Education Department's Decades-Old Debt Trap: How the Mismanagement of Income-Driven Repayment Locked Millions in Debt

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45 million Americans carry student loan debt, and over 8 million are currently enrolled in the federal government's income-driven repayment (IDR) plans—plans that base borrowers' monthly payment on their monthly income and promise cancellation of any remaining debt after 20 or 25 years.[1] The IDR plans have existed for more than 25 years.[2] Yet in all this time, of the millions of borrowers eligible for IDR, new data obtained by the National Consumer Law Center (NCLC) shows that the total number of borrowers who have ever received cancellation is **32**.[3]

No, there aren't some digits missing from that number: just 32 individuals have received the loan cancellation promised through the IDR program.

To put this number in context, a new analysis of government data reveals that approximately **two million** federal student loan borrowers have been in repayment for more than 20 years, yet still owe student loans for undergraduate debt.[4] All of these students could have had a path to enroll in IDR, including a path to debt cancellation, if their loans had been competently serviced by the federal government's contracted student loan servicers. If they were able to properly access and persist in IDR plans, millions of borrowers would now have their debt cancelled by the U.S. Department of Education (ED).

This abysmal track record demonstrates how 25 years of repayment policies have failed. Congress's intention to give federal student loan borrowers an affordable path out of debt is buried by flawed program design, failed implementation by the student loan industry, and ongoing mismanagement by ED. It shows why outright debt cancellation—not tied to IDR—must be part of the Biden Administration's student loan plan, and why the existing IDR program is not a substitute.

A Short History of Income-Driven Repayment

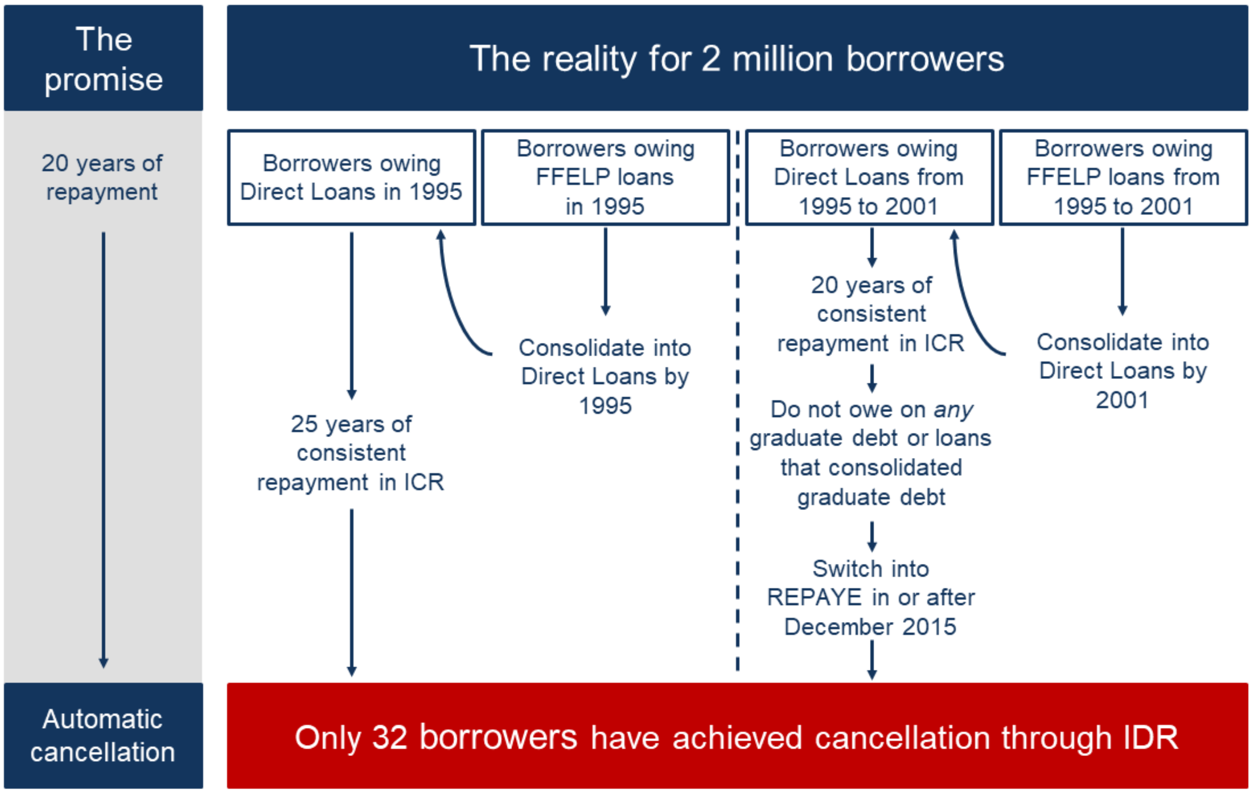
The first income-driven repayment (IDR) plan was made available to federal student loan borrowers in 1995. Titled Income-Contingent Repayment (ICR), the plan was authorized by Congress under the Higher Education Act and was later joined by several other similar but more affordable repayment plans, including Income-Based Repayment (IBR), Pay As You Earn (PAYE), and Revised Pay As You Earn (REPAYE) plans.

