CHILD CARE
LAW CENTER

August 12, 2022 *Submitted electronically via: http://regulations.gov*

Mr. Jean-Didier Gaina
U.S. Department of Education
400 Maryland Ave, SW
Washington, D.C. 20202

Re: Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program
Agency/Docket Number: ED-2021-OPE-0077 (*87 FR 41878)*

Dear Mr. Gaina,

Child Care Law Center submits the following comments in response to the above-referenced Notice of Proposed Rulemaking (NPRM). Child Care Law Center is a non-profit legal center that focuses on affordability and availability of child care for families with low incomes, equal access for children with disabilities, and pay equity for family child care providers.

The Public Service Loan Forgiveness (PSLF) program encourages participation in work that serves the public, by forgiving the remaining balance of workers' direct loans after they satisfy the public service and loan payment requirements of the program.[1] Existing regulations and policies have limited eligibility for PSLF to a small proportion of early childhood education (ECE) providers who work in non-profit or public settings. The authorizing statute does not support this limitation. We urge the Department to adopt and strengthen proposed revisions to PSLF regulations to ensure that all licensed and regulated ECE settings, including for-profit and family child care, qualify as eligible public service employers for the purpose of the PSLF program.

Additionally, the statute is silent as to how PSLF applicants must verify their employment. The Department's current practice to do so by verifying the status of the employer's federal employee identification number (EIN) functions to exclude many ECE educators. We further urge the Department to allow ECE educators to demonstrate that they work for eligible employers through methods alternative to submitting the employer's EIN, such as through a combination of self-attestation, submitting evidence of the employer's state child care license or regulated registration, and/or individual tax returns.

The Child Care Law Center's comments respond to the Department's specific questions[2], with a focus on (1) Child Care Development Block Grant Act (CCDBG) provisions that make it administratively feasible to identify ECE programs that qualify as public service employers, even when the providers are not direct recipients of CCDBG funds; and (2) Support for including all licensed and regulated ECE programs among qualified public service employers, even when not organized as 501(c)(3) non-profits, and even when not recipients of federal funding.

[1] *See* 20 C.F.R. § 685.219(a)(stating purpose of the PSLF program).
[2] 87 Fed. Reg. 41933 (July 13, 2022) (posing questions about amendments to 20 C.F.R. § 685.219(b)).

1832 2nd Street Suite K • Berkeley CA 94710
415-558-8005 • info@childcarelaw.org • www.childcarelaw.org

I. Utility of CCDBG Requirements in Identifying Qualified ECE Programs

Question 1: *What criteria and sources of information can the Department use to identify eligible for-profit early childhood education employers in a consistent and simple manner that does not require an individualized review of employer or borrower specific activities?...[A]re there sources that could identify IRS employer identification numbers for licensed and regulated early childhood education programs, as defined in § 1003(8) of the Higher Education Act (20 U.S.C. 1003)? Could those same sources identify whether the employer meets other requirements in this regulation, such as having a majority of an employer's full-time equivalent employees provide a qualifying service in the form of early childhood education for young children?*
I.

Section 1003(8) of the Higher Education Act (20 U.S.C. §§ 1003, *et seq.*) ("HEA") defines "early childhood education program," to mean:

> (A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;
> (B) a State licensed or regulated child care program; or
> (C) a program that—
> (i) serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and
> (ii) is—
> (I) a State prekindergarten program; (II) a program authorized under section 619 [20 U.S.C. 1419] or part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.]; or (III) a program operated by a local educational agency.[3]

The vast majority of "[s]tate licensed or regulated child care program[s]" operate as for-profit programs. CCDBG provisions make it administratively feasible to identify these eligible for-profit ECE employers, even when they are not direct recipients of CCDBG funds.

