DEPARTMENT OF EDUCATION

34 CFR Part 685

[Docket ID ED–2025–OPE–0016]

RIN 1801–AA28

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

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations on the Public Service Loan Forgiveness (PSLF) program under 34 CFR 685.219 to exclude employers that engage in activities that have a substantial illegal purpose. The proposed regulations would prevent taxpayer-funded PSLF benefits from being improperly provided to individuals who are employed by organizations that engage in activities that have a substantial illegal purpose. These proposed changes are intended to improve the administration of the PSLF program and provide protection for taxpayers.

DATES: We must receive your comments on or before September 17, 2025.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal at *www.regulations.gov*. The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comment only once. Additionally, please include the Docket ID at the top of your comments.

Information on using *Regulations.gov*, including instructions for submitting comments, is available on the site under ''FAQ.'' If you require an accommodation or cannot otherwise submit your comments via *Regulations.gov*, please contact *regulationshelpdesk@gsa.gov* or by phone at 1–866–498–2945. If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking at *www.regulations.gov*. Therefore, commenters should include in their comments only information that they wish to make publicly available. Additionally, commenters should not include in their comments any personally identifiable information (PII) in comments about other individuals. For example, if your comment describes an experience of someone other than yourself, please do not identify that individual or include any personal information that identifies that individual. The Department reserves the right to redact a portion of a comment or the entire comment at any time if any PII about other individuals is included.

FOR FURTHER INFORMATION CONTACT: Tamy Abernathy, Office of Postsecondary Education, 400 Maryland Ave. SW, Washington, DC 20202. Telephone: (202) 987–0385. Email: *Tamy.Abernathy@ed.gov*.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Department has a broad interest in ensuring that its programs do not contribute to or help support individuals or organizations that engage in unlawful activity.

To prevent taxpayer-funded PSLF benefits from being improperly provided to individuals who are employed by organizations that are engaged in activities that are unlawful, the Secretary proposes to exclude any organization that engages in activities that have a substantial illegal purpose from being a qualifying employer for the purposes of the PSLF program.

The proposed rule would clarify the definition of a qualifying employer, define activities that have a substantial illegal purpose, address the impact on borrower eligibility, and ensure employers are given notice and the opportunity to respond to an adverse finding.

A brief summary of these proposed regulations is available at *https://www.regulations.gov/document/ED-2025-OPE-0016-0001*.

II. Summary of the Major Provisions of This Regulatory Action

These proposed regulations would:

* Amend § 685.219(b) to modify the existing structure of the subsection into 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 subsequent to a determination that a qualifying employer engages in activities that have a substantial illegal purpose.

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

* Amend § 685.219(g) to clarify that a borrower may not request reconsideration of a final determination by the Secretary that the employer lost status as a qualifying employer.

* Add § 685.219(h) to establish that the Secretary would determine by the preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions. Also, the Secretary will deem certain actions as conclusive evidence that the employer engaged in activities that have a substantial illegal purpose.

* Add § 685.219(i) to establish that the Secretary will determine that a qualifying employer engaged in activities that have 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).

* Add § 685.219(j) to establish that an employer that loses PSLF eligibility could regain qualifying employer status after (1) 10 years from the date the Secretary determines the employer engaged in activities that have a substantial illegal purpose, or (2) after the Secretary approves a corrective action plan.

* Add § 685.219(k) to require that if an employer regains eligibility, the Secretary will update, within 30 days, the qualifying employer list.

Cost and Benefits: As further detailed in the Regulatory Impact Analysis (RIA), the proposed changes would have meaningful implications for borrowers, taxpayers, and the Department. The regulatory changes outlined in this rule are designed to preserve the integrity of the PSLF program by ensuring that only borrowers employed by organizations engaged in lawful public service remain eligible for forgiveness. By excluding employers that engage in activities with a substantial illegal purpose, the rule aims to better align PSLF eligibility with the program's statutory intent—to

reward public service. Furthermore, it ensures that the Department is not indirectly subsidizing employers who are engaging in activities that have a substantial illegal purpose.

For borrowers, the proposed rule may alter eligibility for PSLF if they are employed by organizations that no longer qualify under the revised criteria. In cases where an employer is deemed to have engaged in activities that breach federal or state law or established public policy, affected borrowers would no longer receive credit toward loan forgiveness for months worked after the effective date of ineligibility. While this may delay or prevent forgiveness for a subset of borrowers, the overall design of the regulations—including advance notice, transparency around determinations, and employer recertification pathways—helps mitigate unexpected harm. These borrowers would retain the ability to pursue PSLF through eligible employment elsewhere, thereby preserving the program's incentive structure.

For taxpayers, the proposed rule reduces the risk of inappropriate government expenditures by ensuring that loan forgiveness is granted only in circumstances where individuals are engaged in public service. Employers that engage in unlawful activity are not serving the public interest because their actions harm, rather than help, the public good. By limiting PSLF eligibility to borrowers employed by organizations that do not engage in unlawful conduct, the rule reinforces appropriate stewardship of federal funds. While the exact budgetary impact will depend on the number and type of employers determined to fall outside the clarified definition, the proposal is expected to reduce PSLF-related discharges in cases where forgiveness would otherwise have gone to borrowers employed at organizations acting illegally.

For the Department, the rule introduces new administrative responsibilities. These include reviewing court judgments and plea agreements for evidence of employer misconduct, issuing determinations, notifying borrowers of status changes, and overseeing corrective action plans. While these tasks will require the investment of staff time and system resources, the use of existing standards—such as definitions grounded in federal law and doctrines adopted by other agencies—will allow the Department to administer the regulations with efficiency and consistency. The rule also codifies a clear evidentiary framework, such as relying on court judgments or plea agreements, which limits the need for new investigative processes.

Taken together, the Department believes these regulations represent a necessary improvement to PSLF implementation. The costs associated with employer review and administration are modest compared to the significant benefits gained, including increased transparency, program integrity, and taxpayer protection. Most importantly, the rule preserves the fundamental promise of PSLF—to support borrowers who dedicate their careers to serving the public—while guarding against the diversion of federal benefits to organizations engaged in illegal conduct.

III. Invitation To Comment

We invite you to submit comments regarding these proposed regulations. Please clearly identify the specific section or sections of the proposed regulations that each of your comments addresses and arrange your comments in the same order as the proposed regulations. The Department will not accept comments submitted after the comment period closes.

We invite you to assist us in complying with the requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing the regulatory burden that might result from these proposed regulations. Please let us know of ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect public comments about these proposed regulations by accessing *Regulations.gov*.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the Information Technology Accessibility Program Help Desk at *ITAPSupport@ed.gov* to help facilitate.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' [1] require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make the regulation easier to understand, including answers to questions such as the following:

* Are the requirements in the proposed regulations clearly stated?

* Do the proposed regulations contain technical terms or other wording that interferes with their clarity?

* Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing) aid or reduce its clarity?

* Would the proposed regulations be easier to understand if we divided them into additional (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a numbered heading; for example, § 668.2 General definitions.)

* Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

* What else could we do to make the proposed regulation easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

IV. Background

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

Following the enactment of the CCRAA, the Department promulgated PSLF regulations at 34 CFR 685.219, which became effective on July 1, 2009.[2] Since its original promulgation, 34 CFR 685.219 has been amended seven times.[3] Of these amendments, two, promulgated in 2020 and 2022, respectively, have substantively changed the criteria for qualifying employment for the purposes of participation in PSLF—

1. In 2020, the definition of ''public service organization'' was substantively

[1] 63 FR 31885 (June 1, 1998).

[2] *See* 73 FR 63232–01 (Oct. 23, 2008).

[3] *See* 74 FR 56005 (Oct. 29, 2009); 77 FR 76414 (Dec. 28, 2012); 80 FR 67242 (Oct. 30, 2015); 85 FR 49821 (Aug. 14, 2020); 87 FR 66063 (Nov. 1, 2022); 88 FR 43065 (July 6, 2023); 88 FR 43905 (July 10, 2023).

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; and

2. In 2022, the Department changed the term ''public service organization'' to the term ''qualifying employer'' which substantively changed the definition. Subsection (v)(A) of the definition of qualifying employer referenced another term ''non-governmental public service.'' Notably, while previous iterations of 34 CFR 685.219 relied on definitions provided by the Bureau of Labor Statistics in regard to specific professions that were considered to be a form of public service (or left such terms undefined), the 2022 rule instead defined those terms within the section.

The Department is engaging in this rulemaking because organizations must not engage in substantial illegal activities to be a qualifying employer for purposes of the PSLF Program. Indeed, organizations that have a substantial illegal purpose are acting in contravention with the public good.

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 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 the illegality doctrine utilized by the Internal Revenue Service (IRS) as a basis for the Department to promulgate regulations excluding organizations that have engaged in certain illegal activities from the definition of qualifying employers.

V. Authority for This Regulatory Action

Congress has granted the Secretary broad authority to promulgate regulations to administer the programs administered by the Department of Education and to carry out his or her duties.[4] In order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, the Secretary is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing applicable programs administered by and the manner of operation of, the Department.[5] These programs include the financial assistance programs authorized pursuant to title IV of the Higher Education Act authorized by HEA § 455 *et seq.*

Legal Basis for Denying Certain Organizations' Qualifying Employer Status

While HEA § 455(m)(3) contains a definition of the term *public service job* (setting forth categories of employment that provide a public service),[6] it does not define the term *public service.* As a result of this, from the time the Department first promulgated 34 CFR 685.219(a), it has been necessary to expound upon what constitutes *public service*—a term which has the plain meaning of ''any work that serves the public good'' [7]—and the Department has repeatedly promulgated amendments to 34 CFR 685.219 to further define its meaning. The proposed change is a continuation of these efforts, as an organization that engages in activities that have a substantial illegal purpose is not providing a public service because it does not serve the public interest to engage in illegal activities. Therefore, these employers should not be considered a *qualifying employer* for the purpose of PSLF.

