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Federal Student Loan Debt Relief in the Context of COVID-19

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SUMMARY

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Federal Student Loan Debt Relief in the Context of COVID-19

In early 2020, in response to the emerging COVID-19 pandemic, the Trump Administration declared a public health emergency under the Public Health Service Act, a national emergency under the National Emergencies Act, and a nationwide emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Congress and the U.S. Department of Education (ED)—under both the Trump and Biden Administrations—then took action to provide a variety of student loan debt relief to qualifying borrowers of federal student loans to alleviate the potential financial effects related to the pandemic. These actions included enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) and invocation of the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act) by ED and provided the following student loan relief measures:

- Accrual of interest on ED-held student loans and certain non-ED-held student loans was suspended from March 13, 2020, through August 31, 2023.
- ED-held loans were placed in a special administrative forbearance (payment pause) for March 13, 2020, through August 31, 2023. During this time, borrowers were not required to make payments on their loans. This special administrative forbearance counted toward the 120 monthly payments required to qualify for Public Service Loan Forgiveness (PSLF), the maximum repayment periods under the income-driven repayment (IDR) plans, and the nine voluntary payments required for individuals to rehabilitate their defaulted loans.
- Debt collection activities, including involuntary collection activities such as wage garnishment and offset of certain federal benefits (e.g., Social Security benefits), were suspended on ED-held student loans for March 13, 2020, through September 30, 2024.
- Multiple rules related to the 120 monthly payments required to qualify for PSLF were waived.
- A one-time revision was made to the accounts of borrowers with ED-held loans to provide credit toward the IDR plan maximum repayment period for any months in which they were in repayment status and for specified periods of deferment or forbearance.

Additionally, on August 24, 2022, invoking the HEROES Act, ED announced plans to cancel up to (1) $10,000 in qualifying federal student loans per qualifying borrower whose annual income in 2020 or 2021 was less than $125,000 (for individuals) or less than $250,000 (for certain married borrowers or heads of households), and (2) an additional $10,000, for up to $20,000 total, for borrowers who meet the above income criteria and received a Pell Grant at any point. However, the policy was not implemented, because on June 30, 2023, the Supreme Court ruled that the policy exceeded ED's statutory authority under the HEROES Act.

The primary period during which many of these debt relief measures were in effect spanned March 13, 2020, through August 31, 2023. The amount of outstanding federal student loan debt and number loan recipients affected by these flexibilities fluctuated during this time. At the beginning of the period, about $1.5 trillion in federal student loan debt was outstanding, borrowed by or on behalf of 42.6 million individuals. At the end of the period, about $1.6 trillion in federal student loan debt was outstanding, borrowed by or on behalf of about 43.4 million individuals.

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Introduction

In early 2020, in response to the emerging COVID-19 pandemic, the Trump Administration declared a public health emergency under the Public Health Service Act, a national emergency under the National Emergencies Act, and a nationwide emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.[1] To alleviate the potential adverse financial effects related to the pandemic for federal student loan borrowers, Congress and the U.S. Department of Education (ED) took action to provide a variety of debt relief opportunities to qualifying borrowers beyond what the Higher Education Act (HEA; P.L. 89-329) and regulations authorized at the time for individuals facing financial difficulties (e.g., loan deferment, forbearance options). These actions included the enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) and invocation of the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act) by ED. Student loan debt relief included, for example, the suspension of the accrual of interest and the requirement to make monthly payments on qualifying federal student loans for a period of over three years.

The primary period during which many of these debt relief measures were in effect spanned March 13, 2020, through August 31, 2023 (hereinafter, "the suspension period"). The amount of outstanding federal student loan debt and number of loan recipients potentially affected by these measures fluctuated during this time. At the beginning of the period, about $1.5 trillion in federal student loan debt was outstanding, borrowed by or on behalf of 42.6 million individuals.[2] As of June 30, 2023 (the end of the quarter just prior to the end of the suspension period), about $1.6 trillion in federal student loan debt was outstanding, borrowed by or on behalf of about 43.4 million individuals.[3]

Several types of federal student loans were eligible for the COVID-19 student loan debt relief measures, though availability of these measures sometimes varied depending on the type of loan and which party (e.g., ED, a third-party lender) owned the loan. Title IV of the HEA authorizes the operation of three federal student loan programs: the William D. Ford Federal Direct Loan (Direct Loan) program, the Federal Family Education Loan (FFEL) program, and the Federal Perkins Loan program.[4] While new loans are authorized to be made only through the Direct Loan

[1] For information on the public health emergency under the Public Health Service Act, see P.L. 78-410, as amended; 42 U.S.C. §§201-300mm–61; U.S. Department of Health and Human Services (HHS), "Public Health Emergency Declarations, 2020: Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus," January 31, 2020, https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx. The declaration was made retroactive to January 27, 2020, and was renewed several times. It expired May 11, 2023. For information on the national emergency under the National Emergencies Act, see P.L. 94-412, as amended; 50 U.S.C. §§1601 et seq.; the President of the United States of America, "Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak," Proclamation 9994 of March 13, 2020, 85 *Federal Register* 15337, March 18, 2020. P.L. 118-3 terminated the national emergency declaration as of April 10, 2023. For information on the nationwide emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, see P.L. 93-288, as amended; 42 U.S.C. §§5121 et seq.; Letter from Donald J. Trump, President of the United States, to Acting Secretary Wolf, Secretary Mnuchin, Secretary Azar, and Administrator Gaynor, March 13, 2020, https://trumpwhitehouse.archives.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/.

[2] ED, Office of Federal Student Aid, Federal Student Aid Data Center, "Federal Student Aid Portfolio Summary," FY2020 Q2, https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.

[3] ED, Office of Federal Student Aid, Federal Student Aid Data Center, "Federal Student Aid Portfolio Summary," FY2023 Q3, https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.

[4] For additional information on loans made under these programs, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*; CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*; and CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (archived).

program, previously made FFEL and Perkins Loan program loans remain outstanding and borrowers of such loans remain responsible for repaying them.[5]

- **Direct Loan program loans** are owned by ED. As of June 30, 2023, they comprised 88% of outstanding federal student loan debt.[6]
- **FFEL program loans** may be held by private lenders, guaranty agencies (GAs), or ED. As of June 30, 2023, they comprised 12% of outstanding federal student loan debt.[7]
- **Perkins Loan program loans** may be held by institutions of higher education (IHEs) that made the loans or by ED. As of June 30, 2023, they comprised less than 1% of outstanding federal student loan debt.[8]

This report provides an overview of the student loan repayment debt relief measures that were available to HEA Title IV loan borrowers potentially facing financial difficulties in light of the pandemic. It does not discuss those preexisting loan terms and conditions (authorized through statute and regulations) that were (and are) generally available to individuals absent the COVID-19 national emergency.[9] The report concludes with a brief description of additional existing authorities that were available to address other aspects of student loan relief.

Administrative and Congressional Actions Taken in Response to the COVID-19 Pandemic

In response to the COVID-19 pandemic, ED and Congress took steps to provide forms of relief to federal student loan borrowers beyond those generally available to borrowers facing financial difficulty and authorized in statute and regulations. These included cancelling Direct Loans for payment periods during which qualifying individuals withdrew from their course of study due to COVID-19, temporarily suspending interest accrual on qualifying loans, expanding the instances under which a forbearance was available to borrowers of qualifying loans, temporarily ceasing collections on qualifying defaulted loans, temporarily waiving or making adjustments to program rules for certain loan repayment and forgiveness programs, and announcing a new loan cancellation policy for most federal student loan borrowers. Some of the relief was available through a specified end date that is applicable to all borrowers. The duration of other types of relief is based on IHE administrative calendars.[10] The federally declared national emergency

[5] Direct Loan program loans have been authorized to be made since July 1, 1994. Authority to make new FFEL program loans was terminated effective July 1, 2010. Authority to make new Perkins Loan program loans was terminated effective October 1, 2017.

[6] ED, Office of Federal Student Aid, Federal Student Aid Data Center, "Federal Student Aid Portfolio Summary," FY2023 Q3, https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.

[7] Ibid.

[8] Ibid.

[9] For information on these preexisting terms and conditions, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers.*

[10] Specifically, some relief is available through the end of an IHE's payment period that includes the end of the federally declared national emergency related to COVID-19 or through the payment period that begins after the date on which the federally declared national emergency related to COVID-19 was rescinded. A payment period is the period for which a Title IV student aid disbursement must be made. Payment periods differ by IHE and may also differ by educational programs within IHEs, based on a variety of criteria including whether an educational program is measured in clock- or credit-hours and the type of term (e.g., semester, trimester, quarter) the educational program uses. For additional information, see 34 C.F.R. §668.4.

ended April 10, 2023,[11] and the federally declared public health emergency ended May 11, 2023.[12]

In some instances, the ED invoked the HEROES Act to effectuate some of the relief detailed in this report (see text box).

The HEROES Act

The Higher Education Relief Opportunities for Students Act of 2003 (the HEROES Act), as amended, authorizes the Secretary of Education to "waive or modify any statutory or regulatory provision applicable to the student financial assistance programs," under HEA, Title IV, "as the Secretary deems necessary in connection with a war or other military operation or national emergency" to ensure that, among other things, affected individuals "are not placed in a worse position financially" in relation to that assistance. Affected individuals include the following:

- persons on active duty or qualifying National Guard duty during a war, military operation, or national emergency;
- persons who reside or are employed in an area that is declared a disaster area in connection with a national emergency; and
- persons who suffered direct economic hardship as a direct result of a war or other military operation or national emergency.

ED invoked its HEROES Act authority to take some of the administrative actions described in this report, including numerous extensions of the suspension of interest accrual and debt collection and special administrative forbearance (payment pause) for qualifying federal student loans.[13] ED has invoked the HEROES Act in announcing its policy to cancel up to $10,000 or $20,000, as applicable, in federal student loan debt per qualifying borrower, though the Supreme Court ultimately ruled that the policy exceeded ED's authority under the HEROES Act.[14]

Returning Direct Loans

Under the HEA, a Direct Loan borrower may be required to return or repay all or part of the Direct Loans borrowed if the student does not complete a payment or enrollment period at an IHE for which the loan was received. Required procedures for such returns or repayments vary depending on whether a student did not begin attendance at an IHE or whether they withdrew.

Failure to Begin Attendance

If a student does not begin attendance at an IHE in a payment period[15] or period of enrollment,[16] Title IV funds (including Direct Loan funds) must be returned to ED by the IHE and/or the student according the regulatory provisions.[17] For Direct Loan amounts required to be returned by the student, the IHE must immediately notify ED (or its loan servicers) when it becomes aware

[11] See P.L. 118-3.

[12] HHS, "COVID-19 Public Health Emergency," https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html (accessed August 30, 2024).

[13] See, for example, ED, "Federal Student Aid Programs (Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program)," 87 *Federal Register* 61512, October 12, 2022 (hereinafter "ED, *Waivers and Flexibilities Update"*).

[14] Biden v. Nebraska, S. Ct. 233, 2376 (2023).

