February 10, 2023

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Ave. S.W.
Washington, DC 20202

Docket ID ED-2023-OPE-0004

On behalf of the 1.7 million members of the American Federation of Teachers (AFT) and the American Association of University Professors (AAUP), we write in response to the proposed revisions to income-driven student loan repayment plans. Our organizations represent teachers, paraprofessionals and school-related personnel, higher education faculty and staff, nurses, and public employees of all kinds. In other words, our members are in professions that provide a public good, require college degrees—degrees that result in increasingly burdensome student debt.

AFT's Student Debt Clinic program has reached tens of thousands of AFT and AAUP members and their families and given us vast firsthand experience of the difficulties of student loan repayment. Our student debt clinics include walking participants through the details of income-driven repayment plans. Too often, we've had to deliver news to clinic attendees about bureaucratic hurdles that have resulted in their good-faith efforts at repayment not qualifying toward loan forgiveness programs—with devastating financial consequences.

The proposed improvements to the Revised Pay As You Earn (REPAYE) payment plan are substantial and will provide a more affordable payment to the vast majority of borrowers, while limiting additional complexity. We look forward to the successful implementation of this and other Department of Education efforts that will create a fairer and easier way to navigate student loan repayment systems for over 40 million student loan borrowers, while also offering suggestions for further improvements.

Of particular concern is the exclusion of Parent PLUS borrowers from the new REPAYE plan, even post-consolidation, and the variable and complicated treatment of graduate school debt, which is obligatory for many of our members.

Major Steps Forward for Student Loan Borrowers

Overall, this proposed repayment plan represents a huge step forward from existing income-driven repayment plans. We appreciate that instead of creating another new repayment plan, these proposed reforms will alter the existing REPAYE program, making it easier for borrowers to navigate.

Plans without distinct benefits should be de-emphasized for new borrowers, as the department suggests. Fewer choices between similarly named programs is a great start.

Perhaps the most significant enhancement is the protection from negative amortization in the new REPAYE. Many of our members have been dissuaded from income-driven repayments and the related Public Service Loan Forgiveness program by the growing balances. The anxiety for some borrowers, especially those early in their career and repayment journey, of seeing their balance grow every month may cause them to opt out and instead struggle with unaffordable payments, the very scenario that income-driven repayment plans was intended to address. Many of our members have expressed feelings of despair and anger that they owe so much more than they originally borrowed, even after years of diligent payments. Addressing this widespread problem—and including graduate loan borrowers in this benefit—is a significant, and highly positive change.

The increased income protection as a multiplier of the federal poverty guideline is another major step forward. We have sat with early childhood educators, paraprofessionals, and other low- to moderate-wage workers who find the current income-driven repayment system unaffordable. Instead of enrolling in an income-driven repayment plan and making steady progress toward discharge, these members often end up in and out of forbearances or deferments with growing balances. We look forward to partnering with the department to get the word out about this new process for determining payments, which we believe will encourage more borrowers to get into, and remain in, repayment.

The elimination of the consolidation penalty is another serious barrier removed. The federal student loan system has many unique features, but a borrower's familiarity with the term "consolidation" from other loan products has led to heartbreak when a borrower finds their positive payment history erased. We've heard from members who thought they were required to consolidate loans, that they thought consolidation would lead to a decreased interest rate, or who simply wanted the ease of one monthly payment. We are thrilled we will no longer have to deliver the bad news to these borrowers, as we have in the past, that they now have zero qualifying payments for PSLF or IDR cancellation because of consolidation.

Allowing borrowers whose tax status is married filing separately to exclude their spouse from both the borrower's household income and family size is an additional positive step. Explaining why REPAYE was different from other income-driven repayment options in this respect often caused confusion in our debt clinics. We support this as an option that isn't right for everyone but is important to many of our members who are married with a large wage and/or debt disparity. The public comment cited by the department stating "Calculating repayment using the nonborrower's income, married filing jointly, dramatically increases the repayment amount beyond the borrower's affordability. It financially penalizes the nonborrowing spouse for being married to the student. It creates an undue financial hardship on the nonborrower and it disincentivizes some marriages in otherwise already

stressed, economic circumstances" echoes our experience. It is fair to provide the married filing separately path for all IDR plans as an important tool for high-debt moderate-income professions.

