COMMITTEE ON EDUCATION AND THE WORKFORCE

U.S. HOUSE OF REPRESENTATIVES
2101 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

February 10, 2023

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Docket ID ED-2023-OPE-0004

Dear Secretary Cardona,

I write to share my views on the Department of Education's (Department) Notice of Proposed Rulemaking (NPRM) to amend the Revised Pay As You Earn (REPAYE) plan and make other reforms to the Income-Driven Repayment (IDR) program.[1] I am encouraged by the Department's proposed rule, which makes significant changes that greatly benefit current and future borrowers.

Under the standard fixed repayment plan for federal student loans, payments are derived by dividing the loan amount over a set repayment schedule. While this allows for easy to calculate fixed payments, it does not take into account the fact that these payments may be unaffordable for many borrowers. The IDR program instead calculates payments taking into account a borrower's income and family size. As a result, the IDR program provides access to more affordable repayment terms for many borrowers. But, as IDR requires more borrower input, navigating it can be more difficult for many borrowers, limiting its uptake and continuous use. Research has shown that borrowers, particularly low-income borrowers, currently struggle to

[1] Improving Income-Driven Repayment for the Federal Direct Loan Program*,* 88 Fed. Reg. 18947 (proposed Jan.11, 2023) (to be codified at 34 C.F.R. 685) (hereinafter "IDR NPRM").

reap the intended benefits of an IDR plan.[2] It is within the Department's power to improve the program and I commend the Department for taking steps in their proposed rule to do so.

The Department's efforts to streamline the IDR program by making it easier for borrowers to enroll in the REPAYE plan, phasing out older IDR plans, and simplifying the recertification process are smart reforms to the program. The Department is correct and justified in its proposal to make REPAYE a more generous plan for borrowers. By creating quicker pathways to forgiveness and lowering the monthly payments of most borrowers, the proposed rule would make student loan repayment more affordable and manageable for borrowers. Additionally, it is particularly beneficial that the NPRM eliminates monthly accrual of interest to borrowers given that growing balances from unpaid interest are shown to discourage borrowers from making repayments on their student loans.[3]

While the Department's proposal represents very important steps forward for the IDR program, I believe a final rule can go farther to ensure borrowers with the most need can easily access the benefits of these changes.

The Department should increase the level of borrower income protected under IDR.
The Department has proposed increasing the amount of discretionary income exempted from payment calculations from 150 percent of the federal poverty guideline to 225 percent.[4] This is a very strong step in the right direction. The NPRM suggests this threshold was set to account for the share of families who report "material hardship" – meaning they are either food insecure or behind on utility bills.[5]

While material hardship is a valid determination for an income threshold, there are significantly more families experiencing financial hardship beyond the definition in the proposed rule. Although I appreciate the Department's material hardship justification to increase the percentage of discretionary income exempted from repayment calculations, a more equitable measure of hardship would include other vital areas where we know borrowers experience insecurity - namely housing and health care.[6] It is unclear from the NPRM whether the definition of material hardship directly led to a lower percentage of income being protected in the proposed rule than might have been protected under a broader definition. However, I want to ensure the willful exclusion of certain hardships does not result in a lower threshold of protected discretionary income. We know there are a wide range of borrowers experiencing hardships not easily captured within the definition of material hardship that would significantly benefit from smaller

[2] The Pew Charitable Trusts, Redesigned Income-Driven Repayment Plans Could Help Struggling Student Loan Borrowers, 1 (2022), https://www.pewtrusts.org/en/research-and-analysis/reports/2022/02/redesigned-income-driven-repayment-plans-could-help-struggling-student-loan-borrowers.
[3] Id. at 10; Daniel Herbst, The Impact of Income-Driven Repayment on Student Borrower Outcomes, 15 Am. Econ. J.: Applied Econ. 15, 1-25 (January 2023), *https://www.aeaweb.org/articles?id=10.1257/app.20200362*.
[4] IDR NPRM at 1925.
[5] IDR NPRM at 1901.
[6] *See* John Iceland et al., *Poverty and the Incidence of Material Hardship, Revisited* 7, (U.S. Census Bureau Working Paper, SEHSD WP 2020-11, 2020), https://www.census.gov/content/dam/Census/library/working-papers/2020/demo/sehsd-wp2020-11.pdf.

loan payments.[7] Thus, I would encourage the Department to use a higher threshold for protected income in the final rule. I also encourage the Department to find ways to consider the impact of unforeseen hardship costs incurred through no fault of the borrower, such as unexpected healthcare needs. These changes would profoundly impact low- and moderate-income families ability to repay their loans.

