Student Loan Forgiveness NYT 073019

https://www.nytimes.com/2019/07/24/upshot/student-debt-forgiveness-already-happening.html?searchResultPosition=4

It's Easy to Forget, but a Program to Forgive Student Loans Already Exists
By Kevin Carey April 12, 2019 Reprinted 073019 based on 041219

When Bernie Sanders recently announced a $1.6 trillion plan to forgive all student loans, he had a particular kind of borrower in mind. "You are not truly free when you cannot pursue your dream of becoming a teacher, environmentalist, journalist or nurse," he said, "because you cannot make enough money to cover your monthly student loan payments."

Elizabeth Warren used similar language in announcing her more modest $640 billion loan forgiveness plan, noting that "student loan debt hits America's teachers particularly hard." Beto O'Rourke called for canceling all schoolteacher loans.

What's strange about the new crop of proposals is that the Department of Education already has a public service loan forgiveness program, called P.S.L.F., which President George W. Bush signed into law in 2007.

The program, though, appears to be a spectacular failure. In the 18 months after borrowers with a decade of service in government or nonprofit jobs first became eligible in 2017, 73,554 people applied to have their student loans wiped out. And 73,036 were turned down — a rejection rate of 99.3 percent.

This has prompted widespread condemnation, with pundits on the left describing the forgiveness program as "the defrauding of tens of thousands of borrowers" and an "incredible, rage-inducing story." Last week, the American Federation of Teachers filed a lawsuit accusing the secretary of education, Betsy DeVos, of "gross mismanagement" of the program.

Yet the forgiveness program has also been criticized by analysts and politicians on the right as a drain on the public treasury. The conservative American Enterprise Institute called the forgiveness program "the latest runaway entitlement program." Citing costs, the Trump administration has twice proposed eliminating the program altogether.

What's going on here? How can a program that Democrats hate because it rejects nearly everyone also be a program that Republicans hate because it's too generous?

The answer lies in the convoluted story of the federal government's efforts to help people who are struggling to repay their student loans, even as it continues to make nearly all of the loans in the first place.

The end of that story suggests that Democrats competing to help teachers and other public servants with loans may be about to spend hundreds of billions of dollars to fix a problem that is already on the way to being solved.

A simple idea grows complicated

The first thing to know about the forgiveness program is that Congress did not, initially, want all public servants to receive it. Instead, lawmakers limited eligibility to people with a particular kind of loan, called a Direct Loan.

Direct Loans were created in the 1990s as an alternative to the Federal Family Education Loan program (F.F.E.L.), under which the federal government paid private banks to lend students money and then reimbursed banks for 98 percent of any loans that went bad. Direct Loans are made directly by the Department of Education.

Technically, students could choose either one. In practice, they almost always chose from a college-provided "preferred lender list." How did a lender get on the list? The all-expenses-paid Caribbean vacations might have had something to do with it.

Which is why, when the forgiveness program was created, only 24 percent of federal student loans were Direct Loans. And only Direct Loans could be forgiven.

There was, in theory, a workaround. Someone who had, say, graduated in 2006 with a Federal Family Education Loan and become a low-paid schoolteacher could "consolidate" by taking out a new Direct Loan and using it to pay off an F.F.E.L. loan.

In practice, President Bush signed the forgiveness program into law on Thursday, Sept. 27, 2007, as part of a larger package of overhauls that received relatively little news media attention. The measure, which became effective the following Monday, Oct. 1, forgives loans for anyone with 10 years of public service — but only service *c*onducted after the law went into effect.

That meant that people with Federal Family Education Loans who wanted to maximize their loan forgiveness benefits 10 *years later* had five days, including a weekend, to consolidate their loans, based on an obscure sub-provision of a little-known law.

Even if they did, or filed the paperwork relatively quickly, there was another problem. Congress didn't just limit forgiveness to a certain kind of loan. It also decided that loans had to be repaid in a certain way.

When students leave college with a garden-variety loan, they're put into the "standard repayment plan" — principal and interest divided into equal monthly payments over 10 years.

Those payments can be hard for people who struggle financially, particularly if they graduate during an economic downturn. So starting in the 1970s and 1980s, Congress created a series of alternatives.

Loans can be put into "deferment," which means temporary permission to skip payments without accruing penalties or damaging your credit rating. Or "forbearance," which is the same as deferment, except your loans accrue interest in the meantime.

