

# Congress of the United States

Washington, DC 20510

October 16, 2018

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Secretary DeVos:

We write to seek additional information about the U.S. Department of Education's ("Department") handling of the Public Service Loan Forgiveness (PSLF) program for federal student loan borrowers who are dedicated public servants, including our nation's teachers, first responders, service members, and many others. New data show that an alarming number of PSLF borrowers are being denied forgiveness, and it appears that both the Department—and the companies that receive nearly \$1 billion in taxpayer funding each year to service federal student loans—have failed to provide borrowers with the service and support these borrowers need to realize forgiveness. We are deeply troubled that millions of dedicated public servants may not obtain the loan forgiveness that they deserve if the Department does not act quickly to correct program implementation issues.

Just a few weeks ago, the Department released the first comprehensive data on borrower applications for PSLF. The data show that the Department has received more than 28,000 applications for forgiveness but, to date, has granted relief to just 96 borrowers—revealing a shocking 99.6 percent denial rate.<sup>1</sup> One week later, on September 27, 2018, the Government Accountability Office (GAO) released an audit of the Department's implementation of PSLF, which sharply criticizes the Department's mismanagement of the program.<sup>2</sup> GAO rebuked the Department's inadequate oversight of the designated PSLF servicer, Pennsylvania Higher Education Assistance Agency (PHEAA) and explicitly objected to the Department providing only "piecemeal guidance" to servicers, instead of comprehensive information to ensure every borrower receives the same benefits and customer service. The GAO audit noted that 1.2 million borrowers have signaled an intent to pursue PSLF, but we now know that strikingly few of those borrowers appear to be on track.

Consumer advocates, state regulators, Members of Congress, the Consumer Financial Protection Bureau (CFPB), and GAO have all repeatedly raised alarms about the Department's handling of the PSLF program. As the implementation date of October 1, 2017 approached, the Department ignored warning signs and requests to implement urgently-needed reforms and policy changes.

In April 2017, Members of Congress requested improvements to the PSLF process to reduce confusion for borrowers and streamline the application process, but the Department inexplicably denied these requests.<sup>3</sup> In June 2017, the CFPB raised serious concerns with PSLF implementation by highlighting borrower complaints about student loan servicers' mishandling of their accounts, including abuses at

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<sup>1</sup> U.S. Department of Education, Office of Federal Student Aid. Public Service Loan Forgiveness Data as of June 30, 2018. Issued September 19, 2018. <https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data>

<sup>2</sup> U.S. Government Accountability Office. Report GAO-18-547, Public Service Loan Forgiveness: Education Needs to Provide Better Information for the Loan Servicer and Borrowers. September 27, 2018. <https://www.gao.gov/products/GAO-18-547>

<sup>3</sup> Letter from Senators Gillibrand, McCaskill, Nelson, Murray, and 32 other Senate Democrats to Secretary of Education Betsy DeVos regarding PSLF. April 6, 2017 letter: <https://go.usa.gov/xPkCS>; June 9, 2017 reply: <https://go.usa.gov/xPkDH>

every major student loan servicer and at every step of the process.<sup>4</sup> In August 2017, the Massachusetts Attorney General sued PHEAA, the PSLF servicer, alleging a wide range of illegal practices related to mishandling borrowers' paperwork and accounts.<sup>5</sup> The recent GAO report noted mismanagement of the PSLF program that closely mirrors abuses alleged by Massachusetts against PHEAA.

Not only has this Administration ignored the mounting warning signs about PSLF as the October 1, 2017 date for accepting applications approached, but it has actively reduced oversight of student loan servicers—thereby contributing to the current problems in student loan servicing. First, the Department reversed new student loan servicing standards that would have improved PSLF by mandating better response times and more a transparent payment and certification history for borrowers.<sup>6</sup> The Department has also repeatedly asserted to state<sup>7</sup> and federal judges and to federal agencies that it has “full oversight responsibility for federal student loans” and does not welcome additional scrutiny from regulators dedicated to protecting borrowers and their families.<sup>8</sup> The Department has even claimed it is providing “exemplary customer service” to federal student loan borrowers.<sup>9</sup> To the contrary, widespread breakdowns across the PSLF program demonstrate that the Department continues to struggle to oversee the \$1.4 trillion federal student loan portfolio adequately.