All of these IDR plans work in a similar way: they set the borrower's monthly payment based on a portion of the borrower's income and cancel any remaining loan balance after 20 to 25 years of payments, depending on the plan. Because many borrowers' loan balances grow while they are in IDR due to their monthly payments often being less than the interest that accrues on the loan each month, loan cancellation is a critical structural feature of IDR. Cancellation was designed to ensure that low-income borrowers are able to eventually get out from under the burden of unaffordable debt and insulate them from the harmful financial effects of this "negative amortization"—ensuring that federal student loans did not turn into the type of debt trap commonly associated with payday loans and predatory subprime mortgages.

If this structure worked as intended when first authorized more than two decades ago, low-income borrowers would routinely see their debts cancelled under IDR today. Borrowers have two paths to access IDR under current law and regulations:

- **Cancellation through ICR (25 years)**: The first IDR plan, ICR, became available to borrowers in 1995 and has a 25-year repayment period until cancellation. This is the most straightforward option—borrowers who enrolled and persisted in ICR at its inception should have benefited from debt cancellation beginning in 2020.
- **Cancellation through ICR and REPAYE (20 years)**: REPAYE became available to borrowers in December 2015 and allowed some borrowers to cancel their debt after 20 years of repayment.[5] Significantly, it allowed borrowers to include payments already made under the ICR plan as qualifying REPAYE payments.[6] As a result, REPAYE should have resulted in borrowers with old loans getting debt cancellation under the plan as early as 2016—a little more than 20 years after ICR was first made available to borrowers. Most borrowers in ICR could and should have been advised to switch into the REPAYE plan to achieve cancellation sooner, once REPAYE became available in December 2015.[7] REPAYE is superior to ICR in that it not only provides a lower monthly payment than ICR, but also has a shorter repayment period for borrowers who do not have graduate school loans. Put another way, most borrowers who entered ICR in 2000 or earlier should have received complete loan cancellation by now.

The Failure of the Department of Education's Income-Driven Repayment Plans for Student Debt Cancellation



It is also important to note that borrowers with any type of federal loan are potentially eligible for debt cancellation under either of these two paths. Beginning in 1995, borrowers with federal Direct Loans have had access to ICR. Borrowers with Federal Family Education Loan Program (FFELP) loans, which are guaranteed by the federal government but were made by banks and other private lenders. Perkins loans, which are federal loans originated by schools, have also had access to ICR since 1995, although they had to take an additional, intermediate step by refinancing these loans into a new Direct Consolidation Loan.[8]

If IDR Worked, Millions of Borrowers Would be Receiving Student Debt Cancellation

