

November 2, 2021

**VIA ELECTRONIC MAIL**

James Steeley  
Chief Executive Officer  
Pennsylvania Higher Education Assistance Agency  
1200 N 7th Street  
Harrisburg, PA 17102

**RE: CONTINUED, UNLAWFUL MISTREATMENT OF PUBLIC SERVICE WORKERS  
IN VIOLATION OF FEDERAL AND STATE CONSUMER PROTECTION LAW**

Dear Mr. Steeley,

We write on behalf of the Student Borrower Protection Center (“SBPC”) to demand your company, the Pennsylvania Higher Education Assistance Agency (“PHEAA”), immediately cease improper and illegal mismanagement of the recently announced Public Service Loan Forgiveness overhaul established by the U.S. Department of Education on October 6, 2021 (“PSLF Overhaul”).<sup>1</sup>

In the month since the Biden Administration first announced executive action to remedy the legacy of mismanagement and abuse that has denied debt relief to teachers, nurses, servicemembers, and other public service workers across the country, a series of disturbing reports have surfaced that suggest your company has continued to unlawfully deny public service workers these rights. This is particularly alarming given the central role that your company has played in the myriad scandals that have plagued this program since its inception.

This letter serves as a written notice and demand that PHEAA immediately correct and remedy the practices described below as required by state and federal law.<sup>2</sup> Should PHEAA fail to halt its illegal student loan servicing practices, SBPC is prepared to pursue all available legal remedies to protect public service workers injured by PHEAA’s unlawful conduct.

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<sup>1</sup> The facts as set forth herein are based on our investigation to date, including analysis done by the SBPC. A full set of the SBPC’s findings is attached as Appendix A to this letter. We reserve the right to supplement this information as our investigation continues.

<sup>2</sup> See e.g., California Civil Code Section 1788.103(d); 209 Mass. Reg. 18.23(9).



## **BACKGROUND**

In October 2021, the Department of Education announced sweeping changes to the Public Service Loan Forgiveness program aimed at eliminating administrative hurdles and remedying improper student loan servicing practices that have denied borrowers promised debt relief.<sup>3</sup>

In particular, the Department announced that it would offer a time-limited waiver that would allow borrowers to receive credit toward forgiveness for all periods during which their loans were in active repayment and they were working in public service, regardless of whether or not they were enrolled in a qualifying payment plan or had an eligible loan type, which are both requirements under the standard PSLF program. To secure the benefits of this waiver, borrowers need to submit a PSLF application form and, in many cases, must “consolidate” or refinance their federal student loan into a new qualifying loan before October 31, 2022. In addition, the Department announced that it would allow military servicemembers to count time spent in deferment or forbearance while in active duty toward PSLF, that servicemembers and federal employees would have credit toward PSLF automatically applied through federal data matching, and that those borrowers who were previously denied PSLF would have applications reviewed for errors.

These badly needed changes come after a lengthy and well-documented history of failures surrounding the implementation of PSLF by the student loan industry, with PHEAA playing a central role in this breakdown.<sup>4</sup> Indeed, PHEAA’s tenure as the sole designated servicer for borrowers who have declared their intent to pursue PSLF has been marked by extensive mismanagement and abuse, notably including the mishandling of the process by which borrowers take the key step of certifying that their employment qualifies them for PSLF.<sup>5</sup> This track record led two states to sue PHEAA to seek redress for breakdowns related to PSLF,<sup>6</sup> and has drawn vocal condemnation from federal lawmakers.<sup>7</sup>

## **EVIDENCE DEMONSTRATES THAT PHEAA HAS ROUTINELY PROVIDED INACCURATE INFORMATION TO PUBLIC SERVICE WORKERS RELATED TO THE PSLF OVERHAUL, UNDULY REJECTED PSLF APPLICATIONS SINCE THE**

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<sup>3</sup> <https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness>

<sup>4</sup> See generally, <https://protectborrowers.org/public-service-loan-forgiveness-2/>

