficking.

Changes: None.

Violating State Law (§ 685.219(b)(34))

Comments: Many commenters noted that State laws vary widely and could create inconsistent outcomes for employers across States. They feared that nonprofits or local agencies might be disqualified based on politically driven litigation in one State, even if their conduct would be lawful elsewhere. They recommended that we limit this provision to well-established violations adjudicated by courts rather than allegations or unsettled disputes.

Discussion: The Department acknowledges that State laws vary widely. PSLF disqualification will not rest on mere

allegations or politically motivated lawsuits. When the Department is considering whether an employer has engaged in illegal activities such that it has a substantial illegal purpose by virtue of having violated State law, only final, non-default judgments against an employer for violations of those State laws listed in the regulation may be used as evidence in making that determination. This includes trespassing, disorderly conduct, public nuisance, vandalism, and obstruction of highways.

The narrow scope of this provision limits its application and provides clear notice to borrowers and employers.

Changes: None.

Violence for the Purpose of Obstructing or Influencing Federal Government Policy (§ 685.219(b)(35))

Comments: Commenters strongly supported excluding organizations engaged in violence but worried the definition could be applied too broadly. They asked how the Department will distinguish between unlawful violent activities and lawful protest or advocacy that might involve civil disobedience. They stressed that only adjudicated instances of unlawful violence should trigger PSLF disqualification, to protect First Amendment rights while upholding statutory intent.

Discussion: The Department agrees that organizations engaged in unlawful violence must be excluded from PSLF.

Violence involves using physical force to hurt, damage, or kill someone or something. The First Amendment does not protect violence; it protects speech and the expression of ideas. The Department will rely on court precedent to distinguish between protected speech and expression and unlawful violence. Even speech advocating for violence is protected, so long as it is not directed to or used to incite imminent lawless action. *See e.g., Brandenburg v. Ohio*, 395 U.S. 444 (1969)(holding that a state may not forbid speech advocating the use of force or unlawful conduct unless this advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action). When determining if an organization engages in illegal activities such that it has a substantial illegal purpose, the Department will not weigh evidence of lawfully protected speech or expression against an employer. This ensures First Amendment rights are respected while ensuring that PSLF benefits do not support employees of organizations that engage in violent behavior.

Changes: None.

Borrower Eligibility (§ 685.219(c))

Comments: Many commenters argued that, without clear rules, employees could lose PSLF benefits for reasons they could neither foresee nor control. They argued that workers should not bear the consequences of ambiguous employer

classifications or administrative reinterpretations. Commenters urged the Department to ensure that credit continues for all periods of lawful public service, regardless of later disputes about an employer's eligibility.

Discussion: The Department understands that employees need to be informed when their employer loses eligibility for reasons that are outside of their control or that were unforeseeable. The Department will only determine that an organization has a substantial illegal purpose if there is evidence that shows that they have engaged in unlawful conduct. Organizations have the ability, and should have controls in place, to ensure that they do not engage in unlawful conduct. Nothing in this final rule changes the legality regarding the underlying legal offenses, it simply changes the consequences for such unlawful conduct. Where the unlawful conduct is material and meets the other requirements of the regulation, the Department can remove eligibility for PSLF. The Department does not believe Congress intended to prop up and subsidize the unlawful behavior of organizations. Employees will not lose PSLF credit for any payments that previously qualified toward forgiveness before a determination is made. This final rule makes clear that qualifying payments earned during periods of public service will not be removed from the borrower's count toward forgiveness provided those payments were made

prior to the Secretary's determination that the employer engaged in illegal activity such that it has a substantial illegal purpose. It is only after the Department has determined that an employer has lost eligibility as a qualifying employer due to engaging in unlawful activities on or after July 1, 2026, that a borrower's payment will not be counted as a qualifying payment. This approach protects workers by preventing retroactive application and ensures that payments made before the Secretary's determination continue to count toward forgiveness.

The PSLF program will honor public service, not penalize borrowers for administrative disputes, and borrowers will retain the ability to pursue employment at another qualified employer. Borrowers will be protected, employers will be held accountable, and taxpayers will know their dollars are used responsibly and in pursuit of lawful activities.

Changes: None.

Comments: Commenters stressed the need for reliance on protections for those borrowers already serving in qualifying employment. They urged that borrowers should not be penalized mid-service if their employer is later disqualified. Several commenters recommended explicit non-retroactivity provisions, transition rules, and that borrowers who have earned PSLF credit may maintain that same credit when they move to a new, qualifying employer.

Additionally, a commenter believed that the final rule should clarify that a borrower's payments continue to qualify for PSLF until the final determination is made. They also requested the borrower be given a grace period to find new qualifying employment for the purposes of the PSLF program.

Some commenters wrote about specific borrowers who have long-term employment contracts, including medical residents. Commenters expressed the belief that medical residents, and extended term contract employees, have additional restrictions surrounding their employment, limiting their ability to switch jobs in the event their employer loses PSLF eligibility. Some commenters went so far as to claim that losing PSLF eligibility could have career ending consequences if transition flexibility was not provided.

Discussion: The Department recognizes that borrowers in the PSLF program have significant reliance interests. The PSLF program was created by Congress in 2007 and requires borrowers to have certain types of student loans, enroll in certain types of repayment programs, and work for a qualifying employer for ten years. Many borrowers structure their life plans around the program, in that they sometimes decide to go to college and incur significant student loan debt in reliance on the program to ultimately subsidize the cost of their education. Furthermore, many borrowers may

forgo higher-paying occupations in the private sector to maintain eligibility for the program. The Department believes that the rule appropriately balances the reliance interests of borrowers against the interests of taxpayers and the Federal Government in ensuring that the PSLF program is not supporting illegal activity. In accordance with borrower reliance issues, as explained previously, the Department is only taking action against employers prospectively. Even if an employer has engaged in unlawful conduct in the past, the Department's determination that an organization engaged in activities such that it has a substantial illegal purpose will not impact PSLF credit a borrower has received for working for that employer in the past. And while employees who work for these organizations may desire to continue to work for these organizations, they will have clear notice and the opportunity to change employers after the Department takes action against an employer. The Department believes this appropriately balances the borrower's substantial reliance interests against the Federal Government's interest in not indirectly subsidizing illegal activity.

With respect to the commenter's request that we clarify that a borrower's payments continue to count toward PSLF until a final determination is made, we note that under this final rule, a borrower remains eligible for PSLF until the date of the Secretary's determination that

employer is no longer a qualifying employer. Additionally, after considering the suggestion to include a grace period for a borrower to find new qualifying employment if their employer has been determined to be ineligible for PSLF, we believe that this would be inconsistent with current policy for borrowers who cease employment with qualifying employers for multiple other reasons or who change jobs between qualifying employers. Moreover, under section 685.219(h) of this final rule, borrowers will receive notice that the Secretary has initiated the process to determine whether an employer has engaged in illegal activities such that it could result in a determination that it has a substantial illegal purpose. Although not yet a final determination of employer eligibility, this final notice provides the borrower an opportunity to seek employment with another qualifying employer if they wish to continue to pursue PSLF without risk of interruption.

The Department acknowledges that there may be some medical resident borrowers who may face heightened challenges in changing employers due to the complex terms of their respective employment contracts. Although the Department acknowledges that this puts some borrowers in a more difficult situation, since the Department does not believe the interests of these borrowers outweighs the Department’s interests in preserving the integrity of the PSLF program. Delaying the consequences of disqualification

would mean that taxpayers would continue to indirectly subsidize the employment of individuals working for an employer engaged in illegal activity. Providing a transition period could reduce employers' incentives to comply with this final rule, including by delaying the timely development and implementation of a corrective action plan with the Department. As such, the Department does not believe that providing a transition period is appropriate. At the same time, the Department notes when an employer loses eligibility, borrowers who work for that employer will receive credit for the month in which eligibility is lost. For example, if an employer loses eligibility on the third day of a given month, the borrower will receive credit for that month.

Changes: None.

Comments: Commenters suggested that retroactive disqualification of employers could harm borrowers who relied in good faith on their employer's eligibility, creating unfairness and eroding trust in PSLF. They stressed that borrowers should not be penalized for decisions beyond their control.

Discussion: The Department agrees. As explained previously, this final rule makes clear that all qualifying payments made while an employer was considered eligible will continue to count, even if that employer is found ineligible later. There will be no retroactive PSLF

disqualification of employers due to the reliance interests the borrowers have, as the commenters identified. However, any payment made after an employer is deemed no longer eligible for PSLF will not be counted toward the number of payments to forgiveness. This safeguard protects borrowers' reliance interests and ensures fairness while allowing the Department to act prospectively to maintain program integrity. This approach ensures that workers who have served in good faith are not punished, while also protecting taxpayers by preventing benefits from flowing to unlawful conduct in the future.

Changes: None.

Comments: Commenters warned that borrowers could lose PSLF eligibility because of sudden employer disqualification, even though workers themselves did nothing wrong. They argued that employees should not be punished for decisions outside of their control.

Discussion: The Department acknowledges that there may be instances where specific borrowers who work for employers the Department has determined to have a substantial illegal purpose may not have directly engaged in unlawful activity. The Department, however, must balance that against our interest in ensuring that the PSLF program is not indirectly subsidizing employment at organizations that have a substantial illegal purpose. The Department believes if the employer engages in illegal activities enumerated in

paragraph (b)(30), such that it has substantial illegal purpose, that the Department, through the PSLF program, should not indirectly subsidize the employment of its employees. Organizations with a substantial illegal purpose are tainted by their illegal actions, even if some parts of the organization continue to engage in lawful behavior. The concept of a substantial illegal purpose appropriately balances the equities at hand by distinguishing between organizations that engage in isolated or minor legal violations and those whose core or predominant activities are unlawful. If more than an insubstantial portion of the employer's activities are unlawful, the organization may have a substantial illegal purpose. The Department recognizes that some organizations may have isolated misconduct where specific employees or segregable components engage in illegal conduct without that conduct defining the organization. In such cases, where unlawful activity is limited and not central to the organization's primary mission or operations, the employer would not be considered to have a substantial illegal purpose. This approach ensures that the PSLF program does not penalize borrowers for minor or isolated misconduct within their organizations, while still preventing the program from indirectly subsidizing entities whose principal or defining activities are unlawful.

Changes: None.

Application Process (§ 685.219(e))

Comments: Commenters stressed that timely notification of any Departmental action to remove eligibility from an employer is critical for borrowers to plan their careers and repayment strategies. They warned that without immediate notice, borrowers could be blindsided by sudden disqualification, left with little time to adjust, and placed at risk of financial harm.