[15] A payment period is the period for which a Title IV student aid disbursement must be made. Payment periods differ by IHE and may also differ by educational programs within IHEs, based on a variety of criteria including whether an educational program is measured in clock- or credit-hours and the type of term (e.g., semester, trimester, quarter) the educational program uses. For additional information, see 34 C.F.R. §668.4.

[16] A period of enrollment, often called a *loan period*, is the period for which a Direct Loan is intended. A period of enrollment "must coincide with one or more bona fide academic terms established by the school for which institutional charges are generally assessed (e.g., a semester, trimester, or quarter)." 34 C.F.R. §685.201(b).

[17] 34 C.F.R. §668.21.

that the student will not begin or has not begun attendance. Loan servicers then issue a final demand letter to the borrower. The demand letter requires the borrower to repay any loan principal and accrued interest within 30 days from the date the letter is mailed.[18] If the borrower fails to comply with the demand letter, they are considered in default on the loan.

ED waived the requirement that IHEs notify loan servicers if a student did not begin attendance. By waiving this requirement, loan servicers did not issue demand letters, and borrowers were able to repay any loans according to the terms of the promissory note, including receiving a six-month grace period prior to the start of repayment. This waiver expired at the end of the IHE's "payment period that [began] after the date on which the Federally-declared national emergency related to COVID-19 [was] rescinded."[19]

Withdrawal

HEA Section 484B specifies that when a Title IV aid recipient withdraws from an IHE before the end of the payment or enrollment period for which funds were disbursed, Title IV funds (including any Direct Loans received) must be returned to ED by the IHE and/or aid recipient according to statutorily prescribed rules (this is often referred to as Return of Title IV Aid). If an aid recipient is required to return any portion of a Direct Loan, they repay it in accordance with the terms of the loan.[20]

The CARES Act authorized several waivers with respect to Return of Title IV Aid procedures. Specific to Direct Loan borrowers, the act required ED to cancel a borrower's obligation to repay the entire portion of a Direct Loan associated with a payment period during which the student withdrew from an IHE as a result of a *qualifying emergency*.[21]

Entering Repayment and In-School Status

In general, borrowers of Direct Loan, FFEL, and Perkins Loan program loans are required to make payments on the loans during a repayment period. The repayment period for Direct Subsidized Loans, Direct Unsubsidized Loans, FFEL Stafford Loans, FFEL Unsubsidized Loans, and Perkins Loans begins after a grace period.[22] The grace period begins after the borrower ceases to be enrolled in an eligible postsecondary program on at least a half-time basis (enrollment on at least a half-time basis is often referred to as *in-school status* for federal student loan purposes). The repayment period for Direct PLUS Loans (to graduate students and to parents of dependent undergraduate students), Direct Consolidation Loans, FFEL PLUS Loans, and FFEL Consolidation Loans is required to begin when the loan is fully disbursed. However, borrowers of these loans, along with borrowers of Direct Subsidized Loans, Direct Unsubsidized Loans, FFEL Stafford Loans, FFEL Unsubsidized Loans, and Perkins Loans, may qualify for a deferment on

[18] 34 C.F.R. §685.211(e)(2).

[19] ED, "Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, William D. Ford Federal Direct Loan Program, and Federal-Work Study Programs)," 85 *Federal Register* 79860, December 11, 2020 (hereinafter ED, *Waivers and Flexibilities*).

[20] 34 C.F.R. §668.22(h)(3)(i).

[21] The CARES Act defines a qualifying emergency as (1) "a public health emergency related to the coronavirus declared by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act"; (2) "an event related to the coronavirus for which the President declared a major disaster or an emergency under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act"; or (3) "a national emergency related to the coronavirus declared by the President under section 201 of the National Emergencies Act."

[22] 34 C.F.R. §§674.31, 682.209, 685.207. For Direct Loan program and FFEL program loans, the grace period typically lasts six months. For Perkins Loan program loans, the grace period typically lasts nine months.

the basis of their in-school status (or the in-school status of the student on whose behalf a PLUS Loan was made to a parent borrower), during which time they are not required to make payments on their loans but during which interest may accrue.[23] A borrower qualifies for such an in-school deferment if they, or the student on whose behalf a PLUS Loan is made, is enrolled on at least a half-time basis.

ED announced some flexibilities for borrowers of Direct Loan and FFEL program loans whose loan status was in school on the date the student's "attendance at the institution was interrupted due to COVID-19 national emergency."[24] IHEs were to continue reporting the loan status of such borrowers as in school until the IHE determined that the student had withdrawn from it.[25] ED permitted IHEs to defer reporting a student's withdrawn status if the IHE had reasonable expectation that it would reopen at the start of a payment period that began no later than 90 days following its COVID-19-related closure and that the student would resume attendance when the IHE reopened.[26] This flexibility was available through the end of an IHE's payment period that included December 31, 2020, or the end of the IHE's payment period "that include[d] the end date for the Federally-declared emergency related to COVID-19," whichever was later.[27]

ED guidance did not address Perkins Loans with respect to entering repayment.

Interest Accrual

Interest is charged on loans made under the Direct Loan, FFEL, and Perkins Loan programs. Typically, under a limited set of circumstances the federal government subsidizes some or all of the interest that would otherwise accrue on certain Direct Subsidized Loans, FFEL Stafford Loans, and Perkins Loans.[28]

For March 13, 2020, through August 31, 2023,[29] the accrual of interest on certain federal student loans was suspended.[30] The loans on which interest accrual was suspended were (1) ED-held

[23] 34 C.F.R. §§674.33, 682.210, 685.204(b).

[24] ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19. ED guidance does not specify which circumstances (e.g., an IHE's temporary closure or a student's withdrawal) constitutes an interruption due to COVID-19.

[25] ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19.

[26] ED, Office of Postsecondary Education, Electronic Announcement, "Guidance for interruptions of study related to Coronavirus (COVID-19)," March 5, 2020 (updated June 16, 2020), https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-03-05/guidance-interruptions-study-related-coronavirus-covid-19-updated-june-16-2020.

[27] ED, Office of Postsecondary Education, Electronic Announcement, "Updated deadlines for flexibilities related to Coronavirus (COVID-19)," August 21, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-08-21/updated-deadlines-flexibilities-related-coronavirus-covid-19.

[28] Periods of interest subsidy include, but are not limited to, in-school periods while a borrower is enrolled in an eligible program on at least a half-time basis, during a grace period following enrollment on at least a half-time basis, and during periods of authorized deferment.

[29] ED, *Waivers and Flexibilities Update*, p. 61514 and the Fiscal Responsibility Act of 2023 (P.L. 118-3), §271.

[30] The cessation of interest accrual ("0% interest policy") for ED-held loans was originally put into place via administrative action by ED on March 20, 2020. (ED, "Delivering on President Trump's Promise, Secretary DeVos Suspends Federal Student Loan Payments, Waives Interest During National Emergency," press release, March 20, 2020.) Since then, it has been extended numerous times via legislative and administrative action. For a timeline of the (continued...)

student loans (e.g., all Direct Loan program loans, and FFEL and Perkins Loan program loans held by ED); (2) specified[31] defaulted FFEL program loans held by GAs, some of which had been transferred to ED (see text box below)[32]; and (3) other specified previously defaulted FFEL program loans.[33] The suspension of interest meant borrowers of these loan types were not required to pay interest on such loans for this period. (In practice, the cessation of interest accrual meant that the interest rates for qualifying student loans had been effectively set to 0% during this time period.) This permitted borrowers to enter into a period of deferment or forbearance without concern for whether interest would accrue and capitalize. Borrowers who continued making payments on their loans during this time of interest suspension did not have decreased monthly payments. They had the full amount of the payments applied toward interest and fees (for defaulted loans only) that accrued prior to March 13, 2020, and then to loan principal.[34] Borrowers who were eligible for this benefit were not required to apply for it; ED and GAs (in the case of those defaulted FFEL program loans specified above) automatically adjusted their accounts to reflect the interest suspension.

In addition, ED authorized FFEL program lenders and institutions that held Perkins Loans to provide "the same zero interest" benefit to non-ED-held loans on a voluntary basis.[35] Borrowers

history of these actions, see CRS In Focus IF12136, *Student Loans: A Timeline of Actions Taken in Light of the COVID-19 Pandemic*. ED invoked the HEROES Act initially to effectuate and subsequently to extend this policy. ED, *Waivers and Flexibilities*, p. 79857 and ED, *Waivers and Flexibilities Update*, pp. 61513-61514. The Fiscal Responsibility Act of 2023 terminated the interest accrual suspension, effective "sixty days after June 30, 2023" and prohibited ED from using "any authority to implement an extension of [the interest accrual and payment suspension]." Though 60 days after June 30, 2023, was August 29, 2023, interest did not begin accruing on loans until September 1, 2023.

[31] Defaulted FFEL program loans held by GAs that were eligible for this relief were those loans on which a default claim was paid prior to March 13, 2020, that were not subject to an active bankruptcy filing, and that were still in default as of May 12, 2021. Also included were those loans on which a default claim was paid on or after March 13, 2020, and those paid on or prior to the end of the student loan payment pause that were not subject to an active bankruptcy filing and that were still in default as of May 12, 2021. In general, a GA pays a default claim (i.e., reimburses the FFEL program loan holder for most or all of the losses associated with a default) if a borrower defaults on their FFEL program loan. 34 C.F.R. §682.404(a).

[32] The cessation of interest accrual ("0% interest policy") for defaulted GA-held FFEL program loans was put into place via administrative action on March 30, 2021. In doing so, ED announced that the policy would apply retroactively to March 13, 2020, but only for the period that a GA held the loan. ED, "Department of Education Announces Expansion of COVID-19 Emergency Flexibilities to Additional Federal Student Loans in Default," press release, March 30, 2021, https://www.ed.gov/news/press-releases/department-education-announces-expansion-covid-19-emergency-flexibilities-additional-federal-student-loans-default; and ED, Office of Postsecondary Education, Dear Colleague Letter GEN-21-03, "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021), May 12, 2021, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021.

[33] These loans are those that were in default "during the pandemic" (regardless of when a default claim was paid) and for which the default was resolved through rehabilitation or consolidation prior to May 12, 2021. Upon rehabilitation or consolidation, the loans may have been purchased by third-party lenders or transferred to ED. For any such loans purchased by a third-party lender, it appears that the loans would be ineligible for the 0% interest policy after the purchase, as they would be FFEL program loans not held by ED. For any such loans transferred to ED, it appears that they would be eligible for the 0% interest policy after the transfer, as they would be FFEL program loans held by ED.

[34] ED, Office of Federal Study Aid, COVID-19 Loan Payment Pause and 0% Interest, https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest, accessed April 11, 2023 (site modified).

[35] ED, *Waivers and Flexibilities*, p. 79862, and ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19. At least some IHEs have suspended payments on their Perkins Loans in response to COVID-19. See, for example, Danielle Douglas-Gabriel, "University of California offers Perkins Loan borrowers relief. Will other colleges follow?" *The Washington Post*, April 20, 2020.

who were ineligible for the interest suspension benefit because their FFEL program lender or Perkins Loan program IHE did not provide it could qualify for the interest suspension by consolidating such loans into a Direct Consolidation Loan, which was eligible for the interest suspension benefit.[36]

This interest suspension, coupled with the student loan payment pause (discussed later in this report) and other HEA and regulatory options for temporary cessation of payments (e.g., deferment) meant that qualifying borrowers could temporarily cease making payments on their loans without interest accruing or being subject to capitalization[37] when they began making payments at a later time.

