February 23, 2018

The Honorable Lamar Alexander
Chair
U.S. Senate Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
U.S. Senate Committee on Health, Education, Labor & Pensions
428 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Alexander and Ranking Member Murray:

The American Bar Association (ABA), representing over 412,000 members including approximately 120,000 in law school or recently graduated, recognizes that many students cannot afford legal education without borrowing substantial amounts of money. The ABA has long played a pivotal role in developing standards for legal education, is responsible for accrediting law schools, and has supported programs that assist law school graduates to afford the cost of a legal education and also to be able to afford to enter government, military, and public service employment despite high student debt.

We thus recommend the Committee’s consideration of the following views, which are all grounded on policy positions adopted by our House of Delegates. The Policy citation is linked to the ABA Report and Resolution, which provide additional elaboration and background for our recommendations.

Financial Hardship

The ABA urges Congress to enact legislation that assists individuals who are experiencing financial hardship due to excessive levels of student loan debt but are not covered by the provisions of the student loan overhaul passed into law on March 30, 2010, by

1. Extending federal student-loan repayment terms and federal student-loan programs to individuals who borrowed from commercial lenders to fund their education in whole or in part;
2. Establishing repayment terms for federal student loans that allow individuals to qualify for income-based repayment, consolidation, and other forms of loan repayment assistance; and
3. Creating loan forgiveness programs for public service lawyers similar to the Direct Loan Public Service Loan Forgiveness Program.

[Policy 11A111A].
Economic Hardship

The ABA urges Congress, the Executive Branch, and commercial lenders to implement programs to assist law students and recent law school graduates experiencing financial hardship due to deferred or lack of employment (and consequent lack of income) during a period of economic crisis. [Policy 10M301].

Debt Counseling

Because lawyers routinely take a decade or more to pay off student debt, the ABA supports debt counseling and debt management education for law students. [Policy 15M106]. (We appreciate the inclusion of provisions in pending legislation to accomplish this objective.)

Easily Understood Loan Terms

The ABA urges all participants in the student loan business to develop and publish easily understood versions of the terms of various loan and repayment programs. [Policy 15A110].

FAFSA

The ABA urges Congress to enable and assist students and their parents and their representatives in participating in decisions affecting their right to quality education, including foster-care children who face unique needs related to entering and completing higher education. Specifically, the ABA calls for the FAFSA form to have a clear way to identify those who have been in foster care and those experiencing homelessness as independent students, lest these students face extreme barriers to access financial aid and access postsecondary education. [Policies 12A112A and 09A118A].

John R. Justice Prosecutors and Defenders Program

The ABA urges Congress to extend and increase the reauthorization for the John R. Justice Prosecutors and Defenders Program. [Policy 10M102J].

Public-Interest Employment

The ABA opposes terminating or limiting the Public Service Loan Forgiveness program (PSLF) which enables law school graduates to embark upon less remunerative public service careers. The ABA also opposes, in student loan repayment programs, greater burdens for married couples than for similarly situated couples who are cohabitating. [Policy 14A107].

We urge your support for preserving PSLF, at least until an impact analysis of the program’s operation and repeal can be conducted and an alternative strategy developed for addressing the problem for which the program was created. Prior to the creation of PSLF, public service organizations and agencies were plagued by chronically vacant positions for highly skilled professionals during times of increasing need. In some cases, these unfilled jobs positions challenged agencies’ ability to meet their legal obligations to the public.

Some argue that pursuing a graduate degree is unnecessary for employment in the American workforce. That argument ignores the range of vitally needed jobs for which a particular degree is a condition of licensure.
The primary obstacle cited for new professionals pursuing a career in public service career is student loan debt. For example, based on statistics from the ABA Section of Legal Education and the National Association of Law Placement, law school graduates in 2014 had accumulated $122,000 in student loan debt if at a private law school or $84,000 at a public school. This does not include an average of $30,000 in student debt for undergraduate studies. Yet, the average starting salaries for new prosecutors, public defenders, and legal aid attorneys ranges between $45,000 and $50,000. Unless a borrower can commit 50% or more of his or her take-home pay to student loan payments, pursuing public service careers require entering an income-driven repayment plan, which means repaying substantially more than what was borrowed over twice as many years.

PSLF offers light at the end of the tunnel for borrowers, but only after they have already served at least 10 years in public service and made tens of thousands of dollars in payment towards their debt. Because most of the “cost” of PSLF appears to come from profits not realized, PSLF is the equivalent of an interest-free loan for most, in exchange for their deep commitment to serving the American people.

PSLF’s purpose, by which its success should be measured, is to support these employers responsible for the delivery of vitally services to the American people. All anecdotal evidence we have today suggests PSLF has been working over the past 10 years, even though the factors that created the employment gap continue to persist.

Until there is meaningful data on the program’s efficacy as well as an alternative strategy for addressing the problems that PSLF is helping to solve, we believe ending PSLF is premature and would come at greater cost to the public than the projected loss of income for the federal government. Accordingly, we urge your support for the retention and study of PSLF.

We look forward to having an opportunity to discuss with you the implementation of these issues of critical importance to law students and lawyers.

Thank you for considering the concerns of law students, the legal community, and those employers and clients we serve.

Sincerely,

Thomas M. Susman