The Department has based its approach in this matter, in part, on the so-called ''illegality doctrine'' utilized when determining whether organizations qualify for tax-exempt status under Internal Revenue Code § 501(c)(3) (a requirement for non-governmental organizations to be considered a *qualifying employer* for the purposes of the PSLF program). The Department considered this doctrine because it is a tested approach taken by another executive agency to avoid subsidizing employers engaged in unlawful conduct.[8]

Background of the Illegality Doctrine

The ''illegality doctrine'' imposes an implied requirement that organizations exempt from taxation under § 501(c)(3) must not have a substantial illegal purpose. This doctrine arises from a common-sense principle:

> Loss of government revenues from tax exemption is often justified on the grounds that tax-exempt organizations serve desirable public purposes and lessen the government's costs and burdens. As a corollary to this public benefit principle, tax exemption is not justified when an organization has an illegal purpose because the organization does not serve a public purpose, and the organization increases the government's costs and burdens. The illegality doctrine helps ensure that the government is not subsidizing activity that it aims to prevent.[9]

A recent example of the application of the illegality doctrine, and a review of said application by a Federal court, is found in *Iowaska Church of Healing* v. *Werfel,* 105 F.4th 402 (D.C. Cir. 2024). In this case, the IRS denied an application for 501(c)(3) tax exempt status to an organization whose members' sincerely held religious beliefs involved the consumption of a hallucinogenic drug regulated by the Controlled Substances Act (''CSA''), because it determined that (1) the organization was formed in part for the illegal purpose of distributing a controlled substance; and (2) a substantial part of the organization's activities was in furtherance of that illegal purpose.[10] The D.C. Circuit upheld this decision on the basis that, regardless of the sincerity of its beliefs, until the organization obtained an exemption from the CSA, its primary organizational and operational purpose was facially illegal.[11]

The Department's Proposed Changes to the Definition of Qualifying Employer Aligns With, and Are Justified on the Same Basis as, the IRS's Use of the Illegality Doctrine

Through the Illegality Doctrine, the IRS excludes organizations engaged in illegal purposes or purposes that are against established public policy from tax exemption under § 501(c)(3) on the basis that they do not serve a public purpose. The Department's proposed changes to the definition of *qualifying employer* align directly with this approach by excluding organizations engaged in activities with a *substantially illegal purpose* from being

[4] *See* 20 U.S.C. 1221e–3, *see* also 20 U.S.C. 1082, 3441, 3474, 3471.

[5] 20 U.S.C. 1221e–3.

[6] *See* HEA § 455(m)(3)(B).

[7] PUBLIC SERVICE, Black's Law Dictionary (12th ed. 2024).

[8] 26 U.S.C. 501(c)(3) exempts the following from taxation: Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which insures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

[9] The Illegality Doctrine and 501(c)(3) Organizations (2025), *https://www.congress.gov/crs-product/IF12739.*

[10] *See Iowaska Church of Healing,* 105 F.4th 402, 406, 407.

[11] *Id.* at 414.

included in the definition of *qualifying employer,* on the basis that such organizations are engaged in activities that are either explicit violations of State or Federal law or are otherwise in direct contravention of established public policy.

Just as benefit to the public is an underlying justification for tax exemption,[12] the purpose of the PSLF program is to encourage individuals to enter and continue in full-time public service employment.[13] All of the activities included within the definition of *substantial illegal purpose*[14] are either explicit violations of State or Federal law, and as such, are actions which do not serve the public good. Indeed, violations of law may increase government costs and burdens, which has the opposite effect of actions that actually promote the public good. To maintain internal coherence across the statutes at large, we presume that Congress would not have the Department subsidize activity through the PSLF program that Congress also aims to prevent in other statutes. Indeed, Congress appropriates significant public funds to combat illegal behavior, and it would frustrate the purpose of those appropriations if the Department were also subsidizing illegal behavior in the PSLF program with public funds. Therefore, the Department's exclusion of organizations engaging in such activities from the definition of *qualifying employer* is justified on the same basis that the IRS is justified in using the Illegality Doctrine to deny or revoke tax exempt status granted under § 501(c)(3): it would be paradoxical for the Department to allow organizations and borrowers to be employed by organizations that are acting against the public good in order to benefit from a program premised on encouraging individuals to enter and continue in full-time public service employment.[15]

[12] *See* Jean Wright and Jay H. Rotz, *Illegality and Public Policy Considerations, in* IRS Exempt Organizations Continuing Professional Education Technical Instruction Program Textbook, 17th Ed. (IRS Exempt Organizations Technical Division, ed. 1993).

[13] *See* 34 CFR 685.219(a).

[14] *See* ''Substantial Illegal Purpose (§ 685.219(b)(30)) for the list of activities.

[15] *See Church of Scientology of California* v. *Comm'r of Internal Revenue,* 83 T.C. 381, 507 (1984), aff'd sub nom. *Church of Scientology of California* v. *Comm'r,* 823 F.2d 1310 (9th Cir. 1987) (*stating* ''The Government also has an interest in not subsidizing criminal activity. Were 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. We think such paradoxes are best left for Gilbert and Sullivan'').

VI. Public Participation

Section 492 of the HEA, 20 U.S.C. 1098a, requires the Secretary to obtain public involvement in the development of proposed regulations affecting programs authorized by the title IV, HEA programs. Prior to developing this NPRM, we significantly engaged with the public to obtain advice and recommendations from individuals and representatives of groups involved in the title IV, HEA programs. This engagement included a 30-day public comment period, two days of public hearings, and three days of negotiated rulemaking.

On April 4, 2025, we published in the **Federal Register** (90 FR 14741) a notice of our intent to hold public hearings and to establish a negotiated rulemaking committee addressing topics such as PSLF, Pay As You Earn (PAYE), Income-Contingent Repayment (ICR), or other topics that would streamline and improve Federal student financial assistance programs and related regulations.

Public Comments and Hearings

We received 7,929 written comments in response to the **Federal Register** notice. Additionally, public hearings were held on April 29 and on May 1, 2025. A total of 137 individuals testified at the hearings. We also received written comments on possible regulatory provisions that were submitted directly to the Department by interested parties and organizations.

You may view the written comments submitted in response to the April 4, 2025, **Federal Register** notice on the Federal eRulemaking Portal at *Regulations.gov*, within docket ID ED–2023–OPE–0151. Instructions for finding comments are also available on the site under ''FAQ.''

Transcripts of the public hearings can be accessed at *https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026.*

Negotiated Rulemaking

After obtaining this extensive advice and recommendations from the public, the Secretary, by section 492 of the HEA, 20 U.S.C. 1098a, prepared draft regulations and submitted them to a negotiated rulemaking process. Further information on the negotiated rulemaking process can be found at: *https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026.*

On May 12, 2025, we published a notice in the **Federal Register** (90 FR 20142) announcing our intent to establish a committee to prepare these proposed regulations. The notice set forth a schedule for committee meetings and requested nominations for individual negotiators to serve on the negotiated rulemaking committee. In the notice, we also announced the topics that the committee would address.

We chose members of the negotiated rulemaking committee from individuals nominated by groups involved in the title IV, HEA programs. We selected individuals with demonstrated expertise or experience with the PSLF program. The negotiated rulemaking committee included the following members, representing their respective constituencies:

* Civil rights organizations, consumer advocates, and legal assistance organizations that represent students and/or borrowers: Betsy Mayotte, The Institute of Student Loan Advisors, and Abby Shafroth (alternate), Student Loan Borrower Assistance Project.

* State officials, including State higher education executive officers, State authorizing agencies and State attorneys general: Rebecca Stanley, Fifteenth Judicial Circuit Solicitor's Office, and J. Charles Smith III (alternate), Frederick County State's Attorney's Office.

* Student loan borrowers in repayment: Emeka Oguh, PeopleJoy, and Sarah Doran (alternate), St. Vrain Valley Schools.

* U.S. military service members, veterans, or groups representing them: Robert H. Carey, Jr., National Defense Committee, and Faisal Sulman (alternate), Student Veterans of America.

* Public institutions of higher education, including Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving institutions (institutions of higher education eligible to receive Federal assistance under title III, parts A and F, and title V of the HEA): Tracy A. Ireland, The Board of Regents of the University System of Georgia, and Kaity McNeill (alternate), The University of North Carolina System Office.

* Private nonprofit institutions of higher education including Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving institutions (institutions of higher education eligible to receive Federal assistance under title III, parts A and F, and title V of the HEA): C. Todd Jones, Association of Independent Colleges and Universities of Ohio, and

Heather Boutell (alternate), Vanderbilt University.

* Proprietary institutions of higher education: Mary Lyn Hammer, Champion College Solutions, and April Boyd (alternate), The College of Health Care Professionals.

* Financial aid administrators at postsecondary institutions: Alyssa Dobson, Slippery Rock University, and Helen Faith (alternate), University of Virginia.

* Organizations representing taxpayers and the public interest: Thomas John Aiello, National Taxpayers Union, and Laurel Taylor (alternate), Candidly.

* Federal Family Education Loan Lenders and/or Guaranty Agencies: Scott Buchanan, Student Loan Servicing Alliance, and Alex Ricci (alternate), National Council of Higher Education Resources.

The committee discussion was led by Tamy Abernathy of the Department and supported by the Department's Office of General Counsel and Office of Postsecondary Education, with Annmarie Weisman of Federal Student Aid serving as facilitator for the committee.

The negotiated rulemaking committee for these proposed regulations met from June 30 to July 2, 2025. The committee reviewed and discussed draft regulations prepared by the Department, as well as alternative language and suggestions proposed by committee members. The Department provided opportunities for public comment at the end of the first two days of negotiations. Additionally, during each negotiated rulemaking session, non-Federal negotiators obtained feedback from stakeholders that they shared with the negotiating committee.

Under the organizational protocols for negotiated rulemaking, if the committee reaches consensus on the proposed regulations, we agree to publish, without substantive alteration, a defined group of regulations on which the negotiators reached consensus—unless the Secretary reopens the process or provides a written explanation to the participants stating why he or she has decided to depart from the agreement reached during negotiations. In this instance, consensus is considered to be the absence of dissent by any member of the negotiated rulemaking committee (abstaining members are not considered to be dissenting from the proposal).

At the conclusion of the meetings on July 2, 2025, the negotiator representing civil rights organizations dissented from the draft regulations and therefore the committee did not reach consensus. For more information on the proceedings of these meetings please visit: *https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026.*

VII. Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

Definitions General (§ 685.219(b))

Current Regulations: Section 685.219(b) contains 23 definitions of key terms as they relate to the PSLF program.

Proposed Regulations: We are proposing to restructure subsection (b) of § 685.219 to make each definition its own paragraph. The paragraphs would include the 23 current definitions and add 13 new definitions in these proposed rules.

Reasons: Due to the proposed addition of 13 new definitions the Department believes restructuring subsection (b) in this manner will greatly aid with readability of the regulation. For ease of reference, the definitions in subsection (b) would continue to be listed in alphabetical order.

Aiding or Abetting (§ 685.219(b)(1))

Current Regulations: None.

Proposed Regulations: Proposed § 685.219 would define aiding or abetting and use the same definition that is already in current law under Title 18, United States Code, Section 2.

