

Congress of the United States
Washington, DC 20515

October 3, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Dear Secretary DeVos,

We are deeply concerned by the findings articulated in the Government Accountability Office (GAO)'s September 5th report: "Public Service Loan Forgiveness: Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion" (the Report). The Report was requested to help ensure the U.S. Department of Education (the Department)'s good-faith administration of the Temporary Expanded Public Service Loan Forgiveness (TEPSLF). The Report finds severe flaws with the Department's administration of TEPSLF. Borrowers are suffering unnecessary hostility and pointless paperwork burdens. Our nation's public service employees, including teachers, first responders, and members of our military, should be provided with the debt relief they were promised. Unfortunately, failures by your Department threaten the financial stability of eligible borrowers, contradict your own stated goals for managing the federal student loan program, and undermine Congressional efforts to provide student loan relief.

The Public Service Loan Forgiveness (PSLF) program was created under the College Cost Reduction and Access Act of 2007 to encourage students to pursue careers in the public sector. PSLF eliminates (or "forgives") the remaining balance on a direct loan after a borrower has made 120 on-time, complete payments toward a qualifying repayment plan while working full-time in public service for ten years. In 2017, a decade after the program was created, the Department began accepting the first applications for loan forgiveness under PSLF as borrowers completed their service requirement.

The implementation of PSLF, however, has been disastrous. In March of this year, the Department released data about PSLF applications which revealed that only 864 of the 72,002 applications processed by March 2019 had been approved for loan forgiveness. In other words, over 99 percent of borrowers were denied loan forgiveness in the first wave of applications for PSLF.¹ In response to a significant number of denials based on ineligible repayment plans, often

¹ "Public Service Loan Forgiveness: Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion," Report to Congressional Requesters, *United States Government Accountability Office* (September 2019) at: <https://www.gao.gov/assets/710/701157.pdf>

due to misinformation provided by loan servicers, Congress created TEPSLF and made \$700 million available for borrowers.²

TEPSLF gives borrowers a second chance to qualify for loan forgiveness—issued on a first come, first served basis—if some or all payments they made on direct loans were on a graduated or extended repayment plan³ or made in an amount that did not qualify for PSLF, but the borrower otherwise met the conditions for PSLF.⁴ However, the GAO has now revealed that both PSLF and TEPSLF have a 99 percent denial rate. The Trump Administration’s inconsistent and overly complex process for implementing these loan forgiveness programs, in combination with a severe lack of accountability for student loan servicers and debt collectors and efforts to undermine accountability from state and federal enforcement agencies,⁵ created a disaster which completely subverts Congressional intent.

In the Consolidated Appropriations Act of 2018, Congress required the Department to create a “simple method” for borrowers to apply for TEPSLF.⁶ The accompanying Committee Report also stated that Congress “notes that there has been significant concern from borrowers over the Department’s consistency and reliability in administering the Public Service Loan Forgiveness [PSLF] program.” The Department has failed to comply with either directive. The complete language in the Committee Report makes Congressional intent in creating the TEPSLF program abundantly clear.

Public Service Loan Forgiveness Program.--The Committee notes that there has been significant concern from borrowers over the Department's consistency and reliability in administering the Public Service Loan Forgiveness [PSLF] program. The Committee encourages the Department, in coordination with its Federal loan servicers, to update guidance, information, and processes regarding borrower eligibility for PSLF. Further, the Committee encourages the Department to provide further clarity regarding employer eligibility under the program, particularly for applicants employed by non-profit organizations that provide certain types of public service, but are not categorized under section 501(c)(3) of the Internal Revenue Code. This information should be publicly accessible and include real-world examples of organizations that qualify in certain fields.

The Committee also notes that there has been concern with the level of service provided to borrowers that intend to seek PSLF. The Committee encourages the Department to provide to borrowers more regular and current information about the status of processing their PSLF employment certification, the number of qualifying payments made, and the projected date of their

² Anya Kametz, “Teachers, Lawyers And Others Worry About The Fate Of Student Debt Forgiveness,” *NPR* (April 2017) at: <https://www.npr.org/sections/ed/2017/04/05/522575533/teachers-lawyers-and-others-worry-about-the-fate-of-student-debt-forgiveness>

³ Qualifying repayment plans under TEPSLF include: graduated, extended, consolidated standard, and consolidated graduated repayment plans. *Id.*

⁴ Aimee Picchi, “Student loan relief for public servants: 38,460 applied, only 262 accepted,” *CBS News* (April 2019) at: <https://www.cbsnews.com/news/student-loan-relief-for-public-servants-many-apply-few-are-accepted/#>

⁵ Erik Ortiz, “Inside the Education Department's effort to 'obstruct' student loan investigations,” *NBC News* (September 2019) at: <https://www.nbcnews.com/news/education/inside-education-department-s-effort-obstruct-student-loan-investigations-n1049576>

⁶ Consolidated Appropriations Act, Public Law No: 115-141, Section 315 (2018) at: <https://www.congress.gov/bill/115th-congress/house-bill/1625/text>

forgiveness. Further, the Committee encourages the Department to expand the use of digital technology in the PSLF program, to allow for employment certifications and PSLF applications to be completed electronically, and with each student loan servicer. Finally, to ensure consistency for applicants, the Committee encourages the Department to revisit decisions to rescind employment certification for borrowers who were previously approved.

