



**Comments of
National Consumer Law Center
(on behalf of its low-income clients)**

to the

**Department of Education
on Notice of Proposed Rulemaking
80 Fed. Reg. 39608 (July 9, 2015)**



Docket ID ED-2014-OPE-0161

Submitted: August 10, 2015

These comments are submitted on behalf of the National Consumer Law Center's low-income clients. The National Consumer Law Center (NCLC) is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys and their clients, as well as community groups and organizations that represent low-income and older individuals on consumer issues. NCLC's Student Loan Borrower Assistance Project provides information about student rights and responsibilities for borrowers and advocates and provides direct legal representation to student loan borrowers. We work with other advocates across the country representing low-income clients. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens and make loan repayment more manageable.¹

The Department's proposed Revised Pay As You Earn repayment plan will make repayment more affordable for millions of struggling student loan borrowers. However, we believe there is more that the Department can do to better serve low-income borrowers, both through regulations and implementation.

PROPOSED REVISED PAY AS YOU EARN REPAYMENT PLAN

Expanding an affordable repayment plan to more borrowers.

We applaud the Administration for taking steps to ensure that an affordable repayment plan will be available to more Direct Loan borrowers. The limitations on eligible borrowers under the current PAYE regulations are unfairly restrictive and foreclose the benefits of PAYE to millions of borrowers. The only borrowers currently eligible are those who had no outstanding Direct or FFEL loans as of October 1, 2007 and who have received a Direct Loan disbursement on or after October 1, 2011.² Unfortunately, many of our clients, who desperately need the relief provided by PAYE, have outstanding loans that pre-date 2007. PAYE has been estimated to

¹ See the Project's web site at www.studentloanborrowerassistance.org. NCLC also publishes and annually supplements practice treatises which describe the law currently applicable to all types of consumer transactions, including STUDENT LOAN LAW (4th ed. 2010 and Supp.).

² See 34 C.F.R. § 685.209(a).

reach only 1.6 of the 40 million borrowers with outstanding federal student loans.³ Seven million borrowers had over 100 billion dollars of outstanding Direct loans in 2007.⁴ The proposed REPAYE regulations will be providing much-needed relief to these borrowers, many of whom are still paying back those loans.

However, there is another group of borrowers who will not benefit from this new proposed repayment plan. Parents who seek help from us or other legal services providers because of debts incurred for their children's education – especially Parent PLUS loans – are often in particularly dire circumstances. These PLUS loans have higher interest rates than other types of student loans, lack Department-imposed limits on amounts borrowed, are not eligible for the income-driven repayment plans, and can rarely be discharged in bankruptcy. As a result, low-income Parent PLUS borrowers come to us with much larger debts, and fewer options for averting or resolving defaults.

Unfortunately, the Department provides PLUS loans to parent borrowers who cannot afford them, saddling low-income families with debt they cannot repay. Although PLUS loans are the only type of federal educational loan to require any evaluation of the borrower's credit, the data the Department recently provided shows that almost 100,000 Parent PLUS borrowers were unable to make payments for nine or more months within their first three years of repayment.⁵ Unlike other federal educational loans, Parent PLUS loans have no borrowing limits, and the Department does not evaluate applicants' ability to repay before granting access to nearly-unlimited credit. To make matters worse, the Department recently enacted changes to the PLUS Loan program that relaxed the minimal underwriting standards that had been in place, extending the program to even more parents who are already experiencing documented financial difficulties when they apply.⁶ No evidence suggests that borrowers granted PLUS loans pursuant to these new regulations will be able to repay them without hardship.⁷ Indeed, the Department's analysis suggests the opposite.⁸

Currently, the only way for over-indebted parent borrowers to access an income driven repayment plan is by consolidating into a Direct Consolidation Loan, which can be repaid in

³ See *Education Department Launches 'Pay As You Earn' Student Loan Repayment Program*, U.S. DEPARTMENT OF EDUCATION (Dec. 21, 2012), <http://www.ed.gov/news/press-releases/education-department-launches-pay-you-earn-student-loan-repayment-plan> (estimating PAYE would reach 1.6 million borrowers); U.S. DEPARTMENT OF EDUCATION OFFICE OF FEDERAL STUDENT AID, *FEDERAL STUDENT LOAN PORTFOLIO SUMMARY*, <https://studentaid.ed.gov/about/data-center/student/portfolio> (reporting nearly 37 million borrowers with outstanding FFEL and Direct loans).

⁴ See U.S. DEPARTMENT OF EDUCATION OFFICE OF FEDERAL STUDENT AID, *FEDERAL STUDENT LOAN PORTFOLIO SUMMARY*, <https://studentaid.ed.gov/about/data-center/student/portfolio>.

⁵ See *PLUS Borrowers 3-Year Cohort Default Rate*, available at <http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/pii2-plusborrowers-cdr.xls>.

⁶ See Direct Loan Program Proposed Rules, 79 Fed. Reg. 46640 (Aug. 8, 2014).

⁷ See *id.* at 46645 ("The Department . . . does not have data to determine if borrowers who would have been considered to have an adverse credit history in the absence of the proposed regulations have a greater incidence of default or repayment difficulty."). The Department announced in October 2014 that, for the first time, it will begin collecting and, where appropriate, publishing information about the performance of PLUS loans, including default rate information based on credit history characteristics of PLUS loan borrowers and individual institutional default rates.

⁸ *Id.* (noting that, "if a subsidy rate were available for this subgroup of PLUS borrowers, it would likely differ from the overall PLUS subsidy rate").