Given the growing body of evidence documenting the Department's mishandling of this program, we seek to understand the administration's mismanagement of PSLF across the Department, PHEAA, and other student loan servicers. It is imperative that the Department provide more information about the pipeline of public service borrowers who are being harmed across the student loan system today, as well as the identities of student loan companies from which significant consumer harm is originating. This data is also key to fulfilling our duty as authorizers of the program and making any potential legislative corrections to eligibility. Therefore, **we request that you provide, no later than November 27, 2018, the PSLF implementation data requested in the appendix of this letter** about the thousands of borrowers who submitted an application or certification for PSLF. We also request that you make publicly available updated data provided in response to the questions in the appendix on a quarterly basis and, wherever possible, disaggregated by the borrower's last known state of residence.

Congress has already taken significant action to help borrowers harmed by breakdowns in the Department's administration of PSLF.<sup>10</sup> In creating the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program, Congress has made \$700 million available to assist borrowers who received misinformation from their student loan servicer and were in a non-qualifying repayment plan. Congress also allocated \$4.6 million for the Department to conduct new outreach to all Direct Loan borrowers about PSLF to improve implementation, including proactively pushing out new and more transparent information about the program's requirements. However, these temporary investments will be insufficient if the Department skirts its obligation to implement the PSLF program faithfully.

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<sup>4</sup> Consumer Financial Protection Bureau. Report: Staying on Track While Giving Back: The Cost of Student Loan Servicing Breakdowns for People Serving their Communities. June 2017. <https://go.usa.gov/xPkra>

<sup>5</sup> *Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency*, Case No. 1784CV02682. Complaint by the Commonwealth. August 23, 2017. <http://www.mass.gov/ago/docs/consumer/com-of-ma-v-pheaa-complaint-8-23-17.pdf>

<sup>6</sup> U.S. Department of Education. Memorandum on Policy Direction of Federal Student Loan Servicing from Under Secretary Ted Mitchell to James Runcie, FSA. July 20, 2016. <https://www2.ed.gov/documents/press-releases/loan-servicing-policy-memo.pdf>

<sup>7</sup> *Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency*, Case No. 1784CV02682, Statement of Interest by the United States. January 8, 2018. <https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2018/01/Statement-of-Interest.pdf>

<sup>8</sup> Letter to Director of Consumer Financial Protector Bureau Mr. Richard Cordray from Acting Assistant Secretary of Office of Postsecondary Education Ms. Kathleen Smith and Chief Operating Office of Federal Student Aid Mr. A. Wayne Johnson regarding the Memoranda of Understanding. August 31, 2017. <https://go.usa.gov/xPkrb>

<sup>9</sup> Office of the Federal Register, U.S. Department of Education. Federal Preemption and State Regulation of the Department of Education's Federal Student Loan Programs and Federal Student Loan Servicers. March 3, 2018. <https://go.usa.gov/xPkrT>

<sup>10</sup> <https://www.congress.gov/bill/115th-congress/house-bill/1625/text>

Finally, it is important to know how the Department plans to take steps in the near future to correct implementation challenges. In addition to the data requested in the appendix, **we request a timeline for implementing each GAO recommendation, a copy of the Department’s corrective action plan, and further details and a timeline on the Department’s plan to use appropriated outreach funds to reach all Direct Loan borrowers about PSLF and fully digitize the employment certification and application process.**

We hope to work with you to ensure that students who seek higher education and go on to serve their country are not harmed—either maliciously or through negligence—by the poor implementation of the PSLF program. Without swift action, millions of dedicated teachers, first responders, service members and other public servants will face substantial harm due to preventable failures on the part of the Department and student loan servicers.