Discussion: The Department agrees that borrowers should receive notice when the employers lose PSLF eligibility. This final rule requires the Department to provide prompt notification whenever an employer's eligibility changes based on the determination by the Secretary. This protects workers and prevents unnecessary disruption. By mandating clear and proactive communication, this final rule ensures that borrowers have the information they need to make informed decisions regarding their PSLF eligibility. As discussed above, borrowers have significant reliance interests in the PSLF program, but those reliance interests must be balanced against the Department's interest in not indirectly subsidizing employers that have a substantial illegal purpose. Prompt direct notification to the impacted borrowers and broad disclosure on the Department's website are important to mitigate the impact to borrowers.

Changes: None.

Comments: Commenters emphasized that notification is not just about timing but also about substance. They requested that the notices clearly explain the reason for an employer's disqualification, the effective date, the borrower's current credit status, and what steps borrowers may take to continue to participate in the PSLF program. Without such detail, commenters argued, notifications could create more confusion than clarity.

Discussion: The Department agrees that its notification to affected borrowers must be substantive and should include information about the reason for an employer's disqualification, the effective date, the borrower's current credit status, and what steps borrowers may take to continue to participate in the PSLF program. The Department agrees with commenters that this approach reduces confusion and will provide helpful information to borrowers.

Changes: None.

Comments: Commenters urged the Department to use multiple communication channels, including email, online borrower dashboards, and paper mail to ensure that critical notifications reach all affected borrowers. They warned that reliance on a single method could leave some unaware of eligibility changes, particularly those borrowers with limited internet access or outdated contact information.

Discussion: The Department agrees that notifying borrowers through multiple mediums is appropriate to increase

awareness among borrowers. That is why this final rule requires the Department to use multiple channels of communication, including secure electronic notices, borrower dashboard updates, and paper mail where necessary, to ensure all affected individuals and the public are informed about an employer's PSLF eligibility.

Changes: None.

Comments: Several commenters suggested that the Department should provide transparency for both current participants but also for prospective borrowers considering careers in public service. They recommended public-facing employer eligibility lists that are regularly updated so that individuals entering the workforce can make informed decisions about whether their potential employer qualifies.

Discussion: The Department agrees that both current participants and the public should be informed regarding employer eligibility. By informing the public, prospective participants and borrowers considering public service careers will be informed of their options for eligible employment. Accordingly, this final rule requires the Department to maintain and regularly update a public-facing list of employer eligibility determinations.

Changes: None.

Comments: Several commenters highlighted that new entrants into repayment should be warned about the possibility of employer disqualification and given transparent, accessible

information about how eligibility determinations are made. They stressed that prospective borrowers must have the ability to make informed career and repayment choices with full knowledge of PSLF risks.

Discussion: The Department agrees that prospective borrowers deserve transparency regarding the eligibility process for the PSLF program. However, the Department disagrees that we should display such information as a "warning." Employers that have a substantial illegal purpose will lose PSLF eligibility, and the Department will inform borrowers and the public of such determination. Because most employers voluntarily comply with the law, and the Department does not expect this final rule to impact the majority of eligible borrowers, we do not think it is appropriate to label the process as a "warning."

Changes: None.

Borrower Reconsideration Process (§ 685.219(g)) and Employer Reconsideration Process (§ 685.219(h))

Comments: Many commenters underscored that a robust reconsideration process is essential to borrower confidence in the PSLF program. They argued that determinations about qualifying employment carry life-changing financial consequences and therefore must include a meaningful right to challenge decisions. Commenters emphasized that reconsideration should not be treated as a perfunctory

administrative step but as a genuine safeguard against error.

Discussion: It is important to note that the current borrower reconsideration process is not changing in these final regulations. The Department is, however, making it clear that a borrower may not submit a reconsideration request when their employer is determined to no longer be a qualifying employer for the purposes of the PSLF program. This final rule establishes a clear employer reconsideration process that gives employers the right to submit additional information and seek review of determinations. This ensures decisions are not final without all relevant evidence and arguments being considered. This safeguard provides due process to ensure that the Department considers all relevant information prior to taking action to remove employer eligibility.

Changes: In the NPRM, the Department made clear that employers would have notice and the opportunity to respond to any findings before final action is taken. To avoid confusion, the Department inserted an amendment to the regulatory text in a parenthetical in § 685.219(h)(1), which makes it clear that the opportunity to respond is called the "employer reconsideration process."

Comments: Many commenters argued that there is the need for greater transparency in the reconsideration process. Commenters asked for clear timelines on when and how

reviews would be completed, as well as published standards explaining the criteria applied in reconsideration decisions. Commenters further stressed that the Department should provide written reasons for its determinations, so borrowers understand the basis for decisions.

Discussion: The Department partially agrees with the commenters. The final rule requires that determinations be explained in writing and supported by clear reasoning. The employer reconsideration process exists to ensure that the Department has all the relevant information and takes it into account when making decisions. If the Department makes an error based upon the facts or the application of the regulation, the employer reconsideration process will ensure that organizations can bring that to the Department's attention prior to it taking final action. The Department understands the interest borrowers have in a definitive timeline for review of employer reconsideration requests; however, the Department is unable to commit to a specific timeline. Among other things, the Department needs to preserve flexibility to make certain that we have adequate time to consider all the relevant evidence. The Department expects that some employer reconsideration requests will be straightforward and will be able to be processed in a relatively short period of time. On the other hand, some employer reconsideration requests may be complex and involve significant amounts of new information.

Complex reconsideration requests will take more time for the Department to process and may require elevated levels of approval. As such, given the complexity that may be involved, the Department is not making changes that would commit the Department to a temporally limited review period. As noted above, a borrower would not be affected by an adverse determination regarding an employer until the employer reconsideration process is complete. Accordingly, if it takes six months for the Department to reach a final determination that an employer has a substantial illegal purpose, a borrower's qualifying payments made during that six-month period would continue to count toward loan forgiveness.

Changes: None.

Comments: Commenters expressed concern that delays in the reconsideration process could disadvantage borrowers, particularly if their PSLF progress is frozen during review. Several commenters urged that borrowers should continue accruing PSLF credit while reconsideration is pending so that they are not financially harmed by administrative timelines outside their control.

Discussion: The Department agrees. This final rule makes clear that all qualifying payments made while an employer was considered eligible will continue to count, even if the employer's eligibility is under review. Borrowers will continue to be eligible to receive credit toward PSLF if

they make qualifying payments while waiting for the Department to complete the employer reconsideration process and make a determination.

Changes: None.

Comments: Many commenters argued that while reconsideration is an important safeguard, the process remains incomplete without a clear and well-defined appeals mechanism. They raised concerns that, without explicit standards for appeals, determinations may lack legitimacy, leaving borrowers with limited recourse if they believe an error has occurred. Commenters suggested that the Department establish clear appeal pathways with independent review, binding timelines, and published rationales to ensure confidence in outcomes.

Discussion: The Department agrees that employer reconsideration is an important procedural step that ensures that due process is provided. For this reason, this final rule includes a reconsideration process. Like all agencies that provide informal adjudications, the Department must provide a process that is consistent with the requirements of the Due Process Clause of the Fifth Amendment to the U.S. Constitution because of the property interests involved in the PSLF program. *See e.g., Pension Ben. Guar. Corp. v. LTV Corp.*, 496 U.S. 633, 653–56 (1990) (holding that courts cannot require agencies to provide process beyond what is provided for in the underlying

statute or the U.S. Constitution). The Department does not believe an additional internal reconsideration process is necessary to ensure that the Department makes reasoned decisions. As is generally true with informal adjudications under the APA, the Department's final agency action with respect to PSLF eligibility can be challenged in Federal district court. *See Dep't of Homeland Sec. v. Regents of Univ. of Cal.*, 591 U.S. 1, 16 (2020) ("The APA establishes a basic presumption of judicial review for one suffering legal wrong because of agency action." (cleaned up)).

Changes: None.

Comments: Commenters expressed concern that reconsideration outcomes might vary depending on which office or staff member handles a case, leading to inequities. They emphasized that a standardized process with uniform evidentiary thresholds, transparent procedures, and publicly available examples would promote consistency and fairness. Borrowers want assurance that reconsideration decisions will not hinge on individual discretion but instead follow predictable and published standards.

Discussion: The Department agrees that all employers should be treated in an even-handed manner. The results from the reconsideration process should not turn upon the specific staff involved but should instead focus on the facts and how they apply to the regulation. The Department has internal reviews and controls in place with all agency

adjudications to prevent variation across staff and minimize the risk of arbitrary and capricious decision-making.

Changes: None.

Standard For Determining Whether a Qualifying Employer has a Substantial Illegal Purpose (§ 685.219(h))

Comments: Many commenters claimed the Department should anchor determinations in objective, evidence-based findings rather than administrative discretion. Suggestions included requiring a final judicial or administrative finding of illegality before disqualification, limiting the scope of review to the unit directly involved in misconduct, and applying a clear evidentiary threshold that prevents speculative or politically motivated judgments. Commenters stressed that such standards would promote fairness, reduce uncertainty, and insulate the program from political manipulation.

Discussion: The Department agrees that determinations must be anchored in objective evidence, not speculation or politics. This final rule makes clear that employer disqualification requires the Department to find that an employer has a substantial illegal purpose by a preponderance of the evidence after weighing the employer's illegal conduct, narrowly focusing on only the illegal conduct enumerated in the regulation. A determination by the Department that an employer engaged in illegal activities such that it has a substantial illegal purpose

only represents the Department's conclusion that the organization is not a qualifying employer for the purposes of participation in PSLF and does not represent a determination regarding the organization's tax-exempt status by the IRS. Only the IRS, not the Department, makes determinations regarding tax-exempt status. The Department decided to use the preponderance of the evidence standard because it is a well-established standard in informal agency adjudications and it ensures decisions are based on reliable evidence, not speculative allegations. *See e.g.,* Student Assistance General Provisions, 84 FR 49788 (Sept. 23, 2019). At the same time, the Department does not believe that it is appropriate to only rely on final judicial or administrative rulings before taking action. As discussed, the Department has significant interest in preserving taxpayer resources and preventing PSLF benefits from indirectly subsidizing employers who have a substantial illegal purpose. When the Department finds that an organization's activity is material enough that it has a substantial illegal purpose, we believe that it is the appropriate time to remove PSLF eligibility. Waiting until another entity acts would create unnecessary delays, cost taxpayers more, and make the Department captive to third parties who may or may not have an interest in protecting the Federal fiscal interest. Congress charged the Department with the responsibility to administer the PSLF

program. Fully delegating the responsibility for program integrity to a third party and thereby relinquishing the Department's role in safeguarding that integrity would constitute an abdication of its statutory duty. The Department has amended the regulatory provisions under this section to provide clarity that the materiality of any illegal activity is weighed when considering whether an organization has a substantial illegal purpose. An illegal activity alone does not automatically mean an organization has a substantial illegal purpose.

Changes: Amended § 685.219(h) to include clarifying language for the standard for determining a qualifying employer has a substantial illegal purpose to include the distinction of illegal activity and substantive illegal purpose.