ICR.⁹ While this option is better than no income-driven option at all, it is often insufficient to meet the needs of many of our clients. The Department has incorrectly stated in the Federal Register that it is prohibited from making the REPAYE plan available to Parent PLUS borrower.¹⁰ There is no basis in statute for excluding consolidation loans that include Parent PLUS loans from repaying using the proposed REPAYE plan. Therefore, the regulations should allow borrowers with consolidation loans that include Parent PLUS loans to repay under the REPAYE plan, just as they are allowed to repay in ICR.

Treating vulnerable married borrowers fairly.

We are also encouraged that the Department is continuing to allow vulnerable married borrowers who file their taxes separately to calculate their REPAYE payment based upon the borrower's adjusted gross income without a cumbersome appeal process. The ability to file separately is critical for certain vulnerable borrowers. There are many legitimate reasons why low-income taxpayers choose to file their taxes separately, often at great financial cost. Requiring these borrowers to provide their spouse's income to calculate their income-driven repayment amount would have disastrous effects, from the administrative nightmare of trying to determine an uncooperative spouse's income to potentially compromising the safety of survivors of domestic abuse. By allowing these borrowers to self-certify that they do not have access to their spouse's income, the Department is ensuring that vulnerable married borrowers continue to have access to an affordable repayment plan.

The proposed REPAYE regulations may still cause a hardship for some recently separated borrowers. Under the proposed regulations, a married borrower who has filed a joint tax return but who subsequently separates from his or her spouse is not allowed to self-certify that they are separated at the time of applying for REPAYE. That option is only available to a borrower who is married but files a separate tax return. We feel this was an oversight and should be fixed in the final regulations. We therefore recommend that the Department revise the proposed REPAYE regulations to allow a married borrower who filed a joint federal tax return to self-certify that he or she is separated from his or her spouse at the time of application for REPAYE, and thereby have the spouse's income excluded from the monthly payment calculation.

Treatment of interest.

We are pleased to see the Department proposing to cap the accrual of interest for those borrowers who have negatively amortizing loans. It will benefit both the borrower and the taxpayer to reduce the total amount of debt forgiven after the borrower has paid for twenty or twenty-five years.

We join the Institute for College Access and Success (TICAS) in urging the Department to eliminate the capitalization of interest for borrowers in REPAYE. Under the proposed regulations, unpaid interest capitalizes in REPAYE when a borrower's debt-to-income ratio falls

⁹ See *Income-Driven Repayment*, Federal Student Aid, <https://studentaid.ed.gov/about/announcements/interest-rate> (last visited Oct. 27, 2014).

¹⁰ 80 Fed. Reg. 39608, 39617 (July 9, 2015).

below a particular threshold. However, the threshold has no relevance in REPAYE—it is simply a carryover from other income-driven repayment plans that have different eligibility requirements. Capitalizing interest when the borrower’s debt-to-income ratio hits an arbitrary threshold adds unnecessary complexity, both for borrowers and for servicers who will have to calculate and track this ratio for the sole purpose of interest capitalization. It also increases the costs for borrowers who have had low incomes and negatively amortizing loans. We therefore recommend eliminating the capitalization of interest while a borrower remains in REPAYE.

Allow borrowers who consolidate to retain time earned toward forgiveness.

We also join TICAS in urging the Department to allow borrowers who consolidate their loans to get appropriate credit for what may be years of qualifying payments toward loan forgiveness under PAYE, IBR, or public service loan forgiveness (PSLF). Under current regulations, qualifying payments are not counted toward forgiveness in any of these programs if the loans are later consolidated. This can and should be changed through regulations for PAYE and IBR, as well as for PSLF.

There are multiple precedents for tracking payments made on loans before consolidation. For example, the Department and FFEL lenders already track pre-consolidation payments on subsidized loans in order to provide a three-year period of interest subsidy on negatively amortized loans in PAYE and IBR.¹¹ Additionally, for discharges of consolidation loans due to a closed school, false certification, or unpaid refund, only the amount of the underlying loans that were used to pay for the affected program of study are considered for discharge.¹²

Simplify the repayment process for annual renewal.

The current federal student loan regulatory scheme is far too complex for borrowers to understand. Numerous repayment plans exist, and each plan has slightly different features and eligibility restrictions, making it challenging for even the most sophisticated borrowers to understand their options. Very few of our clients are even aware of the basic features of the existing repayment plans. The complexity of the various repayment plans makes it hard for borrowers to make an informed decision when choosing a plan. Understanding and distinguishing among these terms requires a level of interpretation and financial literacy that few borrowers possess, and few servicers are capable of or willing to provide. While the proposed REPAYE program offers many benefits to low-income borrowers, it also adds to the complexity.

In particular, the consequences for borrowers who fail to provide income documentation each year under the new regulations are unnecessarily complex. By calculating the new repayment amount using the outstanding loan balance and the time remaining, borrowers have no way to predict in the future the consequences of failing to supply their income documentation every year. The Department should tailor regulations to reduce the existing complexity facing

¹¹ See 34 C.F.R. § 685.209(a)(2)(iii); 34 C.F.R. § 682.215(b)(4); 34 C.F.R. § 685.221(b)(3).

¹² See U.S. Department of Education, *Loan Discharge Application: School Closure*, <http://1.usa.gov/Zuy9vN>. U.S.; Department of Education, *Loan Discharge Application: False Certification (Ability to Benefit)*, <http://1.usa.gov/1tHDmIj>; U.S. Department of Education, *Loan Discharge Application: Unpaid Refund*, <http://1.usa.gov/Zuyaj6>.

borrowers without curtailing the benefits available to them. Complexity harms borrowers by making it more difficult to differentiate and choose among available options, and harms taxpayers by raising the price of implementation.