As noted, only 32 IDR borrowers have successfully cancelled their loans even though approximately *two million* borrowers have been in repayment for 20 years or longer. The shockingly low rate of cancellation of these borrowers' loans is emblematic of ED's failure to deliver the relief Congress intended when it passed the statutes enabling the creation of these IDR programs.[9]

For nearly a decade, stakeholders across the student loan system, including borrowers,[10] advocates,[11] regulators,[12] law enforcement officials,[13] economists,[14] and even leaders in the student loan industry[15] have warned about severe flaws in the design of this program's regulations, in its administration by ED's Office of Federal Student Aid, and in its implementation by the student loan industry.

Only 32 IDR borrowers have successfully cancelled their loans even though about 2 million borrowers have been in repayment for 20 years or longer.

Government Actions Reveal Widespread Industry Abuses Denying Millions the Benefit of IDR

Over the past five years there has been a series of lawsuits and regulatory actions taken against private-sector actors across the student loan system, including the federal government's largest student loan contractors. These suits demonstrate that the problems identified in these early warnings, which were largely ignored by ED, grew to fatally undermine the promise of IDR. For example:

- Federal student loan servicers have systematically stopped millions of financially distressed borrowers from accessing IDR. Public enforcement actions allege that the government's largest student loan contractors have systematically steered financially distressed borrowers away from IDR and into high-cost repayment options such as forbearance[16] that are temporary in nature and offer no long-term path to debt cancellation.[17] This has allegedly happened both to borrowers with government-owned student loans and also to borrowers with older federal loans held by private creditors.[18]
- Deceptive communications deterred borrowers from staying enrolled in IDR over the long term. A report from the Consumer Financial Protection Bureau revealed that as many as 6 in 10 borrowers fail to meet annual deadlines for recertifying their income when enrolled in IDR—a key requirement necessary to maintain an affordable payment for more than 12 months.[19] Public enforcement actions reveal one likely explanation—systematic misinformation provided by one large student loan company, Navient, about the steps necessary to retain these affordable loan payments.[20] These abuses derailed borrowers' efforts to stay in IDR over the long term and ultimately achieve debt cancellation.[21]
- Widespread servicing errors continue to derail borrowers throughout the process. Public enforcement and regulatory actions reveal a wide range of other abuses, including unlawful paperwork processing delays, inaccurate denials, lost paperwork, and insufficient information or guidance.[22]

These abuses have long- and short-term consequences for borrowers. Not only is the borrower's monthly payment unaffordable but also the months spent in short-term arrangements like forbearance do not count towards the required 20 or 25 years of eligible payments that will qualify the borrower for loan cancellation.[23] IDR solves both problems; it reduces monthly payments (as low as zero-dollar payments) and puts the borrower on a path towards cancellation.

When servicers steer borrowers into forbearance, they cheat them out of both forms of relief. For example, Jane, a borrower who uses forbearance as short-term relief, will eventually return to the same cancellation-ineligible payment plan she had before the forbearance began and likely face financial hardship again. Even if Jane eventually does end up in an IDR plan, neither the time spent in forbearance nor the time spent in the ineligible plan will count towards the 20 or 25 years of repayment necessary for cancellation. Jane will have made years or decades of unnecessary payments and will have to wait years longer before she reaches cancellation.

Servicers stop borrowers from accessing IDR in other ways, too. For example, when a borrower, Roberto, is unable to recertify his income in a timely manner, his monthly payments may snap back to an unaffordable amount, forcing Roberto to use forbearance until he is able to get back on track—and forfeiting months of progress toward debt cancellation. In addition, servicers routinely do not tell FFELP borrowers they can consolidate their loans into the Direct loan program—or even obstruct their applications—so that they can gain access to more favorable IDR plans.[24]

Recent Research Demonstrates That IDR Has Failed to Deliver Relief for Low-Income Borrowers

