

October 26, 2009

Ms. Angela C. Arrington  
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Regulatory Information Management Services  
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Dear Ms. Arrington,

We are writing to respond to the request for comment on the draft Income-Based Repayment (IBR) forms for the Federal Family Education Loan Program (FFELP). The request was published in the Federal Register on August 27, 2009 (FR Doc. E9-20714).

An independent, nonprofit organization, the Institute for College Access & Success works to make higher education more available and affordable for people of all backgrounds. By conducting and supporting nonpartisan research, analysis, and advocacy, the Institute aims to improve the processes and public policies that can pave the way to successful educational outcomes for students and for society.

We appreciate the opportunity to comment on the Department of Education's proposed FFELP forms for the new IBR program. Each of these forms – the IBR Plan Request form and the IBR Plan Alternative Documentation of Income form – is intended to help borrowers understand and successfully apply for IBR. To that end, the forms should both provide and solicit relevant information in an easily comprehensible way.

Having reviewed these documents for areas of concern, the Institute offers the following comments and recommendations:

#### Income-Based Repayment Plan Request form

**Issue #1:** It is important for borrowers to know if they qualify for IBR before applying. Many of those who have applied up to this point have not been eligible, creating significant unnecessary paperwork for the Department of Education, the IRS, and the borrower. This form describes the formula for determining IBR eligibility and the definition of “partial financial hardship,” but it only includes the internet link for the online IBR calculator as the last clause in Section 8, by which point most IBR applicants would have already attempted to complete Sections 1, 3, 4 and 5 and read through Sections 2 and 7.

**Recommendation #1:** The paragraph starting “An IBR Plan calculator is available...” currently in Section 8 should be moved to the beginning of Section 2 or another prominent location on the first page of the form. Additionally and for greater clarity, the description of “partial financial hardship” currently in Section 2 could be moved to Section 7: Definitions.

**Issue #2:** Section 5 states, “**I agree that the lender may grant** a forbearance on my loan with respect to payments of interest and principal that are overdue or would be due at the time I enter the IBR plan and unpaid interest may be capitalized.” But the definition of Forbearance in Section 7 states that “Interest that accrues during this maximum 60-day forbearance period will not be capitalized.” These two statements are contradictory.

**Recommendation #2:** The statement in Section 5 should be amended as follows (additional text in *italics*), “**I agree that the lender may grant** a forbearance on my loans with respect to payments of interest and principal that are overdue or would be due at the time I enter the IBR plan. *Interest that accrues during this maximum 60-day forbearance period will not be capitalized..*”

**Issue #3:** A statement in Section 8 makes reference to an action that may be taken by the borrower without reference to the particular process for that action. The third bullet in Section 8 states, “Your monthly payment amount for the IBR plan will be adjusted annually. It may be higher or lower, depending on the documentation you provide each year.” It is unclear how this documentation will be provided each year.

**Recommendation #3:** Clarify the third bullet in Section 8 with additional language that thoroughly explains any burden on participants in the IBR program to document their income on an annual basis. Will the lenders mail out the annual form with a timeline for submission by each participant? Will borrowers be notified electronically to submit the form?

**Issue #4:** Section 5 includes an option for borrowers to authorize lenders to contact them via voice or text messages on a designated cell phone. Some borrowers may have cellular plans that do not include text messages or charge significant fees for receiving them. Because consent for these two different types of contact is combined, borrowers could end up paying unspecified fees for text messages they do not want to receive or declining potentially important voice messages to avoid the cost of text messages.

**Recommendation #4:** If the Department wishes to include “text messages” as an option, please make that a separate check box option in Section 5, along with a line for the borrower to include the cellular telephone at which they can receive text messages.

#### Income-Based Repayment Plan Alternative Documentation of Income form

**Issue #1:** The first bullet in Section 2 states that a borrower should complete this form if “You want to repay or continue to repay your eligible [FFELP] loan(s) under the current [IBR] plan and your adjusted gross income (AGI), as reported on your most recently filed

federal income tax return, does not reasonably reflect your current income... as determined by your loan holder based on the information you provide with this form.” This wording implies that the need for completion of the Alternative Documentation of Income form is determined by the lender and not the borrower. Additionally, it does not make sense that the lender would determine a borrower’s need to complete this form based on the information provided with this form.

**Recommendation #1:** Delete the phrase “as determined by your loan holder based on the information you provide with this form” from the first bullet in Section 2. Optionally, add a new sentence at the end of the first bullet stating that the information provided in this form is subject to review by the loan holder.

**Issue #2:** The last sentence in the second paragraph of Section 4 states that, “The date on any supporting documentation you provide must be no more than 90 days old.” While this clearly applies in the context of this section to “supporting documentation,” borrowers have reported that some lenders have not accepted tax forms that are more than 90 days old.

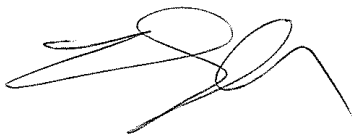
**Recommendation #2:** The sentence in Section 4 should be amended as follows (additional text in *italics*), “The date on any supporting documentation you provide must be no more than 90 days old. *This limitation does not apply to income tax returns.*” The FSA Ombudsman should investigate any instances of improper use of this rule.

**Issue #3:** Section 5 includes an option for borrowers to authorize lenders to contact them via voice or text messages on a designated cell phone. Some borrowers may have cellular plans that do not include text messages or charge significant fees for receiving them. Because consent for these two different types of contact is combined, borrowers could end up paying unspecified fees for text messages they do not want to receive or declining potentially important voice messages to avoid the cost of text messages.

**Recommendation #3:** If the Department wishes to include “text messages” as an option, please make that a separate check box option in Section 5, as along with a line for the borrower to include the cellular telephone at which they can receive text messages.

Thank you for the opportunity to comment on the draft Income-Based Repayment forms for the Federal Family Education Loan Program. If you have any questions or concerns regarding our comments, please do not hesitate to contact Luke Klipp, Policy Analyst with the Institute, at (510) 559-9509, or via email at [klipp@ticas.org](mailto:klipp@ticas.org).

Best regards,



Lauren Asher, President  
The Institute for College Access & Success