Although this helped with immediate crises, some students had longer-term needs. So Congress created the "graduated" plan, in which, instead of equal-size installments, payments start small and grow over time. There's also the "extended" plan; the payment period lasts longer than 10 years. An extended plan can also be graduated.

That still left people who were flat broke or unemployed or who needed to spend their money on other things, like children or food or rent. So Congress created the "income-contingent repayment" plan. Monthly payments were set at 20 percent of borrowers' "discretionary income," which means their income minus basic living expenses, which are defined as the federal poverty line.

The good thing about income-contingent plans is that your payments can't overwhelm you. If you earn nothing, you owe nothing. The bad thing is that interest continues to accumulate. Recognizing this, and that some people would probably never catch up, Congress decided that anyone in this kind of plan for 25 years could have the remainder of his or her loan forgiven.

Income-contingent repayment loans weren't very popular. If you don't have much money, 20 percent of discretionary income is still a lot, and 25 years is a long time. So when Congress passed the forgiveness program in 2007, it also created income-based repayment. It worked the same way as income-contingent repayment, except now people had to pay only 15 percent of discretionary income, and leftover debt was forgiven after 20 years.

Public servants got a much better deal: forgiveness after 10 years. But the definition of service was stringent: 120 monthly payments (10 years' worth) made while employed full time in a public service job. That meant that if you put your loan into deferment or forbearance for a few months, those months wouldn't count toward the 120. Nor would payments made under graduated or extended plans, because they were available to anyone regardless of income, and Congress didn't want doctors or lawyers artificially knocking down their payments and then having most of their loans canceled.

To be eligible for the forgiveness program, people had to make payments based on their income. But the income-contingent repayment plan was little used, and, practically speaking, people couldn't use income-based repayment until early 2009.

Imagine the circumstances those applying for loan forgiveness in 2018 and 2019 might have been in a decade earlier. They probably had a Federal Family Education Loan. With the global economy crashing, there's a good chance they were about to experience some kind of financial difficulty that would prevent them from making payments on the standard 10-year repayment plan. Otherwise they wouldn't have a balance left to forgive 10 years later.

That difficulty would trigger a series of choices among myriad options, most of which — forbearance, deferment, graduated plan, extended plan, graduated extended plan, or just missing some payments — would not qualify as one of the necessary 120 payments.

In short, there's a very good chance that they would at some point in the next decade make ineligible payments, or no payments, or that the eligible payments they did make would be on an ineligible loan.

Those people needed some good advice. Whom would they call? Not the Department of Education, which subcontracts the work of helping borrowers to "loan servicing companies." Unfortunately, the servicers didn't prove up to the task.

Many ways to mess up

Loan servicers are paid a flat rate per borrower for processing loan payments and helping people navigate the repayment process. That means that the more time and effort a borrower requires, the less money the servicer makes. Someone who sets up an automatic debit from a checking account and never picks up the phone is a source of profits. Borrowers who need a lot of time-consuming assistance to ensure that their job, their loan and their repayment plan are all eligible for the forgiveness program are a financial liability.

The results were predictable. In June 2017, a few months before the first public servants were (theoretically) eligible for loan forgiveness, the Consumer Financial Protection Bureau issued a report describing the many ways loan servicers were messing things up.

The complaints (echoed in the recent American Federation of Teachers lawsuit) included, but were not limited to: telling people that ineligible plans were eligible; telling people that payments that were ineligible were eligible; taking too long to consolidate loans into Direct Loans; failing to tell people who were interested in the forgiveness program how to enroll; and failing to tell people that if they consolidated several existing Direct Loans into a single new one, the 120-payment clock would reset to zero.

There were other problems. You can get the forgiveness program only if you make income-based payments. For those payments to be accurate, you must file a new set of forms every year detailing your income and family size. Servicers would botch this, sometimes, and while they were working it out, the payments wouldn't count toward 120.

When the time comes for forgiveness, you have to submit another set of forms proving that you were employed full time in a public service job during each of the 120 months. Servicers botched this sometimes, too.

Which meant that when the loan forgiveness window finally opened in October 2017, the only people who were legally eligible were a kind of rare, immaculate borrower: someone who had not only made all of the loan payments, in full and on time, for 120 consecutive months, but had also (unusually) taken out exactly the right kind of loan, and (improbably) gotten immediately into exactly the right kind of repayment plan, and (very luckily) never once experienced a debilitating servicer error of any kind.