The AFT has long supported efforts to make (re)enrollment in income-driven repayment plans as automatic and seamless for the borrower as possible. Currently, recertifying for IDR is difficult and time-consuming, especially for anyone with a non-standard income arrangement or with a family size that doesn't mirror their tax return exactly. The changes in this regulation should improve the currently dismal state of persistence in IDR, with only a slight majority of borrowers in an IDR plan recertifying within six months. We likewise support the proposed auto enrollment of delinquent borrowers in IDR. Getting permission through every possible channel to do this for existing borrowers will be essential to long-term success. We hope the department will conduct outreach on this through its traditional stakeholders, such as the institutions of higher education that are responsible for entrance and exit loan counseling, and through interagency work such as prompting borrowers who claim the student loan interest rate deduction on their tax return. Likewise, we hope the department will ensure that student loan servicers make this information easily accessible, such as by giving it a prominent location on their websites.

For borrowers who have fallen into default, the department suggests a path through a different payment plan, income-based repayment (IBR). The defaulted borrower's path through IBR is not an ideal one, because IBR is not the most generous payment plan particularly when compared with the additional income protections offered in new REPAYE, but it is a significant improvement to the current way defaulted borrowers are treated. More than punishment and garnishment must be offered to defaulted borrowers if there is hope of getting them back into repayment.

The members in default we have worked with feel hopeless about their student loan debt and discouraged from addressing it at all. This path under IBR, which encourages return to good standing, will be most successful if, once borrowers are enrolled, they are no longer subject to involuntary collection, or at least not for amounts over their obligations under IBR. We also request some additional clarity on whether a borrower in default who has experienced involuntary collections will only receive credit for amounts equivalent to what they would owe on a 10-year standard plan or that are equivalent to what they owe based on their income, and we urge the latter. Student loan default is often the result of personal crises, and making very difficult times count toward concluding borrowers' student loan payments will be meaningful to many hardworking people. The department should be sure to work with servicers to ensure that this is implemented in a way that does not set up a situation in which defaulted borrowers must say a "magic word" to get access to IBR, a payment plan that will be de-emphasized for other borrowers.

We applaud the department's proposal, mirrored in the Public Service Loan Forgiveness program, to remove unnecessarily narrow restrictions on what counts as a qualifying payment, including for various deferments and forbearances. In particular, the department's proposal to give credit toward forgiveness for periods of mandatory administrative forbearance when a servicer—not at the request

of the borrower and for administrative reasons—pauses a borrower's payments while the servicer reviews information is extremely welcome. As mentioned earlier, enrolling and re-enrolling in IDR can be time-consuming and confusing, with long wait times to untangle errors. Our members find it frustrating when they are working full time in public service, but their path to PSLF through IDR is barred because they are playing phone tag with their servicer.

In response to the department's request for specific feedback, we unreservedly support the inclusion of Federal Family Education Loan (FFEL) borrowers to the greatest extent possible in all of these changes. The divisions between FFEL and Direct borrowing are some of the most aggravating for borrowers. Program underwriting is something completely outside a borrowers' control. Yet the system has resulted in otherwise similarly situated borrowers being treated very differently from one another, which generates resentment. In general, we promote equal treatment of FFEL borrowers wherever possible.

We applaud the department's work on this regulation, the sum of which will mean that the student loan system will become significantly fairer and more humane.

Suggestions for Improvement and Implementation

Our experiences explaining the existing income-driven repayment programs to our members have made us deeply aware what a deterrent a complex and opaque system can be. While this proposed rule eliminates some complexity (in terms of the number of income-driven repayment plans available), it adds additional factors to the new REPAYE that will make it more difficult for individuals to estimate their repayment amounts without appropriate tools and data visualizations available—which we hope the department will make easily accessible to borrowers.

We recognize that these additional factors are largely in service of making the new REPAYE more generous to a targeted subset of borrowers. The proposal does this most significantly by shortening the repayment period for borrowers whose initial balances are low. The department has based the $12,000 threshold for 10-year forgiveness under new REPAYE upon consideration of how much income a borrower would have to make to be able to pay off a loan without benefiting from this shortened repayment period. This is the maximum amount a dependent undergraduate student can borrow in their first two years of enrollment, though in our experience that figure is not widely known, at least currently, and is unlikely to impact borrowing behavior. Dependent status is an unnecessarily limiting way to look at this, given that there are many independent students enrolled in college, including students who are parents themselves, and a disproportionate number of students of color.[1] We appreciate that the threshold is not a cliff, with a $1,000/one-year stairstep for forgiveness as a Goldilocks settlement between generosity and complexity.

