

**September 17, 2025**

*Submitted via: <https://www.regulations.gov>.*

Linda McMahon  
Secretary of Education  
U.S. Department of Education  
400 Maryland Ave. SW  
Washington, DC 20202

**Re: Human Rights First Comment on the Department of Education’s Notice of Proposed Rulemaking, William D. Ford Federal Direct Loan (Direct Loan) Program, Docket No. ED-2025-OPE-0016**

Dear Secretary McMahon,

Human Rights First submits this comment in opposition to the Notice of Proposed Rulemaking promulgated by the Department of Education, Office of Postsecondary Education, titled William D. Ford Federal Direct Loan (Direct Loan) Program. The NPRM proposes to amend the federal regulations on the Public Service Loan Forgiveness (PSLF) program at 34 CFR 685.219. Human Rights First recommends that the proposed rule be withdrawn in its entirety.

**I. Overview**

Human Rights First strongly opposes the Department of Education’s proposed rule amending the regulations governing the PSLF program. The proposed rule targets nonprofit organizations that provide entirely lawful pro bono legal services to immigrants and other vulnerable populations. If implemented, the administration would likely attempt to use it to strip PSLF eligibility for people providing legal services to immigrants, which would deny immigrants the ability to access legal protections that they are entitled to under U.S. law, accelerate their unlawful detention and deportation, and prevent people from seeking remedies for harms caused by immigration agents.

The rule also threatens the broader, Constitutionally-protected work of human rights advocates, legal monitors, and public interest lawyers, many of whom rely on PSLF to sustain careers in the public interest, in service of vulnerable populations. For decades, Human Rights First has relied on PSLF to recruit and retain skilled attorneys committed to serving asylum-seekers and other vulnerable populations. Eliminating this pathway would jeopardize the financial stability of public interest lawyers with reliance interests in the program and drastically reduce the availability of qualified legal counsel, leaving countless immigrants without representation in

proceedings that have life-or-death consequences. The proposed rule should be withdrawn in its entirety.

## **II. Human Rights First's Interest in the Rule**

For 47 years, Human Rights First has worked on a non-partisan basis in the United States and abroad to promote respect for human rights and the rule of law. Human Rights First provides pro bono legal representation to indigent asylum-seekers and engages in advocacy that aims to promote laws and policies that protect the universal freedoms of all individuals worldwide. Human Rights First grounds its work in the legal standards of the 1951 Refugee Convention, its 1967 Protocol, and other international human rights instruments, and advocates adherence to these standards in United States law and policy.

Human Rights First operates one of the largest and most successful pro bono asylum representation programs in the country. Working in partnership with volunteer attorneys, Human Rights First's Refugee Representation program has helped tens of thousands of asylum-seekers who came to the United States fleeing persecution and torture. We engage attorneys from law firms, corporations, and law school clinics across the country to provide pro bono representation to asylum-seekers who cannot otherwise afford high-quality legal representation. Because so many seek refuge in the United States, we embrace a model that enables us to do more with less. Our in-house attorneys—who have decades of experience combined—train and mentor those pro bono attorneys to ensure that our clients receive the highest-quality representation possible.

Human Rights First's extensive experience working directly with refugees seeking protection in the United States is the foundation for Human Rights First's advocacy and informs the observations that follow.

## **III. Proposed Rule is Part of the Administration's Broader Unrelenting Attack on Immigrants and the Attorneys Providing Legal Assistance to Them**

Since entering office, the Trump administration has carried out a mass effort to detain and deport immigrants living in U.S. communities or arriving in the United States to seek protection, while stripping them of due process protections and endangering their lives. To carry out this campaign, it has promulgated a barrage of anti-immigrant executive orders, regulations, policies, and practices, many of which have been struck down as unlawful by federal courts.