<sup>5</sup> <https://protectborrowers.org/aft-and-sbpc-ecf-pslf/>

<sup>6</sup> <https://ag.ny.gov/press-release/2019/ag-james-sues-student-loan-servicer-mismanaging-loan-forgiveness-program>; <https://www.mass.gov/news/ag-healey-secures-first-of-its-kind-relief-in-settlement-with-major-student-loan-servicer>

<sup>7</sup> <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-warren-calls-out-giant-student-loan-servicer-pheaa-for-public-service-loan-forgiveness-failures>



## **OVERHAUL’S ANNOUNCEMENT, AND INCORRECTLY APPLIED PROGRAM RULES WHEN EVALUATING BORROWER PAPERWORK**

### **I. PHEAA has provided borrowers inaccurate information regarding the PSLF Overhaul and has failed to promptly and substantially respond to inbound questions from public service workers with student loan debt.**

Beginning shortly after the U.S. Department of Education announced new standards to evaluate public service workers’ qualifications for PSLF, and continuing steadily over more than three weeks, dozens of student loan borrowers who contacted PHEAA for additional assistance have publicly documented verbal and written misrepresentations by PHEAA personnel in direct conflict with the new requirements for PSLF.<sup>8</sup> For example, on October 29, 2021, Twitter user Monica Trevino shared an account of an interaction with PHEAA on social media stating, “FedLoan sent me a letter immediately after my consolidation app asking if I was sure I wanted to consolidate because I may lose eligible payments that would NEVER BE COUNTED.”<sup>9</sup> Similarly, on October 29, 2021, a Reddit user shared an account of an interaction with PHEAA on social media stating that they were directed by the company to materials indicating that consolidation would lead their payment count for the purposes of PSLF to start over.<sup>10</sup>

Alone, these misrepresentations would be deeply troubling and potentially illegal.<sup>11</sup> However, PHEAA’s seeming inability to provide timely and accurate information to its customers coincided with the company repeatedly presenting itself as standing ready to serve as a resource regarding this new opportunity and PSLF generally.<sup>12</sup> For example, on October 6, 2021—the day the PSLF Overhaul announced—PHEAA posted about these changes on its Twitter account.<sup>13</sup>

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<sup>8</sup> See, e.g. <https://twitter.com/MonicaT73594716/status/1454059031493070849>; <https://twitter.com/adamdalej/status/1454180065638498306>; [https://www.reddit.com/r/PSLF/comments/qimces/consolidation\\_count\\_starts\\_over/](https://www.reddit.com/r/PSLF/comments/qimces/consolidation_count_starts_over/)

<sup>9</sup> See *supra* <https://twitter.com/MonicaT73594716/status/1454059031493070849>

<sup>10</sup> See *supra* [https://www.reddit.com/r/PSLF/comments/qimces/consolidation\\_count\\_starts\\_over/](https://www.reddit.com/r/PSLF/comments/qimces/consolidation_count_starts_over/)

<sup>11</sup> For example, providing inaccurate information about the terms and conditions of the PSLF overhaul may constitute a deceptive act or practice in violation of the prohibition on deceptive acts and practices in the California Unfair Competition Law, or in violation of the prohibition on deceptive acts and practices in the federal Consumer Financial Protection Act. See California Business and Professions Code Section 17200 et seq.; See also 12 U.S.C. 5531(a).

<sup>12</sup> Note that the PHEAA, AES, and MyFedLoan pages dedicated to PSLF all direct borrowers to contact PHEAA with questions about PSLF. See <https://www.pheaa.org/funding-opportunities/loan-forgiveness/> [<https://perma.cc/K26B-G2YE>], [https://www.aessuccess.org/manage/loan\\_forgiveness\\_discharge/index.shtml](https://www.aessuccess.org/manage/loan_forgiveness_discharge/index.shtml) [<https://perma.cc/RU6F-8L6Q>], <https://myfedloan.org/borrowers/special-programs/pslf> [<https://perma.cc/M964-GYYJ>]. Note that the MyFedLoan page specifically promises the availability of a “PSLF Specialist” who can guide borrowers, and that the AES page promises borrowers the ability to “speak with a PSLF trained representative at FedLoan Servicing.” Further, note that the AES page still states that borrowers are eligible for PSLF only if they “have eligible Direct Loans: Direct Subsidized Loans, Direct Unsubsidized Loans, Direct PLUS Loans (made to parents or students), Direct Consolidation Loans, and Special Direct Consolidation Loans.” This appears to directly contradict the terms of the PSLF Overhaul, and in particular to do so on the webpage of the brand that PHEAA uses to service older federal student loans for which the PSLF Overhaul *specifically created a path to PSLF*.

