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COMMITTEE ON
EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

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August 29, 2024

Mr. Joe Popevis
President
Nelnet Servicing, LLC
Lincoln Square
121 South 13th Street, Suite 201
Lincoln, NE 68508

Dear Mr. Popevis:

As Chairwoman of the U.S. House Committee on Education and the Workforce (Committee) – a committee charged with oversight of programs administered by the Office of Federal Student Aid (FSA) at the U.S. Department of Education (Department)¹ – I write seeking documents and communications associated with your work as a loan servicer related to the Department’s Notice of Proposed Rulemaking (NPRM) on Student Debt Relief, 89 Fed. Reg. 27564 (Apr. 17, 2024), and any related prospective final regulation. Accordingly, I have enclosed a subpoena for the documents and communications.

I am greatly concerned by the Department’s July 31, 2024 press release announcing that it would “begin emailing all borrowers with at least one outstanding federally held student loan” to alert them of their eligibility for student debt relief under a rule that is, by the Department’s own admission, “not yet finalized.”² As the release states, borrowers will have until August 30 to “opt out” of this mystery relief.³ Similar to prior illegal attempts by the Biden-Harris administration to have unelected bureaucrats decide “major questions”⁴ on student loan forgiveness – costing hundreds of billions of taxpayer dollars – this attempt very well may meet a similar fate in the courts.

¹ See Rule 3, Rules for the Committee on Education and the Workforce, 118th Cong. (Jan. 31, 2023); Rule X, Clause 2, Rules of the U.S. House of Representatives, 118th Cong. (Jan. 10, 2023).

² See <https://www.ed.gov/news/press-releases/biden-harris-administration-takes-next-step-toward-additional-debt-relief-tens-millions-student-loan-borrowers-fall>.

³ *Id.*

⁴ See, e.g., *Biden v. Nebraska*, 143 S.Ct. 2355, 2374-2376 (2023).

Considering the Department's recent lack of fidelity to the law,⁵ I am further concerned that the Department will seek to shortcut the Administrative Procedure Act⁶ when it releases final debt relief regulations associated with the referenced NPRM of April 17, 2024. The shortcut could take the form of either the Department's contention of "a substantive rule which grants or recognizes an exemption or relieves a restriction" or potential "good cause found" to waive the 30-day waiting period for a rule to become effective,⁷ thus giving it immediate effect.

Your prompt compliance with the enclosed schedule will greatly enhance the Committee's ability to carry out its oversight responsibilities on this important matter. Please provide the requested documents and communications no later than September 5, 2024.

Should you have any questions, please feel free to contact Gabriella Pistone at gabriella.pistone@mail.house.gov or 202-225-4527.

Sincerely,



Virginia Foxx
Chairwoman
U.S. House Committee on Education and
the Workforce

⁵ See *id.*; *Missouri v. Biden*, No. 24-2332, 2024 WL 3738157 (8th Cir. Aug. 9, 2024) (per curiam) (granting preliminary injunction over Department's income-contingent repayment SAVE final regulation); *U.S. Dep't of Educ. v. Louisiana*, No. 24A78, 2024 WL 3841071 (U.S. Aug. 16, 2024) (per curiam) (denying Department's applications for stay of preliminary injunctions enjoining Title IX final regulations).

⁶ 5 U.S.C. §§ 551-559.

⁷ *Id.* § 553(d).

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mr. Joe Popevis, President
Nelnet Servicing, LLC

You are hereby commanded to be and appear before the
Committee on Education and the Workforce

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2176 Rayburn House Office Building, Washington, D.C. 20515

Date: September 5, 2024

Time: 12:00 p.m. EDT

- to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

- to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

To the U.S. Marshal Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this 29 day of August, 2024.

Virginia Fox
Chairman or Authorized Member

Attest:

Karin F. McCabe

Clerk

PROOF OF SERVICE

Subpoena for Mr. Joe Popevis, President
Nelnet Servicing, LLC +

Address Lincoln Square 121 South 13th Street, Suite 201 Lincoln, NE 68508

before the Committee on Education and the Workforce ▼

U.S. House of Representatives
118th Congress

Served by (print name) Mindy Barry

Title General Counsel, U.S. House of Representatives Committee on Education and the Workforce

Manner of service email

Date _____

Signature of Server _____

Address 2176 Rayburn House Office Building, Washington D.C. 20515

Subpoena Schedule of Documents

In accordance with the attached Schedule instructions and definitions, Nelnet Servicing, LLC is required to produce all documents and communications described below in your possession, custody, or control, in unredacted form, from March 1, 2024, to the present, unless otherwise specified:

1. All documents and communications between or among employees or contractors of Nelnet Servicing, LLC and the U.S. Department of Education, including its contract representatives, referring or relating to: (a) the Notice of Proposed Rulemaking on student debt relief, 89 Fed. Reg. 27564 (April 17, 2024); (b) the timing associated with Nelnet Servicing, LLC's implementation of change order requests or contract modifications related to the Notice of Proposed Rulemaking; or (c) any prospective related final regulation related to student loan debt relief.
2. All change order requests or contract modifications received by Nelnet Servicing, LLC from the U.S. Department of Education, including its contract representatives, referring or relating to (a) the Notice of Proposed Rulemaking on student debt relief, 89 Fed. Reg. 27564 (April 17, 2024), or (b) any prospective related final regulation related to student loan debt relief.
3. Documents sufficient to show the number of borrowers affected by all change order requests or contract modifications referenced in item two.
4. Documents sufficient to show the aggregate dollar amount of loans affected by all change order requests or contract modifications referenced in item two and received by Nelnet Servicing, LLC from the U.S. Department of Education, including its contract representatives, referring or relating to the Notice of Proposed Rulemaking on student debt relief, 89 Fed. Reg. 27564 (April 17, 2024), or any prospective related final regulation related to student loan debt relief.
5. Documents sufficient to show the number of borrowers eligible for, but not enrolled in, the Income Driven Repayment Savings on a Valuable Education Plan that are serviced by Nelnet Servicing, LLC.
6. Documents sufficient to show:
 - a. the number of borrowers who received federal loans for undergraduate study that first entered repayment on or before July 1, 2005, and are serviced by Nelnet Servicing, LLC;
 - b. the number of borrowers who received Direct Consolidation Loans that first entered repayment on or before July 1, 2005, and are serviced by Nelnet Servicing, LLC;
 - c. the aggregate dollar balance outstanding for borrowers who received federal loans for undergraduate study that first entered repayment on or before July 1, 2005, and are serviced by Nelnet Servicing, LLC;

- d. the aggregate dollar balance outstanding for borrowers who received Direct Consolidation Loans that first entered repayment on or before July 1, 2005, and are serviced by Nelnet Servicing, LLC;
- e. the number of Federal Family Education Loan borrowers who first entered repayment on or before July 1, 2000, and are serviced by Nelnet Servicing, LLC; and
- f. the aggregate dollar balance outstanding for Federal Family Education Loan borrowers who first entered repayment on or before July 1, 2000, and are serviced by Nelnet Servicing, LLC.

Instructions for Responding to a Subpoena

U.S. House Committee on Education and the Workforce

118th Congress

1. In complying with the U.S. House Committee on Education and the Workforce's (Committee) subpoena, 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. Subpoenaed 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 person denoted in the subpoena has been or is also known by any other name or alias than herein denoted, the subpoena should be read also to include the 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 form should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - a. All documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (".pdf") format. Spreadsheets should also be provided in their native form. Audio and video files should be produced in their native format, although picture files associated with email or word processing programs should be produced in .pdf format along with the document it is contained in or to which it is attached.
 - b. Alternatively, the production should consist of single page Tagged Image Files (".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.
 - c. Document numbers in the load file should match document Bates numbers and .tif file names.
 - d. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - e. All electronic documents produced 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.

- f. If any of the subpoenaed information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), consult with the Committee staff to determine the appropriate format in which to produce the information.
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 the subpoena should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the subpoena was served.
8. When producing documents, identify the paragraph in the Committee's schedule to which the documents respond.
9. Do not refuse to produce documents on the basis that any other person or entity also possesses non-identical or identical copies of the same documents.
10. This subpoena 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 should be produced immediately upon subsequent location or discovery.
11. All documents should be Bates-stamped sequentially and produced sequentially. Each page should bear a unique Bates number.
12. Two sets of documents should be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 2176 of the Rayburn House Office Building or provided electronically to the Majority General Counsel at mindy.barry@mail.house.gov and the Minority Staff in Room 2101 of the Rayburn Office Building or provided electronically to the Minority General Counsels at ilana.brunner@mail.house.gov and christian.haines@mail.house.gov.
13. If compliance with the subpoena cannot be made in full by the date specified in the subpoena, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date

specified in the subpoena, and provide an explanation for why full compliance is not possible by that date.

14. 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.
15. In the event that a portion of a document is redacted on the basis of privilege, provide a privilege log containing the following information concerning any such redaction: (a) the privilege asserted; (b) the location of the redaction in the document; (c) the general subject matter of the redacted material; (d) the date, author, and addressee of the document, if not readily apparent; and (e) the relationship of the author and addressee to each other.
16. If any document responsive to this subpoena 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.
17. If a date or other descriptive detail set forth in this subpoena 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 subpoena, produce all documents which would be responsive as if the date or other descriptive detail were correct.
18. In the event a complete response requires the production of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
19. Unless otherwise specified, the period covered by this subpoena is from March 1, 2024, to the present.
20. 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.

Schedule Definitions

21. The term “document” in the subpoena, the schedule, or the instructions 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 calls, meetings or other communications, 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.

22. The term “communication” in the subpoena, the schedule, or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document, or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, regular mail, telexes, discussions, releases, delivery, or otherwise.
23. The terms “and” and “or” in the subpoena, the schedule, or the instructions should be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information that 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.
24. The terms “person” or “persons” in the subpoena, the schedule, or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
25. The term “identify” in the subpoena, the schedule, or the instructions, 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.
26. The terms “referring” or “relating” in the subpoena, the schedule, or the instructions, when used separately or collectively, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
27. The term “employee” in the subpoena, the schedule, or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, or subcontractor.

28. The terms “you” and “your” in the subpoena, the schedule, or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.
29. The term “Department” in the subpoena, the schedule, or the instructions includes, but is not limited to, the United States Department of Education, each of its subsidiaries, divisions, groups, or other entities, and any current or former employee, officer, director, contractor, agent, or other representative of the Department of Education or any of its subsidiaries, divisions, groups, or other entities.
30. The term “Income Driven Repayment Savings on a Valuable Education Plan” in the subpoena, the schedule, or the instructions is defined as set forth in 88 Fed. Reg. 43820 (July 10, 2023).
31. The term “Direct Consolidation Loan” in the subpoena, the schedule, or the instructions is defined as set forth in 20 U.S.C. § 1087e(a)(2)(C), (g).
32. The term “Federal Family Education Loan” in the subpoena, the schedule, or the instructions is defined as set forth in 20 U.S.C. §§ 1071-1087-2.

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