Reasons: The term aiding or abetting can be found in two places in the proposed definition of *substantial illegal purpose* under § 685.219(b)(30): (1) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws, and (2) engaging in a pattern of aiding and abetting illegal discrimination. Under the proposed rule, a qualifying employer that engages in activities that have a substantial illegal purpose would lose its qualifying employer status if certain conditions were met (*see* discussion of proposed § 685.219(h) and (i)). The principles under 18 U.S.C. 2 state:

> (1) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.
>
> (2) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

The Department would adopt the definition of aiding and abetting as defined in Title 18 of the United States Code, a Federal statute. As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition in Federal law would help ensure: (1) the Department's regulations align with other definitions across Federal agencies, (2) the Department is able to make consistent determinations using established criteria regarding the status of a qualifying employer, and (3) the public understands how the Department interprets the phrase.

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

Current Regulations: None.

Proposed Regulations: Proposed § 685.219(b)(3) would define chemical castration or mutilation to mean 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 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.

Reasons: The term chemical castration or mutilation can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30): engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law. Under this proposed rule, a qualifying employer that engages in activities that have a substantial illegal purpose may lose its qualifying employer status if certain conditions are met.

The Department searched for the most appropriate definition of chemical castration or mutilation and located Executive Order 14187, Protecting Children From Chemical and Surgical Mutilation,[16] which provides the basis for the proposed definition. E.O. 14187 states:

> . . . *chemical and surgical mutilation* means 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; 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; and surgical procedures that attempt to transform an individual's physical

[16] Executive Order 14187—Protecting Children From Chemical and Surgical Mutilation—*https://www.federalregister.gov/documents/2025/02/03/2025-02194/protecting-children-from-chemical-and-surgical-mutilation.*

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. This phrase sometimes is referred to as *gender affirming care.*

As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition elsewhere in guidance would help ensure: (1) that the Department's regulations align with other definitions across Federal agencies, (2) that the Department makes consistent determinations using established precedents regarding the status of a qualifying employer, and (3) that the public has clear expectations on how the Department interprets the term.

During negotiated rulemaking, one negotiator expressed concern that the Department staff are not medical professionals and do not have the expertise to define chemical castration or mutilation. The Department clarified that in order for a qualifying employer to lose eligibility under this definition there must be a violation of Federal or State law. In *United States* v. *Skremtti,* Attorney General and Reporter for Tennessee, et al.,[17] the U.S. Supreme Court upheld a Tennessee law restricting certain sex transition treatments for minors. Also, there are 27 States that restrict medical procedures and treatments performed on minors related to assertion that minor's sexual identity differs from their biological sex, either in part of in full.[18]

The Department would not find a violation of the standard (see discussion under § 685.219(h) and (i)) if there is not a Federal or State law that prohibits sex transition treatments for minors in the state where the employer is located.

Child or Children (§ 685.219(b)(4))

Current Regulations: None.

Proposed Regulations: The Department proposes that for the sole and specific purpose of the PSLF Program the term ''child'' or ''children'' means an individual or individuals under 19 years of age.

Reasons: The term child or children can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30): engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law. The Department believes that it is necessary to define the term for the purposes of the PSLF program.

The Department searched for the most appropriate definition of child or children and located guidance in Executive Order 14187, Protecting Children From Chemical and Surgical Mutilation, which provides the basis for the proposed definition. Executive Order 14817 states——

''The term ''child'' or ''children'' means an individual or individuals under 19 years of age.''

During rulemaking, a few negotiators raised concerns that the age of majority in many States is 18 years of age. The negotiators believed that the Department's proposed definition could penalize a qualifying employer that performed certain medical procedures that were banned for minors to an individual that a State considered to be a legal adult. To address this concern, the Department clarified that the entire clause under proposed § 685.219(b)(30) must be considered. The illegal activities in which the organization is engaging—specifically the chemical and surgical castration or mutilation of children must be in violation of Federal or State law of the state where the employer is located (*see also* the discussion of proposed § 685.219(b)(4), above, and § 685.219 (b)(31)), below.

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

Current Regulations: None.

Proposed Regulations: Under proposed 685.219(b)(10), the Department would define the term *foreign terrorist organizations* to mean organizations on the list published under paragraph (a)(2)(A)(ii) under the Immigration and Nationality Act (8 U.S.C. 1189).

Reasons: The Department proposes to adopt the definition of foreign terrorist organizations as defined in the Immigration and Nationality Act, a Federal statute. As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition elsewhere in Federal law helps to ensure that the Department's regulations align with other definitions across Federal agencies. As we explained during negotiated rulemaking, as of June 2025, there were over 70 foreign terrorist organizations designated by the United States Department of State.[19]

To help the Department determine whether a qualifying employer or organization is engaging in activities with a substantial illegal purpose—including supporting terrorism, the Department would need a definition for foreign terrorist organizations. The Department believes utilizing an existing definition of foreign terrorist organizations would ensure consistency and clarity for the community. The Department would then be able to determine the nexus between a qualifying employer and whether that qualifying employer met the conditions of engaging in a substantially illegal purpose.

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

Current Regulations: None.

Proposed Regulations: Under proposed 685.219(b)(12), the Department would define the term ''illegal discrimination'' to mean 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.*).

Reasons: The Department proposes to enumerate a non-exhaustive list of Federal anti-discrimination laws in the definition of illegal discrimination. These Federal laws are some of the chief anti-discrimination laws that we believe capture the intent of the PSLF Executive Order which keeps qualifying employers accountable to not engage in illegal discrimination.

The definition of illegal discrimination is limited to only Federal discrimination laws rather than State discrimination laws. Limiting the scope to only Federal laws will help reduce the burden on the Department when assessing whether a qualifying employer engages in illegal discrimination as there are many State laws addressing discrimination. Furthermore, the Department would leverage its existing relationship with other Federal partners to assist in determining if a qualifying employer engages in illegal discrimination in the context of Federal laws. The Department believes the listed Federal laws in paragraph (b)(12) should cover most of the illegal discrimination employers could be involved in and help ensure that the Department is consistent and uniform in addressing issues of illegal discrimination to a narrow set of Federal laws.

The Department notes that we reserved the Secretary's authority to include other Federal anti-discrimination laws in this definition that are not enumerated by including the phrase ''including but not limited to.'' In crafting the definition of illegal discrimination, we balanced the need to

[17] United States v. Skremtti, Attorney General and Reporter for Tennessee, et al.—*https://www.supremecourt.gov/opinions/24pdf/23-477_2cp3.pdf.*

[18] Amy Herron, *These 27 States Have Restricted Gender-Transition Treatments for Minors Since 2021,* N.Y. Times, June 18, 2025 (available at *https://www.nytimes.com/2025/06/18/us/politics/states-trans-treatments-scotus.html*).

[19] List of foreign terrorist organizations designated by the State Department: *https://www.state.gov/foreign-terrorist-organizations/.*

outline specific laws to give qualifying employers clear expectations to curb illegal discrimination with the need to also cover other forms of illegal discrimination that are not enumerated that could be a cause of concern in the future.

During negotiated rulemaking sessions, a negotiator acknowledged that, while the Department has expertise in helping ensure that discrimination does not exist in educational settings, it does not have the expertise or authority to enforce other types of discrimination, including employment discrimination law. The negotiator also expressed concern that a ''chilling effect'' could exist in the reporting of discrimination. In turn, the employee would lose PSLF eligibility if the employer was found liable for engaging in illegal discrimination. In response, the Department pointed out the circular nature of the argument if the Department cannot enforce the rules preventing illegal discrimination due to the fear of the ''chilling effect.'' Therefore, we reiterate that we have an interest in helping ensure that PSLF qualifying employers do not engage in illegal discrimination.

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

Current Regulations: None.

Proposed Regulations: Proposed § 685.219(b)(17) would define *other Federal Immigration laws* to mean any violation of the Immigration and Nationality Act (8 U.S.C. 1105 *et seq.*) or any other Federal immigration laws.

Reasons: The term *other Federal immigration laws* can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30)(i): aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws. The Department believes that it is necessary to define the term for the purpose of determining whether a qualifying employer engaged in activities that would restrict participation in the PSLF program.

U.S. immigration policy is governed largely by the Immigration and Nationality Act (INA), which was first codified in 1952 and has been amended significantly several times since. U.S. immigration policy contains two major aspects. One facilitates migration flows of foreign nationals into the United States; another focuses on immigration enforcement and removal. Immigration functions authorized by Congress under the INA and other laws are carried out by several executive branch agencies.[20]

While the INA is the main Federal statute governing U.S. immigration policy, there are other immigration statutes that are not part of the INA. The Department chooses not to limit its authority to review a qualifying employer under the proposed standard (*see* proposed § 685.219(h) and (i)) to the INA. As such we included the phrase ''or any other Federal immigration laws'' as part of the definition.

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

Current Regulations: Current § 685.219(b) contains definitions of key terms, including the definition of *qualifying employer.* Under the current regulations, the term *qualifying employer* generally includes Federal, State, local, and Tribal Government agencies; public child or family service agencies; nonprofit organizations that are described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under section 501(a) of the Internal Revenue Code; and other organizations that provide certain specific public services listed in § 455(m)(3)(B) of the HEA, other than a business organized for profit, a labor union, or a partisan political organization.

Proposed Regulations: The Department proposes modifying the existing definition of *qualifying employer* in § 685.219(b). At the direction of the Secretary and consistent with the guidance in E.O. 14235,[21] the Department would revise the definition of *qualifying employer* to exclude organizations that engage in activities that have a substantial illegal purpose.

Reasons: The proposed modified definition of *qualifying employer* would align with the policy in E.O. 14235 to protect the integrity of the PSLF program by ensuring that loan cancellation under the program does not subsidize organizations that engage in activities that have a substantial illegal purpose.

The Department is concerned that the PSLF program has sent tax dollars to employees of organizations that are engaged in activities that are illegal, thereby subsidizing their employment.

The proposed changes to the definition would benefit taxpayers by ending support for organizations that engage in illegal activities such as aiding and abetting illegal immigration, human trafficking, damage to government property, and other actions that threaten our country. The proposed definition would also benefit student loan borrowers by redirecting them to employment with organizations that serve the public good.

During the negotiated rulemaking meetings, the Department proposed a refined definition of *qualifying employer* as a method to protect the objectives and efficacy of the PSLF program. Negotiators and public commenters expressed concerns that such an approach might create a ''chilling effect'' that could discourage borrowers from entering certain career fields in public service. The Department has taken steps to address the issues raised with the draft regulations and believes that the benefits of these proposed regulations outweigh concerns that have been raised. The modified definition would provide notice to borrowers about the qualifying employer requirements when applying for or certifying eligibility under the PSLF program. The modified definition would also provide clarity that an organization that participates in activities that have a substantial illegal purpose is explicitly excluded from the list of qualifying employers for purposes of determining eligibility under the program.