[1] https://iwpr.org/wp-content/uploads/2020/10/C462_Understanding-the-New-College-Majority_final.pdf

Other decisions the Department of Education has made in the new REPAYE plan, lamentably, both add complexity and undermine fairness. In particular, we note the differential treatment of graduate student debt. Graduate school borrowing is not a moral or economic failing for which borrowers should face additional burdens under payment plans created to keep them in good standing. Giving borrowers with graduate student debt a larger and more intricately calculated payment does a disservice to teachers, social workers and others who gain required and valuable skills via graduate education, but only modestly boost their income in these essential careers. It is frustrating that even in the department's own example, the undergrad and the graduate debt holder make the same amount of money ($50,000) and yet draws the conclusion it is an inequity that borrowers *with the same income* get the same payment under *income-driven repayment.*

Racial and gender inequity underlie who has graduate student loan debt and how much of it they have, and the administration's plan should be responsive to these realities. The key conceptual innovation of income-driven repayment is that payments are affordable based on the income a borrower receives. The proposed plan would mean that borrowers with the same income and same debt amount could have significantly different monthly payments based on the composition of the debt they took on.

The assumption behind treating graduate education differently than undergraduate education is that graduate education is more costly, but also more beneficial, because graduate degree earners would be expected to earn more. However, women and people of color still face labor market discrimination even at high levels of education, which supports the increased protections that IDR plans should provide. Even when controlling for education, for example, Black women earn 70 percent of what white men do at the graduate degree level.[2] Women and women of color are concentrated in many career fields that require advanced education and earn lower wages, but are nonetheless essential to our economy and society.[3] It is clear that while graduate education is an important part of economic opportunity, its costs and benefits are not experienced equally by all. Because IDR should be a safety net for student loan borrowers, a plan that treats graduate education so disparately compared with undergraduate borrowers ignores who often "needs" to go to graduate school, who requires debt to finance graduate education, and who experiences labor market discrimination that interferes with the ability to pay back loans.

The sum of these factors is clear in who holds the highest levels of debt. African American graduate students are also disproportionately burdened with very high levels of debt; in 2016, 30 percent had at least $100,000 of student debt compared with 12 percent of white students.[4] Further, Black women are most likely to have student loan debt.[5] The department should not be penalizing workers who

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[2] https://blog.dol.gov/2021/08/03/5-facts-about-black-women-in-the-labor-force
[3] https://cewgeorgetown.wpenginepowered.com/wp-content/uploads/Women_FR_Web.pdf
[4] https://robertkelchen.com/2018/05/17/what-explains-racial-gaps-in-large-graduate-student-debt-burdens/
[5] https://www.stlouisfed.org/publications/economic-equity-insights/gender-racial-disparities-student-loan-debt

must borrow to attend graduate school, especially considering the Black-white wealth gap[6] and this administration's stated priorities around diversifying professions such as nursing and teaching.

We are also concerned that the weighted average formula is cumbersome for borrowers to understand and make the kinds of decisions the department assumes they will make. Experiences with student loan servicers and Federal Student Aid's budget do not instill confidence that the current student loan system can handle supporting borrowers to navigate more complex repayment schemes.[7] Research on administrative burdens demonstrates that clear information about benefits and ways to access them help ensure people take up social programs. The Biden administration rightfully earned much praise for its simple and straightforward student loan debt forgiveness plan and application process announced in August 2022. Lowering the discretionary income cap to 5 percent for all borrowers would continue the steps toward a sensible IDR policy for all borrowers.

Finally, the department also describes the five-year (60 payment) difference in time horizon between graduate and undergraduate loans as "slightly longer," a characterization we disagree with.
As we have since the first REPAYE plan was proposed, we again urge you to treat undergraduate and graduate debt identically under the new REPAYE plan as all income-driven repayment plans did until 2015, both by equalizing the percentage of discretionary income paid under new REPAYE and by aligning the total time to forgiveness at 240 payments for all borrowers.

The department's proposed regulations implicitly and explicitly raise related policy questions about the appropriate level of graduate school borrowing and the value of various credentials. Though these issues are important, they were not the issues before the Affordability and Student Loans negotiated rulemaking committee. Congress has not yet sought to limit grad borrowing, and the department should refrain from putting its finger on the scale, especially when goals stated elsewhere in this NPRM include affordability and reducing complexity.

