



The Honorable Patty Murray
Ranking Member
Health, Education, Labor and Pensions Committee
United States Senate
Washington, D.C. 20510

December 20, 2018

Dear Ranking Member Murray:

As requested in both the joint explanatory statement accompanying the *Consolidated Appropriations Act of 2018*, and Senate Report 115-150, we are transmitting to Congress the enclosed information regarding Borrower Defense applications made pursuant to Section 455(h) of the *Higher Education Act of 1965*, as amended, 20 U.S.C. § 1087e(h), and our implementing regulations.

The enclosed report provides information regarding the total borrower defense applications received and discharged as of September 30, 2018, both nationally and by state. The report also provides the median outstanding debt for borrower defense applicants prior to discharge, as well as the median loan debt remaining for applicants who received a partial discharge. As discussed with Congressional staff on September 10, 2018, in order to reduce the risk of an inadvertent disclosure of personally identifiable information (PII), only applications received and total amount discharged can be presented by state this quarter.

The total amount discharged and the number of approved and denied claims included in the enclosed report has not changed from what we previously reported, in large part as a result of ongoing litigation and a diversion of resources away from the adjudication of applications and towards implementation of the borrower defense to repayment final regulations (the "2016 final regulations") that were promulgated by the Department on November 1, 2016, 81 Fed. Reg. 75,926.

Federal Student Aid
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As you may know, we have been involved in various litigation concerning borrower defense to repayment issues. In one of these cases, *Manriquez v. DeVos*, No. 17-cv-7210, the U.S. District Court for the Northern District of California this summer issued a preliminary injunction enjoining us from using a methodology we had developed to quantify the amount of relief that borrowers would receive for certain types of borrower defense applicants. We remain subject to this preliminary injunction.¹ Further, the Department has been working to implement the 2016 final regulations. The Department had delayed the effective date of the 2016 final regulations to July 1, 2019, and as a result had not implemented the changes to the borrower defense process required under those regulations. However, the delays of the 2016 final regulations were vacated in the fall of 2018 by the U.S. District Court for the District of Columbia in the case *Bauer v. DeVos*, No. 17-cv-1330. As a result of the court's orders in *Bauer*, the Department has been working diligently to implement the 2016 final regulations. As we work through resolving issues relating to the various borrower defense to repayment-related litigation and to the allocation of resources in light of such litigation, we expect to increase our processing of borrower defense applications.

We will post the data provided in the attached report on the Federal Student Aid Data Center at StudentAid.gov/data-center.

If you have any questions about this report, please have your staff contact Molly Petersen in the Office of Legislation and Congressional Affairs by email at Molly.Petersen@ed.gov or by phone at (202) 401-0020.

Sincerely,



for James F. Manning
Acting Chief Operating Officer

¹ The Department has filed an appeal of the preliminary injunction order with the Ninth Circuit Court of Appeals, and that appeal is pending.

Borrower Defense - Quarterly Report - for quarter end 9/30/2018

Total Received Claims	200,630	Percentage of the total approved claims receiving partial discharge ⁴	31.3%
Total Pending Claims	139,023		
Total Approved Claims	47,942	Total dollar amount of outstanding debt prior to discharge ^{1, 4}	\$ 602,445,930
Total Denied Claims	9,077	Median dollar amount of outstanding debt prior to discharge ^{1, 4}	\$ 11,542
Total Closed Claims	4,590	Median loan debt remaining for claims receiving partial discharge ^{1, 4}	\$ 7,851
Total Amount Discharged ⁴	\$534,765,563		