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

Current Regulations: None.

Proposed Regulations: Proposed § 685.219(b)(30) would define substantial illegal purpose as:

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

(2) 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;

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

(4) engaging in the trafficking of children to states for purposes of emancipation from their lawful parents in violation of Federal or State law,

(5) engaging in a pattern of aiding and abetting illegal discrimination; or

(6) engaging in a pattern of violating State laws as defined in paragraph (34) of this subsection.

Reasons: Illegal activities, including illegal immigration, as well as activities which are against established public policy, are a threat to our national security and to the social and economic

[20] Primer on U.S. Immigration Policy—*https://www.congress.gov/crs-product/R45020.*

[21] Restoring Public Service Loan Forgiveness—*https://www.federalregister.gov/documents/2025/03/12/2025-04103/restoring-public-service-loan-forgiveness.*

stability of the United States. The Department has an overriding governmental interest in promoting policies to thwart such unlawful conduct. Further, the President has a constitutional duty of ensuring that laws be faithfully executed. On March 7, 2025, President Trump signed E.O. 14235, directing the Secretary of Education to propose revisions to 34 CFR 685.219 that ensure that loan cancellation under the PSLF Program excludes organizations that engage in activities that have a substantial illegal purpose and identifying certain activities which are illegal or contrary to public policy. The Department has chosen to use its statutory authority to codify the guidance outlining activities that have a substantial illegal purpose in E.O. 14235 in regulation.

Surgical Castration or Mutilation (§ 685.219(b)(31))

Current Regulations: None.

Proposed Regulations: Proposed § 685.219(b)(31) would define surgical castration or mutilation as surgical procedures that attempt to transform an individual's physical appearance to align with an identity that differs from his or her biological sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy his or her natural biological functions.

Reasons: The term surgical castration or mutilation can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30): engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law. Under this proposed rule a qualifying employer that engages in activities that have a substantial illegal purpose may lose its qualifying employer status if certain conditions are met.

The Department searched for the most appropriate definition of surgical castration or mutilation and located Executive Order 14187, which provides the rationale for the proposed definition. Executive Order 14187 states:

> . . . *chemical and surgical mutilation* means 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; 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; and 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. This phrase sometimes is referred to as *gender affirming care.*

As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition elsewhere in guidance would help ensure: (1) that the Department's regulations align with other definitions across Federal agencies, (2) that the Department is able to make consistent determinations using established precedent regarding the status of a qualifying employer, and (3) that the public is aware how the Department interprets the phrase.

During negotiated rulemaking, one negotiator expressed concern that the Department staff are not medical professionals and do not have the expertise to define surgical castration or mutilation. The Department clarifies that, in order for a qualifying employer to lose eligibility under this definition, there must be a violation of State law. In the *United States* v. *Skremtti,* Attorney General and Reporter for Tennessee, et al.[23] the U.S. Supreme Court upheld a Tennessee law restricting certain sex transition treatments for minors and, as of June, 2025,[24] there are 27 States that restrict certain medical procedures and treatments performed on minors related to assertions that minors' sexual, identity differs from their biological sex.

The Department would not find a violation of the standard (*see* discussion under § 685.219(h) and (i)) if there is not a Federal or State law in the state where the employer is located that prohibits surgical castration or mutilation of minors. In other words, if those types of procedures are legal in the state where the employer resides and the employer participates or supports such activities, there would be no violation.

Terrorism (§ 685.219(b)(32))

Current Regulations: None.

Proposed Regulations: Proposed 685.219(b)(32), would adopt the definition of ''terrorism'' used in Title 18, United States Code, Section 2331 (18 U.S.C. 2331).

Reasons: The Department proposes to adopt the definition of terrorism as defined in the criminal code. As we explained during negotiated rulemaking, utilizing a pre-existing definition elsewhere in Federal law would help ensure that the Department's regulations align with other definitions across Federal agencies. To that end, we propose to use the definition of terrorism in 18 U.S.C. 2331. Under Federal law, terrorism includes acts of international and domestic terrorism that involve violated acts or acts dangerous to human life that are illegal and appear to be intended to intimidate or coerce civilians or the Government.

To help the Department determine whether a qualifying employer or organization is engaging in activities with a substantial illegal purpose, including supporting terrorism, the Department requires a definition for terrorism. The Department would then be able to determine the nexus between a qualifying employer and whether that qualifying employer supported terrorism as defined in our regulations.

Trafficking (§ 685.219(b)(33))

Current Regulations: None.

Proposed Regulations: Proposed § 685.219(b)(33) would add a new definition for *trafficking,* which is a key term under the broader *substantial illegal purpose* definition.

Reasons: The proposed definition at § 685.219(b)(33) is necessary to bring clarity to the specific activities that constitute having a substantial illegal purpose. Because trafficking is a key term listed under the broader *substantial illegal purpose* definition, the Department must provide a definition for the term. Additionally, proposed § 685.219(b)(33) provides greater specificity for the Secretary, in his or her authority under the HEA, to make the determination if an organization has engaged in illegal activities, for the purposes of determining eligibility under the PSLF program.

The Department researched existing Federal laws and statutes but did not find a statute that matched the context. For example, current regulatory text at 28 CFR 1100.25 provides a definition for ''severe forms of trafficking,'' however the definition was limited to situations of sex trafficking only. In the absence of an appropriate definition under existing law, the Department chose to develop its own proposed definition to better align with the intent of Executive Order 14187 to specifically protect children from illegal transportation across State lines for the purposes of emancipation from their lawful parents or guardian. The Department believes the proposed definition will effectively serve the purpose of preventing organizations

[23] *United States* v. *Skremtti*, Attorney General and Reporter for Tennessee, et al.—*https://www.supremecourt.gov/opinions/24pdf/23-477_2cp3.pdf.*

[24] Amy Herron, These 27 States Have Restricted Gender-Transition Treatments for Minors Since 2021, N.Y. Times, June 18, 2025 (available at *https://www.nytimes.com/2025/06/18/us/politics/states-trans-treatments-scotus.html*).*https://www.nytimes.com/2024/12/04/us/gender-transition-bans-states.html.*

from engaging in these types of trafficking activities.

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

Current Regulations: None.

Proposed Regulations: Under proposed 685.219(b)(34), *violating S State law* would mean 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.

Reasons: The Department believes we must create a definition to establish a clear and consistent framework for evaluating violations of State law. The proposed definition would provide an exhaustive list of State law violations that would amount to activity that has a substantial illegal purpose. Qualifying employers would have the ability to recognize actions or activities that have a substantial illegal purpose and either avoid or resolve them prior to losing eligibility.

The Department originally proposed ''Violating State Tort Law'' as the title for the definition. However, during negotiated rulemaking, negotiators commented that the listed violations were a combination of both civil and criminal offenses; therefore, the Department removed the reference to ''tort''.

Additionally, because of negotiations, the Department proposed to remove the definition of *violating State laws* given we believed it was defined adequately under the definition of substantial illegal purpose. However, a negotiator noted that we inadvertently removed the condition that the State law violation must be confirmed as a final, non-default judgment. The Department reintroduced the language into the proposed definition as we believed it ensured an employer, suspected of having violated State law under this proposed rule, was provided consistency and fairness when deciding to rely upon a decision made by court or tribunal. The Department believes a non-default judgment clarifies this standard by relying upon a court decision made after a full trial or hearing.

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

Current Regulations: None.

Proposed Regulations: Proposed § 685.219(b)(35) would define *violence for the purpose of obstructing or influencing Federal Government policy,* which is one of the activities explicitly mentioned in the broader *substantial illegal purpose* definition. Section 685.219(b)(35) leverages an existing statutory definition for *crime of violence,* as found under 18 U.S.C. 16.

Reasons: The proposed definition at § 685.219(b)(35) is necessary to bring clarity to the specific activities that constitute having a substantial illegal purpose. Additionally, § 685.219(b)(35) provides greater specificity for the Secretary, in his or her authority under the HEA, to make the determination if an organization has engaged in illegal activities, for the purposes of determining eligibility under the PSLF program. In defining *violence for the purpose of obstructing or influencing Federal Government policy,* the Department sought an appropriate reference to violence in existing Federal laws. A *crime of violence* within 18 U.S.C. 16, generally involves attempted, threatened, or physical force against a person or property of another. The Department believes this existing reference is appropriate for use in our proposed definition and simplifies the determination process for the Department by leveraging existing law. Borrowers as well as their employers will also benefit from the approach of using existing law as doing so applies consistency, familiarity, and fairness.

Borrower Eligibility (§ 685.219(c))

Current Regulations: Section 685.219(c) provides the borrower eligibility requirements for purposes of PSLF. Specifically, § 685.219(c)(2) outlines the conditions when a borrower would have been considered to have made a qualifying monthly payment under § 685.219(c)(1)(iii).

Proposed Regulations: Under proposed § 685.219(c)(2), the Secretary would add a new condition under paragraph (c)(4) under which a borrower would not have been considered to have made a qualifying payment under paragraph (c)(1).

Under proposed § 685.219(c)(4), effective on or after July 1, 2026, through a standard described in § 685.219(h), no payment would be creditable as a qualifying payment for any month subsequent to a determination that a qualifying employer engaged in activities that have a substantial illegal purpose.

Reasons: Under the PSLF program, borrowers must meet the following criteria: be employed by a qualifying employer such as a Federal, State, local, or Tribal government or qualifying not-for-profit organization; work full-time for that agency or organization; have Direct Loans (or consolidate other Federal student loans into a Direct Loan); repay their loans under a qualifying repayment plan; and make a total of 120 qualifying monthly payments that need not be consecutive.[25] The proposed rules in 685.219(c) are twofold. First, the Department adds an exception clause in paragraph (c)(2) that states a borrower would not be considered to have made a PSLF-qualifying payment during a period or periods subsequent to which the qualifying employer has been determined to have engaged in substantial illegal activity. Second, by adding a new paragraph (c)(4), the Department makes certain the effective date of these regulations that impact a borrower's eligibility. The Department believes that addressing the impact these regulations have on a borrower's eligibility with an effective date of July 1, 2026, only allows for prospective adjudications. By selecting a date that impacts a borrower's eligibility for PSLF, borrowers have clarity as to when their payments would be considered qualifying payments.