Amid this wave of public enforcement and regulatory action, a growing body of research has documented the failure of IDR to function as an effective tool to mitigate financial distress for vulnerable borrowers. For example, one recent study found that “[c]ounter to expectations, low-income borrowers and borrowers with high debt-to-income ratios are less likely to enroll in IDR.”[25] Another analysis observed that “[m]ore than half (54 percent) of borrowers at the lowest income level (those who report making up to $20,000 annually) report having fallen behind on their student loans without accessing IDR—even though effectively all borrowers making less than approximately $20,000 would qualify for a $0 payment through an IDR plan.”[26]

These and other studies demonstrate how millions of vulnerable borrowers have been denied IDR’s twin promises of affordable payments and a path to a debt-free future over the past two decades. If IDR programs worked as they were intended, millions of these borrowers would have been eligible to have their debts cancelled over the past five years.

IDR’s Failures Have Worsened Disparities, Especially for Borrowers of Color

The student loan crisis is worsening racial, gender, and economic disparities. Increasingly, it is burdening a large number of older borrowers.[27] Borrowers of color and women typically need to take on more debt to attend college, and due to wealth and pay disparities they have a harder time paying it back.[28] Black and brown borrowers, affected by the continuing systemic racism pervasive in America, are not only more dependent on student loans to pay for their higher education, but are more likely to be thrown into financial hardship as a result of their debt.[29]

Problems with the implementation of income-driven repayment worsen racial disparities in the student loan system. Because of decades of structural inequities and discrimination, student loans burden Black and Latinx borrowers more than other groups. For example, a recent study by the JPMorgan Institute found "significant disparities exist across racial groups in managing student debt, with Black student loan borrowers having higher student loan balances and repayment burdens and being less likely to be making progress on their loans compared to White and Hispanic borrowers."[30] Majority-Black zip codes have default rates double those in white-majority zip codes.[31] Controlling for differences in degree attainment, college GPA, and post-college income and employment does not explain why Black borrowers default at substantially higher rates.[32] The researcher noting this discrepancy thought it could be caused by student loan servicers' failure to relay information to Black borrowers.[33]

A recent analysis of the Federal Reserve's Survey of Consumer Finances offers new evidence that borrowers of color struggle to benefit from IDR, even as they access this protection at higher rates than their white peers.[34] An analysis of 2017 ED data found that even though one-third of Black borrowers with a bachelor's degree who are in repayment use IDR—more than any peer group—they will not receive the same economic benefits over the long term as white borrowers.[35] Even with IDR, Black borrowers continue to default at extraordinarily high rates—a potential result of disparities in recertification.[36]

Recommendations

As this policy brief details, America's severely broken student loan safety net has failed a generation of low-income student loan borrowers, breaking the decades-old promise that student loan payments should remain affordable and never be a lifelong burden. To address the failure of the IDR programs, ED must:

1. **Immediately review and audit the implementation of Income-Driven Repayment.**

   Widespread mismanagement and pervasive industry abuses have plagued IDR for more than two decades. These failures have likely affected millions of student loan borrowers, including both those with loans owned by ED and those with federal loans held by private creditors. To ensure that all borrowers entitled to relief under the various IDR programs are able to benefit, the Secretary of Education should undertake a comprehensive review of all borrowers' accounts, including an audit of open loan accounts for all borrowers who have potentially made progress toward or should have qualified for debt cancellation via IDR. The student loan payment pause presents an opportunity for ED to scrutinize the policies and practices that led to the failure of the IDR program to protect the most vulnerable borrowers.

   Following the review, ED must remedy the financial harm caused by the broken federal student loan system and allow borrowers who could have made progress toward cancellation to count that time within an IDR plan.[37] This holistic review and all debt cancellation delivered as a result must be complete before student loan payments resume.

