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June 9, 2025

Acting Under Secretary James Bergeron
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202
Submitted via regulations.gov

RE: Comments in Response to the Department of Education's Income-Driven Repayment Plan (IDR) Request Form (Dkt ID ED-2025-SCC-0015)

Dear Mr. Bergeron:

The National Consumer Law Center, on behalf of our low-income clients, submits these comments in response to the U.S. Department of Education's request for comments on the new Income-Driven Repayment (IDR) plan request form. As detailed below, we recommend changes to restore the option for borrowers to request to be placed in the plan with the lowest monthly payment, restore language assuring borrowers that if they are ineligible for the IDR plan they have selected they will be placed in the IDR plan for which they are eligible, fix current errors on the online IDR application, and revise the request form in accordance with plain language guidelines.

Our comments reflect our expertise in the applicable IDR regulations as well as feedback from legal aid and consumer attorneys across the country who provide assistance to borrowers navigating their student loans and often applying for IDR. Our recommendations are intended to help ensure that the process of enrolling and remaining in IDR plans is as smooth and accessible as possible to all student loan borrowers, including the low-income borrowers who most rely on these plans.

Recommendations:

1. **Restore the option for borrowers to select "I want the income-driven repayment plan with the lowest monthly payment" to reduce the burden on borrowers to figure out which plan they are eligible for and increase access to IDR.**

In Section 3, Item 2, the new IDR request form instructs borrowers to "choose a plan" and provides three options: IBR, PAYE, or ICR. However, unlike prior versions of the IDR application since at least 2012, the new IDR request form eliminates the option for borrowers to request to be placed in the income-driven repayment plan with the lowest monthly payment for which they qualify. For over a decade, for good reason, the Department has included some version of the following option on IDR request forms:

> "(Recommended) I want the income-driven repayment plan with the lowest monthly payment."

We strongly recommend that the Department restore the option for borrowers to request to be placed in the IDR plan that they qualify for that has the lowest monthly payment. This option is important to borrowers who will otherwise struggle to correctly identify which IDR plan(s) they are eligible for, as well as which offers the most affordable payments. Removing this option will create more friction and "analysis paralysis" in the application process, requiring borrowers to spend more time completing the request form and potentially putting off or not applying at all.

Even more problematically, it will result in more borrowers who cannot afford standard payments having their IDR applications denied simply because they did not correctly identify which of the three available IDR plans they are eligible for. Such denials, which may occur after a borrower has already waited months for their request to be processed, may at best delay borrowers' efforts to begin making payments (if they reapply successfully) and at worst cause borrowers to believe they are not eligible for an affordable payment plan at all, thereby increasing their likelihood of default.

Each of the IDR plans has different, complex eligibility requirements that even servicer call agents struggle to understand or explain and that FSA's own application appears to currently be getting wrong. Borrowers then cannot reasonably be expected to understand and correctly navigate their IDR eligibility. Further, even aside from eligibility, borrowers struggle to choose among the plans or to figure out which will be most affordable for them. This is because the plans calculate monthly payments in different and often complex ways that make it hard for borrowers to compare their options. For example, ICR calculates payments using the interaction of two separate formulas, one of which relies on changing information published annually outside of the IDR request form.

While the online application makes it easier for borrowers to identify which plans they are eligible for and which plan offers the lowest monthly payment (at least when it is operating correctly, *which it is currently not* — see Recommendation 4a below), the paper/PDF application does not. And importantly, the paper/PDF application is more likely to be used by the same borrowers who are also unable to access or confidently navigate FSA's other online tools, including the Loan Simulator, that could help them figure out which plans they are eligible for and which would offer the most affordable payments. This includes older borrowers, borrowers with disabilities, borrowers who are incarcerated, borrowers who have experienced identity theft, borrowers who simply have difficulty setting up or restoring studentaid.gov accounts, and other borrowers with limited access to or comfort with online portals. These groups of borrowers already have some of the highest rates of delinquency and default; making it harder for them to successfully enroll in IDR using the paper application form threatens to make a bad situation worse.