Sincerely,

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PATTY MURRAY  
Ranking Member, Senate Committee on Health,  
Education, Labor & Pensions

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ROBERT C. “BOBBY” SCOTT  
Ranking Member, House Committee on  
Education & the Workforce

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KIRSTEN GILLIBRAND  
United States Senator

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SUSAN A. DAVIS  
Member of Congress

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CLAIRE MCCASKILL  
United States Senator

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JOHN P. SARBANES  
Member of Congress

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TAMMY BALDWIN  
United States Senator

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SHERROD BROWN  
United States Senator

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MICHAEL F. BENNET  
United States Senator

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RICHARD BLUMENTHAL  
United States Senator

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CORY A. BOOKER  
United States Senator

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BENJAMIN L. CARDIN  
United States Senator

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TAMMY DUCKWORTH  
United States Senator

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CATHERINE CORTEZ MASTO  
United States Senator

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DIANNE FEINSTEIN  
United States Senator

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RICHARD J. DURBIN  
United States Senator

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MARGARET WOOD HASSAN  
United States Senator

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KAMALA D. HARRIS  
United States Senator

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MAZIE K. HIRONO  
United States Senator

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DOUG JONES  
United States Senator

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TIM KAINE  
United States Senator

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AMY KLOBUCHAR  
United States Senator

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PATRICK J. LEAHY  
United States Senator

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EDWARD J. MARKEY  
United States Senator

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JEFFREY A. MERKLEY  
United States Senator

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CHRISTOPHER S. MURPHY  
United States Senator

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BILL NELSON  
United States Senator

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GARY C. PETERS  
United States Senator

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JACK REED  
United States Senator

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BERNARD SANDERS  
United States Senator

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CHARLES E. SCHUMER  
United States Senator

  
JEANNE SHAHEEN  
United States Senator

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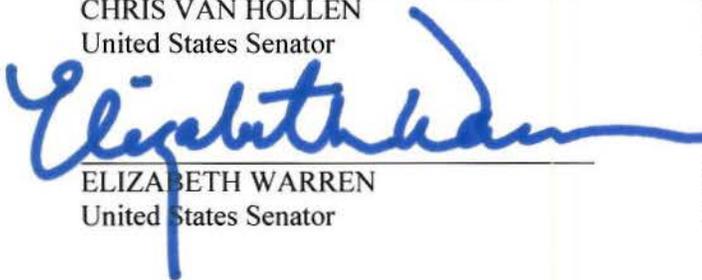
TINA SMITH  
United States Senator

  
DEBBIE STABENOW  
United States Senator

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CHRIS VAN HOLLEN  
United States Senator

  
MARK R. WARNER  
United States Senator

  
ELIZABETH WARREN  
United States Senator

  
SHELDON WHITEHOUSE  
United States Senator

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RON WYDEN  
United States Senator

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ALMA S. ADAMS Ph.D  
Member of Congress

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NANETTE DIAZ BARRAGÁN  
Member of Congress

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KAREN BASS  
Member of Congress

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SANFORD D. BISHOP Jr.  
Member of Congress

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LISA BLUNT ROCHESTER  
Member of Congress

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SUZANNE BONAMICI  
Member of Congress

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BRENDAN F. BOYLE  
Member of Congress

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ANTHONY G. BROWN  
Member of Congress

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CHERI BUSTOS  
Member of Congress

Enclosure: Appendix: PSLF Data Request

CC: Mr. John F. "Jack" Remondi, President and CEO, Navient Solutions  
Mr. Jeffrey Noordhoek, CEO, Nelnet Corporation  
Mr. James Steeley, Interim President and CEO, FedLoan/Pennsylvania Higher Education Assistance Agency (PHEAA)  
Mr. Raymond H. Bayer, Executive Director and CEO, Missouri Higher Education Loan Authority (MOHELA)  
Mr. William A. "Tony" Hollin, President and CEO, EdFinancial Services  
Mr. René Drouin, President and CEO, Granite State Management & Resources  
Mr. David Feitz, Executive Director, Cornerstone Education Loan Services / Utah Higher Education Assistance Authority  
Mr. Jim Farha, President, Oklahoma Student Loan Authority

## APPENDIX: PSLF DATA REQUEST

Given the length of this data request, we hope that six weeks is sufficient to produce these data. Therefore, please provide the requested information no later than November 27, 2018. Should the Department need additional time or clarification to fulfill the request, please contact the Democratic staff on the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and the Workforce. Additionally, we request that the Department make these data publicly available on a quarterly basis and, wherever possible, disaggregated by the borrower's last known state of residence.

