Bipartisan Policy Center

February 10, 2023

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

VIA ELECTRONIC SUBMISSION

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

Dear Secretary Cardona,

The Bipartisan Policy Center (BPC) appreciates the opportunity to submit comment on the administration's notice of proposed rulemaking of January 10 regarding Improving Income-Driven Repayment (IDR) for the William D. Ford Federal Direct Loan Program.

BPC's Higher Education Team has worked for several years to develop policy recommendations that make postsecondary education more affordable, accessible, effective, and accountable. Particularly relevant to this proposed rule, BPC has offered reforms of IDR plans to improve borrower outcomes and enhance equity while ensuring efficient use of taxpayer funds.

IDR plans have proven effective at providing necessary relief to borrowers and helping them avoid default, an outcome that significantly harms an individual's ability to buy a house or car—or even utilize a credit card. The individuals most in need of IDR's benefits, however, are often unaware of these plans or face confusion and red tape when trying to enroll.

Reforms to IDR should focus on better supporting borrowers struggling to make payments and at risk of default. To do this, new legislation should seek to first eliminate IDR enrollment barriers and promote more equitable access to relief by automatically enrolling all federal student loan borrowers into a single IDR plan with a reduced administrative burden on borrowers. In addition, BPC has previously proposed and recommends that this rule, if implemented, adopt a progressive formula for IDR wherein a higher marginal rate of repayment is applied to higher earnings, ensuring that the lowest-income borrowers benefit the most from IDR while making it more difficult for high-income borrowers to limit their repayment obligations. Making these changes with bipartisan legislation rather than executive action would also make the reform more resilient to legal challenges and durable over future presidential administrations.

The January 10 notice of proposed rulemaking includes changes that address many of the concerns about IDR that have been expressed by advocates and policymakers, but at great cost. The new IDR system would offer a much more generous repayment structure that would reduce payments not just for borrowers with low incomes or those struggling to make timely payments, but for all federal student loan borrowers in an IDR plan. Although some of the most generous provisions apply only to debt

borrowed for undergraduate study, graduate borrowers would also see lower payments under the new Revised Pay as You Earn (REPAYE) IDR plan, in which the Department of Education anticipates enrolling the vast majority of future borrowers as it phases out enrollment in other IDR plans.

BPC applauds some of the proposed administrative changes to the IDR system. Automatic enrollment in an IDR plan for struggling borrowers (for whom the Department has income information)—though it stops short of making IDR the default repayment option for all federal student loan borrowers—should reduce future defaults. Phasing out other IDR plans is an overdue change to an overly complex system that baffles many borrowers while allowing savvy higher-income borrowers to move between plans to strategically minimize payments and maximize eventual forgiveness from Public Service Loan Forgiveness (PSLF) or other sources.

Other changes to REPAYE, however, would make it much more generous regardless of borrower income, financial need, or whether debt was borrowed for undergraduate or graduate education. The exemption of discretionary income up to 225% of the federal poverty level (FPL)—an increase from 150%—would apply to all borrowers, as would greater flexibility for how married couples are treated in repayment. Waiver of unpaid interest is arguably a reasonable policy for borrowers with low earnings over the course of their career, helping them avoid negative amortization, but significant benefits would also accrue to those whose earnings are lower at the beginning of their careers but increase greatly over time. For borrowers with high career earnings and large amounts of debt from graduate school—such as doctors and lawyers—pairing this interest freeze with PSLF could dramatically increase their loan forgiveness and reduce their loan repayment despite their high incomes.

Another element of the proposed rule would reduce monthly payment rates from 10% of discretionary income to 5% of discretionary income for all undergraduate debt. Borrowers with a mix of undergraduate and graduate debt would pay a weighted rate.

All these lower payment and new forgiveness provisions in REPAYE—including a shorter timeline to forgiveness for low-balance borrowers—would greatly increase the cost of the federal student loan program. The Department of Education's $138 billion cost estimate for the proposed rule over 10 years is likely an underestimate, as it makes a number of problematic assumptions: that the student loan forgiveness announced in 2022 will be implemented as announced; that borrowers currently repaying loans on standard repayment plans will not switch to a much more generous version of IDR; and that the existence of a more generous REPAYE plan will not change how much is borrowed from the federal student loan program.

Although decreasing payments for low-income borrowers—and helping them avoid negative amortization on interest—will significantly alleviate the financial and psychological burden on vulnerable borrowers, the proposed changes to REPAYE should be adjusted to reduce the unneeded subsidies the changes would provide to higher-income borrowers as well as the overall cost of the program. **A progressive repayment rate** of 5% on the lowest incomes with undergraduate debt only (and a weighted rate for those with mixed undergraduate and graduate debt) increasing to a 10% marginal rate on moderate income, and a higher rate on higher incomes (e.g., a 15% marginal rate) would ensure that IDR plans result in significantly more affordable payments for low-income borrowers and somewhat

more affordable payments for medium-income borrowers. Placing the highest-income borrowers into a position where an IDR plan may increase their monthly payments relative to a standard repayment plan would reduce their forgiveness via REPAYE or PSLF, reducing the cost of these programs without affecting the relief they provide for low-income borrowers.

With a progressive rate as suggested above, **leaving the income exemption under REPAYE at 150% of the FPL** would still cut monthly payments in half for low-income undergraduate borrowers and would avoid other potential problems. Given current insufficient regulation of the institutions and programs to which federal student aid flows, a higher income exemption would make it easier for programs and institutions with poor student outcomes—such as those where most graduates earn less than 225% of the FPL—to advise prospective students that they would likely have a $0 monthly payment on their student loans after completion. In essence, the proposed changes to REPAYE would make programs without any labor market value free or nearly-free for many students—but not for the federal government and American taxpayers, who would foot the bill. Without stricter limits on the ability of these institutions to access federal student aid, the changes to REPAYE proposed by the Department of Education would provide an expanded opportunity to take advantage of students and taxpayers.

The rule as proposed would greatly increase costs for the federal government and taxpayers, provide significant benefit to households without financial need, and facilitate predatory behavior from unscrupulous institutions in the absence of stronger accountability regulations. For those reasons, we respectfully suggest the above revisions to mitigate negative impacts while still providing meaningful relief to borrowers in need.

The Department should also consider delaying implementation of the rule until a more thorough study of its impacts can be completed and so that Congress will have an opportunity to intervene with legislation. A bipartisan legislative approach could address not only the issues that are covered by the proposed rule—such as changing how payment amounts are calculated and avoiding negative amortization—but could more effectively and comprehensively reform other aspects of the student loan repayment system. For example, legislation could make IDR the default repayment plan for all borrowers and automate data sharing on borrower income, preventing far more loan defaults and reducing the administrative burden on borrowers.

In conclusion, we urge the administration to work with Congress to promote comprehensive reforms to how the federal government supports higher education in the United States.

Sincerely,

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