The CCDBG is the largest source of federal funding to states to provide child care assistance for families with low-incomes and improve the overall quality of child care.[4] Every state, territory, or tribe seeking CCDBG funds must designate and identify in its Child Care Development Fund (CCDF) State Plan a Lead Agency charged with administering the funds in compliance with federal requirements.[5] The Office of Child Care, an office of the Administration for Children and Families (a division of the U.S. Department of Health and Human Services), offers current contact information for all Lead Agencies and access to all current CCDF plans through its website.[6]

---

[3] 20 U.S.C. § 1003(8).
[4] Center for Law and Social Policy, *CCDBG: Helping Families Afford Child Care* (Feb. 2019) at 1, https://www.clasp.org/sites/default/files/publications/2019/04/2019_CCDBGhelpingworkingfamilies_ONLINE.pdf.
[5] *See* 42 U.S. Code §§ 9858b(a)(requiring Governor to designate a Lead Agency) and 9858c(c); 45 C.F.R. § 98.16(a) (requiring State Plan to identify Lead Agency).
[6] U.S. Dep't of Health and Hum. Services, Admin. for Child. & Families, Off. of Child Care ("OCC"), *State and Territory Child Care and Development Fund Administrators,* https://www.acf.hhs.gov/occ/contact-information/state-and-territory-child-care-and-development-fund-administrators; OCC, *Approved CCDF*

Federal CCDBG requirements include that the Lead Agency certify the existence of and provide a detailed description of licensing requirements applicable to all child care services provided within the state/territory (not restricted to providers receiving CCDF funds) and how the requirements are effectively enforced.[7] They also include that the Lead Agency must collect and disseminate to the general public, through a consumer-friendly website, information about available child care that includes a localized list of all licensed child care providers (and at the discretion of the Lead Agency, license-exempt providers, while differentiating between the two), searchable by zip code.[8]

Because of these CCDBG requirements, the Department can obtain lists of licensed and registered ECE providers and their corresponding licensing/registration numbers from each CCDF Lead Agency, and use these lists to verify the license/registration number submitted by the PSLF applicant. Such an approach contains opportunity for automation, pulling in lead agency lists to the Department's verification system, and would address the Department's need to minimize judgment and reduce administrative burden.

The Department can confirm a PSLF applicant's place of employment and full-time employment status via (1) EIN or (2) attestation with or without 1099 tax forms. Allowing use of attestation as an alternative to submission of the employer EIN is necessary to give due consideration to the status of many qualified, licensed and regulated ECE providers as non-employer, sole proprietor family child care homes. A 2019 report by the Committee for Economic Development found that, while 75,000 employer child care firms employed an estimated 925,000 wage and salary workers, the remainder of the child care field consisted of 599,000 providers, mostly in family child care homes that were owned and operated by a self-employed person with no paid employees.[9] Non-employer family child care home providers do not receive a traditional salary, receiving instead the net profit from operating the business; typical annual net proprietor earnings after expenses in 2019 were $8,900.[10]

Neither the authorizing statute nor the regulations governing the PSLF program designate a specific way for verifying that applicants work in eligible public service employment. However, the Department has through its policies and practices made the EIN the primary device for doing so. The PSLF and Temporary Expanded PSLF Certification and Application Form (OMB No. 1845-0110) that applicants submit to determine whether their employer qualifies them for PSLF asks that they provide the employer EIN.[11] The PSLF Self Help Tool that the Department launched on StudentAid.gov to identify eligible employers is even more adamant in its reliance on EIN. "Get Your Employer's EIN—We Aren't Kidding," exhorts would-

---

Plans (FY 2022-2024) (last visited Aug. 11, 2022), https://www.acf.hhs.gov/occ/form/approved-ccdf-plans-fy-2022-2024 (last visited Aug. 11, 2022).

[7] 42 U.S.C. § 9858c(c)(2)(F); 45 C.F.R. § 98.16(u), 98.40(a)(1).

[8] 42 U.S.C. § 9858c(c)(2)(E)(i)(III) and 45 C.F.R. § 98.33 (a)(2).

[9] Committee for Economic Development, *Child Care in State Economies—2019 Update* (2019) at 33, https://www.ced.org/assets/reports/childcareimpact/181104%20CCSE%20Report%20Jan30.pdf.