Finally, we recognize that the Department may have removed this option in response to the current preliminary injunction blocking the SAVE plan, perhaps due to concern that it would be unclear whether borrowers who select this option should be enrolled in the SAVE plan (and placed in the SAVE forbearance) or in whichever of IBR, PAYE, or ICR offers the lowest payment. A better approach is to restore the question and to simply make clear that the borrower will only be placed in one of the plans for which the Department is currently enrolling borrowers, and the Department is not currently enrolling borrowers in SAVE.

2. **Restore language assuring borrowers that if they request a plan that they are not eligible for, they will be placed in the IDR plan that they do qualify for with the lowest monthly payment.**

For the same reasons detailed above, we strongly urge the Department to restore the language from prior IDR request forms assuring borrowers that if they do not qualify for the IDR plan they have requested, they will be placed in the IDR plan that they do qualify for that has the lowest monthly payment. Alternatively, the Department could bring back language setting out a specific waterfall approach that it will use to enroll borrowers in an IDR plan if they choose a plan for which they are not eligible (e.g., the Department could reasonably state either that it will try to place such borrowers in PAYE, then IBR, then ICR). Such language assures that borrowers who want to access an IDR plan but quite reasonably misunderstand the complex eligibility criteria for each plan, and thus choose the wrong one, will still be enrolled in an IDR plan.

The new language that the Department has inserted to replace this old assurance instead provides for the opposite: "If I do not qualify for the plan or plans I requested . . . my loan holder will reject my application." As explained above, rejecting these IDR requests entirely even when a borrower is eligible for another IDR plan, often when a borrower has already waited months for their application to be processed, will result in borrowers who cannot afford standard payments at best experiencing delays and more friction in getting into a plan for which they can successfully make payments (if they reapply successfully) and at worst cause borrowers to believe they are not eligible for an affordable payment plan at all, thereby increasing their likelihood of default.

3. **Improve usability of the form in accordance with plain language guidelines.**

We recommend that the Department work with plain language experts to improve the IDR request form and engage in user-testing to ensure that the public will be able to easily understand and use it.

Under the Plain Writing Act of 2010, the Department of Education is required to write "clear Government communication that the public can understand and use."[1] This requirement applies to any communication that is necessary for obtaining any federal government benefit or service;

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[1] Pub. L. No. 111-274 (2010), *available at* www.govinfo.gov.

provides information about any federal government benefit or service; or explains to the public how to comply with a requirement that the federal government administers or enforces.

Unfortunately, the IDR form falls short of being clear and easy-to-use by the public. The first rule of the Federal Plain Language Guidelines is "Think about your audience."[2] In the past, the Department has seemingly assumed that the audience for these types of forms is entirely college-educated individuals. However, the population that may submit an IDR form is much more varied, and student loan borrowers without a college degree are among the most at risk of default if they do not successfully enroll in IDR. The population of borrowers likely to use the IDR request form includes individuals without a GED or high school diploma who borrowed federal aid,[3] individuals who began but did not complete a postsecondary education program, people who attended a certificate trade program, and Parent PLUS borrowers who may not have attended college at all. Scrutinizing the form with the federal government's plain language guidelines[4] would assist all applicants and help ensure the borrowers otherwise most at risk of default can access affordable payments. As the Department revises the form, it should solicit review and user testing from plain language experts to make sure the design of the form is accessible for all borrowers. The Department should, at a minimum, submit the form to its own Plain Language Department.[5]

4. **Fix errors in the online IDR application:**
    a. **Fix error preventing borrowers who qualify for PAYE from selecting PAYE in the online application**

Student loan attorneys report that borrowers who meet the eligibility criteria for the PAYE plan[6] are nonetheless being blocked from newly enrolling in the PAYE plan via the online IDR application. This may be due to a failure to properly update the application and IDR processing to reflect either:

(1) the final rule published on January 15, 2025 amending the IDR regulations to allow new enrollments in PAYE through July 1, 2027 rather than sunsetting new enrollments on July 1, 2024 ([90 Fed. Reg. 3695](), amending 34 C.F.R. § 685.209(c)(4)(iv)), or

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[2] Federal Plain Language Guidelines at 1 (May 2011), *available at* https://www.plainlanguage.gov/media/FederalPLGuidelines.pdf.