The administration's policies and rhetoric make clear that its goal is to dehumanize and mistreat immigrants on a massive scale to scare people into relinquishing their rights and abandoning their immigration court cases. For instance, the administration has threatened immigrants that they would be "hunted down" and stated that immigrants in the United States could be

disappeared to the CECOT in El Salvador, Eswatini, or South Sudan – countries to which the administration has sent immigrants to suffer human rights abuses, including torture and incommunicado detention.<sup>1</sup> These actions are in line with the first Trump administration’s anti-immigrant policies and President Trump’s long history of racist and xenophobic statements against immigrants.”<sup>2</sup>

Currently, the administration is jailing more people in immigration detention than at any known time in U.S. history<sup>3</sup> and carrying out mass deportations through a range of unprecedented and unlawful tactics. Immigration agents are sowing terror in U.S. communities, arresting immigrants at their homes, the streets, workplaces, and immigration court hearings, often while wearing plain clothes and masks, driving unmarked cars, and refusing to provide identification.<sup>4</sup> Immigration agents have used widespread racial profiling to carry out arrests,<sup>5</sup> including of U.S. citizens.<sup>6</sup>

In immigration detention, at least thirteen people have died under this administration while conditions continue to deteriorate, but the administration has callously responded that “people die in ICE custody.”<sup>7</sup> Mass detention of immigrants, the vast majority of whom do not have a

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<sup>1</sup> DHS, “Warning - International,” (<https://www.dhs.gov/medialibrary/assets/video/58917>); DHS, “Inside the Action: Secretary Noem’s visit to El Salvador,” (<https://www.dhs.gov/medialibrary/assets/video/59109>); New York Times, “Man Who’d Served His Time in U.S. Is Deported to an African Prison,” September 1, 2025 (<https://www.nytimes.com/2025/09/01/world/africa/trump-deportations-prison-us-eswatini-africa-jamaica.html>).

<sup>2</sup> Politico, “We watched 20 Trump rallies. His racist, anti-immigrant messaging is getting darker,” October 12, 2024 (<https://www.politico.com/news/2024/10/12/trump-racist-rhetoric-immigrants-00183537>).

<sup>3</sup> New York Times, “Over 60,000 Are in Immigration Detention, a Modern High, Records Show,” August 11, 2025 (<https://www.nytimes.com/2025/08/11/us/politics/immigration-detention-numbers.html>).

<sup>4</sup> CNN, “Masked ICE officers: The new calling card of the Trump administration’s immigration crackdown,” June 21, 2025 (<https://www.cnn.com/us/ice-immigration-officers-face-masks>); New York City Bar, “Statement on Wearing of Masks by ICE Agents,” June 20, 2025

(<https://www.nycbar.org/press-releases/statement-on-wearing-of-masks-by-ice-agents/>); NBC News, “LAPD tells officers to ‘keep the peace’ when called to ICE arrests and confrontations,” July 1, 2025 (<https://www.nbcnews.com/news/latino/lapd-tells-officers-keep-peace-called-ice-arrests-confrontations-rcna216175>)

<sup>5</sup> The Guardian, “Los Angeles on edge as agents threaten to ‘flood the zone’ with immigration raids,” September 14, 2025 (<https://www.theguardian.com/us-news/2025/sep/14/los-angeles-immigration-raids>); Los Angeles Times, “ICE raids Latino community, racial profiling,” June 27, 2025

(<https://www.latimes.com/delos/newsletter/2025-06-27/ice-raids-latino-community-racial-profiling>); New York Times, “Supreme Court allows ICE to use racial profiling in immigration enforcement,” September 8, 2025 (<https://www.nytimes.com/2025/09/08/us/politics/supreme-court-immigration-racial-profiling.html>); UCLA Latino Policy & Politics Institute, “SCOTUS Opens Door to Racial Profiling in Immigration Enforcement,” September 8, 2025 (<https://latino.ucla.edu/scotus-ruling-opens-door-to-racial-profiling-in-immigration-enforcement/>).

<sup>6</sup> The Atlantic, “A U.S. Citizen Detained by ICE for Three Days Tells His Story,” September 10, 2025 (<https://www.theatlantic.com/politics/archive/2025/09/george-retes-ice-detained-us-citizen/684152/>); Los Angeles Times, “The ICE raids show what state-sponsored terror looks like,” June 27, 2025

(<https://www.latimes.com/delos/newsletter/2025-06-27/ice-raids-latino-community-racial-profiling>); CBS News, “Video allegedly shows ICE agents detaining Hispanic U.S. citizen on Long Island,” June 10, 2025

(<https://www.cbsnews.com/newyork/news/ice-detains-us-citizen-long-island-video/>); The Guardian, “Ice agents detain US citizen as LA immigration raids continue: ‘It’s racial profiling’,” June 16, 2025.