[10] *Id.*

[11] *See* U.S. Dept. of Educ., *The PSLF and Temporary Expanded PSLF Certification and Application Form (OMB No. 1845-0110)* at 2 (requesting EIN in Section 3, Question 2), https://studentaid.gov/sites/default/files/public-service-application-for-forgiveness.pdf (last visited Aug. 11, 2022).

be PSLF applicants, and explains: “To interact with this database, you need your employer’s Federal Employer Identification Number (FEIN/EIN).”[12]

This device is inapposite for the many, eligible early education providers in non-employer, state licensed and regulated family child care homes. The majority of non-employer, sole proprietor, licensed and regulated family child care providers do not have EINs. Self-attestation and 1099 tax forms can verify non-employer, family child care home provider work, consistent with alternative documentation options that currently exist within the PSLF system for individuals who cannot secure employer signatures.

Question 2: *Should the Department use the eligibility for, or receipt of, certain Federal funding as a requirement for a for-profit early childhood education employer to be a qualifying employer for the purposes of PSLF? Are there sources of information identifying employer identification numbers of Federally funded early childhood education programs, consistent with the definition of early childhood education noted above?*

No. Receipt of certain federal funding should not be a requirement of for-profit ECE employers in order for them to be a qualifying employer for PSLF. Such a requirement would exclude ECE programs eligible under the HEA and add administrative complexity, without justification.

Federal funding does not reach most children who qualify for it under federal funding rules. In 2014-2015, the state average percentage of children in poverty younger than 3 years old enrolled in Head Start was 2.3%, while average enrollment of 4 year olds in homes with low-incomes, although the group best reached, was only 20%.[13] Only 14% of children estimated to be eligible under CCDBG funding rules receive CCDBG subsidies.[14]

With the notable exception of Head Start funding, which operates through highly regulated, direct grants to local agencies, the vast majority of federal funding in the area of ECE programing is delivered in the form of block grants to states.[15] Disparate decisions by states, territories, and tribes about how to spend federal block grant funding mean that requiring a for-profit ECE setting to have received federal funding to act as a qualified employer would increase administrative burden, and create unfair, inequitable outcomes.

The CCDF program has matching and maintenance of effort requirements.[16] Most Lead Agencies reduce their state fiscal exposure by restricting eligibility below federal income limits, and in doing so they apply widely varying eligibility standards. An analysis by CLASP of 2016 data found significant variation in the percent of CCDBG eligible children with access to child

[12] Ian Foss, *Become a Public Service Loan Forgiveness (PSLF) Help Tool Ninja*, STUDENTAID.GOV, https://studentaid.gov/articles/become-a-pslf-help-tool-ninja/ (last visited Aug. 11, 2022).
[13] National Institute for Early Education Research, *State(s) of Head Start* (2016) at 26 Fig. 1 and 31 Fig. 6, https://nieer.org/wp-content/uploads/2016/12/HS_Full_Reduced.pdf.
[14] U.S. Gov’t Accountability Office, *Child Care: Subsidy Eligibility and Receipt, and Wait Lists*, *GAO-21-245R* (Feb. 18, 2021) at 12, https://www.gao.gov/assets/gao-21-245r.pdf.
[15] Approximately 1.3 million children receive a child care subsidy through the CCDF program every month, compared to 744,898 children enrolled in Head Start settings. *See* OCC, *OCC Fact Sheet*, https://www.acf.hhs.gov/occ/fact-sheet (providing CCDBG subsidy receipt numbers)(last visited Aug. 11, 2022). *See* Annie E. Casey Foundation, Kids Count Data Center, *Head Start enrollment by age group in the United States* https://datacenter.kidscount.org/data/tables/9786-head-start-enrollment-by-age-group (providing 2021 Head Start receipt numbers)(last visited Aug. 11, 2022).
[16] 45 CFR § 98.55.

care subsidies by state and race, with only 15 percent of eligible Black children, 2 percent of eligible Asian children, and 4 percent of eligible Latino children served, nationally.[17] A requirement that for-profit early education program employers receive federal funding in order for their staff to obtain federal PSLF relief would underscore existing inequities in ECE access, both racial and geographic.