We have similarly strong feelings about the exclusion of Parent PLUS loans from basically all of the beneficial revisions we've praised above. Parents like our members are stuck between a rock and a hard place when they value education but don't make enough to save the very high cost of college for their own children. The number of institutions that meet full financial need is very small and highly selective[8] leaving the parents of high-achieving students with low wealth few options but the Parent PLUS program.

The place where this seems the most stark and unfair is the increase in the amount of discretionary income exempted from the calculation of payments to 225 percent of the federal poverty guideline for the new REPAYE plan. The only income-driven repayment plan that Parent PLUS loan borrowers

[6] https://socialequity.duke.edu/portfolio-item/what-we-get-wrong-about-closing-the-racial-wealth-gap/
[7] https://www.npr.org/2023/01/10/1147758692/exclusive-new-biden-student-loan-plan-unveiled-amid-agency-funding-crisis; https://www.gao.gov/products/gao-22-103720
[8] https://www.usnews.com/education/best-colleges/paying-for-college/articles/schools-that-meet-full-financial-need-with-no-loans

qualify for uses a 100 percent of the federal poverty guideline and demands a higher percentage, 20 percent, of the income above that threshold.

The department arrived at the 225 multiplier by looking “for the point at which the share of those who report material hardship—either being food insecure or behind on their utility bills—is statistically different from those whose family incomes are at or below the federal poverty guidelines.”

This income protection at least should be extended to the Parent PLUS borrower with a consolidated loan. Telling a Parent PLUS loan borrower that it is acceptable that they experience not just financial stress, but material hardship is going too far. No one should have to choose between food and student loan payments. Thirty-three percent of Black parents and 29 percent of Hispanic parents in the Parent PLUS portfolio also hold loans for their own education,[9] a strong suggestion of the racialized wealth gaps that drive these debts in the first place, and using the same federal poverty guideline multiplier will reduce confusion over payment calculation.

We must reiterate that for IDR programs to be a real alternative, the department and its servicers need to be prepared to act quickly to calculate payments. The department states: “If the borrower wanted to change their repayment amount, the borrower could then submit evidence of exceptional circumstances to support changing the amount of the required payment under the alternative payment plan or change to a different repayment plan.” This statement seems to apply specifically to what borrowers will be charged if they do not re-enroll in IDR, but we will take this opportunity to say that the process for those in “exceptional” circumstances to get an income-driven repayment that accurately reflects income is extremely difficult. These circumstances are not even exceptional in our experience: At least one person per debt clinic has an income arrangement that is something other than a single W-2 income, especially when you look beyond our K-12 membership. Workers with overtime, per diem nurses, and especially contingent faculty struggle to communicate with servicers about their income when it is not paid out evenly across the year.

All of this points to the important role that servicers will play in making these proposals a tangible reality for borrowers; but unfortunately, this is where many of our members have gotten bad or incomplete information in the past, to detrimental effect for the borrower. We expect this regulation to come with strong guidance and accountability for servicers, which should include extensive training and monitoring to make sure this regulation is being implemented with fidelity, especially where additional complexity has been added.

[9] https://tcf.org/content/report/parent-plus-borrowers-the-hidden-casualties-of-the-student-debt-crisis/

Conclusion

Thank you again for your hard work on this regulation, which will create more affordable and sustainable payments for the millions of Americans with student loan debt. It is our hope that the program includes the fairest possible treatment for all student loan borrowers, to include consistent treatment of FFEL, graduate, and Parent PLUS borrowers to the greatest extent possible. Such equalized treatment will not only reduce complexity in the system but also further the department's equity goals, since we know that Black and Hispanic borrowers are more likely to have these types of student debt.[10,11,12] We look forward to disseminating information about the finalized program to our members and to collaborating with the department and other stakeholders to ensure that higher education is both high-quality and affordable. We are encouraged that this proposal will move us in that direction.

Thank you for considering our views.

Sincerely,

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[10] https://protectborrowers.org/the-cares-act-leaves-behind-millions-of-student-loan-borrowers/
[11] https://robertkelchen.com/2018/05/15/examining-trends-in-graduate-student-debt-by-race-and-ethnicity/
[12] https://tcf.org/content/report/parent-plus-borrowers-the-hidden-casualties-of-the-student-debt-crisis/