Despite this plain statement of Congressional intent, the Department has made the TEPSLF application process needlessly difficult to navigate. GAO found that the Department's unnecessary requirement that a TEPSLF applicant first apply to be rejected, before applying again, has resulted in 71 percent of program denials issued by the Department.⁷ More than a year ago, Members of Congress called for the Department to remove this unnecessary hurdle and to consider a unified application process.⁸ Unfortunately, the Department refused. As a result of these barriers your Department has created to debt relief, to date, you have spent only \$27 million of the \$700 million appropriated by Congress for TEPSLF.⁹

Congress also foresaw the challenges of providing outreach to borrowers who might be eligible for the new forgiveness fund or confused about their options for relief, so we set aside \$4.6 million for the Department to conduct outreach on both PSLF and TEPSLF. Again, the Department has failed to comply with Congressional intent. The Consolidated Appropriations Act of 2018 required the Secretary to "communicate to all Direct Loan borrowers the full requirements of section 455(m) of such Act," but it has refused to provide a timeline of when this communication to all borrowers will occur and instead suggested "targeted" emails with no clear timeline.¹⁰

In its Report, the GAO compiled an exhaustive list of the ways in which the Department is failing to carry out its responsibility to administer TEPSLF and PSLF. These failures include:

1. requiring that borrowers who qualify for TEPSLF but not PSLF still complete the PSLF application (to capture information servicers need to determine program eligibility) but not explicitly informing applicants of this requirement,
2. removing borrowers from the TEPSLF program wait list if they had not first submitted a PSLF application, with zero accompanying feedback or indication as to whether the borrower would in fact qualify,
3. obscuring information about recourse options for borrowers who believe they were improperly denied loan forgiveness,

⁷ *Supra*, note 1. Page 13.

⁸ "Kaine, Whitehouse, Duckworth, Hassan Press DeVos On Failure To Implement Public Service Loan Forgiveness," (June 2018) at: <https://www.kaine.senate.gov/press-releases/kaine-whitehouse-duckworth-hassan-press-devos-on-failure-to-implement-public-service-loan-forgiveness>

⁹ *Supra*, note 1. Page 14.

¹⁰ "Questions Submitted by Senator Patty Murray: Hiring Delays at the Office for Civil Rights," *Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies* (March 2019) at: <https://www.help.senate.gov/imo/media/doc/SenMurrayQFRresponses32819LHHShearing.pdf>

4. neglecting to provide loan servicers with a consistent and complete accounting of borrowers' loan payment history information from other loan servicers and thus increasing the risk of a servicer inaccurately counting a borrower's historic payments (and which, according to the Report, occurred with startling frequency),¹¹ and
5. performing inconsistent and wholly insufficient outreach, including but not limited to: not requiring all servicers of TEPSLF-eligible loans to include information about the program on their websites, not including TEPSLF information within the Department's PSLF Online Help Tool, not creating a similar tool for TEPSLF, and choosing not to include a simple "TEPSLF" check box on the PSLF application, so borrowers understand the dual functions of the application.

The GAO made four recommendations to the Department that,¹² if implemented in good faith, would help borrowers obtain the relief Congress intended. Given that the Department largely accepted the GAO's recommendations, please provide specific month and year targets for completing these improvements, including accompanying rationales for selecting those dates. Additionally, please describe the remedial measures the Department will take if these deadlines are not met and how it will hold itself accountable for completing them on time.

It is important that the Department simplify the process and remove the unnecessary and self-imposed administrative burdens that currently prevent borrowers from receiving the relief they are owed under TEPSLF. It was never Congress's intent to make these programs functionally inaccessible, which the Department has ensured by erecting a series of barriers throughout the application and approval processes. We hope the Department will be reminded of the guiding tenet that drove Congress's creation of the TEPSLF and PSLF programs: that dedicating yourself to making this country better, through acting as a first responder to aid the public during emergencies, educating our students, or serving in our armed forces, among many other professions performed by those who pursue a path in the public sector, is an honorable and deeply-needed service. These borrowers have earned relief from their student loan debt, and we will continue conducting close oversight until your Department fulfills our nation's promise to them.

We await your response, which we hope to receive by October 21st.

Sincerely,



KATIE PORTER



GERALD E. CONNOLLY

¹¹ *Supra*, note 1. Page 17.

¹² *Supra*, note 1. Page 22.

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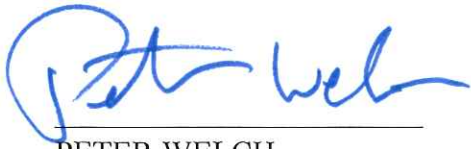
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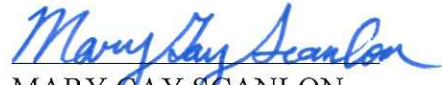
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