The block grant structure of federal ECE funding would also make such a requirement impracticable to administer. In contrast to requirements related to information about the licensing and regulation of child care programs, there is not an equivalent CCDBG requirement that Lead Agencies identify the EIN of federally funded ECE programs (nor a requirement that CCDBG funded programs have an EIN).

Accordingly, we urge the Department to refrain from imposing a requirement that for-profit ECE providers receive federal funds to qualify as eligible employers, to avoid unjust and administratively burdensome results.

Question 3: *Could the Department limit PSLF eligibility to only for-profit early childhood education employers for which another Federal agency such as the U.S. Department of Health and Human Services has provided employer identification numbers and information that would help the Department easily assess eligibility?*

The Department could not limit PSLF eligibility in this manner. Under the block grant structure of the CCDBG, the HHS does not hold this information. As discussed above, CCDBG does not require Lead Agencies to obtain EIN from early education providers, nor does it require ECE providers to have EIN— and many family child care home providers do not.

Rather, the structure of the federal CCDBG requires state, territory, and tribal Lead Agencies to decide and implement policies about the licensure and regulation of ECE employers. These Lead agencies hold extensive information about eligible ECE providers that would help the Department easily assess eligibility. The Department could limit PSLF eligibility to only those for-profit ECE providers for which a CCDF Lead Agency can provide a license or registration number. Such a limitation would be consistent with the statutory definition of "early childhood education programs" under section 1003(8) of the HEA as "state licensed and regulated", and of "public service employers" under section 1087e(m)(3)(B)(i), as "licensed and regulated." It would facilitate coordinating with Lead Agencies and leveraging existing resources that license, regulate, and register ECE settings.

II. Support for deeming all licensed early childhood education providers qualified public service employers, even when not organized as 501(c)(3) non-profits, and even when not recipients of federal funding.

Question 4: *Is it consistent with the purposes and goals of the PSLF program to include for-profit early childhood education as qualifying employment? For instance, to what extent would the inclusion of for-profit licensed and regulated early childhood education providers as eligible employers improve recruitment and retention of the early childhood workforce, increase early*

[17] Center for Law and Social Policy, *CCDBG: Helping Working Families Afford Child Care (*Feb. 2019), https://www.clasp.org/sites/default/files/publications/2019/04/2019_CCDBGhelpingworkingfamilies_ONLINE.pdf.

educator degree and credential attainment, and improve access to quality early childhood education for children and families?

The purpose of the PSLF program is to encourage participation in work that serves the public.[18] ECE offers an essential public service by supporting the development and education of young children and parents' participation in the workforce.[19] However, there is no universal public system for our country's youngest children parallel to the public K-12 system, which provides free access to education for all age-eligible children and youth. Instead, the American public relies on ECE available in a combination of center-based and home-based community programs, most of which are private, a minority of which operate as non-profits, and a very small minority of which are run by government entities.[20] Absent a comprehensive, universal system of federally-funded child care, for-profit providers play a vital role. The inclusion of for-profit licensed and regulated ECE providers among employers eligible for PSLF accurately reflects the structure of early care and education in the U.S., and the way in which that structure differs from other fields of public service.

The ECE profession requires complex skills and knowledge to support young children's development and education. To gain and strengthen these competencies, higher education is essential in helping ECE educators. Education and training also support the stability of both children and their parents by assisting in preventing burnout and promoting retention.[21] Yet, regardless of whether an ECE program operates as a 501(c)(3) non-profit or a for-profit program, there is very little money to be made in the field. The average wage of an ECE educator is $13.31 per hour, which is far from a liveable wage.[22] This low average wage makes