State Level Breakouts:²

Total Received		Total Amount Discharged	
Borrower State of Residence	Total Received	Borrower State of Residence	Total Discharged
TOTAL	200,630	TOTAL	\$ 534,765,562.65
CA	46,982	CA	\$ 181,534,401.68
FL	16,466	FL	\$ 42,988,608.01
TX	15,400	MA	\$ 30,668,620.67
IL	10,392	TX	\$ 25,655,187.48
GA	8,733	GA	\$ 21,052,060.65
WA	7,369	WA	\$ 18,933,759.95
MA	6,125	IL	\$ 14,977,976.71
OH	5,966	NC	\$ 14,869,392.57
NY	5,543	MI	\$ 14,153,986.21
PA	5,458	HI	\$ 12,586,220.53
MI	5,379	PA	\$ 12,221,509.98
NC	4,973	OR	\$ 10,492,103.89
VA	4,652	OH	\$ 10,464,714.95
IN	3,799	VA	\$ 10,213,706.62
MO	3,695	NY	\$ 9,693,154.96
CO	3,288	CO	\$ 8,620,865.33
AZ	3,282	MO	\$ 7,151,531.27
MN	3,229	NV	\$ 6,375,114.85
NJ	3,193	SC	\$ 6,033,202.05
OR	3,094	IN	\$ 5,863,531.95
MD	2,843	TN	\$ 5,714,017.12
TN	2,615	MD	\$ 5,222,338.59
NV	2,526	MS	\$ 4,884,963.73
HI	2,479	MN	\$ 4,859,558.93
WI	2,271	NJ	\$ 4,527,620.08
SC	2,057	AL	\$ 4,442,080.99
AL	1,805	LA	\$ 4,015,068.21
KY	1,682	AZ	\$ 3,850,660.42
LA	1,510	KY	\$ 3,021,453.11
MS	1,447	WI	\$ 2,842,268.55
UT	1,244	AR	\$ 2,693,604.27
OK	1,085	WV	\$ 2,475,106.47
KS	1,006	KS	\$ 2,074,560.94

WV	983	UT	\$ 1,821,799.26
AR	972	IA	\$ 1,681,706.17
IA	831	OK	\$ 1,618,205.02
CT	814	CT	\$ 1,467,437.04
NM	669	ID	\$ 1,242,733.49
ID	652	NE	\$ 1,050,694.52
NE	564	NM	\$ 1,023,915.71
DC	459	WY	\$ 1,023,544.83
NH	375	DE	\$ 997,436.54
DE	324	NH	\$ 975,557.41
MT	310	FC	\$ 918,270.21
WY	298	MT	\$ 889,873.78
ME	277	DC	\$ 797,027.97
SD	245	AK	\$ 688,927.93
RI	244	ME	\$ 685,577.58
AK	223	RI	\$ 612,236.75
ND	214	SD	\$ 559,249.52
FC ³	207	ND	\$ 432,409.52
VT	120	VI	\$ 357,365.20
PR	62	VT	\$ 300,486.42
VI	54	AE	\$ 134,933.88
AE	43	GU	\$ 133,610.94
Less than 30	102	Less than \$100,000	\$ 179,611.24

Data Descriptions:

Total Received Claims: Total count of applications received by the U.S. Department of Education (ED) that have passed initial intake reviews and deemed ready for further review and adjudication.

Total Denied Claims: Total count of applications that ED reviewed and signed off as denied applications.

Total Closed Claims: Total count of applications closed with no need for adjudication (e.g. duplicate applications; borrower requests that ED stop processing application.)

Total Pending Claims: Total count of applications under review prior to a determination.

Total Approved Claims: Total count of applications approved for discharge.

Total Amount of Discharges: Total dollar amount associated with discharged applications.

Sources:

Borrower Defense database at NGDC (Next Generation Data Center)

Customer Engagement Management System (CEMS)

NSLDS (National Student Loan Data System)

Federal Servicers (via Borrower Defense Reporting)

Borrower Defense Applications

Other Quarterly Report Notes:

¹ Outstanding and remaining debt amounts exclude consolidation loans and loans previously paid off by consolidation.

² As referenced in the letter submitted from ED regarding the 6/30/2018 Borrower Defense Quarterly Congressional report, data provided at the state level presents an inadvertent disclosure risk. Therefore, the aggregate data is provided on a quarterly basis, but the state data biannually due to small numbers of applications. ED did provide the breakout of applications received and total amount discharged by state in this Quarterly report.

³ In the "Total Received" column, the cell denoted with a state code of "FC" (Foreign Code) decreased from 6/30/2018 to 9/30/2018 by 11. This is attributed to borrowers relocating from one location to another.

⁴ All dollar amounts and percent elements in the 9/30/2018 Quarterly report that are unchanged from the 6/30/2018 Quarterly report reflect the fact that ED deferred processing of discharges during this quarter as a result of ongoing litigation. This includes the values referenced: Total Amount Discharged, Percentage of the total approved claims receiving partial discharge, Total dollar amount of outstanding debt prior to discharge, Median dollar amount of outstanding debt prior to discharge and Median loan debt remaining for claims receiving partial discharge.