Comments: Commenters raised the concern that legal standards vary widely across States, particularly in areas such as marijuana laws, reproductive health regulations, and immigration enforcement. They argued that, without a Federal baseline, an employer deemed lawful in one jurisdiction could be disqualified in another, leaving borrowers subject to arbitrary geographic disparities. Commenters asked the Department to establish uniform Federal standards or explicitly preempt conflicting State interpretations to ensure equitable treatment for borrowers nationwide.

Discussion: The Department recognizes that State laws differ and appropriately drafted the rule to account for variation across States. Organizations will not be penalized if their actions are legal in the State in which they are operating. Although uniform standards would make the adjudication process more streamlined, such standards would not account for the differences across States in our Nation's system of vertical federalism. At the same time, if the Secretary determines that an employer has engaged in activities such that it has a substantial illegal purpose due to illegal conduct in one or more States, the Department may remove eligibility for the entire organization. Where an employer is operating under the same employer identification number (E.I.N.), but a part of the organization is actually separate and distinct, this final rule gives the Department flexibility to divide the employer into separate organizations for the purposes of PSLF eligibility.

With respect to immigration law, the Department disagrees that there is wide variation in immigration law across the country. The Federal Government has broad powers to regulate immigration law, and the immigration laws are uniform on the national level. *See e.g., DeCanas v. Bica*, 424 U.S. 351, 354 (1976)(stating that the "[p]ower to regulate immigration is unquestionably exclusively a federal power"); *Arizona v. United States*, 567 U.S. 387,

394 (2012)(stating that "[t]he Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens" and holding that several Arizona laws concerning immigration were invalid because they conflicted with Federal immigration laws or intruded on areas where Congress left no room for States to regulate).

Changes: None.

Comments: Many commenters argued that adjudicatory determinations must be accompanied by published standards, detailed explanations, and clear timelines. Commenters argued that, without these safeguards, PSLF eligibility decisions risk appearing arbitrary and may erode borrower confidence. Many commenters recommended that the Department provide written rationales for each disqualification decision and establish public-facing guidance that borrowers and employers can rely upon to anticipate outcomes.

Discussion: The Department agrees that transparency is essential. Borrowers and employers must know how decisions are made, what standards apply, and how to anticipate outcomes. This final rule requires written explanations for disqualification determinations, published standards, and clear timelines so the process is predictable, consistent, and accountable. By providing detailed rationales and public-facing guidance, the Department will ensure that

determinations are not hidden, arbitrary, or influenced by politics. Borrowers will know their rights, employers will know their responsibilities, and taxpayers will know the PSLF program is administered with integrity. Transparency strengthens confidence and protects lawful public service.

Changes: None.

Comments: Commenters argued that PSLF determinations would inevitably reflect politics and that organizations could be punished for their views rather than unlawful conduct. They feared the Department could use this rule to target groups unpopular with those in power.

Discussion: The Department disagrees with commenters' argument. Under this final rule, PSLF employer eligibility determinations are based on objective, content-neutral evidence that an organization has engaged in illegal activities such that it has a substantial illegal purpose. All the activities included within the definition of substantial illegal purpose are explicit violations of either State or Federal law, and as such, are actions which inherently do not serve the public good. By basing the components of the definition of substantial illegal purpose on State and Federal law, this final rule protects borrowers from arbitrary or politically motivated disqualification. It safeguards taxpayer funds, improves confidence in the program and ensures PSLF provides benefits for only lawful public service.

Changes: None.

Process for Determining When a Qualifying Employer Engaged in Activities such that it has a Substantial Illegal Purpose (§ 685.219(i))

Comments: Commenters objected to the idea that an entire organization could be disqualified because of misconduct by a small unit or a few individuals. They argued that blanket determinations would unfairly harm borrowers serving in lawful roles who had nothing to do with the misconduct.

Discussion: The Department agrees that broad disqualification could be unfair in certain circumstances, especially when the underlying illegal activity is immaterial or minor, is a result of a rogue employee, or does not rise to a pattern or practice. If more than an insubstantial portion of an organization's conduct and activities are illegal; however, the Department considers that organization to no longer be a qualifying employer for the purpose of PSLF eligibility. And as such, it would be inappropriate to continue to provide PSLF benefits to employees of such an organization. Although isolated and immaterial acts, even if illegal, may not be sufficient to withdraw eligibility because of the reasons commenters identify, if such conduct becomes a substantial part of the organization, the organization ceases to provide a public service and, therefore, the conduct becomes sufficient for the Department to cease providing PSLF benefits. When

weighing these instances of illegal conduct, the Department will weigh the frequency in which they have occurred and the seriousness of the offense. In some cases, where the illegal conduct is material and very serious, such as acts of terrorism, the Department may not need to see a pattern of behavior. One act of supporting terrorism may be sufficient to remove eligibility. On the other hand, if the organization has engaged in less serious violations, the Department may need to see a pattern and practice of consistent violations to find that the organization has engaged in activities such that it has a substantial illegal purpose. *See I.R.S. Gen. Couns. Mem. 34631* (Oct. 4, 1971) (stating, as an example, that "[a] great many violations of local pollution regulations relating to a sizable percentage of an organization's operations would be required to disqualify it from 501(c)(3) exemption" but "if only .01% of its activities were directed to robbing banks, it would not be exempt"). Courts have upheld this approach in the context of the Internal Revenue Code, because they have recognized the common-sense principle that if an organization is engaged in a substantial amount of criminal activity, it is not advancing a tax-exempt purpose. *See e.g., Church of Scientology*, 83 T.C. at 586(stating, in affirming the IRS's denial of tax-exempt status to an organization that had engaged in tax fraud, "[w]ere we to sustain petitioner's exemption, we would in effect be

sanctioning petitioner's right to conspire to thwart the IRS at taxpayer's expense"). Here, the Department is taking a similar approach to ensure that only organizations that are providing a public service are qualifying employers. We reiterate that the process envisioned under § 685.219(i) is for determining when an employer has a substantial illegal purpose for the purposes of PSLF. The process in § 685.219(i) does not make a determination of the employer's tax status under the Internal Revenue Code.

Changes: None.

Comments: Commenters stated that terms like "substantial illegal purpose" are not sufficiently defined, leaving room for subjective interpretation. They warned this vagueness could open the door to excessive enforcement and uncertainty for nonprofits and public service organizations that operate in politically sensitive areas. Some urged the Department to narrowly define the term, limiting it only to cases where the organization's primary mission is unlawful activity.

Discussion: The Department rejects the idea that "substantial illegal purpose" is not sufficiently clear enough to be understood. Organizations that engage in illegal activity do not automatically have a substantial illegal purpose under this final rule. As explained above, the Department will weigh the seriousness of offenses and the frequency with which they occurred when determining if

an organization engages in activities enumerated under paragraph (b)(30) such that it has a substantial illegal purpose for PSLF eligibility purposes. Even one instance of an organization supporting terrorism may be sufficient to make such a finding; however, for less serious offenses, the Department will look more generally to see if there is a pattern and practice of illegal behavior. The Department believes if more than an insubstantial amount of illegal conduct is occurring at an organization that it is no longer providing a public service, and its employees should no longer receive PSLF program benefits.

Changes: The Department made clarifying changes to the process for determining whether an organization has a substantial illegal purpose to make clear that the Secretary weighs evidence of illegal activity as described in paragraph (b)(30) to determine whether that illegal activity is so substantial that the organization has a substantial illegal purpose.

Comments: Many commenters pressed the Department to draw a clear distinction between an organization's unlawful activities and lawful work performed by its other units or employees. They argued that, absent this protection, borrowers could lose PSLF credit even if their service was in fully compliant divisions of a larger entity. Commenters emphasized that fairness requires shielding employees from organizational misconduct they neither directed nor

participated in. Additionally, commenters mentioned that it was unclear how standards would apply to separate entities sharing the same E.I.N. or how partial disqualification would be managed to ensure that eligible employees were not negatively impacted.

Discussion: The Department agrees that for PSLF eligibility purposes that it may be appropriate for the Department to have unique identifiers, in certain circumstances, when separate and distinct entities share the same E.I.N., and are operated in a separate and distinct manner. Such unique identifiers will only be necessary if the Secretary determines that a qualifying employer has engaged in illegal activities such that it has a substantial illegal purpose. If multiple qualifying employers share the same E.I.N., the Department will determine the specific employer that is ineligible for PSLF and assign a unique identifier to that organization if the organization is operating separately and distinctly.

At the same time, the Department disagrees with commenters that a component's illegal actions cannot taint the entire organization. For example, an organization that supports terrorism, but also provides food to low-income individuals, likely has a substantial illegal purpose. Providing food to low-income individuals, as admirable as it may be, does not necessarily immunize the organization from its other illegal conduct. The Department acknowledges

that this approach may mean that certain borrowers that work for organizations that have a substantial illegal purpose will become ineligible for PSLF, even in instances where the borrower is not engaged in illegal activity. However, the Department believes that its interest in protecting taxpayer resources from going to organizations that harm the public good because they have a substantial illegal purpose outweighs the interests of borrowers in these narrow circumstances.

Changes: None.

Comments: Many commenters pointed out that the proposed standard for PSLF eligibility does not clarify what level of involvement qualifies as "engagement" in illegal activity. Commenters feared this vagueness could allow ideological misuse, targeting organizations for political reasons rather than unlawful conduct.

Discussion: The Department disagrees with commenters' suggestion and criticism. The term "engage" in the context of the regulation means the organization is taking part in the activity. In other words, it refers to direct participation or purposeful involvement in unlawful conduct by the organization itself. *See Engage*: *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/engage. Accessed 7 Oct. 2025. Because this word is sufficiently clear in the context in which it is used, the Department does not think changes to

the rule are needed to provide clear notice as to what conduct this final rule seeks to address.

Changes: None.

Comments: Several commenters suggested that it would be more practical for the Secretary to simply reject incomplete applications rather than treating a failure to certify as conclusive evidence for disqualification, as the risks and costs of the current proposal outweigh any administrative benefit.

Discussion: The Department agrees that it will reject individual incomplete applications where an employer fails to certify that it did not participate in activities that have a substantial illegal purpose. Operationally, the Department will reject an individual application if the section about the employer's certification that it did not engage in substantial illegal activities is omitted or missing. The Department, via the borrower, will provide the employer an opportunity to correct the application and provide the requested information. However, when an employer consistently fails or refuses to provide a certification on multiple applications, the Department may consider disqualifying the employer per the process outlined in § 685.219(i).

Changes: None.

Regaining eligibility as a qualifying employer (§ 685.219(j))

Comments: Several commenters argued that once an organization corrects unlawful practices or demonstrates compliance, it should have a clear pathway to regain PSLF program eligibility. Without this option, they argued, employers could be permanently tainted, unfairly harming employees who continue to perform lawful public service. Commenters recommended corrective action plans, time-limited disqualifications, and procedures for reinstating borrower credit once eligibility is restored.

