

## CHAPTER 28

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**EDUCATION - POSTSECONDARY**

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**SENATE BILL 23-084**

BY SENATOR(S) Marchman and Gonzales, Bridges, Cutter, Exum, Jaquez Lewis, Moreno, Winter F., Buckner, Coleman, Fields, Ginal, Hansen, Hinrichsen, Kolker, Mullica, Priola, Rodriguez, Sullivan, Zenzinger, Fenberg;  
also REPRESENTATIVE(S) Young, Amabile, Bacon, English, Froelich, Garcia, Hamrick, Kipp, Lieder, Mabrey, McLachlan, Michaelson Jenet, Ortiz, Ricks, Story, Titone, Velasco, Willford, Bird, Boesenecker, Brown, Daugherty, Jodeh, Lindsay, Lindstedt, Lukens, Martinez, Mauro, McCormick, Sharbini, Sirota, Snyder, Weissman, Woodrow.

**AN ACT**

**CONCERNING THE CALCULATION OF FULL-TIME EMPLOYMENT FOR TEACHERS AT HIGHER EDUCATION INSTITUTIONS FOR PURPOSES OF THE FEDERAL PUBLIC LOAN FORGIVENESS PROGRAM.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 23-5-140.7 as follows:

**23-5-140.7. Calculation of full-time employment of teachers for purposes of the federal public loan forgiveness program - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CERTIFYING EMPLOYMENT" MEANS EITHER COMPLETING THE EMPLOYER SECTIONS OF THE PUBLIC SERVICE LOAN FORGIVENESS FORM OR SHARING DATA DIRECTLY WITH THE UNITED STATES DEPARTMENT OF EDUCATION THAT CORRESPONDS TO THE INFORMATION REQUIRED FOR THE PUBLIC SERVICE LOAN FORGIVENESS FORM.

(b) "EMPLOYEE" MEANS SOMEONE WHO WORKS FOR AN INSTITUTION OF HIGHER EDUCATION, REGARDLESS OF WHETHER THE INSTITUTION OF HIGHER EDUCATION CONSIDERS THAT WORK TO BE FULL-TIME OR PART-TIME, CONTINGENT, OR CONTRACTED.

(c) "FULL-TIME", FOR THE PURPOSE OF CERTIFYING EMPLOYMENT, MEANS THE LOWER STANDARD OF:

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(I) WORKING AT LEAST AN AVERAGE OF THIRTY HOURS PER WEEK OR AT LEAST AN AVERAGE OF THIRTY HOURS PER WEEK THROUGHOUT A CONTRACTUAL OR EMPLOYMENT PERIOD OF AT LEAST EIGHT MONTHS IN A TWELVE-MONTH PERIOD; OR

(II) AN HOURLY STANDARD ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION.

(d) "INSTITUTION OF HIGHER EDUCATION" MEANS ANY STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN SECTION 23-4.5-102 (7) OR ANY HIGHER EDUCATION INSTITUTION THAT IS OPERATING PURSUANT TO 26 U.S.C. SEC. 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986."

(e) "PUBLIC SERVICE LOAN FORGIVENESS FORM" MEANS THE FORM USED BY THE UNITED STATES DEPARTMENT OF EDUCATION TO CERTIFY AN INDIVIDUAL'S EMPLOYMENT AT A PUBLIC SERVICE ORGANIZATION, AS DEFINED IN 34 CFR SEC. 685.219 (b), AND DETERMINE ELIGIBILITY FOR THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM.

(f) "PUBLIC SERVICE LOAN FORGIVENESS PROGRAM" MEANS THE FEDERAL LOAN FORGIVENESS PROGRAM ESTABLISHED PURSUANT TO 20 U.S.C. SEC. 1087e (m) AND ADMINISTERED PURSUANT TO 34 CFR SEC. 685.219 AS OF THE EFFECTIVE DATE OF THIS SECTION.

(2) THE FOLLOWING APPLY FOR THE PURPOSES OF CERTIFYING EMPLOYMENT FOR THE PURPOSES OF THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM ONLY AND HAVE NO OTHER APPLICABILITY FOR INSTITUTIONS OF HIGHER EDUCATION AND THEIR EMPLOYEES:

(a) FOR CURRENT OR FORMER FACULTY OR TEACHER EMPLOYEES, AN INSTITUTION OF HIGHER EDUCATION CERTIFYING EMPLOYMENT AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL CREDIT FOUR AND THIRTY-FIVE ONE-HUNDREDTHS HOURS WORKED FOR EACH HOUR OF CREDIT OR CONTACT HOURS, REGARDLESS OF WHEN THE HOURS WERE WORKED, INCLUDING HOURS WORKED ON OR AFTER OCTOBER 1, 2007. THIS SECTION DOES NOT SUPERSEDE ANY GREATER ADJUSTMENT FACTOR ESTABLISHED BY A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYER POLICY IN RECOGNITION OF ADDITIONAL WORK ASSOCIATED WITH CREDIT OR CONTACT HOURS FOR THE PURPOSE OF THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM.

(b) WHEN DETERMINING WHETHER AN EMPLOYEE IS CONSIDERED FULL-TIME FOR THE PURPOSE OF CERTIFYING EMPLOYMENT FOR THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM ONLY, AN INSTITUTION OF HIGHER EDUCATION SHALL NOT TREAT ANY ADJUSTED TOTAL HOURS WORKED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION DIFFERENTLY FROM HOURS WORKED WITHOUT AN ADJUSTMENT FACTOR.

