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DRIVING INTO A DEAD END:

Why IDR Has Failed Millions With Decades-Old Debts

September 2021

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sbpc | STUDENT BORROWER PROTECTION CENTER

Table of Contents

About this Report

For more than 25 years, policymakers have promised federal student loan borrowers that their debts will not be a life-long burden. These promises extend across the student loan system. For example, disability discharge promises a way out for borrowers who sustain total and permanent disabilities. Public service loan forgiveness promises a way out for those who give a decade of service to our country or in our communities. Borrower Defense to Repayment promises a pathway to relief for borrowers who are defrauded by their schools and therefore do not earn the long-term benefits of the education they were promised.

Yet a growing body of research has shown several critical safety valves aimed at preventing student loan debt from becoming a lifelong burden have failed to function as intended, locking borrowers in debt for decades even when the law promised a path to a debt-free future. The following report contributes to this body of research by focusing on one specific broken promise—that between the U.S. Department of Education and millions of borrowers experiencing long-term financial hardship.

As the following report describes in detail, income-driven repayment—which since 1992 has promised debt cancellation for borrowers who experience financial hardship and remain in debt for decades—has failed to provide a way out for more than 4.4 million student loan borrowers who have been in debt for 20 years or more. In particular, this report synthesizes research, public records, and largely-overlooked documentary evidence from the Department of Education to identify various glaring warning signs that IDR is both failing millions of borrowers and is slated to continue doing so for years to come.[1] Distressed student loan borrowers—and the tens of millions of others poised to follow in their footsteps who have already been forced to navigate the broken student loan repayment system—depend on policymakers to center their experiences when developing a roadmap for reform.

[1] The following analysis and recommendations are informed by data produced publicly by the U.S. Department of Education and in response to requests for documents and records submitted pursuant to the Freedom of Information Act. This data was supplemented by court filings, complaints submitted by individual student loan borrowers to the Consumer Financial Protection Bureau, and conversations with market participants, regulators, legal services providers, financial counselors, and researchers.

Introduction

Student debt is often unaffordable, driving millions of student loan borrowers to financial hardship.[1] In response, since 1992, policymakers have introduced a variety of repayment plans that set federal student loan borrowers' monthly student loan bills at an amount determined by their income, not by their loan balance.[2] Payments under these plans are designed to be affordable for anyone facing financial hardship, including offering a zero-dollar monthly "payment" for borrowers with especially low incomes.[3] Further, each of these income-driven options offers loan forgiveness after 20 to 25 years of repayment.[4]

These repayment plans are collectively referred to as income-driven repayment (IDR), a term encompassing several different federal student loan repayment options with varying terms, conditions, and eligibility criteria. A growing body of research has focused on the first of the twin goals of IDR described above—the supposed promise of affordable loan payments—and the myriad of flaws in program design and implementation that have pushed the goal of short-term affordability beyond reach for millions of people with student debt.[5] This report instead focuses on the second goal of IDR—the promise that debts will not be a life-long burden for borrowers who experience long-term financial hardship.

The loan forgiveness feature of IDR is critical—coequal to the short-term protection against unaffordable monthly payments.[6] These two structural features were intended to work in tandem.[7] Monthly payment amounts could be decoupled from borrowers' debt loads without concern about runaway interest charges because, in theory, any unpaid principal or interest would be cancelled in time.[8]

Without a path to cancellation, the long-term financial effects of IDR enrollment would be profoundly regressive and deeply racially inequitable—mirroring the features of a predatory subprime mortgage or a payday loan.[9] As other researchers have discussed in great detail, the lowest-income borrowers using IDR, by definition, pay down the least amount of accruing interest over time.[10] As a result, borrowers who experience sustained financial hardship are likely to see their student loan balances grow substantially—in some cases doubling or tripling over decades in repayment.[11] Even in instances where debt relief is ultimately secured after decades of repayment, this process of runaway interest accumulation has devastating financial consequences that ripple across borrowers' personal lives.[12]

Unfortunately, the promise of loan forgiveness has proven illusory for millions of student loan borrowers who have decades-old debts. Data obtained by the National Consumer Law Center (NCLC) in 2021 showed that in the 26 years since the first IDR option was created by Congress, only 32 student loan borrowers have had their debts cancelled through the protection. This data, first published in a joint report authored by NCLC and the Student Borrower Protection Center (SBPC), was released alongside an analysis estimating that "approximately two million federal student loan borrowers have been in repayment for more than 20 years, yet still owe student loans for undergraduate debt."

The following report builds on this foundational analysis, reviewing additional data and government records showing that the number of student loan borrowers with decades-old debt is far larger than previously estimated. In addition, citing evidence from the nation's largest student loan servicer, the report indicates that the impossibly small number of borrowers receiving loan forgiveness will persist far into the future. Finally, the report offers additional context and analysis, detailing common roadblocks that have denied borrowers' progress toward loan forgiveness in the existing, profoundly broken student loan system.

This report offers the first comprehensive look at the lasting effects of the current IDR scheme on millions of low-income borrowers who have languished in the broken student loan system for years or decades.

