

To: U.S. Department of Education; Negotiated Rulemaking Committee

From: Lane Thompson, Negotiator for State Officials, including State higher education executive officers, State authorizing agencies, and State regulators of institutions of higher education; Sherrie Gammage, Negotiator for Student Loan Borrowers Who Attended Four-Year Programs; Richard Haase, Negotiator for Student Loan Borrowers Who Attended Graduate Programs

Date: November 14, 2023

RE: Redlines to Interest Accrual Text

Background

The experience of borrowers facing runaway balances is incredibly common¹ and has affected more and more borrowers over time.² The design structure of previous versions of income-driven repayment plans implicitly treated these snowballing balances as insignificant, a simple technicality that will eventually disappear as borrowers complete the 20 or 25-year repayment period required to receive any forgiveness under their respective IDR plans.³

The problem of interest accrual was further exacerbated by policy choices made by previous Administrations which caused interest to capitalize in certain circumstances, such as when borrowers were put into forbearance, changed repayment plans, or missed their annual recertification deadline.⁴

In its first issue paper, the Department has correctly identified the problem that borrowers have seen their balances grow due to the accrual of unpaid interest such that many borrowers now have overall balances higher than what they originally borrowed. In addition, many borrowers have made significant payments to loans and yet have not seen their loan balances diminish. For example, according to one study, the typical black borrower still owes approximately 90 percent of the original principal twenty years after taking on the debt. Many borrowers have paid at least what they borrowed---and sometimes more---without seeing a reduction in their balance.

Although the Department has made significant improvements to the treatment of interest by ending interest capitalization when allowed by statute, and waiving unpaid interest in the SAVE plan, those changes were not made retroactively.

Returning borrowers to their original balance irrespective of how much the borrower has paid fails to meet the gravity of the problem. As the Department has stated that it is unable to retroactively credit borrowers accounts to reflect those changes in policy, we instead propose that the Department take all amounts that borrowers have paid towards interest and apply those payments towards the borrowers original balance.

¹ <https://www.pewtrusts.org/-/media/assets/2019/10/the-long-journey-through-student-loan-repayment.pdf>

² <https://www.jainfamilyinstitute.org/assets/student-debt-and-young-america-jfi-feb-2021.pdf>

³ <https://protectborrowers.org/idr-aimed-to-make-federal-student-loans-affordable-it-made-them-even-more-of-a-debt-trap/>

⁴ <https://protectborrowers.org/driving-into-a-dead-end-why-idr-has-failed-millions-with-decades-old-debts/>

TEXT REDLINE

(b) Current balance exceeds the original principal balance. The Secretary may waive ~~[all or a portion of]~~ the amount by which a borrower's total outstanding balance exceeds the original principal balance of the loan, including if the loan is a Federal Consolidation Loan or a Direct Consolidation Loan, the total original principal balance of all loans repaid by such loan, if—

(i) The loan was in repayment for at least XX months by no later than July 1, 2025.; ~~and~~

~~[(ii) BORROWER ELIGIBILITY REQUIREMENTS].~~

~~(_) Borrower repaid more than would be owed under the Standard Ten-Year Plan. The Secretary may waive [up to] the entire outstanding balance:~~

~~(i) of a loan where the Secretary determines that a borrower has made payments on such a loan of an amount equal to or greater than to total of:~~

~~(A) the original principal balance of the loan;~~

~~(B) any accrued interest charged on a loan during an "in school" or a grace period; and~~

~~(C) the total accrued interest a borrower would have been charged over a period of 120 consecutive months after exiting a grace period.~~

~~(ii) of a Federal Consolidation Loan or a Direct Consolidation Loan, if the Secretary determines that a borrower has made monthly payments equal to or greater of the amount required under paragraph (i) for all loans repaid by such loan.~~