<sup>13</sup> <https://twitter.com/MyFedLoan/status/1445808639835471884>



But borrowers now regularly report waiting over two hours or more on hold with PHEAA, often only to be hung up on after the company finally picks up.<sup>14</sup> Borrowers similarly report that PHEAA’s “callback” function<sup>15</sup> and even its fax machine line<sup>16</sup> are broken.

## **II. In many instances, PHEAA appears to have misapplied or wholly ignored provisions of the PSLF Overhaul, leading borrowers to continue facing rejections that this modification was meant to prevent.**

As described above, the PSLF Overhaul guarantees borrowers the right to have any periods in which their loans were in repayment since October 1, 2007, counted toward the required 120 monthly payments needed to qualify for debt cancellation. This includes repayment periods for older, otherwise non-qualifying student loans should a borrower “consolidate” these loans into a new Direct Loan by October 31, 2022, as well as for the loans that underpin existing Direct Consolidation Loans. For this second category of borrowers—those with federal Direct Consolidation Loans—the Department of Education has pledged to award credit automatically where a borrower has previously certified a period of public service work that covers the months or years prior to the consolidation. Further, the Department of Education has encouraged borrowers to initiate the process of certifying additional periods of public service to ensure all eligible public service workers can benefit from the PSLF Overhaul.

PHEAA is the sole student loan servicer responsible for tracking and verifying periods of eligible service, routinely processing paperwork submitted by borrowers to determine qualifying employment and periods of qualifying service. Over the month since the PSLF Overhaul was announced, public reports have identified several instances where PHEAA has improperly rejected borrowers’ public service work in direct conflict with the terms of the PSLF Overhaul.<sup>17</sup> For example, a public service worker received a letter from PHEAA dated October 25, 2021—twenty days after the PSLF Overhaul was announced—improperly rejecting a period of service documented by the borrower.<sup>18</sup> This letter plainly and incorrectly rejected this public service worker as:

***NOT ELIGIBLE:*** *Based on our review, you have eligible loan types. However, your certified employment dates listed on your application were prior to the date you received*

<sup>14</sup> <https://twitter.com/PushPlayTheDJ/status/1448349405430620168>,

<https://twitter.com/MConcepci824/status/1446543343534723072>,

<https://twitter.com/AlexSiegelMD/status/1445852539489079296>

<sup>15</sup> <https://twitter.com/AngelicYoung/status/1453421157269614601>,

[https://www.reddit.com/r/PSLF/comments/qgwe4x/fedloans\\_phone\\_system/](https://www.reddit.com/r/PSLF/comments/qgwe4x/fedloans_phone_system/),

[https://twitter.com/baker\\_amara/status/1448079970807521283](https://twitter.com/baker_amara/status/1448079970807521283)

<sup>16</sup> [https://www.reddit.com/r/PSLF/comments/qaq4vx/fed\\_loan\\_servicing\\_fax\\_number\\_not\\_working/](https://www.reddit.com/r/PSLF/comments/qaq4vx/fed_loan_servicing_fax_number_not_working/)

<sup>17</sup> See, e.g. [https://twitter.com/Dad\\_Dude\\_Ohio/status/1454130275156430850](https://twitter.com/Dad_Dude_Ohio/status/1454130275156430850),

<https://twitter.com/barclaybarrios/status/1451544364388335631>,

<https://twitter.com/mtk3366/status/1451339448625553414>

<sup>18</sup> Appendix A. *Redacted Correspondence from FedLoan Servicing, a/k/a PHEAA, #1* (October 26, 2021).



