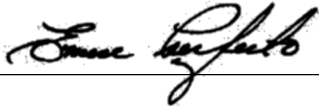




Policy Name: Public Service Loan Forgiveness for Contractors	Number: 404.070.008
Division: Administrative Services	Effective Date: 10/1/2024
Responsible Section: Compliance, Audit, and Performance	
Approved by: Oregon Public Defense Commission	Approval Date: 9/18/2024

PURPOSE: Establish criteria for agency certification for Contractors that have contracted with the Oregon Public Defense Commission (OPDC) that provide representation to those entitled to public defense services to be eligible for Public Service Loan Forgiveness (PSLF).

AUTHORITY: ORS 151.216 (1)(b)(A), 34 CFR § 685.219 (b)

APPLICABILITY: This policy applies for all requests for PSLF for Contractors that have contracted with OPDC.

POLICY:

SECTION 1 – IN GENERAL

The Public Service Loan Forgiveness Program is intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their direct loans after they satisfy certain public service and loan payment requirements. As of July 10, 2023, 34 CFR § 685.219 (b) was amended to expand the definition of “employee” for PSLF program purposes to include “an individual who works as a contracted employee for a qualifying employing 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.*” Contractors that have provided trial-level public defense services may fall within the expanded definition of “employee”.

With the change to federal regulations regarding PSLF, more public defense providers may be eligible for the program. Under the new PSLF rules, these individuals may now be eligible for student loan forgiveness under PSLF, even though they are not W-2 employees but are instead contractors working for qualifying organizations. Prior to the change, PSLF was only available to public defenders that were employed by the government or at a non-profit with the requirement of ten years of full-time employment to be eligible. For OPDC, this means that attorneys in consortia and other private bar attorneys may be eligible for PSLF. Now, any public defense contractor may be eligible if they have been engaged in public defense work “full-time” for ten years, which is defined by PSLF as working during the period of being certified:

Full-Time employment, for PSLF purposes, means working 30 or more hours per week on average for the employment period on the form regardless of whether the employer considers that Full-Time for other purposes. Working less than 30 hours per week on average is considered Part-Time. When determining if a borrower is Full-Time, an employer must include all hours, including vacation, leave time, or any leave taken under the Family Medical Leave Act of 1993. However, do not include time spent performing volunteer services.

SECTION 2 – REQUESTS FOR OPDC CERTIFICATION

OPDC is directed to adopt policies for public defense providers that ensure resources are in accordance with national and regional best practices and to promote policies for public defense provider resources. Under authority of ORS 151.216 (1)(b)(A), OPDC agrees to independently certify an eligible Contractor's PSLF application if:

- The Contractor certifies to OPDC (under penalty of perjury) that the information contained in their individual PSLF application is accurate, and
- The relevant contract administrator and/or employer certifies to OPDC (under penalty of perjury) that the information contained in the Contractor's PSLF application is accurate. For each application, the contract administrator must certify that the applicant provided public defense services pursuant to the contract. In addition, either the contract administrator or the applicant's employer must certify that the applicant meets the PSLF definition of "full-time."

A Contractor can submit a request for a Contractor Certification for PSLF to OPDC for eligibility review. All submitted requests are subject for review and will be reviewed within thirty days of receipt. To submit a request for Contractor Certification the following required documents are to be submitted through OPDC's secure Policy eFax. <https://www.oregon.gov/opdc/general/Pages/roster.aspx>

- Completed and Signed Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application. [Public Service Loan Forgiveness \(PSLF\) & Temporary Expanded PSLF \(TEPSLF\) Certification & Application \(studentaid.gov\) https://studentaid.gov/sites/default/files/public-service-application-for-forgiveness.pdf](https://studentaid.gov/sites/default/files/public-service-application-for-forgiveness.pdf)
- OPDC Public Service Loan Forgiveness Certification for Contractors Form completed by the Contract Administrator or the applicant's employer establishing the time period that the applicant provided public defense services pursuant to the contract and attesting that the service provided by the applicant meets the PSLF definition of "Full-time". The OPDC Full-Time Employment and Established Time Period Certification Form must be signed by the Contract Administrator or the applicant's employer and the applicant.

SECTION 3 – ELIGIBILITY REVIEW

In order to certify the PSLF application, OPDC will review the submitted Contractor Certification request to confirm the Contractor meets the eligibility criteria for OPDC approval to certify. OPDC will certify the PSLF application once the following requirements are met:

- Review and verify the information provided by the Contractor in Section 4 of the Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application is accurate.
- Verify the Contractor was providing public defense services pursuant to a contract.
- Verify the periods of time the Contractor was providing public defense services.
- Confirm the Contract Administrator or Employer certifies that Contractor meets the full-time eligibility criteria to qualify for the PSLF Program.
- Verify the OPDC Attestation Form is complete.
- OPDC to complete and sign Section 5A once the OPDC Attestation Form is verified.

OPDC will provide an approval letter to certify the approval of Public Service Loan Forgiveness to the Contractor once the submitted eligibility criteria has been verified. An approval from OPDC does not guarantee that the federal government will approve the application, as it is not yet clear how the federal government will interpret and apply the new rule.

If OPDC determines the Contractor does not meet the eligibility requirement to provide the certification, then OPDC will send a Notice of Denial.

SECTION 4 – ACCOUNTABILITY

OPDC will review the OPDC Attestation Forms signed by the contract administrators and the public defender’s employer to verify the public defender completed “full-time” work for ten years. If OPDC concludes an application is untruthful, the OPDC will notify PSLF and any other agency with regulatory authority over the person’s licensure and/or profession.

Approved by: OPDC
 Prepared by: Policy Division
 Reviewed by: Executive Team

Publish: Internally & Externally