Discussion: The Department recognizes the importance of a clear pathway for employers to regain PSLF program eligibility once unlawful practices are corrected. The goal of this final rule is not permanent exclusion but to ensure that benefits from the PSLF program do not indirectly support employers who have engaged in certain illegal activities. Organizations that take corrective action, demonstrate compliance, and return to lawful operations should have the opportunity to be reinstated as an eligible employer. This final rule provides for 10-year time-limited disqualification and the possibility of restoration. The Department believes the temporal disqualification strikes the right balance and ensures that organizations can regain eligibility. In addition, if the Secretary approves a corrective action plan for the organization, it can regain eligibility on an expedited timeline. Organizations that want to avoid ineligibility altogether may suggest a

corrective action plan to the Secretary in tandem with any submission under the employer reconsideration process.

Changes: None.

Comments: Commenters argued that borrowers and employers could face disqualification without adequate notice or the ability to contest decisions. Some acknowledged that prior qualifying payments would still count, but most said that safeguard alone was not enough.

Discussion: The Department disagrees that employers could face disqualification without adequate notice. This final rule requires employers receive notice and the opportunity to respond through the employer disqualification process. This process will ensure notice is provided in advance of any action to disqualify the employer from the PSLF program. Borrowers will be notified directly if they are working for an employer who is no longer eligible because the Department has determined that the organization has a substantial illegal purpose. In addition, the Department will post this information on its website to inform the public. In addition, borrowers will retain credit for all qualifying payments made before an employer's status changes. This protection shields workers from any harm prior to a determination of employer ineligibility being made by the Secretary.

Changes: None.

Borrower Notification of Regained Eligibility (§ 685.219(k))

Comments: Commenters strongly supported requiring the Department to notify borrowers right away when an employer's eligibility changes. They stressed that, without timely notice, borrowers could be blindsided, undermining trust in the PSLF program and causing serious financial harm.

Discussion: The Department agrees. Timely notification is not optional, it is essential. This final rule requires prompt notice so borrowers know immediately when their employer's eligibility status changes.

Changes: None.

PSLF Program Administration

Comments: Many commenters questioned whether loan servicers currently have the expertise and staffing to administer this rule accurately. They pointed to past problems with inconsistent guidance, long call center delays, and errors in processing borrower accounts. Some commenters argued that, without significant investments in servicer training and oversight, the new rules could worsen confusion and lead to wrongful denials. Others emphasized that servicers should receive standardized guidance and be held accountable for ensuring determinations are applied uniformly.

Discussion: The Department acknowledges that servicers have faced challenges in administering certain aspects of the PSLF program in the past. However, the Department does not believe that its servicers will be unable to carry out new responsibilities under this final rule, given the limited scope of those responsibilities. The Department expects that it will only take action to remove PSLF program eligibility for less than ten employers per year. Servicers will have the ability to handle that volume of employer eligibility changes. The Department's Office of Federal Student Aid will ensure that its staff, who handle eligibility determinations, and its servicers, who handle processing, will be trained, monitored, and held accountable for accuracy.

Changes: None.

Comments: Commenters highlighted concerns that the additional layers of review and determination introduced by the rule could cause lengthy delays in processing applications, reconsiderations, and employer status updates. Commenters worried that they might be left in limbo for months or even years, undermining the value of the PSLF program as a dependable benefit. Some recommended the Department set strict timelines and performance metrics for application and employment certification form processing to prevent backlogs from eroding confidence in the program.

Discussion: The Department rejects the notion that this final rule creates unnecessary delays. The Department is creating internal performance expectations and oversight mechanisms so that applications, reconsiderations, and employer determinations move as quickly and predictably as possible. As explained previously, some reviews for substantial illegal activity will be straightforward and will be quickly processed, while other matters may be more complex and will need several layers of review before an informed decision can be reached. As such, the Department is unable to commit to specific timelines for different parts of the adjudicatory process. At the same time, qualifying employers and their employees will remain eligible to participate in the PSLF program throughout the review process. Only after the Secretary has determined that an organization has engaged in activities such that it has a substantial illegal purpose will borrowers no longer receive monthly PSLF credit for payments made.

Changes: None.

Comments: Commenters stressed that PSLF must be administered consistently regardless of which servicer handles a borrower's loans. They noted that inconsistent application of standards has been a long-standing problem, with some servicers approving payments or employers that others reject. Commenters urged the Department to adopt uniform servicing protocols, detailed written guidance, and

stronger oversight mechanisms to ensure equal treatment across the program.

Discussion: The Department agrees that the PSLF program, including regulations under this final rule, must be administered uniformly. Through its ongoing oversight mechanisms, the Department will ensure that both Department staff and vendors adhere to consistent protocols, written guidance, and oversight standards. Borrowers deserve equal treatment, and taxpayers deserve confidence that the PSLF program is administered consistently and fairly.

Changes: None.

Other Notable Public Comments

Comments: Commenters asked for more detail on how the rule will be implemented, including why certain organizations are excluded and how determinations will be documented. They said clearer terms would give borrowers and employers greater predictability and confidence.

Discussion: The Department agrees that clarity is essential. This final rule establishes the overarching regulatory framework, and the Department will continue to provide additional information, such as through guidance documents, as necessary to ensure that borrowers and employers understand how eligibility standards are applied. This approach promotes consistency, fairness, and transparency in all determinations. By doing so, the Department strengthens trust in the program, protects

borrowers, and safeguards taxpayer interests. It ensures that the PSLF program operates under clear rules, with neutral enforcement, and strong accountability.

Changes: None.

Comment: A commenter asserted that the final rule failed to address scenarios where a State law changed after a qualifying employer was found to have violated that State law and that violation of State law was used as evidence by the Secretary to determine that an employer has a substantial illegal purpose. The commenter believed that in such cases an employer's eligibility for PSLF should be restored, payments made by borrowers during the period when the employer was disqualified from PSLF should be credited toward PSLF, and the Department should be required to initiate a new process for determining when an employer should be disqualified.

Discussion: The Department disagrees with the commenter. Changes to State law do not change the underlying issue that the organization's action were illegal at the time the action was taken. The Department's rule is designed, in part, to deter organizations from engaging in unlawful behavior by creating additional adverse consequences for engaging in that conduct. Consequences that flow from engaging in illegal activity are not automatically nullified if the underlying law is modified, and the Department thinks it would be inappropriate to alter the

consequences for that illegal activity automatically here. The final rule provides disqualified employers with a streamlined pathway to regain eligibility as a qualifying employer for PSLF in section 685.219(j). Under that section, the employer has an opportunity to certify that it is no longer engaging in illegal activities under this final rule, and to provide evidence acceptable to the Secretary to support the compliance certification.

Changes: None.

X. Regulatory Impact Analysis

Executive Orders 12866, 13563, and 14192

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" as defined by that Executive Order and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Department estimates the net budgetary impacts to be -$1.616 billion from reductions in transfers from the Federal Government to borrowers who no longer receive credit toward loan forgiveness under PSLF. Quantified economic impacts include annualized transfers of -$179 million at 3 percent discounting and -$191 million at 7 percent discounting, and annual quantified costs of $0.3 to $0.4 million related to compliance costs and administrative updates to government systems. Additionally, the Department expects to allocate a portion of current full-time equivalent employment (FTE) to support the systems, compliance, and oversight functions of this final rule on a continuing basis. The Department estimates that a total of 10 FTEs will be allocated annually on an ongoing basis to systems, compliance, and oversight activities associated with this final rule, with a possible reduction in later outyears as noncompliant employers are disqualified and the expected deterrent effects of the final rule are realized. It is also important to note that given that the average PSLF loan forgiveness payment amount to date, as shown in

Table 5.4, is $75,900 per borrower, such a shift of current staff resources from performing lower value activities to preventing and deterring improper payments in the PSLF program is likely to result in lower overall net costs of these staff resources than without the final rule. Therefore, based on these estimates, the Office of Information and Regulatory Affairs (OIRA) has determined that this final action is "economically significant" under section 3(f)(1) and subject to OMB review under section 6(a)(3) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires an agency to:

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and considering, among other things and to the extent practicable, the costs of cumulative regulations;

(3) Choose among alternative regulatory approaches and select those approaches that maximize net benefits

(including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." OIRA has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

The Department finds that the benefits of this final rule outweigh and will justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. In this RIA, we discussed the need for regulatory action, potential costs and benefits, net budget impacts, and the regulatory alternatives we considered.

Elsewhere in this section under the *Paperwork Reduction Act*, we identify and explain burdens specifically associated with information collection requirements.

President Trump's Executive Order on *Unleashing Prosperity Through Deregulation*, Executive Order 14192 (Jan. 31, 2025) directs Federal agencies to manage and reduce regulatory costs while promoting economic growth. It emphasizes reviewing existing regulations and minimizing unnecessary burdens on the public. This rule is not an Executive Order 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

1. Major Rule Designation

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (5 U.S.C. 801 et seq.), OIRA designated this rule as a "major rule," as defined by 5 U.S.C. 804(2).

2. Need for Regulatory Action

The Department has identified a critical and urgent need for targeted regulatory reform within the PSLF program. The PSLF program, established to encourage public service careers by offering loan forgiveness to eligible borrowers, has faced several operational challenges, eligibility concerns, and administrative burdens that undermine its effectiveness. Despite the program's intent, the current regulatory framework does not restrict eligibility if an organization has a substantial illegal

purpose unless the organization ceases to qualify for another reason, such as having its tax-exempt status revoked by the IRS. As a result, the Department is currently indirectly subsidizing employers who are not engaged in public service because they are engaged in illegal activity and have no independent mechanism to remove such employers from the program.

In response to these challenges, the Department implements targeted regulatory changes designed to strengthen the program's integrity by limiting benefits to borrowers employed by organizations that meet the established public service criteria, including working for employers who perform a public good. This final rule refines the requirements for qualifying employers and makes certain that PSLF benefits are distributed only to those working for organizations that provide a public service, aligned with the goals of the HEA and consistent with the intent of Congress.

