

To: RISE Rulemaking Committee

From: Ashley Naporlee, Tamar Hoffman

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Memo: Proposal to streamline enrollment in IBR for Consolidation Loans that repaid Parent PLUS loans

Summary: This memo provides proposed regulatory text for language that would streamline enrollment in IBR for eligible borrowers consistent with OBBB, making the process of enrollment more efficient for borrowers, servicers, and the Department.

Background: In OBBB, Congress authorized borrowers with Direct Consolidation Loans made before July 1, 2026 that repaid Parent PLUS loans to enroll in IBR if “on any date” between the date of enactment of OBBB on July 5, 2025 and June 30, 2028, the Loan was being repaid pursuant to either ICR or “any other income driven repayment plan.” 20 U.S.C. 1098e(a)(2)(B). In this way Congress sought to ensure that borrowers with existing Direct Consolidation Loans, whose loan contracts provide them the right to repay via ICR, and who wished to repay via IDR, would not lose access to IDR entirely.

The Department’s draft regulatory text at proposed 685.209(b)(6) and 685.209(c)(5)(iii) to implement this provision raise several concerns:

1. 685.209(b)(6), when taken together with 685.209(d), appears to inadvertently exclude Direct Consolidation Loans that meet the OBBB’s requirements for enrollment in IBR from being eligible for IBR after July 1, 2028, even if they enrolled in IDR before July 1, 2028 and thus met OBBB’s requirements for being grandfathered in to IDR.
2. 685.209(b)(6) appears to exclude Direct Consolidation Loans being repaid in REPAYE/SAVE from the loans now eligible for IBR, despite Congress clearly stating that IBR eligibility applies to Direct Consolidation Loans in “any other income driven repayment plan,” which includes REPAYE/SAVE. This is unfair to the struggling Parent PLUS borrowers who went to the trouble of consolidating their loans not once, but twice to make themselves eligible for REPAYE/SAVE, and who should now be eligible for IBR.
3. 685.209(b)(6) and 685.209(c)(5)(iii) appear to require borrowers to enroll in ICR and to make at least one payment before they can enroll in IBR, which could mean borrowers would have to submit two IDR applications a few months apart to enroll in IBR, an inefficient process.

Below, we propose changes to address these concerns and to ensure all borrowers eligible for IBR under OBBB are eligible under the regulations and that the process for enrolling in IBR is efficient. Note that these changes adopt an approach used by the Department, and reflecting in the regulations at 685.210(b)(4)(ii), to allow borrowers to switch from IBR to other IDR plans by submitting an IDR application that includes a request to make a one-month payment in the standard plan at a reduced forbearance amount. The proposed changes would apply that same approach to streamline the process for borrowers with relevant Consolidated loans enroll in IBR

through a single application that includes a request for a one-month reduced forbearance payment in ICR.

Proposed changes to ED's draft text in relevant provisions of § 685.209 Income-Driven repayment plans.

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(b) For the purposes of this section, the following terms apply:

(6) Excepted consolidation loan, means—

(i)

(A) A FFEL or Direct Consolidation Loan if such consolidation loan repaid a FFEL or Direct PLUS loan made to a parent borrower on behalf of a dependent student; or

(B) A FFEL or Direct Consolidation Loan that repaid a FFEL or Direct Consolidation loan described under paragraph (b)(6)(i)(A) of this definition that repaid a FFEL or Direct PLUS loan made to a parent borrower on behalf of a dependent student; and

(ii) ~~Between July 4, 2025 through June 30, 2028, e~~Excludes a loan described under paragraph (b)(6)(i)(A) or (B) of this definition that was being repaid under the ICR, PAYE, or IBR repayment plans **on any date between July 4, 2025 through June 30, 2028**. For purposes of paragraph (b)(6)(ii) of this definition, being repaid means at least one payment was made under the ICR, PAYE, **REPAYE**, or IBR repayment plans **or the loan was enrolled in ICR, PAYE, REPAYE, or IBR and was in an authorized forbearance for at least one month**.

...

(c) Borrower eligibility for IDR plans.

...

(5) ...

(iii) (A) Through June 30, 2028, a borrower who has a Direct Consolidation Loan disbursed on or after July 1, 2025, which repaid a Direct parent PLUS loan, a FFEL parent PLUS loan, or a Direct Consolidation Loan that repaid a consolidation loan that included a Direct parent PLUS or FFEL parent PLUS loan ~~may not choose any IDR plan except~~ **only enroll in the ICR or IBR plans**. **If such loan is enrolled in ICR, PAYE, or REPAYE, the borrower may request to change to repay the loan under the IBR plan. If such loan is not enrolled in ICR, PAYE, or REPAYE, the borrower may request to change to repay the loan under the IBR plan after making one monthly payment under the ICR plan. For this purpose, a monthly payment may include one payment made under a forbearance that provides for accepting smaller payments than previously scheduled, in accordance with 685.205(a), including a payment calculated at the amount the borrower would owe in the IBR plan.**

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