The Department should decrease the time of repayment to 20 years for graduate loans.
The NPRM retains the original REPAYE programs timeline of 20 years for repayment of undergraduate loans and 25 years for graduate loans.[8] Currently, all Direct Loan borrowers enrolled in the Pay As You Earn (PAYE) Plan and Income-Based Repayment (IBR) Plan have 20 year repayment schedules, regardless of whether loans were borrowed for undergraduate or graduate education.[9] The Department intends to have graduate borrowers choose between either making lower payments on REPAYE over a longer period of time or make higher payments with the possibility of forgiveness coming earlier under IBR.[10] However, a primary goal of the NPRM is to streamline and standardize the Direct Loan Program repayment plans for all borrowers.[11] As such maintaining this time to forgiveness distinction between the multitude of IDR plans can be confusing for many borrowers, particularly with graduate loans, to navigate.

I propose decreasing the time of repayment for graduate loans under REPAYE from 25 years to 20 years in the final rule. Parity between the undergraduate and graduate loan repayment timelines would incentivize borrowers to enroll in the more generous REPAYE plan and reduce confusion when deciding on a repayment plans generally. It would also help address the unfortunate inequities within graduate borrowing, such as the fact that Black borrowers owe nearly twice as much as White borrowers in graduate loans, and Latino borrowers experienced an average increase of 60% in student debt between 2004 and 2016.[12]

Automatic IDR Enrollment of Borrowers
It is important that the Department ensure the proposed changes to the IDR program are administered in ways most advantageous to distressed borrowers. I am pleased the Department plans to automatically enroll borrowers who are at least 75 days delinquent on loan payments in the most generous IDR plan for them.[13] In 2018, one quarter of all Direct Loan borrowers were either delinquent or in default.[14] Borrowers who take out loans to supplement their Pell Grant awards are also more likely to default than non-Pell Grant recipients.[15] Research suggests that automatic enrollment in IDR plans would have significant benefits for borrowers struggling to

---

[7] Id. at 1; 361; Margaret M. C. Thomas, *Longitudinal Patterns of Material Hardship Among US Families* 361, Social Indicators Research 163, 341-370 (2022), https://link.springer.com/article/10.1007/s11205-022-02896-8.
[8] IDR NPRM at 1927.
[9] 34 C.F.R. § 685.209(a)(6)(i)(2022); 34 C.F.R. § 685.221(f)(1)(2022).
[10] IDR NPRM at 1901.
[11] IDR NPRM at 1895.
[12] Victoria Jackson & Jalil Mustaffa, How Income-Driven Repayment Plans Fail Black Borrowers 2, The Education Trust (November 2022), https://edtrust.org/resource/income-driven-repayment-plans-fail-black-borrowers/;
[13] IDR NPRM at 1929.
[14] The Institute for College Access and Success, Casualties of College Debt: What Data Show and Experts Say About Who Defaults and Why 4, (June 2019), https://ticas.org/wp-content/uploads/2019/09/casualities-of-college-debt.pdf.
[15] Id. at 8.

repay their loans who could become at risk of default.[16] Automatic enrollment would likely increase enrollment in this revised REPAYE plan, which is designed to help borrowers avoid default and delinquency.

Automatic enrollment requires that the Department have access to borrowers' federal income data. Thus, I strongly urge the Department to fully implement the *Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act* in a timely manner. The *FUTURE Act* directs the Department and the Internal Revenue Service to securely share the necessary tax return data of borrowers.[17] Additionally, the Department should consider implementing the final IDR rule early to align with implementation of the *FUTURE Act*. There is precedent for this; both PAYE and REPAYE were implemented early by the Department, as allowed by the *Higher Education Act*.[18] Automatic enrollment is an essential component to ensure this IDR proposal positively impacts low-income borrowers, and implementing it in concert with the *FUTURE Act* would hopefully reduce errors borrowers encounter in their loan servicing and repayment.

Conclusion
Thank you for your work to help make student loan repayment more manageable for most borrowers. As the Department works to finalize this regulation, I appreciate your consideration of these recommendations.

Sincerely,

ROBERT C. "BOBBY" SCOTT
Ranking Member

[16] Id. at 16.
[17] 26 U.S.C. § 6103.
[18] 20 U.S.C. § 1089 (c)(2)(A).