### Part One: Denials of PSLF Applications for Forgiveness

1. Please provide a state-by-state breakdown of the number of PSLF Applications for Forgiveness received, approved and denied. Please provide this information for both the number of unique borrowers as well as the total number of applications. Please also provide the same information for borrowers who applied for the TEPSLF.
2. Please provide the number of PSLF Applications for Forgiveness denied (by the Department or PHEAA/FedLoan Servicing), including the number of applications and the number of borrowers disaggregated, that were denied forgiveness due to:
  - a. **Incomplete PSLF application.** *Please provide the number of borrowers whose eligibility for loan forgiveness could not be determined because the borrower's application was incomplete.*
  - b. **Ineligible employer at time of application.** *Please include only borrowers who otherwise qualified for PSLF on a Direct Loan, but were denied exclusively due to a determination by the Department or PHEAA that, at the time the borrower submitted the application for loan forgiveness, the borrower was not employed by a qualifying public service organization.*
  - c. **Ineligible loan type.** *Please include all borrowers who applied for PSLF but were denied due to a determination by the Department or PHEAA that the borrower has ineligible loans. Please specify how many unduplicated borrowers had each of the following types of ineligible loans at application: FFELP non-Consolidation, FFELP Consolidation disbursed pre-October 2, 2007, FFELP Consolidation disbursed on or after October 2, 2007, Perkins, or Private Student Loans. Please note the number of borrowers who had more than one type of the aforementioned loans.*
  - d. **Insufficient number of payments due to ineligible employment.** *Please include only borrowers who otherwise qualified for PSLF on a Direct Loan, but whose payments were not considered "qualifying" because the borrower was not employed by a qualifying public service organization for some period of time during which the otherwise qualifying payments were made.*
  - e. **Insufficient number of qualifying payments.** *Please include only borrowers who been in repayment for at least 120 months and otherwise qualified for PSLF, but were denied exclusively due to a determination by the Department or PHEAA that a borrower's number of qualifying payments was not sufficient.*

- f. **Insufficient number of payments due to length of time in repayment (excluding Direct Consolidation Loans).** *Please include only borrowers who applied for PSLF and have been in repayment on a Direct Loan for fewer than 120 months. Please do not include Direct Consolidation Loans in this category.*
  - g. **Insufficient number of payments due to length of time in repayment (Direct Consolidation Loans).** *Please include only borrowers who have been in repayment on a Direct Consolidation Loan for fewer than 120 months. Please do not include other Direct Loans in this category.*
  - h. **Insufficient number of payments due to ineligible repayment plan.** *Please include only borrowers who otherwise qualified for PSLF on a Direct Loan, but for whom the Department or PHEAA has denied an application for loan forgiveness because fewer than 120 payments were made in an eligible repayment plan (i.e., the borrower had made at least one payment in a non-qualifying repayment plan such extended, graduated, standard with a repayment term greater than 10 years) over this period.*
  - i. **Ineligible number of payments due to non-timely payments.** *Please include only borrowers who otherwise qualified for on a Direct Loan, but for whom the Department or PHEAA has denied an application because at least one payment was not an "on-time" payment. In your response, please note separately the subset of these borrowers who had at least one payment designated as ineligible due to having been in "paid-ahead" status.*
3. For each category of borrowers described in Question 1, please indicate the number of borrowers assigned to each of the following servicers at the time each borrower submitted an application for forgiveness:
- a. Navient/Sallie Mae
  - b. Great Lakes
  - c. Nelnet
  - d. MOHELA
  - e. EdFinancial/HESC
  - f. Granite State
  - g. Cornerstone
  - h. OSLA
  - i. PHEAA/FedLoan Servicing. Where a borrower was assigned to PHEAA at the time an application for PSLF was processed, please categorize as follows:
    - i. PHEAA (Approved Employer Certification Form (ECF) On File)
    - ii. PHEAA (No ECF Received)
    - iii. PHEAA (ECF Previously Received and Denied)
4. For each category of borrowers described in Question #1, please indicate the number of borrowers assigned to each of the following servicers for any length of time during repayment. Additionally, please note the number of borrowers with multiple servicers. For those borrowers, please provide an unduplicated count of borrowers who had two servicers, three servicers, and three or more servicers.
- a. Navient/Sallie Mae
  - b. Great Lakes
  - c. Nelnet

- d. PHEAA/FedLoan Servicing
- e. MOHELA
- f. EdFinancial/HESC
- g. Granite State
- h. Cornerstone
- i. OSLA
- j. VSAC
- k. Aspire
- l. Affiliated Computer Services (ACS)/Xerox Education Services (XES)/Direct Loan Servicing Center

**Part Two: Borrowers Who Indicate Intention to Pursue PSLF through an ECF**

5. Please provide updated quarterly information on the number of unique borrowers submitting ECFs, including applications approved, received and denied, by reinstating the report containing this information that was previously available through the Federal Student Aid Data Center. Additionally, please add a state-by-state breakdown of ECFs in each category.
  