Additionally, the Department should make the process for renewing easier. Rather than having to proactively submit new income information every year or get bumped to a non-income-based payment, borrowers should be able to give advance permission for the Department of Education to automatically access the required tax information (sometimes called "multi-year consent"). Borrowers could revoke this permission at any time. The Department recently shared that over half of all borrowers in two of the existing income-driven repayment plans missed the deadline to update their income information, underscoring the importance of improving this process.

Implementing multi-year consent for income-driven repayment plans will help ensure that struggling borrowers are able to keep their monthly loan payments manageable and avoid delinquency and default. It will also significantly reduce the administrative burden for both borrowers and servicers. Borrowers used to be able to provide multi-year consent, and they should be able to again.

INCOME DRIVEN REPAYMENT PLAN REQUEST FORM

The proposed Income Driven Repayment Plan Request form is far too long and dense to be usable by the average student loan borrower. It should be straightforward, easy to read, and easy to complete. Because borrowers can apply for an income-driven plan on studentloans.gov, the people who use this form are most likely to be people who do not have reliable access to the internet. As a whole, this population is more vulnerable and may be less able to complete a complicated form. In our experience, if a borrower cannot easily complete a form, then he or she is less likely to fill it out, or will fill it out incorrectly.

A complicated and long form will make it less likely for people to enroll in an IDR or complete the annual renewal process, and will exacerbate the already existing IDR attrition problem. Particularly, the skip logic used in this form is exceptionally confusing and hard to follow. While occasionally useful, the over-reliance on skip logic requires borrowers to do too much reading and remember too many steps. Moreover, whether a question is answered depends on several questions before it, making it extremely hard to review the form to ensure that the form was completed correctly.

While not perfect, the current IBR-ICR Selection form is much easier to use. The table for selecting the repayment plan is clean and eye catching. While some of the sections could be even less wordy, they are fairly straightforward and easy to complete. We recommend modifying the existing form to include the REPAYE plan instead of creating a new form. We have provided an example form showing how this could be accomplished (see Attachment A).

OPERATIONAL IMPROVEMENTS TO ENSURE ACCESS TO REPAYE

Provide assistance for delinquent borrowers in danger of defaulting.

Many of our clients are financially distressed, and default on their federal student loans. They are often unaware that they could have enrolled in an income-driven repayment (“IDR”) plan to avoid default. Default rates for federal student borrowers have exploded in recent years,¹³ and low-income borrowers are more likely to default than other borrowers.¹⁴ Hundreds of thousands of borrowers defaulted on their federal student loans in recent years, despite being eligible for income-driven repayment plans.¹⁵ The draconian consequences of defaulting on a federal student loan can haunt borrowers for decades.

Although the existence of income-driven repayment plans should help avoid some of these outcomes, borrowers are often unaware of or confused by their options, and fail to take advantage of income-driven plans before defaulting. The Department does not consider a student to be in default until she has missed nine months of payments.¹⁶ These nine months provide an extended window during which the Department can identify and help delinquent borrowers on the verge of default. The Department should be more aggressive in developing and adopting programs to identify distressed borrowers and help them take advantage of income-driven repayment options before they default.

For example, we support the proposal in Senator Harkin’s Higher Education Act reauthorization proposal to create a presumptive IDR eligibility program for borrowers in late-stage delinquency. The Department can act earlier to develop this concept by proactively contacting borrowers in late-stage delinquency and stopping the delinquency clock through forbearance or other means. The borrowers should then be eligible for a temporary, presumptive IDR program while the servicer provides targeted assistance to help the borrower complete the IDR application. Among other programs, the Department should sponsor pilot initiatives to help servicers collect data to determine which borrowers are most at risk of default and target services and the presumptive IDR option to these borrowers. If such programs already exist, the Department should provide public information about the programs and results.

Changes to REPAYE will not benefit borrowers without quality loan servicing.

New REPAYE regulations will provide little benefit to borrowers if federal student loan servicers do not provide quality service. The Department’s recent changes to loan servicer contracts are a step in the right direction insofar as they better align servicers’ financial

¹³ See Michael Stratford, *Default Rates Rise Again*, INSIDE HIGHER ED (Oct. 1, 2013), <https://www.insidehighered.com/news/2013/10/01/student-loan-defaults-hit-highest-level-1995>.

¹⁴ See NATIONAL CONSUMER LAW CENTER, *THE STUDENT LOAN DEFAULT TRAP: WHY BORROWERS DEFAULT AND WHAT CAN BE DONE* 11 (June 2012), <http://www.studentloanborrowerassistance.org/wp-content/uploads/2013/05/student-loan-default-trap-report.pdf>.

¹⁵ Shahien Nasiripour, *Education Department Lets Borrowers Default on Student Loans, Ignoring Helpful Alternatives*, THE HUFFINGTON POST (Sept. 11, 2013), http://www.huffingtonpost.com/2013/09/11/income-based-repayment_n_3903208.html.

¹⁶ See 34 CFR § 685.102.

incentives with borrower interests. There is more to be done to improve these incentives, but in any case, these changes fail to address larger structural issues.¹⁷ The Department must improve oversight and enforcement and provide borrowers with basic rights to ensure borrowers receive quality service.

The Department's Inspector General reported in 2013 that the Department does not provide sufficient oversight to ensure student loan borrowers receive quality service.¹⁸ This lack of oversight leaves borrowers powerless against harmful and common practices. Our clients routinely receive outdated and inaccurate information about their loans from servicers. As a result, they make duplicate payments and miss important opportunities and deadlines. When our clients who are Parent PLUS borrowers call their servicers to request more affordable payments, they are routinely told that they are ineligible for any of the income-driven repayment plans. They are not told that they can consolidate their Parent PLUS loans to become eligible for ICR.

