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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

U.S. Department of Education
Office of Management
FOIA Service Center
400 Maryland Ave, SW, Room 2W220
Washington, DC 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the implementing regulations promulgated thereunder for the U.S. Department of Education (“ED”), 34 C.F.R. Part 5, the Student Borrower Protection Center (“SBPC”) and the American Federation of Teachers (“AFT”) make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Request under the Freedom of Information Act

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance, communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF.



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In this response, please include all responsive documents related to written or oral communication with borrowers who:

1. Explicitly express intent to pursue in Public Service Loan Forgiveness; or
2. Inquire generally about benefits, protections, and/or loan forgiveness available to borrowers working in public service fields, including but not limited to benefits for teaching, providing healthcare, or serving in the military, but who do not request information about the "Public Service Loan Forgiveness Program" explicitly.

When responding, please produce all relevant documents generated between 2007 and 2018, identifying which documents are currently in effect.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records. In addition, the Department has a duty to construe a FOIA request liberally.

Please note that in conducting a "reasonable search" as required by law you must use the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology advances may render ED's prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their



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own searches in order to make sure that documents are appropriately collected.

FOIA presumes disclosure. Indeed, “[a]gencies bear the burden of justifying withholding of any records, as FOIA favors a ‘strong presumption in favor of disclosure.’” *AP v. FBI*, 256 F. Supp. 3d 82, 2017 U.S. Dist. LEXIS 161516 at *10 (D.D.C. Sept. 30, 2017) (quoting *Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991)). Under the FOIA Improvement Act of 2016, an agency is permitted to withhold materials only in one of two limited circumstances, i.e., if disclosure would “harm an interest protected by an exemption” or is otherwise “prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i). If the Department takes the position that any portion of any requested record is exempt from disclosure, SBPC requests that you “demonstrate the validity of [each] exemption that [the Department] asserts.” *People for the American Way v. U.S. Department of Education*, 516 F. Supp. 2d 28, 34 (D.D.C. 2007). To satisfy this burden, you may provide SBPC with a Vaughn Index “which must adequately describe each withheld document, state which exemption the agency claims for each withheld document, and explain the exemption’s relevance.” *Id.* (citing *Johnson v. Exec. Office for U.S. Att’ys*, 310 F.3d 771, 774 (D.C. Cir. 2002)). See also *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). That index must provide, for each document withheld and each justification asserted, a relatively detailed justification – specifically identifying the reasons why the exemption is relevant. See generally *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

To ensure that this request is properly construed and does not create any unnecessary burden on the Department, SBPC welcomes the opportunity to discuss this request at your earliest convenience, consistent with and without waiving the legal requirements for the timeframe for your response.

Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.

Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.



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Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.
2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
3. The disclosure will contribute to a greater understanding on the part of the public at large. SBPC and AFT seek this information to aid the public discourse surrounding issues of student loan servicing and PSLF. SBPC and AFT have the capacity to analyze documents provided and to disseminate its analysis to the public through their websites and other sources.
4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy to protect student loan borrowers’ rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums. SBPC makes its reports available to the public, without cost, on its website (e.g., www.protectborrowers.org).

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political activism, and especially through the work our members do. Accordingly, SBPC and AFT qualify for a fee waiver.

* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

New Jersey Higher Education Student Assistance Authority
P.O. Box 545
Trenton, NJ 08625-0545

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Because many of these FFEL lenders and servicers are quasi-government agencies, state open records or "sunshine" laws enable SBPC and AFT to request documents that expose how federal guidance was implemented, or, in the absence of federal guidance, how industry chose to implement practices related to PSLF.

Request under the New Jersey Open Public Records Act

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

1. Explicitly express intent to pursue in Public Service Loan Forgiveness; or
2. Inquire generally about benefits, protections, and/or loan forgiveness available to borrowers working in public service fields, including but not limited to benefits for teaching, providing healthcare, or serving in the military, but who do not request information about the "Public Service Loan Forgiveness Program" explicitly.

When responding, please produce all relevant documents generated between 2007 and 2018, identifying which documents are currently in effect.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

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Request for Waiver of Fees

In order to help to determine the status to assess fees, note that this request is made in affiliation with a public interest group and this request is not for commercial use. The



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maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

SBPC and AFT request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy to protect student loan borrowers' rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums. SBPC makes its reports available to the public, without cost, on its website (www.protectborrowers.org).

AFT is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

Accordingly, SBPC and AFT qualify for a fee waiver.

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

New Hampshire Higher Education Assistance Foundation
4 Barrell Court
Concord, NH 03301

Re: Public Records Request

Dear Right to Know Custodian:

Pursuant to the New Hampshire Right to Know Law R.S.A. Ch. 91-A et seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Because many of these FFEL lenders and servicers are quasi-government agencies, state open records or "sunshine" laws enable SBPC and AFT to request documents that expose how federal guidance was implemented, or, in the absence of federal guidance, how industry chose to implement practices related to PSLF.

Request under the New Hampshire Right to Know Law

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

1. Explicitly express intent to pursue in Public Service Loan Forgiveness; or
2. Inquire generally about benefits, protections, and/or loan forgiveness available to borrowers working in public service fields, including but not limited to benefits for teaching, providing healthcare, or serving in the military, but who do not request information about the "Public Service Loan Forgiveness Program" explicitly.

When responding, please produce all relevant documents generated between 2007 and 2018, identifying which documents are currently in effect.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

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Request for Waiver of Fees

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maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

SBPC and AFT request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Utah Higher Education Assistance Authority
P. O. Box 145110
Salt Lake City, UT 84114-5110

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to the Utah Government Records Access and Management Act, §63-2-101 et seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Because many of these FFEL lenders and servicers are quasi-government agencies, state open records or "sunshine" laws enable SBPC and AFT to request documents that expose how federal guidance was implemented, or, in the absence of federal guidance, how industry chose to implement practices related to PSLF.

Request under the Utah Government Records Access and Management Act

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

1. Explicitly express intent to pursue in Public Service Loan Forgiveness; or
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Request for Waiver of Fees

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Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Iowa College Student Aid Commission
Office of the Chief Information Officer
1305 E Walnut
Des Moines, IA 50319

Dear Open Records Custodian:

Pursuant to the Iowa Open Records Law § 22.1 et seq., the Student Borrower Protection Center (“SBPC”) and the American Federation of Teachers (“AFT”) make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

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Request under the Iowa Open Records Law

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

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maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

SBPC and AFT request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

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Accordingly, SBPC and AFT qualify for a fee waiver.

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Kentucky Higher Education Assistance Authority
Attn: Mr. Miles F. Justice, Esq.
mjustice@kheaa.com
P.O. Box 798
Frankfort, KY 40602-0798

Re: Open Records Request

Dear Open Records Custodian:

Pursuant to Kentucky's Open Records Act, Kentucky Revised Statutes 61.870, et. seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Because many of these FFEL lenders and servicers are quasi-government agencies, state open records or "sunshine" laws enable SBPC and AFT to request documents that expose how federal guidance was implemented, or, in the absence of federal guidance, how industry chose to implement practices related to PSLF.

Request under the Kentucky Open Records Act

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

1. Explicitly express intent to pursue in Public Service Loan Forgiveness; or
2. Inquire generally about benefits, protections, and/or loan forgiveness available to borrowers working in public service fields, including but not limited to benefits for teaching, providing healthcare, or serving in the military, but who do not request information about the "Public Service Loan Forgiveness Program" explicitly.

