Santa Clara University
School of Law

FEDERAL PUBLIC SERVICE LOAN FORGIVENESS PROGRAM

Through the College Cost Reduction and Access Act (CCRAA) of 2007, Congress created a new public service loan forgiveness option for borrowers who hold public service jobs, and the president signed it into law on September 27, 2007.

The Act will open the door to public service careers for lawyers and other professionals who receive moderate salaries and emerge from college with significant educational loans. It does not remove the financial sacrifice that these individuals must make to serve in the government or nonprofit sector, but it makes these careers feasible.

This list of FAQs has been prepared based on the CCRAA. The information provided is subject to change and is not binding on Santa Clara University.

Q. What is the new public service loan forgiveness program?

A. This program allows student loan borrowers to make lower monthly payments on eligible federal loans, based on a specified formula, for up to 10 years while they are working full-time in a public service job, as defined by the law. Then, at the completion of 10 years of public service, the remaining balance (interest and principal) on the federal loans is forgiven.

Q. Who can qualify for public service loan forgiveness?

A. To qualify for loan forgiveness on the remaining balance, the borrower must not be in default on the eligible loans and must: 1) have made 120 qualifying monthly payments on the eligible loans beginning after October 1, 2007, 2) have been employed in a public service job as defined in the CCRAA during the time the borrower made the qualifying monthly payments and at the time the Secretary of Education forgives the loan, and 3) have made qualifying payments under any one or a combination of Direct Loan Program repayment plans as specified in the law.

Q. What loans are eligible for loan forgiveness?

A. Any non-defaulted loan made under the William D. Ford Federal Direct Loan (Direct Loan) Program. A Direct Loan includes the following types of loans: 1) Federal Direct Stafford Loans, both Subsidized and Unsubsidized, 2) Federal Direct Grad PLUS loans, and 3) Federal Direct Consolidation Loans. If you are unsure about what kind of loans you have, especially any loans prior to attending Santa Clara law school, consult the National Student Loan Data System at http://nslds.ed.gov.

Q. What types of loans did I take out as a Santa Clara University law student?

A. Current Santa Clara law students who took out federal student loans prior to and through 2007-08 are in the Federal Family Education Loan (FFEL) Program. Beginning in Fall 2008, Santa Clara Law students who take out Stafford Loans will be in the Direct Loan program, while the Grad PLUS loans will continue to be under the FFEL program.

Q. What is the difference between an FFEL and a Direct Loan?

A. In the Direct Loan, no banks are involved in lending; the federal government funds the loans directly. In the FFEL, banks are involved in the lending. A school chooses which program, FFEL or Direct Loan, to offer its students.

Q. What if I want to participate in the loan forgiveness program, but I don't have a Direct Loan?

A. Effective July 1, 2008, to take advantage of the new forgiveness program, FFEL borrowers will be allowed to become Federal Direct Loan borrowers by consolidating or reconsolidating their loans into the Federal Direct Loan program. Only payments made on the Direct Consolidation Loan will count toward the 120 monthly payments required for loan forgiveness.

Q. What FFEL loans are eligible for consolidation into the Direct Loan Program?

A. Loans eligible for consolidation include: FFEL Subsidized Stafford Loans, FFEL Unsubsidized Stafford Loans, FFEL PLUS (Grad PLUS) loans for graduate students, FFEL Consolidation Loans, and Federal Perkins Loans. Borrowers may have to meet additional eligibility requirements to consolidate these loans into a Direct Consolidation Loan.

Q. What types of repayment plans qualify for the loan forgiveness program?

A. To be eligible for loan forgiveness, a borrower must have made 120 payments under any one or a combination of the following Direct Loan Program repayment plans: 1) Standard Repayment Plan with a 10-year repayment period, 2) Income Contingent Repayment (ICR) Plan, 3) the new Income Based Repayment (IBR) Plan, and 4) other Direct Loan repayment plans, but only payments that are at least equal to the amount that would be required under the 10-year Standard Repayment Plan may be counted toward the required 120 payments. FFEL borrowers who consolidate or reconsolidate into Federal Direct Consolidation Loans will be restricted to the first 3 plans. For more information about the repayment plans available in the Direct Loan program, please visit www.ed.gov/DirectLoan.

Although these 4 types of repayment plans count toward the 120 payments, eventually a borrower would need to enter into either the ICR or the new IBR to be eligible for loan forgiveness. The reason is that borrowers who continuously remain in the Standard Repayment Plan will have no need for forgiveness after 10 years of payments since the loan would have been paid in full.

Q. What is an ICR Plan?

A. The ICR Plan, which has been in existence since 1993, is available for students with Direct Loans, including Federal Direct Consolidation loans, from the U.S. Department of Education. Grad PLUS loans are not eligible for the ICR until July 1, 2009; however, consolidation loans that include Grad PLUS loans may be eligible for the ICR.