Assignment of Certain Defaulted FFEL Program Loans to ED

When an FFEL borrower defaults, the loan holder files a default claim (or insurance claim) with a GA. Upon payment of the claim, which serves as payment for the holder's losses stemming from borrower default, the holder assigns the defaulted loan to the GA, which in turn files a claim with ED for a reinsurance payment. GAs are responsible for handling initial collections work on defaulted loans and for administering other aspects of the FFEL program. In certain instances, ED may require GAs to assign defaulted loans to it. Upon assignment, ED becomes the holder of the defaulted FFEL program loan and becomes responsible for servicing and collecting on it (via contracted loan servicers).

In addition to extending several of the COVID-19 pandemic student loan relief provisions (suspension of interest accrual and debt collections) to defaulted GA-held FFEL program loans, ED also required GAs to assign a subset of such loans to it. Specifically, GAs were required to assign to ED defaulted FFEL program loans on which the GA paid a default claim to a FFEL program lender on or after March 13, 2020, and on or prior to the end date of the student loan payment pause for ED-held loans and that were not subject to an active bankruptcy filing. Thus, ED became the owner of these loans and became responsible for servicing and collecting on such loans. In addition, these loans were returned to good standing (i.e., active repayment status).

Sources: 20 U.S.C. §1078(c)(8); 34 C.F.R. §682.409; and U.S. Department of Education, Office of Postsecondary Education, Dear Colleague Letter GEN-21-03, "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021)," May 12, 2021, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021. For additional information on FFEL program administration and GAs, see CRS Report R46409, *Proposals to Extend CARES Act Provisions to Federal Student Loans Not Held by the Department of Education: Frequently Asked Questions*.

[36] ED, Office of Federal Study Aid, COVID-19 Loan Payment Pause and 0% Interest, https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest,accessed April 11, 2023 (site modified).

[37] ED has indicated that, unless a borrower consolidates their loan, any balance of unpaid interest on a borrower's loan before March 13, 2020, will not be capitalized during the COVID-19 payment suspension (discussed later in this report) and through six months after the payment pause ends. This policy differs from ED's previous policy under which a balance of unpaid interest on a borrower's loan before March 13, 2020, was capitalized in a larger set of instances. ED indicates that it has asked loan servicers to undo any interest capitalization that has an effective date after March 13, 2020. For additional information, see ED, Office of Federal Study Aid, COVID-19 Loan Payment Pause and 0% Interest, https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest,accessed April 11, 2023 (site modified).

Payment Pause

The HEA and regulations provide for a variety of loan *deferment*[38] and loan *forbearance*[39] options, during which borrowers may temporarily cease making payments on their loans. In general, these options are available to borrowers based on relatively narrow circumstances, such as an unemployment deferment, which is available to individuals who are either receiving unemployment benefits or are registered with an employment agency and diligently seeking to obtain full-time employment.[40] In most instances, a borrower must proactively apply for and request a deferment or forbearance.

In response to the COVID-19 pandemic, ED and Congress took further steps to enable borrowers to temporarily cease making payments on their qualifying loans. From March 13, 2020, through August 31, 2023, monthly payments were suspended for ED-held student loans (e.g., all Direct Loan program loans, and FFEL and Perkins Loan program loans held by ED) and defaulted GA-held FFEL program loans that were transferred to ED under specified conditions (see text box).[41] (In practice, ED placed all such loans in administrative forbearance.[42]) During this time, borrowers were not required to make payments due on their loans.[43] Borrowers who were eligible for this benefit were not required to apply for it; ED automatically suspended payments. This special administrative forbearance was frequently called the *payment pause*.

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[38] A loan *deferment* is a temporary period during which a borrower's obligation to make regular monthly payments of principal and interest is suspended, and during which an interest subsidy (i.e., interest does not accrue) may be provided on certain loan types.

[39] A loan *forbearance* constitutes permission for a borrower to temporarily cease making payments, make payments in reduced amounts, or make payments over an extended period. No interest subsidies are provided during forbearance (i.e., interest continues to accrue).

[40] See 34 C.F.R. §§674.34(d), 682.210(h), and 685.204(f).

[41] On March 30, 2021, ED announced that FFEL program loans that defaulted on or after March 13, 2020, would be returned to good standing. Because such loans were returned to good standing and are now held by ED, the COVID-19 monthly payment suspension that applied to ED-held loans now applied to these loans; thus, such borrowers were not required to make monthly payments on their loans. ED, "Department of Education Announces Expansion of COVID-19 Emergency Flexibilities to Additional Federal Student Loans in Default," press release, March 30, 2021, https://www.ed.gov/news/press-releases/department-education-announces-expansion-covid-19-emergency-flexibilities-additional-federal-student-loans-default.

[42] An *administrative forbearance* is a type of forbearance that ED grants without required documentation from a borrower. Among other qualifying circumstances, ED may grant an administrative forbearance due to a local or national emergency. 34 C.F.R. §§674.33(d)(5)(iii), 682.211(i)(2)(i), 685.205(b)(8).

[43] On March 20, 2020, ED invoked the HEROES Act and directed all federal student loan servicers to grant a 60-day administrative forbearance (beginning March 13, 2020) to any borrower of an ED-held student loan who requested one. In addition, ED authorized loan servicers to automatically place into a 60-day administrative forbearance any borrower of an ED-held loan who is more than 31 days delinquent on their loans as of March 13, 2020, or who becomes 31 days delinquent thereafter. (ED, "Delivering on President Trump's Promise, Secretary DeVos Suspends Federal Student Loan Payments, Waives Interest During National Emergency," press release, March 20, 2020; and ED, *Waivers and Flexibilities*, p. 79857). Subsequently, the CARES Act was enacted, which required that ED automatically suspend all payments on Direct Loans and ED-held FFEL program loans through September 30, 2020. While the CARES Act did not provide for a suspension of payments on ED-held Perkins Loan program loans, ED applied a similar suspension to such loans. (ED, *Waivers and Flexibilities*, p. 79857) Subsequently, invoking the HEROES Act, ED extended the payment pause on numerous occasions. (ED, *Waivers and Flexibilities*, p. 79857 and ED, *Waivers and Flexibilities Update*, pp. 61513-61514.) The Fiscal Responsibility Act of 2023 terminated the suspension of payments, effective "sixty days after June 30, 2023" and prohibited ED from using "any authority to implement an extension of [the interest accrual and payment suspension]." Though 60 days after June 30, 2023, was August 29, 2023, the suspension of payments did not end until September 1, 2023. Loan servicers then began sending bills to borrowers at least 21 days before the bills' due dates. Most borrowers first payments following the end of the payment suspension were to be due in October 2023. For a timeline of the history of these actions, see CRS In Focus IF12136, *Student Loans: A Timeline of Actions Taken in Light of the COVID-19 Pandemic*.

In implementing these provisions, ED permitted borrowers to opt out of the payment pause by contacting their loan servicer. In addition, until August 28, 2023, borrowers could contact their loan servicers to request a refund of any payments made on their account during the suspension period.[44]

ED also authorized FFEL program lenders and institutions that held Perkins Loans to provide "the same ... cessation of payments" benefit to borrowers on a voluntary basis.[45] Borrowers who were ineligible for this benefit because their FFEL program lender or Perkins Loan program IHE did not provide it could take advantage of the benefit by consolidating such loans into a Direct Consolidation Loan. ED waived the three-year (36 month) cumulative forbearance limit for Perkins Loan borrowers, regardless of whether the loans were held by ED or an IHE.[46]

Throughout most of the suspension period, periods of deferment and forbearance did not count toward the 120 monthly payments required to qualify for Public Service Loan Forgiveness (PSLF)[47] and were not included in a borrower's repayment period (e.g., periods of unemployment deferment do not count toward the maximum repayment periods to qualify for loan forgiveness under the income-driven repayment[48] [IDR] plans).[49] However, for Direct Loan borrowers (the only borrowers eligible for PSLF), suspended payments that would have been made during the

[44] ED, Office of Federal Study Aid, "COVID-19 Loan Payment Pause and 0% Interest," https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest,accessed April 13, 2023 (site modified); and ED, Office of Federal Student Aid, "Can I still request a refund for payments I made during the COVID-19 forbearance payment pause period?", https://studentaid.gov/help-center/answers/article/still-request-refund-for-payments-made-during-forbearance-payment-pause (accessed August 28, 2024). It appears that borrowers of non-ED-held FFEL program loans who made voluntary payments during the payment pause period, subsequently defaulted on their loans during the payment pause period, and had their loans returned to good standing by ED would qualify for a refund of their voluntary payments, even though at the time the payment(s) was made, their loans did not qualify for the COVID-19 payment suspension.

[45] ED, *Waivers and Flexibilities*, p. 79862, and ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19. Some commercial FFEL program loan holders have voluntarily provided borrowers with additional forbearance options in response to the COVID-19 pandemic. See, for example, Marie Albiges, "Virginia offers temporary relief on some private loans during coronavirus," *The Virginian-Pilot*, April 30, 2020. Some IHEs suspended payments on their Perkins Loans in response to COVID-19. See, for example, Danielle Douglas-Gabriel, "University of California offers Perkins Loan borrowers relief. Will other colleges follow?", *The Washington Post*, April 20, 2020.

[46] ED, Office of Postsecondary Education, Electronic Announcement CB-22-03, "Waiver of the Three-year Cumulative Limit on Forbearances for Federal Perkins Loan borrowers," January 22, 2022, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-01-13/waiver-three-year-cumulative-limit-forbearances-federal-perkins-loan-borrowers.

[47] Similarly, periods of deferment and forbearance did not count toward the 120 monthly payments required to qualify for Temporary Expanded PSLF (TEPSLF).

[48] Under the five IDR plans, borrowers make monthly loan payments in amounts that are capped at a specified share (e.g., 10%, 15%) of their discretionary income over a repayment period that may not exceed a specified duration (e.g., 20 or 25 years). If after making payments according to one or more of the IDR plans for the duration of the maximum repayment period a borrower has not fully repaid their student loan debt, their remaining student loan balance is forgiven. For additional information on the IDR plans, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*.

[49] These limitations were amended on July 1, 2023, and July 1, 2024, respectively. Thus, some periods of deferment and forbearance may now count toward PSLF payment requirements and IDR forgiveness requirements. ED, "Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; Federal Perkins Loan Program; Federal Family Education Loan Program; and William D. Ford Federal Direct Loan Program," 87 *Federal Register* 66065, November 1, 2022 (hereinafter, "ED, *Final Rule*, November 1, 2022") and ED, "Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program," 88 *Federal Register* 43820, July 10, 2023.

payment pause counted toward the 120 monthly payments required to qualify for PSLF if the borrower worked full-time in qualifying employment during that time.[50]

For borrowers whose loans qualified for the payment pause, the suspended payments counted toward the repayment periods under the IDR plans. Suspended payments also counted toward the nine voluntary payments within 10 consecutive months required for individuals to rehabilitate[51] their defaulted loans, but only if those suspended payments occurred after a borrower entered into a rehabilitation agreement with ED.[52] ED stated that for defaulted GA-held FFEL program loan borrowers who entered into a rehabilitation agreement, "months following entry into the agreement in which payments are not required, made, or made and then refunded per a borrower request will be automatically counted as a payment toward the required nine payments within 10 months."[53] It is unclear whether paused payments on non-ED-held FFEL program loans whose lender has authorized a special administrative forbearance counted toward the IDR plan repayment periods. Perkins Loans, regardless of whether they are held by ED or an IHE, are ineligible for IDR plans; thus, this measure did not apply to Perkins Loans.