When responding, please produce all relevant documents generated between 2007 and 2018, identifying which documents are currently in effect.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

Request for Waiver of Fees

In order to help to determine the status to assess fees, note that this request is made in affiliation with a public interest group and this request is not for commercial use. The



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Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
Harrisburg, PA 17102-1444

Re: Public Records Request

Dear Right to Know Official:

Pursuant to the Pennsylvania Right-to-Know Act, Act 3 of 2008 (65 P.S. §67.101 et seq.), the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Because many of these FFEL lenders and servicers are quasi-government agencies, state open records or "sunshine" laws enable SBPC and AFT to request documents that expose how federal guidance was implemented, or, in the absence of federal guidance, how industry chose to implement practices related to PSLF.

Request under the Pennsylvania Right-to-Know Act

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

1. Explicitly express intent to pursue in Public Service Loan Forgiveness; or
2. Inquire generally about benefits, protections, and/or loan forgiveness available to borrowers working in public service fields, including but not limited to benefits for teaching, providing healthcare, or serving in the military, but who do not request information about the "Public Service Loan Forgiveness Program" explicitly.

When responding, please produce all relevant documents generated between 2007 and 2018, identifying which documents are currently in effect.

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Request for Waiver of Fees

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Seth Frotman
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Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Missouri Higher Education Loan Authority (MOHELA)
633 Spirit Drive
Chesterfield, MO 63005-1243

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri, the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Millions of borrowers working in public service owe old bank-based federal student loans made under the Federal Family Education Loan Program, known as FFELP loans, and must consolidate these loans into Direct Loans to be eligible for the Public Service Loan Forgiveness (PSLF) program. However, the compensation structure of the FFEL program provides FFEL lenders and servicers with a strong economic disincentive with regard to borrowers exercising their right to consolidate—once a borrower is advised of her right to consolidate to pursue PSLF and takes this action, the FFEL lender will lose future interest income from the borrower and the FFEL servicer will lose the borrower as a customer. It is critical to make publicly available the guidance and protocol that the Department of Education (ED) requires of FFEL servicers when borrowers reach out about benefits and protections related to public service employment, such as PSLF.

Because many of these FFEL lenders and servicers are quasi-government agencies, state open records or "sunshine" laws enable SBPC and AFT to request documents that expose how federal guidance was implemented, or, in the absence of federal guidance, how industry chose to implement practices related to PSLF.

Request under the Missouri Sunshine Law

SBPC and AFT request all documents, including Dear Colleague letters, formal guidance,



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and communications, and records from the Department of Education regarding how FFEL lenders or FFEL servicers should communicate with borrowers related to PSLF. In this response, please include all responsive documents related to written or oral communication with borrowers who:

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Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

U.S. Department of Education
Office of Management
FOIA Service Center
400 Maryland Ave, SW, Room 2W220
Washington, DC 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552 and the implementing regulations promulgated thereunder for the U.S. Department of Education ("ED"), 34 C.F.R. Part 5, the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

To be eligible for Public Service Loan Forgiveness, borrowers must be enrolled in "the right type of repayment plan." Qualifying repayment plans include any type of income-driven repayment (IDR) plan where a borrower's monthly payment amount is tied to his or her income, rather than loan balance. Borrower's must renew their enrollment in IDR plans each year in a process called "recertification."

Unfortunately for borrowers, the process of picking the right type of repayment plan, including every step of the process to enroll in and recertify an IDR plan, is littered with obstacles. Borrowers rely on information from servicers during this process, but complaints show that this information is often inaccurate. As a result, borrowers enroll in repayment plans that do not qualify for PSLF or spend months in forbearance awaiting their servicer to process the correct repayment plan application. As borrowers hit roadblock after roadblock, breakdowns in the IDR program enrollment and process quickly become PSLF breakdowns.



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Request under the Freedom of Information Act

SBPC and AFT request all documents, audits, reports, and communications concerning the Pennsylvania Higher Education Assistance Agency (PHEAA), also known as FedLoan Servicing, relating to the handling of borrower accounts enrolled in income-driven repayment plans and the handling of borrower applications to certify and recertify income and family size under income-driven repayment plans, including the issuance of reminder notices to these borrowers. Responses should include all relevant documents related to:

1. The implementation and administration of Income-Based Repayment
2. The implementation and administration of Pay As You Earn
3. The implementation and administration of Revised Pay As You Earn
4. Any relevant information about income-driven repayment plans as used by borrowers pursuing PSLF.

When compiling documents to respond to this request, please include all applicable contractual requirements, change requests, compliance reviews conducted by FSA personnel, independent reviews conducted by third-party auditors, and summaries of call monitoring reviews or other internal reviews conducted by FedLoan/PHEAA and provided to FSA related to its servicing of Direct Loans.

Please provide the following information about the utilization of Income-Driven Repayment by borrowers serviced by PHEAA/FedLoan:

- The number of unique borrowers and dollar volume enrolled in each income-driven repayment plan at the conclusion of the preceding quarter;
- The number of unique borrowers and dollar volume enrolled in each income-driven repayment plan at the conclusion of the preceding quarter and where a borrower's payment was based on a demonstration of partial financial hardship, where applicable;



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- The average and median number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to enroll in IDR for the first time (new enrollees); and
- The average number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to enroll in IDR for the first time (new enrollees) and provided Alternative Documentation of Income (ADOI).

Please provide the following information about the recertification of income and family size for borrowers pursuing an income-driven repayment who were serviced by PHEAA/Fed-Loan:

- The average number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to recertify income and family size under an IDR plan (recertifying borrowers);
- The average number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to recertify income and family size under an IDR plan (recertifying borrowers) and provided Alternative Documentation of Income (ADOI);
- The share of all borrowers making Partial Financial Hardship (PFH) payments under an income-driven repayment plan who did not timely recertify income and family size during the preceding quarter;
- The number of borrowers who were placed in forbearance (administrative, voluntary, or other) in the month following the expiration of their annual repayment period, and who timely recertified their income and family size;
- The number of borrowers who had their IDR payment amount extended pursuant to 34 C.F.R. §§ 685.209(a)(5)(viii)(A), (b)(3)(vi)(E), (c)(4)(viii)(A), 685.221(e)(8)(i), (ii) after the expiration of their annual repayment period, and who timely recertified their income and family size;



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- The average (unique borrower), median (unique borrower), and aggregate (portfolio-wide) amount of unpaid interest capitalized to borrowers' accounts for borrowers who did not timely recertify income and family size during the prior quarter;
- The number of borrowers with loans that were subject to a capitalization event after being placed in an administrative forbearance while awaiting a determination of their PSLF application; and
- The number of borrowers who have submitted ECFs and have been notified that they are in a non-qualifying repayment plan.

In addition, please include all communications between the following ED officials and any employee of the Pennsylvania Higher Education Assistance Agency related to the administration of PHEAA's contract to manage the Public Service Loan Forgiveness program and PHEAA's performance under this contract, including but not limited to the following current and former Education Department employees:

- Matthew Sessa
- Kathleen Smith
- Mark LaVia
- James Runcie
- Wayne Johnson
- James Manning
- Diane Auer Jones
- Josh Venable
- Nate Bailey
- Soo Kang

SBPC and AFT also request the records of any and all basic servicing solution trainings provided to FSA personnel, and records of all communication between servicer and FSA related to borrower disputes, including but not limited to all communication to "FSA Business Operations distribution list 35."

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.



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In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

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Please note that in conducting a “reasonable search” as required by law you must use the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology advances may render ED’s prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their own searches in order to make sure that documents are appropriately collected.