Taken together, this report offers the first comprehensive look at the lasting effects of the current IDR scheme on millions of low-income borrowers who have languished in the broken student loan system for years or decades, struggling to access or persist in IDR—borrowers who were ignored by policymakers when designing these critical protections in years past.

Driving Into a Dead End: Why IDR Has Failed Millions with Decades-Old Debts

Barriers to Debt Cancellation Will Break the Promise of IDR for Years into the Future

By the middle of 2021, nearly 10 million student loan borrowers who owed more than a half-trillion dollars in federal student loans had enrolled in IDR.[13] Collectively, these sums comprise nearly 1-in-4 student loan borrowers and roughly 1-in-3 dollars of outstanding federal student loan debt.[14]

However, high IDR enrollment is a relatively recent phenomenon, growing far faster than the total number of borrowers in the student loan system.[15] From one perspective, this signifies major strides in IDR take-up by past administrations of both parties and is a signal that pressure from regulators and law enforcement officials may have raised the quality of student loan servicing provided to economically vulnerable student loan borrowers.[16] However, when viewed as a measure of IDR's success in offering a pathway out of debt for chronically low-income people, this data tells a different story.

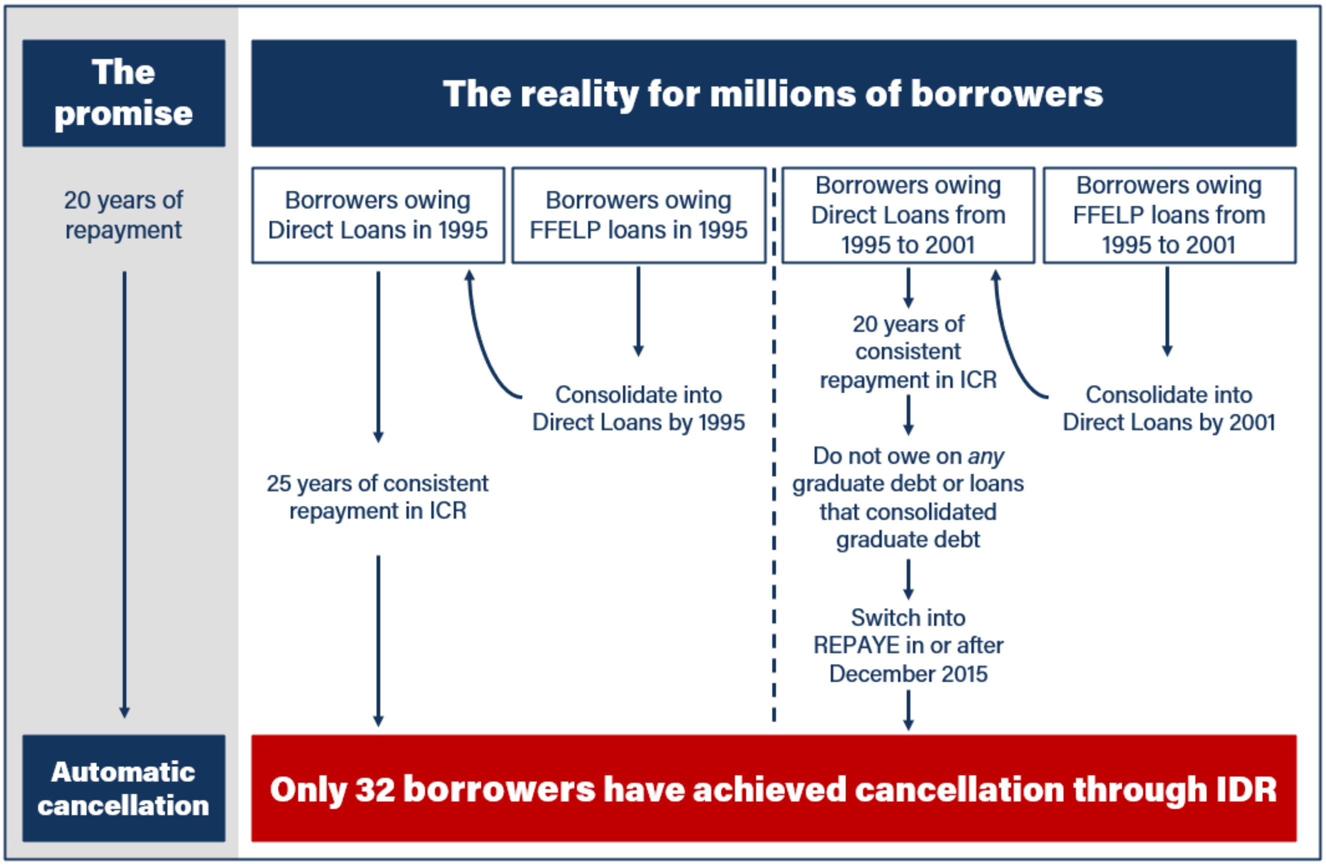
To secure debt cancellation under IDR, student loan borrowers must enroll in one of the widely available income-driven options and remain in that repayment plan for decades.[17] The historical failure of student loan servicers to keep low-income borrowers in IDR over the long term presents an immediate and emergent policy problem. Separate-and-apart from the need for increased IDR uptake to provide short-term financial flexibility, millions of borrowers remain trapped in the student loan system for decades and their only prospect for relief is to spend additional decades awaiting debt cancellation as if they had newly entered repayment.