(c) FOR THE PURPOSE OF CERTIFYING EMPLOYMENT ONLY, AN INSTITUTION OF HIGHER EDUCATION SHALL CONSIDER AN EMPLOYEE FULL-TIME WHEN THE EMPLOYEE SATISFIES THE DEFINITION OF "FULL-TIME" PROVIDED IN THIS SECTION.

(3)(a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF THE UNITED STATES DEPARTMENT OF EDUCATION PERMITS PUBLIC SERVICE

EMPLOYERS TO CERTIFY EMPLOYMENT FOR PAST OR PRESENT INDIVIDUAL EMPLOYEES OR GROUPS OF EMPLOYEES DIRECTLY WITH THE UNITED STATES DEPARTMENT OF EDUCATION OR ITS AGENTS, AN INSTITUTION OF HIGHER EDUCATION MAY SEND TO THE UNITED STATES DEPARTMENT OF EDUCATION OR ITS AGENTS THE INFORMATION NECESSARY FOR EMPLOYMENT CERTIFICATION.

(b) (I) IF AN INSTITUTION OF HIGHER EDUCATION DOES NOT DIRECTLY CERTIFY EMPLOYMENT WITH THE UNITED STATES DEPARTMENT OF EDUCATION PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE INSTITUTION OF HIGHER EDUCATION SHALL ANNUALLY PROVIDE A COPY OF THE PUBLIC SERVICE LOAN FORGIVENESS FORM WITH THE EMPLOYER INFORMATION AND EMPLOYMENT CERTIFICATION SECTIONS OF THE FORM ALREADY COMPLETED REFLECTING AT LEAST THE LAST TWELVE MONTHS OF EMPLOYMENT TO:

(A) A CURRENT OR FORMER EMPLOYEE WHO REQUESTS A PUBLIC SERVICE LOAN FORGIVENESS FORM, TO THE EXTENT THAT THE INSTITUTION HAS EMPLOYMENT RECORDS FOR THE EMPLOYEE;

(B) ANY CURRENT EMPLOYEE FOR WHOM THE INSTITUTION OF HIGHER EDUCATION HAS CERTIFIED EMPLOYMENT ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION; EXCEPT THAT THIS SUBSECTION (3)(b)(I)(B) DOES NOT TAKE EFFECT UNTIL ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION; AND

(C) AN EMPLOYEE WHO IS ENDING THE EMPLOYEE'S WORK WITH THE INSTITUTION OF HIGHER EDUCATION.

(II) THE PARTIALLY COMPLETED FORM SHOULD REFLECT EMPLOYMENT FOR THE PRIOR TWELVE MONTHS AND MAY REFLECT LONGER PERIODS OF EMPLOYMENT, AS NECESSARY.

(c) FOR PURPOSES OF CERTIFYING EMPLOYMENT ONLY, AN INSTITUTION OF HIGHER EDUCATION SHALL ADOPT A POLICY THAT MAXIMIZES THE AMOUNT OF TIME FOR WHICH AN EMPLOYEE'S EMPLOYMENT CAN BE CONSIDERED FULL-TIME FOR PURPOSES OF THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM. NOTHING IN THIS SECTION REQUIRES AN EMPLOYER OF A HIGHER EDUCATION EMPLOYEE TO INCREASE THE NUMBER OF CONTRACTED HOURS FOR WHICH AN EMPLOYEE IS PAID.

(d) FOR PURPOSES OF CERTIFYING EMPLOYMENT ONLY, AN INSTITUTION OF HIGHER EDUCATION SHALL TREAT AS A CONTINUOUS EMPLOYMENT PERIOD ANY CONSECUTIVE ACADEMIC TERMS FOR WHICH AN EMPLOYEE TEACHES, REGARDLESS OF WHETHER SUCH HOURS ARE TAUGHT PURSUANT TO SEPARATE EMPLOYMENT CONTRACTS OR WHETHER SUCH ACADEMIC TERMS ARE SEPARATED BY ROUTINE ACADEMIC VACATION, BUT ONLY TO THE EXTENT THAT DOING SO MAXIMIZES THE AMOUNT OF TIME FOR WHICH AN EMPLOYEE'S EMPLOYMENT CAN BE CONSIDERED FULL-TIME FOR PURPOSES OF THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM.

(e) NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, IF THE UNITED STATES DEPARTMENT OF EDUCATION PROMULGATES RULES RELATED TO THE CALCULATION OF HOURS WORKED FOR THE PURPOSES OF CERTIFYING EMPLOYMENT FOR THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM THAT ARE MORE FAVORABLE TO EMPLOYEES THAN THE REQUIREMENTS OF THIS SECTION, AN INSTITUTION OF

HIGHER EDUCATION SHALL APPLY THE FEDERAL RULES.

(4) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT UNREASONABLY DELAY IN CERTIFYING EMPLOYMENT UNDER THE PUBLIC LOAN FORGIVENESS PROGRAM AS PROVIDED IN THIS SECTION.

(5) NOTHING IN THIS SECTION PREVENTS AN INSTITUTION OF HIGHER EDUCATION FROM SEEKING PERMISSION FROM ITS EMPLOYEES PRIOR TO CERTIFYING THEIR EMPLOYMENT.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: March 23, 2023