NASFAA
NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

May 2, 2025

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue SW, 5th Floor
Washington, DC 20202

Docket ID: ED-2025-OPE-0016

To whom it may concern:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA) and our 3,000 member institutions, we respectfully submit to the U.S. Department of Education (ED) our comments on its intent to receive public feedback for the development of proposed regulations and establish a negotiated rulemaking committee (Docket ID ED-2025-OPE-0016).

NASFAA represents nearly 29,000 financial aid professionals who serve 16 million students each year at colleges and universities in all sectors throughout the country. NASFAA member institutions serve nine out of every 10 undergraduates across the country.

We offer the following comments on the potential topics for negotiation outlined in the notice:

Refining the Definition of a Qualifying Employer for Public Service Loan Forgiveness (PSLF)

We disagree with the Department's proposed plan to narrow the definition of which organizations are considered qualifying employers for PSLF purposes. PSLF was established with bipartisan support during the George W. Bush administration. In the nearly two decades of the program's existence, no administration has successfully redefined what is considered a qualifying employer.

Our understanding is that this negotiated rulemaking session is being established in response to the President's Executive Order dated March 7, 2025, aimed at "ensuring the definition of 'public service' excludes organizations that engage in activities that have a substantial illegal purpose." NASFAA agrees that organizations proven by the courts to have violated the law should not be included as qualifying employers for PSLF eligibility purposes. However, if an organization is engaged in such activities, its nonprofit status should have already been formally revoked through long-established procedures that allow for due process.

Relying on negotiators to identify "illegal activity" without a legal finding is not only ineffective, but also dangerously subjective. It risks empowering negotiators to target organizations based on disagreements with their mission or services, rather than on objective, proven legal violations.

The PSLF program benefits communities across the United States. It helps incentivize college graduates to bring their knowledge and skills to essential public service fields that frequently offer lower compensation than the private sector. This incentive is particularly helpful in attracting and retaining needed professionals — such as teachers, health care providers, and social workers — in underserved areas, including rural communities that face challenges filling these roles.

PSLF requires borrowers to make a 10-year commitment to a public service career, a significant life and financial decision. Foundational program rules should not be subject to frequent review and potential reversal every few years. Altering the definition of a qualifying employer while individuals are actively pursuing qualification, or creating ambiguity about future eligibility, is unfair and reduces confidence in the reliability of the PSLF program.

If ED proceeds with making changes to the eligible employer definition, they should apply only to new borrowers whose first federal student loan is disbursed after the new rules become effective in order to prevent the widespread confusion and potential unfairness that retroactive or abrupt rule changes would inevitably cause.

Even if carefully implemented, we are concerned about the implications of setting a precedent that the PSLF rules could change with every new presidential administration, which will undermine this bipartisan program and discourage talented individuals from pursuing or staying in public service careers.

We have seen the negative impacts of constantly-changing regulations with borrower defense to repayment (BDR) regulations, which have been revised three times over the past decade as new presidential administrations rewrite the rules. Similar to what we saw with BDR, where multiple sets of rules operated concurrently, altering PSLF definitions in this way could lead to years of litigation and administrative chaos, with borrowers uncertain about which standards apply when they have multiple loans. ED has indicated a desire to streamline regulations and reduce administrative burden in this rulemaking, but introducing changes to PSLF employment definitions would stand in stark contrast to this objective.

The Department must maintain a consistent and objective definition of qualifying employers to ensure PSLF continues to achieve its goals of strengthening communities by offering talented professionals a stable, predictable, and fair path to work in vital public service fields.

Pay As You Earn (PAYE) and Income-Contingent (ICR) Plans

A strong safety net is essential for student loan borrowers who take their obligation to repay their loans seriously but cannot afford to do so on the standard repayment schedule. Borrowers face numerous unanticipated challenges that can impede their ability to meet their obligations. These challenges can range from navigating economic downturns to health challenges or periods of unemployment. For these reasons, access to robust, easily accessible income-driven repayment plans within the federal student loan programs is not just beneficial — it is essential to keeping borrowers in repayment

Repayment plans that offer manageable monthly payments based on income and family size, coupled with a reasonable repayment term after which remaining loan balances are forgiven, provide borrowers with essential protection against overwhelming debt and default. Time-based forgiveness is a crucial element of any IDR plan as it saves borrowers from a lifetime of debt.

NASFAA supports the goal of simplifying the federal student loan repayment system. With its multiple IDR plans with varying eligibility requirements, payment calculations, and forgiveness timelines, the current landscape creates significant confusion for borrowers. Understanding that ED alone lacks the authority to limit the repayment landscape to a single IDR plan — as NASFAA continues to advocate for in Congress — we encourage ED to take steps to create a single plan under the ICR umbrella that is easy to enroll in, includes fair terms and conditions, and maximizes benefits for borrowers, while sunsetting all others. This will ensure that struggling borrowers are able to continue meeting their loan obligations even during economically challenging times.

Borrowers, even those facing repayment difficulties despite their best efforts, never signed on for a lifetime of debt, and such outcomes undermine the promise of opportunity that federal student aid represents. Any viable IDR plan moving forward, whether it be a modified version of a current plan or a newly developed alternative, must incorporate the foundational elements of affordability and eventual forgiveness.