3. Summary

Table 3.1 – Summary of Key Changes in the Final Regulations

Provision	Regulatory Section	Description of proposed provision
Public Service Loan Forgiveness		
Definitions	§ 685.219(b)	Will add definitions of “aiding or abetting”; “chemical castration or mutilation”; “child or children”; “foreign terrorist organizations”; “illegal discrimination”;

				"other Federal immigration laws"; "substantial illegal purpose"; "surgical castration or mutilation"; "terrorism"; "trafficking"; "violating State law"; and "violence for the purpose of obstructing or influencing Federal Government policy". Will revise the definition of "qualifying employer".
Borrower Eligibility		§ 685.219(c)		Will exclude from a credit as a qualifying payment any month where ED has determined that a qualifying employer engaged in activities such that it has a substantial illegal purpose.
Application Process		§ 685.219(e)		Will create a borrower notification of employers that are at risk of or have lost PSLF qualifying status.
Borrower reconsideration process		§ 685.219(g)		Will prohibit a borrower from requesting reconsideration if their employer lost eligibility due to engaging in activity such that it has a substantial illegal purpose.
Standard for determining whether a qualifying employer has a substantial illegal purpose		§ 685.219(h)		Will create a standard by which the Secretary determines that the qualifying employer has a substantial illegal purpose, including but not limited to reviewing the preponderance of the evidence and basing decisions on materiality of the

				activities that have a substantial illegal purpose. Also, it will provide the employer an opportunity to respond except in cases where there is conclusive evidence (see discussion or regulatory language for more information) that the employer engages in activities such that it has a substantial illegal purpose.
Process for determining when a qualifying employer engaged in activities such that it has a substantial illegal purpose		§ 685.219(i)		Will establish that the Secretary determines that a qualifying employer has a substantial illegal purpose when the Secretary receives that self-certified information on the Public Service Loan Forgiveness Certification and Application (PSLF Form) or makes his or her own determination, unless a corrective action plan is submitted prior to issuance of the determination. Will also note the Secretary's authority to separate entities operating under one identification number.
Regaining eligibility		§ 685.219(j)		Will allow a qualifying employer to regain eligibility after ten years from the date the Secretary determines it has a substantial illegal purpose or when the Secretary approves a corrective action plan signed by the employer.
Borrower notification		§ 685.219(k)		Will require the Secretary to update

				the qualifying employer list within 30 days if an employer regains lost eligibility.

4. Discussion of Costs and Benefits

The PSLF program is a component of Federal student loan policy that provides benefits to individuals who enter and continue in public service employment by offering cancellation of remaining Direct student loan balance(s) after 120 qualifying monthly payments and at least 10 years of full-time employment in qualified public service jobs, which are both required under the PSLF program. However, over time, the program has faced challenges, including the disbursement of benefits to borrowers employed by organizations whose activities do not align with the program's public service objectives. To address these issues, the Department proposed a series of regulatory changes through the negotiated rulemaking process. These final regulations aim to strengthen the program's integrity, improve its efficiency, and ensure that taxpayer funds are allocated appropriately. Although these changes are expected to generate certain costs, the long-term benefits are substantial, making the program more effective, transparent, and accountable. Below is an analysis of both the costs and benefits of these regulations.

Costs of the Regulatory Changes:

The Department acknowledges that implementing the regulations will generate costs. These costs primarily fall into three categories: Department administrative costs, compliance costs for employers, and potential disruptions for borrowers. However, these costs must be viewed in the context of the long-term benefits that the regulations will provide.

One of the immediate costs associated with these regulatory changes will be the need for the Department to update its systems, train staff and vendors, and implement new compliance and monitoring processes. The Department will also need to enhance communication systems to notify employers and borrowers of any changes to a qualifying employer's status in the PSLF program. These changes will require new costs for minor system changes and for changes and increases in customer service activities.

Initial estimates suggest that the administrative costs for the Department will range from $1.5 million to $3 million annually during the first two years of implementation. These funds, from appropriated Student Aid Administration account funds, will be used to ensure that the Department can effectively manage the new employer eligibility determination process, update systems, and conduct necessary training for staff and stakeholders. Also, as noted earlier, on a continuing basis the Department estimates that a total of 10 FTEs will be allocated

annually, with a possible reduction in later outyears as noncompliant employers are disqualified and the expected deterrent effects of the final rule are realized.

In general, the Department believes that most employers will already be complying with the requirements of the rule because the employers already have an existing obligation to follow the law. Some employers may need to make changes to ensure that they follow the law and meet the new eligibility criteria under the regulations if they want to participate in the PSLF program. This will involve reviewing their activities to ensure they are not engaged in any actions that will disqualify them from participating in the PSLF program. For some employers who are not currently following the law, especially smaller organizations or those with limited resources, this process may necessitate consultation with legal counsel or operational adjustments.

Compliance costs for employers are expected to vary by organization, depending on the organization's size and complexity. Larger organizations, such as hospitals or universities, who are not currently complying with the law may incur higher costs as they assess their practices and make any necessary changes to align with this final rule. These costs primarily result from the costs of legal counsel, restructuring efforts, and changes to the organization's documentation processes. At the same time,

many organizations are accustomed to attesting to the fact that they are not violating Federal and State law as a condition to participate in other government or non-governmental programs. In circumstances like these, organizations may not need to exert any additional effort, or at most will need to dedicate a *de minimis* amount of additional resources, in order to comply under this final rule. Rather, such organizations will rely on their existing compliance efforts to comply with the rule.

The most significant impacts on borrowers may stem from potential misunderstandings of the final rule that may lead to borrower confusion that delays application of the forgiveness benefit. Borrowers who are employed by organizations disqualified under the new rule will no longer be eligible to receive credit toward loan forgiveness while working for that employer, except in certain circumstances described in the rule. These borrowers would need to transition to qualifying employers to continue receiving credit for their payments. Borrowers who misunderstand the new rule may apply for forgiveness without knowing or understanding the implications of this final rule on their former or current employer, as they may no longer be a qualifying employer.

Benefits of the Regulatory Changes:

Despite the initial and ongoing costs, the long-term benefits of this final rule include increased integrity and

long-term savings for taxpayers. The most significant benefit of the regulations is the improvement in the integrity of the PSLF program. By excluding employers engaged in illegal activities such that they have a substantial illegal purpose from the program, the Department affirms taxpayer dollars are only used to support borrowers working for organizations that are engaged in lawful public service. This change will directly address concerns about improper disbursements and misuse of Federal funds. This change also addresses concerns that the Department is indirectly subsidizing illegal activities that the Federal Government broadly aims to prevent.

The PSLF program provides generous benefits to individuals in public service, and these changes will improve the integrity of the program. By revising the PSLF program regulations to only reward service with organizations engaged in lawful activities, the Department expects to achieve substantial savings, as presented in the budget impacts of this final rule.

One of the most important benefits of the regulations is the long-term savings they will generate for taxpayers. By eliminating improper payments, the Department estimates that these regulations will save taxpayers $1.616 billion over the next ten years, resulting from a reduction in PSLF tied to illegal activity. The expected reduction in disbursements will ensure that taxpayer dollars are spent

more efficiently and effectively because the benefits borrowers receive are not indirectly supporting organizations engaged in activities such that it has a substantial illegal purpose.

The regulatory changes for the PSLF program aim to enhance the program's integrity and transparency. The regulations will help reduce improper payments and ensure that the program supports individuals employed by eligible organizations that genuinely provide a public service. With these changes, the PSLF program will be more accountable and transparent.

5. Net Budget Impact

Table 5.1 provides an estimate of the net Federal budgetary impact of these regulations that are summarized in Table 3.1 of this RIA. This includes both the effects of a modification to existing loan cohorts and costs for loan cohorts from 2026 to 2035. A cohort reflects all loans originated in a given fiscal year. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. The approach to estimating the net budget impact of these final regulations did not change from the NPRM. The primary change in the scores for the final rule is that the baseline for estimating the cost of this final rule is the

President’s Budget for 2026 (PB2026) as modified for the One Big Beautiful Bill Act, Pub. L. 119-21, 139 Stat. 72 signed into law on July 4, 2025. As it relates to the estimated impacts of this final rule to PSLF transfers, the most important change is the introduction of the Repayment Assistance Plan (RAP) and changes to eligibility for existing income-driven repayment (IDR) plans.

Table 5.1 Estimated Budget Impact of the Final Rule ($ in millions)

Section	Description	Modification Score (1994-2025)	Outyear Score (2026-2035)	Total (1994-2035)
§685.219(h)	Amended definition of qualifying employer	-$842	-$774	-$1,616

This final rule defines several terms related to qualifying employment for PSLF and amends the definition of a qualified employer to exclude organizations that engage in activities such that it has a substantial illegal purpose. This is consistent with President’s Trump’s Executive Order, *Restoring Public Service Loan Forgiveness*, Executive Order 14235 (Mar. 7, 2025). Pursuant to subsection 685.219(h), the Secretary will determine based on a preponderance of the evidence, and after notice and opportunity to respond, whether employers have engaged in activities enumerated in paragraph (b)(30) of the final rule on or after July 1, 2026, such it has a substantial illegal purpose. The Department will presume that any of

the following is conclusive evidence that the employer engaged in activities enumerated in paragraph (b)(30) on or after July 1, 2026:

1. A final judgment by a State or Federal court, whereby the employer is found to have engaged in activities that have a substantial illegal purpose;

2. A plea of guilty or *nolo contendere*, whereby the employer admits to having engaged in activities that have substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have substantial illegal purpose; or

3. A settlement that includes admission by the employer that it engaged in activities that have a substantial illegal purpose.

Employer qualification will be linked to the E.I.N. used for reporting to the IRS, therefore, employees in one area or agency may be affected by the activities of employees in other organizations under the same E.I.N. Government agencies may have many service areas under a single E.I.N.

The PSLF application data includes variables that distinguish non-profit employers and government employers, as well as the level of government employers. Table 5.2 summarizes the split between all borrowers who have received PSLF in the Department's data as of September 25,

2025, whose greatest time in qualifying employment was with government or non-profit organizations.

Table 5.2. Number of Borrowers Receiving PSLF and Average Forgiveness by Employment Sector

Employment Sector	Number of borrowers who have received forgiveness	Average forgiveness amount
Government	694,900	$ 73,100
Nonprofit	305,500	$ 82,200
Total	1,000,400	$ 75,900

Note: The total number of borrowers whose loans were forgiven may be less than most recent Department estimates due to timing, data availability, and data cleaning. Borrowers are sorted into the sector with the maximum time working toward forgiveness. The number of borrowers and average forgiveness amounts are rounded to the nearest hundred. The total represents the weighted average of the number of borrowers and average forgiveness amount across all borrowers who received PSLF through September of 2025. Totals are rounded to the nearest hundred of the employment sectors and may not equal the total due to rounding. Data extracted September 25, 2025, and represents all borrowers who have received PSLF forgiveness up until that date.

Table 5.3 splits the government category into Federal, State, and local levels. We assume that Federal agencies will comply with the law and do not expect a reduction in forgiveness for Federal employees.

