<u>Spousal Consolidation Loans</u>

ASK: Forgive any remaining balances for spousal consolidation loans.

Proposed regulatory text:
In the regulatory proposal under Subpart G Waiver of Federal Student Loan Debt, add:

<u>(h) Joint Spousal Consolidation Loans. The Secretary may waive repayment of the loan that was issued as a joint consolidation loan under subparagraph (C) of section 1078–3(a)(3) of title 20 (as such subparagraph was in effect on June 30, 2006).</u>

Rationale:
From January 1, 1993, until June 30, 2006, the Department of Education issued joint consolidation loans to married couples. At the time, both borrowers agreed to be jointly liable for repayment, which proved problematic in the event of divorce or separation. When Congress first eliminated the joint consolidation loan program in 2006, it did not provide a means of consolidating commercially held loans into Direct Loans or a process for severing the joint consolidation or spousal loans into individual loans.

- As a result, many borrowers are not only left liable for their abusive or uncommunicative spouse's portion of consolidated debt.
- Even for spouses who are not in dangerous situations, they remain ineligible for federal debt relief programs that exclude commercially held loans, including the Public Service Loan Forgiveness (PSLF) program.
- Similarly, while the broader borrower community was granted relief during the student loan payment pause, these borrowers were excluded from the pause and were making payments the entire time.
- Over 75,0000 borrowers continue to be trapped in 20-30 year old spousal consolidation loans and still do not have parity with the student loan borrower community.
- On October 11, 2022, the Joint Consolidation Loan Separation Act (JCLSA) was signed into law by President Biden, after it passed in the Senate by Unanimous Consent and in the House of Representatives with bipartisan support. The law allows eligible borrowers to submit an application to the Department of Education requesting to split their joint consolidation or spousal loan into two new and separate federal Direct Loans. However, this law was not enacted soon enough to allow those with spousal consolidation loans to benefit from the PSLF waiver, and more than a year later are still waiting for the Department to create the process for loan separation that was mandated by law. This implies that the most administratively feasible option to deal with these loans is to cancel them.
- There are numerous specific examples of borrowers experiencing hardship as a result of these loans and the resulting inability to benefit from other loan relief programs.
- During the 2021 negotiated rulemaking and again in this current rulemaking, these borrowers were well represented during the public comment period, so there are ample examples on record of the hardship that these borrowers have experienced as a result of not being eligible

for other relief programs and as a result of the joint nature of these loans.

- For example, consider Dawn Marie Hayes. Dawn has been a full-time professor at Montclair State University, an eligible PSLF employer, for the past 21 years. Dawn was the first in her family to attend college. Her mother was a single mom and Dawn left for her first day of college in September 1986 from a New York City public housing project. She saw higher education as the way to break the cycle of poverty. Given her family situation, Dawn was solely responsible for financing her college education. In order to pursue a career as a professor of history, Dawn needed a total of 12 years of full-time study. She received her Ph.D. in 1998.
  During that time, she married her husband of now 30 years, Joseph Hayes and began a family, which now includes seven children. As they pursued careers while raising a large family, they did everything they could to simplify their lives. This included consolidating their loans in December 2001, combining Joe's $8,000 debt with Dawn's much larger $74,000 burden for a total of $82,000. As of today, they have paid over $105,000 in interest and more than $37,000 in principal. They have not missed a payment 23 years, but will continue to be paying on this loan for another decade (until 2033, when Dawn will be 65 years old) if they are not given the ability to separate their loans or given additional relief. The loan burden for someone who would otherwise be eligible for PSLF has meant a financial struggle to support a large family in one of the most expensive regions of the country. Although Joe and Dawn make respectable salaries, they still live paycheck-to-paycheck, with no cash margin to provide a buffer should they encounter a financial emergency, and the stress and worry of encountering a hardship outside of their control has been, and continues to be, enormous.
  Additionally, because her loan is a spousal consolidated one, she could not claim public loan service forgiveness in October 2017, when she would have been able to had she held another kind of loan. The result is that Dawn has had to pay an additional 65 months and more than $37,000 in additional payments [from November 2017 - March 2023.] During the PSLF waiver period other PSLF borrowers were issued refunds for overpayments but Dawn is trapped in uncertainty about her loan. As a mom of 7, this refund could make a major life difference to her and her family. Relief seems only fair to those borrowers like Dawn who have paid for so long.

- Another example comes from Sara of Virginia (whose story was the impetus for the Joint Consolidation Loan Separation Act). Sara was raising her two children on a public-school teacher's salary and trying to keep up with payments on her consolidated student loans. Unfortunately, her ex-spouse, whom she had divorced and moved thousands of miles away from, refused to pay his share of their joint consolidated loan. Due to her circumstance, Sara faced the threat of having her wages as a public-school teacher garnished if she did not pay both her and her ex-husband's portions of their debt.

Spousal consolidation loans have been in repayment for a significant amount of time, and many of these borrowers like Dawn have overpaid relative to the IDR payment amounts and PSLF forgiveness they would have received if they had been eligible to change their loan type. For both administrative simplicity and fairness ED should not make these borrowers jump through additional hoops. ED should simply forgive the full balance of all joint spousal consolidation loans.