---

[18] *See* 20 C.F.R. § 685.219(a)(stating purpose of the PSLF program).
[19] RAPID Project, *Who is Providing For Child Care Providers* (July 2021) at 2, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/60f979d6e6d4d36da3abebde/1626962390564/who-is-providing-for-providers.pdf. ("Child care enhances family stability and well-being, promotes children's early learning and socio-emotional development, and plays an important role in children's nutrition. Parents/ families across the country rely on diverse child care arrangements to ensure they can work and go to school or job training including relatives, home-, center- and school-based programs.").
[20] In 2019, there were approximately 121,000 child care centers serving at least one child under 5 and employing1.82 million staff members, of which only 47 percent were non-profits, and only 15 percent were run by government entities. Office of Planning, Research, and Evaluation (OPRE), *Center-based Early Care and Education Providers in 2012 and 2019: Counts and Characteristics, OPRE Report #2021-222* (Sept. 2021) at 17, https://www.acf.hhs.gov/sites/default/files/documents/opre/cb-counts-and-characteristics-chartbook_508_2.pdf. Of 91,200 family child care home providers that appeared on state or national lists of early care and education services, such as licensed, regulated, license-exempt, or registered home- based providers, almost none operate as non-profit organizations. OPRE, *Home-based Early Care and Education Providers in 2012 and 2019: Counts and Characteristics, OPRE Report #2021-85* (May 2021) at 2, https://www.acf.hhs.gov/sites/default/files/documents/opre/NSECE-chartbook-homebased-may-2021.pdf.
[21] Marcy Whitebook & Laura Sakai, *By a Thread: How Child Care Centers Hold On to Teachers, How Teachers Build Lasting Careers* 2, (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2004).
[22] U.S. Bureau of Labor Statistics, *Occupational Employment and Wages, May 2021, 39-9011 Childcare Workers*, https://www.bls.gov/oes/current/oes399011.htm.

it unlikely for providers to be able to pay off student loan debt over time.[23] Severe and pervasive economic hardship within the ECE workforce is compounded by significant debt, including student loan debt.[24] In a March 2022 survey of 802 child care providers, 19 percent reported that they had student debt (compared to 17 percent of the US adult population overall), and 17 percent reported that they were carrying educational debt for others.[25]

The burden of student loan debt along with low industry wages impacts ECE educators' ability to provide for themselves and their families, driving attrition from the field. In February 2022, one in three ECE educators reported experiences of hunger.[26] In 2021, one in three child care providers experienced at least one material hardship, involving access to food, housing, utilities, etc.[27] Recent inflation has caused the cost of child care supplies to increase significantly, in some places as much as 40 percent, while public child care reimbursement rates have remained the same, placing enormous pressures on the livelihood of the many ECE operators that operate as solo-proprietor microbusinesses, particularly family child care homes. One family child care provider recently reported that she had "no way of renovating or adding space [to her family child care] because no bank w[ould] loan [her] money to fix these major issues because of [her] student loans and bad credit destroyed by helping families that could not afford to pay what proper childcare costs."[28]

The ECE workforce is overwhelmingly comprised of women and disproportionately comprised of women of color. In center and home-based ECE settings, roughly 40 percent of workers identify as people of color.[29] In home-based child care in particular, over 97 percent of workers are women and 40 percent are women of color.[30] In the K-12 teaching workforce, in contrast, more than 80 percent of teachers are white.[31] As a result, regulations and policies such as the exclusion of for-profit employers that make it difficult for ECE educators to access PSLF disproportionately impact educators who are women and/or people of color.

