February 10, 2023

U.S. Department of Education
400 Maryland Ave., SW, Room 2C172
Washington, DC 20202

Docket ID ED–2023–OPE–0004

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 Improving Income-Driven Repayment for the William D. Ford Federal Direct Loan Program (Docket ID ED–2023–OPE–0004).

NASFAA represents nearly 20,000 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.

A strong safety net is essential for student loan borrowers. Borrowing to pay for college is a serious undertaking. It is NASFAA's position that student loans should be taken with the intent of being repaid. However, students struggle to repay postsecondary loans for a variety of reasons — such as working in low-paying but socially valuable fields, or workplace discrimination — and federal student loan programs should also have strong, easily accessible safety nets. Income-driven repayment plans, offering lower monthly payments and a reasonable time horizon after which remaining balances are forgiven, are a critical piece of the borrower protection framework.

NASFAA is pleased to see many of our recommendations[1] incorporated into ED's proposed changes. Raising poverty thresholds to protect more of a borrower's income from factoring into their monthly payments, providing a shorter time horizon to forgiveness for low-balance borrowers, and eliminating negative amortization help the neediest borrowers and ensure they are spared a lifetime of debt that continues to grow during repayment.

[1] https://www.nasfaa.org/protecting_borrowers_advancing_equity

Limiting new enrollments in existing repayment plans, allowing pre-consolidation payments to count toward forgiveness, and automatically enrolling delinquent borrowers in the most favorable income-driven repayment plan all contribute to simplifying student loan repayment, ensuring borrowers don't get tripped up by the small but potentially harmful implications of their choices during repayment. And progressive income assessment rates protect lower-income borrowers while holding better-off borrowers responsible for their loans.

We caution, however, that it is a mistake to view these changes as a sustainable solution to student loan indebtedness. In general, research has shown the most effective way to expand college access is through need-based grants, not promises of back-end loan forgiveness. Larger investments in the federal student aid programs are necessary to keep students from borrowing in the first place. Forcing a low-income student to wait 10 years for loan forgiveness when the loan should have been a grant in the first place is misguided policy.

As a matter of public policy, while NASFAA supports robust support systems and safety nets for students, we do not want these protections to abdicate our responsibility to provide front-end grants to needy students and families.

The process of borrowing a student loan is complex and intimidating. Even with the promise of affordable payments and the possibility of future forgiveness, debt aversion — more pronounced among Hispanic and lower-income students[2] — may cause students to avoid borrowing in favor of enrolling part-time or working too many hours to pay their way through school, placing barriers in the way of completion. Only investments in grant funding can address these concerns.

Comments on Specific Provisions of the Proposed Regulations

- **685.209:** ED asks whether the Department should include in Section 685.209 comparable deferments that are available under 34 CFR 685.204(j)(2) to Direct Loan borrowers who had an outstanding balance on a FFEL Program loan made before July 1, 1993, when they received their first Direct Loan. NASFAA agrees that ED should allow the deferments available under 685.204(j)(2) to count toward IDR forgiveness.
- **685.209(f)(ii):** While NASFAA applauds ED's choice to apply a progressive discretionary income rate in determining monthly payments, we urge ED to consider an approach that applies progressivity based on income thresholds as a percentage of poverty — as NASFAA proposed in work published in 2022[3] — instead of based on whether loans are attributable to undergraduate or graduate study. ED's proposed

[2] https://journals.sagepub.com/doi/full/10.1177/2332858416683649
[3] https://www.nasfaa.org/uploads/documents/Protecting_Students_Advancing_Equity.pdf

approach reinforces arbitrary negative value judgments on borrowers who pursue graduate education. Teaching, social work, and public interest law represent just a few professions that require an advanced degree to practice in their fields and yet don't always yield incomes typically associated with advanced degree holders. There is also evidence[4] that systemic racism contributes to Black individuals needing to pursue higher levels of education just to be on a level playing field with white individuals with less education. Most graduate-level borrowers end up better off than those with only a bachelor's degree. Those borrowers will only benefit marginally from the progressive income assessment rates. But for those graduate-level borrowers whose earnings stay low, ED should let their incomes dictate their payments, not their degree.

- **685.209(k)(3):** ED asks whether it should define the starting point for the shortened time to forgiveness to the first two years of loan limits for a dependent undergraduate to allow for an automatic adjustment versus the proposed fixed starting point of $12,000. NASFAA believes ED should allow for the automatic adjustment by defining the starting point as the amount equal to the maximum amount students can borrow for their first two years of education. Understanding that loan limits are not directly tied to inflation, there is an implicit understanding when Congress increases those limits that they are acknowledging increases in college costs.
    - If ED pursues this approach, NASFAA asks for clarification on how ED would assign borrowers to a cohort when loan limits change during the student's course of study. For instance, if loan limits for the first two years of undergraduate study were $12,000 in a student's first year of study and they borrowed $5,500 (the current first year maximum), then Congress increased the second year annual limit such that the student could borrow $7,500 in their second year ($13,000 total for two years), would that student be able to receive early forgiveness at the 10-year point for a balance of $12,000 or $13,000? Would that be different for a student who had already completed the first two years of study at the lower annual limits?
- ED also asks whether it should consider a slope for early forgiveness tied to a specific dollar amount ($1,000) or one that adjusts for inflation. NASFAA recommends adjusting the slope for inflation because that benefits borrowers the most but, again, asks for clarification on how borrowers would be assigned to cohorts. At what point in the borrowing cycle would the inflation adjustment apply?
- **685.209(m)(2)**: We believe automatic enrollment in an IDR plan for borrowers who authorize disclosure of tax information on the Master Promissory Note (MPN) should

[4]https://d3n8a8pro7vhmx.cloudfront.net/yicare/pages/141/attachments/original/1403804069/Closing_the_Race_Gap_Ntnl_6.25.14.pdf?1403804069

include an opt-out provision. Students do not know what their future circumstances will be when they sign the MPN. They may have a valid reason for choosing a non-IDR plan and, if they are willing and able to make those payments, should be given the option to do so.

- **685.209(m)(3) and (4):** NASFAA supports automatic enrollment in IDR plans for delinquent borrowers. Presumably, these borrowers will not have provided ED with IRS authorization or they would have already been enrolled in one of these plans. This will greatly limit the positive impact of this provision. We recommend that ED add a borrower communication at the point the borrower is 45 days late on a payment informing them of their IDR options and providing them with the IRS disclosure authorization to maximize uptake of IDR enrollment for delinquent borrowers.
- **685.210(a):** As written, the provision in section 685.210(a)(1) giving borrowers the opportunity to select their repayment plan and (2) stating ED will place borrowers who do not select a plan into the standard plan appears to contradict 685.209(m)(1) & (2) that ED will automatically place eligible borrowers into an IDR plan if they provided authorization for ED to obtain IRS tax data. We ask that ED clarify the language.

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

Regards,

Justin Draeger, President & CEO