Servicers also tend to push borrowers into the most readily available solutions, such as forbearance, instead of helping borrowers choose a plan that will be beneficial in the long term. Unfortunately, most borrowers are unaware that their loans accrue significant interest while in forbearance, or are unaware of viable alternatives like income-driven repayment plans, and are left much worse off. For example, we represent a client who is struggling to remain current on a federal student loan. She makes only \$5,000 a year and had been living in a shelter for victims of domestic violence for an extended period before moving in with a friend. Her son is living with other family members while she tries to find work. When she called her federal loan servicer seeking relief, her loan was placed in short-term forbearance. She has continued to receive various forbearances and deferments over the last several years. Although she clearly qualifies for and would benefit from an income-driven repayment plan, her loan servicer has never mentioned or explained this to her. It took a phone call from an insistent attorney for the servicer to acknowledge that she is eligible for an income-driven plan.

Even if the Department acted more aggressively to police the contractors through termination or sanctions, this would not necessarily lead to relief for individual borrowers harmed by these servicers. The absence of clear borrower protections contrasts with other consumer credit areas such as credit cards and mortgages. In its October 2013 report, the Consumer Financial Protection Bureau ("CFPB") pointed to the need to examine whether the types of protections and reforms in the Real Estate Settlement Procedures Act (RESPA) for mortgages and the CARD Act for credit cards could apply to the student loan servicing market.¹⁹

While we believe that structural reform is the ultimate goal, there are many ways to protect borrowers more effectively within the current system. This includes specifying borrower

¹⁷ See Ben Miller, *Fixing the Finances, not the Structure, of Student Loan Servicing*, THE NEW AMERICA FOUND. (Sept. 2014), <http://www.edcentral.org/student-loan-servicing/>.

¹⁸ See U.S. DEPARTMENT OF EDUCATION, OFFICE OF INSPECTOR GENERAL, ED-OIG/A02L0006, FEDERAL STUDENT AID'S AWARD AND ADMINISTRATION OF THE TITLE IV ADDITIONAL SERVICERS CONTRACTS FINAL AUDIT REPORT (2013).

¹⁹ CONSUMER FINANCIAL PROTECTION BUREAU, ANNUAL REPORT OF THE CFPB STUDENT LOAN OMBUDSMAN (2013). See also, NCLC RESPONSE TO DEPARTMENT OF EDUCATION REQUEST FOR INFORMATION ABOUT FEDERAL STUDENT LOAN SERVICING (Jan. 30, 2015), <http://www.studentloanborrowerassistance.org/wp-content/uploads/2013/05/response-rfi-servicing-jan2015.pdf>.

protections in the regulations for all federal loan programs, enforcing servicer contracts more vigorously, sanctioning servicers that fail to provide quality service, and ensuring that borrowers have clear and effective ways to resolve complaints. NCLC's policy brief in Attachment B summarizes these complementary areas of reform in the context of servicing.

**IMPLEMENTATION OF REGULATIONS ALLOWING REHABILITATED LOANS TO BE
ASSIGNED TO THE SECRETARY**

We are encouraged that the Department has made technical corrections to its regulations in order to reflect the statutory change that reduced the maximum fees that can be added to rehabilitated FFEL loans and required an otherwise rehabilitated FFEL Program loan to be assigned to the Secretary if the guaranty agency is unable to find a FFEL Program lender to purchase the loan.²⁰ This is particularly critical given recent reports that FFEL guaranty agencies are once again starting to experience problems finding buyers for rehabilitated loans. However, it has come to our attention that the Department has not yet provided clear guidance to agencies about how the Department will accept assignments of these loans. We urge the Department to act quickly to make sure that an operational system is in place that not only allows for efficient assignment to the Secretary, but also ensures that borrowers remain eligible after making a final rehabilitation payment even if additional time passes before the rehabilitation process is completed.

It is imperative that FFEL borrowers who have successfully completed a loan rehabilitation be able to complete the process, if not through the sale of the loan, than through the assignment to the Department. We advocated for this change in the law to avoid the inept and costly handling of rehabilitated loans just a few years ago when the market for these loans tightened. The Department must ensure that the law becomes an operational reality so that borrowers can get the fresh start they are entitled to. The Department cannot wait until there is a problem in order to put a process in place.

Thank you for your consideration of these comments. Please feel free to contact Deanne Loonin or Persis Yu if you have any questions or comments. (Ph: 617-542-8010; E-mail: dloonin@nclc.org, pyu@nclc.org).

²⁰ See Act of Dec. 26, 2013, Pub. L. No. 113-67, 127 Stat. 1165 (codified at 20 U.S.C. §§ 1078-6(a)(1)(A)(i), (a)(1)(A)(D)(i)(II)(aa)).

Attachment A



INCOME-DRIVEN REPAYMENT PLAN REQUEST:

For the Pay As You Earn (PAYE), Revised Pay As You Earn (REPAYE), Income-Based (IBR), and Income-Contingent (ICR) repayment plans for the William D. Ford Federal Direct Loan (Direct Loan) and Federal Family Education Loan (FFEL) Programs

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form or on any accompanying document is subject to penalties that may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097.

OMB No. 1845-0102
DRAFT FORM
Exp. Date XX/XX/XXXX

SECTION 1: BORROWER IDENTIFICATION

Please enter or correct the following information.

☐ Check this box if any of your information has changed.