Borrowers fall into this trap because policymakers, when expanding IDR in 2009, failed to provide an avenue to borrowers with older loans to earn retroactive credit towards debt cancellation.[18] Subsequent expansions of IDR in 2012 and 2015 doubled down on this design flaw—each set of regulations promulgated by the Department of Education presumed that the only borrowers deserving of a way out of debt were either among the tiny sliver of student loan borrowers who had taken out Direct Loans decades ago, or those who were willing to make 20 or 25 years of *additional* payments after the range of IDR options was expanded.[19]

In effect, each prior IDR rulemaking failed to offer a viable path out of debt for any low-income borrowers before 2034—25 years after the first borrowers became eligible to enroll in Income Based Repayment in 2009.

The following diagram, adapted from an illustration in the aforementioned NCLC-SPBC report on this topic, illustrates borrowers' dilemma from the perspective of those who owe decades-old debts today:

Figure 1: The Broken Pathway to Debt Cancellation for Low-Income Borrowers[20]



This diagram illustrates the high-stakes decisions facing low-income borrowers throughout the repayment process—missing the opportunity to consolidate a loan or enroll in IDR two decades ago created an absolute bar to debt cancellation on the timeline promised under the law.

As described above, the prior report that featured this illustration revealed that only 32 borrowers had ever received loan forgiveness under IDR, even as an estimated two million borrowers continued to repay federal student loans incurred to pay for their undergraduate education at the time of publication. Both of these data points illustrate how the design flaws described above conspired to deny millions of borrowers a way out of debt. However, new government data and industry records reveal that, on both counts, this prior publication underestimated the scale of the problem.

Specifically, new evidence reveals the following:

- **More than four million student loan borrowers remain trapped in decades-old debts—double the number previously reported.** In April 2021, U.S. Senator Elizabeth Warren asked the U.S. Department of Education (ED) directly about the number of borrowers with federal student loans who had been in repayment for specific periods of time. In response to this request, ED's office of Federal Student Aid (FSA) revealed for the first time that the number of borrowers with decades-old debts exceeds 4.4 million borrowers.[21] This is more than double the estimate of two million borrowers generated by NCLC and SBPC in their March 2021 report.[22]

- **An internal analysis prepared by the largest student loan servicer projects that fewer than 50 additional borrowers will have debts cancelled under IDR in the next five years.** In response to a request submitted to ED's largest student loan servicer, the Pennsylvania Higher Education Assistance Agency (PHEAA), the SBPC obtained internal correspondence pursuant to Pennsylvania's state open records law projecting that, of PHEAA's more than 8.5 million customers, 48 borrowers would receive debt cancellation under IDR by 2025. This correspondence from December 2020 offers new evidence that no recent policy changes were projected to boost eligibility for debt cancellation under IDR in the years ahead.

- **PHEAA's internal data projects the number of IDR borrowers receiving debt cancellation will decline by 83 percent between 2022 and 2025.** The correspondence obtained by SBPC contains a year-by-year estimate of the number of PHEAA customers qualify for debt cancellation under IDR between 2020 and 2025. As noted above, an extraordinarily small number of borrowers are projected to be eligible, peaking in 2022, when 23 people are estimated to qualify, and tapering back down to *four* individuals by 2025. The decline from 2022 to 2025 offers additional support for the conclusion that even as more Direct Loan borrowers accumulate time in repayment, an extraordinarily small number of these borrowers enrolled and remained in IDR over this period.

Figure 2: Internal Industry Estimate Projects Debt Cancellation Will Remain Illusory

From: Clint Heckman (b)(6)
Sent: Thursday, December 24, 2020 11:43 AM
To: Jennings, Colby (b)(6)
Cc: Clint Heckman (b)(6) Isett, Christine (b)(6) Cynthia McGeary (b)(6)
Subject: Re: RE: Re: PSLF Task Force--Call for Agenda Items

Hi Colby,

Here are the IDR forgiveness projections through 2025.

Year	Loan #
2020	2
2021	3
2022	23
2023	11
2024	11
2025	4

Based on market share, these estimates suggest that out of a total of 4.4 million borrowers in repayment for more than two decades, fewer than 200 student loan borrowers will benefit from debt cancellation under IDR between 2020 and 2025—or a 1-in-23,000 chance. As a member of PHEAA's staff noted when sharing this analysis with ED officials, "[i]t seems very low…".[23]

Persisting In IDR Has Proven Impossible for Millions of People

There are several explanations for why borrowers have been unable to successfully navigate the student loan system and unlock the many benefits of IDR, including debt cancellation.[24] As discussed above, structural barriers to debt cancellation have tethered a generation of low-income student loan borrowers to their debts, despite the professed policy goals of IDR's framers.[25] Further, a combination of illegal industry practices and misguided public policies have created additional, insurmountable hurdles for those with the oldest debts and appear to be denying borrowers with more recent loans access to the pathway to a debt-free future. These barriers include:

- **Denying eligibility to borrowers in default.** First, under current ED regulations, all borrowers in default are prohibited from making progress toward debt cancellation, even when they would otherwise be eligible for a zero-dollar payment under an IDR plan.[26] These limitations include circumstances where borrowers who would otherwise be eligible to make a zero-dollar payment are, instead, subject to wage garnishment or are forced to forfeit tax refunds, social security payments, and other government benefits. This structural feature of IDR breaks a fundamental promise to borrowers who, almost by definition, are struggling the most, and ties potentially millions of low-income borrowers to debts that would never be repaid but for the failure of the student loan system to help these borrowers get on track and invoke their rights under the law.