<sup>7</sup> ICE, “Detainee Death Reporting,” (<https://www.ice.gov/detain/detainee-death-reporting>); ICE, “Mexican national in ICE custody passes away at Central Arizona Correctional Complex,” September 2, 2025 (<https://www.ice.gov/news/releases/mexican-national-ice-custody-passes-away-central-arizona-correctional-comple>

criminal record, has separated parents from their children and made people afraid to go to work, access healthcare, or send their children to school.<sup>8</sup>

Part of the administration's attack on immigrant communities and push for mass deportations without due process is an effort to deprive them of legal counsel and access to legal information. This effort has taken on many forms. The administration attempted to eliminate funding for legal orientation programs in detention, legal representation for unaccompanied children, and legal representation for people determined to be mentally "incompetent," making clear that it is seeking to deny legal information or services to adults, families, and children facing deportation proceedings.<sup>9</sup> These decisions are being litigated, with the government currently blocked from ending the latter two programs.<sup>10</sup> Posters in immigration courts with information about legal assistance to immigrants have been replaced with posters encouraging people to "self-deport."<sup>11</sup> The administration has refused to recognize a right to counsel when conducting certain protection screenings in detention of people arriving in the United States and failed to even include some attorneys of record in these screenings, which determine whether an asylum-seeker

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x); Washington Post, "Immigrants forced to sleep on floors at overwhelmed ICE detention centers," April 20, 2025 (<https://www.washingtonpost.com/business/2025/04/18/immigrant-detention-overcrowding-trump-crackdown/>); The New Republic, "Trump Border Czar Has Gruesome Response to Man Dying in ICE Custody," June 30, 2025 (<https://newrepublic.com/post/197451/donald-trump-border-czar-tom-homan-man-dying-ice-custody>).

<sup>8</sup> NBC Philadelphia, "ICE detains Marine Corps veteran's wife who was still breastfeeding their baby," June 23, 2025 (<https://www.nbcphiladelphia.com/news/national-international/marine-corps-veterans-wife-detained-breastfeeding/4216689/>); ABC7 Eyewitness News, "Immigration agents detain mother in front of her children in Pasadena, video shows," July 1, 2025 (<https://abc7.com/post/immigration-agents-detain-mother-in-front-of-her-children-pasadena/16895885/>); The American Prospect, "A Fear Pandemic Grips Safety Net Hospitals and Their Patients," June 27, 2025 (<https://prospect.org/justice/2025-06-27-immigration-ice-health-care-hospitals/>); NY Times, "Immigration Raids Add to Absence Crisis for Schools," June 16, 2025 (<https://www.nytimes.com/2025/06/16/us/immigration-raids-school-absences-deportation-fears.html>).

<sup>9</sup> Acacia Center for Justice, "Acacia Center for Justice Statement on Termination of Critical Legal Access and Representation Programs," April 10, 2025 (<https://acaciajustice.org/acacia-statement-on-termination-of-critical-legal-access-and-representation-programs/>); Acacia Center for Justice, "Acacia Center for Justice Decries Administration's Termination of Representation for Unaccompanied Children," March 21, 2025 (<https://acaciajustice.org/acacia-decries-administrations-termination-of-representation-for-unaccompanied-children/>); NIJC, "American Gateways v. Department of Justice: Challenging Trump's Termination of the National Qualified Representative Program (NQRP)," (<https://immigrantjustice.org/for-attorneys/cases/american-gateways-v-department-of-justice-challenging-trumpstermination-of-the-national-qualified-representative-program-nqrp/>).

<sup>10</sup> See *Cnty. Legal Servs. in E. Palo Alto v. United States Dep't of Health & Hum. Servs.*, 780 F. Supp. 3d 897 (N.D. Cal. 2025) (granting Plaintiffs' motion for a preliminary injunction of the government's order to "immediately stop all work" on the contracts through which HHS and ORR provide[] funding for counsel for unaccompanied children in immigration proceedings and terminating funding for direct legal representation services); *Am. Gateways v. U.S. Dep't of Just.*, No. CV 25-01370, 2025 WL 2029764, at \*1 (D.D.C. July 21, 2025) (granting Plaintiffs' motion for a preliminary injunction of the government's decision to rescind the National Qualified Representative Program ("NQRP")).