2. **The needs of low-income borrowers should drive the process.**

   Income-driven repayment was promised to be the most powerful anti-poverty tool in the Education Secretary's student loan toolbox. Yet, it has fundamentally failed to serve this purpose. To ensure that any review of IDR covers the full range of breakdowns encountered by low-income borrowers, ED must get meaningful input from borrowers. Auditors should analyze borrowers' experiences and outcomes throughout the review, audit, and reform process. ED must be transparent with borrowers and the public about this review, including the data and evidence considered when identifying borrowers eligible for relief, and where gaps in information exist. This will ensure that any effort to deliver promised debt relief is done equitably and prioritizes the needs of the most vulnerable borrowers.

3. **Cancel student debt for all in debt for two decades or more, regardless of whether they previously enrolled in an IDR plan.**

   At the conclusion of this review and audit, the Secretary of Education must take immediate administrative action to cancel student debt for any borrower who has been saddled with a student loan for two decades or more. The review previously described should be used to identify these borrowers and to develop a process to deliver debt cancellation quickly and with as few administrative requirements for borrowers as possible. This debt relief should be extended regardless of a borrower's loan type or the payment plans selected over time. Instead, it should be governed by the presumption that no borrower should ever be forced to pay a student loan for more than 20 years.

   In addition, where a borrower has not been in repayment for two decades or more, ED should provide prorated credit toward debt cancellation, remedying the same underlying failures that have caused persistent financial hardship for those with older debts.

   Where ED determines that existing regulations or statutory requirements impose an insurmountable obstacle to widespread debt cancellation for these borrowers, the Secretary should invoke his emergency powers under the Higher Education Relief Opportunities for Students Act to waive or modify the statute and regulations as necessary.[38] Further, the Secretary should use his authority to "compromise, waive, or release" claims against borrowers as needed to ensure all borrowers who should benefit from debt relief are able to do so.[39] At the time of publication, Congress was poised to change the tax treatment of cancelled student debt to protect borrowers from tax liability for the next five years, including borrowers whose loans would be cancelled should this recommendation be implemented.[40]

4. **Fix Income-Driven Repayment plans.**

   Executive actions to implement debt cancellation as described in the preceding recommendation will leave the student loan portfolio significantly smaller. As a result, overhauling the income-driven repayment scheme becomes much more feasible.

   President Biden needs to follow through on his promise to create a truly affordable IDR plan[41] that will actually provide borrowers with a functioning pathway to tax-free cancellation. It should include vital safeguards to protect borrowers from future servicing errors and abuses. In any effort to overhaul IDR, the administration must prioritize action to eliminate the accrual and capitalization of unpaid interest charges and reduce or eliminate paperwork burdens and other administrative barriers to enrollment and persistence.

All of these steps are necessary, but are not a substitute for broad cancellation of a fixed amount of student loan debt for all borrowers, not tied to the failure of the IDR programs. President Biden has asked the Justice Department to advise him about whether the federal government can use executive authority to cancel a substantial amount of student debt for all borrowers.[42] Broad cancellation would accomplish, with the stroke of a pen, what decades of student loan policies have failed to accomplish. In doing so, the President would create a smaller, more nimble student loan system–one that can finally be run effectively, free from the mismanagement and abuse that have blocked millions of borrowers from accessing IDR and the many other benefits and protections guaranteed by the Higher Education Act.

But even if a fixed amount of student loan debt is cancelled, the problems in IDR still need to be resolved. Borrowers will need a functioning IDR program in order to repay whatever balances remain after loan cancellation. And, as long as the higher education system is funded by debt, a functioning IDR program will be essential for new borrowers.

Conclusion

More than 20 years after IDR cancellation became a theoretical possibility under law, only 32 borrowers have qualified for cancellation while millions of borrowers have been in repayment. This should be a wake-up call to those who contend that income-driven repayment plans are the answer to the crisis of unaffordable student loans.

The student loan system is broken. ED must act now to reverse course and deliver on the promise made by Congress when it created income-driven repayment, that no federal student loan would be a life sentence of debt. The only way to fix the harm that borrowers have suffered is to ensure that all borrowers who have been in repayment for longer than 20 years receive the discharge they are entitled to and to put borrowers who should have made progress under an IDR plan back on the path to forgiveness.

Endnotes

[1] As described, there are a wide range of barriers that stop borrowers from staying in their IDR plan **and** that undermine the financial benefits of this protection for the most vulnerable student loan borrowers.

[2] P.L. 102-325. (Establishing Income-Contingent Repayment for borrowers with Direct Loans).

[3] Interim Response to Nat'l Consumer L. Ctr. Freedom of Information Act request to U.S. Dep't of Education, 20-02573-F (Jan. 6, 2021). Data also shows that no borrowers in the Income-Contingent Repayment plan ("ICR") have reached 25 years and are thus eligible for cancellation under the ICR program.

[4] The authors estimate that approximately 2 million borrowers owe federal student loans used to finance undergraduate debt that are 20 years old or older – loans that are potentially eligible for immediate debt cancellation had borrowers been able to invoke their rights under the law. On February 27, 2021, the Department of Education sent a letter to the Treasury Department identifying the volume of outstanding student loans segmented for the first time by the age of outstanding loans in each loan program. In this letter, the Education Department identifies 2.6 million cumulative borrowers who owe loans that are 20 years old or older. See U.S. Department of Education, *Letter from Acting Secretary Phillip Rosenfeldt to Matthew Miller, Acting Commissioner for the Bureau of the Fiscal Service, U.S. Department of the Treasury* (2021). A separate analysis of *College Scorecard* data performed by the National Consumer Law Center reveals that approximately 600,000 borrowers owe a mix of undergraduate and graduate loans that are 20 years old or older. Recognizing that borrowers with both types of loans are only eligible for debt cancellation under income-driven repayment after 25 years, the authors excluded these loans from our estimate of the volume of borrowers with outstanding undergraduate-only loans that are 20 years old or older.

[5] REPAYE has different repayment period requirements for borrowers who did not borrow loans to attend graduate school (20 years of repayment until cancellation) from those who did borrow loans to attend graduate school (25 years of repayment until cancellation).

[6] 34 C.F.R. § 685.209(c) (5)(iv)(B). *See* Kendra Cobb, *Switch Now, Pay Less: How Borrowers in ICR Can Reach Student Loan Forgiveness Sooner*, Nat'l Consumer Law Center (Aug. 1, 2019).

[7] Borrowers with a Direct Consolidation Loan that repaid a Parent PLUS loan are the exception, as they are eligible to repay under ICR but not under REPAYE. Compare 34 C.F.R. §§ 685.208(a)(1)(i)(D), (a)(2)(iv)(D) (ICR) with 34 C.F.R. § 685.209(c)(1)(ii)(REPAYE).

[8] U.S. Dep't of Educ., Federal Student Aid*, Federal Student Aid Handbook 1998-1999*, §11.3 (Direct Consolidation Loan).

[9] See, e.g., 153 Cong. Rec. S9536 (daily ed. July 19, 2007).

[10] Consumer Fin. Prot. Bureau, *Request for Information: Student Loan Servicing* (May 21, 2015).

[11] Deanne Loonin and Jillian McLaughlin, *The Student Loan Default Trap: Why Borrowers Default and What Can Be Done,* Nat'l Consumer Law Center (July 2012).

[12] Rohit Chopra, *Prepared Remarks Before the Federal Reserve Bank of St. Louis*, Consumer Fin. Prot. Bureau (Nov. 18, 2013).

[13] *The Role of States in Higher Education, Hearing of the Sen. Comm. on Health, Education, Labor, and Pensions*, 113th Cong., (July 24, 2014) (Testimony of Illinois Attorney General Lisa Madigan).

Endnotes (cont.)

[14] Susan Dynarski, *An Economist's Perspective on Student Loans in the United States*, Economic Studies at Brookings (Sept. 2014).