FOIA presumes disclosure. Indeed, “[a]gencies bear the burden of justifying withholding of any records, as FOIA favors a ‘strong presumption in favor of disclosure.’” *AP v. FBI*, 256 F. Supp. 3d 82, 2017 U.S. Dist. LEXIS 161516 at *10 (D.D.C. Sept. 30, 2017) (quoting *Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991)). Under the FOIA Improvement Act of 2016, an agency is permitted to withhold materials only in one of two limited circumstances, i.e., if disclosure would “harm an interest protected by an exemption” or is otherwise “prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i). If the Department takes the position that any portion of any requested record is exempt from disclose, SBPC requests that you “demonstrate the validity of [each] exemption that [the Department] asserts.” People for



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the American Way v. U.S. Department of Education, 516 F. Supp. 2d 28, 34 (D.D.C. 2007). To satisfy this burden, you may provide SBPC with a Vaughn Index “which must adequately describe each withheld document, state which exemption the agency claims for each withheld document, and explain the exemption’s relevance.” *Id.* (citing *Johnson v. Exec. Office for U.S. Att’ys*, 310 F.3d 771, 774 (D.C. Cir. 2002)). See also *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). That index must provide, for each document withheld and each justification asserted, a relatively detailed justification – specifically identifying the reasons why the exemption is relevant. See generally *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

To ensure that this request is properly construed and does not create any unnecessary burden on the Department, SBPC welcomes the opportunity to discuss this request at your earliest convenience, consistent with and without waiving the legal requirements for the timeframe for your response.

Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.

Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.

Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.



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2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
3. The disclosure will contribute to a greater understanding on the part of the public at large. SBPC and AFT seek this information to aid the public discourse surrounding issues of student loan servicing and PSLF. SBPC and AFT have the capacity to analyze documents provided and to disseminate its analysis to the public through their websites and other sources.
4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy to protect student loan borrowers’ rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums. SBPC makes its reports available to the public, without cost, on its website (e.g., www.protectborrowers.org).

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Accordingly, SBPC and AFT qualify for a fee waiver.

* * *



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SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
Harrisburg, PA 17102-1444

Re: Public Records Request

Dear Right to Know Official:

Pursuant to the Pennsylvania Right-to-Know Act, Act 3 of 2008 (65 P.S. §67.101 et seq.), the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

To be eligible for Public Service Loan Forgiveness, borrowers must be enrolled in "the right type of repayment plan." Qualifying repayment plans include any type of income-driven repayment (IDR) plan where a borrower's monthly payment amount is tied to his or her income, rather than loan balance. Borrowers must renew their enrollment in IDR plans each year in a process called "recertification."

Unfortunately for borrowers, the process of picking the right type of repayment plan, including every step of the process to enroll in and recertify an IDR plan, is littered with obstacles. Borrowers rely on information from servicers during this process, but complaints show that this information is often inaccurate. As a result, borrowers enroll in repayment plans that do not qualify for PSLF or spend months in forbearance awaiting their servicer to process the correct repayment plan application. As borrowers hit roadblock after roadblock, breakdowns in the IDR program enrollment and process quickly become PSLF breakdowns.



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Request under the Pennsylvania Right-to-Know Act

SBPC and AFT request all documents, audits, reports, and communications concerning the Pennsylvania Higher Education Assistance Agency (PHEAA), also known as FedLoan Servicing, relating to the handling of borrower accounts enrolled in income-driven repayment plans and the handling of borrower applications to certify and recertify income and family size under income-driven repayment plans, including the issuance of reminder notices to these borrowers. Responses should include all relevant documents related to:

1. The implementation and administration of Income-Based Repayment
2. The implementation and administration of Pay As You Earn
3. The implementation and administration of Revised Pay As You Earn
4. Any relevant information about income-driven repayment plans as used by borrowers pursuing PSLF.

When compiling documents to respond to this request, please include all applicable contractual requirements, change requests, compliance reviews conducted by FSA personnel, independent reviews conducted by third-party auditors, and summaries of call monitoring reviews or other internal reviews conducted by FedLoan/PHEAA and provided to FSA related to its servicing of Direct Loans.

Please provide the following information about the utilization of Income-Driven Repayment by borrowers serviced by PHEAA/FedLoan:

- The number of unique borrowers and dollar volume enrolled in each income-driven repayment plan at the conclusion of the preceding quarter;
- The number of unique borrowers and dollar volume enrolled in each income-driven repayment plan at the conclusion of the preceding quarter and where a borrower's payment was based on a demonstration of partial financial hardship, where applicable;



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- The average and median number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to enroll in IDR for the first time (new enrollees); and
- The average number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to enroll in IDR for the first time (new enrollees) and provided Alternative Documentation of Income (ADOI).

Please provide the following information about the recertification of income and family size for borrowers pursuing an income-driven repayment who were serviced by PHEAA/Fed-Loan:

- The average number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to recertify income and family size under an IDR plan (recertifying borrowers);
- The average number of days it took FedLoan Servicing to process an income-driven repayment enrollment application during the preceding quarter, where the borrower sought to recertify income and family size under an IDR plan (recertifying borrowers) and provided Alternative Documentation of Income (ADOI);
- The share of all borrowers making Partial Financial Hardship (PFH) payments under an income-driven repayment plan who did not timely recertify income and family size during the preceding quarter;
- The number of borrowers who were placed in forbearance (administrative, voluntary, or other) in the month following the expiration of their annual repayment period, and who timely recertified their income and family size;
- The number of borrowers who had their IDR payment amount extended pursuant to 34 C.F.R. §§ 685.209(a)(5)(viii)(A), (b)(3)(vi)(E), (c)(4)(viii)(A), 685.221(e)(8)(i), (ii) after the expiration of their annual repayment period, and who timely recertified their income and family size;



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- The average (unique borrower), median (unique borrower), and aggregate (portfolio-wide) amount of unpaid interest capitalized to borrowers' accounts for borrowers who did not timely recertify income and family size during the prior quarter;
- The number of borrowers with loans that were subject to a capitalization event after being placed in an administrative forbearance while awaiting a determination of their PSLF application; and
- The number of borrowers who have submitted ECFs and have been notified that they are in a non-qualifying repayment plan.

In addition, please include all communications between the following ED officials and any employee of the Pennsylvania Higher Education Assistance Agency related to the administration of PHEAA's contract to manage the Public Service Loan Forgiveness program and PHEAA's performance under this contract, including but not limited to the following current and former Education Department employees:

- Matthew Sessa
- Kathleen Smith
- Mark LaVia
- James Runcie
- Wayne Johnson
- James Manning
- Diane Auer Jones
- Josh Venable
- Nate Bailey
- Soo Kang

Finally, SBPC and AFT request:

- A list of all customer service training certification courses offered by servicer
- Records of any and all basic servicing solution trainings provided to FSA personnel
- Records of all communication between servicer and FSA related to borrower dis-



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putes, including but not limited to all communication to "FSA Business Operations distribution list 35"

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, and emails. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

Request for Waiver of Fees

In order to help to determine my status to assess fees, you should know that I am affiliated with a public interest group and this request is not for commercial use. The maximum dollar amount I am willing to pay for this request is \$25.

I request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy



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to protect student loan borrowers' rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums. SBPC makes its reports available to the public, without cost, on its website (www.protectborrowers.org).

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Accordingly, SBPC and AFT qualify for a fee waiver.

* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

U.S. Department of Education
Office of Management
FOIA Service Center
400 Maryland Ave, SW, Room 2W220
Washington, DC 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the implementing regulations promulgated thereunder for the U.S. Department of Education (“ED”), 34 C.F.R. Part 5, the Student Borrower Protection Center (“SBPC”) and the American Federation of Teachers (“AFT”) make the following requests for records.

Background

For borrowers with the right type of loan that is enrolled in the right type of repayment plan, qualifying for PSLF requires ten years (120 months) of monthly “qualifying payments.” Qualifying payments are payments made on time and equal to a pre-determined, “qualified” payment amount—an often opaque standard that has resulted a wide range of problems for borrowers. There are many instances where a borrower may make a payment that is greater than their qualified payment amount—for example, an unscheduled extra payment, an overpayment, multiple partial payments, or some other type of nonstandard payment, in an attempt to make progress on their student loans. These nonstandard payments can cause borrowers problems because they may not be considered as qualifying—even when the amount paid equals or exceeds the amount due on a borrower’s bill. These problems can snowball over time and, as a result, borrowers spend thousands of dollars making months or years of payments that do not count toward loan forgiveness. Further exacerbating the problem, when borrowers encounter the type of IDR processing delays described in the preceding section, they may be advised by their student loan servicer to take a break from making payments



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entirely, known as a forbearance. Months spent in forbearance do not provide credit toward PSLF.