*your Direct loans that would be eligible for PSLF/TEPSLF. Only dates of employment at a qualifying public service organization during periods when you were making qualifying monthly payments on your eligible loans can be considered for forgiveness.*

Because the crux of the PSLF Overhaul is that, for the waiver period, borrowers may receive credits for periods during which they had formerly ineligible loan types, this letter clearly fails to convey PSLF Overhaul's intent and mechanics as announced by the Department of Education. Unfortunately, improper denials along these lines appear to be widespread.<sup>19</sup>

**POTENTIAL LIABILITY UNDER THE CALIFORNIA STUDENT BORROWER BILL OF RIGHTS (CA. CIV. CODE SEC. 1788.101 ET. SEQ.) AND THE CONSUMER FINANCIAL PROTECTION ACT (12 U.S.C. 5531)**

The California Student Borrower Bill of Rights prohibits a student loan servicer from engaging in a specified set of prohibited acts and practices, establishes a set of prescribed standards for the servicing of student loans, and creates a set of generally applicable prohibitions related to “abusive” acts and practices, as well as acts and practices that “substantially interfere” with borrowers’ rights to affordable payments and loan forgiveness as established elsewhere in law or contract.<sup>20</sup> These prohibitions and requirements were established in response to a long track record of abuse by the largest companies in the student loan servicing industry, including allegations of abuse made against your company related to its mishandling of the Public Service Loan Forgiveness Program by state attorneys general in Massachusetts and New York.<sup>21</sup> California lawmakers enacted this legislation with the specified intent of ensuring “California borrowers can rely on information about student loans and loan repayment options provided by student loan servicers.”<sup>22</sup>

The Consumer Financial Protection Act, enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, prohibits unfair, deceptive, and abusive acts or practices by providers of consumer financial products and services, including student loan servicers like

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<sup>19</sup> See *supra* note 16.

<sup>20</sup> Ca. Civ. Code Sec. 1788.100-1788.105, [https://leginfo.ca.gov/faces/codes\\_displayexpandedbranch.xhtml?lawCode=CIV&division=3.&title=1.6C.10.&part=4.&chapter=1.&article=&goUp=Y](https://leginfo.ca.gov/faces/codes_displayexpandedbranch.xhtml?lawCode=CIV&division=3.&title=1.6C.10.&part=4.&chapter=1.&article=&goUp=Y)

<sup>21</sup> See California Assembly Bill 376 (2020), [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB376](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB376). (“Between 2017 and 2019, the California Attorney General and attorneys general in Washington, Illinois, Massachusetts, New York, Pennsylvania, and Mississippi filed lawsuits or took enforcement actions against student loan servicers—the private-sector companies that handle loan payments and manage borrowers’ accounts. The targets of these enforcement actions collectively handle one-half of all student debt in the United States.”)

<sup>22</sup> See California Assembly Bill 376 (2020), [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB376](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB376). (“(b) Therefore, it is the intent of the Legislature to do all of the following...(2) Ensure California borrowers can rely on information about student loans and loan repayment options provided by student loan servicers.”)



PHEAA.<sup>23</sup> Specifically, the prohibition on “abusive” acts or practices was created by Congress in response to abuses by the mortgage lending and servicing industries—circumstances where predatory financial firms exploited borrowers’ trust that these firms would operate in borrowers’ financial interests, rather than in the interests of the firm or investors.<sup>24</sup>

As evidenced by the borrower experiences and communications discussed above, with respect to its interactions with California borrowers, PHEAA has “substantially interfered” with public service workers’ “right to...loan forgiveness...as established under...the Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.)” in violation of Ca. Civ. Code Sec. 1788.103(c).<sup>25</sup> This includes, but is not limited to, by:

- holding itself out as an expert and provider of information related to the PSLF Overhaul and then, in response to borrower requests for assistance, routinely providing incorrect information to public service workers; and
- routinely and systematically applying incorrect eligibility criteria to borrowers’ applications for PSLF and by improperly rejecting these borrowers’ progress toward loan forgiveness.