Application Process (§ 685.219(e))

Current Regulations: Section 685.219(e) outlines a process for a borrower to apply for loan forgiveness under the PSLF program. Specifically, the process directs that a borrower may request loan forgiveness by filing an application approved by the Secretary, and then directs the Secretary to, among other things, make determinations and notify the borrower of forgiveness if sufficient information is available. If there is insufficient information available, the Secretary may request that the borrower provide additional information in order to make a determination of qualifying employment or eligible payments based on other documentation provided by the borrower. Upon the Secretary's determination that a borrower meets forgiveness eligibility requirements, the Secretary will notify the borrower and forgive the outstanding balance of the eligible loans.

Proposed Regulations: Proposed § 685.219(e)(9) would modify the current process to require the Secretary to notify the borrower when an employer may become an ineligible employer under subsection (h) of this section. Proposed § 685.219(e)(10) would provide that, if the Secretary has determined that the employer is no longer a qualifying employer, the Secretary would notify that borrower of the employer's status.

Reasons: Modifying § 685.219(e) is necessary to conform with the Department's proposed regulatory amendment at subsection (h) within the

[25] *https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service.*

same section. Whereas subsections (h) and (i) provide the standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose and the process for making such determinations, subsection (e) clarifies the application process by directing the Secretary to notify borrowers when an employer may become ineligible or is no longer considered a qualifying employer for purposes of the PSLF program as it relates to the proposed standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose. The proposed borrower notification process provides transparency and insight regarding current or former employers that may become ineligible or are ineligible as a result of the proposed subsection (h). Should a borrower be employed by an affected employer, such notifications may assist a borrower in making informed decisions about their employment should they wish to continue making qualifying PSLF payments while employed at a qualifying employer.

Borrower Reconsideration Process (§ 685.219(g))

Current Regulations: Section 685.219(g) outlines a process for the reconsideration of a student loan borrower's eligibility under the PSLF program. Specifically, current § 685.219(g) outlines the conditions for a borrower to request that the Secretary reconsider whether the borrower's employer or any payment on their qualifying loan meets the requirements for credit toward loan forgiveness under the program.

Proposed Regulations: Proposed § 685.219(g) would modify the current process for requesting reconsideration by adding an additional subparagraph that states a borrower may not request reconsideration when the Secretary's determination was made based upon an organization's ineligibility as a qualifying employer due to engaging in activities that have a substantial illegal purpose.

Reasons: Modifying § 685.219(g) is necessary to conform with the Department's proposed regulatory amendment at subsection (h) within the same section. Proposed subsection (h) describes the standard the Secretary would use to determine when a qualifying employer has engaged in substantial illegal activities that would impact a borrower's eligibility under the PSLF program. If an organization has been determined to be ineligible as a qualifying employer under the standard at proposed subsection (h), it would follow that there would be no recourse for a borrower as the employer, not the borrower, is the entity that has not met the eligibility requirements for the PSLF program. It is therefore necessary to modify the regulatory text at subsection (g) to align the reconsideration process with the proposed addition at subsection (h).

During negotiated rulemaking, negotiators expressed concerns that borrowers would have no recourse to contest an employer's loss of qualifying status. The Department noted that, under the standard outlined in subsection (h), the employer itself will have the opportunity to respond to the Department's assertation of the employer having engaged in activities that have a substantial illegal purpose. Also, the Department added subsection (j) that would prescribe the process for regaining eligibility as a qualifying employer if qualifying status were ultimately revoked by the Department.

Standard for Determining When a Qualifying Employer Has Engaged in Activities That Have a Substantial Illegal Purpose (§ 685.219(h))

Current Regulations: None.

Proposed Regulations: Under § 685.219(h), the Department would create a standard for determining that a qualifying employer engaged in activities that have a substantial illegal purpose.

The Secretary would determine by a preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions (by gauging both frequency or severity) and would not find that the organization has a substantial illegal purpose if it has only engaged in illegal activities. In making such a determination, the Secretary would accept the following as conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

(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 have 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 as described in subsection (h) of this section.

Finally, nothing in this proposed standard 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 protected First Amendment rights, or any other rights protected under the Constitution.

Reasons: The Secretary seeks to establish a clear and consistent framework for how the Department would determine that a qualified employer engaged in activities that have a substantial illegal purpose. First, the Department would use the preponderance that it receives from sources specified in regulation (*see* discussion under proposed § 685.219(i)). The Department arrived at this standard because the preponderance of the evidence typically means that something is more likely true than not true. On the final day of negotiated rulemaking, the Department offered using a clear and convincing standard to negotiate in good faith due to negotiators' concerns that the preponderance of evidence was not a high enough standard; however, the committee did not reach consensus. With this proposed rule we have returned to the preponderance of evidence standard. The Department believes that the preponderance of evidence is the most appropriate standard of proof because of the severity of the activities that have a substantial illegal purpose. Prior to losing status as a qualified employer, the Department would notify the employer of an initiated action to determine if the employer engaged in activities that have a substantial illegal purpose. This is the Department's attempt to outline the benchmarks that will be used in the determination and offer due process to a qualifying employer.

During this time, payments made by employees of the qualifying employer would still be counted towards PSLF. If the employer chooses not to respond, then the Secretary may move forward with revoking qualified employer status, thus subsequent payments made by a borrower would no longer be counted towards PSLF unless certain conditions were met (*see* discussion of proposed subsections (i) and (j)).

If the employer chooses to respond, the Secretary will decide on the qualified employer's status after the response has been submitted and reviewed by Department staff. Based on the response, the Secretary may choose to maintain or revoke the employer's qualifying status.

The activities that have a substantial illegal purpose would occur on or after July 1, 2026. This means that activities that have a substantial illegal purpose that took place and ended prior to July 1, 2026, would not be considered in the Secretary's review under this standard.

During rulemaking, some of the negotiators expressed concern that the Department would use authority under this proposed standard to target qualifying employers that did not align with the current Administration's values. Negotiators expressed concerns because the language provided to negotiators prior to the committee meetings stated: ''The Secretary determines by a preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose.'' In order to allay concerns, the Department added language that the Secretary would also consider the materiality, meaning the significance, of the activities of the qualifying employer by gauging both frequency and the severity of said activities, in deciding whether the activities amount to a substantial illegal purpose. As stated in the text of the regulation, this is because the Department does not intend to penalize a qualifying employer prior to the proposed effective date of the regulations.

The Secretary would presume that the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose, thus revoking qualifying employer status: (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 they engaged in activities that have a substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have a substantial illegal purpose; or (3) A settlement that includes admission by the employer that it engaged in activities that have a substantial illegal purpose. In crafting options for the proposed standard, the Department explored judgments and legal proceedings in a State or Federal court or tribunal of competent jurisdiction. Reliance on judgments and legal proceedings in any tribunal would reduce the burden on the Department since, in this instance, the Department itself would not adjudicate whether the employer engaged in activities that have a substantial illegal purpose. Instead, we would rely on processes that took place in court to determine that the employer engaged in illegal activities that have a substantial illegal purpose.

During rulemaking, some of the negotiators expressed concern that the Department would use authority under this proposed standard to target free speech. For example, one negotiator stated that, if an employer releases information in support of transgender rights but does not engage in the chemical or surgical castration or mutilation of a child or children in violation of a State or Federal law, that the Department may revoke qualifying employer status. Another negotiator stated that many legal aid organizations with 501(c)(3) status work with undocumented clients and feared losing qualifying employer status due to the Department's determination that they are aiding and abetting violations of Federal immigration laws. Therefore, the Department clarified that nothing in the standard would be construed to authorize the Secretary to determine an employer engaged in activities that have a substantial illegal purpose based upon the employer or the employees exercising their protected First Amendment rights, or any other rights protected under the Constitution.

Process for Determining When an Employer Engaged in Activities That Have a Substantial Illegal Purpose (§ 685.219(i))

Current Regulations: None.

Proposed Regulations: The Department would create a standard for determining when a qualifying employer is engaged in activities that have a substantial illegal purpose. The Department would determine that a qualifying employer violated the standard when 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 would determine that the qualifying employer engaged in activities that have a substantial illegal purpose, unless, prior to the issuance of the Secretary's final determination, the Secretary approves a corrective action plan (*see* discussion in § 685.219(j).

Reasons: The Department intends to determine in regulations when a qualifying employer could lose qualifying status for the PSLF program to make clear to borrowers and qualifying employers the effective date of loss of qualifying status for purposes of qualifying employment for PSLF. First, the Department would amend the PSLF Form to allow a qualifying employer to self-certify that it has not engaged in activity that has a substantial illegal purpose. Upon receiving that non-certification, the Secretary would remove the employer from the qualifying employer list, because the employer is affirming that it engaged in activities that have a substantial illegal purpose.

Second, the Secretary would determine that a qualifying employer engaged in activity that has a substantial illegal purpose, resulting in the eligible employer losing qualifying status. This is because not all signatories will correctly acknowledge on the PSLF form—either through an inadvertent mistake, unknowingly, or knowingly and willfully concealing those facts—whether the employer engaged in activities that have a substantial illegal purpose.

During negotiated rulemaking, the Department heard a concern that there could be a lapse in qualifying status for an employer that was ultimately found by the Department to have engaged in activities that have a substantial illegal purpose and attempted to regain eligibility status via a corrective action plan. While under proposed § 685.219(j) an employer can submit a corrective action plan to regain qualifying status, the process may take time for approval which would leave employees without access to PSLF for an undefined length of time. Therefore, the Department proposes to add that the employer may maintain qualifying status if, prior to the issuance of the Secretary's final determination, the Secretary approves a corrective action plan. If the corrective action plan is approved prior to the Secretary's final decision of a violation of the standard, there will be no lapses in the qualifying employer's status.

Current Regulations: None.

Proposed Regulations: The Department also would propose a new paragraph (i)(2). If an employer is operating under a shared identification number or other unique identifier, the Secretary shall consider the organization to be separate if the employer is operating separately and distinctly, for the purposes of determining whether an employer is eligible.

Reasons: During rulemaking, there was a significant discussion regarding shared Federal employer identification numbers (EIN). The EIN is a unique Federal tax identification number issued by the IRS for businesses, tax-exempt organizations, and other entities. The Department requests the EIN on the PSLF form and matches the EIN with the IRS' publicly available listing of tax-exempt organizations and other entities to ensure that the employer is a qualifying employer for PSLF purposes. Negotiators noted that there are examples of entire city governments that

share an EIN. If a qualifying employer is determined by the Secretary to have engaged in activities that have a substantial illegal purpose, entire city governments, including police and fire departments, could lose eligibility for PSLF. While the Department believes the Secretary already has the authority to consider agencies as separate under one EIN, we added a provision in the regulations that allow the Secretary to separate employers that are under one EIN, should an agency with a shared EIN lose qualifying employer status. In the regulations, we do not refer directly to the EIN but instead use the phrase ''shared identification number or other unique identifier'' to safeguard against changes or renaming of the EIN to another term in the future.

