

Student Loan Sidebar

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Noting historical failures in the administration of federal student loans, on April 19, 2022, the U.S. Secretary of Education, Miguel Cardona, announced major revisions of forbearance policies. While this wasn't given much fanfare by the media and doesn't have a snazzy name, the changes will result in significant student loan relief.

Forbearance Problems Finally Addressed for Federal Loans

Q. What forbearances will now count toward forgiveness?

A. Federal Student Aid ("FSA") will conduct a one-time account adjustment that will count forbearances of more than 12 months consecutive and more than 36 months cumulative toward forgiveness. Borrowers who were steered into shorter-term forbearances will be able to seek account review by filing a complaint with the FSA Ombudsman at StudentAid.gov/feedback.

Q. What do you need to do to ensure that past time spent in forbearance now counts toward forgiveness?

A. You must consolidate your or your client's federal student loans to Direct prior to January 1, 2023.

Q. When will you start to see credit for applicable forbearance time periods?

A. FSA will begin making the changes immediately, but many borrowers will not likely see the effect in their accounts until the last quarter of 2022.

Q. Is there a tracking mechanism for eligible payments for those in Income Driven Plans?

A. Not yet, but this is reportedly in the works and eligible IDR payments will begin to show in 2023 on StudentAid.gov. This way people can track their progress toward forgiveness.

One of the key goals of the Middle District of Florida's Student Loan Management Program ("SLMP") is to help avoid the automatic Department of Education's policy for a 3-5 year forbearance while a debtor is in a Chapter 13 Plan. Similarly, these new forbearance policies have a stated goal to end "forbearance steering" finding it to be a short-term option with financial consequences that can be avoided via a long term solution such as an Income Driven Plan.

FSA also announced that it will restrict servicers' ability to enroll borrowers in forbearance by text or email, and will conduct an external review of patterns of forbearance use and servicers' practices to identify and put an end to forbearance steering.

This will build upon the FSA's earlier clarification of its position on federal preemption of state oversight of loan servicing. Basically, it is seeking to hold its servicers accountable.

One other change is that FSA will conduct a one-time revision of IDR payments to address past inaccuracies. This includes those who made IDR payments prior to a consolidation. Normally, those would not count, but now they will count.

FSA will continue to revise the terms of IDR through rulemaking to further simplify payment counting by allowing more loan statuses to count toward IDR forgiveness,

"Student loans were never meant to be a life sentence, but it's certainly felt that way for borrowers locked out of debt relief they're eligible for."

U.S. Secretary of Education Miguel Cardona

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including certain types of deferments and forbearances.

Bankruptcy Forbearances

The Department of Education has indicated that bankruptcy forbearances will NOT count toward IDR.

Right now any type of deferment besides in school deferment counts provided it was before 2013. Economic hardship deferment counts in 2013 and after. Specific military-related deferments count. Grace periods longer than six months may count.

In light of the clarification provided by ED, it is important for debtors in the Middle District of Florida to utilize the SLMP to avoid long term forbearance.

Universal Debt Cancellation

Reportedly, the White House is planning to cancel \$10,000 in student loan debt per borrower. It's possible that this may be means tested and only apply to borrowers who earned less than \$150,000 in the previous year, or less than \$300,000 for married couples. It is anticipated that this would settle the balances for roughly a third of borrowers.

This may apply only to undergrad loan balances.

Cancellation of \$10,000 will not lower IDR payments, but it would drop balances of those who are paying off their loans. If you or your client has a private loan now which was refinanced when interest rates were in the 2% range are still likely better off than remaining in the federal system with an average 6.8% interest rate even with a \$10,000 reduction (it will depend upon how quickly the \$10,000 is applied).

Payment Re-start Date

Presently, federal student loans are set to re-start after August 31, 2022. This may be postponed again if any legal challenges are raised to the universal debt relief that may be proposed and also due to inflationary concerns and/or mid-term elections. We are expecting the true re-start date to be moved to mid 2023.

Reminder of Limited PSLF Waiver

Please tell everyone you know who has or is working public service that the deadline for consolidation of federal FFEL loans for public service loan forgiveness is October 31, 2022. I still run into borrowers who do not realize the importance of the need to consolidate to obtain this much needed relief.