SSN [] [] [] - [] [] [] - [] [] [] []

Name _____

Address _____

City, State, Zip Code _____

Telephone – Primary () _____

Telephone – Alternate () _____

E-mail Address (Optional) _____

SECTION 2: REPAYMENT PLAN REQUEST

READ BEFORE COMPLETING THIS FORM:

- If possible, apply online at StudentLoans.gov. It is faster and easier to complete this form online.
- Income-driven repayment plans offer many benefits, but may not be right for everyone. You can learn more at StudentAid.gov/IDR.
- **It's simple to estimate payment options at StudentAid.gov/repayment-estimator.**
- If you need help completing this request, contact your loan holder for free assistance.
- You may have to pay income tax on any loan amount forgiven under an income-driven plan.

1. Reason you are completing this request.

- a. ☐ I am requesting a repayment plan based on my income – Check the plan(s) you are requesting below and then continue to item 2.

	Direct Loan Program Loans*	FFEL Program Loans*
IBR	<input type="checkbox"/>	<input type="checkbox"/>
Pay As You Earn	<input type="checkbox"/>	Not Available
Revised Pay As You Earn	<input type="checkbox"/>	Not Available
ICR	<input type="checkbox"/>	Not Available
I request that my loan holder determine which of the above plans I am eligible for, and place me on the plan with the lowest monthly payment amount.	<input type="checkbox"/> Only IBR will be considered for FFEL Program loans	

* Not all loan types under the FFEL and Direct Loan Programs are eligible for these plans (see Section 8).

For FFEL borrowers, you can exclude eligible loans if you request IBR prior to July 1, 2013. If you are a FFEL borrower and request IBR on or after July 1, 2013, you must repay all loans eligible for IBR under that plan.

- b. ☐ I am submitting annual documentation for the recalculation of my monthly payment amount under my current repayment plan – Continue to item 2.
c. ☐ I am requesting that my loan holder recalculate my current monthly payment amount because my circumstances have changed – Continue to item 2.

2. Check if you owe eligible loans to more than one loan holder.

- ☐ You must submit a complete separate request to each holder of the loans you want to repay under an Income-Driven Repayment plan.

SECTION 3: SPOUSAL INFORMATION (If applicable)

Complete this section if any of the following apply to you:

- You file a joint federal income tax return with your spouse and your spouse has eligible loans. Enter information about your spouse, below.
- You have a joint Direct or FFEL Consolidation Loan that you obtained with your spouse. Enter information about the co-borrower of the loan.
- You and your spouse have Direct Loans and both of you want to repay those loans under the ICR Plan. Enter information about your spouse, below.

3. Spouse's SSN [] [] [] - [] [] [] - [] [] [] []

4. Spouse's Name _____

5. Spouse's Date of Birth [] [] [] - [] [] [] - [] [] [] []

6. ☐ My spouse and I wish to repay our Direct Loans jointly under the ICR Plan.

If you file a joint federal income tax return with your spouse, your loan holder(s) will base your eligibility determination and monthly payment amount on your and your spouse's combined income regardless of whether your spouse has eligible federal student loans. However, if your spouse does not have eligible student loans, you do not need to complete this section.

If you complete this section, your spouse is also required to sign this form. By signing, your spouse is authorizing the loan holder(s) to access information about his or her federal student loans in the National Student Loan Data System (NSLDS). In addition, your loan holder(s) will need detailed information about all of your spouse's loans to accurately evaluate your eligibility and payment amount. You may need to contact your loan holder(s) for option to provide the loan details needed on your spouse's loans.

SECTION 4: FAMILY SIZE AND FEDERAL TAX INFORMATION

7. Enter your family size (as defined in Section 8). If you do not enter your family size, your loan holder(s) will assume a family size of one.
8. Did you file a federal income tax return for either of the two most recently completed tax years?
- ☐ Yes – Continue to Item 9.
- ☐ No – Skip to Section 5.
9. Does your most recently filed federal income tax return reflect your current income (and your spouse's current income if applicable)? Answer "No" if it is significantly different than the income reported to the IRS on your most recently filed federal income tax return.
- ☐ Yes – Provide your most recently filed federal income tax return or IRS tax return transcript.
- ☐ No – Complete Section 5.

FOR REPAYE BORROWERS WHO ARE MARRIED (all other borrowers can skip)

10. Did you file a joint return with your spouse?
- ☐ Yes - Provide your most recently filed federal income tax return or IRS tax return transcript or complete Section 5.
- ☐ No – Continue to next question.
11. Are you separated from your spouse?
- ☐ Yes – **You do not need to provide your spouse's income.** Provide your most recently filed federal income tax return or IRS tax return transcript or complete Section 5.
- ☐ No – Continue to next question.
12. Are you able to access information about your spouse's income and able to have your spouse sign this application?
- ☐ Yes – You must provide both your and **your spouse's** most recently filed federal income tax return or IRS tax return transcript or complete Section 5.
- ☐ No – **You do not need to provide your spouse's income.** Provide your most recently filed federal income tax return or IRS tax return transcript or complete Section 5.

SECTION 5: ALTERNATIVE DOCUMENTATION OF INCOME

To be completed if (1) you did not file a federal income tax return for the two most recently completed tax years, (2) your AGI from your most recently filed federal income tax return does not reasonably reflect your current income (due to circumstances such as the loss of or change in employment), or (3) your loan holder(s) informed you that alternative documentation of income is required.

