

Proposal – Clarifying text on “applicable amount” in 34 CFR 682.215

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To: negregfaciliator@ed.gov

From: Alex Ricci, Lori Hartung representing student loan servicers, collection agencies, lenders, and guaranty agencies

Re: Proposal – Clarifying text on “applicable amount” in 34 CFR 682.215

Explanation

We seek alternative language to accomplish the same stated end of the Department’s negotiator, which is that when the new applicable amount is no longer the lowest payment amount the borrower’s IBR payment is recalculated to the standard payment amount while continuing to stay in the IBR plan.

We believe the language highlighted below aligns closer to the OBBBA law and is easier for FFEL stakeholders to implement.

Amending 682.215 (b)(5) & (6) and 682.215(d) (1)

(5) Except as provided in paragraph (b)(4) of this section, accrued interest is capitalized at the time the borrower chooses to leave the income-based repayment plan or ~~no longer has a partial financial hardship when their aggregate monthly payment amount exceeds the applicable amount~~ **when the applicable amount reverts to the maximum amount calculated under d(1)(i).**

(6) If the borrower's monthly payment amount is not sufficient to pay any principal due, the payment of that principal is postponed until the borrower chooses to leave the income-based repayment plan or ~~no longer has a partial financial hardship when their aggregate monthly payment amount exceeds the applicable amount~~ **when the applicable amount reverts to the maximum amount calculated under d(1)(i).**

(d) * * *

(1) If a borrower’s ~~monthly payment amount exceeds the applicable amount~~ **exceeds the maximum amount calculated below under (i)** ~~no longer has a partial financial hardship~~, the borrower may continue to make payments under the income-based repayment plan, but the loan holder must recalculate the borrower's monthly payment. The loan holder also recalculates the monthly payment for a borrower who chooses to stop making income-based payments. In either case, as a result of the recalculation—

- (i) The maximum monthly amount that the loan holder requires the borrower to repay is the amount the borrower would have paid under the FFEL standard repayment plan based on a 10-year repayment period using the amount of the borrower's eligible loans that was outstanding at the time the borrower began repayment on the loans with that holder under the income-based repayment plan; and
- (ii) The borrower's repayment period based on the recalculated payment amount may exceed 10 years.