ED authorized (but did not require) institutions that held Perkins Loans to grant a forbearance to borrowers who were in repayment and unable to make payments due to COVID-19. Under this forbearance, interest continued to accrue. The initial forbearance period could not exceed three months, but it could be extended upon a borrower providing supporting documentation. Borrowers were required to request the forbearance from the IHE. This period of forbearance was excluded from the three-year cumulative forbearance limit for Perkins Loan borrowers.[54] These

[50] Similarly, paused payments that would have been made during the special administrative forbearance counted toward the 120 monthly payments required to qualify for TEPSLF. ED, *Waivers and Flexibilities*, p. 79863; ED, *Waivers and Flexibilities Update*, p. 61513; ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19; and ED, Office of Federal Study Aid, "COVID-19 Emergency Relief and Federal Student Aid," https://studentaid.gov/announcements-events/covid-19#public-service-loan-forgiveness-pslf (accessed August 30, 2023).

[51] Loan rehabilitation is the process by which a borrower may bring a loan out of default by adhering to specified repayment requirements. 34 C.F.R. §§674.39, 682.405, 685.211(f).

[52] If a borrower was not in a rehabilitation agreement prior to the start of the paused payments, they could enter into one and any suspended payments following entry into the rehabilitation agreement counted toward rehabilitation. ED, Office of Federal Student Aid, "COVID-19 Relief: Loans in Default," https://studentaid.gov/announcements-events/covid-19/default, accessed April 14, 2023 (site modified).

[53] ED, Office of Postsecondary Education, Dear Colleague Letter GEN-21-03, "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021)," May 12, 2021, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021. See the "Collection on Defaulted Loans" section for additional information on refunds of payments made on defaulted GA-held FFEL Program loans.

[54] ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19; and ED, Office of Postsecondary Education, Electronic Announcement CB-22-03, "Waiver of the Three-year Cumulative Limit on Forbearances for Federal Perkins Loan Borrowers," January 13, 2022, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-01-13/waiver-three-year-cumulative-limit-forbearances-federal-perkins-loan-borrowers.

flexibilities were available through the end of the IHE's payment period[55] "that include[d] the end date for the Federally-declared emergency related to COVID-19."[56]

Income-Driven Repayment Plan Account Adjustment

Under the various IDR plans, borrowers may have any remaining outstanding balance of their FFEL program[57] and Direct Loan program loans forgiven after making the equivalent of 240 or 300 monthly payments (20 or 25 years' worth of payments, depending on the plan) according to one of more of the IDR plans or certain other qualifying plans.[58] Typically, periods of deferment or forbearance do not count toward the 20- or 25-year repayment periods under the IDR plans; although, periods of economic hardship deferment and the above-described COVID-19 related payment pause do count toward the 20- or 25-year repayment period.[59] Prior to July 1, 2024, payments made on any loans prior to their consolidation into a Consolidation Loan did not count toward the 20- or 25-year repayment period.[60]

On April 19, 2022, ED announced a one-time adjustment to borrower loan accounts to revise the number of IDR-qualifying payments.[61] Through the account adjustment, borrowers received IDR payment credit for the following[62]:

[55] A payment period is the period for which a Title IV student aid disbursement must be made. Payment periods differ by IHE and may also differ by educational programs within IHEs, based on a variety of criteria including whether an educational program is measured in clock- or credit-hours and the type of term (e.g., semester, trimester, quarter) the educational program uses. For additional information, see 34 C.F.R. Section 668.4.

[56] ED, Office of Postsecondary Education, Electronic Announcement, "Updated deadlines for flexibilities related to Coronavirus (COVID-19)," August 21, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-08-21/updated-deadlines-flexibilities-related-coronavirus-covid-19. See also, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19, and ED, Office of Postsecondary Education, Electronic Announcement CB-22-03, "Waiver of the Three-year Cumulative Limit on Forbearances for Federal Perkins Loan Borrowers," January 13, 2022, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-01-13/waiver-three-year-cumulative-limit-forbearances-federal-perkins-loan-borrowers.

[57] Only the Income-Based Repayment plans are available to FFEL program borrowers.

[58] The Saving on a Valuable Education (SAVE) repayment plan would provide loan forgiveness benefits to qualifying borrowers as early as borrowers having made the equivalent of 120 monthly payments (10 years). (34 C.F.R. §685.209(k)(3)). The shortened timeline was slated to be effective July 1, 2024; however, ED is enjoined from implementing SAVE repayment plan provisions while litigation challenging the suit continues. Missouri v. Biden, No. 24-2332, 2024 WL 3738157, *4 (8th Cir. Aug. 9, 2024) (per curium). Should the SAVE repayment plan be implemented at a later date, it seems that months of the payment pause would count toward the SAVE repayment plan repayment period.

[59] See, for example, 34 C.F.R. §§685.209(b)(3)(iii)(B)(9) and 685.221(f)(1)(vii).

[60] The same final rule that authorized the SAVE repayment plan also made a number of changes to existing IDR plans, including counting certain payments on loans prior to consolidation toward the IDR plan's repayment period. This provision's slated effective date was July 1, 2024. (ED, "Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program," 88 *Federal Register* 43820, 43903 July 10, 2023.) Based on the terms of the injunction (see footnote 60), it is unclear whether the injunction prohibiting ED from implementing the SAVE repayment plan extends to this provision as well.

[61] ED stated that account adjustment was to "address historical failures in the administration of the federal student loan program and support student loan borrowers through the pandemic." ED, "Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs," press release, April 19, 2022, https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs.

[62] ED, Office of Federal Student Aid, "Income-Driven Repayment Account Adjustment," https://studentaid.gov/announcements-events/idr-account-adjustment (hereinafter, "ED, *IDR Account Adjustment*") (accessed August 22, 2024).

- any months in which a borrower's loan was in repayment status, "regardless of the payments made,[63] loan type,[64] or repayment plan";
- 12 months or more of consecutive forbearance;
- 36 or more months of cumulative forbearance, with any combination of forbearance periods counting toward the cumulative amount[65];
- months spent in economic hardship deferment on or after January 1, 2013;
- months spent in "military deferments" after January 1, 2013;
- months spent in any type of deferment, excluding in-school deferment, prior to 2013; and
- months in repayment on loans prior to their consolidation into a Consolidation Loan.

ED automatically implemented the account adjustments (i.e., borrowers were not required to apply) for Direct Loan program loans and ED-held FFEL program loans. Borrowers[66] with non-ED-held FFEL program loans could apply to consolidate their loans into the Direct Loan by June 30, 2024, to take advantage of the account adjustment.[67]

In addition, ED was to automatically forgive the loans of borrowers who accumulated at least 20 or 25 years in repayment, even if they were not enrolled in an IDR plan. To receive forgiveness, a borrower was required to meet one of the following requirements, all of which included the terms of the above-described account adjustment:[68]

- Borrowers who were enrolled in the Pay As You Earn (PAYE) repayment plan—a type of IDR plan—must have been in repayment for 20 years (240 months).

[63] ED indicated this included periods during which a loan was in repayment status, as indicated in the National Student Loan Data System, and included periods when a payment was due and not made, up through 270 days of delinquency, or the point in time when a default claim is paid on an FFEL program loan by a guaranty agency. Repayment status excluded grace periods and periods of deferment, forbearance, or default. CRS email communication with ED, September 22, 2022.

[64] ED indicated that borrowers who consolidated into the Direct Loan program would have all time in repayment on their underlying Direct Loan program, FFEL program, and Perkins Loan program loans counted as time in repayment on their new Direct Consolidation Loan for purposes of the IDR account adjustment. ED stated time in repayment on Health Education Assistance Loan (HEAL) program loans and other student loans made under the Public Health Service Act prior to consolidation would not be counted as time in repayment on the new Direct Consolidation Loan for purposes of the IDR account adjustment. CRS email communication with ED, September 22, 2022, and October 5, 2022.

[65] Borrowers were to receive credit for months in deferment or forbearance that occurred after July 1, 1994; however, months in deferment or forbearance that occurred prior to July 1, 1994, were to be used to determine whether a borrower met the 12-month or 36-month forbearance threshold. ED, *IDR Account Adjustment* (accessed August 22, 2024).

[66] ED indicated that borrowers who exited default prior to the end of the Fresh Start period (see the "The Fresh Start Initiative" section) were to receive the "the full benefit of the account adjustment and receive credit for periods in default from March 2020 through the month they exit default." After the Fresh Start period, only borrowers who rehabilitated their loan out of default would benefit from the IDR account adjustment, but they would not receive credit for periods in default during the payment pause. ED, *IDR Account Adjustment*, (accessed August 22, 2024).

[67] ED, *IDR Account Adjustment* (accessed August 30, 2024); and ED, "Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs," press release, April 19, 2022, https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs.

[68] CRS email communication with ED, September 22, 2022.

- Borrowers with only undergraduate student loan debt and who were not enrolled in the PAYE repayment plan must have been in repayment for 20 years (240 months).
- Borrowers with both undergraduate and graduate student loan debt, or graduate student loan debt only, and who were not enrolled in the PAYE repayment plan must have been in repayment for 25 years (300 months).
- Parent PLUS Loans and Consolidation Loans used to repay Parent PLUS Loans must have been in repayment for 25 years (300 months).[69]

Borrowers whose monthly payments exceeded 20 or 25 years following the account adjustment, were to receive a refund for those monthly payments in excess of 20 or 25 years.[70]

For borrowers with Direct Consolidation Loans or ED-held FFEL Consolidation Loans, (regardless of whether the loan repaid Direct Loan program, FFEL program, Perkins Loan program, or other older HEA program loans), and assuming the repayment histories of the loans underlying the qualifying Consolidation Loan overlapped, ED was to credit the entire Consolidation Loan with the largest number of months in repayment of the loans that were consolidated.[71] For example, if a borrower had 50 months in repayment on one federal student loan and 100 months in repayment on a second federal student loan and consolidated those two loans into a Direct Consolidation Loan, the borrower would receive credit for 100 months of IDR payment credit on the new Direct Consolidation Loan.[72]

For borrowers with qualifying Consolidation Loans for which the underlying loans did not have overlapping repayment histories, the Consolidation Loan could be credited with more months in repayment than the underlying loan with the longest repayment history. The precise circumstances under which a borrower could be credited with more months in repayment than their underlying loan with the longest repayment history are unclear. ED's website gave the following example of how this might occur for a borrower with a loan with 50 months of repayment and another loan with 100 months of repayment:

> if the loan with 50 months of time in repayment included January 2017 in repayment status but the loan with 100 months did not, the resulting consolidation loan might be credited with 101 months of payments. This can occur where borrowers relied on different repayment, forbearance, or deferment options on different loans for the same period.[73]

Income-Driven Repayment Plan Recertification

Borrowers enrolled in an IDR plan must annually provide documentation of their income and family size to remain eligible for IDR repayment (referred to as recertification).[74] Typically, an

[69] CRS email communication with ED, October 5, 2022.

