

**Congress of the United States**  
**Washington, DC 20515**

November 2, 2015

The Honorable Arne Duncan  
Secretary  
United States Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Secretary Duncan:

We write to urge the Department of Education (Ed.) to amend its rules to allow people working at all privately operated Department of Energy National Laboratories ("DOE national labs") to be eligible for the Public Service Loan Forgiveness Program (PSLFP).

With the average person who has student loan debt owing about \$33,000, working for the lower salaries typically found in public service jobs can be difficult. That is why the PSLFP, though which federal student loans are forgiven after working for 10 years for certain public service employers, provides such an important incentive.

According to regulations promulgated by Ed., government entities and non-profits designated as tax exempt under Section 501(c)(3) of the Internal Revenue Service (IRS) Code are automatically qualified as eligible public service employers. Other non-profits which are not tax exempt under Section 501(c)(3) may be eligible if they provide certain specified public services. No type of for-profit employers may be included.

Ed.'s regulations leave out an entire class of employees in public service, those who work at our 16 DOE national labs.<sup>1</sup> These labs are operated by contractors but owned by the government and are, as part of a larger class of private entities sponsored by government agencies known as Federally Funded Research and Development Centers (FFRDCs), subject to Federal Acquisition Regulation (FAR) 35.017. DOE national labs, as FFRDCs, are intended to "meet[] some long-term research or development need which cannot be met as effectively by existing in-house or contractor resources [and] enable agencies to use private sector resources to accomplish tasks that are integral to the mission and operation of the sponsoring agency."<sup>2</sup> It is important to note that for-profit businesses can be sponsors under the FAR.<sup>3</sup>

A variety of provisions in the FAR make it clear how the DOE national labs, while run by private contractors, do not operate like a typical businesses. DOE must ensure that its labs operate "in the public interest."<sup>4</sup> DOE national labs also are not allowed to "compet[e] with any non-FFRDC concern in response to a Federal agency request for proposal for any other than the

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<sup>1</sup> Argonne National Laboratory, Ames Laboratory, Brookhaven National Laboratory, Fermi National Accelerator Laboratory, Idaho National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, Princeton Plasma Physics Laboratory, Sandia National Laboratories, Savannah River National Laboratory, SLAC National Accelerator Laboratory, Thomas Jefferson National Accelerator Facility.

<sup>2</sup> FAR 35.017(a)(2)).

<sup>3</sup> FAR 35.017(a)(3).

<sup>4</sup> FAR 35.017-2(h).

operation of an FFRDC”<sup>5</sup> and receive at least 70 percent of their financial support from the federal government.<sup>6</sup>

Currently employees who work at five<sup>7</sup> of the 16 DOE national labs are categorically ineligible for the PSLFP because their contract operators, and thus their employing entities, are for-profit organizations. Three<sup>8</sup> additional labs are operated by non-profits which are not tax exempt under Section 501(c)(3) of the IRS Code, so their employees are only eligible if Ed. determines these labs provide one of a series of specific public services.

Ed.’s regulation barring all employees of for-profit entities from eligibility for the PSLFP should not apply to these 16 DOE national labs for many reasons. First, on its face the law creating the program only limits participation to those in “public service jobs.”<sup>9</sup> The report of the House Committee on Education and Labor on the bill that became this law further explained the program’s purpose was to encourage people to enter “public service” and to take jobs “of national need.”<sup>10</sup>

This public interest work is the required mission of our DOE national labs. Simply because some happen in a particular case to be operated by a for-profit company does not change that fact.

Moreover, for decades our DOE national labs have been tackling society’s toughest public policy challenges, from nuclear security to energy independence. By allowing staff at all such labs to be eligible for the PSLFP we can fulfill an important objective, to recruit and continue to retain scientists, engineers, computer experts, and others in similar professions willing to devote their careers to the public good.

In fact, about 36 percent of current staff at Lawrence Livermore National Laboratory and 22 percent of current staff at Sandia National Laboratories have been there at least 20 years. Growing student loan debt should not be an impediment to the next generation of our best and brightest from devoting their careers to the critical endeavors of our DOE national labs.

Second, DOE national labs also are not comparable to other private sector for-profit entities and should not be treated as such. They are governed by the FAR, and at least 70 percent of their funding must come from the federal government.

Finally, as currently implemented, Ed.’s rules treat DOE national labs differently depending on their operator. This is logically inconsistent as they all have the same basic mission, disadvantages certain labs vis a vis others, and could create problems with employees losing eligibility in the future if suddenly the operator of one of the DOE national labs currently eligible is changed to one who is ineligible.

We therefore urge Ed. to engage in a rulemaking to allow employees who work at any one of our DOE national labs to be eligible for the PSLFP, regardless of whether or not its operator is a for-profit entity or has been designated as tax exempt under Section 501(c)(3) of the IRS Code. All of these labs perform a critical public service to our nation and it is perfectly in keeping with

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<sup>5</sup> FAR 35.017-1(c)(4).

<sup>6</sup> FAR 35.001.

<sup>7</sup> Idaho National Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, Sandia National Laboratories, Savannah River National Laboratory.

<sup>8</sup> Brookhaven National Laboratory, Oak Ridge National Laboratory, Thomas Jefferson National Accelerator Facility.

<sup>9</sup> Public Law 110-84.

<sup>10</sup> House Report 110-210.

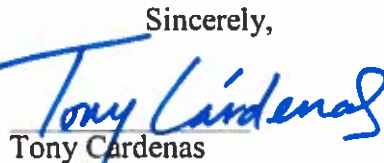
the law creating the PSLFP as well as its intent to allow the men and women who work there to have access to this loan forgiveness program.

Thank you for your time and consideration. We look forward to your response.

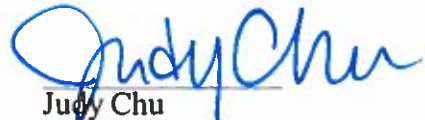
Sincerely,



Eric Swalwell  
Member of Congress



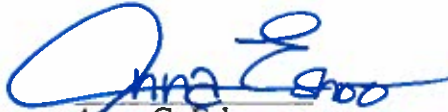
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Member of Congress



Judy Chu  
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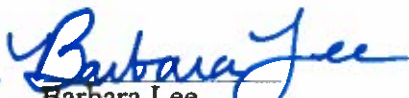
Sheila Jackson Lee  
Member of Congress



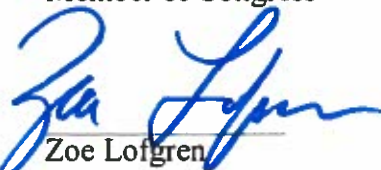
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Barbara Lee  
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