Table 5.3. Number of Borrowers Receiving PSLF and Average Forgiveness by Government Subsector

Government Subsector	Number of borrowers who have received forgiveness	Average forgiveness amount
Federal Government	100,400	$ 72,000
Local government	425,500	$ 71,200
State government	166,600	$ 78,600
Unknown	2,400	$ 75,300
Total	694,900	$ 73,100

Note: The total number of borrowers who have received forgiveness may be less than most recent Department estimates due to timing, data availability, and data cleaning. Borrowers are sorted into the sector with the maximum time working toward forgiveness. The number of borrowers and average forgiveness amounts are rounded to the nearest hundred. The total represents the weighted average of the number of

borrowers and average forgiveness amount across all borrowers who received PSLF through September of 2025. Totals are rounded to the nearest hundred of the employment sectors and may not equal the total due to rounding. Data extracted September 25, 2025, and represents all borrowers who have received PSLF forgiveness up until that date.

Based on the activities identified in this final rule, it is likely that organizations in some fields are more likely to be affected than others, either by loss of eligibility, the deterrent effect on their activities, difficulty recruiting employees, or by their employees not being granted PSLF forgiveness and seeking alternate employment. Regardless of the type of employer, service areas that could be most affected by the regulation include, but are not limited to, legal services, governance, social work, healthcare, K-12 education, and higher education. Existing data on employers of borrowers who received forgiveness does not include a service category and employer names do not always indicate what an organization does, but the Department analyzed this data to estimate what share of borrowers who have achieved forgiveness fall into certain service areas and their average forgiveness.[8] This was done by matching keywords from various subsectors to employer names. For example, for healthcare, the keywords included "hospital," "health," "medical," and "clinic".

[8] Turner, J., Blanchard, K., & Darolia, R. (2025, January). *Where Do Borrowers Who Benefit from Public Service Loan Forgiveness Work?* NEA. https://www.nea.org/sites/default/files/2025-03/where-do-borrowers-who-benefit-from-pslf-work.pdf

A portion of employers cannot be classified because some employer names give no indication to their service area, contain misspellings, or have names that do not contain any of the keywords matched. These E.I.N.s are categorized as “Other”. Approximately 91 percent of borrowers who have received PSLF were categorized into a subsector category, leaving 9 percent in the “Other” category. In this analysis, we assume that the distribution of borrowers and subsectors in the future will reflect that of those who have received forgiveness. Table 5.4 summarizes the results by service area.

Table 5.4. Number of Borrowers Receiving PSLF and Average Forgiveness by Employment Subsector

Employment Subsector	Number of borrowers who have received forgiveness	Average forgiveness amount
Agriculture	3,400	$ 64,600
Arts	2,900	$ 62,200
Early Childhood	1,500	$ 63,000
Environmental	2,700	$ 61,400
Fire Rescue	1,200	$ 52,800
Governance	161,000	$ 67,200
Healthcare	163,900	$ 89,400
Higher Education	108,200	$ 84,500
International	1,300	$ 74,900
K-12 Education	303,500	$ 72,500
Law Enforcement	20,500	$ 66,400
Legal	14,100	$ 109,200
Military	49,900	$ 70,200
Other	84,900	$ 72,300
Philanthropy	5,500	$ 74,300
Religious	14,400	$ 69,600
Research	1,600	$ 65,600
Social Services	48,600	$ 75,400
Transportation	5,700	$ 61,500
Utilities & Infrastructure	2,500	$ 60,500
Workforce & Labor	3,000	$ 80,400

Total	1,000,400	$ 75,900

Note: The total number of borrowers who have received forgiveness may be less than most recent Department estimates due to timing, data availability, and data cleaning. Borrowers are sorted into the sector with the maximum time working toward forgiveness. The number of borrowers and average forgiveness amounts are rounded to the nearest hundred. The total represents the weighted average of the number of borrowers and average forgiveness amount across all borrowers who received PSLF through September of 2025. Totals are rounded to the nearest hundred of the employment sectors and may not equal the total due to rounding. Data extracted September 25, 2025, and represents all borrowers who have received PSLF forgiveness up until that date.

As we expect most employers to certify that they do not engage in activities with a substantially illegal purpose, the information in Table 5.4 informed our estimates of potential reductions in qualifying employers for PSLF but does not directly translate to the percentage of borrowers assigned to achieve forgiveness in our assumptions for the regulation. We also recognize that employers in other employment subsectors could engage in an activity that results in a loss of eligibility but estimate that these will be anomalies or very small percentages. Therefore, we have included a percentage for all other categories, and some sensitivity runs that are described in the *Methodology for Budgetary Impact* section of this analysis.

Methodology for Budgetary Impact

The Department estimated the budgetary impact of the provisions in this final rule through changes to the PSLF assignment within the Department's IDR assumption. PSLF is randomly assigned to borrowers in our IDR model sample based on percentages that vary by the cohort range in which

they enter repayment and highest education level as presented in Table 5.5.

Table 5.5: Change in Assignment of PSLF for Final Rule

Percentage of Borrowers Assigned PSLF			
PB2026 Baseline Scenario			
Enter Repayment Cohort Range	**2-year**	**4-year**	**Graduate**
2016 to 2020	10.46%	18.05%	21.96%
2021 and later	14.65%	28.88%	30.74%
Final Regulatory Scenario			
Enter Repayment Cohort Range	**2-year**	**4-year**	**Graduate**
2016 to 2020	10.25%	17.69%	21.52%
2021 and later	14.35%	28.30%	30.13%
Alternate Regulatory Scenario			
Enter Repayment Cohort Range	**2-year**	**4-year**	**Graduate**
2016 to 2020	9.83%	16.96%	20.64%
2021 and later	13.77%	27.14%	28.90%

We expect the regulations to have a deterrent effect, reducing the likelihood of qualifying employers engaging in illegal activities. Additionally, borrowers have the option of shifting employers to complete their 120 months of qualifying payments. Therefore, we do not expect a large reduction in borrowers achieving PSLF forgiveness, although savings of $1.6 billion over ten years is significant. We have not increased the effect for future cohorts of loans because, while potential ineligibility starts with July 1, 2026, the effective date of this final rule, employers' ability to appeal and get reinstated and employees' ability

to shift positions means the pattern is not necessarily a continued increase in ineligibility.

The changes made in Table 5.5 were derived from applying reductions between 0-5 percent to the employment subsectors identified in Table 5.4 as being most likely to be affected by the regulation (legal, healthcare, social work, higher education, K-12 education, and governance). This results in an estimated total reduction of approximately 0-2 percent.

As explained in the *Paperwork Reduction Act* section, the Department believes that there will be fewer than ten employers affected annually. Within the universe of borrowers who have received forgiveness, approximately 6 percent were employed for their longest time toward forgiveness in the top ten E.I.N.s by forgiven borrower count, excluding Federal employers who are assumed to comply. Therefore, we also ran an alternate high-impact sensitivity that changed the reductions up to 6 percent, see "PSLF Alternate" in Table 5.6.

The combined effect of the changes to the percentages in Table 5.5 reduces the number of borrowers achieving PSLF in our IDR assumption and results in the cost savings presented in Table 5.6.

Table 5.6: Net Budget Impact of Changes to PSLF

$ mns	PSLF Primary	PSLF Alternate
Modification	-$842	-$2,326
Outlays for Cohorts 2026-2035	-$774	-$2,220

Total	**-$1,616**	**-$4,546**

Accounting Statement:

As required by OMB Circular A–4, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these regulations. Table 5.7 provides our best estimate of the changes in annual monetized transfers that may result from these regulations. Expenditures are classified as transfers from the Federal Government to affected student loan borrowers.

Table 5.7: Accounting Statement: Classification of Estimated Expenditures (in millions)

Category	**Benefits**
Reduction in taxpayer costs supporting loan forgiveness of those at organizations determined to have a substantial illegal purpose.	Not quantified
Deterrence of activities with a substantial illegal purpose done by non-profit or governmental organizations.	Not quantified

Category	**Costs**	
	3%	**7%**
Costs of compliance with paperwork requirements.	$0.0	$0.0
Costs incurred by organizations to ensure compliance with regulations.		Not quantified
	$0.3	$0.4

Administrative costs to Federal Government to update systems and contracts to implement the regulations.		

Category	Transfers	
	3%	**7%**
Increased transfers from borrowers to Federal Government due to reductions in borrowers achieving PSLF forgiveness.	$-179	$-191

6. **Alternatives Considered**

In the interest of ensuring that these final regulations produce the best possible outcome, we considered a broad range of proposals from internal sources as well as from non-Federal negotiators and members of the public as part of the negotiated rulemaking process. However, the ideas presented during negotiated rulemaking largely mirrored the suggestions that the Department received in public comments. As discussed throughout the preamble and accompanying the discussion of each proposed regulatory provision, the Department believes the final rule will prevent taxpayer-funded PSLF benefits from being improperly provided to individuals who are employed by organizations that engage in activities such that it has a substantial illegal purpose, improve the integrity of the PSLF program, and provide protection for taxpayers.

Among some of the key themes discussed was the establishment of standards anchored in objective, evidenced-based findings. This final rule clarifies definitions of qualifying employers and provides a clear

standard of determination. This rule makes clear that employer disqualification requires the Department to find that an employer has engaged in activities such that they have a substantial illegal purpose by a preponderance of the evidence after weighing the employer's illegal conduct, narrowly focusing on only the illegal conduct enumerated in the rule. Commenters also sought to broaden or clarify which entities qualify as "public service organizations", particularly in edge cases such as nonprofit contractors, hybrid organizations, and religious nonprofits. The Department has carefully considered these requests but remains bound by the statutory language defining a "public service organization". The Department believes this final rule preserves flexibility to recognize a wide range of nonprofit and governmental employers while ensuring that the core purposes of the PSLF program are preserved.

7. *Regulatory Flexibility Act:*

The Secretary certifies, under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), that this final regulatory action will not have a significant economic impact on a substantial number of "small entities." For the purposes of this certification, the Department of Education defines small entities to include: (1) nonprofit organizations that are independently owned and operated and not dominant in their field, as defined in 5 U.S.C. 601(4); and (2) local educational agencies (LEAs), school

districts, or local governments serving populations of fewer than 50,000, consistent with 5 U.S.C. 601(5). For-profit companies, of any size, are not eligible as qualifying employers under PSLF, and therefore small businesses are not included here as small entities.

This regulatory action does not impose new reporting requirements or compliance burdens on these entities. Any potential effects are minimal, indirect, or result from voluntary participation in a Federal program. Therefore, the Department concludes that this rule will not have a significant economic impact on a substantial number of small entities, in accordance with 5 U.S.C. 605(b).

These regulations are focused on arrangements between the borrower and the Department. As noted in the *Paperwork Reduction Act* section, the burden related to the final regulations will be assessed in a separate information collection process.

8. Analysis of Public Comments and Changes:

Comments: Several commenters expressed concern that the Department's RIA did not adequately account for the administrative and compliance costs borne by nonprofit organizations, hospitals, schools, and government employers involved in certifying employment for PSLF.

