

Selendy & Gay Represents AFT and Public Servants Against the U.S. Department of Education and U.S. Secretary of Education Betsy DeVos

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Contact: info@selendygay.com

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NEW YORK – Selendy & Gay filed a suit today against U.S. Secretary of Education Betsy DeVos and the U.S. Department of Education, who oversee the administration of the Public Service Loan Forgiveness (“PSLF”) program and the Temporary Expanded Public Service Loan Forgiveness (“TEPSLF”) program.

In 2007, the Federal Government created the Public Service Loan Forgiveness program with bipartisan support, to encourage students to enter public service with a promise of relief from the crushing burden of student debt. Secretary DeVos has reneged on that promise. Instead, she has denied the overwhelming majority of public servants’ loan forgiveness applications without explanation, recourse, or notice.

The suit, filed in the United States District Court for the District of Columbia, points to the Department of Education and Secretary DeVos’ failure to create a process to administer PSLF and TEPSLF.

“The Department of Education should be the champion of our nation’s educational system,” said partner Lena Konanova who is leading the case, along with Maria Ginzburg, Caitlin Halligan, and Faith Gay. “But they have completely failed to protect this federal entitlement. Only 518 public servants have received PSLF thus far, a negligible number compared to 32 million borrowers repaying potentially PSLF-eligible loans as of 2016.”

With considerable evidence that PSLF had not been administered effectively, Congress adopted the TEPSLF program in 2018, a temporary band-aid for PSLF’s widely-recognized failures, mandating that the Department forgive qualifying loans on a first-come, first-served basis. Under Secretary DeVos’ leadership, the Department of Education has mismanaged the temporary program as well. As of March of 2019, only 3.7% of applications for TEPSLF were approved.

The suit is led by Randi Weingarten, President of the American Federation of Teachers, and includes public servants who allege that the Department of Education has been grossly negligent in administering the program on the most basic level. DeVos and the Department of Education fail to properly count the number of payments borrowers make and also contract with and oversee loan servicers who misrepresent to borrowers as to how to qualify. DeVos and the Department of Education then deny public servants their federally-promised loan forgiveness.

“Betsy DeVos and the Department of Education refuse to monitor and hold these loan servicers accountable,” said partner Maria Ginzburg. “In doing so, they are neglecting to redress the loan servicers’ egregious mistakes and misrepresentations to borrowers.”

A series of reports by government entities, including the Office of the Inspector General and the Government Accountability Office, found that the Department of Education is fully aware of the misrepresentations by servicers behind many of the denials. Yet the Department rarely, if ever, penalizes the servicers or tracks their non-compliant practices.

“With less than 1% of loans forgiven, the Public Service Loan Forgiveness Program is not providing the promised relief intended by Congress. The Department of Education is the body responsible for establishing the administrative structure of the program and addressing any miscounts and loan servicer misrepresentations, but instead, it has turned a blind eye,” said partner Faith Gay.

Selendy & Gay’s suit against the Department of Education and Betsy DeVos seeks loan forgiveness for the individual plaintiffs, as well the implementation of basic administrative features that these programs currently lack—a decision-making process that minimizes risk, a meaningful opportunity to contest details, and a written, reasoned explanation for decisions.

In October 2018, Selendy & Gay also filed a proposed class action lawsuit on behalf of members of the American Federation of Teachers in the Southern District of New York against loan servicer Navient, alleging that the company misled public service borrowers, preventing them from accessing loan forgiveness in order to boost its own profits. This week, the Court permitted the case to go forward under New York consumer protection law, and crucially ruled the plaintiffs’ claims are not preempted by federal law.

The Selendy & Gay team includes Faith Gay, Caitlin Halligan, Maria Ginzburg, Lena Konanova, Maggie Siller, Jessica Underwood, Ryan Allison, and Shelby Rokito.

A press call will be held at 11:00am ET today, Thursday, July 11, to discuss the case. [To join, RSVP here.](#) Plaintiffs Kelly Finlaw and Gloria Nolan will be joined by President Weingarten, Lena Konanova of Selendy & Gay, and National Student Legal Defense Network President Aaron Ament.

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Attorneys

- Faith Gay
- Caitlin Halligan
- Maria Ginzburg
- Lena Konanova
- Jessica E. Underwood
- Ryan W. Allison
- Shelby Rokito

Practices

- Non-Profits & Not-for-Profits
- Public Interest & Pro Bono