[3] 20 U.S.C. § 1091(d) (Jan. 1, 1986 until July 1, 2012); 34 C.F.R. §§ 682.402(e), 682.402(e)(13)(iv) (FFEL), 685.215(a)(1)(i) (Direct Loan) (citing student eligibility regulations at 34 C.F.R. § 668.32(e)(1) and ATB test requirements at 34 C.F.R. §§ 668.141–668.156).

[4] Federal Plain Language Guidelines (May 2011), *available at* https://www.plainlanguage.gov/media/FederalPLGuidelines.pdf.

[5] *See* U.S. Department of Education Plain Writing Initiative, U.S. Dept. of Ed. (last visited June 5, 2025), available at https://www.ed.gov/plain-language.

[6] Borrowers who are being blocked from selecting PAYE on the online application include those who meet the requirements that of (1) having a partial financial hardship and (2) being a "new borrower" defined as receiving a Direct Loan on or after October 1, 2011 and having no outstanding balance on a Direct Loan or FFEL Program loan when receiving a Direct Loan or FFEL Program loan on or after Oct. 1, 2007.

(2) the Department's interpretation of the preliminary injunction in *Missouri v. Trump* as enjoining the entire 2023 IDR regulations and thus reverting governing law to the prior IDR regulations, including [34 C.F.R. 685.209(a) (2022)](), which does not sunset PAYE enrollment.

We encourage the Department to promptly fix this application error as it is preventing borrowers from accessing a repayment plan for which they are eligible, and which may be some borrowers' best repayment option. It may also lead more borrowers who know they should be eligible for PAYE to turn to the paper application form instead, which is slower to process and may result in more processing errors. Additionally, we encourage the Department to ensure that servicers processing IDR applications or instructing borrowers on plan eligibility are using the correct eligibility criteria, and are not incorrectly preventing borrowers from enrolling in PAYE.

b. Fix error requiring uploading of spousal income information (including duplicate information) where not required..

Student loan attorneys report that the online application now seems to require uploading of spousal income information regardless of whether the IDR plan the borrower has requested or the tax filing status of the borrower makes submission of spousal income information necessary. Further, some report that borrowers who file their taxes as married filing jointly appear to be required by the online application to upload their joint tax return twice – once for the borrower, and once for their spouse.

This creates unnecessary and inefficient burdens on borrowers and their spouses. Further, the extraneous income information may then result in payment calculation errors. For these reasons, the Department should promptly investigate and correct this issue.

c. Restore data-matching with Treasury to improve the efficiency, ease, and accuracy of IDR enrollment and recertification

We urge the Department to promptly restore and implement data-matching systems with Treasury to simplify and streamline the process of enrolling in and recertifying income in IDR. First, we encourage the Department to fully implement the FUTURE Act, including its automatic enrollment and recertification provisions premised on data-matching with Treasury, as soon as possible. Doing so will both dramatically reduce paperwork burdens on borrowers and should increase successful repayment and reduce default by addressing the widely acknowledged problem of borrowers missing their recertification paperwork deadlines and experiencing unaffordable payment jumps.

Second, even as it works on full implementation of the FUTURE Act, we encourage the Department to restore the prior ability to import tax returns into the online IDR application using a one-time match. Doing so simplifies and speeds up the IDR application process and reduces risk of errors for all borrowers. Additionally, it is particularly valuable to struggling borrowers who seek help with their student loans at clinics or in other settings where they may not otherwise have access to their tax returns.

Conclusion

Thank you for the opportunity to comment on the proposed IDR plan request form. We would welcome the opportunity to meet with the Department to discuss ways to make the IDR application process more accessible and less burdensome to borrowers. Please contact Abby Shafroth (ashafroth@nclc.org) with questions or if you would like to discuss further.

Sincerely,

Abby Shafroth
Co-Director of Advocacy and Director of Student Loan Borrower Assistance project
National Consumer Law Center