Commenters, including Counsel for Justice and Candidly, asserted that the Department's cost estimates ($1.5–3 million) underestimate the true burden of annual

employment verification, staff training, and data management. They further suggested that the Department's approach diverges from prior economic analyses and omits recurring employer costs. Two anonymous commenters referenced specific sections of the RIA (*Discussion of Costs and Benefits* and *Methodology for Budgetary Impact*) to argue that the Department provided insufficient empirical support for its assumptions and did not identify data sources or methodologies to substantiate employer compliance estimates.

Discussion: The Department disagrees. The RIA provides reasonable and appropriate cost estimates. Although some employers may need to make administrative adjustments, those costs are outweighed by the benefits strengthening integrity and transparency that protects borrowers and safeguards taxpayer investment. This rule delivers certainty and strengthens oversight within the PSLF program. The Department is committed to fair implementation that protects both the public servants who rely on PSLF and the taxpayers who fund it.

Following the discussion of costs to borrowers and the Federal Government, the Department also considered potential administrative and compliance costs that may be incurred by employers participating in the PSLF program. Several commenters asserted that the Department's analysis did not fully account for the administrative and compliance

costs that nonprofit organizations, hospitals, schools, and government employers may face in assisting borrowers with PSLF employment certification. Commenters referenced the *Discussion of Costs and Benefits* and *Methodology for Budgetary Impact* sections of the proposed rule and suggested that the Department's estimated costs ($1.5–3 million) understated the true administrative workload associated with employment verification and recordkeeping. In response, the Department carefully reviewed the assumptions underlying its cost estimates and continues to find them reasonable and consistent with both prior rulemakings and current operational practices. The Department's methodology incorporates existing reporting obligations and employer processes already used to certify employment under PSLF and therefore reflects only incremental administrative costs directly attributable to this rule. Although commenters expressed general concern regarding compliance burdens, the Department did not receive quantitative data or supporting documentation sufficient to revise its estimates.

The Department concludes that any incremental employer burden associated with this final rule is expected to be minimal and does not represent a significant economic impact on small entities or affected sectors. As a result, no changes have been made to the RIA based on these comments.

Changes: None.

Comments: A recurring theme was concern that additional administrative burden and uncertainty may deter professionals from entering or remaining in public service roles. Commenters stressed that PSLF was designed to attract and retain public service workers, and that overly complex or costly rules could undermine this purpose.

Discussion: The Department does not agree with this claim. This final rule strengthens the PSLF program by clarifying eligibility standards and improving transparency so that borrowers and employers understand how the program is administered. These improvements give public service professionals greater confidence to remain in qualifying employment. The PSLF program must be reliable. Borrowers need certainty, and taxpayers require accountability. This rule supports both by keeping the program focused on rewarding lawful public service, consistent with the statute.

Changes: None.

Comments: A smaller number of commenters noted broader ripple effects if participation in PSLF declines. They suggested that reduced forgiveness would leave borrowers with higher debt burdens and less disposable income, limiting their ability to purchase homes, invest locally, or support their communities. Others argued that attrition

in public service roles could weaken schools, healthcare providers, and local governments.

Discussion: The Department does not agree with the assertion that this rule will have a significant adverse impact on the economy. Rather, the rule enhances the PSLF program by restoring clarity and consistency in its administration. Borrowers will gain increased confidence in the program, which supports long-term participation in public service employment. This stability helps retain skilled professionals in critical service roles and ensures that PSLF benefits continue to reach those engaged in lawful public service. The rule advances the Department's goal of ensuring responsible use of taxpayer funds.

Changes: None.

Comments: Commenters highlighted that small nonprofits, community health centers, and local government units lack the infrastructure to absorb compliance costs at the same level as large institutions. They argued that the Department's cost analysis treated all employers uniformly, failing to recognize the disproportionate impact on small entities that operate with limited budgets and staff. These groups feared that compliance requirements could force them to reduce services or reconsider participation in the PSLF program altogether.

Discussion: The Department acknowledges that small nonprofits, community health centers, and local government

units often operate with limited budgets and have a difficult time with regulatory compliance. However, the Department rejects the claim that this rule imposes disproportionate burdens as the rule does not add new legal requirements. Rather, the rule creates new consequences for failing to abide by existing law. The RIA already accounts for compliance adjustments across a wide range of employer types, and the requirements are narrowly tailored to ensure accountability without excessive paperwork. This rule does not create unnecessary red tape. It creates clarity, consistency, and fairness so borrowers know that only public service will be counted to ensure that taxpayer resources are protected. Accountability applies to all entities receiving the benefit of Federal loan forgiveness.

Changes: None.

Comments: Some commenters argued that beyond administrative costs, the Department did not fully consider how compliance demands could reduce organizational capacity to deliver essential services. For example, schools and hospitals could be forced to reallocate staff from direct service roles to compliance functions, potentially reducing classroom instruction or patient care. Commenters warned that these indirect costs may be more damaging than direct compliance expenses.

Discussion: The Department acknowledges that some organizations that are breaking the law will need to

significantly change their existing compliance practices if they want to come into compliance with the rule. However, even in those circumstances, the Department does not believe that compliance requirements will weaken schools, hospitals, or other public service employers. If these organizations are not following the law, they have an independent reason outside of the PSLF program to spend necessary funds to stop violating the law. This final rule is designed to strengthen confidence in the PSLF program, not siphon resources away from public service providers. This rule's administrative safeguards are straightforward, proportional, and necessary to ensure that Federal benefits are delivered only to borrowers working for organizations engaged in lawful activities.

Changes: None.

Comments: A subset of commenters cautioned that the cumulative effect of compliance costs, administrative risk, and uncertainty could discourage some employers from participating in PSLF at all. They argued that, if organizations perceive the program as unpredictable or too resource-intensive, they may avoid advertising PSLF benefits to employees or disengage entirely. They argue this would directly undermine the program's intended purpose of expanding access to public service careers.

Discussion: The Department acknowledges that some employers may no longer wish to participate in the program or may

cease advertising to employees and prospective employees about how working for the organization could lead to PSLF forgiveness. At the same time, employers that voluntarily cease participation in PSLF may do so because they are engaging in activities with a substantial illegal purpose. In these circumstances, the Department believes that voluntary withdrawal is appropriate. Other employers who do not engage in activities with a substantial illegal purpose may also withdraw from PSLF participation. The Department believes that any risks associated with withdrawal by employers who would be eligible is outweighed by the benefits of enhanced integrity to the PSLF program that come from the rule. This final rule ensures all qualified employers are treated consistently, strengthens trust in the program, and makes PSLF a more accountable and transparent program.

Changes: None.

Comments: A few commenters expressed concern that the cost estimate included in the RIA was unsubstantial or otherwise in conflict with the Department's assertions with respect to the final rule's impact. They also argued that assertions regarding streamlining the PSLF process and anticipated growth in public service recruitment and retention contradicted the Department's projected savings under the rule, and requested the Department reconcile these conflicts.

Discussion: The Department acknowledges commenters' concerns regarding the conflict between projected savings under the final rule and anticipated growth in public service employment and made changes to address the inconsistency by reducing the Department's assumption about the anticipated growth in public service employment through the final rule.

Changes: Amended preamble language in the RIA section.

Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Section 685.219(i) of these regulatory changes will require an update to the currently approved Public Service Loan Forgiveness Certification and Application, OMB # 1845-0110 (PSLF Form). The Department will amend the PSLF form to include the ability for a qualifying employer to certify

that it has not engaged in activity that has a substantial illegal purpose. The burden on this information collection will not significantly change for the borrower to complete the form. This form update will be completed and made available for comment through a full public clearance package before being made available for use by the effective date of the regulations. Any burden changes will be assessed to OMB # 1845-0110, Public Service Loan Forgiveness Certification and Application. The amendments to the regulation do not significantly change the estimated number of respondents or responses for individuals in this collection. The Department estimates that there will be a nominal change in the number of borrowers completing the PSLF Form. The Department expects that borrowers who currently work for non-qualifying employers will likely submit a form to either switch employers or because they are uncertain about their employer's eligibility status.

Section 685.219(j) of the final regulation will allow an employer to re-establish eligibility for PSLF if the Secretary approves a corrective action plan. The Department believes that, annually, there will be less than ten employers responding to the Department's notice of an initiated action and/or seeking approval of a corrective action plan. No additional burden has been assessed based on this final rule as the anticipated number of annual

respondents falls below ten, which is the minimum required for OMB approval of an information collection.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with or is subject to a penalty for failure to comply with a collection of information if the collection instrument does not display a currently valid OMB control number.

Analysis of Public Comments & Changes

Comments: Several commenters argued that the proposed requirements could trigger additional reporting and documentation obligations that may not comply with the PRA. They emphasized that duplicative or unclear reporting burdens would impose unnecessary strain on organizations and potentially violate statutory limits. Commenters asked the Department to explicitly evaluate and minimize any new paperwork requirements.

Discussion: The Department acknowledges the importance of the PRA and will comply fully with its requirements. However, the claim that this final rule creates duplicative or unlawful reporting burdens is misplaced. The rule does not impose unnecessary or redundant reporting obligations. It aligns PSLF program documentation with existing Federal

and State oversight systems and streamlines requirements where possible to avoid duplication. The Department is committed to minimizing burden while preserving accountability. The Department's commitment to promoting sound financial stewardship of government programs, including the PSLF program, while alleviating unnecessary regulatory burdens, is informed in part by President Trump's Executive Order on *Unleashing Prosperity Through Deregulation* (Jan. 31, 2025). PRA review will ensure that any reporting is necessary, clear, and efficient. Borrowers and taxpayers alike deserve a program that is transparent, fair, and protects Federal investment. The Department will enforce the law firmly, while making sure compliance is efficient, lawful, and aligned with statutory obligations.

Changes: None.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of Executive Order 12372 is to foster an intergovernmental partnership and strengthen Federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Federalism

Executive Order 13132 requires us to provide meaningful and timely input by State and local elected officials in the development of regulatory policies that have Federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The regulations do not have Federalism implications.

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List of Subjects

34 CFR part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

_____

Nicholas Kent,
Under Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education amends part 685 of title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for part 685 is revised to read as follows:

Authority: 20 U.S.C. 1070g, 1087a, *et seq.*, unless otherwise noted.

2. Amend § 685.219 by:

a. Adding paragraphs (b)(1) through (b)(35);

b. Revising paragraphs (c)(2)introductory text and(c)(4); and

c. Adding paragraphs(e)(9) and (10),(g)(7), and (h) through(k).

The additions and revisions read as follows:

§ 685.219 Public Service Loan Forgiveness Program (PSLF).

*****

(b) * * *

(1) *Aiding or abetting* has the same meaning as defined under 18 U.S.C. 2.

(2) AmeriCorps service means service in a position approved by the Corporation for National and Community Service under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573).

(3) *Chemical castration or mutilation* means:

(i) The use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; and

(ii) The use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual’s physical appearance with an identity that differs from his or her sex.