Request under the Freedom of Information Act

SBPC and AFT request all documents, audits, reports, and communications concerning the Pennsylvania Higher Education Assistance Agency (PHEAA), also known as FedLoan Servicing, and relating to the counting of “qualified payments” by borrowers enrolled in any income-driven repayment plan, including, but not limited to borrowers who have signaled their intent to pursue PSLF by completing an Employer Certification Form (ECF).

Responses should include all relevant documents related to:

1. The implementation and administration of Income-Based Repayment
2. The implementation and administration of Pay As You Earn
3. The implementation and administration of Revised Pay As You Earn
4. Any relevant information about income-driven repayment plans as used by borrowers pursuing PSLF.

SBPC and AFT also request all documents, audits, reports, and communications concerning the Pennsylvania Higher Education Assistance Agency (PHEAA), also known as FedLoan Servicing, and relating to handling of “partial payments” made by borrowers enrolled in any income-driven repayment plan or the handling of payments made by borrowers in “paid ahead status.” This should include, but need not be limited to borrowers who have signaled their intent to pursue PSLF by completing an Employer Certification Form (ECF).

When compiling documents to respond to this request, please include all applicable contractual requirements, all compliance reviews conducted by FSA personnel, all independent reviews conducted by third-party auditors, and all summaries of call monitoring reviews or other internal reviews conducted by FedLoan/PHEAA and provided to FSA related to its servicing of Direct Loans.



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Further, please specifically identify relevant documents produced prior to the introduction of the Employer Certification Form in 2012, any relevant documents produced between 2012 and 2016, and any relevant documents produced since January 1, 2017.

1. Total number of unique borrowers who have an approved ECF on file covering the prior 12 calendar months;
2. The number of unique borrowers identified in #1 who have made fewer than 12 qualified payments during this period;
3. The number of borrowers who have made fewer than 12 qualified payments during this period and who have made fewer than 12 total payments over this period;
4. The number of borrowers who have made fewer than 12 qualified payments during this period and who have had one or more loans in "paid ahead" status over this period; and
5. The number of borrowers who have received credit for qualifying payments after being billed more than \$0.05 below their correct monthly payment amount.

Finally, SBPC and AFT request:

1. All documents, communications, and records detailing the process by which borrowers can dispute their account records to FSA through their servicer (sometimes referred to as the "waiver process");
2. A list of all nonstandard situations that required the use of the waiver process;
3. The number of borrower account disputes PHEAA submits quarterly to FSA;
4. The number of waivers approved quarterly by FSA, and the number of waivers denied quarterly by FSA, including explanations why waivers were approved or denied.
5. All guidance from ED or FSA to PHEAA and other servicers explaining how servicers should inform borrowers about the process that allows them to appeal servicer determinations and directly request that FSA review their accounts;



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6. The number of borrowers who have used this appeal process through FSA by quarter.
7. The number of borrowers who have appealed their qualifying payment count, and what were the outcomes of these appeals.
8. The number of PSLF forgiveness transactions that have been reversed, and the reasons for reversal.
9. Data related to monthly reports of all borrowers who are pursuing PSLF and:
 - a. have received a Segal AmeriCorps Education Award;
 - b. have received a Peace Corps transition payment; or
 - c. DOD Student Loan Repayment Program payment.
10. How many qualifying payments have been made pursuant to the above-listed programs, separated by program

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind,



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including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records. In addition, the Department has a duty to construe a FOIA request liberally.

Please note that in conducting a “reasonable search” as required by law you must use the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology advances may render ED’s prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their own searches in order to make sure that documents are appropriately collected.

FOIA presumes disclosure. Indeed, “[a]gencies bear the burden of justifying withholding of any records, as FOIA favors a ‘strong presumption in favor of disclosure.’” AP v. FBI, 256 F. Supp. 3d 82, 2017 U.S. Dist. LEXIS 161516 at *10 (D.D.C. Sept. 30, 2017) (quoting Dep’t of State v. Ray, 502 U.S. 164, 173 (1991)). Under the FOIA Improvement Act of 2016, an agency is permitted to withhold materials only in one of two limited circumstances, i.e., if disclosure would “harm an interest protected by an exemption” or is otherwise “prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i). If the Department takes the position that any portion of any requested record is exempt from disclosure, SBPC requests that you “demonstrate the validity of [each] exemption that [the Department] asserts.” People for the American Way v. U.S. Department of Education, 516 F. Supp. 2d 28, 34 (D.D.C. 2007). To satisfy this burden, you may provide SBPC with a Vaughn Index “which must adequately describe each withheld document, state which exemption the agency claims for each withheld document, and explain the exemption’s relevance.” Id. (citing Johnson v. Exec. Office for U.S. Att’ys, 310 F.3d 771, 774 (D.C. Cir. 2002). See also Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973). That index must provide, for each document withheld and each justification asserted, a relatively detailed justification – specifically identifying the reasons why the exemption is relevant. See generally King v. U.S. Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

To ensure that this request is properly construed and does not create any unnecessary burden on the Department, SBPC welcomes the opportunity to discuss this request at your earliest convenience, consistent with and without waiving the legal requirements for the timeframe for your response.

Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.



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Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.

Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.
2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
3. The disclosure will contribute to a greater understanding on the part of the public at large. SBPC and AFT seek this information to aid the public discourse surrounding issues of student loan servicing and PSLF. SBPC and AFT have the capacity to analyze documents provided and to disseminate its analysis to the public through their websites and other sources.
4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy to protect student loan borrowers’ rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums.



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SBPC makes its reports available to the public, without cost, on its website (e.g., www.protectborrowers.org).

AFT is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do. Accordingly, SBPC and AFT qualify for a fee waiver.

* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

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President
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1015 15th St. NW, #600
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December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
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Re: Public Records Request

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ance. Months spent in forbearance do not provide credit toward PSLF.

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Further, please specifically identify relevant documents produced prior to the introduc-



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tion of the Employer Certification Form in 2012, any relevant documents produced between 2012 and 2016, and any relevant documents produced since January 1, 2017.

1. Total number of unique borrowers who have an approved ECF on file covering the prior 12 calendar months;
2. The number of unique borrowers identified in #1 who have made fewer than 12 qualified payments during this period;
3. The number of borrowers who have made fewer than 12 qualified payments during this period and who have made fewer than 12 total payments over this period;
4. The number of borrowers who have made fewer than 12 qualified payments during this period and who have had one or more loans in “paid ahead” status over this period; and
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any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

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In order to help to determine my status to assess fees, you should know that I am affiliated with a public interest group and this request is not for commercial use. The maximum dollar amount I am willing to pay for this request is \$25.

I request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

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tigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

U.S. Department of Education
Office of Management
FOIA Service Center
400 Maryland Ave, SW, Room 2W220
Washington, DC 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the implementing regulations promulgated thereunder for the U.S. Department of Education (“ED”), 34 C.F.R. Part 5, the Student Borrower Protection Center (“SBPC”) and the American Federation of Teachers (“AFT”) make the following requests for records.

Background

In order for a payment to be considered qualified, in addition to meeting three criteria previously discussed, the payment must be made while the borrower is employed by the “right type of employer”. More than a decade after Congress created the PSLF program, ED has approved more than one million Employer Certification Forms from borrowers certifying intent to pursue PSLF. But in this time, ED has yet to provide guidance that is binding, public, and comprehensive for determining whether an organization qualifies under PSLF. Borrower complaints and private litigation about the employer certification process reveal breakdowns that can cost borrowers months or years in lost progress toward PSLF or knock them off track entirely—some borrowers report receiving an approved Employment Certification one year and having their same employer denied the next.