And this perfect borrower had to have been employed in a public service job the entire time. This also turned out to be a source of confusion. While plenty of blame can be directed at Congress for designing a confusing program and at loan servicers for carrying out the program poorly, the truth is that many of the applicants hadn't been public servants for all of the previous decade.

Why, then, does the Congressional Budget Office keep raising its es*ti*mated cost of the forgiveness program? The numbers are startling. In 2016, the C.B.O. estimated the annual cost of providing graduate school loans to be $4 billion. The next year it revised it to $6 billion. Last year the number jumped to $8 billion. This year, it's up to $12 billion — all because the C.B.O. keeps increasing its estimate of how many public service loans the government will eventually write off.

In part, it's simply a matter of time. If you thought you made 120 qualifying payments, but really made only 110, you can make 10 more and apply again. Some of the people initially rejected will have their loans forgiven this year or next. Future applicants will need to be less immaculate as time goes on. Servicers may get better at their job.

But the other big reason for the rising price is that lawmakers weren't done tinkering with student loans back in 2007. Far from it. They continued to add and adjust, each time making the program more complicated and expensive.

A rising tide of forgiven loans

The first big change came in 2010, when Congress got rid of the subsidized private bank loan program. All new loans would be Direct Loans — and thus eligible for the forgiveness program. At the same time, Congress made the forgiveness program much more generous, by reducing monthly loan payments under income-based repayment to 10 percent of discretionary income, from 15 percent.

After enduring years of convoluted student loans — with payments not decreasing his principal — a teacher in Oregon finally started receiving checks. Ron Lieber of The Times documented that story last year. Congress never gets rid of old ways to repay student loans. It just creates new ones. The 2007 law created what we'll call Old I.B.R (Income-Based Repayment), in which you pay 15 percent of income. The 2010 law created New I.B.R., in which you pay 10 percent. New I.B.R. wasn't supposed to be available until 2014. But some clever Obama admin*istratio*n lawyers figured out how to create another repayment option out of whole regulatory cloth that mirrored New I.B.R but was available sooner.

They called it Pay as You Earn, or PAYE. It became available in 2013, for any loans made since 2007. That still left out people who had borrowed before 2007. In 2015, the administration created Revised Pay as You Earn, or Repaye, to include those borrowers, too.

The loan servicers proceeded to add these three options to the long and growing list of complicated repayment systems that they frequently did a bad job of explaining to their customers.

With so many plans and options, you need a college degree to make sense of it all. But you know who has college degrees? Graduate students. And even as federal loan policy evolved into ever-more exotic permutations, a weak economy and creeping credentialism were pushing more students back into the welcoming arms of higher education, which had all manner of expensive master's programs for sale.

Universities also benefited greatly from a 2005 law that allows graduate and professional school students to borrow whatever tuition universities decide to charge, plus living expenses. This can easily add up to six figures. The Department of Education recently published a list of 1,126 graduate programs in which the average borrower leaves college owing $100,000 or more.

With that much money at stake, graduate students started to get wise about the loan forgiveness program. So did graduate school financial advisers making the case for why it's O.K. to borrow luxury-automobile quantities of money for another college degree.

There's no way to know how many people will apply for the forgiveness program. But in 2012, the Department of Education began allowing people to submit a form that, once approved, pre-certifies the public service that people have earned as they work toward 10 years.

By the end of 2013, 84,000 borrowers were certified. Two years later, that number had grown to 335,000. As of March 2019, it was over one million and still rising. The average outstanding loan balance is almost $90,000. Since undergraduates legally can't borrow that much federal money**, the forgiveness program is surely dominated by graduate students. A sizable number are most likely public schoolteachers, half of whom have graduate degrees.**

At the same time, nearly half of the $870 billion in outstanding Direct Loans — the kind that are eligible for loan forgiveness — is being repaid through income-driven plans, the kind that are eligible for loan forgiveness. And one in four American workers is in a job eligible for the forgiveness program.

The amount of money the federal government will wave off under the forgiveness program is like a rising ocean building up behind a wall of initial program complexity, borrower confusion and loan servicer incompetence. Eventually, it will spill over. The 99 percent rejection rate can't last. Many of the teachers and other public servants who Democratic presidential candidates say deserve to have their loans forgiven are already well on their way to exactly that.

Kevin Carey directs the education policy program at New America. You can follow him on Twitter at @kevincarey1.