(4) *Child or children* for the sole and specific purpose of this section means an individual or individuals under 19 years of age.

(5) *Civilian service to the military* means providing services to or on behalf of members, veterans, or the families or survivors of deceased members of the U.S. Armed Forces or the National Guard that is provided to a person because of the person's status in one of those groups.

(6) *Early childhood education program* means an early childhood education program as defined in section 103(8) of the Act (20 U.S.C. 1003).

(7) *Eligible Direct Loan* means a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct PLUS Loan, or a Direct Consolidation Loan.

(8) *Emergency management* means services that help remediate, lessen, or eliminate the effects or potential effects of emergencies that threaten human life or health, or real property.

(9) *Employee or employed* means an individual:

(i) To whom an organization issues an IRS Form W-2;

(ii) Who receives an IRS Form W-2 from an organization that has contracted with a qualifying employer to provide payroll or similar services for the qualifying employer, and which provides the Form W-2 under that contract;

(iii) who works as a contracted employee for a qualifying employer in a position or providing services which, under

applicable State law, cannot be filled or provided by a direct employee of the qualifying employer.

(10) *Foreign Terrorist Organizations* mean organizations on the list published under paragraph (a)(2)(A)(ii) under the Immigration and Nationality Act (8 U.S.C. 1189).

(11) *Full-time* means:

(i) Working in qualifying employment in one or more jobs—

(A) A minimum average of 30 hours per week during the period being certified,

(B) A minimum of 30 hours per week throughout a contractual or employment period of at least 8 months in a 12-month period, such as elementary and secondary school teachers and professors and instructors, in higher education, in which case the borrower is deemed to have worked full time; or

(C) The equivalent of 30 hours per week as determined by multiplying each credit or contact hour taught per week by at least 3.35 in non-tenure track employment at an institution of higher education.

(12) *Illegal discrimination* means a violation of any Federal discrimination law including, but not limited to, the Civil Rights Act of 1964 (42 U.S.C. 1981 *et seq.*), Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*).

(13) *Law enforcement* means service that is publicly funded and whose principal activities pertain to crime prevention, control or reduction of crime, or the enforcement of criminal law.

(14) *Military service* means "active duty" service or "full-time National Guard duty" as defined in section 101(d)(1) and (d)(5) of title 10 in the United States Code and does not include active duty for training or attendance at a service school.

(15*)* *Non-governmental public service* means services provided by employees of a non-governmental qualified employer where the employer has devoted a majority of its full-time equivalent employees to working in at least one of the following areas (as defined in this section): emergency management, civilian service to military personnel, military service, public safety, law enforcement, public interest law services, early childhood education, public service for individuals with disabilities or the elderly, public health, public education, public library services, school library, or other school-based services. Service as a member of the U.S. Congress is not qualifying public service employment for purposes of this section.

(16) *Non-tenure track employment* means work performed by adjunct, contingent or part time faculty, teachers, or lecturers who are paid based on the credit hours they teach at institutions of higher education.

(17) *Other Federal Immigration laws* mean any violation of the Immigration and Nationality Act (8 U.S.C. 1105 *et seq.*) or any other Federal immigration laws.

(18) *Other school-based services* mean the provision of services to schools or students in a school or a school-like setting that are not public education services, such as school health services and school nurse services, social work services in schools, and parent counseling and training.

(19) *Peace Corps position* means a full-time assignment under the Peace Corps Act as provided for under 22 U.S.C. 2504.

(20) *Public education service* means the provision of educational enrichment or support to students in a public school or a public school-like setting, including teaching.

(21) *Public health* means those engaged in the following occupations (as those terms are defined by the Bureau of Labor Statistics): physicians, nurse practitioners, nurses in a clinical setting, health care practitioners, health care support, counselors, social workers, and other community and social service specialists.

(22) *Public interest law* means legal services that are funded in whole or in part by a local, State, Federal, or Tribal government.

(23) *Public library service* means the operation of public libraries or services that support their operation.

(24) *Public safety service* means services that seek to prevent the need for emergency management services.

(25) *Public service for individuals with disabilities* means services performed for or to assist individuals with disabilities (as defined in the Americans with Disabilities Act (42 U.S.C. 12102)) that is provided to a person because of the person's status as an individual with a disability.

(26) *Public service for the elderly* means services that are provided to individuals who are aged 62 years or older and that are provided to a person because of the person's status as an individual of that age.

(27) *Qualifying employer* means:

(i)(A) A United States-based Federal, State, local, or Tribal government organization, agency, or entity, including the U.S. Armed Forces or the National Guard;

(B) A public child or family service agency;

(C) 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;

(D) A Tribal college or university; or

(E) A nonprofit organization that—

(1) Provides a non-governmental public service as defined in this section, attested to by the employer on a form approved by the Secretary; and

(2) Is not a business organized for profit, a labor union, or a partisan political organization.; and

(ii) Does not include organizations that engage in activities such that they have a substantial illegal purpose, as defined in this section.

(28) *Qualifying repayment plan* means:

(i) An income-driven repayment plan under § 685.209;

(ii) The 10-year standard repayment plan under § 685.208(b) or the consolidation loan standard repayment plan with a 10-year repayment term under § 685.208(c); or

(iii) Except for the alternative repayment plan, any other repayment plan if the monthly payment amount is not less than what will have been paid under the 10-year standard repayment plan under § 685.208(b).

(29) *School library services* mean the operations of school libraries or services that support their operation.

(30) *Substantial illegal purpose* means:

(i) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws;

(ii) 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;

(iii) Engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law;

(iv) Engaging in the trafficking of children to another State for purposes of emancipation from their lawful parents in violation of Federal or State law;

(v) Engaging in a pattern of aiding and abetting illegal discrimination; or

(vi) Engaging in a pattern of violating State laws as defined in paragraph (b)(34) of this section.

(31) *Surgical castration or mutilation* means surgical procedures that attempt to transform an individual's physical appearance to align with an identity that differs from his or her sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy their natural biological functions.

(32) *Terrorism* is defined under 18 U.S.C. 2331.

(33) *Trafficking* means transporting a child or children from their State of legal residence to another State without permission or legal consent from the parent or legal guardian for purposes of emancipation from their lawful parents or legal guardian, in violation of applicable law.

(34) *Violating State law* means a final, non-default judgment by a State court of:

(i) Trespassing;

(ii) Disorderly conduct;

(iii) Public nuisance;

(iv) Vandalism; or

(v) Obstruction of highways.

(35) *Violence for the purpose of obstructing or influencing Federal Government policy* means violating any part of 18 U.S.C. 1501 *et seq.* by committing a crime of violence as defined under 18 U.S.C. 16.

(c) ***

(2) Except as provided in paragraph (c)(4) of this section, a borrower will be considered to have made monthly payments under paragraph (c)(1)(iii) of this section by—

* * * * *

(4) Effective on or after July 1, 2026, through a standard as described in paragraph(h)of this section, no payment shall be credited as a qualifying payment for any month subsequent to a determination that a qualifying employer engaged in activities enumerated in paragraph (b)(30) such that it has a substantial illegal purpose, as described in this section.

* * * * *

(e) * * *

(9) If the Secretary has notified the borrower's employer that the employer may no longer satisfy the definition of qualifying employer set forth in paragraph (b)(28) of this section, pending a determination made under paragraph (h) of this section, the Secretary notifies the borrower of the potential change in the employer’s status.

(10) If the Secretary has determined the borrower's employer has ceased to be a qualifying employer as a result of a determination made under paragraph(h) of this section, the Secretary notifies the borrower of the change in the employer’s status.

* * * * *

(g) * * *

(7) Notwithstanding paragraph (g)(1) of this section, a borrower may not request reconsideration under this paragraph (g) based on the Secretary’s determination that the organization lost its status as a qualifying employer due to engaging in activities that have a substantial illegal purpose under the standard described in paragraph (h) of this section.

(h) *Standard for determining whether a qualifying employer has a substantial illegal purpose.*

(1) The Secretary determines by a preponderance of the evidence, and after notice and opportunity to respond (which is referred to as the “employer reconsideration process”), that a qualifying employer has engaged on or after July 1, 2026, in illegal activities such that it has a substantial illegal purpose by considering the materiality of any illegal activities or actions as described in paragraph (b)(30) of this section. In making such a determination, the Secretary shall presume that any

of the following is conclusive evidence that the employer engaged in activities enumerated in paragraph(b)(30):

(i) A final judgment by a State or Federal court, whereby the employer is found to have engaged in illegal activities that have a substantial illegal purpose;

(ii) A plea of guilty or *nolo contendere*, whereby the employer admits to have engaged in illegal activities that have a substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in illegal activities that have substantial illegal purpose; or

(iii) A settlement that includes admission by the employer that it engaged in illegal activities that have a substantial illegal purpose described in paragraph (h) of this section.

(2) Nothing in this paragraph (h)(2)shall be construed to authorize the Secretary to determine an employer has a substantial illegal purpose based upon the employer or its employees exercising their First Amendment protected rights, or any other rights protected under the Constitution.

(i) *Process for determining when a qualifying employer engaged in activities such that it has a substantial illegal purpose.*

(1) The Secretary will determine that a qualifying employer violated the standard under paragraph (h) of this section when the Secretary:

(i) Receives an application as referenced under paragraph (e) of this section in which the employer fails to certify that it did not participate in activities that have a substantial illegal purpose; or

(ii) Determines that the qualifying employer engaged in activities such that it has a substantial illegal purpose under paragraph (h) of this section, unless, prior to the issuance of the Secretary's determination, the Secretary includes the factors set forth in paragraph (j)(2) of this section.

(2) Notwithstanding paragraph (i)(1) of this section, the Secretary shall, in the event an employer is operating under a shared identification number or other unique identifier, consider the organization to be separate if the employer is operating separately and distinctly, for the purposes of determining whether an employer is eligible.

(j) *Regaining eligibility as a qualifying employer*. An organization that loses eligibility for failure to meet the conditions of paragraph (b)(27) of this section may regain eligibility to become a qualifying employer after —

(1) 10 years from the date the Secretary determines the organization engaged in activities such that it has a substantial illegal purpose in accordance with paragraph

(h) of this section, if, at or after that time, the organization certifies on a borrower's subsequent application that the organization is no longer engaged in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section; or

(2) The Secretary approves a corrective action plan signed by the employer that includes —

(i) a certification by the employer that it is no longer engaging in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section;

(ii) a report describing the employer's compliance controls that are designed to ensure that the employer does not continue to engage in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section in the future; and

(iii) any other terms or conditions imposed by the Secretary designed to ensure that employers do not engage in actions or activities that have a substantial illegal purpose.

(k) *Borrower notification of regained eligibility*. If an employer regains eligibility under paragraph (j) of this section, the Secretary shall update the qualifying employer list, which is accessible to borrowers for purposes of certification or application.

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