

To: RISE Rulemaking Committee  
From: Ashley Naporlee, Tamar Hoffman  
Date: 10/1/2025  
Memo: **Proposal re: Forbearance Periods**

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### **Introduction:**

In the Department's summary of its regulatory proposals to implement OBBB for forbearances, the Department states that they "Limit the total period borrowers may receive general forbearances for Direct Loans disbursed on or after July 1, 2027 to nine months with a 24-month period." (Discussion paper at p.1). This proposal offers background on the distinction between general forbearances and mandatory and administrative forbearances, and suggests regulatory language to more clearly specify that the new 9-month limit only applies to general forbearances, and not to other types of forbearances.

### **Background:**

In OBBB, Congress limited periods of discretionary forbearances under HEA section 428(c)(3)(B) (codified at 20 U.S.C. § 1078(c)(3)(B)) for new loans made on or after July 1, 2027 to no more than 9 months during any 24-month period. The statutory language is below:

"FORBEARANCE ON LOANS MADE UNDER THIS PART ON OR AFTER JULY 1, 2027.—A borrower who receives a loan made under this part on or after July 1, 2027, may only be eligible for a forbearance on such loan pursuant to section 428(c)(3)(B) that does not exceed 9 months during any 24-month period."

OBBB therefore only added new time limits to those forbearances authorized under Section 428(c)(3)(B); forbearances authorized under 428(c)(3)(A), (D), or other provisions are not subject to the new 9-month limit. Section 428(c)(3)(B) of the HEA (20 U.S.C. § 1078(c)(3)(B)) reads as follows:

(3) FORBEARANCE.—A guaranty agreement under this subsection—

(A) . . .

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer;

The Department and Congress have interpreted Section 428(c)(3)(B) to authorize "discretionary" or "general" forbearances for which the borrower's loan servicer has discretion to grant a borrower's request for forbearance, for example due to health or financial difficulties or other reasons that may temporarily make repayment difficult, as distinct from mandatory or administrative forbearances. Indeed, the [official OBBB summary](#) from CRS explains that the OBBB language on forbearances means that "A borrower who receives a loan on or after July 1,

2027, may only be eligible for a discretionary forbearance for no more than 9 months during a 24-month period.”

The Department of Education uses the terms “discretionary” and “general” forbearances interchangeably. For example, on [studentaid.gov](https://studentaid.gov) the Department describes them as follows:

### **General Forbearance**

Your loan servicer decides whether to grant a request for a general forbearance. For this reason, a general forbearance is sometimes called a “discretionary forbearance.”

You can request a general forbearance if you are temporarily unable to make your scheduled monthly loan payments for the following reasons:

- Financial difficulties
- Medical expenses
- Change in employment
- Other reasons acceptable to your loan servicer

Such “general” or “discretionary” forbearances are provided for Direct Loans under current regulation at 34 CFR 685.205(a)(1) (“The Secretary grants forbearance if the borrower or endorser intends to repay the loan but requests forbearance and provides sufficient documentation to support this request, and— . . . The Secretary determines that, due to poor health or other acceptable reasons, the borrower or endorser is currently unable to make scheduled payments.)

Congress targeted the length of such “general” forbearances in OBBB on the theory that borrowers struggling with payment affordability have too often been placed into forbearances that push them into higher debt rather than being encouraged to enroll in an IDR plan. Congress did not, however, impose new limits on the length of mandatory or administrative forbearances, such as forbearances related to participation in the National Guard, bankruptcy, or while the Secretary considers applications for loan discharge programs, which do not raise the same concerns.

### **Proposed changes to regulatory text:**

To make this clear in the regulations, we propose the following changes (in redline) from the Department’s proposed language at p. 5 of the discussion paper:

#### **685.205 Forbearance**

. . .

(a) [~~strike ED’s proposed added language “Notwithstanding the periods of forbearance in paragraph (c)(1) of this section”~~]

(b) [~~strike ED's proposed added language "and notwithstanding the periods of forbearance in paragraph (c)(1) of this section"~~]

(c) Period of forbearance.

(1) The Secretary grants forbearance under paragraph (a)(1) of this section for—

- (i) Loans disbursed before July 1, 2027, a period of up to one year.
- (ii) Loans disbursed on or after July 1, 2027, a period that does not exceed nine months within a 24-month period, which begins on the first month for which the forbearance is granted.

(2) For loans receiving a forbearance subject to the one-year period under paragraph (c)(1)(i), the forbearance is renewable upon the request of the borrower, for the duration of the period in which the borrower meets the condition required for the forbearance.