Further, with respect to its interactions with California borrowers, PHEAA “materially interfere[d] with the ability of” these public service workers “to understand a term or condition of a student loan;” or, in the alternative, PHEAA “took unreasonable advantage” of its customers’ “reasonable reliance” on PHEAA’s duty “to act in the interests of the borrower” when providing information about the PSLF Overhaul, in violation of the prohibition on abusive acts and practices by student loan servicers under Ca. Civ. Code. Sec. 1788.101(a). This includes, but is not limited to, by:

- holding itself out as an expert and provider of information related to the PSLF Overhaul and then failing to provide accurate information; and
- improperly rejecting attempts by public service workers to certify qualifying service and by misstating the new eligibility criteria for PSLF as modified by the PSLF Overhaul.

Finally, PHEAA “materially interfere[d] with the ability of” these public service workers “to understand a term or condition of a consumer financial product or service;” or, in the alternative, PHEAA “took unreasonable advantage” of its customers’ “reasonable reliance” on PHEAA’s duty “to act in the interests of the consumer,” in violation of the prohibition on abusive acts and

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<sup>23</sup> 12 U.S.C. 5531

<sup>24</sup> See generally <https://www.nytimes.com/2007/11/15/opinion/15thu2.html>

<sup>25</sup>

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=CIV&division=3.&title=1.6C.10.&part=4.&chapter=3.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6C.10.&part=4.&chapter=3.&article=)



practices by providers of consumer financial products and services under the Consumer Financial Protection Act, 12 U.S.C. 5531(d). This includes, but is not limited to, by:

- providing inaccurate information about the PSLF Overhaul; and
- improperly rejecting attempts by public service workers to certify qualifying service and by misstating the new eligibility criteria for PSLF as modified by the PSLF Overhaul.

In addition to these violations of California and federal law, PHEAA's acts and omissions are likely violations of the growing number of other state-level student loan servicing laws and regulations, as well as of dozens of states' prohibitions against unfair and deceptive acts and practices, as well as against unlawful conduct.<sup>26</sup>

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The generational opportunity presented by the Biden Administration's PSLF Overhaul suffers from one serious flaw—its continued reliance on your company to follow the law. As described in detail above, a growing body of evidence suggests that your company has committed a shocking range of new abuses over the past four weeks that, when taken together, strongly suggest PHEAA seeks to undermine an effort by the Biden Administration to remedy the lasting damage caused by your company's past abuses over the past decade. This conduct is unlawful in that it violates both state and federal servicing standards and consumer protections, and must immediately cease.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Pierce', written over a horizontal line.

Mike Pierce

Executive Director

([mike@protectborrowers.org](mailto:mike@protectborrowers.org))

Student Borrower Protection Center  
1025 Connecticut Ave NW, #717  
Washington, DC 20036

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<sup>26</sup> See e.g., N.Y. Bank Law § 719; 209 Mass. Reg. 18.23(9).

# APPENDIX A

## Redacted Correspondence from FedLoan Servicing, a/k/a PHEAA, #1



U.S. Department of Education  
Information about your federal student loan

October 25, 2021



WE HAVE REVIEWED YOUR  
REQUEST FOR PUBLIC SERVICE  
LOAN FORGIVENESS (PSLF)

Account Number



We reviewed your Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application (PSLF Form) you submitted and determined that you do not qualify for forgiveness at this time, as explained below.

**NOT ELIGIBLE:** Based on our review, you have eligible loan types. However, your certified employment dates listed on your application were prior to the date you received your Direct Loans that would be eligible for PSLF/TEPSLF. Only dates of employment at a qualifying public service organization during periods when you were making qualifying monthly payments on your eligible loans can be considered for forgiveness.