- **Deceiving borrowers about eligibility to enroll in IDR.** Widespread illegal servicing practices act as a major impediment to enrollment in IDR. These abuses include alleged deception by student loan companies as to the availability of IDR and the necessary steps to qualify, dating back to the earliest days of the program.[27] Borrowers have also been knocked off track due to systemic mismanagement of borrower accounts by the sole servicer contracted to handle Direct Loans during the first two decades following the creation of the first IDR plan.[28]

- **Depriving borrowers of the opportunity to persist in IDR.** Lastly, as the federal Consumer Financial Protection Bureau (CFPB) first reported in 2015, shoddy student loan servicing may have prevented as many as three-in-five borrowers who managed to enroll in IDR from staying on track year-over-year.[29] Allegations made in public enforcement actions against one large student loan servicer offer evidence that illegal servicing practices drive borrowers' failure to persist over time, costing these borrowers progress toward debt cancellation under IDR.[30]

The following section of this report examines the final of these three categories—the widespread failure to persist in IDR year-over-year—and offers new evidence that shoddy or illegal student loan servicing is not merely an historical feature of the student loan system, but remains a present danger to low-income borrowers pursuing debt relief under IDR.

Nevertheless, Few Persisted

Over the past six years, researchers, regulators, and law enforcement officials have all called attention to the widespread mishandling of the process for recertifying income and family size on an annual basis.[31] Borrowers fail to persist in IDR due to a student loan system that is unable to administer the basic functions for which it is responsible under the law—providing accurate information to borrowers about their obligations and processing paperwork fairly and in a timely manner.

These functions are essential for borrowers to progress toward debt cancellation in IDR and, when these functions are not performed, borrowers face an impossible choice:

- Make payments in amounts far greater than the amount otherwise owed based on their income–increasing the likelihood that they fully repay their loan before becoming eligible for debt cancellation; or
- Avoid making monthly payments entirely, either by using a forbearance or by sliding into delinquency and default—forfeiting progress toward debt cancellation.

In effect, borrowers are forced into a financially disastrous catch-22. Either a borrower is denied *both* the promise of an affordable payment *and* progress toward debt cancellation, or, in the alternative, the borrower is forced to delay access to promised debt cancellation due to the same financial constraints that make them eligible for IDR in the first place.[32] Taken together, these negative consequences result in a *de facto* "repayment purgatory" for millions of borrowers that can last months or years.

The following analysis of government data suggests that fully half of all borrowers who have enrolled in the most commonly used IDR plan since 2016 have failed to persist and are instead knocked into this repayment purgatory, making the promise of debt cancellation nearly impossible to achieve.

Half of Borrowers Fall into Repayment Purgatory

Between the end of 2016 and the end of 2018, enrollment in the newest IDR option, known as Revised Pay As You Earn or REPAYE, grew by nearly 2 million borrowers. As a result, these borrowers were entitled to at least one year of payments based on their income.[33] REPAYE offers borrowers who enroll the right to pay ten percent of their discretionary income per year and obtain loan forgiveness after 20 or 25 years of monthly payments, depending on whether the loans being repaid include debt borrowed to pay for graduate school.[34]

However, REPAYE repeated a critical flaw common to other IDR options—it assumed flawless administration of the student loan system over decades as precondition for loan forgiveness.[35] As the remainder of this section discusses in detail, new government data shows that repayment behavior demanded and assumed by the framers of REPAYE has proven administratively unworkable—likely breaking the promise of loan forgiveness for another generation of low-income borrowers.

These outcomes are visible for the first time because of a unique structural feature of REPAYE—the "alternative payment plan." Unlike other IDR options, when a borrower in REPAYE fails to recertify income and family size at the end of a given year, these borrowers are automatically kicked out of IDR.[36] These borrowers are placed in the alternative payment plan, where their monthly payments snap back to the amount due under a level, ten-year repayment schedule—a payment shock that often amounts to hundreds of dollars per month or more.[37] In addition, all unpaid interest charges that a borrower may have accrued in IDR are added to the borrower's loan balances, at which point unpaid interest begins to compound. Lastly, these borrowers also forfeit eligibility for interest subsidies that could otherwise prevent unpaid balances from growing.[38]

Because this structure is unique to REPAYE, available data on the alternative repayment plan offers the first public insight into how many borrowers' fail to persist in IDR year-after-year. By the middle of 2020, the number of borrowers enrolled in this repayment purgatory grew by more than 1.1 million borrowers—a breakneck rate of growth that exceeds enrollment in REPAYE itself.[39]

Figure 3: As IDR Enrollment Booms, so do the Ranks of Those Who Fall Through the Cracks[40]

		REPAYE		Alternative	
		Dollars Outstanding (billions)	Recipients (millions)	Dollars Outstanding (billions)	Recipients (millions)
2016	**Q4**	$43.6	0.89	$5.7	0.29
2017	**Q4**	$95.0	1.79	$17.7	0.59
2018	**Q4**	$136.7	2.45	$31.9	0.96
2019	**Q4**	$168.9	2.90	$45.0	1.29
2020	**Q2**	$182.9	3.10	$51.3	1.44

The trend evident in this data is equally disturbing. Each year, like clockwork, the alternative repayment plan maintained an aggregate enrollment level matched to roughly half of the prior year's enrollment in REPAYE. Put plainly, there is now strong empirical evidence that half of all borrowers who enroll in the largest IDR plan fail to persist.

