

# ALDA

## AMERICAN LAW DEANS ASSOCIATION

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August 15, 2008

Nikki Harris  
U.S. Department of Education  
1990 K Street NW  
Room 8033  
Washington, D.C. 20006-8502

*Re: Proposed Regulations Implementing Public Service Loan Forgiveness Program*

Dear Ms. Harris:

The American Law Deans Association (“ALDA”) is an association of over 130 of the deans of the law schools accredited by the American Bar Association. The members of the Board of Directors of ALDA are listed to the left. The views expressed herein in represent the views of the ALDA Board; they do not necessarily represent the views of each and every individual member of ALDA.

We write to comment on the Department of Education's proposed rules to implement the public service loan forgiveness program. Many graduates of ALDA member law schools who desire long-term careers in public service will find this new program very useful. We believe that not only will our graduates be benefited, but that the public will gain from the dedicated work of these young people.

We do have two concerns about the proposed regulations. We urge the Department to make two improvements in the rules that have been proposed.

- The proposed rules are silent on whether the guarantee of forgiveness after ten years of eligible public service employment will be written into the promissory note that our students sign. Students have expressed and will express hesitancy about using the public service loan forgiveness plan because they worry that Congress could repeal the forgiveness provision after they have performed years of the required years of public service. At the extreme, a student might work for nine years out of the required ten only to find out that because of a change, they do not qualify for any forgiveness. This concern would be alleviated if the Department specifies that the right to forgiveness after completing their public service will be contained in the master promissory note, thereby giving them a contractual right to forgiveness if they fulfill the requirements of the law and rules.

- The proposed rules are silent on how a borrower seeking forgiveness will prove that he or she was employed for ten years by governments or nonprofit organizations. The Department's preamble in the Federal Register states that "it is the borrower's responsibility to gather and maintain the documents to support his or her eligibility for this Federal benefit." Apparently, the Department contemplates that each borrower will have to collect and save monthly pay stubs for ten years and also prove that each employer for that ten year period was a government agency or had been granted tax-exemption as a 501(c)(3) organization. This is a difficult burden for young graduates to bear. Many of them will move residences several times during their first ten years after graduation from professional schools, during which records such as pay stubs may be lost. Even the Internal Revenue Service does not require individuals to retain employment records for ten years. The Department should:
  - create an on-line, password protected system through which qualifying employers could annually certify the employment of borrower-employees who authorize them to do so, and
  - set up a preclearance system for employers who meet the requirements of the regulations.

Thank you for considering these comments.

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