[70] ED, *IDR Account Adjustment* (accessed April 14, 2023).

[71] According to ED, borrowers of HEAL program loans (previously made under the Public Health Service Act) could receive credit toward IDR forgiveness, but only if they first consolidated those loans with Direct Loan program, FFEL program, or Perkins Loan program loans. Such borrowers were to only receive credits on the HEAL program loan for repayment periods associated with payment periods of their HEA loans. For example, if a borrower had 100 months of payment on their HEAL program loan and 60 months of payment on a Direct Loan program Unsubsidized Loan and then consolidated those two loans into a Direct Consolidation Loan, they would receive credit for 60 months of IDR payment credit on their Direct Consolidation Loan. ED, *IDR Account Adjustment* (accessed August 22, 2024).

[72] ED, *IDR Account Adjustment* (accessed April 14, 2023).

[73] ED, *IDR Account Adjustment* (accessed August 22, 2024).

[74] If a borrower fails to recertify their income under an IDR plan, the consequences vary depending on the plan. In (continued...)

individual certifies their income by providing documentation of their taxable income, which may include providing ED with a paystub or federal income tax return information data from the Internal Revenue Service; borrowers self-certify their family size. ED waived the requirement that a borrower annually recertify their income and family size and stated that the earliest a borrower could be required to do so is September 2024, and the deadline for recertifying the information is November 1, 2024.[75] Borrowers could voluntarily recertify their income during the payment pause. Finally, ED permitted borrowers to self-report their income, without providing tax documentation, when applying for or recertifying their IDR plan until six months after the end of the payment pause period.[76]

Loan Default and Collections

Defaulting on a federal student loan can result in a number of adverse consequences for a borrower. Upon default, the borrower's obligation to repay the loan is accelerated (i.e., the entire unpaid balance of principal and interest becomes due in full).[77] In addition, the borrower loses eligibility for certain borrower benefits (e.g., deferment, loan forgiveness), as well as eligibility to receive additional Title IV federal student aid. A defaulted borrower's student loan account may be transferred to ED's Default Resolution Group (DRG)[78] in the case of ED-held loans, or a GA in the case of non-ED-held FFEL program loans, that will contact the borrower and offer them options for voluntary debt resolution, such as loan rehabilitation, consolidation out of default, or entry into a voluntary repayment agreement. If such voluntary debt resolution attempts do not succeed, involuntary collections practices may be utilized, which include administrative wage garnishment; offset of federal income tax returns, Social Security benefits, and certain other federal benefits; and civil litigation.[79]

general, a borrower's monthly repayment will be recalculated in a manner that is not based on their income. Under some of the IDR plans, a borrower's failure to recertify income annually will also result in any unpaid interest being capitalized. Under all of the IDR plans, if a borrower fails to recertify their family size, they will remain in their chosen IDR plan, but a family size of one will be assumed for them. If a borrower's actual family size is larger than one, but a loan servicer assumed a family size of one due to the borrower's failure to recertify, their monthly payments may increase under some IDR plans or they may lose eligibility to make payments based on income. ED, Office of Federal Student Aid, "What will happen if I don't recertify my income and family size by the annual deadline?", https://studentaid.gov/manage-loans/repayment/plans/income-driven#fail-to-recertify (accessed August 28, 2024).

[75] ED, Office of Federal Student Aid, "COVID-19 Relief: Income-Driven Repayment (IDR) Plans," https://studentaid.gov/announcements-events/covid-19/income-driven-repayment#when-to-recertify (accessed August 22, 2024).

[76] ED, Office of Federal Student Aid, "COVID-19 Relief: Income-Driven Repayment (IDR) Plans," https://studentaid.gov/announcements-events/covid-19/income-driven-repayment#when-to-recertify, accessed April 14, 2023 (site modified).

[77] 34 C.F.R. §§674.31(b)(8), 682.411(f), 685.211(d)(1).

[78] Previously, ED contracted with several private collection agencies (PCAs) to perform loan collections activities when a borrower defaulted on their ED-held loan. On November 8, 2021, ED announced it had cancelled its contracts with the PCAs and recalled all borrower accounts. ED's Default Resolution Group is now responsible for assisting borrowers of defaulted ED-held loans. ED, Office of Federal Student Aid, "COVID-19 Emergency Relief and Federal Student Aid," https://studentaid.gov/announcements-events/covid-19#defaulted-loans (accessed August 28, 2024).

[79] For additional information, see 34 C.F.R. Parts 30, 31, 34; and CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*.

Collections of Defaulted Loans

Beginning March 13, 2020,[80] ED halted involuntary collections practices, which include administrative wage garnishment; offset of federal income tax returns, Social Security benefits, and certain other federal benefits; and civil litigation. In addition, DRG and GAs halted proactive collections activities (i.e., did not make collection calls and send letters or billing statements to defaulted borrowers) for all ED-held student loans (i.e., all Direct Loan program loans, and FFEL and Perkins Loan program loans held by ED) and defaulted GA-held FFEL program loans,[81] respectively.[82] However, borrowers could contact the DRG and GAs to continue repayment arrangements they had made prior to implementation of this policy, to enter into a loan rehabilitation arrangement or to consolidate their loans out of default.[83] Although ED had previously specified that the cessation of involuntary collections was effective through September 30, 2024, reports indicate that ED subsequently stated "involuntary collections will not occur before 2025."[84]

Borrowers of ED-held loans and defaulted GA-held loans whose federal tax refund or Social Security benefits were withheld on or after March 13, 2020, or whose wages were garnished on or after March 13, 2020, could have any offset portion returned to them.[85] Borrowers of defaulted

[80] ED, Office of Federal Student Aid, "COVID-19 Emergency Relief and Federal Student Aid," https://studentaid.gov/announcements-events/covid-19#defaulted-loans (accessed August 28, 2024) and Adam Minsky, "Key Student Loan Relief Deadline for Fresh Start Initiative Extended by Biden Administration," *Forbes*, September 30, 2024, https://www.forbes.com/sites/adamminsky/2024/09/30/key-student-loan-relief-deadline-for-fresh-start-extended-by-biden-administration/.

[81] The policy to pause collections activities on defaulted GA-held FFEL program loans was put into place via administrative action on March 30, 2021. In doing so, ED announced that the policy would apply retroactively to March 13, 2020. ED, "Department of Education Announces Expansion of COVID-19 Emergency Flexibilities to Additional Federal Student Loans in Default," press release, March 30, 2021, https://www.ed.gov/news/press-releases/department-education-announces-expansion-covid-19-emergency-flexibilities-additional-federal-student-loans-default; and ED, Office of Postsecondary Education, Dear Colleague Letter GEN-21-03, "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021)," May 12, 2021, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021.

[82] The policy to halt debt collection practices for ED-held loans was originally put into place via administrative action by ED on March 25, 2020. (ED, "Secretary DeVos Directs FSA to Stop Wage Garnishment, Collections Actions for Student Loan Borrowers, Will Refund More Than $1.8 Billion to Students, Families," press release, March 25, 2020.) It is unclear under what authority ED initially effectuated this policy. Subsequently, the CARES Act was enacted, which required that ED automatically suspend debt collection practices on Direct Loans and ED-held FFEL program loans through September 30, 2020. While the CARES Act did not provide for a cessation of debt collection on ED-held Perkins Loan program loans, ED has applied a similar suspension to such loans. (ED, *Waivers and Flexibilities*, p. 79857.) Subsequently, invoking the HEROES Act, ED extended the policy on numerous occasions. ED, *Waivers and Flexibilities*, p. 79857 and ED, *Waivers and Flexibilities Update*, pp. 61513-61514. For a timeline of the history of these actions, see CRS In Focus IF12136, *Student Loans: A Timeline of Actions Taken in Light of the COVID-19 Pandemic*.

[83] ED, Office of Federal Student Aid, "COVID-19 Relief: Loans in Default," https://studentaid.gov/announcements-events/covid-19/default (accessed April 14, 2023).

[84] ED, Office of Federal Student Aid, "COVID-19 Emergency Relief and Federal Student Aid," https://studentaid.gov/announcements-events/covid-19 (accessed October 3, 2024); and Michael Stratford, "Biden administration pushes collections of defaulted student loans to after election," *Politico*, October 10, 2024.

[85] CRS email communication with ED, August 29, 2024. See also ED, Office of Federal Student Aid, "Get Out of Default with a Fresh Start," https://studentaid.gov/announcements-events/default-fresh-start (accessed August 28, 2024).

GA-held FFEL program loans who made voluntary payments on or after March 13, 2020, could request a refund for those payments.[86]

In addition, ED authorized institutions to stop collections activities on defaulted Perkins Loans that they held upon notification from a borrower, a member of the borrower's family, or another reliable source that the borrower was affected by COVID-19.[87] This flexibility was available through the end of an IHE's payment period that included December 31, 2020, or the end of the IHE's payment period "that include[d] the end date for the Federally-declared emergency related to COVID-19," whichever was later.[88]

Satisfactory Repayment Arrangements, Loan Rehabilitation, and Consolidation Out of Default

To regain Title IV student aid eligibility, a defaulted federal student loan borrower must make six on-time, voluntary monthly payments on a defaulted loan.[89] In addition, loan rehabilitation offers defaulted borrowers an opportunity to have their loan(s) reinstated as active and to have other borrower benefits and privileges restored. To rehabilitate a loan, Direct Loan, FFEL, or Perkins Loan program, borrowers must make nine on-time payments according to generally applicable procedures.[90] Alternatively, a borrower may use the proceeds of a new Direct Consolidation Loan to pay off one or more defaulted Direct Loan, FFEL, and Perkins Loan program loans. To become eligible to do so, a borrower must make three consecutive, on-time, full monthly payments on a defaulted loan.[91]

ED stated that if a borrower of a defaulted Direct Loan, FFEL, or Perkins Loan program loan failed to make any of the consecutive monthly payments required to reestablish eligibility for Title IV federal student aid, to rehabilitate such defaulted loans, or to consolidate such defaulted loans out of default, the borrower would not be considered to have missed any of those payments. This was a temporary flexibility that was available in response to the COVID-19 pandemic; however, ED guidance was inconsistent as to the duration of this policy.[92]

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[86] ED, Office of Postsecondary Education, Dear Colleague Letter GEN-21-03, "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021), May 12, 2021, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021.

[87] ED, Office of Postsecondary Education, Electronic Announcement, "UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)," April 3, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-04-03/updated-guidance-interruptions-study-related-coronavirus-covid-19.

[88] ED, Office of Postsecondary Education, Electronic Announcement, "Updated deadlines for flexibilities related to Coronavirus (COVID-19)," August 21, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-08-21/updated-deadlines-flexibilities-related-coronavirus-covid-19.

