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How Can I benefit from the Public Service Loan Forgiveness Program?

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9.0--Miscellaneous

Q: I have recently graduated from college and am about to enter active duty for at least four years. To pay for my undergraduate degree, I took out substantial federal loans. This left me with large federal student loan debt. Can I participate in the Public Service Loan Forgiveness (PSLF) Program?

A: Yes.

The Limited Public Service Loan Forgiveness Waiver

The PSLF Program made an important promise to provide debt relief to support those who work in public service jobs, including those who are in the armed forces. The objective was to encourage individuals to continue to work as public servants, without needing to resort to private sector work to pay off student loan debt. Yet, for many years this promise has gone unfulfilled. This broken promise was evidenced by a group of military lawyers who, due to the maze of rules, were not able to benefit from PSLF after making thousands of dollars' worth of payments.³

In light of the obvious complications associated with PSLF, the Department of Education acted.⁴ In October 2021, the Department stated that it is offering the Limited PSLF Waiver. This limited-time waiver will allow student borrowers to receive credit for periods of repayment from all federal loan programs or repayment plans, including loan types and repayment plans that are

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2300 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 90% of the articles, but we are always looking for "other than Sam" articles by other lawyers.

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*Military title used for identification only. The views expressed in this article are the views of the author, and not necessarily the views of the Marine Corps, the Department of the Navy, the Department of Defense, or the U.S. Government.

³60 Minutes: Public Service Loan Forgiveness Program not living up to its name (CBS television broadcast Oct. 3, 2021).

⁴Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul, U.S. DEPARTMENT OF EDUCATION (Oct. 6, 2021), <https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

not included in PSLF.⁵ The payments could have been made in full or in part, but the loan cannot have fallen into default.⁶ Additionally, the Department is allowing months spent on active duty to count toward PSLF, even if the service member's loans were on deferment or forbearance and not in active repayment.⁷

To benefit from the Limited PSLF Waiver, you will need to consolidate your Federal Family Education Loan Program (FFELP), Perkins, and other federal loans (including the National Defense Student Loans) into a Direct Consolidation Loan.⁸ The Limited PSLF Waiver will be in effect through October 2022, under emergency provisions.⁹ However, the changes are expected to be codified throughout 2022.¹⁰ The Limited PSLF Waiver is not only going to help you but also over 550,000 borrowers, at least 17,000 of whom are current troops.¹¹

Applied to you:

If you have loans that are not covered under PSLF, such as FFELP, Perkins, or National; Defense Student Loans, then you must consolidate those loans into a Direct Consolidation Loan by October 31, 2022. If you do not, then you may not receive qualifying credit for payments on those loans through the Limited PSLF Waiver

Qualifying Payments

Any loan received under the William D. Ford Federal Direct Loan (Direct Loan) Program qualifies for PSLF.¹² The FFELP and Perkins Loan Program do not qualify, unless, as discussed above, you consolidate the loans. Loans from private lenders do not qualify for PSLF.¹³

To be eligible for loan forgiveness under PSLF, you must make 120 qualifying payments to the Direct Loan or Direct Consolidation Loan.¹⁴ This will take, at a minimum, 10 years. A qualifying monthly payment is a payment made after October 1, 2007, under a qualifying repayment plan for the full amount due or shown on your bill no later than 15 days after your due date while employed full-time by a qualifying employer.¹⁵

⁵*Id.*

⁶*Id.*

⁷*Id.*

⁸*PSLF Waiver Offers Way to Get Closer to Loan Forgiveness*, FEDERAL STUDENT AID, <https://studentaid.gov/announcements-events/pslf-limited-waiver> (last visited Mar. 5, 2022).

⁹Leo Shane III, *Changes to federal loan forgiveness program will benefit thousands of troops, vets, and DoD workers*, MILITARY TIMES (Oct. 6, 2021), <https://www.militarytimes.com/education-transition/2021/10/06/changes-to-federal-loan-forgiveness-program-will-benefit-thousands-of-troops-vets-and-dod-workers/>.

¹⁰*Id.*

¹¹*Id.*

¹²*Public Service Loan Forgiveness (PSLF)*, FEDERAL STUDENT AID, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service> (last visited Mar. 5, 2022).

¹³*Id.*

¹⁴*Id.*

¹⁵*Id.*

Payments: For the monthly payment to qualify, it must be made during periods when you are required to make a payment.¹⁶ That means a payment made while you are in-school status, the grace period, a deferment, or forbearance does not qualify as a monthly payment.¹⁷ However, there is a way around deferment or forbearance.

If you would like to make a payment during one of those two times, contact your federal student loan servicer to waive the deferment or forbearance.¹⁸ It should be noted that you cannot qualify sooner by making higher monthly payments. You may prepay or make lumpsum payments that would be applied to future months, but it does not benefit you to pay extra. Additionally, 120 qualifying payments do not need to be consecutive.¹⁹ For example, if you have a period of employment with a nonqualifying employer, you will not lose credit for prior qualifying payments you made.

Qualifying Employer: A qualifying employer is a public service organization. A public service organization is a government organization at any level, including the military, AmeriCorps and Peace Corps, and certain not-for-profit organizations.²⁰ The title of the job does not matter.