Figure 4: Half of Borrowers Accessing IDR Fail to Persist

		Alternative Enrollment as a Share of Prior-Year REPAYE Enrollment
2018	**Q4**	54%
2019	**Q4**	53%
2020	**Q2**	50%

As noted above, the consequences for these borrowers are significant. When falling out of IDR, borrowers are immediately hit with a capitalization event—any unpaid interest becomes part of their principal balance and compounds. Over time, this event can cause outstanding debts to skyrocket. As one researcher described in a recent report on the negative effects of runaway IDR balances, the burden of these negative consequences is not shouldered equally:

> *Runaway debt disproportionately impacts borrowers and communities of color, who must take on greater debt to finance higher education in the first place, and who stand to benefit the most from a well-designed, generous, and responsive loan repayment system.*[41]

The end result is a payment plan that is among the most punitive options afforded to any student loan borrower anywhere in the student loan system, reserved for those who once and likely continue to experience financial hardship. This analysis offers a clear warning to policymakers that even the most recent iteration of IDR is fatally flawed and that, two decades from now, borrowers who have pursued this option will face a similar fate to the 4.4 million borrowers who remain tied to decades-old debts today.

Recommendations

The following recommendations offer a path forward for policymakers who are committed to both of the twin goals of IDR—affordable loan payments in the short term and a way out for borrowers experiencing long-term financial hardship. Unfortunately, past efforts to expand and strengthen IDR to better protect low-income borrowers have failed on both fronts, particularly with respect to tens of millions of student loan borrowers who have been in repayment for years or decades.

The Biden Administration should pursue broad-based debt cancellation via executive action as the administratively simplest, most comprehensive, and most equitable remedy for the failures outlined above. Should the Department of Education force student loan borrowers to resume making payments in February 2020 as previously announced, broad-based debt cancellation may also be the only policy option available to provide significant relief in advance of that deadline, mitigating the significant stress a return to repayment will post for borrowers and for the student loan system.

In addition, to address the systemic and structural issues discussed in the preceding sections of this report, policymakers should adopt the following recommendations:

- **The Department of Education, as a feature of any new IDR plan, should provide all existing borrowers with a viable path to debt cancellation consistent with the goals of IDR.** As described above, past efforts to expand IDR have suffered from a fatal flaw with respect to the viability of a promised path to debt cancellation—the treatment of millions of student loan borrowers with existing debts. ED should break with the past approach and expand the circumstances under which borrowers gain credit toward debt cancellation. Rather than enumerate the specific payment plans and loan statuses that allow borrowers to progress toward cancellation, ED should count progress toward eligibility solely on time in repayment, including periods spent in default, for all current and future borrowers.[42]

  ED should amend existing regulations to ensure this approach governs eligibility for debt cancellation under the current range of IDR options. Further, where a new IDR option offers a shorter window for debt cancellation or a tiered option that provides earlier access to debt cancellation for lower-balance or chronically lower-income borrowers, this approach should also govern eligibility.

  This has the secondary benefit providing ED with a mechanism to mitigate two decades of mismanagement and abuse by its contracted student loan servicers. Affording borrowers credit toward debt cancellation based on the time spent in repayment remediates a portion of the harm caused by forbearance steering, improper paperwork processing, and the student loan system's sustained inability to successfully ensure borrowers remain in IDR over the long term.

- **The Department of Education should rely on evidence provided by federal and state enforcement officials and cancel student debt owed by borrowers who have been cheated by student loan servicers.** As noted above, over the past five years, eight state attorneys general and the federal Consumer Financial Protection Bureau have brought public enforcement actions against ED's two largest contracted student loan servicers for a wide range of abuses related to borrowers' access to IDR, including abusive forbearance steering, deception related to borrowers' obligation to annually recertify income, failure to timely process IDR applications, and a range of other abuses.[43] Taken together, these widespread harmful practices should justify immediate debt cancellation by the Secretary of Education for affected consumers, recognizing that it is unjust and inappropriate to demand that these borrowers document their prolonged financial distress for additional decades and continue to navigate the byzantine student loan system before canceling their debts.

