

May 12, 2023

The Honorable Kevin McCarthy
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Democratic Leader
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20510

Re: Adverse impacts on government and charitable nonprofits employees by using the Congressional Review Act (CRA) to roll back student loan payment pause.

Dear Speaker McCarthy, and Leaders Schumer, Jeffries, and McConnell:

The National Council of Nonprofits (NCN) writes to alert you to the unintended consequences to the Public Service Loan Forgiveness (PSLF) program of using the Congressional Review Act (CRA) to roll back the Department of Education's (Department) action to pause student loan payments and force the Department to immediately reinstate the monthly payment requirements for borrowers. While we take no position on the student debt cancellation program, NCN opposes [S.J.Res.22](#) and [H.J.Res.45](#) as currently written because the measures would abruptly and retroactively deprive PSLF participants of the benefits they have earned under the program.

The presumed intended target of the CRA, as introduced, may be President Biden's student debt cancellation plan; however, the effort to disapprove the debt cancellation plan is also coupled with the extended federal student loan payment pause.

Our concerns with the CRA as currently written can be summarized in three points:

1. By disapproving the debt cancellation plan, Congress effectively would be ending the payment pause retroactively to the end of last year as well.
2. Such a retroactive cancellation of the ongoing federal loan payment pause would automatically render all borrowers 90 days or more in arrears and render all borrowers out of compliance concerning payment obligations, including for PSLF purposes.
3. In passing the CRA, Congress would renege on its bipartisan promise since 2007 to public servants working at 501(c)(3) charitable nonprofits and in government.

Clarifying Terminology

Confusion surrounds the current debates about ending federal student loan debt because of the use of similar words with distinct meanings. Permit us to provide some clarity:

- **Debt cancellation.** In August 2022, President Biden announced a one-time debt cancellation plan to cancel up to \$10,000 of qualifying federal student loan debt per borrower with an additional \$10,000 for Pell Grant recipients. Litigation ensued to block the plan, and a final decision in the case, now in the U.S. Supreme Court, is expected before the end of June.¹ No debt has been cancelled yet under the plan.
- **Loan forgiveness.** In 2007, Congress enacted the Public Service Loan Forgiveness program. PSLF provides an opportunity for borrowers to earn forgiveness after working for 10 years in public service as an employee of a federal, state, or local government or at a 501(c)(3) charitable nonprofit and making 120 qualifying payments on their loans.² Lawmakers on both sides of the aisle and in both chambers have shown strong support over the years to continue the program, which was enacted under President Bush and administered under Presidents Obama, Trump, and Biden.

Bipartisan pauses on federal student loan payments count towards eligibility for forgiveness under PSLF.

At the start of the pandemic, President Trump instituted a payment pause on all federal student loan payments to provide financial relief to borrowers. After President Trump renewed the pause several times, President Biden continued the practice. The last payment pause was set to expire on December 31, 2022.³ Because of the pending litigation, the student loan payment pause has been extended until either the Department is permitted to implement the debt cancellation program, or the litigation is resolved.⁴ But if the debt relief program has not been implemented and the litigation has not been resolved by June 30, 2023, then payments will resume 60 days after that.

Since President Trump first instituted the payment pause, borrowers who work in public service have continued to receive credit towards forgiveness for PSLF purposes, provided they remained employed at an eligible employer.⁵ President Biden has continued that policy and announced before the last payment pause was set to expire on December 31 that borrowers are receiving credit toward forgiveness under PSLF.

A retroactive cancellation of the payment pause would impose significant hardship on nonprofit employees and employers.

Ongoing economic uncertainty and natural disasters plaguing the country exacerbate additional stresses on and demand for services by nonprofit staff. The student loan payment pause has provided

¹ [Biden v. Nebraska](#), U.S. Supreme Court Docket No. 22-506, cert granted Dec. 1, 2022; case argued Feb. 28, 2023.

² PSLF operates similarly to the arrangements with the U.S. military academies whereby, in exchange for five years of military services after graduation, students receive a free education. Except under PSLF, the education isn't free; borrowers must make 120 qualifying payments while working for a qualifying public service employer.

³ [Biden-Harris Administration Announces Final Student Loan Pause Extension Through December 31 and Targeted Debt Cancellation to Smooth Transition to Repayment](#), U.S. Department of Education, Aug. 24, 2022.

⁴ [COVID-19 Loan Payment Pause and 0% Interest, Federal Student Aid](#); accessed April 23, 2023.