[89] 34 C.F.R. §§674.9(k), 682.200(b), 685.102(b).

[90] 34. C.F.R. §§674.39, 682.405, 685.211(f).

[91] 34 C.F.R. §685.102(b).

[92] Some guidance stated that this policy was effective through the end of an IHE's payment period that included December 31, 2020, or the end of the IHE's payment period "that include[d] the end date for the Federally-declared emergency related to COVID-19." ED, Office of Postsecondary Education, Electronic Announcement, "Updated deadlines for flexibilities related to Coronavirus (COVID-19)," August 21, 2020, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-08-21/updated-deadlines-flexibilities-related-coronavirus-covid-19. Other guidance stated this policy (at least for Perkins Loans) "remains in effect," but does not specify an end date. ED, *Waivers and Flexibilities*, p. 79862 and ED, *Waivers and Flexibilities Update*, p. 61513.

The Fresh Start Initiative

On April 6, 2022, ED announced a new policy to "eliminate the negative effects of default for borrowers who defaulted on their federal student loans prior to the pandemic payment pause."[93] Under this Fresh Start initiative, qualifying borrowers of defaulted Direct Loan and FFEL program loans, as well as borrowers of ED-held defaulted Perkins Loans, had several Title IV student aid benefits temporarily restored that are otherwise unavailable when a borrower is in default on their loan.[94] Such borrowers also had the opportunity to get out of default and retain those benefits in the long term.[95] Many of the benefits available to borrowers under the initiative were to be available through October 1, 2024 (often referred to as the *Fresh Start period*).[96]

Specifically, ED automatically provided the following benefits to defaulted borrowers.

- ED restored borrowers' eligibility for Title IV federal student aid.
- ED reported defaulted loans as "current" rather than "in collections" to consumer reporting agencies.
- ED stopped reporting borrowers' default status to the Credit Alert Verification Reporting System (CAIVRS)—a database of individuals who have defaulted on federal debts and used to prescreen and verify applicant eligibility for various federal direct and guaranteed loans.[97]

Qualifying defaulted borrowers who accepted Title IV student aid under the Fresh Start initiative or who asked to have their loans placed in repayment status were permitted to keep the above-listed benefits. In addition, other benefits not available to defaulted loan borrowers, such as eligibility for IDR plans or loan forgiveness programs, were restored to borrowers.[98] These borrowers' loans were transferred from ED's DRG to a loan servicer, their defaulted loans were returned to in repayment status, and ED asked consumer reporting agencies to remove the record of default from the borrower's credit report.[99] Qualifying defaulted borrowers who did not take either action during the Fresh Start period were to be subject to collections once more after the end of the Fresh Start period and were to have their loans reported as in collections to consumer reporting agencies.[100]

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[93] ED, Office of Postsecondary Education, Dear Colleague Letter GEN-22-13, "Federal Student Aid Eligibility for Borrowers with Defaulted Loans," August 17, 2022, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-08-17/federal-student-aid-eligibility-borrowers-defaulted-loans (hereinafter, "ED, GEN-22-13").

[94] Borrowers with non-ED-held FFEL program loans that defaulted during the student loan payment pause are ineligible for the Fresh Start initiative, as their loans were restored to active repayment status as a result of the expansion of COVID-19 student loan relief to defaulted FFEL borrowers announced March 30, 2021.

[95] ED, Office of Federal Student Aid, "A Fresh Start for Federal Student Loan Borrowers in Default," https://studentaid.gov/announcements-events/default-fresh-start (accessed August 22, 2024). For additional information, see ED, GEN-22-13.

[96] Adam Minsky, "Key Student Loan Relief Deadline for Fresh Start Initiative Extended by Biden Administration," *Forbes*, September 30, 2024, https://www.forbes.com/sites/adamminsky/2024/09/30/key-student-loan-relief-deadline-for-fresh-start-extended-by-biden-administration/.

[97] For additional information, see Department of Housing and Urban Development, "CAIVRS-Credit Alert Verification Reporting System," https://www.hud.gov/program_offices/housing/sfh/caivrs (accessed August 28, 2024).

[98] ED is to also take a number of additional steps related to reporting a borrower's loan status to consumer reporting agencies. For additional information on the Fresh Start initiative, see ED, "A Fresh Start for Borrowers with Student Loans in Default," fact sheet, updated July 11, 2024, https://fsapartners.ed.gov/sites/default/files/2022-08/FreshStartFactSheet.pdf (hereinafter, "Fresh Start fact sheet").

[99] Fresh Start fact sheet.

[100] Fresh Start fact sheet. Although ED had previously specified that the cessation of involuntary collections was (continued...)

While typically a defaulted loan may only be rehabilitated once, ED stated that borrowers who could not take advantage of Fresh Start but who instead chose to rehabilitate their defaulted loans during the Fresh Start period would not have that rehabilitation count as their one opportunity to rehabilitate their loan.[101] Therefore, if the borrower defaults on the same loan again at a later time, they may be able to rehabilitate the loan.

Reporting to Consumer Reporting Agencies

Information about a borrower's federal student loans is reported to nationwide consumer reporting agencies on a regular basis. Information reported includes items such as loan amount and repayment status (e.g., whether a borrower is current on making payments).[102]

ED stated it would ensure that any payment that was been suspended under the payment pause described above would be reported to a consumer reporting agency as if it were a regularly scheduled payment made by the borrower.[103] In addition, GAs that held defaulted FFEL program loans for which a default claim was paid on or after March 13, 2020, and prior to the end of the payment pause period for ED-held loans were to request that consumer reporting agencies delete the record of default for such loans from the borrower's credit report.[104]

Loan Cancellation, Forgiveness, and Discharge

The Title IV federal student loan programs offer borrowers the opportunity to have their obligation to repay their loans discharged in a variety of circumstances. In response to the COVID-19 pandemic, a variety of flexibilities related to these preexisting opportunities were made available. These included waivers of certain Public Service Loan Forgiveness and Teacher Loan Forgiveness program requirements and flexibilities with respect to Borrower Defense to Repayment and Total and Permanent Disability Discharge. In addition, in August 2022, invoking the HEROES Act of 2003, ED announced a newly established student loan cancellation policy (referred to by ED as "one-time student loan debt relief") that would have been available to the majority of Title IV student loan borrowers. However, the policy was not implemented, as the Supreme Court ruled that the policy exceeded ED's authority under the HEROES Act.[105]

effective through September 30, 2024, including for borrowing eligible for the Fresh Start Initiative, reports indicate that ED subsequently stated "involuntary collections will not occur before 2025." ED, Office of Federal Student Aid, "COVID-19 Emergency Relief and Federal Student Aid," https://studentaid.gov/announcements-events/covid-19, accessed October 3, 2024 and Michael Stratford, "Biden administration pushes collections of defaulted student loans to after election," *Politico*, October 10, 2024.

[101] Fresh Start fact sheet.

[102] See, for example, ED, "Master Promissory Note: Direct Subsidized Loans and Direct Unsubsidized Loans, William D. Ford Federal Direct Loan Program," OMB No. 1845-0007, https://fsapartners.ed.gov/sites/default/files/attachments/2020-04/SubUnsubMPN.pdf.

[103] ED, "Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, William D. Ford Federal Direct Loan Program, and Federal-Work Study Programs," 86 *Federal Register* 5008, January 19, 2021 and ED, *Waivers and Flexibilities Update*, p. 61513.

[104] ED, Office of Postsecondary Education, Dear Colleague Letter GEN-21-03, "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021)," May 12, 2021, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021.

[105] Biden v. Nebraska, S. Ct. 233, 2376 (2023).

One-Time Student Loan Debt Relief

On August 24, 2022, ED invoked the HEROES Act and announced a new student loan cancellation policy that would have made available to millions of federal student loan borrowers up to $20,000 of loan cancellation benefits per borrower.[106] Specifically, the Biden Administration planned to cancel the following:[107]

- up to $10,000 in student loans for borrowers whose annual income in 2020 or 2021 was less than $125,000 (for individuals or married borrowers who file their federal income taxes separately), or $250,000 (for married couples filing jointly, heads of households, or qualifying widow[er]s); borrowers enrolled in postsecondary education as dependent students between July 1, 2021, and June 30, 2022, would have been eligible for cancellation based on parental income; and
- an additional $10,000, for a total of up to $20,000, in student loans for borrowers who met the above criteria and received at least one Pell Grant in any amount at any point.

Borrowers' cancellation benefits would have been capped at the amount of their outstanding debt. For example, if a borrower were eligible for $20,000 in loan cancellation benefits but had an outstanding balance of $15,000 in qualifying student loans, the individual would have only received $15,000 in loan cancellation benefits.

These benefits would have been available for ED-held loans (including FFEL and Perkins Loan program loans) and defaulted FFEL program loans that were held by a GA. Except for Consolidation Loans, the policy would have required that loans had been disbursed on or before June 30, 2022, to qualify. For Consolidation Loans, only the underlying loans that were repaid by the Consolidation Loan would have had to be disbursed on or before June 30, 2022. Additionally, Direct Consolidation Loans comprising any FFEL or Perkins Loan program loans not held by ED would have been eligible for debt relief, so long as the borrower applied for consolidation before September 29, 2022.[108]

Borrowers who (1) "successfully appl[ied] for and receive[d]" this loan cancellation benefit[109] and (2) who made voluntary payments on their qualifying loans during the COVID-19 payment pause that brought their outstanding loan balance below the maximum amount of debt relief for which they would have been eligible but who did not repay their loan in full would have automatically received a refund of those voluntary payments. Refund amounts would have been equal to the difference between the maximum amount of loan cancellation for which the borrower

[106] For additional information on the new student loan cancellation policy, see CRS Insight IN11997, *The Biden Administration's One-Time Student Loan Debt Relief Policy under the HEROES Act of 2003*. For information on the asserted HEROES Act authority, see CRS Legal Sidebar LSB10997, *Supreme Court Invalidates Student Loan Cancellation Policy Under the HEROES Act*.

[107] ED, Office of Federal Student Aid, "One-Time Student Loan Debt Relief," https://studentaid.gov/debt-relief-announcement/one-time-cancellation, accessed April 14, 2023, (site modified); and ED, Office of Federal Student Aid, "The Biden-Harris Administration's Student Debt Relief Plan Explained," https://studentaid.gov/debt-relief-announcement (accessed August 30, 2024).

[108] ED, Office of Federal Student Aid, "One-Time Student Loan Debt Relief," https://studentaid.gov/debt-relief-announcement/one-time-cancellation, accessed April 14, 2023 (site modified).

[109] Ibid.

would have been eligible and the borrower's outstanding loan balance at the time of cancellation.[110]

ED indicated that qualifying borrowers would have been able to receive the one-time student loan debt relief benefit in one of two ways. First, ED estimated that nearly 8 million borrowers would have been eligible to receive the benefit automatically, based on relevant income data then available to ED.[111] Such borrowers would not have been required to take any action and would have been informed by ED of the debt relief they would receive; however, borrowers would have been given the option to opt out of receiving the automatic debt relief. Borrowers for whom ED did not have relevant income data would have been required to apply to ED for debt relief benefits.

