



December 2, 2024

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue, SW, 5th floor
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 its Student Debt Relief Based on Hardship 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.

We appreciate the Department's recent efforts to address past failures in the student loan system to ensure that students who are still paying off old loans aren't left with unsustainable debt simply because more favorable repayment terms weren't available when they entered repayment, or due to servicer errors. To truly place all students and borrowers on a more level playing field, however, we must also look to future borrowers.

Separate from philosophical beliefs about whether student loan debt should be canceled as proposed here, is the issue of what must be done to ensure borrowing to pay for college doesn't place future student or parent borrowers in a precarious financial position. No debt cancellation plan is complete without a plan to curb future borrowing.

The Department notes in this proposal that, "For many students, available grant aid is not sufficient to cover postsecondary expenses, leading Federal student loans to fill a critical and inescapable gap in postsecondary education financing for many families." This is why NASFAA supports legislative changes to increase public investment in postsecondary education as well, such as doubling the Pell Grant. Financial aid administrators should also have greater authority to limit borrowing for students, and the Parent PLUS loan program should be reformed by adding a debt-to-income ratio to the eligibility criteria to meaningfully assess how much a parent can afford to borrow so they aren't saddled with unsustainable levels of debt for their children's educations.

§ 30.91(a) Standard for waiver due to hardship

ED notes it will use 2017-2020 data to test its predictive model for identifying borrowers with an 80% likelihood of defaulting within two years, based on pre-Covid conditions and repayment patterns. We wish to note, however, that the model will be applied in practice using data that includes a particularly uncertain time with respect to student loan repayment, including the return to repayment after a three-and-a-half year pause, the end of the on-ramp to repayment in October 2024, and the legal challenges to the SAVE plan that have forced many borrowers into forbearance and limited others' ability to select or switch repayment plans. We ask how ED plans to factor such events into its model since it is likely many borrowers' repayment histories will reflect these events, but that the impacts in many cases will have been temporary and not rise to the level of hardship that merits loan cancellation.

NASFAA agrees with ED's decision to include as a potential condition for cancellation circumstances under which the costs to continue to collect a student's debt exceed the benefits. Understanding that borrowers assume a legal obligation when they sign the MPN, it is critical to weigh principles against what is practical, and it is an inefficient use of taxpayer dollars to spend money collecting a debt that is highly unlikely to be repaid.

§ 30.91(d) Process for additional relief

NASFAA has concerns about ED's statement that, "...a borrower who is experiencing a high likelihood of being in default that they could avoid by enrolling in an IDR plan but has chosen not to enroll as an attempt at strategic behavior, would be extremely unlikely to receive relief..."

We agree that if a borrower intentionally avoided enrolling in an IDR plan simply to benefit from this debt relief proposal, they should not qualify for relief. However, how would ED be able to determine whether that was the case, as opposed to the borrower simply being unaware of the existence of IDR plans, or having experienced an error during the IDR application process that led them to believe they didn't qualify?

This approach seems at odds with the statement that, "...a borrower that is on an IDR plan with a \$0 monthly payment might still be eligible for a waiver..." Excluding students from relief because they were not enrolled in an IDR plan, especially if their payment under an IDR plan would have been \$0 does not seem to treat similarly situated borrowers equally. If it is the case that certain borrower populations are less likely to enroll in IDR plans, we recommend that ED also ensures the waiver for financial hardship doesn't unfairly exclude certain borrower populations from relief simply because they were unaware those plans exist. We recommend that ED factor these considerations into its holistic assessment of financial hardship in §30.91(d) to ensure an equitable process for all.

Other comments

We request that ED give careful consideration in granting loan cancellation under the proposed rules that such cancellation does not create a new financial hardship in the form of tax burden, especially after

provisions in federal law exempting loan cancellation from taxation expire in 2025. Understanding that ED cannot control whether or how much such cancellation impacts a borrower's tax bill, they must do all they can to inform borrowers of the potential impact on state and federal taxes, to share resources on how borrowers can learn more about the tax implications of loan cancellation, and to allow borrowers to decline cancellation if they determine the impact on their state or federal taxes puts them in a worse position than was the case with their student loan debt still intact.

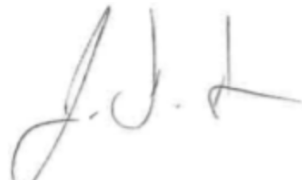
Finally, we ask that ED confirm whether it has plans to track loan cancellation by institution and whether it would ever use that data for purposes other than debt cancellation. For instance, could a large number of hardship cancellations for a given school be considered in whether a school is selected for a program review, or would this information inform borrower defense claim approvals?

We appreciate the opportunity to comment on this proposed rule. If you have any questions regarding these comments, please contact me or NASFAA Director of Policy Analysis Jill Desjean at desjeanj@nasfaa.org.

Sincerely,



Beth Maglione
Interim President and CEO



Jill Desjean
Director of Policy Analysis