10. Do you have taxable income? Supplemental Security Income, child support, or federal or state public assistance is not considered taxable income.
- ☐ Yes – Provide documentation of this income, as described below.
- ☐ No – By signing this form, you are certifying that you have no taxable income or are not required to file a federal income tax return based on the amount of your taxable income.
11. Does your spouse have taxable income? (Only answer if you are married and completed Section 3 or paying under REPAYE, or file a joint federal income tax return with your spouse.) Supplemental Security Income, child support, or federal or state public assistance is not considered taxable income.
- ☐ Yes – **Provide documentation of your spouse's income, as described below.**
- ☐ No – By signing this form, your spouse is certifying that he/she has no taxable income or is not required to file a federal tax return based on the amount of his/her taxable income.

You must provide one piece of supporting documentation of all taxable income from all sources (for example, income from employment, unemployment income, dividend income, interest income, tips, alimony). Do not report untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.

Supporting documentation includes: pay stubs, a letter(s) from your employer(s) listing income, interest or bank statements, or dividend statements. If documentation is unavailable, attach a signed statement from you or your spouse explaining the income source(s) and giving the name and the address of the source(s). Copies of original documentation are acceptable.

Supporting documentation must: 1) Indicate frequency. You may write how often you receive the income on your documentation, for example, "twice per month" or "every other week". 2) Be no older than 90 days from the date you sign this form.

SECTION 6: BORROWER REQUEST, UNDERSTANDINGS, AGREEMENT, AUTHORIZATION, AND CERTIFICATION

- I request to use the plan I selected in Section 2 to repay my eligible Direct Loan or FFEL Program loans held by the holder(s) to which I submit this form. If I selected the option to allow my loan holder(s) to choose my plan, I request my loan holder(s) to place me in the plan with the lowest monthly payment amount. If more than one plan provides the same initial payment amount, I understand that my loan holder will choose the plan that is likely to keep my monthly payment amount lower in subsequent years.
- I authorize the entity to which I submit this request (i.e., the school, the lender, the guaranty agency, the U.S. Department of Education, and their respective agents and contractors) to contact me regarding my request or my loan(s), including repayment of my loan(s), at the number that I provide on this form or any future number that I provide for my cellular telephone or other wireless device using automated telephone dialing equipment or artificial or prerecorded voice or text messages.
- I certify that all of the information I have provided on this form and in any accompanying documentation is true, complete, and correct to the best of my knowledge and belief.

Borrower's Signature _____ **Date** _____

Spouse's Signature (if required) _____ **Date** _____

Note: Your spouse's signature is required if you completed Section 3 and/or completed Item 11.

INCOME-DRIVEN REPAYMENT PLAN REQUEST:

For the Pay As You Earn (PAYE), Revised Pay As You Earn (REPAYE), Income-Based (IBR), and Income-Contingent (ICR) repayment plans for the William D. Ford Federal Direct Loan (Direct Loan) and Federal Family Education Loan (FFEL) Programs.

OMB No. 1845-0102
DRAFT FORM
Exp. Date XX/XX/XXXX

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form or on any accompanying document is subject to penalties that may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097.

SECTION 1: BORROWER IDENTIFICATION

Please enter or correct the following information.

☐ Check this box if any of your information has changed.

SSN | | | - | | | - | | | |

Name

Address

City, State, Zip Code

Telephone – Primary

Telephone – Alternate

E-mail Address (Optional)

SECTION 2: REPAYMENT PLAN REQUEST

READ BEFORE COMPLETING THIS FORM:

- If possible, apply online at [StudentLoans.gov](https://studentloans.gov). It is faster and easier to complete this form online.
- Income-driven repayment plans offer many benefits, but may not be right for everyone. You can learn more at StudentAid.gov/IDR.
- It's simple to estimate payment options at StudentAid.gov/repayment-estimator.
- If you need help completing this request, contact your loan holder for free assistance.
- You may have to pay income tax on any loan amount forgiven under an income-driven plan.

Before completing this form, carefully read the entire form, particularly Sections 7, 8, and 9. Type or print using dark ink. If you need help completing this form, contact your loan holder(s). Return the completed form and any required documentation to the address shown in Section 10. You may be able to complete your request online by visiting studentloans.gov. Information about repayment plans and calculators are available at studentaid.gov.

Other repayment plans, such as extended or graduated, may be available and may offer a lower monthly payment amount. In addition, payment under the IBR, Pay As You Earn, or ICR plans may result in your paying more interest over time and may result in federal income tax liability on any loan amount that is forgiven under these plans.

1. Please select the reason that you are completing this request by checking box a, b, or c, below.

a. ☐ I am requesting a repayment plan based on my income – Check the plan(s) you are requesting below and then continue to item 2.

	Direct Loan Program Loans*	FFEL Program Loans*
IBR	<input type="checkbox"/>	<input type="checkbox"/>
Pay As You Earn	<input type="checkbox"/>	Not Available
<u>Revised Pay As You Earn</u>	<input type="checkbox"/>	<u>Not Available</u>
ICR	<input type="checkbox"/>	Not Available
I request that my loan holder determine which of the above plans I am eligible for, and place me on the plan with the lowest monthly payment amount.	<input type="checkbox"/> Only IBR will be considered for FFEL Program loans	

* Not all loan types under the FFEL and Direct Loan Programs are eligible for these plans (see Section 8).

~~For Direct Loan borrowers, your request will apply to all of your loans that are eligible for the plan you choose.~~ For FFEL borrowers, you can exclude eligible loans if you request IBR prior to July 1, 2013. If you are a FFEL borrower and request IBR on or after July 1, 2013, you must repay all loans eligible for IBR under that plan. ~~For all borrowers, you will need to choose a different repayment plan for loans that are not eligible for a repayment plan based on income or they will be placed on the standard repayment plan.~~

- b. ☐ I am submitting annual documentation for the recalculation of my monthly payment amount under my current repayment plan – Continue to item 2.
- c. ☐ I am requesting that my loan holder recalculate my current monthly payment amount because my circumstances have changed – Continue to item 2.