- **The Department of Education should establish a 20-year maximum loan term for all student loans, at which point any unpaid balance should automatically be cancelled by the Secretary.** Similar to the policy rationale for the preceding recommendations, ED should recognize that over the prior two decades the student loan system has failed to adequately support low-income borrowers, making access to affordable monthly payments and a viable path to debt cancellation illusory for many of the most economically vulnerable people with student debt. Instead, ED should implement a policy providing for the automatic cancellation of all student loans after 20 years in repayment, regardless of a borrower's loan type, repayment plan, or repayment status.[44] At minimum, ED should establish a 20-year maximum loan term for all borrowers who presently have decades-old debt, immediately cancelling debt for the 4.4 million student loan borrowers forced to spend the past 20 years in the current, profoundly broken student loan system.[45]

- **The Department of Education should consider additional factors when establishing a timeline for debt cancellation, shortening the road to relief for the borrowers most likely to face prolonged financial hardship.** As described above, the all-or-nothing nature of debt cancellation under IDR, paired with the extraordinarily long timeline for relief, raises the stakes for borrowers every time they make a decision about the repayment of their student loan. For the most economically vulnerable borrowers, this significant administrative burden may push debt cancellation entirely beyond reach. The Department should offer a shorter timeline for the borrowers most likely to experience prolonged financial hardship, including, for example, borrowers who have made $0 monthly payments for multiple consecutive years and borrowers whose primary source of income are payments connected to a disability, but who do not otherwise qualify for a Total and Permanent Disability discharge.

- **The Department of Education must immediately cancel debt for all borrowers with loans that have been in default for 3 years or more.** Under current law, state statutes of limitations do not apply to the collection of federal student loans. As a result, the Education Department's approach to post-default collections is unique in consumer finance-- borrowers are subjected to a punitive and often unaccountable system of forced collections while being denied basic consumer protections available to borrowers with all other types of consumer debts, including private student loans. Recognizing that borrowers in default have been denied the benefits of IDR over the three and a half decades since the first IDR options became available, the Secretary of Education should implement a policy mirroring the most protective state statutes of limitation and halt collections by cancelling student debt for borrowers who have been in default for three years or more.

- **The Department of Education must fully implement the FUTURE Act.** In December 2019, President Trump signed a bipartisan law that authorizes ED to automate the process of annually recertifying income and family size for the purpose of remaining in IDR, allowing ED to access borrower tax records held by the Internal Revenue Service. This commonsense law should have marked the end of borrowers' widespread inability to persist in IDR over the long term, creating a viable bath to debt cancellation for the next generation of low-income borrowers. Unfortunately, 40 million student loan borrowers are poised to reenter repayment on February 1, 2022 and ED has not taken the steps to implement this law. There also remain serious unanswered questions as to whether the implementation of the FUTURE Act will have any impact on borrowers previously blocked from recertifying income and family size due to mismanagement and abuses in the student loan system over the past three decades. ED should immediately and fully implement the FUTURE Act as a supplement to-- and not a replacement for-- the structural changes outlined in the preceding recommendations.

Conclusion

This report illustrates the high stakes for millions of vulnerable borrowers raised by the upcoming Education Department rulemaking on income-driven repayment. The Biden administration has an opportunity to Build Back Better by delivering on both of the twin goals touted by IDR's framers—affordable monthly payments and a path to debt cancellation. As the administration considers the contours of new IDR regulations, it is critical that policymakers do not repeat the same mistakes made by past administrations by ignoring the needs of millions of borrowers who have been in the student loan system for years or decades. Instead, it is essential that the administration finally ensure IDR offers a viable path to debt cancellation for all borrowers who experience financial hardship.

Appendix

Pennsylvania Higher Education Assistance Agency, Correspondence with the U.S. Department of Education regarding debt cancellation under IDR (2021)

From: Jennings, Colby
To: Clint Heckman
Cc: Clint Heckman; Isett, Christine; Cynthia McGeary
Subject: RE: RE: Re: PSLF Task Force--Call for Agenda Items
Date: Monday, January 4, 2021 8:11:29 AM
Attachments: image001.png

Good morning,

Thank you, Clint. I will share with the internal IDR team and let you know if we have any questions to follow up with.

Have a nice day!

Colby Jennings | Division Chief
Borrower Processing Division
Delivery Systems and Extended Workforce Support |Student Experience and Aid Delivery
U.S. Dept. of Education | Federal Student Aid
830 First St NE, Washington D.C., 20202
Phone: 202-377-3010 | Cell: 202-213-3744

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From: Clint Heckman (b)(6)
Sent: Thursday, December 24, 2020 11:43 AM
To: Jennings, Colby (b)(6)
Cc: Clint Heckman (b)(6) Isett, Christine (b)(6) Cynthia McGeary (b)(6)
Subject: Re: RE: Re: PSLF Task Force--Call for Agenda Items

Hi Colby,

Here are the IDR forgiveness projections through 2025.

Year	Loan #
2020	2
2021	3
2022	23
2023	11
2024	11
2025	4

It feels very low, but a quick review does appear to validate based on when plans can have first eligibility ex. IBR loans can only become eligible in 2034.

Please let me know if you have any questions.