Request under the Freedom of Information Act

SBPC and AFT request:

- A state-by-state list of approved employers under PSLF.



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- A list of approved employers categorized by type of “qualifying employment” i.e. level of government, 501(c)(3) not-for-profit, other type of not-for-profit.
- A list of employers that borrowers submitted in ECFs that ED has determined do not qualify borrowers for PSLF.
- All communications determining whether specific employers qualify or not under PSLF.
- All documents, communications, and final determinations shared between PHEAA officials about any policies surrounding retroactive denials of qualified payments following a borrower’s approved ECF, dating back to 2012.
- Data on how many borrowers have disputed determinations of their ECFs and the outcomes of those disputes.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records. In addition, the Department has a duty to construe a FOIA request liberally.

Please note that in conducting a “reasonable search” as required by law you must use the most up-to-date technologies and tools available, in addition to searches by



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individual custodians likely to have responsive information. Recent technology advances may render ED's prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their own searches in order to make sure that documents are appropriately collected.

FOIA presumes disclosure. Indeed, "[a]gencies bear the burden of justifying withholding of any records, as FOIA favors a 'strong presumption in favor of disclosure.'" *AP v. FBI*, 256 F. Supp. 3d 82, 2017 U.S. Dist. LEXIS 161516 at *10 (D.D.C. Sept. 30, 2017) (quoting *Dep't of State v. Ray*, 502 U.S. 164, 173 (1991)). Under the FOIA Improvement Act of 2016, an agency is permitted to withhold materials only in one of two limited circumstances, i.e., if disclosure would "harm an interest protected by an exemption" or is otherwise "prohibited by law." 5 U.S.C. § 552(a)(8)(A)(i). If the Department takes the position that any portion of any requested record is exempt from disclosure, SBPC requests that you "demonstrate the validity of [each] exemption that [the Department] asserts." *People for the American Way v. U.S. Department of Education*, 516 F. Supp. 2d 28, 34 (D.D.C. 2007). To satisfy this burden, you may provide SBPC with a Vaughn Index "which must adequately describe each withheld document, state which exemption the agency claims for each withheld document, and explain the exemption's relevance." *Id.* (citing *Johnson v. Exec. Office for U.S. Att'ys*, 310 F.3d 771, 774 (D.C. Cir. 2002)). See also *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). That index must provide, for each document withheld and each justification asserted, a relatively detailed justification – specifically identifying the reasons why the exemption is relevant. See generally *King v. U.S. Dep't of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

To ensure that this request is properly construed and does not create any unnecessary burden on the Department, SBPC welcomes the opportunity to discuss this request at your earliest convenience, consistent with and without waiving the legal requirements for the timeframe for your response.

Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.

Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.



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Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.
2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
3. The disclosure will contribute to a greater understanding on the part of the public at large. SBPC and AFT seek this information to aid the public discourse surrounding issues of student loan servicing and PSLF. SBPC and AFT have the capacity to analyze documents provided and to disseminate its analysis to the public through their websites and other sources.
4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

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political activism, and especially through the work our members do. Accordingly, SBPC and AFT qualify for a fee waiver.

* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
Harrisburg, PA 17102-1444

Re: Public Records Request

Dear Right to Know Official:

Pursuant to the Pennsylvania Right-to-Know Act, Act 3 of 2008 (65 P.S. §67.101 et seq.), the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

In order for a payment to be considered qualified, in addition to meeting three criteria previously discussed, the payment must be made while the borrower is employed by the "right type of employer". More than a decade after Congress created the PSLF program, ED has approved more than one million Employer Certification Forms from borrowers certifying intent to pursue PSLF. But in this time, ED has yet to provide guidance that is binding, public, and comprehensive for determining whether an organization qualifies under PSLF. Borrower complaints and private litigation about the employer certification process reveal breakdowns that can cost borrowers months or years in lost progress toward PSLF or knock them off track entirely—some borrowers report receiving an approved Employment Certification one year and having their same employer denied the next.



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Request under the Pennsylvania Right-to-Know Act

SBPC and AFT request:

- A state-by-state list of approved employers under PSLF.
- A list of approved employers categorized by type of “qualifying employment” i.e. level of government, 501(c)(3) not-for-profit, other type of not-for-profit.
- A list of employers that borrowers submitted in ECFs that ED has determined do not qualify borrowers for PSLF.
- All communications determining whether specific employers qualify or not under PSLF.
- All documents, communications, and final determinations shared between PHEAA officials about any policies surrounding retroactive denials of qualified payments following a borrower’s approved ECF, dating back to 2012.
- Data on how many borrowers have disputed determinations of their ECFs and the outcomes of those disputes.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, and emails. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

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graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

Request for Waiver of Fees

In order to help to determine my status to assess fees, you should know that I am affiliated with a public interest group and this request is not for commercial use. The maximum dollar amount I am willing to pay for this request is \$25.

I request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy to protect student loan borrowers' rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums. SBPC makes its reports available to the public, without cost, on its website (www.protectborrowers.org).

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* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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December 19, 2018

U.S. Department of Education
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FOIA Service Center
400 Maryland Ave, SW, Room 2W220
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Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552 and the implementing regulations promulgated thereunder for the U.S. Department of Education ("ED"), 34 C.F.R. Part 5, the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Existing records repeatedly show servicers' failure to properly transfer relevant information about borrower accounts to a new servicer during a servicing transfer (also known as a system conversion). Servicing transfer errors lead to confusion for borrowers, especially if the previous servicer had different policies and procedures for account management or made significant administrative errors that lead to late payments and lost benefits. In December 2013, ACS Education Services, also known as the Direct Loan Servicing Center, stopped all servicing operations and transferred its Direct Loan portfolio to other servicers. This led to servicing transfers for millions of borrowers, and as a result of ACS's servicing practices, the new servicers uncovered a wide array of account problems that directly affected borrowers. In some cases, these problems led to lost years of credit toward Public Service Loan Forgiveness (PSLF) and cost borrowers thousands of dollars in excess payments.



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Request under the Freedom of Information Act

SBPC and AFT request all documents, audits, reports, and communications relating to account errors affecting borrowers with Direct Loans serviced by ACS Educational Services, also known as the Direct Loan Servicing Center, between 2007 and 2013. This should include all documents, audits, reports, and communications to and from ED, servicers, and/or Congress on the following topics:

1. Errors stemming from the 2013 transfer of Direct Loans from ACS to other servicing contractors hired by the Department of Education;
2. Errors resulting from improper handling of borrower accounts by ACS servicing personnel at any time between 2007 and 2013;
3. Errors resulting from processing breakdowns in information systems, including servicing and accounting systems used by ACS to service Direct Loans at any time between 2007 and 2013;
4. Errors that led to inaccurate recording of account balances, payment histories, interest charges, or other account records at any time between 2007 and 2013; and
5. Errors that resulted in inaccurate information about individual loans recorded in the National Student Loan Data System (NSLDS) at any time between 2007 and 2013.

In your response, please include any audits, reviews, or analysis performed by the Department of Education (ED) or Federal Student Aid (FSA) personnel, as well as any audits, reviews or analysis performed by third-party auditors or other vendors, including other student loan servicers receiving transferred loans from ACS. This response should include audits, reviews, or analysis performed at the request of FSA personnel, Congress, or ACS management.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.



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Please note that in conducting a "reasonable search" as required by law you must use the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology advances may render ED's prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their own searches in order to make sure that documents are appropriately collected.

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Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.

Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.

Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.



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2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
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4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

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Accordingly, SBPC and AFT qualify for a fee waiver.

* * *



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SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randi Weingarten'.

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

A handwritten signature in black ink, appearing to read 'Seth Frotman'.