---

[23] RAPID Project, *Student Debt in the Early Childhood Workforce* (May 2022) at 2, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/6275646e78040b26f2b08384/1651860591053/Student_debt_factsheet_May_2022.pdf.
[24] *Id*.
[25] *Id*.
[26] RAPID Project, *Households with Young Children and Child Care Providers Are Still Facing Hunger* (April 2022) at 4, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/624f309010d33b6d1a8e4518/1649356944399/Facing+hunger+factsheet_April+2022+.pdf.
[27] RAPID Project, *Who is Providing For Child Care Providers* (July 2021) at 3, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/60f979d6e6d4d36da3abebde/1626962390564/who-is-providing-for-providers.pdf.
[28] *Id*.
[29] Center for the Study of Child Care Employment, University of California, Berkeley, *Early Childhood Workforce Index 2018: About the Early Childhood Workforce* (2018) at 8, https://cscce.berkeley.edu/wp-content/uploads/2022/04/2-About-the-Workforce.pdf.
[30] Juliet Bromer et al., *The Shifting Supply of Regulated Family Child Care in the U.S.: A Literature Review and Conceptual Model* (March 2021) at 10, https://www.erikson.edu/wp-content/uploads/2021/03/The_shifting_supply_of_regulated_FCC_in_the_US_2021_LITREVIEW.pdf.
[31] Center for the Study of Child Care Employment, University of California, Berkeley, *Early Childhood Workforce Index 2018: About the Early Childhood Workforce* (2018) at 7, https://cscce.berkeley.edu/wp-content/uploads/2022/04/2-About-the-Workforce.pdf.

The burden of student loan debt on borrowers also disproportionately impacts Black students.[32] The Center for Law and Social Policy reports that student debt is a racial equity crisis with the greatest burden of student loan debt impacting Black borrowers.[33] The crisis reflects decades of economic disinvestment in Black communities that have left Black Americans with lower family wealth and ability to finance their education; a discriminatory labor market that maintains racial disparities in employment and earnings; and failures of the higher education system including inefficiencies in the student loan servicing system that have prevented Black and borrowers with low incomes in particular from accessing relief.[34] As a result, Black borrowers and their families are more at risk of having their wages garnished and federal benefits withheld, as well as their credit score damaged, inhibiting their ability to access housing, personal loans, payment plans, and even employment opportunities.[35]

Families in need of child care experience the impact of student loan debt on ECE providers. The COVID-19 pandemic exposed the economic hardships of ECE workers, who are leaving the industry in droves, by producing a shortage of child care options for families.[36] Studies have found that the main challenges to recruiting and retaining qualified ECE staff are low wages, burn out, no or unsatisfactory benefits, and health and safety concerns.[37] The high turnover in the field has resulted in disrupted care for families and fewer supportive relationships with children.[38]

In November 2021, parents facing these disruptions in child care reported higher levels of emotional distress and increased behavioral problems in their children, compared to non-impacted parents.[39] Women in particular, suffer the consequences of an unstable and impacted child care supply. In 2021, 11 percent of women were forced to stop working and 24 percent were forced to reduce their work hours or responsibilities due to a lack of child care.[40] Advocates studying the ECE workforce have targeted various ways to address these issues effecting providers and the industry. One of these ways would be to alleviate child care providers' debt, including student loans, and free, appropriate training and credentialing to meet

---

[32] J. Geiman and Alpha S. Taylor, *Disproportionately Impacted: Closing the Racial Wealth Gap Through Student Loan Cancellation, Payment Reforms, and Investment in College Affordability* (June 2022), https://www.clasp.org/wp-content/uploads/2022/06/2022_Disproportionately-Impacted.pdf.
[33] *Id*. at 6.
[34] *Id*. at 7.
[35] *Id*., at 9.
[36] *See* RAPID Project, *Child Care Shortages Weigh Heavily on Parents and Providers* (Nov. 2021) at 4, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/61a51257cb3aea5591b7aedd/1638208087990/child-care-shortages-nov2021.pdf ("87% of child care center directors reported that it is more difficult to recruit and retain qualified staff than it was before the COVID-19 pandemic. 72% of home-based providers reported an increased difficult in staff recruitment and retention.").
[37] *Id.*
[38] *Id.* at 2.
[39] *Id*.
[40] RAPID Project, *Who is Providing For Child Care Providers* (July 2021) at 3, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/60f979d6e6d4d36da3abebde/1626962390564/who-is-providing-for-providers.pdf.

quality goals.[41] The PSLF program is an important incentive for recruiting and retaining a well-prepared, effective early childhood education workforce.