2. Check if you owe eligible loans to more than one loan holder.

☐ You must submit a complete separate request to each holder of the loans you want to repay under an Income-Driven Repayment plan. ☐ Check this box if you owe eligible loans to more than one loan holder. — You must submit a separate request to each holder of the loans you want to repay under the IBR, Pay As You Earn, or ICR plan.

You must promptly submit to your loan holder(s) this completed form and acceptable documentation of your Adjusted Gross Income (see Section 4), or, if applicable, alternative documentation of your current income (see Section 5).

SECTION 3: SPOUSAL INFORMATION *(If applicable)*

Complete this section if any of the following apply to you:

- You file a joint federal income tax return with your spouse and your spouse has eligible loans. Enter information about your spouse, below.
- You have a joint Direct or FFEL Consolidation Loan that you obtained with your spouse. Enter information about the co-borrower of the loan.
- You and your spouse have Direct Loans and both of you want to repay those loans under the ICR Plan. Enter information about your spouse, below.

3. Spouse's SSN | | | - | | - | | |

If you file a joint federal income tax return with your spouse, your loan holder(s) will base your eligibility determination and monthly payment amount on your and your spouse's combined income regardless of whether your spouse has eligible federal student loans. However, if your

Comment [PY1]: Deleted to simplify language.

Comment [PY2]: This language is not essential and can be placed later in the form.

Comment [PY3]: Re-ordered to be clearer.

4. Spouse's Name _____

5. Spouse's Date of Birth [] [] [] - [] [] [] - [] [] [] []

6. ☐ My spouse and I wish to repay our Direct Loans jointly under the ICR Plan.

If you complete this section, your spouse is also required to sign this form. By signing, your spouse is authorizing the loan holder(s) to access information about his or her federal student loans in the National Student Loan Data System (NSLDS). In addition, if the Department is not your loan holder and your FFEL loan holder(s) does not service at least one of your spouse's loans, your loan holder(s) will need detailed information about all of your spouse's loans to accurately evaluate your eligibility and payment amount. Your spouse should log into NSLDS at nslds.ed.gov to give your loan holder(s) access to his or her loan information. To obtain the organization code needed for authorization on NSLDS or for other options to provide the loan details needed on your spouse's loans, you may need to contact your loan holder(s) for option to provide the loan details needed on your spouse's loans.

Comment [PY4]: Too much detail, especially if they are going to need to contact their loan holder in the end.

SECTION 4: FAMILY SIZE AND FEDERAL TAX INFORMATION

7. [] [] Enter your family size (as defined in Section 8). If you do not enter your family size, your loan holder(s) will assume a family size of one.

Note: If you do not enter your family size, your loan holder(s) will assume a family size of one. For purposes of these repayment plans, your family size may be different from the number of exemptions you claim on your federal tax return. By signing this form, you are certifying that the family size you enter above is correct.

8. Did you file a federal income tax return for either of the two most recently completed tax years?

☐ Yes – Continue to Item 9.

☐ No – Skip to Section 5.

9. Does your most recently filed federal income tax return reflect is your current income or (and your spouse's current income if applicable)? (if you completed Section 3 or file a joint federal income tax return) Answer "No" if it is significantly different than the income used to determine the Adjusted Gross Income* (AGI) reported to the IRS on your most recently filed federal income tax return.

☐ Yes – Provide your most recently filed federal income tax return or IRS tax return transcript. Continue to Section 5.

☐ No – Complete Section 5.

– Provide your most recently filed federal income tax return or IRS tax return transcript. Skip to Section 6. **FOR REPAYE BORROWERS WHO ARE MARRIED (all other borrowers can skip)**

10. Did you file a joint return with your spouse?

☐ Yes – Provide your most recently filed federal income tax return or IRS tax return transcript or complete Section 5.

☐ No – Continue to next question.

11. Are you separated from your spouse?

☐ Yes – You do not need to provide your spouse's income. Provide your most recently filed federal income tax return or IRS tax return transcript or complete Section 5.

☐ No – Continue to next question.

12. Are you able to access information about your spouse's income and able to have your spouse sign this application?

☐ Yes – You must provide both your and your spouse's most recently filed federal income tax return or IRS tax return transcript or complete Section 5.

☐ No – You do not need to provide your spouse's income. Provide your most recently filed federal income tax return or IRS tax return transcript or complete Section 5.

*You can find your Adjusted Gross Income on your most recently filed IRS Form 1040, 1040A, or 1040EZ.

SECTION 5: ALTERNATIVE DOCUMENTATION OF INCOME

To be completed if (1) you did not file a federal income tax return for the two most recently completed tax years, (2) your AGI from your most recently filed federal income tax return does not reasonably reflect your current income (due to circumstances such as the loss of or change in employment), or (3) your loan holder(s) informed you that alternative documentation of income is required.

10. Do you have taxable income? Check "No" if (1) you do not have any income, (2) receive only untaxed income (such as Supplemental Security Income, child support, or federal or state public assistance is not considered taxable income), or (3) are not required to file a federal income tax return based on the amount of your taxable income.

☐ Yes – Provide documentation of this income, as described below.

☐ No – By signing this form, you are certifying that you have no taxable income or are not required to file a federal income tax return based on the amount of your taxable income.

