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July 1, 2019

SENT VIA EMAIL

U.S. Department of Education  
Office of Management  
Regulatory Information Management Services  
400 Maryland Avenue, SW, LBJ 2W220  
Washington, DC 20202-4536  
EDFOIAManager@ed.gov

**Re: Freedom of Information Act Request**

Dear Chief Information Officer:

On behalf of the National Consumer Law Center (NCLC), pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, I hereby make the following request.

On July 1, 1994, 25 years ago to this date, borrowers in the Direct Loan program became eligible to enroll in the Income Contingent Repayment (ICR) plan. The ICR plan provides forgiveness to borrowers who have an outstanding balance after 25 years of repayment. Therefore, the first cohort of borrowers who entered ICR in 1994 and remained in an income-driven repayment (IDR) plan should be eligible for forgiveness starting this month. We are aware that a small number of borrowers who entered ICR early on have already become eligible for forgiveness because they switched to the Revised Pay As You Earn (REPAYE) plan, which provides forgiveness after 20 years of repayment to borrowers who are paying only undergraduate loans.

We seek information to determine how many people will be eligible for forgiveness based upon their early and continuous enrollment in the ICR plan or enrollment in ICR followed by a switch to another IDR plan like Income Base Repayment (IBR) or REPAYE. We also seek information about how many borrowers would potentially be eligible for forgiveness but for common

challenges borrowers face in repayment, including missed, delayed, or nonqualifying payments due to recertification delays, forbearances, certain deferments, and missed payments.

Specifically, we request all records, including reports, memoranda, forms, and other documents dating back to July 1, 1994, that discuss, analyze, itemize, address, or pertain to:

#### Part A: Borrowers Expected to Receive IDR Forgiveness

- 1) Number of borrowers paying in the ICR plan who have made 300 “qualifying” payments as defined in 34 CFR §§ 685.209 and 685.221 as of July 1, 2019, broken down by servicer, state, race, and gender.
- 2) Data on loans where borrowers have made 300 “qualifying” payments in ICR as of July 1, 2019, including the number of loans, total balance (with principal and interest itemized), total original balance, and the total amount collected, broken down by servicer, state, race, and gender.
- 3) Number of borrowers paying in any IDR plan who have made 300 “qualifying” payments as of July 1, 2019, broken down by servicer, IDR plan, state, race, and gender.
- 4) Data on loans where borrowers have made 300 “qualifying” payments in any IDR as of July 1, 2019, including the number of loans, total balance (with principal and interest itemized), total original balance, and the total amount collected, broken down by servicer, IDR plan, state, race, and gender.
- 5) The number of borrowers as of the date that this request is fulfilled who have received forgiveness under any IDR plan, broken down by month and year of forgiveness, servicer, IDR plan, whether the borrower had any graduate loans forgiven, state, race, and gender.
- 6) Data on loans where borrowers as of the date that this request is fulfilled who have received forgiveness under any IDR plan, including the number of loans, total balance (with principal and interest itemized), total original balance, and the total amount collected, broken down by month and year of forgiveness, servicer, IDR plan, whether the borrower had any graduate loans forgiven, state, race, and gender.
- 7) Number of borrowers paying in any IDR plan who are expected to have their loans forgiven in 2019, broken down by month, servicer, IDR plan, whether the borrower has graduate loans, state, race, and gender.
- 8) Data on loans where borrowers paying in any IDR plan who are expected to have their loans forgiven in 2019, including the number of loans, total balance (with principal and interest itemized), total original balance, and the total amount collected, broken down by servicer, IDR plan, whether the borrower has graduate loans, state, race, and gender.
- 9) Number of “qualifying” payments made by any borrower who was ever enrolled in an IDR plan broken down by IDR plan, whether the borrower has graduate loans, servicer, state, race, and gender.
- 10) As of the date that this request is fulfilled, the number of borrowers sent notices by the U.S. Department of Education or its servicers explaining “that the borrower is approaching the date that he or she is expected to meet the requirements to receive

loan forgiveness” as required by 34 CFR §§ 685.209 and 685.221, broken down by month and year sent, IDR plan, servicer, state, race, and gender.

- 11) Written notices sent by the U.S. Department of Education or its servicers indicating either “that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness” or “that the borrower's obligation on the loans is satisfied” as required by 34 CFR §§ 685.209 and 685.221.
- 12) Processes in place, including but not limited to instructions to servicers, to ensure that the Secretary is able to determine when a borrower has met the loan forgiveness requirements as required by 34 CFR §§ 685.209 and 685.221.
- 13) Any projections (including but not limited to those done by the U.S. Department of Education, any of its servicers or other contractors, or other agencies) of the number of borrowers expected to receive forgiveness through IDR, in total and broken down by year in which forgiveness is projected to occur, servicer, IDR plan, state, race, and gender.
- 14) Any projections (including but not limited to those done by the U.S. Department of Education, any of its servicers or other contractors, or other agencies) of the total dollar amount (with principal and interest itemized) of loans expected to receive forgiveness through IDR, in total and broken down by year in which forgiveness is projected to occur, servicer, IDR plan, state, race, and gender.

#### Part B: IDR Enrollment Data

- 1) Number of borrowers enrolling for the first time in any IDR plan broken down by servicer, IDR plan, month and year of enrollment, state, race, and gender.
- 2) Number of borrowers who enrolled in any IDR plan and remained in any IDR plan continuously until the loan was repaid, forgiven, or to the present, broken down by servicer, IDR plan, present status, month and year of initial enrollment, state, race, and gender.
- 3) Number of borrowers who switched from one IDR plan to another IDR plan, broken down by servicer, original IDR plan, new IDR plan, month and year of IDR switch, state, race, and gender.
- 4) Number of borrowers who exited an IDR plan and switched into a non-IDR plan, broken down by servicer, IDR plan, month and year of plan switch, state, race, and gender.