Endnotes

[1] Fed. Reserve Bank of N.Y., Student Loan Borrowing By State/Area (2020), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/student-loan-by-state.xlsx (finding that the average student loan balance is $35,530.16); Fed. Reserve Bank of N.Y., 2018 Student Loan Update (2018), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_2018.xlsx (finding that roughly one-in-five borrowers owes at least $50,000); Fed. Reserve Bank of N.Y., Quarterly Report on Household Debt and Credit: 2020Q2 (Aug. 2020), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/hhd_c_report_2020q2.xlsx (finding that student loan delinquency before the coronavirus crisis was 21 percent higher than the rate of mortgage delinquency at the peak of the Great Recession); Ben Kaufman, New Data Show Student Loan Defaults Spiked in 2019 - A Warning to Industry and DeVos Amid Economic Fallout, Student Borrower Prot. Ctr. (Mar. 13, 2020), https://protectborrowers.org/every-26-seconds/ (finding that a borrower defaulted on a federal student loan every 26 seconds in 2019).

[2] See Antoinette Flores, Proposed Student Loan Repayment Plan Would Extend the Same Income-Based Terms to All Federal Loan Borrowers, Ctr. for Am. Progress (Aug. 18, 2015, 4:19 PM), https://www.americanprogress.org/issues/educationpostsecondary/news/2015/08/18/119574/proposed-student-loan-repayment-plan-would-extend-the-same-income-basedterms-to-all-federal-loan-borrowers/#; Congressional Research Service, Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers (June 21, 2021) https://crsreports.congress.gov/product/pdf/R/R45931#page=37.

[3] Income-Driven Repayment Plans, Fed. Student Aid, https://studentaid.gov/manage-loans/repayment/plans/income-driven ("If your income is low enough, your payment could be as low as $0 per month.").

[4] *Id*.

[5] For further discussion, see Student Borrower Prot. Ctr., Driving Down Distress? The Principles & Incomplete History of Income-Driven Repayment 3 (2021), https://protectborrowers.org/wp-content/uploads/2021/09/Driving-Down-Distress.pdf.

[6] Mark Huelsman., Driving Runaway Debt: How IDR's Current Design Buries Borrowers Under Billions of Dollars in Unaffordable Interest, Student Borrower Prot. Ctr. (2021), https://protectborrowers.org/wp-content/uploads/2021/09/SBPC_Driving_Runaway_Debt.pdf.

[7] See, e.g., Higher Education Amendments of 1992, Pub. L. 102-325 (The first statutory authorization for the Secretary of Education to create an income-contingent repayment plan.); see generally, Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66.

[8] For further discussion, see Issue Brief, Education Department's Decades-Old Debt Trap: How the Mismanagement of Income-Driven Repayment Locked Millions in Debt, Nat'l Consumer L. Ctr. and Student Borrower Prot. Ctr. (Mar. 2021), https://www.nclc.org/uncategorized/issue-brief-education-departments-decades-old-debt-trap-how-the-mismanagement-of-income-driven-repayment-locked-millions-in-debt.html.

[9] Huelsman, *supra* note 6

[10] *Id*

[11] *Id*

[12] *Id.*

[13] Student Borrower Protection Center analysis of Federal Student Aid portfolio data. *See* Fed. Student Aid, Direct Loan Portfolio by Repayment Plan (2021), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls.

[14] Student Borrower Protection Center analysis of Federal Student Aid portfolio data. *See id.*; Fed. Student Aid, Federal Student Aid Portfolio Summary (2021), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.

[15] For example, as recently as 2014, barely more than 1-in-10 Direct Loan borrowers had enrolled in IDR, collectively owning fewer than 15% of outstanding Direct Loans. *See* Sue O'Flaherty, U.S. Dep't of Educ., Income-Driven Repayment (Dec. 2014), https://fsaconferences.ed.gov/conferences/library/2014/servicing/2014ServicingSummitIncomeDrivenRepayment.ppt; Fed. Student Aid, Federal Student Aid Portfolio Summary (2021), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.

[16] *See, e.g.*, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment*, Consumer Fin. Prot. Bureau (Jan. 18, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.

[17] Borrowers may also count monthly payments made under a range of other options so long as the payment amount is equivalent to the amount owed under a standard, 10-year repayment plan. Because of the amount of the payment required under these other options, borrowers cannot persist in them for an extended period of time without repaying their student loan. Consequently, only enrollment and persistence in IDR will lead to debt cancellation.

[18] *See* 73 FR 63258 (Oct. 23, 2008)

[19] *See* 77 FR 66136 (Nov. 1, 2012); 80 FR 67238 (Oct. 30, 2015); and 81 FR 76081 (Nov. 1, 2016).

[20] This image first appeared in a joint report authored by SBPC and NCLC and has been lightly adapted for inclusion in this report. For additional context, *see* Student Borrower Prot. Ctr. & Nat'l Consumer L. Ctr., *supra* note 8.

[21] U.S. Senator Elizabeth Warren of Mass., Education Department Responses to Senator Warren (2021), https://www.warren.senate.gov/imo/media/doc/Education%20Department%20Response%20to%20Sen%20Warren%20-%204-8-21.pdf.

[22] *See* Student Borrower Prot. Ctr. & Nat'l Consumer L. Ctr., *supra* note 8.

[23] *See* Appendix., Pennsylvania Higher Education Assistance Agency, Correspondence with the U.S. Department of Education regarding debt cancellation under IDR (Dec. 24, 2020).