[15] Navient, *Response to Consumer Financial Protection Bureau's Request for Information Regarding Student Loan Servicing*, CFPB-2015-0021-0355 (July 13, 2015).

[16] Forbearance involves a loan holder agreeing to a temporary stoppage of payments, an extension of time for making payments, or acceptance of smaller payments. During the forbearance, interest continues to accrue and is capitalized at the end of the forbearance period. Consequently, the size of the outstanding obligation may increase due to a forbearance. See Nat'l Consumer Law Ctr., Student Loan Law, Ch. 4 (6th ed. 2019), *updated at* www.nclc.org/library.

[17] *New York v. Pa. Higher Educ. Assistance Agency,* No. 1:19-cv-09155 (S.D.N.Y. Oct. 3, 2019); Consumer Fin. Prot. Bureau v. Navient Corp., No. 17-cv-00101, 2017 U.S. Dist. LEXIS 123825 (M.D. Pa. Aug. 4, 2017).

[18] *Vullo v. Conduent Educ. Serv., LLC*, Consent Order (N.Y. Dep't of Fin. Serv. Jan. 4, 2019), (alleging that ACS obstructed borrowers' access to federal loan programs; claiming in part, that ACS failed to provide borrowers who sought to consolidate their loans the necessary account information, preventing some from doing so for more than three years); *Consumer Fin. Prot. Bureau v. Navient Corp*., No. 17-cv-00101, 2017 U.S. Dist. LEXIS 123825 (M.D. Pa. Aug. 4, 2017).

[19] Consumer Fin. Prot. Bureau, *Student Loan Servicing: Analysis of Public Input and Recommendations for Reform* (Sept. 2015).

[20] *Consumer Fin. Prot. Bureau v. Navient Corp.,* No. 17-cv-00101, 2017 U.S. Dist. LEXIS 123825 (M.D. Pa. Aug. 4, 2017); Complaint*, Pa. v. Navient Corp.,* No. 3:17-cv-1814-RDM (M.D. Pa. June 19, 2019); Complaint, *Cal. v. Navient Corp.,* No. CGC-18- 19 567732 (Cal. Oct. 16, 2018); Complaint, *Ill. v. Navient Corp.*, No. 2017-CH-00761 (Ill. July 10, 2018); Complaint, *Miss. v. Navient Corp.*, No. G2108-98203 (Miss. July 24, 2018); Complaint, Wash. v. Navient Corp., No. 17-2- 01115-1 SEA (Wash. Jan. 18, 2017).

[21] *Consumer Fin. Prot. Bureau v. Navient Corp.,* No. 17-cv-00101, 2017 U.S. Dist. LEXIS 123825 (M.D. Pa. Aug. 4, 2017); Complaint, *Pa. v. Navient Corp.*, No. 3:17-cv-1814-RDM (M.D. Pa. June 19, 2019); Complaint, *Cal. v. Navient Corp.*, No. CGC-18- 19 567732 (Cal. Oct. 16, 2018); Complaint*, Ill. v. Navient Corp.,* No. 2017-CH-00761 (Ill. July 10, 2018); Complaint, *Miss. v. Navient Corp*., No. G2108-98203 (Miss. July 24, 2018); Complaint, *Wash. v. Navient Corp.*, No. 17-2- 01115-1 SEA (Wash. Jan. 18, 2017).

[22] Consumer Fin. Prot. Bureau, *CFPB Monthly Snapshot Spotlights Student Loan Complaints*, (Apr. 25, 2017); *see also* Consumer Fin. Prot. Bureau, *Consumer Fin. Prot. Bureau Finds Consumers Complain of Needless Hurdles in Applying for Lower Student Loan Payments* (Aug. 18, 2016); *Vullo v. Conduent Educ. Serv., LLC*, Consent Order (N.Y. Dep't of Fin. Serv. Jan. 4, 2019).