Streamlining Current Federal Student Financial Assistance Program Regulations
NASFAA supports the Department's goal of streamlining Title IV regulations to reduce administrative burden and promote innovation without compromising key safeguards. We believe such efforts would be most impactful if focused on the following areas:

Gainful Employment (GE)/Financial Value Transparency (FVT)
ED can streamline the GE/FVT regulations without sacrificing transparency by limiting FVT to the scope covered during negotiations, which required only program-level reporting. We continue to have significant concerns with ED's FVT regulations, specifically regarding the statutory authority for the extensive student-level data collection and the Department's failure to adequately engage stakeholders on this framework through negotiated rulemaking.

While ED has broad regulatory authority, it is statutorily prohibited from creating new databases of personally identifiable information beyond program operations. NASFAA supported the College Transparency Act, and had it passed, we would have expected adherence to negotiated rulemaking before imposing new reporting requirements. We are alarmed by the scope of student-level data reporting now required for non-gainful employment (GE) programs, a significant expansion beyond the limited program-level disclosures discussed during GE negotiations. ED now mandates the collection of vast, annual student-level data for both GE and non-GE programs — including costs, aid, residency, housing, various grants, private loans, and detailed withdrawal/completion data (total private loans, institutional debt, tuition/fees, supplies).

Although some data is needed for GE metrics like debt-to-earnings (D/E) rates and earnings premiums (EP) — which ED now publishes for all programs — officials were clear during negotiations these metrics would not be calculated for non-GE programs, denying negotiators the chance to evaluate the burden or object to this expanded scope and data collection.

It is inappropriate to apply short-term GE metrics to non-GE programs (like liberal arts) with different, often longer-term return on investment (ROI) profiles. Comparing fundamentally dissimilar GE and non-GE programs using these metrics offers little value. ED understates its influence by requiring students to acknowledge high debt burdens based on potentially nominal metric differences, creating a misleading "cliff effect." This carries equity implications, potentially steering less-advised students away from programs with better long-term potential based solely on short-term data, effectively sorting students by socioeconomic status. Despite the committee's failure to reach consensus, allowing ED regulatory latitude, most elements within the final regulations were not introduced during negotiations or the RFI, and bypassed crucial stakeholder feedback on requirements imposing a substantial reporting burden. ED should revisit the FVT regulations to ensure proper consideration is given to this new framework, which was not adequately considered in the original negotiations.

Return of Title IV Funds
NASFAA expresses significant concerns regarding the persistent complexity of the Return of Title IV Funds (R2T4) process. While attempts like the 2025 regulatory updates to lessen R2T4 burden for schools with generous refund policies and changes to R2T4 for Prison Education Program students are appreciated, these efforts ultimately compounded an already excessively burdensome system. The sheer volume of governing text (nearly 200 regulatory paragraphs, 150 handbook pages), extensive supplemental guidance (ED's 63-question Q&A, NASFAA's 275+ specific articles), its status as the most-cited area needing regulatory relief, and its consistent presence among top audit findings underscore this excessive complexity. This situation makes compliance extraordinarily difficult and errors "virtually inevitable" — stemming from confusion, not fraud — while adding undue stress to students and severely straining financial aid offices that are facing historic staffing shortages. We strongly advocate for a fundamental overhaul of R2T4, prioritizing radical simplification. This requires a willingness to sacrifice undue precision — the source of much complexity — wherever possible without compromising core program integrity, thereby alleviating critical administrative burden and allowing staff to better serve students.

Licensure Requirements
Another area where Title IV regulations could be effectively streamlined to reduce administrative burden is the Program Participation Agreement requirements under CFR 668.14(b)(32) regarding state licensure determination. The current mandate requires institutions to definitively determine and document that programs meet licensure requirements in every state where enrolled distance education students are located. This necessitates navigating complex, changing, varied, and often unclear state-level rules, creating significant operational complexity and administrative burden. Additionally, determining and documenting the student's location for online courses adds another

level of complexity and confusion. Streamlining this requirement by reverting to the previous standard — where institutions disclose whether a program meets requirements or if a determination cannot be made, coupled with student acknowledgement — would achieve the necessary transparency for students while substantially reducing the institutional burden associated with tracking and interpreting a multitude of state regulations. This simplification would free up valuable institutional resources currently consumed by this complex compliance task.

We encourage the Department to focus streamlining efforts on areas where complexity clearly outweighs the benefit, ensuring that changes improve efficiency without creating significant new risks for students or taxpayers.

Conclusion

NASFAA believes the topics of PSLF, IDR plans, including their forgiveness provisions, and regulatory streamlining are critical areas for consideration during the upcoming negotiated rulemaking sessions. We urge the Department to approach these topics with a commitment to preserving the intent of the HEA, protecting borrowers, and ensuring the effective and efficient administration of Title IV programs.

We appreciate the opportunity to comment on the Department's intent to develop proposed regulations and establish a negotiated rulemaking committee. If you have any questions regarding these comments, please contact us or NASFAA's Senior Policy Analyst Megan Walter.

Regards,

Melanie E Storey

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