



May 17, 2024

U.S. Department of Education  
400 Maryland Ave., SW, Room 2C172  
Washington, DC 20202

Docket ID ED-2023-OPE-0123

To whom it may concern:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA) and our 3,000 member institutions, we respectfully submit to the U.S. Department of Education (ED) our comments on Student Debt Relief for the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Family Education Loan (FFEL) Program, the Federal Perkins Loan (Perkins) Program, and the Health Education Assistance Loan (HEAL) Program (Docket ID ED-2023-OPE-0123).

NASFAA represents nearly 29,000 financial aid professionals who serve 16 million students each year at colleges and universities in all sectors throughout the country. NASFAA member institutions serve nine out of every 10 undergraduates in the U.S.

There is no doubt the regulatory proposals put forward by the administration would benefit a significant number of borrowers.

Understanding students assume a legal obligation to repay their federal student loans when they sign a promissory note, many mitigating factors beyond their control impact their ability to do so. Acknowledging this fact, Congress established income-driven repayment plans, caps on how long a borrower should be expected to make payments, and several pathways to forgiveness for targeted groups of borrowers, such as those engaged in public service.

However, even with these opportunities, we have witnessed millions of borrowers struggling to repay their debt. ED notes in its preamble the low uptake rates for forgiveness programs that require an application, like total and permanent disability and closed school discharge, as well as servicer errors that have miscounted payments even for programs where forgiveness should be automatic. Making improvements in how these plans are administered will ensure more students receive the forgiveness Congress established in the law for them.

We commend ED's efforts in the 2021 rulemaking process to improve access to programs like Public Service Loan Forgiveness (PSLF), closed school discharge, total and permanent disability discharge, and false certification discharge, as well as the temporary PSLF waivers and payment count adjustment process ED began in 2023. NASFAA supports simplicity and predictability in the federal student aid

programs and these efforts provide both, ensuring everyone entitled to forgiveness receives it and leveling the playing field for similarly situated borrowers by ensuring they are not shut out of loan forgiveness because of technicalities or servicer errors. A missing piece of paper or a loan payment that is short by a few pennies shouldn't be the deciding factor between who receives forgiveness and who does not.

NASFAA also supports policies that are targeted, fair, and data-informed. Debt forgiveness policies should not make value judgments. Distinctions should not be made based exclusively on how much the student borrowed, the loan type, the degree or credential the loans were borrowed to pay for, or who borrowed the loan.

Loans have taken an outsized role in the financing of postsecondary education in the U.S. over the past several decades. ED notes in the preamble the significant role the Pell Grant's failure to keep pace with rising college costs has played in the circumstances we face today, where students are overly reliant on debt to cover their college costs. NASFAA agrees and urges ED to support efforts like doubling the Pell Grant to ensure efforts like those proposed here don't need to be revisited in the future.

Debt forgiveness efforts should not be seen as a substitute for meaningful, long-term, bipartisan improvements to the federal student loan programs. NASFAA has done significant work<sup>1</sup> in proposed reforms to these programs and we encourage ED to support legislative efforts and to take regulatory action to continue ensuring that student loans are a reasonable part of a postsecondary financing strategy.

With all of this in mind, we offer the following additional comments on the administration's debt forgiveness proposals.

*Comments on Specific Provisions of the Proposed Regulations*

§ 30.70(e)(1): We agree with ED's rationale to add the HEAL program to the list of loan types ED may use its authority to compromise, suspend, or terminate. None of the distinctions between the HEAL program and the other loan types for which ED can exercise this authority should categorically exclude this loan type from the forgiveness provisions detailed in these proposed regulations.

§ 30.81: We agree with ED's proposal to cancel the full amount by which a borrower's accrued interest exceeds what they originally borrowed when they are repaying under an income-driven repayment (IDR) plan. This is a commonsense approach to bring equity to borrowers who experienced non-statutory capitalization events before those events were eliminated from the regulations in 2022, as well as to borrowers whose payments under existing IDR plans are too low to keep up with accruing interest. We appreciate that ED will calculate the principal balance for the underlying loans that were repaid by a consolidation loan instead of that of the consolidation loan itself. Many borrowers had to consolidate to take advantage of the PSLF temporary waivers or the payment count adjustment. Those borrowers should not lose out on this opportunity because they consolidated to qualify for another one.

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<sup>1</sup> [https://www.nasfaa.org/protecting\\_borrowers\\_advancing\\_equity](https://www.nasfaa.org/protecting_borrowers_advancing_equity)

§ 30.82: NASFAA supports ED’s proposal to forgive the amount by which a borrower’s accrued interest exceeds what they originally borrowed, up to \$20,000, for borrowers not enrolled in an IDR plan. ED provides compelling evidence to support this decision, considering only 1 in 3 borrowers who could benefit from IDR is actually enrolled in one of those plans and that 7 in 10 defaulted borrowers also would have qualified to enroll in an IDR plan. Clearly, much work must be done to better communicate the availability of these payment plans to student loan borrowers. In the meantime, though, borrowers must not be treated unfairly due to their lack of knowledge that such programs exist.

§ 30.83: ED’s proposal to forgive loans based on time since the loan entered repayment is fair and reasonable. As ED noted in its preamble to the proposed regulations, Congress has already established in statute that 20-25 years is a reasonable maximum amount of time a borrower should be expected to repay their loans. Borrowers should not be subjected to a lifetime of debt because they somehow missed an opportunity to reach forgiveness at one of these milestones, many times due to servicer errors. This change only places them on a level playing field with other borrowers in similar positions.