⁵ [COVID-19 Relief: Public Service Loan Forgiveness \(PSLF\) – Paused Payments Count Toward PSLF](#), Federal Student Aid, accessed Apr. 3, 2023.

critical relief for nonprofit workers who are often paid lower salaries and wages than for-profit businesses due to a variety of factors, including government grants and contracting restraints, the inability to increase prices or charges for services despite increased costs, and diminishing fundraising and private grant opportunities. Competition for qualified workers is acutely felt by nonprofits that cannot adjust salaries and wages as easily or as quickly as the for-profit sector. An estimated four out of five (79%) nonprofits identified salary competition as a factor preventing them from filling job openings.⁶ Relief from student loan payments and the promise of loan forgiveness for continued public service have served to keep many workers on the job in the face of these other challenges.

The CRA would roll back the pause in student loan payments and have the unintended consequence of disrupting the accumulation of credits towards PSLF forgiveness.

The CRA states that Congress “disapproves” the debt cancellation plan. Because the current payment pause is an extension of one that was previously set to expire and is now tied to the ongoing lawsuit regarding the debt cancellation plan, what happens under the CRA affects the ongoing payment pause and, therefore, the accumulation of credits towards PSLF forgiveness. Passage of the CRA would automatically trigger payments that were paused beginning January 1, 2023, and would force the Department to begin demanding payments from millions of borrowers, including PSLF participants. Consequently, borrowers could be on the hook for payments due since December 31, 2022, possibly including interest. As a result, more than 37 million borrowers could see unexpected bills adding up to hundreds or thousands of dollars, plus interest.⁷ Further, the CRA could operate to vitiate credits towards forgiveness and any borrower who has earned forgiveness since the beginning of the year could see that forgiveness rescinded.⁸

While NCN takes no position on the student debt cancellation plan, the unintended consequences of rolling back the student loan payment pause would have grave effects on nonprofit workers and others earning forgiveness under PSLF. At a time when nonprofits are facing a workforce shortage,

⁶ [Nonprofit Workforce Shortages: A Crisis That Affects Everyone](#), National Council of Nonprofits, July 2022. Only slightly better now, preliminary data from an updated nationwide survey conducted in April 2023 indicate that 72.8% of nonprofits reported that salary competition continues to affect their ability to recruit and retain employees.

⁷ See [New Analysis Confirms Congressional Efforts to Overturn Payment Pause and Debt Relief Will Wreak Economic Havoc on Tens of Millions of Borrowers](#), Student Borrower Protection Center, Ella Azoulay, Apr. 3, 2023.

⁸ The [House Committee on Education and Workforce markup](#) on H.J.Res.45 on May 10, 2023, reflected a misunderstanding of how the text of the resolution applies retroactively to the current payment pause and the resulting effects on borrower obligations under PSLF. Chair Foxx mistakenly stated that there is “zero evidence” that borrowers will have to make payments retroactively for the time student loan payments were paused” because “nothing in this bill requires the Department of Education to ... force borrowers to make retroactive payments and nothing in this bill directs the Department to take away the months spent in forbearance be counted towards programs like Public Service Loan Forgiveness.” The Department’s Waivers and Modifications rule allows for the payment pause to be extended to its current status. The text of H.J. Res. 45, however, disapproves of the actions of the Department of Education “relating to ‘Waivers and Modifications of Federal Student Loans’ (including the website announcement entitled ‘One-Time Federal Student Loan Debt Relief’ ... 87 Fed. Reg. 61512 (Oct. 12, 2022)”, which is on its face retroactive to last year.

increased demands on services, and added burdens caused by economic uncertainty and natural disasters, workers must receive every benefit possible under the PSLF program.

The payment pause has provided essential financial relief and reduced stress while allowing workers to continue to earn forgiveness. Any rollback, unexpected financial load, and confusion on PSLF status must be prevented.

We urge you to oppose the Senate Joint Resolution 22 and House Joint Resolution 45 in their current form and to insist that nonprofit workers and public servants receive the relief they have diligently earned.

We stand ready to work with Members of Congress to ensure that congressional promises to governmental and nonprofit workers under the Public Service Loan Forgiveness program are respected and fulfilled.

Sincerely,



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The National Council of Nonprofits is the nation's largest network of charitable nonprofits and a trusted resource and advocate for America's charitable nonprofits. Through our network of state associations and 25,000-plus organizational members we serve as a central coordinator and mobilizer to help nonprofits achieve greater collective impact in local communities across the country. Employees of 501(c)(3) charitable nonprofits make up the largest group of eligible borrowers to qualify for PSLF after government employees, and therefore our network has deep experience and a vested interest in a strong, efficient program to help attract and retain talent into the sector.