Question 5: *Are there other considerations for including for-profit early childhood education as a type of qualifying employer for PSLF? For example, this could include Congress' specific mention of licensed and regulated childcare programs in § 1003(8) of the Higher Education Act (20 U.S.C. 1003), or the PSLF legislative history.*

The HEA's statutory definition of a "public service job" eligible for PSLF includes "early childhood education (including licensed or regulated childcare, Head Start, and State funded prekindergarten)."[42] The statute lists employment at a 501(c)(3) non-profit organization as a separate form of public service employment, not a further necessary condition for public service employment.[43] That is, the HEA presents a job in early childhood education, as defined, as one form of public service job, and— in the alternative— a job at a 501(c)(3) non-profit as another kind of public service job. The plain language of the statute indicates that an ECE job need not be at a non-profit to be a public service job. The Department's current requirement that early educators be employed at either a non-profit or public program is additive and not aligned with the statute governing PSLF.

The HEA does not extend the same broad umbrella over other education and service areas. Its definition for "public service job" prefaces the word, "public" before each reference to health and education jobs, other than ECE, that qualify as public service even if not at a 501(c)(3) non-profit.[44] The repetition of the term "public," in reference to other areas but not ECE, accurately reflects the absence of a system of universal public ECE system parallel to the private field, and recognizes that in the absence of a parallel public system the private field functions as a public service.

The legislative history confirms this interpretation. Committee reports from the original legislation authorizing PSLF, the College Cost Reduction Act of 2007, laid out the intended purpose of the program to attract individuals to lower paying professions such as public service. The House Committee report specifically mentions targeting forgiveness to "individuals serving the country in professions of national need," a list in which ECE is explicitly included without the qualification of being provided in a 501(c)3 entity.[45]

---

[41] RAPID Project, *Student Debt in the Early Childhood Workforce* (May 2022) at 2, https://static1.squarespace.com/static/5e7cf2f62c45da32f3c6065e/t/6275646e78040b26f2b08384/1651860591053/Student_debt_factsheet_May_2022.pdf.
[42] 20 U.S.C. § 1087e(m)(3)(B)(i).
[43] *See*, *Id.* (defining "public service jobs" to include employment in "early childhood education...*or* at an organization that is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title.")(emphasis added).
[44] *See Id.* ("The term 'public service job' means…*public* health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations…), *public* education, social work in a *public* child or family service agency….")(emphasis added).
[45] *See* U.S. House, Comm. on Educ. and Labor, *College Cost Reduction Act of 2007*, H.R. Rep. No. 110-210, at 48 (June 25, 2007), https://www.congress.gov/110/crpt/hrpt210/CRPT-110hrpt210.pdf ("H.R. 2669 includes loan forgiveness for individuals serving the country in professions of national need. These targeted professions include…early childhood educators….").

The definition of “early childhood education program” in Section 1003(8) of the HEA reinforces the statutory support for recognizing the entire licensed and regulated field as a performing a public service, whether or not it is operated for profit. The definition includes all state licensed or regulated child care, not only non-profit programs; it separately includes Head Start, state Pre-K, IDEA, and LEA-run programs. As in Section 1087e, Section 1003(8) once more presents “state licensed or regulated child care program[s]” as alternatives to the listed public programs. In doing so, the HEA recognizes the manners in which state licensed and regulated ECE programs, even when privately operated for profit, function as a public service. In contrast, for example, Section 1003 defines qualified “elementary education” employers more narrowly, by cross referencing the HEA's definition of "elementary school," as inherently nonprofit and/or provided by governmental entities.[46] The plain language of the HEA in its definition of "early childhood education," therefore, again supports a distinction between the ECE workforce and the workforce in other areas of public service, and authorizes inclusion of for-profit, licensed and regulated child care programs, without opening the door to for-profit entities in other areas.

Thank you for your consideration.

Sincerely,

Kim Kruckel
Executive Director
Child Care Law Center

[46] *See* 20 U.S.C. §§ 1003(9)(The term “elementary school” has the same meaning given that term under section 7801 of this title) and 7801 (defining "elementary education" as “a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.”).