<sup>11</sup> Los Angeles Times, "Legal help in immigration court fades as Trump administration ramps up arrests," July 23, 2025 (<https://www.latimes.com/california/story/2025-07-23/legal-aid-cut>).

will be denied a hearing and rapidly deported.<sup>12</sup> Immigration officials are increasingly disappearing people in U.S. detention centers, secret hotels, and abroad while refusing to disclose their location, which makes it impossible for attorneys to track or assist their clients.<sup>13</sup>

Another key feature of this effort to deny legal representation has been to intimidate and criminalize immigration attorneys for providing legal services to immigrants. In March 2025, President Trump issued a memorandum titled “Preventing Abuses of the Legal System and the Federal Court,” which leveled sweeping accusations against immigration attorneys and law firms.<sup>14</sup> The memorandum claimed that immigration attorneys and law firms that take on cases pro bono “frequently coach clients to conceal their past or lie about their circumstances when asserting their asylum claim” and that attorneys and firms litigating against the federal government pursue “baseless partisan attacks.” It directed the Attorney General and Secretary of Homeland Security to pursue sanctions and other discipline against attorneys and firms in a range of circumstances. This executive action is a blatant attempt to target attorneys providing legal assistance to immigrants, including pro bono or low-cost legal services for immigrants who cannot afford representation. A former immigration judge, Ilyce Shugall, noted that, “The language in the executive order was very threatening, that by helping someone apply for asylum we’re violating our ethical rules as attorneys and that we will be investigated and could be charged and lose our licenses if we continue to help people seeking asylum.”<sup>15</sup>

After the memorandum was issued, the Department of Justice appeared to escalate its targeting of immigration lawyers and send a message of intimidation to practitioners across the country when it requested that a federal judge impose “substantial monetary sanctions” on an attorney who filed a federal lawsuit to halt the deportation of his client, an immigrant from Laos whose case he was representing pro bono.<sup>16</sup> The administration’s targeting of immigration lawyers is

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<sup>12</sup> Human Rights First and Refugees International, “This is an Order from Trump,” May 2025 ([https://humanrightsfirst.org/wp-content/uploads/2025/05/ThisIsAnOrderFromTrumpReport\\_final1.pdf](https://humanrightsfirst.org/wp-content/uploads/2025/05/ThisIsAnOrderFromTrumpReport_final1.pdf)); “Refugee and Immigrant Center for Education and Legal Services v. Kristi Noem, U.S. Department of Homeland Security, et al.,” April 7, 2025

(<https://storage.courtlistener.com/recap/gov.uscourts.dcd.277039/gov.uscourts.dcd.277039.52.1.pdf>).

<sup>13</sup> Coalition of non-governmental organizations, “Information Submitted to the UN Working Group on Enforced or Involuntary Disappearances Regarding Disappearances of Migrants and Asylum Seekers in the United States,” April 25, 2025

(<https://humanrightsfirst.org/wp-content/uploads/2025/04/Written-statement-for-WG-on-Enforced-and-Involuntary-Disappearances.pdf>); The Intercept, “ICE held an NYC child Incommunicado at Secret Hotel, then Deported Him,” August 18, 2025 (<https://theintercept.com/2025/08/18/ice-children-hotel-detention-nyc-deported/>).

<sup>14</sup> The White House, “Preventing Abuses of the Legal System and the Federal Court,” March 22, 2025 (<https://www.whitehouse.gov/presidential-actions/2025/03/preventing-abuses-of-the-legal-system-and-the-federal-court/>).

<sup>15</sup> ABC7News, “‘Valid fear’: Immigration judges, lawyers say they’re being targeted by Trump administration,” August 18, 2025

(<https://abc7news.com/post/more-100-immigration-judges-fired-trumps-inauguration-white-house-targets-lawyers/17503922/>).