6. Please provide the following information about the 1.17 million borrowers who have attempted to certify employment by completing an ECF since the form was made available by the Department in January 2012. Specifically, please provide a detailed breakdown of the number of individual borrowers whose ECFs were denied by the Department or PHEAA, including the number of ECFs and the number of borrowers disaggregated, who were denied due to:
  - a. **Incomplete ECF.** *Please include only borrowers who had an ECF denied due to a determination by the Department or PHEAA that qualifying employment could not be established due to an incomplete ECF.*
  
  - b. **Ineligible Employer.** *Please include only borrowers who had an ECF denied due to a determination by the Department or PHEAA that, for the period of employment indicated in the ECF, the borrower was not employed by a qualifying public service organization. In your response, please note separately the subset of borrowers for whom the Department or PHEAA determined an employer was an:*
    - i. Ineligible Private Non-Profit Organization (i.e., a non-501(c)(3) non-profit organization) or
    - ii. Ineligible Employer (All Other Reasons).

*For the subset of borrowers for whom the Department or PHEAA determined an employer was not an eligible private non-profit organization, please categorize the types of ineligible private non-profit organizations based on their tax status. This information can be matched based on publicly-available data from the Internal Revenue Service.*
  
  - c. **Ineligible Loan Type.** *Please include only borrowers who had an ECF denied due to a determination by the Department or PHEAA that the borrower has ineligible loans. Please specify how many borrowers had each of the following types of loans at application: FFELP, FFELP Consolidation originated pre-October 2007, FFELP Consolidation originated post-October 2007, Perkins, or Private Student Loans.*
  
7. Please provide an unduplicated count of the borrowers who have successfully certified intent to pursue PSLF through an approved ECF, but for whom the Department or PHEAA has determined one or more monthly payment(s) did not count toward PSLF forgiveness:

- a. **Ineligible Payment(s) Due to Ineligible Repayment Plan.** *Please include only Direct Loan borrowers who have certified intent to pursue PSLF, but for whom the Department or PHEAA has failed to approve at least one payment made in a non-qualifying repayment plan over this period (e.g., extended, graduated, standard with a repayment term greater than 10 years).*
- b. **Ineligible Payment(s) Due to Non-Timely Payments.** *Please include only Direct Loan borrowers who have certified intent to pursue PSLF, but for whom the Department or PHEAA has denied at least one payment because such a payment was not timely. In your response, please note separately the subset of these borrowers who had at least one payment designated as ineligible due to having been in "paid-ahead" status.*
- c. **Ineligible Payments** *Please provide the number of Direct Loan borrowers who have successfully certified intent to pursue PSLF through an approved ECF, but for whom the Department or PHEAA has denied because the borrower was in deferment or forbearance.*

### **Part Three: Inquiries from Regulators and Law Enforcement Officials**

8. Please indicate the number of inquiries the Department has received from state attorneys general, state banking commissioners, or other state officials regarding the PSLF program. Please provide copies of each of these inquiries, as well as the Department's response to such inquiries.
9. Please indicate the number of inquiries PHEAA has received from state attorneys general, state banking commissioners, or other state officials regarding the PSLF program. Please provide copies of each of these inquiries, as well as PHEAA's response to such inquiries.
10. Please provide copies of all correspondence between the Department and PHEAA regarding any inquiries identified in the preceding two questions.

### **Part Four: Borrower Reconsideration**

11. What information is available to borrowers about their ability to request credit for payments that did not qualify due to servicer misinformation, misconduct, or error?
12. Please outline each step in the reconsideration process, the Departmental office(s) or PHEAA officials responsible for making decisions at each step, and the average length of time it takes to review and finalize an appeal.
13. Please provide the following information about the borrowers who have submitted appeals after a PSLF application denial:
  - a. Number of appeals the Department or PHEAA has received from borrowers.
  - b. Number of appeals that are pending, number of successful appeals, and number of unsuccessful appeals.