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Missouri Higher Education Loan Authority (MOHELA)
633 Spirit Drive
Chesterfield, MO 63005-1243

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri, the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Existing records repeatedly show servicers' failure to properly transfer relevant information about borrower accounts to a new servicer during a servicing transfer (also known as a system conversion). Servicing transfer errors lead to confusion for borrowers, especially if the previous servicer had different policies and procedures for account management or made significant administrative errors that lead to late payments and lost benefits. In December 2013, ACS Education Services, also known as the Direct Loan Servicing Center, stopped all servicing operations and transferred its Direct Loan portfolio to other servicers. This led to servicing transfers for millions of borrowers, and as a result of ACS's shoddy servicing practices, the new servicers uncovered a wide array of account problems that directly affected borrowers. In some cases, these problems led to lost years of credit toward Public Service Loan Forgiveness (PSLF) and cost borrowers thousands of dollars in excess payments.



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Request under the Missouri Sunshine Law

SBPC and AFT request the following communication:

1. All communication between your organization and ACS regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.
2. All communication between your organization and the Department of Education (ED)/Federal Student Aid (FSA) regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.

In your response, please include any correspondence related to account errors affecting borrowers with Direct Loans serviced by ACS.

In addition, please include any internal policies or procedures that were established by your organization in order to address account errors stemming from a portfolio transfer, and all formal or informal guidance provided by the Department of Education to your organization on how to handle account errors stemming from portfolio transfers, including but not limited to accounts for borrowers pursuing PSLF. This response should include audits, reviews, or analysis performed at the request of FSA staff, ED personnel, and/or Congress.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, and emails. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

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In order to help to determine the status to assess fees, note that this request is made in affiliation with a public interest group and this request is not for commercial use. The maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

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December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
Harrisburg, PA 17102-1444

Re: Public Records Request

Dear Right to Know Official:

Pursuant to the Pennsylvania Right-to-Know Act, Act 3 of 2008 (65 P.S. §67.101 et seq.), the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Existing records repeatedly show servicers' failure to properly transfer relevant information about borrower accounts to a new servicer during a servicing transfer (also known as a system conversion). Servicing transfer errors lead to confusion for borrowers, especially if the previous servicer had different policies and procedures for account management or made significant administrative errors that lead to late payments and lost benefits. In December 2013, ACS Education Services, also known as the Direct Loan Servicing Center, stopped all servicing operations and transferred its Direct Loan portfolio to other servicers. This led to servicing transfers for millions of borrowers, and as a result of ACS's shoddy servicing practices, the new servicers uncovered a wide array of account problems that directly affected borrowers. In some cases, these problems led to lost years of credit toward Public Service Loan Forgiveness (PSLF) and cost borrowers thousands of dollars in excess payments.



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Request under the Pennsylvania Right-to-Know Act

SBPC and AFT request the following communication:

1. All communication between your organization and ACS regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.
2. All communication between your organization and the Department of Education (ED)/Federal Student Aid (FSA) regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.

In your response, please include any correspondence related to account errors affecting borrowers with Direct Loans serviced by ACS.

In addition, please include any internal policies or procedures that were established by your organization in order to address account errors stemming from a portfolio transfer, and all formal or informal guidance provided by the Department of Education to your organization on how to handle account errors stemming from portfolio transfers, including but not limited to accounts for borrowers pursuing PSLF. This response should include audits, reviews, or analysis performed at the request of FSA staff, ED personnel, and/or Congress.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, and emails. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record,"



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“document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

Request for Waiver of Fees

In order to help to determine the status to assess fees, note that this request is made in affiliation with a public interest group and this request is not for commercial use. The maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

SBPC and AFT request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

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Accordingly, SBPC and AFT qualify for a fee waiver.

* * *



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SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randi Weingarten'.

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

A handwritten signature in black ink, appearing to read 'Seth Frotman'.

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

New Hampshire Higher Education Assistance Foundation
4 Barrell Court
Concord, NH 03301

Re: Public Records Request

Dear Right to Know Custodian:

Pursuant to the New Hampshire Right to Know Law R.S.A. Ch. 91-A et seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Existing records repeatedly show servicers' failure to properly transfer relevant information about borrower accounts to a new servicer during a servicing transfer (also known as a system conversion). Servicing transfer errors lead to confusion for borrowers, especially if the previous servicer had different policies and procedures for account management or made significant administrative errors that lead to late payments and lost benefits. In December 2013, ACS Education Services, also known as the Direct Loan Servicing Center, stopped all servicing operations and transferred its Direct Loan portfolio to other servicers. This led to servicing transfers for millions of borrowers, and as a result of ACS's shoddy servicing practices, the new servicers uncovered a wide array of account problems that directly affected borrowers. In some cases, these problems led to lost years of credit toward Public Service Loan Forgiveness (PSLF) and cost borrowers thousands of dollars in excess payments.



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Request under the New Hampshire Right to Know Law

SBPC and AFT request the following communication:

1. All communication between your organization and ACS regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.
2. All communication between your organization and the Department of Education (ED)/Federal Student Aid (FSA) regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.

In your response, please include any correspondence related to account errors affecting borrowers with Direct Loans serviced by ACS.

In addition, please include any internal policies or procedures that were established by your organization in order to address account errors stemming from a portfolio transfer, and all formal or informal guidance provided by the Department of Education to your organization on how to handle account errors stemming from portfolio transfers, including but not limited to accounts for borrowers pursuing PSLF. This response should include audits, reviews, or analysis performed at the request of FSA staff, ED personnel, and/or Congress.

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SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record,"



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Request for Waiver of Fees

In order to help to determine the status to assess fees, note that this request is made in affiliation with a public interest group and this request is not for commercial use. The maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

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Accordingly, SBPC and AFT qualify for a fee waiver.

* * *



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Sincerely,

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Randi Weingarten
President
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Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Utah Higher Education Assistance Authority
P. O. Box 145110
Salt Lake City, UT 84114-5110

Re: Public Records Request

Dear Public Records Custodian:

Pursuant to the Utah Government Records Access and Management Act, §63-2-101 et seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Existing records repeatedly show servicers' failure to properly transfer relevant information about borrower accounts to a new servicer during a servicing transfer (also known as a system conversion). Servicing transfer errors lead to confusion for borrowers, especially if the previous servicer had different policies and procedures for account management or made significant administrative errors that lead to late payments and lost benefits. In December 2013, ACS Education Services, also known as the Direct Loan Servicing Center, stopped all servicing operations and transferred its Direct Loan portfolio to other servicers. This led to servicing transfers for millions of borrowers, and as a result of ACS's shoddy servicing practices, the new servicers uncovered a wide array of account problems that directly affected borrowers. In some cases, these problems led to lost years of credit toward Public Service Loan Forgiveness (PSLF) and cost borrowers thousands of dollars in excess payments.



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Request under the Utah Government Records Access and Management Act

SBPC and AFT request the following communication:

1. All communication between your organization and ACS regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.
2. All communication between your organization and the Department of Education (ED)/Federal Student Aid (FSA) regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.

In your response, please include any correspondence related to account errors affecting borrowers with Direct Loans serviced by ACS.

In addition, please include any internal policies or procedures that were established by your organization in order to address account errors stemming from a portfolio transfer, and all formal or informal guidance provided by the Department of Education to your organization on how to handle account errors stemming from portfolio transfers, including but not limited to accounts for borrowers pursuing PSLF. This response should include audits, reviews, or analysis performed at the request of FSA staff, ED personnel, and/or Congress.

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Request for Waiver of Fees

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SBPC and AFT request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

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Accordingly, SBPC and AFT qualify for a fee waiver.