<sup>16</sup> Politico, “‘This is sending a message’: DOJ moves to sanction lawyer who took pro bono deportation case,” August 6, 2025

consistent with its broader campaign to intimidate lawyers whose views or actions it does not agree with (including pursuing a criminal case against a lawyer who challenged a ban on gender-affirming care), as well as steps to pressure and coerce big law firms, fire immigration judges, violate court rulings including those protecting immigrants from unlawful deportations or expulsions, and make statements to undermine the legitimacy of the courts – in order to carry out its unlawful agenda while suppressing opposition.<sup>17</sup> When a federal judge issued an order blocking the administration from sending Venezuelan asylum-seekers and migrants to a notorious prison in El Salvador under a centuries-old wartime law, President Trump called for his impeachment and referred to him as a “radical left lunatic.”<sup>18</sup>

The first Trump administration used similar tactics. It weaponized rhetoric about immigration lawyers encouraging clients to make false asylum claims, with the then-Attorney General using the phrase “dirty immigration lawyers.”<sup>19</sup> In 2019, it was reported that the federal government had compiled a list of people, including activists and immigration attorneys, who were to be flagged for investigation if they crossed the U.S.-Mexico border.<sup>20</sup> Some immigration attorneys

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(<https://www.politico.com/news/2025/08/06/justice-department-sanctions-immigration-lawyer-00496886?nid=0000018f-3124-de07-a98f-3be4d1400000&nname=politico-toplines&nrid=2626bdac-090b-49e2-a5dd-7fc9eb90b7f9>).

<sup>17</sup> Whistleblower Aid, “Whistleblower Aid Co-Founder Mark Zaid Files Lawsuit Challenging Trump’s Revocation of His Security Clearance,” May 5, 2025

(<https://whistlebloweraid.org/whistleblower-aid-co-founder-mark-zaid-files-lawsuit-challenging-trumps-revocation-of-his-security-clearance/>); Reuters, “LGBTQ rights lawyer indicted for lying during Alabama ‘judge shopping’ inquiry,” September 9, 2025

(<https://www.reuters.com/legal/government/lgbtq-rights-lawyer-indicted-lying-during-alabama-judge-shopping-inquiry-2025-09-09/>); ABA, “American Bar Association files suit to halt government intimidation of lawyers and law firms,” June 16, 2025

(<https://www.americanbar.org/news/abanews/aba-news-archives/2025/06/aba-files-suit-to-halt-govt-intimidation/>); ANC7News, “‘Valid fear’: Immigration judges, lawyers say they’re being targeted by Trump administration,” August 18, 2025

(<https://abc7news.com/post/more-100-immigration-judges-fired-trumps-inauguration-white-house-targets-lawyers/17503922/>); Truthout, “Trump Admin Refuses to Abide by 1 in 3 Court Rulings Against Its Policies,” July 22, 2025

(<https://truthout.org/articles/trump-white-house-refuses-to-abide-by-1-in-3-court-orders-made-against-them/>); NPR, “Judge: ‘Probable cause’ to hold U.S. in contempt over Alien Enemies Act deportations,” April 16, 2025

(<https://www.npr.org/2025/04/16/g-s1-60696/judge-contempt-alien-enemies-act>); Human Rights First, “D.V.D v. DHS,” (<https://humanrightsfirst.org/dvd-v-dhs/>); Aljazeera, “‘Lunatic’: Trump’s long history of abusing judges who oppose him,” March 20, 2025

(<https://www.aljazeera.com/news/2025/3/20/lunatic-trumps-long-history-of-abusing-judges-who-oppose-him>); New York Times, “Judge Rules That Trump Administration Takeover of Institute of Peace Is Illegal,” May 19, 2025

(<https://www.nytimes.com/2025/05/19/us/politics/institute-of-peace-trump.html>); New York Times, “Judge Blocks Trump Administration From Dismantling Education Department,” May 22, 2025

(<https://www.nytimes.com/2025/05/22/us/politics/judge-education-department.html>).

<sup>18</sup> Aljazeera, “‘Lunatic’: Trump’s long history of abusing judges who oppose him,” March 20, 2025

(<https://www.aljazeera.com/news/2025/3/20/lunatic-trumps-long-history-of-abusing-judges-who-oppose-him>).

<sup>19</sup> DOJ, “Attorney General Jeff Sessions Delivers Remarks to the Executive Office for Immigration Review,” October 12, 2017

(<https://www.justice.gov/archives/opa/speech/attorney-general-jeff-sessions-delivers-remarks-executive-office-immigration-review>).