[24] *See, .e.g. CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment*, Consumer Fin. Prot. Bureau (Jan. 18, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/; Consumer Fin. Prot .Bureau, Student Loan Servicing: Analysis of Public Input and Recommendations for Reform (September 2015), https://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.; and Persis Yu, *Relief for Borrowers in Income-Driven Repayment, in* Delivering on Debt Relief 74 (2020), Student Borrower Prot. Ctr., https://protectborrowers.org/wp-content/uploads/2020/12/Delivering-on-Debt-Relief.pdf#page=74.

[25] For further discussion see, Yu, Persis, *Relief for Borrowers in Income-Driven Repayment, supra* note 24.

[26] *Id.*

[27] Consumer Fin. Prot. Bureau, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment,* supra note 24.

28 As noted, for the first two decades following the creation of the first widely available IDR plan, Income-Contingent Repayment (ICR), all eligible borrowers had loans serviced by a single company-- Affiliated Computer Services or ACS, formerly a division of the Xerox Corporation. Government records show that this single company committed more than five million individual servicing errors before its contract was finally terminated by the Department of Education in 2013. For further discussion, *see* Student Borrower Prot. Ctr. & Am. Fed'n of Tchrs., Broken Promises: How the Department of Education's Failures and Industry's Abuses Deny FFEL Borrowers Public Service Loan Forgiveness (2020), https://protectborrowers.org/wp-content/uploads/2020/12/BrokenPromises_FFEL.pdf; Student Borrower Prot. Ctr. & Am. Fed'n of Tchrs., Broken Promises: The Untold Failures of ACS Servicing (2020), https://protectborrowers.org/wp-content/uploads/2020/10/Broken-Promises_ACS.pdf.

29 *See, e.g.,* Consumer Fin. Prot. Bureau, *Student Loan Servicing,* supra note 24.

30 *See, e.g.,* Consumer Fin. Prot. Bureau, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment,* supra note 24.

[31] For further discussion *see* Consumer Fin. Prot. Bureau, *Student Loan Servicing,* supra note 24.

[32] Readers should note that ED did attempt to regulate a safe harbor for borrowers who encounter paperwork processing delays by a student loan servicer. Where an IDR application has been received timely and a servicer is unable to process it, the borrower has an entitlement to continue making IDR payments at the amount due in the prior year for the duration of any paperwork processing. *See* 34 C.F.R. § 685.209 (2017).

[33] Unfortunately, government data only shows the absolute number of borrowers currently enrolled in REPAYE— it does not show the flow in or out of the program, or allow a more complete view into the typical number of years in which a borrower spends enrolled in REPAYE or the churn between REPAYE and the Alternative Repayment Plan. *See generally* Fed. Student Aid, Direct Loan Portfolio by Repayment Plan (2021), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls.

[34] *See* 34 C.F.R. § 685.209 (2017).

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] Student Borrower Protection Center analysis of Federal Student Aid portfolio data. Fed. Student Aid, Direct Loan Portfolio by Repayment Plan (2021), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls.

[40] *Id.*

[41] Mark Huelsman., Driving Runaway Debt: How IDR's Current Design Buries Borrowers Under Billions of Dollars in Unaffordable Interest, Student Borrower Prot. Ctr. (2021), https://protectborrowers.org/wp-content/uploads/2021/09/SBPC_Driving_Runaway_Debt.pdf.

[42] The mechanics of this approach may vary depending on the structure adopted for a borrower to access and persist in IDR. For example, ED could allow any borrower who has ever enrolled in IDR to qualify once that borrower has spent the required number of months in repayment, regardless of payment plan, loan status, or payment history. ED could supplement this structure by opening up the opportunity for immediate debt cancellation for any borrower who has spent the required number of months in repayment and would qualify for a reduced monthly payment under IDR based on his or her current financial circumstances.

[43] See, e.g., Consumer Fin. Prot. Bureau, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment* (Jan. 18, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.

[44] Note that there appears to be a growing consensus that this policy approach makes sense as a matter of equity and due to the relatively low administrative burden placed on borrowers and on the student loan system itself. For example, in his recent testimony before the Senate Banking Committee, Navient CEO Jack Remondi endorsed a similar approach. *See* John. Remondi, *Testimony before the Senate Committee on Banking, Housing, and Urban Affairs* (April 2021), https://www.banking.senate.gov/imo/media/doc/Remondi%20Testimony%204-13-21.pdf. ("There are good reasons for such forgiveness, including the fact that borrowers took out these loans well before the availability of more generous IDR plans and, if they struggled early on, they likely only had a handful of deferment and forbearance options available to them. Furthermore, with higher interest rates in the 1990s, these borrowers may have built up their balances, making repaying their loans more difficult to achieve. We believe these loans should be forgiven.")

[45] As of the date of this publication, the most recent data available shows that approximately 2.1 million borrowers with loans owned by the Department of Education had enrolled in graduated or fixed repayment plans with loan terms in excess of 10 years. In many instances, borrowers sought these repayment arrangements after receiving incorrect or incomplete information about repayment options from loan servicers or enrolled prior to the implementation of more generous IDR options. When implementing this recommendation, it is critical that ED not exclude these borrowers from relief. Student Borrower Protection Center analysis of Federal Student Aid portfolio data. *See* Fed. Student Aid, Direct Loan Portfolio by Repayment Plan (2021), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls.