To Whom It May Concern:

Thank you for the opportunity to provide comments on the Department of Education’s proposed rules for student debt relief. New America’s higher education team consists of researchers, writers, and advocates from diverse backgrounds. We are dedicated to making higher education more equitable, inclusive, and accountable so that everyone has the chance to obtain an affordable, high-quality education after high school. We work to ensure higher education financing supports Americans in their efforts toward financial stability and upward mobility.

Unfortunately, our research has highlighted ways in which the student loan repayment system exacerbates the financial difficulties of borrowers who default due to low earnings, who attended predatory and low-value programs, and who are older borrowers and parent borrowers.¹ We support changes to the student loan system designed to help struggling borrowers like these find their financial footing. Our comments offer suggestions for ensuring this rulemaking does just that by targeting support toward those who struggle the most to repay their loans and face the most punitive circumstances. Specifically, we suggest that the Department:

- Automatically apply full interest forgiveness to more categories of struggling borrowers (§ 30.81 and § 30.82).
- Apply an IDR count adjustment that includes periods of default for borrowers who miss the 20 or 25-year forgiveness threshold (§ 30.83 and § 682.403(b)(1)).
- Fairly treat loans consolidated after July 1, 2023 in the proposal to forgive older loans (§

30.83 and § 682.403(b)(1)).

- Extend the same relief available to Direct loans to commercially-held FFEL loans (§ 682.403).

The rest of our letter contains more detailed explanations of our suggestions. We welcome the opportunity to discuss our comments further, and our contact information is included below.

Sincerely,

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§ 30.81 and § 30.82: Automatically apply full interest forgiveness to more categories of struggling borrowers.

The proposed rule would give the Secretary authority to forgive the amount of outstanding balance that is higher than the balance when a borrower left school if the borrower is in an IDR plan and earns less than $120,000 (or $240,000 if the borrower filed joint taxes with his or her spouse). Borrowers not in an IDR plan will have this relief capped at $20,000. We are concerned that tying higher forgiveness only to IDR enrollment will lead financially struggling borrowers to receive less forgiveness than well-off borrowers. If the Department chooses not to cap this relief (which we will refer to using the shorthand “interest forgiveness”) for some borrowers, it must ensure low-income borrowers also can access uncapped relief.

In the past and to this day, low-income and disadvantaged borrowers have not received the outreach and help they need to enroll in income-driven repayment plans. In 2022, the Department explained that servicers were not adequately directing borrowers to income-driven repayment plans. The lack of guidance and help navigating repayment options have hurt all borrowers but hit low-income borrowers particularly hard. A nationally representative survey of student loan borrowers commissioned by New America in 2022 showed that a quarter of all borrowers had never heard about IDR plans before, compared to 42 percent of borrowers with income below $30,000.

If the Department chooses to provide full interest forgiveness to borrowers in IDR plans, it must also provide full interest forgiveness to low-income borrowers who did not know about or enroll in IDR plans. To do this, we suggest the Department use the data it has on file to automatically forgive all the accumulated interest of more categories of struggling borrowers. At a minimum, it should forgive all of the interest accumulation for borrowers who received Pell Grants, whose children received Pell Grants (for Parent PLUS borrowers), and who have defaulted or are in default.

These categories capture low-income borrowers who likely would have experienced negative amortization even if they had enrolled in IDR plans. Pell recipients and their parents were low- or moderate-income during college; after college, they are still disproportionately low-income. While some have since earned higher incomes, if they accrued high amounts of interest, they likely struggled financially for several years first (and during that time, they would likely have received an interest subsidy if SAVE existed and they had enrolled). Furthermore, borrowers who default are almost exclusively low-income, with one estimate suggesting 80 percent of

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defaulted borrowers make less than 150 percent of the poverty guideline. These borrowers would almost certainly qualify for an interest subsidy under SAVE, and since this is a one-time forgiveness policy, there is no chance that forgiving more interest will create perverse incentives to default going forward.

§ 30.83 and § 682.403(b)(1): Apply an IDR count adjustment that includes periods of default to borrowers who miss the 20 or 25-year forgiveness threshold.

We applaud the Department’s proposal to forgive debt that is older than roughly 20 years old for undergraduate borrowers or 25 years for graduate borrowers. These borrowers have been struggling with their loans for far too long, and much of their time in repayment was marked by confusing servicing and even forbearance steering.

Yet this proposal is an all-or-nothing benefit that leaves many long-term debtors years away from any hope of retiring their debt. Under the current proposal, an undergraduate borrower who took out her loans on July 1, 2005 and defaulted almost immediately upon entering repayment would receive full forgiveness. But if this same borrower had instead taken out her loans on July 2, 2005, and defaulted, she would still be more than fifteen years away from forgiveness. To fix this problem, we suggest counting all months prior to the finalization of this rule toward IDR forgiveness.

The Department has already introduced an IDR count adjustment, which mitigates the cliff effect for most borrowers other than those with privately held FFEL loans and borrowers who have spent time in default. The count adjustment retrospectively counted past months towards IDR forgiveness for most types of loans; however, periods in default were excluded from the re-accounting of each borrower’s time until forgiveness. As a result, millions of borrowers did not get credit towards eventual forgiveness for their long periods in default. According to data shared by the Department earlier in this regulatory process, about 2.6 million Americans are currently in default on their student loans and have been in default for over 5 years and less than 20 years. Not only did these borrowers not get their years in default counted towards forgiveness in the IDR count adjustment, but they also may miss out on forgiveness under this proposal.