<sup>20</sup> NBC News, “U.S. officials made list of reporters, lawyers, activists to question at border,” March 6, 2019

(<https://www.nbcnews.com/politics/immigration/u-s-officials-made-list-reporters-lawyers-activists-question-border-n980301>).

were detained and questioned. Government records obtained in 2021 revealed that the Trump administration’s targeting of immigration attorneys was broader than previously known, with attorneys being interrogated by a secretive government Tactical Terrorism Response Team.<sup>21</sup>

The proposed rule is yet another weapon in the Trump administration’s campaign to scare or discourage immigration attorneys and other attorneys whose work it disagrees with from providing legal services to vulnerable populations. Targeting attorneys for representing people or pursuing litigation that the administration disfavors violates core U.S. constitutional and statutory protections – as well as international obligations – including due process, the right to counsel, the First Amendment, and the separation of powers.

Not only do these actions deprive people of legal counsel, but they also threaten the work of human rights monitors and other advocates seeking to document the government’s abuses in immigration detention and other contexts (some of whom could be targeted due to this regulation as well). Consistent with this goal, the administration has attempted to eliminate independent oversight of its abusive practices, including gutting federal oversight bodies that investigated rights violations and detention conditions and denying access to immigration jails for human rights groups and members of Congress.<sup>22</sup>

Lastly, the administration’s rhetoric demonizing and criminalizing immigration attorneys, other attorneys and advocates, and non-governmental organizations whose work it does not like puts these people and organizations at enormous risk to their lives and safety. Targeting of NGOs providing immigration legal services and humanitarian assistance by federal and state governments as well as Members of Congress fuels violence and threats against the organizations and their staff.<sup>23</sup>

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<sup>21</sup> ProPublica, “Documents Show Trump Officials Used Secret Terrorism Unit to Question Lawyers at the Border,” May 14, 2021

(<https://www.propublica.org/article/documents-show-trump-officials-used-secret-terrorism-unit-to-question-lawyers-at-the-border>).

<sup>22</sup> Public Citizen, “Groups Sue Secretary Noem, DHS, for Shuttering of Civil Rights Offices,” April 24, 2025 (<https://www.citizen.org/news/groups-sue-secretary-noem-dhs-for-shuttering-of-civil-rights-offices/>); Rep. Summer Lee, “Rep. Summer Lee, Human Rights First Advocate Denied Entry to Ice Detention Center During Oversight Visit,” August 25, 2025

(<https://summerlee.house.gov/newsroom/press-releases/rep-summer-lee-human-rights-first-advocate-denied-entry-to-ice-detention-center-during-oversight-visit>); New York Times, “ICE Imposes New Rules on Congressional Visits,” June 19, 2025

([https://www.nytimes.com/2025/06/19/us/politics/ice-congress.html?smid=fb-nytimes&smtyp=cur&fbclid=IwY2xjaWwLC-EpleHRuA2FlbQIxMQBicmlkETE3UkREU0twSWhrd2Q5Y052AR6GhGDeXDMU4QfP0nW5Nf2dr8p7FUJwYeZ8dWZd-ZVlnYmY5pyJr0FOa8GDMO\\_aem\\_8mnYhkvPI\\_-hBka363XTw](https://www.nytimes.com/2025/06/19/us/politics/ice-congress.html?smid=fb-nytimes&smtyp=cur&fbclid=IwY2xjaWwLC-EpleHRuA2FlbQIxMQBicmlkETE3UkREU0twSWhrd2Q5Y052AR6GhGDeXDMU4QfP0nW5Nf2dr8p7FUJwYeZ8dWZd-ZVlnYmY5pyJr0FOa8GDMO_aem_8mnYhkvPI_-hBka363XTw)).

<sup>23</sup> National Catholic Reporter, “Catholic Charities reacts to ‘disturbing’ online threats to staff over migration work,” November 1, 2023

(<https://www.ncronline.org/news/catholic-charities-reacts-disturbing-online-threats-staff-over-migration-work>); New York Times, “Faith Based Groups that Assist Migrants Become Targets of Extremists,” June 2, 2024

([https://www.nytimes.com/2024/06/02/us/migrants-charities-shelters-threats.html?unlocked\\_article\\_code=1.w00.x-49.3Hm7mw4k-JIB&smid=url-share](https://www.nytimes.com/2024/06/02/us/migrants-charities-shelters-threats.html?unlocked_article_code=1.w00.x-49.3Hm7mw4k-JIB&smid=url-share)).

#### **IV. The Rule Would Jeopardize Due Process Rights and Access to Counsel for Immigrants in the United States**

Immigrants face a shortage of affordable legal representation nationwide. As of July 2025, only 39.7 percent of immigrants with pending immigration court cases have secured representation, a drop from 65 percent six years earlier.<sup>24</sup>

The proposed rule would discourage attorneys from pursuing careers in public interest, thereby exacerbating the lack of access to qualified legal services for millions of immigrants—most notably those who cannot afford private counsel. The proposed rule would also disproportionately impact rural and marginalized communities, who oftentimes rely on organizations who focus on serving vulnerable communities. For example, Human Rights First’s Refugee Representation program staff includes attorneys primarily focused on serving two of the most marginalized immigrant communities: Black and Indigenous asylum-seekers. In recent years, Human Rights First attorneys have enhanced our existing model to focus on increasing services to Black refugees, with a particular concentration on the most vulnerable among them—detained Black asylum-seekers. Similarly, Human Rights First has focused on expanding access to asylum and dismantling language barriers that prevent access to legal services for Indigenous people of Central America.

In 2016, the American Immigration Council published a report finding that represented immigrants as compared to pro se immigrants are 11 times as likely to apply for relief from deportation if detained, and 5 times more likely if non-detained; and are twice as likely to obtain immigration relief if detained, and five times as likely if non-detained.<sup>25</sup>

Due process rights and access to counsel are so crucial to ensuring fundamental fairness in immigration proceedings that the right to counsel is enshrined in the Immigration and Nationality Act.<sup>26</sup> Similarly, the Executive Office for Immigration Review (EOIR) promotes pro bono representation by all of its adjudicatory components.<sup>27</sup>

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<sup>24</sup> TRAC, “Pending Court Cases by Immigrant’s Address,” July 2025 (<https://tracereports.org/phptools/immigration/addressrep/>); TRAC, “Immigration Atty Representation Rates Dropped, Report Says,” January 24, 2024 (<https://tracereports.org/tracatwork/detail/A5623.html#:~:text=TRAC%20at%20Work&text=The%20average%20rate%20of%20immigration.percent%20down%20to%2030%20percent.%22>).

<sup>25</sup> American Immigration Council, “Access to Counsel in Immigration Court,” September 28, 2016 (<https://www.americanimmigrationcouncil.org/report/access-counsel-immigration-court/>).

<sup>26</sup> 8 U.S.C. § 1362

<sup>27</sup> PM 25-08

(<https://www.justice.gov/eoir/media/1387486/dl?inline#:~:text=Page%201,Date:%20January%2029%2C%202025>), reinstating PM 21-08 (<https://www.justice.gov/eoir/media/1387501/dl?inline>).

## V. The Rule Targets and Punishes People Providing Legal Services to Immigrants

Attorneys and support staff at Human Rights First have invested years in the Public Service Loan Forgiveness program, by relying on the program's promise of balance forgiveness following 120 qualifying payments. This rule means that such investment has been to their significant financial detriment. In a 2017 report published by the National Legal Aid & Defender Association (NLADA), survey responses from more than 3,000 borrowers currently working toward earning forgiveness through PSLF indicated that:<sup>28</sup>

- 81 percent of those surveyed were “significantly influenced” by PSLF and 51 percent “were not likely or certain not to have taken their positions had PSLF not existed.”
- 87 percent of those surveyed indicated that PSLF eligibility “would make them much more likely to accept a particular opportunity in the future, and more than half would be very likely or certain to leave their jobs if PSLF did not exist.”

Participation in the PSLF program begins, for the borrower, not at the time of the application for loan forgiveness, but ten to fifteen years earlier, when the borrower elects to pursue a career in public interest work, which promises, on average, significantly lower starting salaries and lower income growth over time. Participation in the program continues when the borrower begins to make payments under one of the qualifying income-contingent repayment (ICR) plans.

ICR repayment plans cause interest to capitalize while the borrower is in repayment, resulting in a balance increase over the course of the repayment period. Human Rights First staff selected these repayment plans, to their own financial detriment while in repayment, based directly and often exclusively on the Public Service Loan Forgiveness program criteria, which permit payments made under an ICR plan to count toward the 120 payment total. Repayment under an ICR plan is often the only affordable option available to borrowers engaged in public interest law services in light of the limited salary and compensation packages that qualifying nonprofit employers are able to offer.<sup>29</sup> Human Rights First staff relied upon the Agency's promulgation of the PSLF program and rules that have recognized non-profit organizations that provide legal, Constitutionally mandated services to non-citizens as qualifying employers since the origination of the program. Stripping away qualification for such employers, as this rule proposes to do, punishes Human Rights First staff currently working toward the 120-payment threshold. These staff members acted in good faith in relying on the existing terms of the PSLF as to qualifying

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<sup>28</sup> NLADA, “Public Service Loan Forgiveness and the Justice System” (<https://www.nlada.org/pslf-and-justice>).

<sup>29</sup> NALP, “NALP's Public Service Attorney Salary Survey Shows Pay Remains Lowest at Civil Legal Services Organizations,” May 2024 (<https://www.nalp.org/0524research>) (“[T]he median first-year associate salary at a law firm of 100 or fewer lawyers was \$155,000 in 2023, more than double that of entry-level lawyers within public service organizations.”).

employment and accrued, in some cases, tens of thousands of dollars in capitalized interest costs as a direct result.

## **VI. The Agency Does Not Have the Legal Authority to Issue This Rule**

Pursuant to the Administrative Procedures Act, agencies lack the authority to promulgate rules that are not in accordance with law, are contrary to constitutional right, or are in excess of the agency's statutory jurisdiction, authority or limitations.<sup>30</sup> Congress enacted the APA in 1946, "as a check upon administrators whose zeal might otherwise have carried them to excesses not contemplated in legislation creating their offices."<sup>31</sup>

In 2007, Congress exercised its Constitutional authority in creating the Public Service Loan Forgiveness program by passing the College Cost Reduction and Access Act. The statute states that, "[t]he Secretary shall cancel the balance of interest and principal due, in accordance with paragraph (2) on any eligible Federal Direct Loan not in default for a borrower who has made 120 monthly payments on the eligible Federal Direct Loan after October 1, 2007 . . . is employed in a public service job at the time of such forgiveness, and has been employed in a public service job during the period in which the borrower makes each of the 120 payments . . ."<sup>32</sup> The statute goes on to explicitly define "public service job" as including "public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization)."<sup>33</sup>

Nonprofit 501(c)(3) organizations, including Human Rights First, that are partially publicly funded, tax exempt and engaged in legal advocacy on behalf of low-income communities are explicitly included in the statutory definition of qualifying employers. There is no ambiguity in the statute whatsoever, and the Department does not have the authority to make this change. Furthermore, given that there is already a process by which the Internal Revenue Service may remove an entity's 501(c)(3) status if the entity engages in substantial illegal activities, it is clear that Congress, by including no comparative provision in the College Cost Reduction and Access Act, intended the IRS, not the Department of Education, to be charged with the disqualification of employers engaged in illegal activity. The Department therefore does not have the statutory authority to make these changes. This proposed regulation is inconsistent with the statute, and therefore, should be withdrawn.

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<sup>30</sup> 5 U.S.C. §§ 701-706.

<sup>31</sup> *United States v. Morton Salt Co.*, 338 U.S. 632, 644 (1950).

<sup>32</sup> 20 U.S.C. § 1087e (1)(A).

<sup>33</sup> 20 U.S.C. § 1087e (1)(B).

## **VII. Conclusion**

The proposed rule amending the regulations governing PSLF targets the eligibility of nonprofit organizations that provide critical legal services to immigrants and other vulnerable populations who face harm from immigration enforcement. Targeting immigration legal service providers by limiting PSLF eligibility would have devastating consequences for Human Rights First and the vulnerable communities we serve. Specifically, if implemented, the amended regulations would jeopardize the financial stability of our attorneys and support staff— many of whom relied, and continue to rely, on PSLF when committing to careers in the public interest — and severely limit the availability of qualified legal counsel for asylum seekers and other vulnerable individuals who are entitled to vindicate their rights in the U.S. legal system.

Thank you for considering this input as part of the rulemaking process. We urge the Department to withdraw the rule in its entirety. Public interest attorneys and nonprofit organizations have long relied on the promise of PSLF when choosing public interest careers; undermining access to beneficial programs like PSLF would both destabilize their financial security and erode access to justice.