* * *



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Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Oklahoma Student Loan Authority
525 Central Park Drive, Suite 600
Oklahoma City, OK 73105

Re: Open Records Request

Dear Open Records Custodian:

Pursuant to the Oklahoma Open Records Act, 51 §24A.1 et seq., the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

Existing records repeatedly show servicers' failure to properly transfer relevant information about borrower accounts to a new servicer during a servicing transfer (also known as a system conversion). Servicing transfer errors lead to confusion for borrowers, especially if the previous servicer had different policies and procedures for account management or made significant administrative errors that lead to late payments and lost benefits. In December 2013, ACS Education Services, also known as the Direct Loan Servicing Center, stopped all servicing operations and transferred its Direct Loan portfolio to other servicers. This led to servicing transfers for millions of borrowers, and as a result of ACS's shoddy servicing practices, the new servicers uncovered a wide array of account problems that directly affected borrowers. In some cases, these problems led to lost years of credit toward Public Service Loan Forgiveness (PSLF) and cost borrowers thousands of dollars in excess payments.



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Request under the Oklahoma Open Records Act

SBPC and AFT request the following communication:

1. All communication between your organization and ACS regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.
2. All communication between your organization and the Department of Education (ED)/Federal Student Aid (FSA) regarding the transfer of Direct Loans from ACS, also known as the Direct Loan Servicing Center, to your organization.

In your response, please include any correspondence related to account errors affecting borrowers with Direct Loans serviced by ACS.

In addition, please include any internal policies or procedures that were established by your organization in order to address account errors stemming from a portfolio transfer, and all formal or informal guidance provided by the Department of Education to your organization on how to handle account errors stemming from portfolio transfers, including but not limited to accounts for borrowers pursuing PSLF. This response should include audits, reviews, or analysis performed at the request of FSA staff, ED personnel, and/or Congress.

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Request for Waiver of Fees

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Accordingly, SBPC and AFT qualify for a fee waiver.

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Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

U.S. Department of Education
Office of Management
FOIA Service Center
400 Maryland Ave, SW, Room 2W220
Washington, DC 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the implementing regulations promulgated thereunder for the U.S. Department of Education (“ED”), 34 C.F.R. Part 5, the Student Borrower Protection Center (“SBPC”) and the American Federation of Teachers (“AFT”) make the following requests for records.

Background

In June 2017, the CFPB released a report on the problems that student loan borrowers face, highlighting borrower complaints around IDR and PSLF. In September 2018, GAO released a report detailing ED’s failures in overseeing the PSLF program. In September 2018, several media outlets reported on new ED data showing that over 99 percent of borrowers who applied for PSLF were denied. In January 2018, the ED OIG issued a report assessing the costs and problems associated with IDR and loan forgiveness. While ED officials declined to comment, their internal communications, and communications with their servicers can be informative.

Request under the Freedom of Information Act

SBPC and AFT request:

All communications or records of communications between the following Department of Education personnel and FSA career staff and James Preston, the former chief executive of PHEAA, Scott Miller, the Senior Vice President and Director of Federal Relations of PHEAA, and Matthew Sessa, the former Senior Vice President of PHEAA—discussing



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“Public Service Loan Forgiveness” or “PSLF”—from October 2007 through July 2018.

- Matthew Sessa
- Kathleen Smith
- Mark LaVia
- James Runcie
- Wayne Johnson
- James Manning
- Diane Auer Jones
- Josh Venable
- Nate Bailey

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records. In addition, the Department has a duty to construe a FOIA request liberally.

Please note that in conducting a “reasonable search” as required by law you must use the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology advances may render ED’s prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their own searches in order to make sure that documents are appropriately collected.



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FOIA presumes disclosure. Indeed, “[a]gencies bear the burden of justifying withholding of any records, as FOIA favors a ‘strong presumption in favor of disclosure.’” *AP v. FBI*, 256 F. Supp. 3d 82, 2017 U.S. Dist. LEXIS 161516 at *10 (D.D.C. Sept. 30, 2017) (quoting *Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991)). Under the FOIA Improvement Act of 2016, an agency is permitted to withhold materials only in one of two limited circumstances, i.e., if disclosure would “harm an interest protected by an exemption” or is otherwise “prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i). If the Department takes the position that any portion of any requested record is exempt from disclosure, SBPC requests that you “demonstrate the validity of [each] exemption that [the Department] asserts.” *People for the American Way v. U.S. Department of Education*, 516 F. Supp. 2d 28, 34 (D.D.C. 2007). To satisfy this burden, you may provide SBPC with a Vaughn Index “which must adequately describe each withheld document, state which exemption the agency claims for each withheld document, and explain the exemption’s relevance.” *Id.* (citing *Johnson v. Exec. Office for U.S. Att’ys*, 310 F.3d 771, 774 (D.C. Cir. 2002)). See also *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). That index must provide, for each document withheld and each justification asserted, a relatively detailed justification – specifically identifying the reasons why the exemption is relevant. See generally *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

To ensure that this request is properly construed and does not create any unnecessary burden on the Department, SBPC welcomes the opportunity to discuss this request at your earliest convenience, consistent with and without waiving the legal requirements for the timeframe for your response.

Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.

Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.



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Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.
2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
3. The disclosure will contribute to a greater understanding on the part of the public at large. SBPC and AFT seek this information to aid the public discourse surrounding issues of student loan servicing and PSLF. SBPC and AFT have the capacity to analyze documents provided and to disseminate its analysis to the public through their websites and other sources.
4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

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President
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Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
Harrisburg, PA 17102-1444

Re: Public Records Request

Dear Right to Know Official:

Pursuant to the Pennsylvania Right-to-Know Act, Act 3 of 2008 (65 P.S. §67.101 et seq.), the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

In June 2017, the CFPB released a report on the problems that student loan borrowers face, highlighting borrower complaints around IDR and PSLF. In September 2018, GAO released a report detailing ED's failures in overseeing the PSLF program. In September 2018, several media outlets reported on new ED data showing that over 99 percent of borrowers who applied for PSLF were denied. In January 2018, the ED OIG issued a report assessing the costs and problems associated with IDR and loan forgiveness. While PHEAA officials do not publicly comment, their internal communications, and communications with ED can be informative.

Request under the Pennsylvania Right-to-Know Act

SBPC and AFT request:

All communications or records of communications between the following Department of Education personnel and FSA career staff and James Preston, the former chief exec-



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utive of PHEAA, Scott Miller, the Senior Vice President and Director of Federal Relations of PHEAA, and Matthew Sessa, the former Senior Vice President of PHEAA—discussing “Public Service Loan Forgiveness” or “PSLF”—from October 2007 through July 2018.

- Matthew Sessa
- Kathleen Smith
- Mark LaVia
- James Runcie
- Wayne Johnson
- James Manning
- Diane Auer Jones
- Josh Venable
- Nate Bailey

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, and emails. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

Request for Waiver of Fees

In order to help to determine my status to assess fees, you should know that I am affiliated with a public interest group and this request is not for commercial use. The maximum dollar amount I am willing to pay for this request is \$25.



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I request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

SBPC is a project of Resources Legacy Fund (RLF). RLF is a 501(c)(3) nonprofit based in Sacramento, CA. SBPC engages in policy development, research, and litigation strategy to protect student loan borrowers' rights and advance the economic opportunity of the next generation of students. SBPC uses the information it gathers, and its analysis of it, to educate the public through reports, social media, press releases, and other mediums. SBPC makes its reports available to the public, without cost, on its website (www.protectborrowers.org).

AFT is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

Accordingly, SBPC and AFT qualify for a fee waiver.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

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and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

Accordingly, SBPC and AFT qualify for a fee waiver.

* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

U.S. Department of Education
Office of Management
FOIA Service Center
400 Maryland Ave, SW, Room 2W220
Washington, DC 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the implementing regulations promulgated thereunder for the U.S. Department of Education (“ED”), 34 C.F.R. Part 5, the Student Borrower Protection Center (“SBPC”) and the American Federation of Teachers (“AFT”) make the following requests for records.