A qualifying employer could also choose to provide more information about the structure of the organization during the notice and response phase under the standard in subsection (h). The Secretary maintains ultimate authority to make decisions regarding separation of agencies under a single EIN.

Regaining Eligibility as a Qualifying Employer (§ 685.219(j))

Current Regulations: None.

Proposed Regulations: The proposed addition of § 685.219(j) describes a process for an employer who has lost eligibility due to engaging in activities that have a substantial illegal purpose, to regain eligibility, and become a qualifying employer again. An employer who has lost eligibility may regain eligibility after:

(1) ten (10) years from the date the Secretary determines the organization engaged in activities that have a substantial illegal purpose 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; or

(2) the Secretary approves a corrective action plan that is signed by the employer that includes: a certification that the employer is no longer engaging in activities that have a substantial illegal purpose; a report describing the employer's compliance controls that are designed to ensure that the employer will not engage in activities that have a substantial illegal purpose in the future; and 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.

Reasons: During negotiations, several negotiators expressed that an employer that lost its qualifying status under PSLF would have several negative consequences including that it would permanently ban employers from PSLF that may no longer be engaged in activities that have a substantial illegal purpose. Negotiators mentioned that borrowers often make major life decisions about employment based on access to PSLF.

As noted above, the initial draft regulations did not contain provisions for employers to regain eligibility as a qualifying employer. In an attempt to negotiate in good-faith to address the concerns mentioned by negotiators and to reach consensus on the draft regulations, the Department offered two changes whereby an employer may regain eligibility ten years from the date of determination, or, if the employer did not want to wait the ten-year period, then the employer would have the ability to submit a corrective action plan and statement to the Department that it is no longer engaged in activity that has a substantial illegal purpose. While there were tentative agreements on these two changes, one negotiator dissented on approving the draft regulations, and the negotiated rulemaking committee failed to reach consensus. Therefore, in proposing these regulations, the Department continues to agree in principle that providing an employer with a process to regain qualifying status is an important component. However, the agreement to allow reinstatement within five years was a major compromise offered by the Department in the negotiated rulemaking to gain support from committee members on other provisions in the draft regulations. In proposing these regulations, the Department believes that a period of 10 years would better ensure that employers do not continue to engage in behavior that has a substantial illegal purpose.

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

Current Regulations: None.

Proposed Regulations: The proposed addition of § 685.219(k) describes a process under which the Department would notify student loan borrowers if an organization regained eligibility as a qualifying employer, based upon the standards outlined in proposed subsection (j) of the same section, for the purpose of correctly certifying or applying for loan cancellation under the PSLF program.

Reasons: During the negotiated rulemaking session, negotiators raised concerns about the importance of notifying borrowers, who may become eligible to apply or re-eligible after initial certification, when and if their employer regained eligibility as a qualifying employer. Although operational procedures for the Department are not commonly outlined in regulatory text, we agreed with the committee's recommendation to incorporate a general borrower notification requirement into the proposed rules for PSLF to reflect the Department's commitment to increase transparency and efficiency in our administration of the Federal student loan programs.

X. Regulatory Impact Analysis

Executive Orders 12866 and 13563

Under E.O. 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the E.O. and subject to review by OMB. Section 3(f) of E.O. 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 a 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 stated in the E.O.

The Department estimates the net budgetary impacts to be −$1.537 billion from increased transfers from borrowers who no longer receive PSLF to the Federal Government. Quantified economic impacts include annualized transfers of −$167 million at 3 percent discounting and $173 million at 7 percent discounting, and annual quantified costs related to compliance costs and administrative updates to Government systems. Therefore, based on our estimates, OIRA has determined that this final action is ''economically significant'' under section 3(f)(1) of Executive Order 12866 and subject to OMB review3(f)(1).

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 that an agency:

(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) In choosing among alternative regulatory approaches, 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.

E.O. 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.''

As required by OMB Circular A–4, we compare the proposed regulations to the current regulations. In this regulatory impact analysis (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 of 1995,* we identify and explain burdens specifically associated with information collection requirements.

1. Need for Regulatory Action

The Department has identified a critical and urgent need for comprehensive regulatory reform within the PSLF program. The PSLF program was established to encourage public service careers by offering loan forgiveness to eligible borrowers. Despite the program's intent, the current regulatory framework has exposed the PSLF program to potential misuse, with taxpayer dollars being allocated to borrowers working for organizations that do not align with the program's public service mission.

In response to these challenges, the Department proposed a series of regulatory changes designed to ensure the program's integrity by limiting benefits to borrowers employed by organizations that meet the established public service criteria. The proposed regulations will exercise the Secretary's authority under title IV of the HEA, specifically 20 U.S.C. 1087e(m), 20 U.S.C. 1221e–3, and implemented in 34 CFR 685.219, to refine the requirements for qualifying employers and ensure that PSLF benefits are distributed only to those working for organizations that provide public service, aligned with the goals of the HEA.

Clarifying the Secretary's Broad Authority and Defining Public Service Employment

The Secretary's authority to establish rules and regulations for the administration of the Direct Loan Program, including the PSLF program, is grounded in the HEA, particularly under Section 455(m)(3), which empowers the Secretary to define and regulate the parameters for public service employment under the program. This broad regulatory authority provides the foundation for the proposed rules to refine the criteria governing PSLF eligibility. Specifically, these changes will focus on ensuring that PSLF benefits are directed only to those borrowers who are employed by organizations that serve the public good and uphold public policy, while eliminating the risk of improper payments to those working for organizations engaged in illegal activities. By exercising this authority, the Department aims to protect public funds and guarantee that PSLF benefits fulfill their intended purpose by rewarding individuals dedicated to public service careers.

Exclusion of Employers Engaged in Substantial Illegal Activities

One of the most significant challenges faced by the PSLF program has been the inclusion of employers whose activities are at odds with the program's core mission of supporting public service. To address this, the Department proposes a new regulation to exclude employers that engage in activities with a ''substantial illegal purpose'' from the list of organizations that qualify for PSLF. This exclusion is necessary to protect taxpayers from funding loan forgiveness for individuals employed by organizations that operate in a manner harmful to the public good.

The proposed rules will specifically identify activities that qualify as having a ''substantial illegal purpose,'' including violations of Federal and State laws, involvement in trafficking, terrorism, violence aimed at obstructing Federal policy, and other illegal actions. Organizations engaging in such activities will be disqualified from participating in the PSLF program, and their employees will no longer be eligible to receive qualifying payments that lead to loan forgiveness under PSLF.

The inclusion of this provision in the regulations aligns with the Department's responsibility to administer Federal student aid programs in a manner that is transparent, equitable, and consistent with public policy. By establishing clear criteria for what constitutes a ''substantial illegal purpose,'' the Department will ensure that PSLF benefits are only granted to those working for employers that genuinely contribute to the public good and comply with the law. The proposed definition of ''substantial illegal purpose'' will be codified in 34 CFR 685.219(b)(30), providing clarity for both employers and borrowers.

Addressing Borrower Eligibility and Ensuring Due Process

In implementing the new regulations, the Department is also mindful of the need to protect borrowers from losing eligibility due to their employer's actions. Borrowers working for organizations engaged in activities that disqualify them from PSLF will no longer be able to accrue qualifying monthly payments toward loan forgiveness while remaining at that employer. However, the proposed regulations include safeguards to ensure that borrowers are not unfairly penalized. When an employer is found to have engaged in disqualifying activities, borrowers will be promptly notified. This ensures that their employer's status does not unduly harm borrowers and that they have the opportunity to continue making progress toward loan forgiveness.

To further protect the rights of borrowers, the regulations will provide a process by which employers who are at risk of losing PSLF eligibility due to illegal activities will be notified and allowed to respond. The proposed regulations at 34 CFR 685.219(h) will specify that employers will be afforded a period to respond to the findings before any final determination regarding their eligibility is made. This process aligns with principles of due process and transparency, ensuring that employers have a fair opportunity to

maintain their status and that borrowers are not left uninformed.

Reaffirming Transparency and Employer Accountability

Transparency and accountability are central to these proposed regulatory changes. By providing clear guidelines for employers regarding their obligations under PSLF, the Department will help ensure that both employers and borrowers understand the eligibility criteria. Employers found to be engaged in disqualifying activities will be given a reasonable opportunity to contest the findings and take corrective action if necessary. If an employer loses eligibility, the proposed regulations will establish a process for regaining eligibility after 10 years or after the employer has implemented a corrective action plan. This will be codified in 34 CFR 685.219(j).

The regulations also require that, once an employer regains eligibility, the Secretary shall update the qualifying employer list, which is accessible to borrowers for purposes of certification or application. This helps ensure that borrowers have up-to-date information about which employers are eligible for PSLF, facilitating a more streamlined and transparent process for all stakeholders.

The proposed regulatory changes are designed to protect the integrity of the PSLF program by ensuring that taxpayer funds are used to support borrowers working in public service roles with eligible employers. By excluding employers engaged in illegal activities, defining ''substantial illegal purpose,'' and providing clear guidelines for borrower eligibility and employer accountability, the Department aims to create a more efficient, transparent, and fair PSLF program. These reforms will help reduce administrative burdens on borrowers and institutions, promote fairness, and ensure that PSLF benefits are awarded only to those genuinely dedicated to serving the public good. Through these changes, the Department will fulfill its responsibility to safeguard taxpayer funds while enhancing the effectiveness of the PSLF program in supporting individuals committed to public service careers.

2. Summary

The Department proposes to make several significant changes to PSLF based on discussions during the negotiations.

TABLE 2.1—SUMMARY OF KEY CHANGES IN THE PROPOSED REGULATIONS

Provision	Regulatory section	Description of proposed provision
Public Service Loan Forgiveness		
Definitions	685.219(b)	Would 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''. Would revise the definition of ''qualifying employer''.
Borrower Eligibility	685.219(c)	Would exclude from a credit as a qualifying payment any month that a qualifying employer engaged in activities that have a substantial illegal purpose.
Application Process	685.219(e)	Would create a borrower notification of employers that are at-risk of or have lost PSLF qualifying status.
Borrower reconsideration process	685.219(g)	Would prohibit a borrower from requesting reconsideration if their employer lost eligibility due to engaging in activity that has a substantial illegal purpose.
Standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose.	685.219(h)	Would create a standard by which the Secretary determines that the qualifying employer engaged in activities that have a substantial illegal purpose, including but not limited to reviewing the preponderance of the evidence and basing decisions on materially of the activities that have a substantial illegal purpose. Also, would provide the employer an opportunity to respond except in cases where there was conclusive evidence (see discussion or regulatory language for more information) that the employer engaged in activities that have a substantial illegal purpose.
Process for determining when an employer engaged in activities that have a substantial illegal purpose.	685.219(i)	Would establish that the Secretary determinates that a qualifying employer engaged in substantial illegal activities when the Secretary receives that self-certified information on the PSLF form or makes his or her own determination, unless a corrective action plan is submitted prior to issuance of the final determination. We would also note the Secretary's authority to separate employers operating under on identification number.
Regaining eligibility	685.219(j)	Would allow a qualifying employer to regain eligibility after 10 years from the date(s) that it engaged in activity that had a substantial illegal purpose or when the Secretary approves a corrective action plan signed by the employer.
Borrower notification	685.219(k)	Would require the Secretary to update the qualifying employer list, which is accessible to borrowers for purposes of certification or application, if an employer regains eligibility.

3. Discussion of Costs and Benefits

The PSLF program is a component of Federal student loan policy, designed to encourage individuals to enter and continue in public service employment by offering cancellation of remaining Direct student loan balances after 120 qualifying monthly payments and 10 years of full-time employment in a public service job. However, over time, the program has faced significant challenges, including confusion about qualifying employers, and 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 has proposed a series of regulatory changes. These proposed regulations aim to enhance the program's integrity, improve its efficiency, and ensure that taxpayer funds are allocated appropriately. While these changes are

expected to incur certain costs, the long-term benefits are substantial, making the program more effective, transparent, and equitable. Below is an analysis of both the costs and benefits of these proposed regulations.

Costs of the Proposed Regulations:

The Department acknowledges that implementing the proposed regulations will incur 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 bring.

One of the immediate costs associated with these regulatory changes will be the need for the Department to update its systems, train staff, and implement new compliance and monitoring processes. The Department will need to track and verify employer eligibility more rigorously, and it will also need to enhance communication systems to notify employers and borrowers of any changes to their status in the PSLF program. These changes will require new investments in staffing, technology upgrades, and outreach programs.

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 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. Using information from prior implementation and of income-driven repayment and PSLF program changes, the Department spent an estimated $2.5 million annually for similar updates. Given the complexity of these new regulations, it is reasonable to expect similar administrative expenditures in the short term.

Employers will need to ensure that they meet the new eligibility criteria under the proposed regulations. This will involve reviewing their activities to ensure they are not engaged in any actions that would disqualify them from participating in the PSLF program. For many employers, especially smaller organizations or those with limited resources, this process may necessitate consultations with legal counsel, operational adjustments, and revisions to their hiring practices.

Compliance costs for employers are expected to vary per organization, depending on the organization's size and complexity. Larger organizations, such as hospitals or universities, may incur higher costs as they assess their practices and make any necessary changes to align with the new rules. A 2021 survey by the National Council of Nonprofits found that a significant percentage of nonprofit organizations may face challenges in meeting changing eligibility standards.[26] 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 State and Federal law as a condition to participating in other government or nongovernmental programs. As such, in some circumstances, organizations may not need to exert any more than a *de minimis* amount of additional resources in order make attestations under the proposed regulations. Rather, such organizations will rely on the work already done within the organization that supports their ability to attest they are in compliance with Federal and State law for other purposes.

The most significant impacts on borrowers may stem from: (1) potential delays in loan forgiveness processing during the transition to the new regulations that may stem from changes in employer eligibility databases or open employer eligibility reviews; and (2) potential misunderstandings of the new regulations that lead to borrower confusion that delays application of the forgiveness benefit. Borrowers who are employed by organizations disqualified under the new rules may experience a temporary disruption in their progress toward loan forgiveness. These borrowers will need to transition to qualifying employers to continue receiving credit for their payments. Borrowers who misunderstand the new rules may apply for forgiveness without knowing or understanding the implications of the new rule on their former or current employer as they may no longer be a qualifying employer.

The transition and any misunderstanding of the proposed changes to the program may slightly increase the time it takes borrowers to achieve forgiveness; however, long-term processing efficiencies are expected to be gained. Borrowers frequently encountered confusion and delays in PSLF application due to employer eligibility issues. A 2018 Government Accountability Office (GAO) audit found that over 370,000 certified borrowers had still made zero qualifying payments, suggesting misunderstandings about eligibility criteria or documentation.[27] A 2020 joint investigation by the American Federation of Teachers (AFT) and the Student Borrower Protection Center (SBPC) revealed that the PSLF process had rejected employer eligibility more than 50,000 times, even inconsistently for employees at the same institution.[28] GAO further warned that the absence of clear guidance for loan servicers significantly increases the risk of improper denials. While the Department is taking steps to minimize these delays and inform borrowers of these changes to standard marketing and communication channels, borrowers may experience disruptions as the new regulatory framework is implemented.

Benefits of the Proposed Regulations:

Despite the initial costs, the long-term benefits of the proposed regulations far outweigh the short-term expenditures. These benefits are significant and include increased program integrity, improved efficiency, reduced borrower confusion, and long-term savings for taxpayers.

The most significant benefit of the proposed regulations is the improvement in the integrity of the PSLF program. By excluding employers engaged in substantial illegal activities from the program, the Department ensures that taxpayer dollars are only used to support borrowers working for organizations that are not engaged in activities that have a substantial illegal purpose. 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 government broadly aims to prevent.

[26] *https://www.councilofnonprofits.org/reports/nonprofit-workforce-shortages-crisis-affects-everyone.*

[27] *https://www.gao.gov/assets/700/694506.pdf.*

[28] *https://protectborrowers.org/wp-content/uploads/2020/08/ECF-Failures.pdf.*

The proposed regulations will also streamline the PSLF process by providing more explicit eligibility criteria and verification process. This will make it easier for borrowers to track their progress and ensure that they meet the requirements for loan forgiveness. Additionally, employers will benefit from more straightforward guidelines regarding their obligations under the PSLF program.

Recent data from the Consumer Financial Protection Bureau (CFPB) found that a significant fraction of borrowers experienced confusion regarding their employer's eligibility for PSLF.[29] With the new rules in place, the Department anticipates reducing borrower confusion through making the process more transparent and efficient, especially over the long term. This will likely result in faster processing of PSLF applications and fewer errors, as both borrowers and institutions will have a clearer understanding of the program's requirements.

By helping ensure that PSLF benefits are directed only to borrowers working for legitimate public service employers, the proposed regulations will help strengthen public service careers. The PSLF program has been a key factor in attracting and retaining individuals in public service, and these changes will make the program more accessible and reliable.

There is significant research, both academic and private sector, which documents that public service employees cited PSLF as a significant factor in their decision to pursue and remain in public service. Recently, a 2025 student by Mission Square Research Institute, found that 56% of public sector employees and 62% of private sector employees may job decisions based on their student loan debt levels.[30] As the program becomes more transparent and efficient, the Department anticipates growth in public service recruitment and retention in the future. One of the most important benefits of the proposed regulations will be the long-term savings for taxpayers. By eliminating improper payments, the Department estimates that these regulations will save taxpayers a significant amount of money over the next ten years. These savings will result from a reduction in wasteful disbursements. The expected reduction in improper payments will ensure that taxpayer dollars are spent more efficiently and effectively.

The proposed regulatory changes for the PSLF program aim to enhance the program's efficiency and integrity. Although there will be initial costs associated with administrative updates and compliance efforts, the long-term benefits far outweigh these expenditures. The regulations will help reduce improper payments, streamline processing times, reduce borrower confusion, and ensure that the program supports individuals employed by organizations that genuinely contribute to the public good. With these changes, the PSLF program will become more transparent, efficient, and practical, fulfilling its original mission of rewarding public service careers while safeguarding taxpayer funds.

4. Net Budget Impact

Table 4.1 provides an estimate of the net Federal budgetary impact of these proposed regulations that are summarized in Table 2.1 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 baseline for estimating the cost of these final regulations is the President's Budget for 2026 (PB2026).

TABLE 4.1—ESTIMATED BUDGET IMPACT OF THE NPRM

[$ in millions]

Section	Description	Modification score (1994–2025)	Outyear score (2026–2035)	Total (1994–2035)
§ 685.219(h)	Amended definition of qualifying employer	−$640	−$897	−$1,537

As noted in the *Need for Regulatory Action* section of this RIA, the proposed regulations define several terms related to qualifying employment for PSLF and amend the definition of a qualified employer to exclude organizations that engage in activities that have a substantial illegal purpose. This is consistent with E.O. 14235, signed March 7, 2025. As proposed in subsection § 685.219(h), the Secretary will determine based on a preponderance of the evidence, and after notice and opportunity to respond, that employers have engaged in activities with a substantial illegal purpose on or after July 1, 2026, by considering the materiality of any illegal activities or actions. The Department will presume that any of the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

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 have 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 described in subsection (h) of this section.

Employer qualification will be linked to the EIN used for reporting to the IRS so employees in one area or agency may be affected by the activities of employees in other organizations under the same EIN. For example, the County of Los Angeles has a single EIN covering various departments including the Los Angeles County Public Defender, Los Angeles County Department of Children and Family Services, Harbor-UCLA Medical Center, and the County of Los Angeles Fire Department. Government agencies in particular may have many service areas under a single EIN.

The PSLF application data includes variables that distinguish non-profit

[29] Consumer Financial Protection Bureau, Staying on Track While Giving Back: The Cost of Student Loan Servicing Breakdowns for People Serving Their Communities (Washington, DC: June 2017).

[30] Liu, Z., Korankye, T. (February 2025). *The Ripple Effect of Student Debt: Shaping Careers, Financial Choices, and Well-Being in Public and Private Sectors.* Mission Square Research Institute.

employers and government employers, as well as the level of government employers. Table 4.2 summarizes the split between borrowers receiving PSLF whose greatest time in qualifying employment was with government or non-profit organizations.

TABLE 4.2—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY EMPLOYMENT SECTOR

Employment sector	Number of borrowers who have received forgiveness	Average forgiveness amount
Government	677,500	$ 73,000
Nonprofit	296,600	82,100
Total	974,100	75,800

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 towards forgiveness. The numbers of borrowers and average forgiveness amounts are rounded to the nearest hundred.

Table 4.3 splits the government category into Federal, State, and local levels. We assume that Federal agencies will comply with the law. Therefore, we do not expect a reduction in forgiveness for Federal employees.

TABLE 4.3—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	97,800	$71,900
Local Government	415,300	71,200
State Government	161,900	78,400
Unknown	2,500	75,000
Total	677,500	73,000

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 towards forgiveness. The numbers of borrowers and average forgiveness amounts are rounded to the nearest hundred.

Based on the activities identified in the E.O. 14235 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 proposed 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 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.[31] This was done by matching keywords from various subsectors to employer names. For example, for healthcare, the keywords included ''hospital'', ''health'', ''medical'', and ''clinic''.

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 EINs 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 4.4 summarizes the results by service area.

TABLE 4.4—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY EMPLOYMENT SUBSECTOR

Employment subsector	Number of borrowers who have received forgiveness	Average forgiveness amount
Agriculture	3,300	$ 64,900
Arts	2,900	61,600
Early Childhood	1,400	63,000

[31] 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*.

TABLE 4.4—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY EMPLOYMENT SUBSECTOR—Continued

Employment subsector	Number of borrowers who have received forgiveness	Average forgiveness amount
Environmental	2,600	61,100
Fire Rescue	1,200	52,400
Governance	156,200	67,200
Healthcare	158,600	89,200
Higher Education	105,400	84,200
International	1,200	75,500
K12 Education	296,600	72,500
Law Enforcement	20,100	66,500
Legal	13,800	108,500
Military	48,400	70,200
Other	82,900	72,200
Philanthropy	5,300	73,500
Religious	14,000	69,500
Research	1,500	65,300
Social Services	47,500	75,300
Transportation	5,500	61,400
Utilities & Infrastructure	2,500	60,700
Workforce & Labor	3,000	80,200
All Employment Subsectors	974,100	75,800

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 towards forgiveness. The numbers of borrowers and average forgiveness amounts are rounded to the nearest hundred.

As we expect most employers to certify that they do not engage in activities with a substantially illegal purpose, the information in Table 4.4 informed our estimates of potential reductions in qualified employers for PSLF but does not directly translate to the percentage of borrowers assigned to achieve forgiveness in our assumptions for the proposed regulation. We also recognize that employers in other employment subsectors could engage in 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 Budget Impact* section of this analysis.

Methodology for Budgetary Impact

The Department estimated the budgetary impact of the proposed provisions in this NPRM through changes to the PSLF assignment within the Department's income-driven repayment (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 4.5.

TABLE 4.5—CHANGE IN ASSIGNMENT OF PSLF FOR PROPOSED REGULATION

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

As we expect the proposed regulations to have more of a deterrent effect reducing the likelihood of qualifying employers engaging in illegal activities and borrowers have the option of shifting employers to complete their 120 months of qualifying payments even if on a delayed basis, we do not expect a significant reduction in the percentage of borrowers achieving PSLF forgiveness. We have not increased the effect for future cohorts of loans

because, while potential ineligibility starts with the July 1, 2026, effective date, 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 4.5 were derived from applying reductions between 0–5 percent to the employment subsectors identified in Table 4.4 as being most likely to be affected by the proposed 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 would be less than 10 employers affected annually. Given the uncertainties of employer and employee response noted for the primary estimate, we considered an alternative approach that evaluated the maximum impact consistent with the PRA analysis. Within the universe of borrowers who have received forgiveness, approximately 6 percent were employed for their longest time toward forgiveness in the top 10 EINs by forgiven borrower count, excluding federal employers who are assumed to comply. Therefore, we also ran a high-impact alternative that bumped the reductions up to 6 percent.

The combined effect of the changes to the percentages in Table 4.5 reduces the number of borrowers achieving PSLF in our IDR assumption and results in the cost savings presented in Table 4.6. The Department welcomes comments on the assumptions related to the reduction in future qualified employer eligibility and will consider any substantive comments or information presented in estimating the effects of the proposed rule.

TABLE 4.6—NET BUDGET IMPACT OF PROPOSED CHANGES TO PSLF

$ mns	PSLF primary	PSLF alternate
Modification	−$640	−$1,765
Outlays for Cohorts 2026–2035	−897	−2,520
Total	−1,537	−4,285

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 proposed regulations. Table 4.7 provides our best estimate of the changes in annual monetized transfers that may result from these proposed regulations. Expenditures are classified as transfers from the Federal government to affected student loan borrowers.

TABLE 4.7—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Benefits	
Reduction in taxpayer costs supporting loan forgiveness of those at organizations engaging in activities with 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.
Costs incurred by organizations to ensure compliance with proposed regulations.	Not quantified	Not quantified.
Administrative costs to Federal government to update systems and contracts to implement the proposed regulations.	$0.3	$0.4.
Category	**Transfers**	
	3%	7%
Increased transfers from borrowers due to reductions in borrowers achieving PSLF forgiveness:	−$167	−$173.

5. Alternatives Considered

The Department considered many alternatives.

Part of the development of these regulations, the Department engaged in a negotiated rulemaking process in which we received comments and proposals from non-Federal negotiators representing numerous impacted constituencies on a variety of issues. The proposals were submitted from the following constituencies: proprietary institutions of higher education, civil rights organizations, consumer advocates, and legal assistance organizations that represent students and/or borrowers, student loan borrowers in repayment, organizations representing taxpayers and the public interest, public institutions of higher education, financial aid administrators, accrediting agencies, and State officials, U.S. Military service members. Information about these proposals is available on our rulemaking website at *https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026*.

The Department worked with the negotiators and continued to provide additional proposed regulatory text for consideration. Despite these efforts, the negotiators did not reach consensus on the proposed regulations in this NPRM, the Department was not bound to incorporating any of the negotiators' submitted proposals in the drafting of this NPRM.

Regulatory Flexibility Act

The Secretary certifies, under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final regulatory action would not have a significant economic impact on a substantial number of ''small entities.''

These regulations will not have a significant impact on a substantial number of small entities because they are focused on arrangements between the borrower and the Department. They do not affect institutions of higher education in any way, and these entities are typically the focus of the Regulatory Flexibility Act analysis. As noted in the *Paperwork Reduction Act* section, the burden related to the final regulations will be assessed in a separate information collection process and that burden is expected to involve individuals more than institutions of any size.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general 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 proposed regulatory changes would require an update to the currently approved Public Service Loan Forgiveness Certification and Application, OMB # 1845–0110. The Department would 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. We do not believe the proposed changes will significantly change the amount of time currently assessed 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. The proposed amendments to the regulation may reduce the number of respondents or responses for individuals submitting Employee Certification forms. This is due in part to the reduction in the number of qualifying employers. As mentioned previously, the Department anticipates a 10 percent reduction in the number of individuals submitting Employee Certification Forms because their employer is no longer eligible for participation. Any burden changes will be assessed to OMB # 1845–0110, Application and Employment Certification for Public Service Loan Forgiveness. Section 685.219 (j) of the proposed regulation would allow an employer to re-establish or maintain eligibility for PSLF if the Secretary approves a corrective action plan. The Department believes that annually there would be less than 10 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 these proposed rules as the anticipated number of annual respondents falls below the minimum required for OMB approval.

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 penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the final regulations we will display the control number numbers assigned by OMB to any information collection requirements proposed in this NPRM and adopted in the final regulations.

If you wish to review and comment on the Information Collection Requests, please follow the instructions in the **ADDRESSES** section of this notification. Note: The Office of Information and Regulatory Affairs in OMB and the Department review all comments posted at *www.regulations.gov*. We consider your comments on these proposed collections of information in—

* Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use.

* Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions.

* Enhancing the quality, usefulness, and clarity of the information we collect; and

* Minimizing the burden on those who must respond. Consistent with 5 CFR 1320.8(d), the Department is soliciting comments on the information collection through this document. Between 30 and 60 days after publication of this document in the **Federal Register**, OMB is required to make a decision concerning the collection of information contained in these proposed priorities, requirements, definitions, and selection criteria. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on these Information Collection Requests by September 17, 2025.

Intergovernmental Review

This program is subject to E.O. 12372 and the regulations in 34 CFR part 79. One of the objectives of the E.O. is to foster an intergovernmental partnership and strengthened Federalism. The E.O. 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.

Assessment of Education Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary requests comments on whether these final regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

E.O. 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 proposed regulations do not have Federalism implications.

Accessible Format: On request to the program contact person(s) listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain

this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects in 34 CFR Part 685

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

Signing Authority

This document of the U.S. Department of Education was signed on August 14, 2025, by Linda McMahon, Secretary of Education. That document with the original signature and date is maintained by the U.S. Department of Education. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned has been authorized to sign the document in electronic format for publication, as an official document of the U.S. Department of Education. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Tracey St. Pierre,

Director, Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education.

For the reasons discussed in the preamble, the Secretary of Education proposes to amend 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 markers to (b);
■ b. Adding new subsections (h),(i), (j) and (k).
■ c. Adding new paragraphs (b)(1), (b)(3), (b)(4),(b)(10),(b)(12), (b)(17), (b)(30), (b)(31), (b)(32), (b)(33), (b)(34), (b)(35), (c)(4), (e)(9),(e)(10), (g)(7); (; and
■ c. Amending paragraphs b (27), (c)(2), and (g).
■ 2. The revisions and additions 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 service* means 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 that 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 would 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 states 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 (34) of this subsection.

(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 the Crimes and Criminal Procedure (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) *Borrower eligibility.*

* * * * *

(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 subsection (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 that have a substantial illegal purpose, as described in this section.

* * * * *

(e) *Application process.*

* * * * *

(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 subsection (b)(28) of this section, pending a determination made under subsection (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 qualifying employer as a result of a determination made under subsection (h) of this section, the Secretary notifies the borrower of the change in the employer's status.

* * * * *

(g) *Borrower reconsideration process.*

* * * * *

(7) Notwithstanding paragraph (g)(1) of this section, a borrower may not request reconsideration under this subsection (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 subsection (h) of this section.

(h) *Standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose.*

(1) The Secretary determines by a preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions. In making such a determination, the Secretary shall presume that any of the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

(i) 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;

(ii) A plea of guilty or *nolo contendere,* whereby the employer admits to have 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

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

(2) Nothing in this subsection 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 an employer engaged in activities that have a substantial illegal purpose.*

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

(i) Receives an application as referenced under subsection (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 that have a substantial illegal purpose under subsection (h) of this section, unless, prior to the issuance of the Secretary's final determination, the Secretary which includes the factors set forth in subsection (j)(2) of this section.

(2) Notwithstanding subsection (i)(1), 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 that have a substantial illegal purpose in accordance with subsection (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 subsection (j) of this section, the Secretary shall update the qualifying employer list, which is accessible to borrowers for purposes of certification or application.

[FR Doc. 2025–15665 Filed 8–15–25; 8:45 am]

BILLING CODE 4000–01–P