If you would still like to pursue PSLF or TEPSLF and have been employed full-time at a public service organization during a period when you were making qualifying monthly payments on your eligible Direct Loans, please submit a new PSLF Form with eligible dates of employment.

Because your employment dates were invalid, we did not evaluate the eligibility of your employer. It is possible that your employment may not qualify for PSLF or TEPSLF. Review the **Eligibility Criteria** section of this letter to see what types of employers qualify.

Visit [MyFedLoan.org/PSLF](https://myfedloan.org/PSLF) for the Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application (PSLF Form) and more information on the program. You can also contact our PSLF loan counselors at the number provided.

If you have additional information for consideration or disagree with this information, you may contact FedLoan Servicing at 1-855-265-4038 from 8 AM - 9 PM Eastern time, Monday through Friday. Additionally, if you disagree with the results, or wish to file a complaint, submit a request to the U.S. Department of Education through the Feedback Center at [Studentaid.gov/feedback-center/](https://studentaid.gov/feedback-center/) or 1-844-651-0077 or contact the Federal Student Aid [Ombudsman Group](https://studentaid.gov/feedback-ombudsman/disputes/prepare) at [Studentaid.gov/feedback-ombudsman/disputes/prepare](https://studentaid.gov/feedback-ombudsman/disputes/prepare) or at 1-877-557-2575.

### Eligibility Criteria for Participation in the Public Service Loan Forgiveness Program

#### Participant Eligibility

You must have made 120 qualifying payments for PSLF. A qualifying payment for PSLF or TEPSLF is a payment that is made:

- After October 1, 2007



P.O. Box 69184, Harrisburg, PA 17106-9184 | M-F 8AM to 9PM (ET) | 1-855-265-4038 | International 717-720-1985 | 711

[MyFedLoan.org](https://myfedloan.org)

- Each month
- For the "total due" or the "installment amount" shown on your bill, unless your amount due is \$0, in which case you must pay the "installment amount"
- On-time (received within 15 days of the payment due date)
- Under one of the eligible repayment plans for PSLF or TEPSLF, as appropriate
- While you are employed full-time at a qualifying employer (or serving in a full-time AmeriCorps or Peace Corps position)

**For PSLF**, the 120 required payments must be made under one or more of the following Direct Loan Program repayment plans:

- Pay As You Earn (PAYE) plan (not available for parent Direct PLUS Loans or Direct Consolidation Loans that



U.S. Department of Education  
Information about your federal student loan

October 26, 2021



WE HAVE REVIEWED YOUR  
REQUEST FOR PUBLIC SERVICE  
LOAN FORGIVENESS (PSLF)

Account Number



We reviewed your Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application (PSLF Form) you submitted and determined that you do not qualify for forgiveness at this time, as explained below.

**NOT ELIGIBLE YET:** You have not yet made the required 120 qualifying payments necessary to be eligible for PSLF. To qualify for PSLF, you must make 120 qualifying payments. In addition to making 120 qualifying payments, you must also be working full-time for a qualifying employer at the time you apply for and receive forgiveness under PSLF.

We have updated your account with the confirmed qualifying employment periods based on the employment information provided and will continue to track your eligibility for PSLF and TEPSLF. The following chart details your progression toward PSLF so far.

**PSLF Qualifying Payment Details**

Loan Sequence	Disbursement Date	Loan Program	PSLF Eligible Payments	PSLF Qualifying Payments (Total)	PSLF Qualifying Payments (Remaining)	Estimated Eligibility Date for PSLF
0001	03/09/2016	DLUCNS	58	58	62	04/2027
0002	03/09/2016	DLSCNS	58	58	62	04/2027

**TEPSLF Candidates:** We will send you separate correspondence with additional details, if you are eligible for reconsideration under TEPSLF.

**Good to Know!** The charts above display the total number of eligible and qualifying payments you have made (out of the required 120) on your eligible loans for PSLF and TEPSLF. For more details regarding your payments made towards both PSLF and TEPSLF, please visit us on the web at [MyFedLoan.org/PSLF](https://myfedloan.org/PSLF).

**Employment Information**