We are concerned, however, about how ED has proposed to distinguish between borrowers based on whether they consolidated loans before or after July 1, 2023. Understanding ED’s concerns about strategic consolidation to take advantage of these provisions, it seems more likely that borrowers who had to consolidate to access programs like SAVE or the IDR payment count adjustment would be harmed than would benefit from strategic consolidation. This is especially true considering borrowers are still consolidating to take advantage of certain benefits, including the IDR payment count adjustment, for which ED recently extended its deadline<sup>2</sup>.

Good public policy should certainly include guardrails to prevent ineligible individuals from accessing programs, but not at the expense of the intended beneficiaries. We recommend there be no distinction in how a consolidation loan’s repayment entry date is determined for purposes of this provision, especially since this is one-time relief. To do so would create too large a cliff effect. We also believe the references to “paragraphs (c)(1) and (c)(2) of this section” are intended to refer to paragraphs (b)(1) and (b)(2)- the dates a loan is considered to have entered repayment.

§ 30.84: As with ED’s proposal under 30.82, we agree borrowers should not be disqualified from benefits they are entitled to receive only because they lack information about those benefits. For the same reasons, we agree with ED’s proposal to cancel loans for borrowers who would be otherwise eligible for forgiveness under an IDR plan or an alternative repayment plan but who are not currently enrolled in such a plan. We agree ED should offer an opt-out to borrowers as opposed to automatically enrolling them in an IDR plan. We encourage ED in its communications to be very clear about the benefits and

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<sup>2</sup><https://www.ed.gov/news/press-releases/biden-harris-administration-allows-borrowers-more-time-consolidate-loans-get-credit-progress-toward-loan-forgiveness-programs>

disadvantages (such as federal and state tax liability) of enrolling in these plans and ultimately receiving forgiveness so borrowers make the best possible decision based on their circumstances.

§ 30.85: NASFAA supports ED's proposal to cancel a borrower's outstanding balance if they qualify for a targeted forgiveness program but did not apply for that program. As already stated, borrowers shouldn't be penalized for having incomplete information like being unaware of targeted forgiveness opportunities. We appreciate that ED will consider whether the borrower is already eligible for a discharge under existing forgiveness opportunities before applying this waiver.

§ 30.86: We agree with ED's proposal to cancel a borrower's outstanding balance for periods of attendance at an institution or program for which ED has determined it failed to meet accountability standards based on student outcomes or failed to provide sufficient financial value to students. ED's authority to end a substandard program or institution's participation in the federal student aid programs helps future students by disincentivizing enrollment due to lack of availability of federal aid. However, those protections for future students come on the backs of past students, who already attended those programs while they were engaged in the activities that led to final action by ED. We wish to stress the need for ED to take swift action in such instances while still acknowledging and appreciating that ED would only exercise this waiver after all institutional appeals had been considered.

§ 30.87 ED's proposal to forgive a borrower's outstanding loans borrowed to attend an institution or program that closed during a pending program review, investigation, or other Department action again puts students in similar situations on equal footing when it comes to debt relief. If a school or program fails accountability standards, its former students should be equally protected regardless of whether it keeps its doors open to face the consequences of that failure.

We ask for clarification on ED's statement in the Regulatory Impact Analysis (RIA) that data limitations related to program information in NSLDS are preventing ED from estimating the number of students who would qualify for forgiveness under this proposed provision. Does ED anticipate those data limitations will be resolved by the time the final rule is implemented? If not, how will ED identify borrowers who qualify for forgiveness?

§ 30.88 As already noted concerning 30.87 and for the same reasons, NASFAA agrees with forgiving student loans associated with enrollment in a Gainful Employment (GE) program that has closed and before closure had high debt-to-earnings rates or low median earnings rates. We have the same questions concerning NSLDS data limitations and how they could impact implementation of the proposed regulations and request clarification.

§ 682.403 In the interest of equity and fairness and for the reasons stated elsewhere in our comments, NASFAA supports the provisions for debt forgiveness for FFEL borrowers for loans in repayment for 25 years or more, when the borrower qualifies for closed school discharge but has not applied, and when the

borrower attended an institution that lost eligibility to offer Title IV aid due to a high Cohort Default Rate.

*Conclusion*

Signing a promissory note to borrow loans for postsecondary education is not an agreement to accept a lifetime of debt. Student loan borrowers should know that, if circumstances out of their control impact their ability to repay their loans, there is a safety net that will save them from continuing to pay down their loans decades after finishing college or even while simultaneously paying for their children's college education or into their retirement years.

Postsecondary education is a worthwhile investment that pays off in many ways, financial and otherwise. Borrowers who can afford to repay the student loans whose terms they agreed to in a legal contract should do so.

However, many careers that require a college degree or even graduate-level education may not support the amount of indebtedness required to obtain the credentials to practice in the field, despite the value of those fields to society as a whole. Congress developed targeted relief for students in those positions.

ED's proposals pick up where targeted relief programs left some students out, granting borrowers who should qualify for forgiveness but who missed out due to technicalities the opportunity to the relief promised them in the law.

We look forward to ED's proposals on the final piece of this student loan debt relief package, borrowers experiencing financial hardship, which will certainly be more complex, broader, and potentially thornier than the topics addressed in the current proposal.

We appreciate the opportunity to comment on this proposed rule. If you have any questions regarding these comments, please contact us or NASFAA Senior Policy Analyst Jill Desjean at [desjeanj@nasfaa.org](mailto:desjeanj@nasfaa.org).

Regards,



Justin Draeger, President & CEO