Borrowers deserve to have their time in default retrospectively counted towards IDR forgiveness because, in default, borrowers were either paying their loans (voluntarily or involuntarily) or facing financial hardship. The Department has the power to garnish wages, tax refunds, and Social Security benefits when a loan enters default. It may seize the total outstanding balance, not just the amount


6 For more information on the count adjustment, see Federal Student Aid (website), “Payment Count Adjustments Toward Income-Driven Repayment and Public Service Loan Forgiveness Programs,” https://studentaid.gov/announcements-events/idr-account-adjustment.

the borrower is behind or the amount a borrower would owe each month. As a result, borrowers in default sometimes pay much more than they would in repayment. When borrowers in default are not making payments, it is likely because the Department found no money to garnish via wages or tax returns; in other words, because the borrower is indigent. In fact, the CFPB has suggested that 80 percent of borrowers in default have income below 150 percent of the poverty, low enough income to qualify for a $0 IDR payment."

To help borrowers who have spent time in default, the Department should create another one-time count adjustment that counts all previous periods, including default, towards IDR forgiveness. Borrowers who miss the cut-off for full forgiveness under § 30.83 or § 682.403(b)(1) would still need to earn their final years towards forgiveness by keeping their loans in good standing, including by making payments, using certain pauses, or being in a $0 IDR plan. As a stopgap for borrowers who remain unaware of IDR plans, ED could automatically forgive debt after a period five years longer than the IDR forgiveness timelines. These extra five years will help borrowers have a strong incentive to keep their loans in good standing while also ensuring no borrower owes debt forever.

§ 30.83 and § 682.403(b)(1): Fairly treat loans consolidated after July 1, 2023 in the proposal to forgive older loans.

We also hope the Department will more fairly count the eligibility of loans consolidated after July 1, 2023 in its proposal to forgive debt after 20 or 25 years. When evaluating whether a consolidation loan is eligible for forgiveness under this provision, the Department proposed using the date of the earliest underlying loan for loans consolidated on or before June 30, 2023. For loans consolidated after July 1, 2023, the Department plans to use the repayment date of the latest underlying loan.

Applying this standard to borrowers who consolidated after July 1, 2023, for the purpose of preventing borrowers from strategically consolidating, is too strict. It will deny some borrowers all forgiveness just because of one recent loan. Moreover, it is unfair to borrowers who had to consolidate after July 1, 2023 to access many of the Department’s programs. For instance, many borrowers consolidated after July 1, 2023, to access the new SAVE plan or take advantage of the IDR count adjustment. These borrowers were following official guidance: the Department and the CFPB had been advising borrowers with old loans to consolidate before April 30, 2024 to increase their chances of receiving IDR forgiveness. Unless this proposal is changed, borrowers with some old and some newer loans who followed official advice to consolidate will lose out on all forgiveness under this provision. These borrowers would rightly feel misled by the government.

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Instead, the Department should treat all consolidation loans similarly, regardless of the consolidation date. The fairest solution is to offer partial forgiveness of consolidated loans, prorated based on the portion of the balances of the consolidated loan that corresponds to the portion of the underlying loans taken out before the forgiveness cut-off date. This policy ensures that no borrower receives a large boon—or a large punishment—for having consolidated.

If prorating the forgiveness is unfeasible, the Department should use the date of the oldest loan regardless of the date of consolidation. As a last resort, the Department could change the July 1, 2023 threshold to the date this rule is finalized. It is extremely unlikely any borrower would consolidate to take advantage of this policy before that point. Until then, the details of the Department’s handling of consolidation loans for this provision will remain unsettled. Furthermore, we do not recall this detail ever being discussed in the negotiated rulemaking session, making it unlikely many borrowers know about it.

§ 682.403: Extend the same relief available to Direct loans to commercially held FFEL loans.

We appreciate that the Department proposed extending all of the relief it proposed for Direct loans to Department-held FFEL loans and some of the relief to commercially held FFEL loans. We urge the Department to go further and apply the same proposed Direct loan relief, and the same changes we suggested above, to commercial FFEL loans.

FFEL borrowers are particularly likely to be financially struggling and to benefit from targeted relief. No new FFEL loans have been disbursed since 2010, meaning all outstanding FFEL borrowers were unable to repay their loans within the standard 10-year repayment timeline. In fact, FFEL borrowers are unusually likely to default on their loans. The latest FSA data reveals that 3.1 million FFEL borrowers were in default at the end of 2023, almost 40 percent of the 8.0 million FFEL borrowers. The financial difficulties of FFEL borrowers underscore the need to extend all FFEL borrowers the same debt relief extended to other borrowers.

When the Department introduced repayment plans offering forgiveness after 20 years for undergraduate borrowers, the Department acknowledged that 20 years is an appropriate time period for relief for those with only undergraduate loans. It should, therefore, apply that same standard to all FFEL borrowers. And, although we appreciate the complexity of offering partial loan forgiveness to commercially held FFEL loans, FFEL borrowers are also struggling with accrued interest. If the Department provides interest forgiveness to Direct loan borrowers, it should extend this same forgiveness to all FFEL borrowers.

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