Background

In June 2017, the CFPB released a report on the problems that student loan borrowers face, highlighting borrower complaints around IDR and PSLF. In September 2018, GAO released a report detailing ED’s failures in overseeing the PSLF program. In September 2018, several media outlets reported on new ED data showing that over 99 percent of borrowers who applied for PSLF were denied. In January 2018, the ED OIG issued a report assessing the costs and problems associated with IDR and loan forgiveness. The OIG stated, “Department policy requires that you develop a final corrective action plan within 30 days of the issuance of this report.” While ED officials declined to comment, their internal communications about the data can be informative. ED officials likely discussed the report internally or with ED’s contractors.

Request under the Freedom of Information Act

SBPC and AFT request:



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- All documents, communications, and records between ED officials from June 2017 and October 2017 that include any mention of the CFPB report on PSLF;
- All documents, communications, and records between ED officials and ED's servicing contractors that include any mention of the GAO report on PSLF released in September 2018. This request should extend to all communications through the date the request is filled;
- All documents, communications, and records between ED officials about the PSLF data released in September 2018. This request should extend to all communications through the date the request is filled;
- The final corrective action plan responsive to the OIG report from January 31, 2018; and
- All communications between ED officials that include any mention of the OIG report from January 31, 2018, between January 2018 through the date the request is filled.

SBPC and AFT do not object to the redaction from such records of any names or personally identifiable information of any individual.

In addition to the records requested above, SBPC and AFT also request records describing the processing of this request, including records sufficient to identify search terms used (if any), and locations and custodians searched and any tracking sheets used to track the processing of this request. This includes any questionnaires, tracking sheets, emails, or certifications completed by, or sent to, ED personnel with respect to the processing of this request. This specifically includes communications or tracking mechanisms sent to, or kept by, individuals who are contacted in order to process this request.

SBPC and AFT seek all responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records. In addition, the Department has a duty to construe a



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FOIA request liberally.

Please note that in conducting a “reasonable search” as required by law you must use the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology advances may render ED’s prior FOIA practices unreasonable. Moreover, not only does this request require the agency to conduct a search, but individual custodians must conduct their own searches in order to make sure that documents are appropriately collected.

FOIA presumes disclosure. Indeed, “[a]gencies bear the burden of justifying withholding of any records, as FOIA favors a ‘strong presumption in favor of disclosure.’” AP v. FBI, 256 F. Supp. 3d 82, 2017 U.S. Dist. LEXIS 161516 at *10 (D.D.C. Sept. 30, 2017) (quoting Dep’t of State v. Ray, 502 U.S. 164, 173 (1991)). Under the FOIA Improvement Act of 2016, an agency is permitted to withhold materials only in one of two limited circumstances, i.e., if disclosure would “harm an interest protected by an exemption” or is otherwise “prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i). If the Department takes the position that any portion of any requested record is exempt from disclose, SBPC requests that you “demonstrate the validity of [each] exemption that [the Department] asserts.” People for the American Way v. U.S. Department of Education, 516 F. Supp. 2d 28, 34 (D.D.C. 2007). To satisfy this burden, you may provide SBPC with a Vaughn Index “which must adequately describe each withheld document, state which exemption the agency claims for each withheld document, and explain the exemption’s relevance.” Id. (citing Johnson v. Exec. Office for U.S. Att’ys, 310 F.3d 771, 774 (D.C. Cir. 2002). See also Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973). That index must provide, for each document withheld and each justification asserted, a relatively detailed justification – specifically identifying the reasons why the exemption is relevant. See generally King v. U.S. Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

To ensure that this request is properly construed and does not create any unnecessary burden on the Department, SBPC welcomes the opportunity to discuss this request at your earliest convenience, consistent with and without waiving the legal requirements for the timeframe for your response.

Please provide responsive material in electronic format, if possible. Please send any responsive material either via email at tariq@protectborrowers.org or by mail to Student Borrower Protection Center c/o Tariq Habash; 1015 15th St. NW, #600, Washington, D.C. 20005. We welcome any materials that can be provided on a rolling basis.

Request for Waiver of Fees

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. 5.33(a), SBPC and AFT request a waiver of fees associated with the processing of this request because: (1) disclosure



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of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and (2) disclosure of the information is not primarily in the commercial interest of the requester.

Disclosure of Information is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government.

1. The FOIA specifically relates to the operations or activities of the government. This request specifically seeks information regarding the activities of the government and its contractors in handling PSLF, and important policies and procedures relating to the program.
2. The requested documents will be likely to contribute to an understanding of those specific operations or activities. This request seeks documents that will contribute to the understanding of the circumstances in which student loan borrowers are adversely affected by the actions taken by student loan servicers.
3. The disclosure will contribute to a greater understanding on the part of the public at large. SBPC and AFT seek this information to aid the public discourse surrounding issues of student loan servicing and PSLF. SBPC and AFT have the capacity to analyze documents provided and to disseminate its analysis to the public through their websites and other sources.
4. Disclosure will “significantly” contribute to the public’s understanding of government activities. As noted above, the subject of this request is a matter of great public interest—numerous media reports have highlighted the importance of the PSLF program and the impact of servicing breakdowns.

Disclosure of Information is Not in Commercial Interest of SBPC or AFT

This request is fundamentally non-commercial.

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* * *

SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

Seth Frotman
Executive Director
Student Borrower Protection Center



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Student Borrower Protection Center
1015 15th St. NW, #600
Washington, DC 20005

December 19, 2018

Pennsylvania Higher Education Assistance Agency
Nathan Hensch, Right to Know Official
1200 North Seventh Street, 6th Floor
Harrisburg, PA 17102-1444

Re: Public Records Request

Dear Right to Know Official:

Pursuant to the Pennsylvania Right-to-Know Act, Act 3 of 2008 (65 P.S. §67.101 et seq.), the Student Borrower Protection Center ("SBPC") and the American Federation of Teachers ("AFT") make the following requests for records.

Background

In June 2017, the CFPB released a report on the problems that student loan borrowers face, highlighting borrower complaints around IDR and PSLF. In September 2018, GAO released a report detailing ED's failures in overseeing the PSLF program. In September 2018, several media outlets reported on new ED data showing that over 99 percent of borrowers who applied for PSLF were denied. In January 2018, the ED OIG issued a report assessing the costs and problems associated with IDR and loan forgiveness. The OIG stated, "Department policy requires that you develop a final corrective action plan within 30 days of the issuance of this report." While ED officials declined to comment, their internal communications about the data can be informative. ED officials likely discussed the report internally or with ED's contractors.



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Request under the Pennsylvania Right-to-Know Act

SBPC and AFT request:

- All documents, communications, and records between ED officials from June 2017 and October 2017 that include any mention of the CFPB report on PSLF;
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electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachment to these records.

Request for Waiver of Fees

In order to help to determine the status to assess fees, note that this request is made in affiliation with a public interest group and this request is not for commercial use. The maximum dollar amount SBPC and AFT are willing to pay for this request is \$25.

SBPC and AFT request a waiver of all fees for this request. Disclosure of the requested information to SBPC and AFT is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and student loan servicing, and is not primarily in my commercial interest.

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SBPC and AFT look forward to working with you on this request within the statutorily provided timeframe. If you have any questions or concerns about the scope of the request, or foresee any problems whatsoever, please contact Tariq Habash, Head of Investigations at SBPC at tariq@protectborrowers.org or 513-649-4429. If the request for a fee waiver is not



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granted, and any fees will be in excess of \$25, please contact Tariq immediately.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randi Weingarten'.

Randi Weingarten
President
American Federation of Teachers, AFL-CIO

A handwritten signature in black ink, appearing to read 'Seth Frotman'.

Seth Frotman
Executive Director
Student Borrower Protection Center