[23] See, e.g. 20 USC 1098e.

[24] See, e.g. *Vullo v. Conduent Educ. Serv., LLC*, Consent Order (N.Y. Dep't of Fin. Serv. Jan. 4, 2019) (alleging in part, that ACS failed to provide borrowers who sought to consolidate their loans the necessary account information, preventing some from doing so for more than three years); Complaint, *Hyland v. Navient Corp.*, No. 18-cv-09031 (S.D.N.Y. Jan. 16. 2019).

Endnotes (cont.)

[25]Daniel Collier et al, *Exploring the Relationship of Enrollment in IDR to Borrower Demographics and Financial Outcomes* (Dec. 30, 2020); *see also* Seth Frotman and Christa Gibbs, *Too many student loan borrowers struggling, not enough benefiting from affordable repayment options*, Consumer Fin. Prot. Bureau (Aug. 16, 2017).

[26] Ben Kaufman, *New Data Show Borrowers of Color and Low-Income Borrowers are Missing Out on Key Protections, Raising Significant Fair Lending Concerns*, Student Borrower Protection Center (Nov. 2, 2020).

[27] Consumer Fin. Prot. Bureau, *CFPB Snapshot of older consumers and student loan debt* (Jan. 2017); *see also* U.S. Gov't Accountability Office, *Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief,* GAO-17-45: (Pub. Dec 19, 2016).

[28] Center for Responsible Lending, UnidosUS, the National Association for the Advancement of Colored People, the National Urban League, and the Leadership Conference Education Fund. *Quicksand: Borrowers of Color and the Student Debt Crisis* (Sept. 2019).

[29] Andre M. Perry and Carl Romer, *Student Debt Cancellation Should Consider Wealth, Not Income*, Brookings Institution (Feb. 25, 2021); Raphaël Charron-Chénier and Louise Seamster, *Some notes on the impact of student debt forgiveness across income groups*, Scatterplot (Dec. 17, 2020).

[30] *Policy Brief Student Loan Debt: Addressing Disparities in Who Bears the Burden*, JP Morgan Chase & Co. Institute (Oct. 2020).

[31] Kat Welbeck, *Communities of Color in Crisis: Examining Racial Disparities in Student Loan Debt and Borrower Outcomes,* Student Borrower Protection Center (Jan. 8, 2020).

[32] Judith Scott-Clayton, *What accounts for gaps in student loan default, and what happens after*, Brookings Institute (June 21, 2018).

[33] *Id.*

[34] Ben Kaufman, *New Data Show Borrowers of Color and Low-Income Borrowers are Missing Out on Key Protections, Raising Significant Fair Lending Concerns*, Student Borrower Protection Center (Nov. 2, 2020).

[35] Ben Miller, *The Continued Student Loan Crisis for Black Borrowers*, American Progress (Dec. 2, 2019).

[36] Welbeck *supra* note 31.

[37] See Persis Yu, *Repayment for Borrowers in Income-Driven Repayment*, Nat'l Consumer Law Ctr., Student Borrower Protection Ctr. (Nov. 2020) (describing legal authority to include payments already made as qualifying payments under the IDR statutes).

[38] P.L. 108-76; 20 U.S.C. § 1098bb.

[39] 20 U.S.C. § 1082(a)(6).

[40] On March 6, 2021, the U.S. Senate passed a bill to protect borrowers from tax liability for student debt cancelled between 1/1/2020 and 1/1/2026. The House is expected to concur and the President is expected to sign this bill.

[41] For further discussion of one approach to fixing IDR moving forward, see Julia Barnard et al. *Road to Relief: Supporting Federal Student Loan Borrowers During the COVID-19 Crisis and Beyond*, Nat'l Consumer Law Ctr. and Ctr. For Responsible Lending (Nov. 2020).

[42] *Biden will ask DOJ to review his authority to cancel student loan debt – White House*, Reuters (Feb. 17, 2021).