

New Hampshire Judicial Council

TO: Conflict Counsel
FROM: Executive Director Jay Buckey
SUBJECT: Public Service Loan Forgiveness Program
DATE: March 22, 2024

The Judicial Council (“JC”) has reviewed Department of Education regulations regarding the Public Service Student Loan Forgiveness Program (“PSLF”). The JC has concluded it can provide employer certification for PSLF applications for certain assigned and contract counsel who provide indigent defense services in criminal cases. See 34 CFR § 685.219.

Under New Hampshire law, when a defendant qualifies for court appointed counsel, that case must first go to the New Hampshire Public Defender (NHPD). If NHPD has a conflict, the case must then go to either contract or assigned counsel. See RSA 604-A:2. Contract and assigned counsel cannot, by design, be employed by NHPD. Accordingly, contract and assigned counsel meet the definition of an individual who “works as a contracted employee for a qualifying employer in a position or providing services which, under applicable state law, cannot be filled or provided by a direct employee of the qualifying employer.” 34 CFR § 685.219(b).

Counsel bears the responsibility of determining if they meet the relevant definitions required to apply for PSLF. Specifically, counsel must determine if they can meet the definition of a “full time” employee based on their participation in this program (generally a minimum of 30 hours per week in qualifying work). Counsel must only apply for certification if they have a good faith basis to believe that they qualify. The JC can provide counsel reports as to how many cases they have accepted to assist in making this determination.

For reference, the JC generally considers any attorney who completes 360 units of legal work per year (as defined on the Unit Schedule published on the JC website) to have been employed full-time during that period for purposes of PSLF. There may be other situations in which an attorney could also demonstrate that they have been engaged in qualifying work full-time. These situations will be examined on a case-by-case basis.

Questions about JC certifications should be directed to jay.m.buckey@jc.nh.gov. Attorneys can apply for certification by using the PSLF Help Tool at <https://studentaid.gov/pslf/>. This allows borrowers to electronically file and request e- signatures. Requests for e-signatures of certifications should be directed to Executive Director Jay Buckey, Jay.M.Buckey@jc.nh.gov.

Please note that PSLF eligibility determinations are decided by the Department of Education, and its regulations are subject to change.