This policy was not implemented because on June 30, 2023, the Supreme Court ruled that the policy exceeded ED's authority under the HEROES Act.[112]

Public Service Loan Forgiveness

The PSLF program provides Direct Loan borrowers who, on or after October 1, 2007, are employed full-time in certain public service jobs for 10 years while concurrently making 120 qualifying monthly payments on their loans with the opportunity to have any remaining balance of the principal and interest on their Direct Loans forgiven.[113]

In October 2021, in response to the COVID-19 emergency, ED announced a series of limited-time waivers of numerous PSLF program rules[114] available to borrowers through October 31, 2022 (referred to by ED as the Limited PSLF Waiver). At the time of the announcement, PSLF program regulations specified that loan payments were considered PSLF-qualifying if they were separate monthly payments (i.e., not greater than the required monthly payment) that were on-time (within 15 days of the scheduled due date), in full, scheduled (i.e., made when required, not during periods of deferment or forbearance), and made under a qualifying repayment plan (in most cases, an IDR plan).[115] Payments made on any loans prior to consolidation did not count toward the required 120 payments. Periods of service performed to receive benefits under the Teacher Loan Forgiveness program could not be counted toward PSLF qualifying employment.[116] A borrower was required to be employed full-time in qualifying public service at the time they applied for and received forgiveness.

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[110] Ibid.

[111] ED, "Biden-Harris Administration Announces Final Student Loan Pause Extension Through December 31 and Targeted Debt Cancellation to Smooth Transition to Repayment," press release, August 24, 2022, https://www.ed.gov/news/press-releases/biden-harris-administration-announces-final-student-loan-pause-extension-through-december-31-and-targeted-debt-cancellation-smooth-transition-repayment.

[112] Biden v. Nebraska, S. Ct. 233, 2376 (2023).

[113] For additional information, see CRS Report R45389, *The Public Service Loan Forgiveness Program: Selected Issues*.

[114] These waivers also applied to TEPSLF. ED, Office of Federal Student Aid, "The Limited PSLF Waiver Opportunity Ended on Oct. 31, 2022," https://studentaid.gov/announcements-events/pslf-limited-waiver (accessed August 22, 2024) (hereinafter, "ED, *PSLF Waivers*").

[115] Effective July 1, 2023, ED implemented amended PSLF regulations that changed many requirements for a payment to be PSLF-qualifying. Many of those changes mirrored aspects of the Limited PSLF Waiver. See ED, "Institutional Eligibility Under the Higher Education At of 1965, as Amended; Student Assistance General Provisions; Federal Perkins Loan Program; Federal Family Education Loan Program; and William D. Ford Direct Loan Program," 87 *Federal Register* 65904, November 1, 2022.

[116] For additional information on the Teacher Loan Forgiveness program, see CRS Report R43571, *Federal Student Loan Forgiveness and Loan Repayment Programs*.

The waivers were intended to enable borrowers to receive credit for past periods of repayment that would not otherwise qualify for PSLF.[117] Through October 31, 2022, a borrower could receive PSLF payment credit for the following periods, so long as the borrower met the requisite public service employment requirements during those periods of repayment:[118]

- periods of repayment[119] on Direct Loan program, FFEL program, Perkins Loan program, and other older HEA authorized program loans (e.g., National Defense Student Loans)[120]; borrowers were required to submit an application to consolidate their loan(s) into a Direct Loan program loan by October 31, 2022, to receive payment credit;
- periods of repayment, even if payments were made according to a nonqualifying repayment plan, made late, or made for less than the amount due;
- periods of repayment on loans before consolidation, even if payments were made according to a nonqualifying repayment plan, made late, or made for less than the amount due;
- periods of deferment before 2013;
- periods of economic hardship deferment on or after January 1, 2013;
- periods of forbearance of 12 consecutive months or greater;
- periods of forbearance of 36 cumulative months or greater, with any combination of forbearance periods counting toward the cumulative amount;
- periods of military service deferment or active military state duty or military mobilization forbearance[121]; and
- periods of COVID-19 pandemic-related deferment or forbearance between March 20, 2020, and April 30, 2022, for borrowers with FFEL program loans held by private lenders and Perkins Loan program loans held by IHEs.[122]

In addition, through October 31, 2022, ED waived the requirement that a borrower be employed full-time in qualifying public service at the time of application for and forgiveness under PSLF. ED also waived the prohibition against periods of service performed to receive benefits under the

[117] ED, "U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness," press release, October 6, 2021, https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness.

[118] ED, *PSLF Waivers* (accessed August 22, 2024).

[119] ED indicated that a "period of repayment" was a calendar month during which a borrower is "in repayment" status (i.e., not in default, deferment, or forbearance) on their loan.

[120] According to ED, borrowers of Health Education Assistance Loans (HEAL; previously made under the Public Health Service Act) could also receive PSLF payment credit, but only if they first consolidated those loans with Direct Loan program, FFEL program, Perkins Loan program, or older HEA program loans. It appears that such borrowers could only receive payment credits on the HEAL program loan for repayment and employment periods associated with payment periods of their HEA loans. For example, if a borrower, while employed in a PSLF qualifying job, was in repayment status for 100 payment periods on their HEAL program loan and 60 payment periods on a Direct Loan program Unsubsidized Loan and then consolidated those two loans into a Direct Consolidation Loan before October 31, 2022, it appears that the borrower could receive credit for 60 payment periods on the new Direct Consolidation Loan. CRS email communication with ED, January 6, 2022.

[121] ED, "U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness," press release, October 6, 2021, https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness.

[122] CRS email communication with ED, January 7, 2022.

Teacher Loan Forgiveness program also counting toward periods of PSLF qualifying employment.[123]

For borrowers with Direct Consolidation Loans (regardless of whether the loan repaid Direct Loan program, FFEL program, Perkins Loan program, or other older HEA program loans), if the underlying loans had differing numbers of qualifying payments, ED was to credit the entire Direct Consolidation Loan with the largest number of qualifying payment periods of the loans that were consolidated. For example, if a borrower had 50 qualifying payment periods on one FFEL program Subsidized Stafford Loan and 100 qualifying payment periods on a second FFEL program Subsidized Stafford Loan and consolidated those two loans into a Direct Consolidation Loan, the borrower would receive credit for 100 PSLF qualifying payments on the new Direct Consolidation Loan.[124]

Relationship Between PSLF and IDR Account Adjustment

Although the Limited PSLF Waiver ended October 31, 2022, borrowers may receive some similar benefits under the IDR account adjustment (see the "Income-Driven Repayment Plan Account Adjustment" section). Specifically, periods for which borrowers receive payment credits under the IDR account adjustment between November 1, 2022, and the date the IDR account adjustment is made are to also count towards the 120 required PSLF payments, so long as the borrower meets the requisite public service employment requirements during those periods.

Borrowers with Direct Loan program loans and who had previously submitted a *Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application* (PSLF form)[125] were to automatically receive credit for prior repayment periods during which their employment was determined to be PSLF qualifying. Borrowers who had not previously submitted a PSLF form or who needed to submit additional PSLF forms to ED could receive credit for prior repayment periods if they took one of the following steps:

1. used the PSLF Help Tool[126] by October 31, 2022, to create a PSLF form that is eventually approved by ED (even if the form had not been signed by a borrower's qualifying employer and submitted to ED by that date);
2. used the PSLF Help Tool by October 31, 2022, but were unable to print the PSLF form for signature or submission because ED had not yet completed a review of their employer's eligibility, and the employer is later determined by ED to be eligible; or

[123] ED, *PSLF Waivers* (accessed August 22, 2024).

[124] Parent PLUS Loans on their own, or consolidated with no other type of loan, were ineligible to receive additional months of qualifying payments under the PSLF waivers. However, if a borrower consolidated a Parent PLUS Loan with other types of loans (e.g., a FFEL program Subsidized Stafford Loan), they could receive credit for PSLF qualifying payments on the consolidation loan based on repayment periods on the non-Parent PLUS Loan. For example, if a borrower, while employed in a PSLF-qualifying job, was in repayment status for 36 payment periods on a FFEL program Parent PLUS Loan and 60 payment periods on a FFEL program Subsidized Stafford Loan and then consolidated those two loans into a Direct Consolidation Loan before October 31, 2022, the borrower would receive credit for 60 PSLF-qualifying payments on the new Direct Consolidation Loan. See ED, *PSLF Waivers* (accessed August 22, 2024).

[125] Borrowers submit a PSLF form to ED to document their employment in qualifying public service and to apply for PSLF and TEPSLF benefits. ED, "Public Service Loan Forgiveness (PSLF), & Temporary Expanded PSLF (TEPSLF) Certification and Application," OMB No. 1845-0110, https://studentaid.gov/sites/default/files/public-service-application-for-forgiveness.pdf.

[126] The PSLF Help Tool may be used by borrowers to search a database of PSLF qualifying employers, learn which actions they may need to take to be eligible for PSLF or TEPSLF, and generate the PSLF form. For additional information, see ED, Office of Federal Student Aid, **"**Complete the Public Service Loan Forgiveness (PSLF) Form with the PSLF Help Tool," https://studentaid.gov/pslf/.

3. submitted a manual PSLF form (a PSLF form not generated by the PSLF Help Tool) that is eventually approved by ED with their employer's signature date on or before October 31, 2022.[127]

Borrowers with one or more FFEL program, Perkins Loan program, or older HEA loan program loans were required to submit an application for a Direct Consolidation Loan through StudentAid.gov[128] by October 31, 2022.[129] It is unclear whether such borrowers were required to take one of the steps described above by October 31, 2022, as well.

Borrowers who, with the application of the PSLF payment credits, made more than 120 payments on an existing Direct Loan, including on an existing Direct Consolidation Loan, were to automatically receive a refund for the payments made in excess of those 120 payments. Borrowers could not receive refunds for payments in excess of 120 payments on loans underlying a Direct Consolidation Loan, including Direct Loans that were themselves consolidated into a Direct Consolidation Loan.[130] Borrowers who previously received PSLF program benefits could not receive a refund for payments that did not count as PSLF-qualifying previously but that counted as PSLF-qualifying under the Limited PSLF Waiver.[131]

Teacher Loan Forgiveness

The Teacher Loan Forgiveness[132] program provides loan forgiveness benefits (of up to $17,500) to borrowers of qualifying Direct Loan and FFEL program loans.[133] To qualify for benefits, a borrower must serve as a full-time teacher for at least five consecutive complete academic years in a qualifying school or public education service agency that serves children from low-income families.

The CARES Act specified that ED was to waive the requirement that years of qualifying teaching service be consecutive if an individual's service was temporarily interrupted due to a qualifying emergency, and after such temporary disruption, the borrower resumed teaching and ultimately completed a total of five years of qualifying service. Qualifying service could include service performed before, during, and after the qualifying emergency.[134]

[127] ED, *PSLF Waivers* (accessed August 22, 2024).

[128] StudentAid.gov is the Office of Federal Student Aid's primary customer-facing website for parents, students, and borrowers that contains information on the HEA Title IV programs and provides public access to various tools and resources related the Title IV aid programs, such as the FAFSA and applications for various student loan forgiveness options (e.g., PSLF and IDR plans).