11. If you are married and completed Section 3 or file a joint federal income tax return with your spouse, does your spouse have taxable income? (Only answer if you are married and completed Section 3 or paying under REPAYE, or file a joint federal income tax return with your spouse.) Supplemental Security Income, child support, or federal or state public assistance is not considered taxable income. Check "No" if (1) your spouse does not have any income, (2) receives only untaxed income (such as Supplemental Security Income, child support, or federal or state public assistance), or (3) is not required to file a federal income tax return based on the amount of his/her taxable income.

☐ Yes – Provide documentation of your spouse's income, as described below.

☐ No – By signing this form, your spouse is certifying that he/she has no taxable income or is not required to file a federal tax return based on the amount of his/her taxable income.

Comment [PY8]: This info is provided in the answer and is easier to read placed below.

You must provide one piece of supporting documentation of all taxable income ~~that you currently receive~~ from all sources (for example, income from employment, unemployment income, dividend income, interest income, tips, alimony). ~~If you are married and completed Section 3 or file a joint federal income tax return, you must also provide documentation of your spouse's taxable income.~~ Do not report untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.

~~You must provide one piece of supporting documentation for each source of income (your and your spouse's). For example, Supporting documentation includes:~~ pay stubs, a letter(s) from your employer(s) listing income, interest or bank statements, or dividend statements. ~~If these forms of documentation are~~ is unavailable, attach a signed statement from you or your spouse explaining the income source(s) and giving the name and the address of the source(s). Copies of original documentation are acceptable.

Supporting documentation must: 1) Indicate frequency. Unless the frequency is clearly indicated on the documentation that you provide, You may write on your documentation how often you receive the income on your documentation, for example, "twice per month" or "every other week". 2) The date on any supporting documentation you provide must be no older than 90 days from the date you sign this form. Copies of original documentation are acceptable.

Comment [PY9]: Redundant.

SECTION 6: BORROWER REQUEST, UNDERSTANDINGS, AGREEMENT, AUTHORIZATION, AND CERTIFICATION

- I request to use the plan I selected in Section 2 to repay my eligible Direct Loan or FFEL Program loans held by the holder(s) to which I submit this form. If I selected the option to allow my loan holder(s) to choose my plan, I request my loan holder(s) to place me in the plan with the lowest monthly payment amount. If more than one plan provides the same initial payment amount, I understand that my loan holder will choose the plan that is likely to keep my monthly payment amount lower in subsequent years.

~~I understand that: (1) If I am entering repayment on my loan(s) for the first time and do not provide my loan holder(s) with this completed form and any other documentation required by my loan holder(s), or if I do not qualify for the repayment plan that I requested, I will be placed on the standard repayment plan (see Section 8). (2) If I am currently repaying my loan(s) under a different repayment plan and want to change to the repayment plan I selected in Section 2, my loan holder(s) may grant me a forbearance for up to 60 days to collect and process documentation supporting my request for the selected plan. I am not required to make loan payments during this period of forbearance, but interest will continue to accrue. Unpaid interest that accrues during this maximum 60-day forbearance period will not be capitalized (see Section 8). (3) If I am delinquent in making payments under my current repayment plan at the time I request one of the repayment plans listed in Section 2, my loan holder(s) may grant me a forbearance to cover any payments that are overdue, or that would be due, at the time I enter the repayment plan I requested. Unpaid interest that accrues during this forbearance period may be capitalized. (4) If I am requesting the ICR plan, my initial payment amount will be the amount of interest that accrues each month on my loan(s) until my loan holder receives the income documentation needed to calculate my ICR payment amount. If I cannot afford the initial interest payments, I may request forbearance by contacting my loan holder.~~

- I authorize the entity to which I submit this request (i.e., the school, the lender, the guaranty agency, the U.S. Department of Education, and their respective agents and contractors) to contact me regarding my request or my loan(s), including repayment of my loan(s), at the number that I provide on this form or any future number that I provide for my cellular telephone or other wireless device using automated telephone dialing equipment or artificial or prerecorded voice or text messages.
- I certify that all of the information I have provided on this form and in any accompanying documentation is true, complete, and correct to the best of my knowledge and belief.

Comment [PY10]: This info does not needs to be in the certification section and can be placed with general info later on the form.

Borrower's Signature _____ Date _____

Spouse's Signature (if required) _____ Date _____

Note: Your spouse's signature is required if you completed Section 3 and/or completed Item 11.

Attachment B

Making Federal Student Loan Servicing Work for Borrowers

Incentivize High Quality Servicing and Create Real Competition

Incentives matter, but are not enough to protect consumers

Priorities:

- Incentivize default prevention and high quality servicing
- Use performance measures tied to actual performance (the current system is too focused on satisfaction surveys)
- Open up competition beyond the same old players
- Allow borrowers to switch servicers
- Set up pilot projects to test different models



Provide Real Relief for Borrowers and Information about Relief Options

Borrowers are too often stuck in a never ending nightmare where they are continually sent back to complain to the same people that started the whole problem

Priorities:

- Require effective complaint resolution processes and make sure borrowers know how to use them
- Ensure that borrowers have private enforcement rights
- Develop clear and enforceable borrower servicing rights (the system must work for borrowers, not just for private profit)
- Provide easily accessible information for borrowers



Punish Bad Actors

Senator Elizabeth Warren questioning Federal Student Aid CBO William Leith in September 2014 said: "Let me get this straight: You break the law. You don't follow the rules. You treat the borrowers badly...and you all just renegotiated the contracts to make sure that across the portfolio [loan servicers] are going to make a little more money if nothing changes?"

Priorities:

- Engage in rigorous public enforcement, including sanctions, contract terminations and other penalties when servicers fail to comply with the law
- Avoid conflicts of interest by creating a single point of entry to the servicing system
- Provide public information about the results of audits, investigations and enforcement actions