Under this plan, a borrower may elect repayment over a period of up to 25 years, but in any given year, the borrower's repayment obligation is limited by a formula that ties it to the borrower's income. The monthly payment amount is adjusted annually, based on changes in annual income and family size. Any money that would be due under a 25-year repayment schedule that is not paid because of the income-contingent cap is added to the borrower's principal, so the principal can become much greater than the original debt.

After 25 years of income-contingent repayments, the federal government will forgive the balance of the debt. But borrowers eligible for loan forgiveness through the public service loan forgiveness program can have their remaining balances forgiven after 10 years of full-time employment in public service. For more information including an ICR calculator, please visit www.ed.gov/DirectLoan.

Q. What is an IBR Plan?

A. The IBR plan was created under the CCRAA and will not be available until July 1, 2009. The IBR is similar to the ICR but is essentially more generous. That is, the IBR allows borrowers to earn more income and pay a smaller portion or their discretionary income than the ICR. To maximize the amount of forgiveness, where possible, borrowers should use IBR.

IBR limits loan payments to 15% of the borrower's adjusted gross income (AGI) that exceeds 150% of the poverty line applicable to the borrower's family size. As long as the formula used for the IBR results in an annual payment that is lower than the standard 10-

year repayment plan, then the borrower would qualify for the IBR. As with the ICR, the federal government will forgive any outstanding loan balance after 25 years of repayment. But borrowers eligible for loan forgiveness through the public service loan forgiveness program can have their remaining balances forgiven after 10 years of full-time employment in public service.

Q. If I am married, will my spouse's income be included in the calculations for the IBR or ICR?

A. The CCRAA originally based the amount of monthly repayment for married borrowers on the combined income of the borrower and his or her spouse, significantly lowering the benefit to married borrowers. Recently, Congress passed a technical amendment (S. 2371) providing that a married borrower who files a separate federal income tax return will have the amount of the borrower's income-based repayment calculated solely on the basis of the borrower's student loan debt and adjusted gross income.

Q. Can you give an example of an IBR calculation?

A. The IBR formula is: AGI – (poverty level x 1.5) x 0.15 = annual maximum payment. To arrive at the monthly payment, divide the annual maximum payment by 12. Poverty Guidelines, which are updated annually, can be found at www.aspe.hhs.gov/poverty.

As an example, the Federal poverty level for a family of 1 in 2008 is $10,400. Assume that a borrower has an AGI of $50,000. Under the IBR, the borrower would only have to pay: $50,000 – ($10,400 x 1.5) x 0.15 = $50,000- ($15,600) x 0.15 = $5,160 annually (which is $430 monthly).

Suppose this borrower had $100,000 of federal student debt, and the annual payment on this debt was $14,244 on a 10-year standard repayment schedule (which is $1,187 per month). Since the annual payment on the 10-year standard repayment schedule is greater than that of the IBR, this borrower would qualify for IBR.

In summary, only borrowers with a high debt-to-income ratio or consistently very low income will qualify for loan forgiveness.

Q. What jobs qualify for public service loan forgiveness?

A. The job is eligible if you 1) are employed full-time by any nonprofit, tax-exempt 501(c) (3) organization, 2) are employed full-time by the federal government, a state government, local government, or tribal government (including military and public schools and colleges), or 3) serve in a full-time Americorps position.

Q. How do I sign up for the federal public loan forgiveness program?

A. There are currently no details on signing up for the program. Borrowers must be in a qualified repayment plan in the Direct Loan program to qualify. Since the earliest that borrowers can take advantage of public service loan forgiveness is 2017, application procedures may not be immediately available.

Q. What are the tax consequences of the loan forgiveness program?

A. Under current law, the amount of any debt discharged is probably treated as taxable income, leading to a big federal income tax bill after 10 years. But the savings for students who pursue public service jobs will most likely exceed the tax liability. It is possible that Congress will decide to exclude such forgiveness from taxable income before this becomes an issue in 2017.

Q. **Is it required that 10 years of public service be continuous?**

A. The law does not require the 10 years of public service to be continuous. A borrower may, for example, take parental leave or may temporarily leave public service for some other reason. However, before the borrower qualifies for forgiveness, the borrower must make 120 payments under some combination of IBR, ICR or standard repayment while serving full time in a public service job, and must also hold such a job when forgiveness occurs.

Q. What would happen if I do not complete public service qualifying employment?

A. Borrowers who never complete the 10 years required for public service loan forgiveness will not qualify for the benefit. Borrowers, therefore, will need to consider whether they are willing to work in a public service job for the 10 years required for this program. They may, however, still qualify for loan forgiveness on any remaining debt after 25 years of repayment under IBR or ICR.

Useful resources and links:

www.ibrinfo.org.

http://www.aals.org/student_loan_forgiveness.php.

http://www.equaljusticeworks.org/resource/ccraa