

From: Kyra Taylor, Primary Negotiator for Legal Assistance Organizations  
To: U.S. Department of Education  
Re: Proposed amendments to § 30.83 and targeted relief for extremely distressed borrowers  
Date: December 11, 2023

### **Proposed Redlines to Remove the Cliff from Proposed § 30.83**

§ 30.83 Waiver when a loan first entered repayment 20 or 25 years ago. (a) The Secretary may waive the outstanding balance of a loan if the loan first entered repayment on or before July 1, 2005, and the borrower only received loans as an undergraduate student or a Federal Consolidation Loan or Direct Consolidation Loan that repaid only loans the borrower received as an undergraduate student.

(b) The Secretary may waive the outstanding balance of a loan if the loan first entered repayment on or before July 1, 2000, and the borrower received loans other than loans received as an undergraduate student or a Federal Consolidation Loan or Direct Consolidation Loan that repaid loans other than loans the borrower received as an undergraduate student.

(c) For the purpose of this section, a loan enters repayment on—

(1) For a Federal Stafford Loan, a Direct Subsidized Loan, or a Direct Unsubsidized Loan, the day after the initial grace period ends;

(2) For a Federal PLUS Loan or a Direct PLUS Loan, the day the loan is fully disbursed;  
or

(3) For a Federal Consolidation Loan or Direct Consolidation Loan, the earliest day as determined under paragraph (c)(1) and (2) of this section for any loan that was repaid by that consolidation loan.

(d) The Secretary may waive the outstanding balance of a loan if the loan entered repayment as defined by paragraph (c) no later than July 1, 2025 and

(1) If the borrower had an original principal balance of \$12,000 or less, and they accrued 120 qualifying months, as defined in (d)(4) below, or

(2) If the borrower only borrowed loans for their undergraduate education and borrowed an original principal balance of \$12,001 or more, and they accrued 120 qualifying months, as defined in (d)(4) below, plus an additional 12 qualifying months for every additional \$1000 over \$12,000 borrowed, up to a maximum of 240 qualifying months.

(3) If the borrower received loans other than loans received as an undergraduate student or a Federal Consolidation Loan or Direct Consolidation Loan that repaid loans other than loans the borrower received as an undergraduate student, and borrowed an original principal balance of \$12,001 or more, and they accrued 120 qualifying months, as defined in (d)(4) below, plus an additional 12 qualifying months for every additional \$1000 over \$12,000 borrowed, up to a maximum of 300 qualifying months.

(4). Qualifying Months.

(i) For time prior to July 1, 2025, all months since the loan first entered repayment, including months when the loan was in default, deferment, or forbearance, will count as qualifying months.

(ii) For time after July 1, 2025, months that qualify toward forgiveness under an income-driven repayment plan pursuant to §§ 682.215, 685.209, or 685.221 will count as qualifying months.

## **Proposed Regulatory Language To Provide Targeted Relief To Extremely Distressed Borrowers**

*Note: As previously discussed during the rulemaking sessions, we support using default as a criteria to determine whether or not a borrower is experiencing student loan hardship. However, given that the hardship regulatory language is not yet before the committee, we ask that, at a minimum, the Department consider providing targeted relief to the following groups of extremely distressed borrowers for whom the Department has or can easily obtain data evidencing the need for relief.*

§ 30.91 Waiver for Extremely Distressed Borrowers. The Secretary may waive or compromise the outstanding balance of a loan using the authority provided by 20 U.S.C. § 1082(a)(6) or 31 U.S.C. § 3711(a)(2) if any of the following conditions are met:

- (a) The borrower's debt was in default and
  - (1) The Department garnished the borrower's wages pursuant to 34 CFR Part 34 or offset the borrower's federal benefits pursuant to 34 CFR Part 30, Subpart C, for a year or more and payments have been less or equal to the amount of interest and collection fees charged to the borrower during the same time period;
  - (2) The Department offset the borrower's IRS tax refunds pursuant to 34 CFR § 30.33 for one or more tax years and the payments have not exceeded the amount of interest and collection fees charged to the borrower during that time frame;
- (b) The borrower owes Parent PLUS loans, the child that received the loans had an Estimated Family Contribution (EFC) of \$0 on their FAFSA application, and the borrower's outstanding cumulative balance on all of their loans is greater than the original cumulative principal borrowed.
- (c) The borrower is currently over the age of 62 and the Department has acceptable documentation within its possession that their income is primarily based on Social Security or is less than 225% of the federal poverty line; or
- (d) Documentation within the Secretary's possession indicates that the borrower has been eligible for a \$0 monthly payment amount for 3 years or more on in an income-contingent repayment plan, income-based repayment plan, income-sensitive repayment plan, or alternative plan provided in 34 CFR §§ 685.208, 685.209, 685.221, 682.209, or 682.215, or the borrower has received means-tested state or federal benefits.