[129] In general, a set of loans may be consolidated only once. However, the HEA specifies that a Direct Consolidation Loan may be used to repay a previously obtained Direct Consolidation or FFEL Consolidation Loan for the purposes of applying for PSLF. HEA §428C(a)(3)(B)(i)(V)(bb).

[130] For example, if a borrower, while employed in a PSLF qualifying job, was in repayment status for 150 payments periods on their FFEL program loan and then consolidated the FFEL program loan into a Direct Consolidation Loan before October 31, 2022, the borrower would not receive a refund for the 30 payments made in excess of 120 payments.

[131] ED, *PSLF Waivers* (accessed August 22, 2024).

[132] HEA §§428J, 460.

[133] For purposes of the Teacher Loan Forgiveness program, qualifying loans include Direct Loan program and FFEL program Subsidized Loans, Unsubsidized Loans, and Consolidation Loans (to the extent they are used to repay a Subsidized or Unsubsidized Loan). Borrowers must have had no outstanding balance on any federal student loan made through a program authorized under HEA Title IV on October 1, 1998, or as of the date the borrower first borrowed such loan after October 1, 1998.

[134] CARES Act §3519.

Borrower Defense to Repayment

In certain circumstances, borrowers may seek discharge of their Title IV student loans by asserting as a borrower defense to repayment (BDR) certain acts or omissions of an IHE, if the cause of action directly relates to the loan or educational services for which the loan was provided. Although statutory language specifies BDR as an available discharge option only for Direct Loan borrowers,[135] FFEL and Perkins Loan program borrowers may consolidate their loans into a Direct Loan program Consolidation Loan to pursue BDR discharge.[136] Three different standards for evaluating BDR discharge may be applied to eligible student loans. The applicable BDR standards to be used largely depend on when the Direct Loan was made.[137] For Direct Consolidation Loans made on or after July 1, 2020, the standard applicable to loans made on or after July 1, 2020, applies.

ED specified that FFEL and Perkins Loan program borrowers who submitted a BDR application prior to July 1, 2020, and who needed to consolidate those loans into a Direct Consolidation Loan to receive BDR relief, would have their BDR eligibility evaluated by the standards for Direct Consolidation Loans disbursed between July 1, 2017, and July 1, 2020.[138]

Total and Permanent Disability Discharge

Borrowers may have their liability to make further payments on their Direct Loan program loans, FFEL program loans, and Perkins Loan program loans discharged upon being determined to have a total and permanent disability (TPD).[139] Borrowers may be determined to have a total and permanent disability if they are

- certified by a physician as unable to engage in any substantial gainful activity due to a physical or mental impairment that can be expected to result in death, has lasted continuously for at least 60 months, or can be expected to last continuously for 60 months;
- documented by the Social Security Administration (SSA) as receiving Social Security Disability Insurance or Supplemental Security Income benefits and that their next scheduled disability review will be within five to seven years from the date of their most recent SSA disability determination; or

[135] HEA §455(h). For additional information on BDR, see CRS Report R44737, *The Closure of Institutions of Higher Education: Student Options, Borrower Relief, and Other Implications*.

[136] 34 C.F.R. §685.212(k)(2).

[137] Effective July 1, 2023, ED regulations specify a new BDR standard to be applicable to BDR applications received on or after July 1, 2023, or pending with ED on July 1, 2023 (regardless of the date the loan was disbursed). (ED, *Final Rule*, November 1, 2022, pp. 66055-66073.) However, federal courts have stayed the new regulations' effective date, preventing their implementation. Career Colleges and Schools of Tex. v. U.S. Dep't of Educ., 98 F.4th 220, 256 (5th Cir. 2024).

[138] ED, *Waivers and Flexibilities*, p. 79863. Some view the BDR standards for loans disbursed between July 1, 2017, and July 1, 2020, to be more beneficial to borrowers than the standards that apply to loans made on or after July 1, 2020. See, for example, Letter from AFL-CIO, AFSCME, and Allied Progress, et al. to Senator Dick Durbin and Representative Susie Lee, December 9, 2019, https://ticas.org/wp-content/uploads/2019/12/Coalition-Letter-on-BD-CRA_.pdf.

[139] HEA §§437(a), 455(a)(1), and 464(c)(1)(F)(ii); 34 C.F.R. §§674.61, 682.402, and 685.213.

- documented by the Department of Veterans Affairs as having a service connected disability (or disabilities) that is 100% disabling or they are totally disabled based on an individual unemployability rating.[140]

During the majority of the suspension period, regulations specified that a TPD discharge approved based on the first or second criterion above was granted on a conditional basis for a three-year period[141] that began on the date of discharge.[142] During the three-year period, borrowers could be subject to having their loans reinstated under a variety of circumstances, including failing to annually submit to ED documentation of their annual earnings from employment.[143]

On March 29, 2021, ED announced that borrowers who had a TPD discharge approved based on the first or second criterion above would not be required to submit earnings documentation during the COVID-19 emergency. This policy was retroactive to March 13, 2020. Borrowers whose loans were reinstated because they did not submit earnings documentation between March 13, 2020, and the end of the COVID-19 emergency were to have their loan discharge restored and their three-year monitoring period was to resume based on their original discharge date.[144]

Additional Flexibilities

In addition to the above-described administrative and congressional actions that were taken in response to COVID-19, further flexibility and authority was provided through the HEROES Act. As detailed in the text box titled "The HEROES Act," the Secretary of Education is authorized to waive or modify statutory and regulatory requirements that apply to the HEA Title IV student aid programs in an effort to assist affected individuals; however, it may only be used in connection with a war or other military action or national emergency. There are three categories of affected individuals:

1. persons on active duty or qualifying National Guard duty during a war, military operation, or national emergency;
2. persons who reside or are employed in an area that is declared a disaster area in connection with a national emergency; and

[140] For additional information on TPD discharge, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*.

[141] A TPD discharge approved based on the third criterion above is permanent upon being granted (i.e., is not granted on a conditional basis).

[142] Effective July 1, 2023, ED regulations expanded the types of documentation and criteria that may be used to determine whether a borrower is totally and permanently disabled. The new regulations also eliminated most circumstances under which a borrower's loan would be reinstated during the three-year monitoring period. ED, *Final Rule*, November 1, 2022, pp. 66059-66060.

[143] During the majority of the suspension period, a borrower's loans could be reinstated if the borrower had annual earnings from employment in excess of 100% of the federal poverty guidelines for a family of two. To show compliance with this requirement, borrowers were required annually to submit to ED documentation of their annual earnings from employment. 34 C.F.R. §§674.61 (2022), 682.402 (2022), and 685.213 (2022).

[144] ED, "Education Department Announces Relief for Student Loan Borrowers with Total and Permanent Disabilities During the COVID-19 Emergency," press release, March 29, 2021, https://www.ed.gov/news/press-releases/education-department-announces-relief-student-loan-borrowers-total-and-permanent-disabilities-during-covid-19-emergency; and ED, Office of Federal Student Aid, "COVID-19 Relief: Total and Permanent Disability Discharge," https://studentaid.gov/announcements-events/covid-19/disability-discharge, accessed April 17, 2023, (site modified). ED also indicated that if an individual's TEACH Grant service obligation was reinstated because they failed to submit annual earnings documentation on or after March 13, 2020, it would return the individual's TEACH Grant service obligation to its discharge status.

3. persons who suffered direct economic hardship as a direct result of a war or other military operation or national emergency.

ED indicated that some of the administrative actions described throughout this report were taken under the authority of the HEROES Act. However, other examples of relief that may have been available to student loan borrowers under the HEROES Act, that were articulated by ED prior to the COVID-19 pandemic[145] and that could have been applicable to student loan borrowers in light of the pandemic include the following:

- For borrowers of loans made under the Direct Loan, FFEL, and Perkins Loan programs who are in the 1st or 2nd categories of affected individuals, the initial grace period excludes any period, not to exceed three years, during which a borrower is an affected individual.
- Borrowers of loans made under the Direct Loan, FFEL, and Perkins Loan programs who were in an in-school status but left school because they became a 1st or 2nd category affected individual may retain their in-school status for up to three years. During this period, the Secretary pays any interest that accrues on a FFEL Stafford Loan.
- Borrowers of loans made under the Direct Loan, FFEL, and Perkins Loan programs who were in an in-school deferment or a graduate fellowship deferment but left school because they became a 1st or 2nd category affected individual may retain their deferment for a period of up to three years during which they are affected. During this period, the Secretary pays any interest that accrues on a FFEL Stafford Loan.
- For borrowers of Perkins Loans who are in the 1st or 2nd categories of affected individuals, any forbearance granted based on their status as an affected individual is excluded from the usual three-year limit on forbearance. Also, for these categories of affected individuals, borrowers of Perkins Loans may be granted forbearance based on an oral request and without written documentation for a one-year period and an additional three-month transition period.
- Borrowers of FFEL program loans who are in the 1st or 2nd categories of affected individuals may be granted forbearance based on an oral request and without written documentation for a one-year period and an additional three-month transition period.
- For borrowers that may qualify for Teacher Loan Forgiveness (Direct Loan and FFEL program borrowers) or Perkins Loan Cancellation (Perkins Loan program borrowers) on the basis of continuous or uninterrupted qualifying service, such service will not be considered interrupted by any period during which they are in the 1st or 2nd categories of affected individuals or during a three-month transition period.

[145] For information on these waivers and modifications issued, see ED, "Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and the Federal Direct Loan Program)," 82 *Federal Register* 45465-45471, September 29, 2017. These waivers and modifications expired on September 30, 2022; it is unclear whether they continued to remain in effect for the COVID-19 national emergency.

- For borrowers who defaulted on Direct Loan, FFEL, or Perkins Loan program loans and are seeking to rehabilitate their loans by making nine on-time payments according to generally applicable procedures,[146] any payments missed during periods when they are in the 1st or 2nd categories of affected individuals or during a three-month transition period shall not be considered an interruption in the series of payments required for loan rehabilitation.
- For borrowers who defaulted on Direct Loan, FFEL, or Perkins Loan program loans and who seek to reestablish eligibility for Title IV federal student aid by making six consecutive on-time payments, any payments missed during periods when they are in the 1st or 2nd categories of affected individuals or during a three-month transition period shall not be considered an interruption in the series of payments required for purposes of reestablishing Title IV eligibility.
- For borrowers who defaulted on Direct Loan or FFEL program loans and are seeking to consolidate loans out of default, any payments missed during the period when they are in the 1st or 2nd category of affected individuals or during a three-month transition period shall not be considered an interruption in the series of payments required for purposes of reestablishing Title IV aid eligibility.
- Borrowers who are repaying their Direct Loan or FFEL program loans according to an IDR plan and because of their status as 1st or 2nd category affected individuals are unable to provide information normally required annually to document their income and family size may maintain their current payment amount for a period of up to three years, including a three-month transition period. This flexibility is made in lieu of having their payment amount adjusted to be based on a standard 10-year repayment plan or an alternative repayment plan, as applicable.

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[146] 34 C.F.R. §§674.39, 682.405, 685.211(f).

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