Full-time employment: No matter the qualifying employer, you must be employed full-time.²¹ You are full-time if you meet the employer's definition of full-time or work at least 30 hours per week, whichever is greater.²² But, if you are employed in more than one qualifying part-time job at the same time, you will still be considered full-time if you work a combined average of at least 30 hours per week with your employers.²³

Applied to you

If after four years of active duty in the military, you decide to be employed by a private employer, then the qualifying payments you made while in the military will not be lost. The payments you make while in the private sector will not count towards PSLF. But, if you later leave your private employment and move to a qualified employer, then you will pick up where you left off and continue working towards loan forgiveness under PSLF.

Or, instead of going into the private sector you can leave active-duty military service after four years and work as a police officer full-time or in some other qualifying employment. You would be employed by a qualified employer, meaning there would be no interruption in your qualified payments. You would still be working towards PSLF.

¹⁶*Id.*

¹⁷*Id.*

¹⁸*Id.*

¹⁹*Id.*

²⁰See *A-Z Index of U.S. Government Departments and Agencies*, USA.gov, <https://www.usa.gov/federal-agencies/a> (last visited Mar. 5, 2022) (provides a comprehensive list of qualifying employers).

²¹*Public Service Loan Forgiveness (PSLF)*, *supra* note 11.

²²*Id.*

²³*Id.*

Joining the Reserve or National Guard does not, by itself, qualify you for continued PSLF participation because military members in the Reserve or National Guard are not considered full-time. Therefore, you will either need to accept a full-time position being employed by a qualifying employer or accept a part-time position by a qualifying employer. Note, if you accept a part-time position, you will need to work a total of 30 hours per week combined to still be making qualifying payments.

Qualifying Repayment Plans

The qualifying repayment plans include all the income-driven repayment plans.²⁴ These are plans that are based on your monthly payment on your income. There are four different plans; Revised Pay As You Earn Plan (REPAYE Plan), Pay As You Earn Plan (PAYE Plan), Income-Based Repayment Plan (IBR), and the Income Contingent Repayment Plan (ICR Plan).²⁵

Another plan that is eligible under PSLF is the 10-year Standard Repayment Plan.²⁶ However, this plan will not allow you to benefit from PSLF because, by the time you have made the 120 qualifying payments, your loan will likely be paid in full.²⁷

Annual PSLF Form

While you work towards qualifying for PSLF, you should submit the PSLF form annually or when you change employers.²⁸ Submitting the form annually will help not only Federal Student Aid keep track and verify how many payments you have made while working full-time for a qualifying employer, but also help you when it is time to apply for forgiveness.²⁹ If you do not submit the PSLF form annually, then when it is time to apply for forgiveness, you will have to submit employment certification for each employer you worked for while making the required 120 qualifying monthly payments.³⁰

Changes to Come

The Department of Education is dedicated to restoring its promise to provide debt relief to support those serving in their communities.³¹ It has promised to pursue opportunities to

²⁴*Id.*

²⁵*See If your federal student loan payments are high compared to your income, you may want to repay your loans under an income-driven repayments plan, FEDERAL STUDENT AID, <https://studentaid.gov/manage-loans/repayment/plans/income-driven> (last visited Mar. 5, 2022) (provides detailed information over each income-driven repayment plan).*

²⁶*What is considered a qualifying repayment plan for Public Service Loan Forgiveness (PSLF), FEDERAL STUDENT AID, <https://studentaid.gov/help-center/answers/article/qualifying-repayment-plan-for-pslf> (last visited Mar. 5, 2022).*

²⁷*Id.*

²⁸*Public Service Loan Forgiveness Form, FEDERAL STUDENT AID, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service/public-service-loan-forgiveness-application> (last visited Mar. 5, 2022).*

²⁹*Id.*

³⁰*Id.*

³¹*Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul, supra note 3.*

automate PSLF eligibility, give borrowers a way to get errors corrected, and simplify what it means for a payment to qualify.³² Further, the Department is going to expand its communications campaign to make sure affected borrowers learn about these opportunities and encourage them to apply.³³

The Department leaders have devoted extra attention to members of the military. As discussed above, the Department is allowing months spent on active duty to count toward PSLF. Recognizing that members of the military should not have to focus on their student loans while serving our country, the Federal Student Aid has promised to develop and implement a process to address periods of student loan deferments and forbearance for active-duty service members moving forward.³⁴

Additionally, the Department has stated it wants to make it as easy as possible for service members to get PSLF. So, the Department has promised it will begin automatically giving federal employees credit for PSLF by matching Department of Education data with information held by other federal agencies about service members.³⁵ These matches will help the Department identify those who may be eligible but cannot benefit automatically.³⁶ Service members could see their debt erased or substantially reduced suddenly, without any work on their part.

The Department stated that the changes made and changes it will continue to make will allow the PSLF to “move away from the current situation in which too few borrowers receive forgiveness, and too many do not receive credit for years of payments they made because of complicated eligibility rules, servicing errors or other technicalities.”³⁷

Link to the Deputy Secretary of Defense release about student loan forgiveness

<https://www.defense.gov/News/Releases/Release/Article/3166422/deputy-secretary-of-defense-dr-kathleen-hicks-message-to-the-force-on-public-se/>

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ROA is almost a century old—it was established on 10/1/1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S.

³²*Id.*

³³*Id.*

³⁴*Id.*

³⁵*Id.*

³⁶*Id.*

³⁷*Id.*

Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For almost a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's defense needs.

Through these articles, and by other means, including *amicus curiae* ("friend of the court") briefs that we file in the Supreme Court and other courts, we educate service members, military spouses, attorneys, judges, employers, DOL investigators, ESGR volunteers, congressional and state legislative staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

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If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

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³⁸ Congress recently established the United States Space Force as the 8th uniformed service.