

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
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<http://oversight.house.gov>

March 3, 2016

Mr. James W. Runcie
Chief Operating Officer
Office of Federal Student Aid
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Dear Mr. Runcie:

The Higher Education Amendments of 1998 amended the Higher Education Act (HEA) to transform the Department's Office of Federal Student Aid (FSA) into a performance-based organization (PBO).¹ Under this authority, the FSA is tasked with the responsibility of developing and maintaining a student financial assistance system that contains complete, accurate and timely data to ensure program integrity.² I write to request information about FSA's management of Total and Permanent Disability (TPD) discharges made in connection with a borrower's Social Security disability determination.

Data maintained by FSA includes information associated with Total Death and Permanent Disability (TPD) federal student loan discharges. In November 2012, the Department issued new regulations to alter the process through which federal student loan borrowers may receive a TPD discharge.³ These regulations allowed some Social Security Disability Insurance (SSDI) and/or Social Security Insurance Income (SSI) determinations made by the Social Security Administration (SSA) to serve as sufficient proof that a borrower qualifies for a discharge of his/her student loan.

With more than 19.2 million individuals currently receiving assistance from SSDI and SSI,⁴ the implications of these regulations on the federal student loan portfolio will be far-reaching. Recent media reports stated that FSA is ramping up efforts jointly with SSA to streamline the TPD process. According to one report, "Starting next year, the department and

¹ Pub. L. 105-244.

² Higher Education Act, Section 141(a)(2)(G).

³ *Federal Register*, Vol. 77, No. 212 (Nov. 1, 2012).

⁴ See, 2015 Annual Report of the Board of Trustees of the Federal Old-Age Survivors Insurance and Federal Disability Insurance Trust Funds, available at <http://www.ssa.gov/oact/tr/2015/tr2015.pdf> (more than 10.9 million disabled workers and their dependents are receiving SSDI benefits); see also, William R. Morton, "Social Security Insurance," Cong'l Research Serv. (Jan. 23, 2014) (in December 2013, the SSI program had more than 8.3 million participants).

the Social Security Administration will conduct periodic data matches to identify borrowers who may be eligible for a disability discharge.”⁵

To better understand how FSA is managing TPD discharges under the regulations promulgated in November 2012, and how these discharges may impact the federal loan portfolio that now tops \$1.2 trillion,⁶ please provide the Committee with the following documents and information:

1. For each of the fiscal years 2013 through 2015:
 - a. The total number of Direct Loan borrower accounts, and the loan obligation in dollars associated with such accounts, that have received a TPD discharge as a result of borrowers supplying the Department and its contractors with documentation that the borrower qualified for a Social Security disability determination;
 - b. The total number of Federal Family Education Loan Program (FFELP) borrower accounts, and the loan obligation in dollars associated with such accounts, that received a TPD discharge as a result of borrowers supplying the Department and its contractors with documentation that the borrower qualified for a Social Security disability determination;
 - c. The proportion of TPD discharges provided in response to 1a and 1b that are classified by the SSA as a Medical Improvement Not Expected (MINE), Medical Improvement Possible (MIP), or Medical Improvement Expected (MIE); and
 - d. The proportion of overall TPD discharges that resulted from borrowers supplying the Department and its contractors with documentation that the borrower qualified for a Social Security disability determination;
2. Documents sufficient to identify the total number of DL and FFELP borrowers who:
 - a. Were initially denied a TPD discharge after supplying the Department and its contractors with documentation that the borrower qualified for a Social Security disability determination since the new regulations took effect on July 1, 2013; or
 - b. Had their loan obligation re-instated during the three-year monitoring period.
3. The information sharing agreement between the Department and SSA concerning the exchange of information related to TPD for purposes of loan discharge;⁷

⁵ Dep’t of Education press release, “Obama Administration Expands Efforts to Help Americans Manage Student Loan Debt” (July 7, 2015); Kelly Field, “Education Department Takes Steps to Ease Repayment for Student-Loan Borrowers,” CHRON. OF HIGHER EDUCATION, July 7, 2015.

⁶ Dep’t of Education, Federal Student Aid Portfolio Summary, Data Center: Federal Student Loan Portfolio, *available at* <https://studentaid.ed.gov/sa/about/data-center/student/portfolio> (last accessed Feb. 24, 2016) (this total excludes private education loan data which is not financed with public debt).

⁷ Letter from Hon. Arne Duncan, Sec’y, Dep’t of Education, to Hon. Tom A. Coburn, M.D., Ranking Member, S. Comm. on Homeland Security and Governmental Affairs (Mar. 28, 2013) (“The Department does not have an

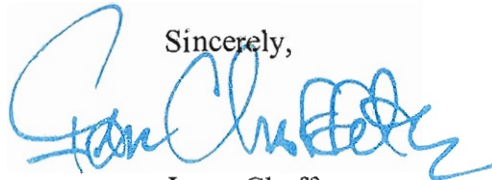
4. All documents referring or relating to how the Department and SSA will work collaboratively to identify borrowers who receive disability benefits and might benefit from income-based repayment;
5. The contract file(s) the Department executed with any entity to provide administrative services related to TPD discharge determinations;
6. Documents sufficient to identify the Department's administrative costs for TPD discharges in each of the fiscal years 2010 through 2015 (on a per-borrower basis and in the aggregate);
7. Documents sufficient to identify the total volume of loans and dollars that the Department forecasts will receive a TPD discharge in connection with a SSDI or SSI determination over the 2016-2026 timeframe, and any related underlying assumptions. If the Department does not have such documents, please provide an explanation as to why the Department is not modeling the impact of such TPD discharges to its loan portfolio.

Please provide these records as soon as possible, but no later than March 17, 2016. The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate "any matter" at "any time."

When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Katie Bailey of Chairman Chaffetz' staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.