#### Part C: On-Time Recertification

- 1) Number of borrowers who recertify their IDR plan on-time, broken down by servicer, IDR plan, year, state, race, and gender.
- 2) Number of borrowers who recertify their IDR plan after the hard deadline, broken down by length of delay in recertifying, servicer, IDR plan, year, state, race, and gender.
- 3) Number of borrowers who have recertified their IDR plan late multiple times, broken down by the number of times the borrower has recertified late, servicer, IDR plan, year, state, race, and gender.

- 4) Number of borrowers who fail to recertified their IDR plan, broken down by servicer, IDR plan, year, state, race, and gender.

#### Part D: Delinquency and Default

- 1) Number of borrowers who were enrolled in an IDR plan when they defaulted, broken down by servicer, plan, month and year of default, state, race, and gender.
- 2) Number of borrowers who failed to recertify their IDR plan and defaulted within 12 months after failing to recertify, broken down by servicer, plan, year of default, state, race, and gender.
- 3) Delinquency status of borrowers currently enrolled in an IDR plan, broken down by plan, servicer, state, race, and gender.

#### Part E: Forbearances and Deferments

- 1) Number of borrowers enrolled in an IDR plan who were placed in a forbearance or deferment, broken down by IDR plan, year, servicer, type of forbearance or deferment, duration of forbearance or deferment, state, race, and gender.

#### Part F: Paid Loans

- 1) Number of borrowers who were enrolled in an IDR plan and paid their loans in full, broken down by IDR plan, whether the borrower has graduate loans, year, servicer, state, race, and gender.
- 2) Data on loans where borrowers were enrolled in an IDR plan and paid their loans in full, including the number of loans, total balance (with principal and interest itemized), total original balance, and the total amount collected, broken down by IDR plan, whether the borrower has graduate loans, servicer, state, race, and gender.
- 3) Number of borrowers who were enrolled in an IDR plan and had their loans forgiven through a cancellation program (including but not limited to Total and Permanent Disability, Death, closed school, borrower defense, false certification, Public Service Loan Forgiveness), broken down by IDR plan, whether the borrower has graduate loans, year, servicer, forgiveness program, state, race, and gender.
- 4) Data on loans where borrowers who were enrolled in an IDR plan and had their loans forgiven through a cancellation program, including the number of loans, total balance (with principal and interest itemized), total original balance, and the total amount collected, broken down by IDR plan, whether the borrower has graduate loans, servicer, forgiveness program, state, race, and gender.
- 5) Number of borrowers who were enrolled in an IDR plan when they consolidated the loan that was in IDR, broken down by IDR plan, whether the borrower has graduate loans, year, and servicer, state, race, and gender.

If producing all of the requested records simultaneously delays release of the information, we respectfully request that the records be released as they become available. In your response to

this request, please specify whether: (1) you are providing all records responsive to the request; (2) no records exist that are responsive to the request; or (3) records exist that are responsive to the request, but you are claiming that some or all of those documents are exempt from disclosure.

If it is your position that some of the requested documents or some portion of any of the requested documents are exempt from disclosure, please provide the nonexempt portions of those records. In addition, if it is your position that records exist that are responsive to this request, but that those records (or portions of those records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each document being withheld. Also, please identify the person making the decision to deny the request.

The National Consumer Law Center requests that all fees in connection with this FOIA request be waived in accordance with 5 U.S.C. § 552(a)(4)(A)(iii), because it does not seek the records for a commercial purpose and disclosure of the contract is in the public interest as it is likely to contribute significantly to public understanding of the operations and activities of the government.

The records sought by NCLC are not publicly available. NCLC intends to make any records released in response to this request available to the public free of charge. Public availability of the requested records is of critical importance to the public's ability to understand and participate in an ongoing debate about simplifying income-driven repayment, servicing, and servicer accountability.

A waiver of search and review fees is also warranted because NCLC qualifies as "representative[s] of the news media" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii). NCLC is a representative of the news media in that it is an organization actively gathering news for an entity that is organized and operated to publish or broadcast news to the public, where "news" is defined as "information that is about current events or that would be of current interest to the public." 5 U.S.C. § 552(a)(4)(A)(ii)(III).

NCLC operates a regular blog with original editorial content reporting on and analyzing student loan issues. See <http://www.studentloanborrowerassistance.org/resources/blog/>. NCLC also regularly publishes reports, books, and newsletters on consumer issues. At the core of its mission, NCLC uses its materials and trainings to inform advocates, organizations, and policy makers about pressing issues affecting consumers. This includes informing borrowers, advocates, organizations, and policy makers of their rights under federal and state law.

NCLC is a nonprofit corporation founded in 1969 that assists consumers, advocates, and public policy makers nationwide who use the powerful and complex tools of consumer law to ensure justice and fair treatment for all, particularly those whose poverty renders them powerless to demand accountability. We have limited funds and every expense that we pay limits our ability to fulfill our mission of protecting low-income consumers. Accordingly, we request that you waive all fees related to this request. If, however, a waiver is not granted, then please notify us of the amount of any proposed charges before those activities are carried out.

We will expect a response within 20 working days as provided by law. If you have any questions or would need more information, please feel free to contact me at (617) 542-8010.

Thank you for your consideration of this request.

Sincerely,

/s/ Persis Yu

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